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UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS
FIRST SESSION

VOLUME 151—PART 5

APRIL 7, 2005 TO APRIL 20, 2005
(PAGES 5901 TO 7327)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 2005

[ERRATA]

Volume 151, Part 5

The title page of the Volume 151, Part 5, of the Bound Congressional Record was printed with the incorrect session of Congress, it should have read 109th Congress, First Session, not Second Session.

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PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

SENATE—*Thursday, April 7, 2005*

The Senate met at 10 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain Rev. David G. Thabet, of Huntington WV.

The guest Chaplain offered the following prayer:

PRAYER

Let us pray.

O God, the Source and Giver of all wisdom, whose will is good and gracious, and whose law is truth, we pray that You so guide and bless the Congress of this Nation, and especially the United States Senate, that they enact such laws as shall be according to Your will.

Grant them the spirit of wisdom, charity, and justice, so that with clear minds and steadfast purpose they may faithfully serve in their offices. And we pray that the people of this Nation support their elected officials with understanding and encouragement.

May those assembled here always be conscious of the needs of those persons under their care, and may they always have the courage to do what is right.

Finally, we ask that You instill Your Spirit in the body of those here that they may have the strength to accomplish the tasks before them this day and throughout the session.

This we ask in Your Name.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 7, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Ms. MURKOWSKI thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority whip is recognized.

SCHEDULE

Mr. McCONNELL. Madam President, today we will be in for a period of morning business. Last night, we were unable to complete work on the State Department authorization bill. Therefore, on Monday, we will turn to the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief. We did make progress, however, on the State Department bill, and it is still hoped that we can reach an agreement to limit amendments on that bill, and therefore make it possible for us to complete it.

That would allow the chairman and ranking member to work together to determine how much work remains on the bill prior to reaching final passage. In the meantime, and under the consent agreement, we will begin consideration of the appropriations bill at 3 p.m. on Monday. As announced last night, there will be a vote on Monday evening at approximately 5:15. That vote will likely be on a district judge, although it is possible that additional votes will occur on amendments to the supplemental at that time.

I will have further announcements on the Monday schedule at the close of business today. Let me say, for all of our colleagues, turning to the supplemental appropriations bill next week means we will have a very busy week, with lots of votes and potentially one or more evening sessions.

With that, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes.

The Senator from Tennessee is recognized.

ORDER OF PROCEDURE

Mr. ALEXANDER. Madam President, I see my friend from Oregon here. I ask unanimous consent to speak a little bit longer than 10 minutes if that would not inconvenience him, or would he like to go?

Mr. WYDEN. That is fine with me. I am waiting for Senator SMITH. Madam President, if I could, I ask unanimous consent that after Senator ALEXANDER completes his remarks, Senator SMITH, my colleague from Oregon, and I may speak for up to 30 minutes. We may not consume all of that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak for up to 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE NEW IRAQI LEADERSHIP

Mr. ALEXANDER. Madam President, I have three or four comments I want to make this morning. Most importantly, I want to say a word about the new leadership in Iraq.

This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

In a delegation led by the Democratic leader, Senator REID of Nevada, seven of us were in Iraq, in Baghdad, about 10 days ago. We met with two of the three new leaders who have been chosen. Mr. al-Hasani, the new speaker, a Sunni, spent some time with us. We spent an hour with Dr. al-Jaafari who, just an hour ago, was named the new Prime Minister of Iraq, and who will be the most important leader we will be dealing with.

I believe our delegation was one of the first from the Senate to spend that much time with the new leader of Iraq. I want to report that I was most impressed with what we saw there. We met a man in his late fifties, who had been in exile from Iraq for a number of years because of the brutality of Saddam Hussein. He is a physician. It seems as though physicians are ascending in all sorts of different places, including in the U.S. Senate and in Iraq. He is a well-educated man and conducted our discussion in English. He showed in his presence a great deal of calm. He is not a quiet man, but he is a calm man who seems to know exactly what he believes and what he thinks.

I was taken with the fact that he began his discussion with us with about a 5-minute monolog about the brutality of Saddam Hussein. He said he was "worse than Hitler, worse than Stalin." Those were his words. He said Hussein had murdered a million people in 35 years. In his words, al-Jaafari said "he had buried 300,000 people alive." He said that quietly, but he obviously feels that very deeply.

Second, I was most impressed with his understanding of U.S. history. We talked about the difficulty of creating a democracy and how we are expecting them to create a constitution by August. In our situation, years ago, it took us 12 years from the time of the Declaration of Independence to the time of our Constitution. Our Founders locked the news media out for 6 months while they did that. Today, we are expecting the Iraqis to come together—people of different backgrounds—and have a constitution by August, while we watch and criticize on 24/7 television everything they do.

He has a good understanding of U.S. history and, I thought, a great appreciation for democracy and freedom. He showed not only no resentment about the American presence in Iraq, he showed great gratitude for the American presence in Iraq. He wants us to stay there for a while, so that there is enough security for their constitutional government to form. He seemed very comfortable with that.

Finally, he is a brave man—brave during exile, brave today. There may be only a few thousand people in Iraq—a country the size of California with 25 million people—who are causing all the trouble, but they are making it a dangerous place to be. Even the Green Zone and the areas around it are not entirely safe.

So we have a sophisticated, English-speaking, well-educated, U.S.-history-knowing, brave man, who is the new leader of Iraq, a man who is grateful for the American presence and who is determined to help create a democracy. I congratulate the Iraqi people on the substantial achievement.

Also, Mr. al-Hasani, the new speaker, a Sunni—the new Prime Minister is a Shiite—was very impressive to us in the Senate delegation. He, as well as the Prime Minister, wore western clothing in these meetings. I say this as a fact, not as a judgment.

Mr. al-Hasani was educated in the U.S. at two major universities. He lived in Los Angeles during his exile. He created a business in Los Angeles. He went back to Iraq to help create a new democracy. He is also a sophisticated person with a strong knowledge of freedom and democracy, a strong appreciation of the United States, and he is also a brave man to be undertaking this. I congratulate the Iraqis for that.

CONSENT DECREES

Mr. ALEXANDER. Madam President, I will ask unanimous consent to have printed in the RECORD an article I wrote, which appeared in the Legal Times for the week of April 4, entitled "Free the People's Choice." This involves a piece of legislation that Senators PRYOR and NELSON on the other side of the aisle and Senators CORNYN and KYL on this side of the aisle and I have introduced, which would make it possible for newly elected Governors and mayors and legislatures to do what they were elected to do and be free from outdated consent decrees their predecessors may have agreed to, and which exist with the approval of the Federal courts.

We have hundreds of outdated Federal court-approved consent decrees across America, which are running our education systems, foster care systems, Medicaid systems, and they make it impossible for democracy to flourish in the U.S., at a time when people are fighting and dying to give other people democracy in another part of the world. We have strong Democratic and Republican support in the Senate for this. In the House, I finished a meeting with the Republican whip, Roy Blunt, who with Congressman COOPER from Nashville, and all of the Democratic Congressmen from Tennessee, have introduced the same bill in the House.

This piece of legislation would put term limits on Federal court consent decrees and cause them to be more narrowly drawn and do as the Supreme Court said they should do—get these issues back into the hands of the elected officials as soon as possible.

This legislation has strong support, and I hope it will be moving through the Judiciary Committee in proper fashion. It is the No. 1 priority of the National Governors Association and National Association of Counties, and many others. We cannot expect States to control the growth of Medicaid spending if we do not allow them to make their own decisions. We need to get flexibility from our laws, and we need to get the courts to step aside and let elected officials make policy decisions.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the LegalTimes, Apr. 4, 2005]

FREE THE PEOPLE'S CHOICE

(By Lamar Alexander)

Imagine yourself the governor of a state grappling with a broken public health care system. Your goal is to cover the greatest number of people—particularly children—with the best medicine available. But costs are spiraling out of control, so you and your staff craft a reform package that balances the health care needs of low-income citizens with the fiscal realities of the state budget. The task is tough, but this is why you ran for public office.

The story should end there, or, at least, you've reached the point when you would present your plan to your fellow elected officials in the state legislature, and they take a vote—representative democracy at work. Only that's not what's happening in states around the country, whether the issue is health care or transportation or education.

Instead, the hands of governors, mayors, even school boards have been tied by costly and restrictive consent decrees handed down by federal courts, sometimes decades before. These judicial orders result from agreements brokered between public officials and plaintiffs engaged in civil court actions. Once these decrees are set, they are very difficult to change, making reform and common-sense adjustments over time virtually impossible.

The result is what New York Law School professors Ross Sandler and David Schoenbrod call "democracy by decree"—public institutions being taken out of public control and placed in the hands of an unelected federal judiciary.

There are times when this is absolutely necessary, when state and local governments defy federal law and congressional intent. Desegregation is the best example. In the civil rights era, the judiciary had no choice but to exercise control over public institutions in order to guarantee African-Americans their constitutional rights.

While ensuring that states follow the rule of law, consent decrees can also preserve the separation of powers and uphold the ideals of federalism. Unfortunately, in many cases, they have done just the opposite.

ROADBLOCKS TO REFORM

The hypothetical I offer above mirrors what is currently happening in my home state of Tennessee. Three specific consent decrees blocked the implementation of Democratic Gov. Phil Bredesen's initial Medicaid reform package, which would have preserved coverage for all 1.3 million enrollees of TennCare, the state's Medicaid program. His plan was passed overwhelmingly by the state's General Assembly and endorsed by major stakeholders in the program, from patients to providers.

But mandates set forth in these consent decrees—which far exceed federal requirements—limited the governor's policy choices and continue to drive up program costs. As a result, Bredesen was recently forced to devise a new reform strategy, which would cut 323,000 adults from the program and reduce the benefits of the remaining 396,000 adults. Citing the consent decrees, the courts are now blocking this proposal as well.

The consent decrees cover a range of health care issues. One signed by U.S. District Judge John Nixon in 1979, known as the Grier consent decree, prevents the state from placing reasonable limits or controls on prescription drugs, including the use of cheaper generics in lieu of expensive brand-name pharmaceuticals. As a result, Tennessee now spends more on TennCare's pharmacy benefit than it does on higher education.

The John B. consent decree, signed by Judge Nixon in 1998 and revised in 2001 and 2004, imposes a host of special requirements for children. From one line of federal code, the court entered a consent decree that established a requirement that Tennessee offer medical screenings to 80 percent of the state's children—a laudable public policy goal but one that should be set by the elected officials whose job it is to manage the program.

Finally, the Rosen consent decree, signed by U.S. District Judge William Haynes in 1998, prevents TennCare from limiting enrollment when a person is part of an optional Medicaid population or when a person's eligibility for the program cannot be determined. To make matters worse, on Jan. 29, 2005, Judge Haynes took his authority under that consent degree a step further: He declared that he must approve any changes to the TennCare system that would reduce enrollment. With the budget clock ticking, Tennessee's state legislators are now waiting for a U.S. district judge to give them permission to do their job.

And Tennessee isn't alone. There are consent decrees in all 50 states on issues ranging from prisons to child care. In Los Angeles, a consent decree entered in 1996 by U.S. District Judge Terry Hatter Jr. has forced the Metropolitan Transit Authority to spend 47 percent of its budget on city buses, leaving just over half of the budget to pay for the rest of the transportation needs of the nation's second-largest city.

In New York, a 1974 consent decree entered by U.S. District Judge Marvin Frankel has been mandating bilingual education for more than 30 years. The result is that public schools, which should be vibrant, learning, changing institutions, have no choice but to force students into outdated bilingual programs, even over the objections of their parents.

A BETTER SOLUTION

The solution to the problem of democracy by decree is a balanced system that protects the rights of individuals to hold state and local governments accountable in court, while preserving our democratic process through narrowly drawn agreements that respect elected officials' public policy choices. These goals are not incompatible. Last month, I introduced the Federal Consent Decree Fairness Act, bipartisan legislation that does both by establishing new principles and procedures for establishing, managing, and, ultimately, terminating court supervision.

The bill takes a three-pronged approach: First, it lays out a series of findings to guide the federal courts in approving future consent decrees. These findings give congressional endorsement to the Supreme Court's call for limiting decrees, as it did in Frew v. Hawkins in 2004. The findings also advocate the entry of consent decrees that take into account the interests of state and local governments and give due deference to their policy choices. And they make it clear that consent decrees should contain explicit and realistic strategies for ending court supervision.

Second, the bill places "term limits" on decrees, giving states and localities the opportunity to revisit them after the earlier of four years or the expiration of the term of the highest elected official who consents to the agreement. These time frames give consent decrees an opportunity to succeed, while not tying the hands of newly elected officials. They also prevent outgoing officials from agreeing to consent decrees as a way to lock in their successors to policies those successors would not normally support.

Finally, this legislation shifts the burden of proof from state and local governments to the plaintiffs in the case for purposes of the motion to vacate or modify the decree. Currently, a consent decree can be vacated or modified only following a showing by the defendant state or local government that circumstances have so significantly changed as to render the decree unworkable. The practical effect is that they must prove a negative—that the decree is no longer necessary. Yet if the purpose of the original agreement was to protect the plaintiff, it's logical that the plaintiff should demonstrate whether continued protection is justified.

RESPECTING DEMOCRACY

The goal of the Federal Consent Decree Fairness Act is to ensure that when a federal right is no longer threatened, a consent decree meant to protect that right can be expeditiously ended. When the purpose of the decree has been met, or circumstances have significantly changed, or later officials propose new and improved solutions to a problem, there needs to be a better way to remove the strictures of a consent decree.

The Federal Consent Decree Fairness Act would not impact the court's jurisdiction. It wouldn't eliminate consent decrees or even nullify existing ones. And it exempts desegregation cases. The bill merely creates a new judicial procedure that allows state and local governments to request a review of the consent decree under a shifted burden of proof.

The intent here is not to diminish the role of the federal courts. Consent decrees are important tools of federalism because they ensure that no government is above the law. From a practical perspective, they save enormous court costs and prevent damaging legal battles.

Rather, the goal is to level the playing field for state and local governments. There is no democracy when federal courts run police departments, school districts, foster care programs, and state insurance programs. Judges are not public policy experts, and they are not accountable to the electorate for the choices they make.

While the Supreme Court upheld the consent decree in Frew, its opinion captured the problem: "If not limited to reasonable and necessary implementations of federal law, remedies outlined in consent decrees involving state officeholders may improperly deprive future officials of their designated and executive powers. They may also lead to federal court oversight of state programs for long periods of time even absent an ongoing violation of federal law."

The Frew Court rightly focused on the encroachment of federal power over state and local governments. Our nation's founders envisioned a dynamic but separate relationship between the federal government and the states, and among the three branches of government. The 10th Amendment is clear in its delineation of responsibility: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

And while The Federalist No. 48 sets forth the idea that some connection between the two levels of government is necessary, its writer, James Madison, issues a clear warning: "It is equally evident that neither of them ought to possess directly or indirectly, an overruling influence over the others in the administration of their respective powers."

Consent decrees have, unfortunately, evolved into a mechanism for the federal judiciary to exercise "an overruling influence" on many state and local governments. Reform is desperately needed to fix this broken system. Democracy by decree is no democracy at all.

PRAISING THE HOUSE PAGE SCHOOL

Mr. ALEXANDER. Madam President, I would like to now praise the pages. I could say good words about the Senate pages and I will. I wanted to especially praise the House page school—and I hope the Senate pages will excuse me for doing that.

Madam President, my good friend, Alex Haley, the author of "Roots," used to say, "Find the good and praise it." Those words are engraved on his tombstone. When he wrote the story of Kunta Kinte, he minced no words in describing the terrible injustices his ancestors overcame, but he also acknowledged their courage and perseverance.

Since I joined this body, I have made improving the teaching of American history one of my top priorities. I have noted some deeply disturbing statistics about students' knowledge of our past. For example, of all the subjects tested by the National Assessment for Education Progress, also known as our Nation's report card, American history is our children's worst subject.

But today I am here to follow Alex Haley's advice to find the good and praise it. When it comes to teaching American history, some of the best news can be found right here on Capitol Hill.

On January 25, the College Board announced that the House page school ranked first in the Nation among institutions with fewer than 500 pupils for the percentage of the student body who achieve college-level mastery on the advanced placement exam in U.S. history. Twenty-one students, or about one-third of the school's student body, took the exam, and 18 received the required score of 3 or above to demonstrate mastery of the subject.

A number of Senate pages also take the AP U.S. history exam. Madam President, 12 students in the current class of 29 in the Senate page school will take 22 different AP exams this year. Eleven will take the U.S. history exam. But results for the Senate pages are not collectively known in the same way we know them in the House, and that is because the Senate Page School is only half the size of the House school. Senate pages register for the exam under their home high school name, rather than as a student at the page school. But based on what she hears from students, Principal Kathryn Weeden believes Senate pages score very well, but no complete tabulation of scores is available, as is with the House.

House pages attend classes in the attic of the Jefferson Building of the Library of Congress. They are perched atop one the largest collections of historical documents about our country. But location alone cannot account for their great success. The House Page School puts a strong emphasis on social studies and American history.

Students take American history with Sebastian Hobson and Ron Weitzel, a House Page School teacher of 21 years who will retire this year. Surely, much of the credit belongs to Mr. Hobson and Mr. Weitzel. But students also find a focus on American history in their work with other teachers. On Saturdays, students participate in the Washington Seminar, a program that explores American Government and history here in the District of Columbia.

Math teacher Barbara Bowen, who is something of an expert on Presidents Jefferson and Washington, takes students to Monticello and Mount Vernon.

Computer and technology teacher Darryl Gonzalez takes students to Fort McHenry and the American History Museum.

Science teacher Walt Cuirle includes the history of U.S. energy policy when he teaches his class on energy. Mr. Cuirle also takes students to Philadelphia for the Benjamin Franklin portion of the school's Washington seminar.

Most students take English teacher Lona Klein's course on American literature, which has to include history as they read literature from the Puritans, the Enlightenment, and the slave rebellions. She also leads a field trip to Annapolis to see the State house and the Naval Academy.

Principal Linda Miranda has made the teaching of American history a priority at the House Page School, and it shows. It is no wonder the school has received this recognition from the College Board, which administers the advanced placement exams across the country. Ms. Miranda credits the outstanding quality of the students who are selected as House pages and her faculty, whom she calls "Renaissance men and women."

There is no question this has been a team effort at the House Page School, but I know good leadership starts at the top. So I salute Linda Miranda, her faculty, and the students at the House Page School. I hope their success may be an example to schools across the country as to how we can restore the teaching of American history to its rightful place in our schools so our children grow up learning what it means to be an American.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

BIPARTISAN AGENDA FOR OREGON

Mr. WYDEN. Madam President, there has been a tumultuous start to this session of Congress with often acrimonious debate about judges, budget, and the tragic situation involving Terri Schiavo and her family. But I rise this morning with my friend and colleague, Senator GORDON SMITH, to speak not of division but of bipartisanship and of the hopes we share for our home State of Oregon and for our country.

This morning marks the fifth time Senator SMITH and I have unveiled what we call our bipartisan agenda for our home State. It has been our privilege and our pleasure at the beginning of each Congress to travel together around Oregon to listen to our fellow Oregonians and to find common ground on issues that matter to our citizens around their dining room tables and in their kitchens.

We suspect that what we hear in our joint townhall meetings is what other Members of the Senate hear as well. Oregonians, and all Americans, now struggle with health care—families and farmers and business owners and health care providers. Oregonians and all Americans are struggling to make ends meet in this economy, and this means workers and employers. Oregonians and all Americans want opportunities—educational opportunities, job opportunities, opportunities so their children have better lives.

Oregon has two U.S. Senators—a Democrat and a Republican—but we realize that for the most part, our citizens are not interested first in Republican solutions or Democratic solutions; they want solutions that work for Oregon and for our country. They want ideas, and they get frustrated when they see political figures letting petty and partisan differences get in the way of their interests.

In the bipartisan agenda for Oregon in the 109th Congress, we are seeking to expand a number of our shared legislative goals to seek good for our fellow Americans. I was especially pleased to join Senator SMITH as a member of the Senate Finance Committee this year. The committee oversees vital areas of policy, including health care, technology tax, trade policy, and many of the items on our agenda fall under the jurisdiction of the Senate Finance Committee.

We are also, in this agenda, working to expand our reach not only for Oregonians but for all Americans by working to tackle one of the most important and difficult issues in American health care, and that is providing catastrophic health care coverage so that our citizens do not have to go to bed at night fearing they are going to get wiped out by medical costs. This is a matter about which Democrats and Republicans have been talking for years, and there have been good Democratic and Republican ideas about catastrophic coverage for years. The fact is that if you own a hardware store in Alaska, Oregon, Iowa, or Florida, and you have five or six people and one of them gets sick, everybody gets wiped out in terms of their medical bills.

Senator SMITH and I believe we can develop a plan that will bring this Congress together, give us the opportunity to pass catastrophic health care legislation to be enacted and the President can sign into law.

So ours is a bipartisan agenda for Oregon, but it is also an invitation on the part of the two of us to contribute ideas and good will on issues where we have struck common bipartisan ground.

Our intention for a few minutes this morning is to speak on a number of these items—in effect, one of us speaking for both of us. I am very pleased to yield to my good friend and colleague, Senator SMITH, and to thank him for all of the opportunities to work with him, particularly for his willingness to consistently meet me more than half way in our efforts to try to work for our State. I thank Senator SMITH.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. SMITH. Madam President, I thank my colleague.

It seems only yesterday but it was over 8 years ago that Senator WYDEN and I engaged in a very hotly contested race for the seat of Bob Packwood, formerly the seat of Wayne Morse. I believe he was called "the tiger of the Senate," a man for whom Senator WYDEN had worked earlier in his college years.

Ours was a campaign that Oregonians will not soon forget because it was so hard fought. It was a special election. RON WYDEN won that race, and I narrowly lost that race. Yet, through a matter of circumstances, it was possible for me to continue running for the seat of Mark Hatfield with his announced retirement. So a few months later, I was elected to the U.S. Senate to the Hatfield seat, the McNary seat, the Baker seat. I think it was a question on every Oregonian's mind and certainly in the press whether RON WYDEN and I could work together in any fashion because of the difficulty of the race we had run.

What I did the morning after my victory was to call RON WYDEN and invite him to breakfast. No sooner had the orange juice been poured than it was very apparent to both of us that we were similar in nature in terms of our desire to do right by the State of Oregon. And while we would come at two issues from different political perspectives, we quickly recognized that on the matter of one's State, there was a community of interest, indeed, an incredible resource, and if we could find a way to put partisanship aside when it came to the borders of Oregon, we could find many areas where together, as a Republican and a Democrat, we could serve the interests of our Nation but particularly the interests of Oregon.

Senator WYDEN is the most senior elected Democrat, and I am the most senior elected Republican in our State. We understand that to our parties, we owe loyalty on nearly all procedural votes, we owe to our parties support of our nominees, but to each other we owe respect, and we have found that easy to come by. So after once being competitors, we found ourselves colleagues.

In the course of 9 years, we have found a very rich friendship. We do not editorialize on one another's votes. We try to support in every way we can the initiatives of the other. And we have found that the winner is not just our friendship but, much more importantly, the people we serve in the great State of Oregon.

What we do today is announce yet another bipartisan agenda, this one for the 109th Congress, a list of items that are specific, some general, but embark us on an agenda which we think will leave our State better when this Congress goes to sine die.

The common ground we have found in some cases is not on difficult issues, but it includes supporting communities, families, and children. Much work needs to be done to confront Oregon's methamphetamine agenda, including passing the Combating Meth Act and pursuing full funding for the High Intensity Drug Trafficking Area Program.

We will help improve access to higher education by keeping 529 higher education savings tax free.

We will find new ways to alleviate hunger and the causes of hunger for Oregon's economically vulnerable citizens.

A major part of our agenda is aimed at ensuring economic stability and growth. This includes defending Oregon timber producers from unfair trade practices and pressing the administration to work diligently for a new soft wood agreement with our neighbor, the nation of Canada.

We will support our ports so they can remain vibrant. We need to maintain funding for Oregon's smaller ports and work to ensure that the port of Portland's competitiveness in the future is ensured by dredging the Columbia River channel.

Our agenda includes promoting renewable energy and furthering Oregon's status as the premier State for the development of renewable resources through tax and energy legislation.

We will work with our colleagues in the House and the Senate to protect the county payments legislation that brings over $200 million to Oregon counties annually. This is a program that was started with our effort to help vulnerable rural places that have lost timber receipts to have sufficient resources so that their schools can remain open, their streets can remain paved, and their neighborhoods can remain safe.

We will also work with the understanding that a strong economy depends upon affordable power rates. We will stand up against any attempts to force BPA to sell its power at market-based rates or restrict its access to capital for infrastructure investments.

Before I yield to Senator WYDEN, I note for our friends in the media that one of the most significant issues Senator WYDEN has already highlighted on our agenda is our effort to provide for catastrophic insurance. On the issue of health care, our Nation faces a crisis. Certainly the people of Oregon do. I have always believed that in America, and certainly in Oregon, the loss of one's health should not mean the loss of one's home. So what we are going to do together on the Finance Committee is pursue an agenda whereby people in America will have the ability to have in emergency situations health care for catastrophic illnesses so their families are not left destitute and their heirs are not left bankrupted.

I yield now to my colleague, Senator WYDEN.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Madam President, the Senator has summed it up very well. I pick up on his comments with respect to health care. As my friend knows, this has always been my first love, going back to my days with the Gray Panthers. I have been especially proud that Oregon has been a leader in this area, first essentially in home health care, using dollars that could have gone for institutional care for home care, or the Oregon health plan, which began the debate about tough choices.

I particularly want to note with Senator SMITH on the floor this morning that Oregon again is in a position of leading on health care, and that is because my friend and colleague, through an extraordinary effort, has been able to send a message across this country that those on Medicaid, the most vulnerable people in our society, people who always walk an economic tightrope, balancing their food costs against their fuel costs and their fuel costs against their medical bills—because of Senator SMITH's efforts during the budget, there is an opportunity now to renew the protections those vulnerable people have.

He and I agree completely that there are opportunities to promote reforms in Medicaid and we are committed to that, but because of Senator SMITH's effort we are not going to put budget cuts ahead of reforms. So as we go to this discussion about health care, I particularly want to commend my colleague because his leadership on Medicaid is part of the long tradition of Oregon being first in terms of making judgments about health care. I am proud to be able to assist in his efforts.

My colleagues will see that the Medicaid reform commission Senator SMITH envisions and other reforms we have worked on are a big part of our effort.

With respect to catastrophic care, what is so striking about this debate is that experts have known what to do about this issue for years. One can get an awful lot of protection for a relatively small amount of dollars. For example, on any given day in our country, if somebody gets sick in a small business, it essentially blows the whole premium structure for everybody. If just one of the employees, where there is a little store of five or six people, gets sick, then rates skyrocket for everyone.

What Senator SMITH and I are going to do in our catastrophic care bill is spread the risk, look to a way, for example, where Government might pick up a bit of that risk. Democrats have proposed it. Republicans have proposed it. Once there is that kind of risk spreading, instead of what happens now when one person gets sick and everybody pays higher bills, Government picks up a bit of that risk and the costs go down for everybody.

The two of us are on the Senate Finance Committee and we are going to do everything we can to try to bring the committee and the Senate together around these ideas.

Members of both political parties have had good ideas on this for literally a couple of decades. I remember talking about catastrophic care when I had a full head of hair, and we should have done it then. Senator SMITH and I are going to try to tackle it. We will also look at some other issues that have great implications for our State but also for our country overall. One of them involves equity for health care providers.

Today, at a time when we have this demographic revolution, and we are going to have so many more older people, one would think the Federal Government would try to reward providers for doing the right thing, offering good quality care and holding costs down. Instead, the Federal Government sends the opposite message. The Federal Government basically says to Oregon and to other States that are doing a good job, well, tough luck, folks. Instead of rewarding you, we are going to actually stick it to you. We are going to penalize you and limit your reimbursement in spite of the fact that you provide higher quality, more efficient health care.

We are going to try to change that reimbursement system. It will obviously help our State, but I would submit, if one looks at the challenges for Medicare, the head of the General Accounting Office, David Walker, has said Medicare is seven times as great a challenge as is Social Security. And we cannot afford not to have the Smith-Wyden reforms with respect to reimbursement for health care providers. I am very hopeful we will be able to win support in the Finance Committee and in the Senate for those reimbursement changes as well. They make sense for our State, but they are absolutely critical for our country as well.

In addition to health care, which will be a prime focus of our work, Senator SMITH and I want to make sure we promote the use of innovative technologies, making sure that they are accessible and affordable so as to capture the opportunity to use technology to grow incomes and strengthen our economy. Depreciation will be a topic we will focus on because right now businesses that need new technologies to keep up in tough global markets take a big tax hit if they change their equipment as frequently as they need to in order to keep up with the competition.

We intend to work together on the Finance Committee to change tax laws and be able to accelerate the depreciation of equipment and end the penalties our businesses pay for staying on the cutting edge of our economy.

We also intend to promote nanotechnology to continue to work to make Oregon a national leader in the new small science. Americans are not completely sure what this field is all about. A woman came up to me in a small store in Oregon recently and said: RON, I do not know what this nanology is, but I am glad you are working on it.

The science of small stuff is going to be the wave of the future, and unprecedented collaboration between the public and private sectors has made Oregon one of America's leading microtechnology and nanotechnology centers.

Senator SMITH and I joined to be part of an effort in the Senate to provide billions of dollars for nanotechnology that would create regional centers in this exciting field, and we intend to work to make certain that those efforts receive the Federal attention and credit they deserve.

We will also work to build out broadband and the telecommunications technologies. We intend to work again in the Finance Committee to create appropriate tax incentives that will ensure broadband gets to the four corners of our State, and, of course, to pick up on our theme that what we are doing makes sense for Oregon and for our country.

I submit that the Smith-Wyden effort, as it relates to broadband, technology, and the Web, will be of great benefit to Alaska as well. We are fortunate to have had a good relationship with Senator STEVENS as well who chairs the Senate Commerce Committee.

The last point I make with respect to technology is as we try to bring all of those folks on to the Web and to be part of our Web-based economy, we should not hit them with a variety of new taxes. The bipartisan Internet tax Freedom Act makes it illegal to level double taxes or discriminatory taxes when one surfs the Web or makes Internet purchases. The two of us will be working on our committees, both the Commerce Committee and the Finance Committee, to make the Internet tax moratorium permanent to preserve Web access and Web commerce for the future.

We want to work together with our colleagues, and we have come today to say we want to promote smart solutions, the kind Oregonians and Americans should expect from the Senate.

I will yield back to Senator SMITH so he can close out our joint presentation, and in yielding tell him that in addition to what we are trying to do for our State and the impact I think our ideas will have for the country in a variety of these areas, technology and health care and the issues we have mentioned, I hope what we are doing in the Senate today will be infectious and will cause other Senators to join in these kinds of efforts.

Very often colleagues have come up to Senator SMITH and me and sort of said, what is in the water out there? What are you guys doing? I have never heard of this. We always respond, try it, you will like it. It is not going to be painful.

I see our friend from Oklahoma, Senator INHOFE, who has always been very kind to me in working on infrastructure and other issues, and I will say that in an acrimonious time, when there are certainly divisions, let us try to find every possible way to come together. We realize it is not always possible to do it, but what is exciting about America is we debate issues in a vigorous way. Certainly Senator SMITH and I do not agree on everything under the Sun, but we certainly agree on a lot of critical matters. Even if we do not, we talk about them in a way that we think is respectful and promotes to our citizens the reality that debate can be thoughtful, it can be contemplative, and it does not always have to be about scorched earth kind of politics. I am very pleased that Senator SMITH will conclude for both of us in our joint presentation. I thank him again for all of his efforts to work with me.

When I had a chance to come to the Congress, and Senator JIM INHOFE and I were then Members of the House, I dreamed of having this kind of opportunity to work in a bipartisan way in representing our State, and I thank my colleague for doing so much to make that possible.

I yield to him to wrap up not just on behalf of himself but to wrap up on behalf of both of us.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. SMITH. Madam President, I thank the Senator.

I think he said it well. So much can be accomplished if colleagues will focus on the possible instead of the polemic. When we do that, we find that the people's business is moved forward in a positive way and our Nation makes progress.

I conclude with these words: I do not know how long Oregonians will grant me the honor of representing them in the Senate, but I do know for as long as I am in this Chamber and for as long as Senator WYDEN is my colleague, we will continue to look for ways to move beyond partisanship and to continue our partnership for Oregon.

We yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Let me inquire as to what is the regular order?

The ACTING PRESIDENT pro tempore. Senators are permitted to speak for up to 10 minutes in morning business.

Mr. INHOFE. Madam President, I ask unanimous consent I be allowed to speak for up to 20 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FOUR PILLARS OF CLIMATE ALARMISM

Mr. INHOFE. Madam President, I am returning to the floor, as I have many times in the last few years, to further address what I have considered to be probably the greatest single hoax ever perpetrated on the American people, and that is this thing called global warming. As I noted in my last speech, there is a perception, especially among the media and the environmental elitists, that the scientific community has reached a consensus on global warming. As Sir David King, the chief science adviser to the British Government, recently said:

> There is a very clear consensus from the scientific community on the problems of global warming and our use of fossil fuels.

Those problems amount to rising sea levels, floods, tsunamis, droughts, hurricanes, disease, and mass extinction of species—all caused by the ever-increasing greenhouse gas emissions. The alarmists confidently assert that most scientists agree with this, and they vehemently dispute claims of uncertainty about whether catastrophes will occur.

It is interesting that most of the people who are talking about gloom and doom on global warming are the same ones, just a few years ago, in the 1970s, who were talking about global cooling, saying that a little ice age is coming and we are all going to die. But today, to question the science of catastrophic global warming is considered illegitimate. Consider Dr. Daomi Oreskes, who wrote in the Washington Post last December:

> We need to stop repeating nonsense about the uncertainty of global warming and start talking seriously about the right approach to address it.

Global warming, then, is no longer an issue for scientific debate. It appears to have soared into the realm of metaphysics, reaching the status of revealed truth.

Madam President, this is absurd. Since 1999, almost all scientific data has shown that this whole thing is, in fact, a hoax. More then 17,000 scientists have signed the Oregon Petition—ironically, after listening to the two Senators from Oregon who had excellent presentations—stating that fears of catastrophic global warming are groundless. These and other scientists who do not subscribe to the so-called consensus are condemned as skeptics and tools of industry. Now, in order to avoid professional excommunication, one must subscribe to the four principal beliefs underlying the alarmist consensus. I am going to call these the four pillars of climate alarmism, all of which, it is said, provide unequivocal support for that consensus view.

What I am going to do is talk about all four pillars, but mainly only one today, and then wait a week and let that soak in and then maybe come back and talk about the other three. The four pillars are as follows: The 2001 National Academy of Sciences report summarizing the latest science of climate change, requested by the Bush administration. Pillar No. 2, which we will be talking about later, is the scientific work of the United Nations Intergovernmental Panel on Climate Change, the IPCC—we have heard a lot about that, most especially its Third Assessment Report, released in 2001. The third pillar is the recent report of the international Arctic Climate Impact Assessment. No. 4 is the data produced by climate models.

I will show over the next several weeks that none of these pillars support the consensus view. Today I will begin my four pillars series with the NAS.

Before I delve into the NAS report, some historical CBO context is in order.

Back in 2001 the Kyoto Treaty was on the verge of collapse. President Bush announced his rejection of the Kyoto Treaty, calling it "fatally flawed in fundamental ways." Our friends in Europe expressed outrage, even shock, though it was never in doubt where the United States stood. We have not changed our position.

In 1997, here on the floor of the Senate, we passed by a vote of 95 to nothing the Byrd-Hagel resolution. Primarily, the Byrd-Hagel resolution said if you come back from Kyoto with something that treats developing nations differently from developed nations, then we will reject it, we will not ratify it. Of course, that is exactly what happened. So we are supposed to do all these things, but not China and not Mexico, not the other countries—yet that passed 95 to nothing. There was not one dissenting vote.

On June 11, 2001, President Bush delivered a speech detailing Kyoto's flaws. He also provided an overview of the current state of climate science as described in a report, which he requested, by the National Academy of Science. Although the report offered very modest conclusions about the state of climate science, as described in a report, which he requested, by the National Academy of Sciences. Though the report offered very modest conclusions about the state of climate science, alarmists repeatedly invoke it as ironclad proof of their consensus. So let's take a closer look at what the NAS had to say.

The 2001 NAS report was wide-ranging and generally informative about the state of climate science. It stated that, "Because there is considerable uncertainty in current understanding of how the climate system varies naturally and reacts to emissions of greenhouse gases and aerosols, current estimates of the magnitude of future warming should be regarded as tentative and subject to future adjustments (either upward or downward)."

Let me repeat that: "Considerable uncertainty in current understanding." "Estimates should be regarded as tentative and subject to future adjustments." Does this sound like solid support for the consensus view? Surely there must be more. Well, in fact there is.

Under the headline "The Effect of Human Activities," the NAS addressed the potential impact of anthropogenic emissions on the climate system. Here's what it said:

> Because of the large and still uncertain level of natural variability inherent in the climate record and the uncertainties in the time histories of various forcing agents (and particularly aerosols), a causal linkage between the buildup of greenhouse gases in the atmosphere and the observed climate changes in the 20th century cannot be unequivocally established.

Again, that's worth repeating:

> Because of the large and still uncertain level of natural variability . . . [u]ncertainties in the time histories of various forcing agents . . . cannot be unequivocally established.

I read numerous press accounts of the NAS report, yet I failed to come across reporting of this quote. Is this what the consensus peddlers have in mind when they assert that everything is "settled"?

The NAS also addressed the relationship between climate change and aerosols, which are particles from processes such as dust storms, forest fires, the use of fossil fuels, and volcanic eruptions. To be sure, there is limited knowledge of how aerosols influence the climate system. This, said the NAS, represents "a large source of uncertainty about future climate change."

By any conceivable standard, this and other statements made by NAS cannot possibly be considered unequivocal affirmations that man-made global warming is a threat, or that man-made emissions are the sole or most important factor driving climate change. It certainly cannot provide the basis for the United States Congress to adopt economically harmful reductions of greenhouse gas emissions.

It would be a grand folly to do that, especially considering what the NAS had to say about global climate models. The NAS believes much of the uncertainty about climate change stems from those models, which researchers rely on to make projections about future climate changes. These models, as the NAS wrote, contain serious technological limitations that cast doubt on their ability to simulate the climate system:

> [the models] simulation skill is limited by uncertainties in their formulation, the limited size of their calculations, and the difficulty of interpreting their answers that exhibit as much complexity as in nature."

Model projections, as the NAS pointed out, rest on a raft of uncertain assumptions.

> Projecting future climate change first requires projecting the fossil-fuel and land-use sources of CO_2 and other gases and aerosols,

the NAS found. "However, there are large uncertainties"—please note the phrasing again, "large uncertainties"—

> in underlying assumption about population growth, economic development, life style choices, technological change and energy alternatives, so that it is useful to examine scenarios developed from multiple perspectives in considering, strategies for dealing with climate change.

For this reason, simulations produced by climate models provide insufficient proof of an absolute link between anthropoenic emissions and global warming.

> The fact that the magnitude of the observed warming is large in comparison to natural variability as simulated in climate models is suggestive of such a linkage, [according to NAS] but it does not constitute proof of one because the model simulations could be deficient in natural variability on the decadal to century time scale.

That last point demands further elaboration and emphasis. The NAS thinks climate models could be off by as much as a decade, or perhaps 100 years. Why is this important? Global climate models constitute one of the Four Pillars. Alarmists frequently point to computer-generated simulations showing dramatic, even scary, pictures of what might happen decades from now: more floods, more hurricanes, more droughts, the Gulf Stream shutting down. In many cases, the media eagerly report what these models produce as pure fact, with little or no explanation of their considerable limitations.

The NAS also addressed the work of the UN's Intergovernmental Panel on Climate Change, another of the Four Pillars. The IPCC's 2001 Third Assessment Report, particularly its Summary for Policymakers, is frequently cited as proof of the consensus view. But the NAS disagrees. "The IPCC Summary for Policymakers," the NAS wrote,

> could give an impression that the science of global warming is settled, even though many uncertainties still remain.

Here again, the NAS is saying the science is not settled.

The NAS also addressed the IPCC's future climate scenarios. These scenarios are the basis for the IPCC's projection that temperatures could increase to between 2.7 to 10.4 degrees Fahrenheit by 2100. The NAS said:

> The IPCC scenarios cover a broad range of assumptions about future economic and technological development, including some that allow greenhouse gas emission reductions. However, there are large uncertainties in underlying assumptions about population growth, life style choices, technological change, and energy alternatives.

Once again, the NAS says "there are large uncertainties in underlying assumptions."

The same is true, the NAS said, about future projections of CO_2 emissions. As the NAS stated:

> Scenarios for future greenhouse gas amounts, especially for CO_2 and CO_4, are a major source of uncertainty for projections of future climate.

To bolster the point, the NAS found that actual CO_2 emissions contradicted the IPCC, stating that:

> The increase of global fossil fuel CO_2 emissions in the past decade, averaging 0.6% per year, has fallen below the IPCC scenarios.

There are those troublesome words again: "Large uncertainties in underlying assumptions." "Major source of uncertainty."

The NAS also expressed clear reservations about the relationship between carbon dioxide emissions and how they interact with land and the atmosphere:

> How much of the carbon from future use of fossil fuels will be seen as increases in carbon dioxide in the atmosphere will depend on what fractions are taken up by land and by the oceans. The exchanges with land occur on various time scales, out to centuries for soil decomposition in high latitudes, and they are sensitive to climate change. Their projection into the future is highly problematic.

Let me offer one final quote from the study before I turn to the media. Taking stock of the many scientific uncertainties highlighted in the report, the NAS issued explicit advice to guide climate research—advice, by the way, that alarmists reject:

> The most valuable contribution U.S. scientists can make is to continually question basic assumptions and conclusions, promote clear and careful appraisal and presentation of the uncertainties about climate change as well as those areas in which science is leading to robust conclusions, and work toward a significant improvement in the ability to project the future.

I am concerned about the media. I will talk about that in a minute.

People are trying to say that the release of CO_2 is the cause of climate change. These people have to understand that historically it doesn't work out that way. We went into a time right after World War II when we had an 85-percent increase in CO_2 emissions. What happened there was that precipitated not a warming period but a cooling period. Again, that is too logical for some of the alarmists to understand. They want so badly to feel a crisis is upon us.

It is kind of interesting. There is a well-known author, Michael Crichton, who wrote a book, "State of Fear." I recommend that everyone read that. He is a scientist and a medical doctor who wrote this about how horrible things could happen with global warming. After he researched it, he came to the conclusion that it is a hoax. I recommend everyone read that book. It is very revealing. It is very accurate in the way the media and Hollywood are treating things.

It's not surprising that the media distorted and exaggerated the NAS report. The public was told that the NAS categorically accepted that carbon dioxide emissions were the overwhelming factor causing global warming, and that urgent action was needed. One factually challenged CNN reporter said the NAS study represented "a unanimous decision that global warming is real, is getting worse, and is due to man. There is no wiggle room." The New York Times opined that the report reaffirmed "the threat of global warming, declaring fearlessly that human activity is largely responsible for it." Of course, as the preceding quotes from the report show, this is not true.

This is the report we are talking about with all of the qualifications they have. Of course, the proceedings from this report show it is not true. It is an outrageous lie.

Unfortunately, the media wasn't burdened with any actual knowledge of the report. Rather, it seized on a sentence fragment from the report's summary, and then jumped to conclusions that, to be charitable, cannot be squared with the full report. That fragment from the summary reads as follows: "Temperatures are, in fact, rising. The changes observed over the last several decades are likely mostly due to human activities. . ." There's the smoking gun, we were told then and even now, proving a global warming consensus.

However, the second part of the sentence, along with much else in the report, was simply ignored. The second part of the sentence reads: "We cannot rule out that some significant part of these changes is also a reflection of natural variability."

And as we have seen, it is amazing how one could conclude that the NAS "left no wiggle room" that "global warming is due to man." Dr. Richard Lindzen, a professor of meteorology at MIT, and a member of the NAS panel that produced the report, expressed his astonishment in an editorial in the Wall Street Journal on June 11, 2001. Dr. Lindzen wrote that the NAS report showed "there is no consensus, unanimous or otherwise, about long-term climate trends and what causes them." Yet to this day, the media continues to report exactly the opposite.

As I noted earlier, raising uncertainties or questioning basic assertions about global warming is considered "nonsense." I wonder if the same applies to the NAS. For on just about every page of the 2001 report, the NAS did exactly that.

But for the alarmists, global warming has nothing to do with science or scientific inquiry. Science is not about the inquiry to discover truth, but a mask to achieve an ideological agenda. For some, this issue has become a secular religion, pure and simple.

Dr. Richard Lindzen has written eloquently and powerfully on this point, so I will end with his words: "Science, in the public arena, is commonly used as a source of authority with which to bludgeon political opponents and propagandize uninformed citizens. This is what has been done with both the reports of the IPCC and the NAS. It is a reprehensible practice that corrodes our ability to make rational decisions. A fairer view of the science will show that there is still a vast amount of uncertainty—far more than advocates of Kyoto would like to acknowledge—and that the NAS report has hardly ended the debate. Nor was it meant to."

This is Dr. Lindzen. No one will question his credibility and his background.

We know the economic damage that will be done to America. We have all talked about the report on the econometrics survey. That survey showed how much energy would increase, should we have to comply with the Kyoto Treaty. It shows it would cost the average American family of four $2,175 a year. So we know how expensive that is. That is all documented.

You might say, Wait a minute. If this is true, if the science is not established and there is that much economic damage to the United States, why are we doing this? I think the answer to that could be given from quoting two individuals. One is not exactly an American hero, Jacques Chirac from France, who said:

> Kyoto represents the first component of an authentic governance.

Then some of you may have heard of Margo Wallstrom, the Environmental Minister of the European Union. She said:

> Global warming is not about climate. It is about leveling the economic playing field worldwide.

I hope the first pillar has been discredited, and next week we will start with pillar No. 2 in hopes that we can have a wake-up call for the American people—that these same alarmists who were concerned about global cooling two decades ago will quit worrying so much about their own agenda and start looking at the science.

I feel an obligation as chairman of the Environment and Public Works Committee to look at the science. Certainly the Presiding Officer is a valued member of that committee. We have a commitment to look at sound science, as unpopular as it may be.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Missouri.

Mr. BOND. Mr. President, I was pleased to hear the thought-provoking comments of the chairman of the Environment and Public Works Committee. I thank him much for the work he has done there. Some of the things he said reminded me of an analogy to a totally different situation. When somebody was misusing some scientific facts, the comment was, They used the facts like a drunk uses a light post—for support rather than for illumination.

But I look forward to reading the book "State of Fear" by Dr. Crichton. We appreciate the ongoing discussions that we will have.

WATER RESOURCES DEVELOPMENT ACT

Mr. BOND. Mr. President, yesterday I introduced, along with Senators INHOFE, VITTER, WARNER, VOINOVICH, ISAKSON, THUNE, MURKOWSKI, OBAMA, LANDRIEU, GRASSLEY, HARKIN, TALENT, CORNYN, COCHRAN, DOMENICI and COLEMAN, the 2005 Water Resources Development Act, S. 728.

The programs administered by the U.S. Army Corps of Engineers are invaluable to this Nation. They provide drinking water, electric power production, river transportation, environmental protection and restoration, protection from floods, emergency response, and recreation.

Few agencies in the Federal Government touch so many citizens, and with such little recognition by many, I might add, and they do it on a relatively small budget. They provide one-quarter of our Nation's total hydropower output, operate 456 lakes in 43 States, hosting 33 percent of all freshwater lake fishing. They facilitate the movement of 630 million tons of cargo valued at over $73 billion annually through our inland system. They manage over 12 million acres of land and water; provide 3 trillion gallons of water for use by local communities and businesses; and they have provided an estimated $706 billion in flood damage within the past 25 years with an investment one-seventh of that value.

During the 1993 flood alone, an experience which I witnessed firsthand, an estimated $19.1 billion in flood damage was prevented by flood control facilities in place at that time.

Our ports move over 95 percent of U.S. overseas trade by weight and 75 percent by value.

Between 1970 and 2003, the value of U.S. trade increased 24-fold, and 70 percent since 1994. That was an average annual growth rate of 10.2 percent, nearly double the pace of the gross domestic product growth during the same period.

Unfortunately, the American Society of Civil Engineers has issued a grade on our navigable waterways infrastructure. They gave it a D− with over 50 percent of the locks "functionally obsolete" despite increased demand.

Recently, a story in the Wall Street Journal warned of the current condition. It begins:

> The nation's freight-bearing waterway system, plagued by age and breakdowns, is saddling the many companies that rely on the network with a growing number of supply disruptions and added costs.
>
> While some consider it an anachronism in the age of e-commerce, the system remains vital to a broad swath of the economy, carrying everything from jet fuel and coal to salt and the wax for coating milk cartons. The network stretches 12,000 miles, mostly through the nation's vast web of rivers, and relies on a series of dams and locks, which are enormous chambers that act as elevators for moving barges from one elevation of water to another.
>
> Much of the infrastructure was built early in the last century. It's showing the effects of time and, according to some, of neglect. Old equipment takes longer to repair, and it's more vulnerable to nature's extremes.

The bipartisan bill is one that traditionally is produced by the Congress every 2 years. However, we have not passed a WRDA bill since 2000. The longer we wait, the more unmet needs pile up, the more complicated the demands upon the bill become, making it harder and harder to win approval. For some, the bill is small; for others, it is too big; for some, the new regulations are too onerous; and for others, the new regulations are not onerous enough.

Nevertheless, I believe we have struck a balance here, largely on a bipartisan basis, that disciplines the new projects to criteria fairly applied while addressing a great number of water resource priorities.

With the new regulations, we have embraced a commonsense, bipartisan proposal by Senators LANDRIEU and COCHRAN, similar to the bipartisan House agreement that requires major projects to be subject to independent peer review, and requires, if necessary, mitigation for projects be completed at the same time the project is completed, or, in special cases, no longer than 1 year after project completion. This compromise will impose a cost on communities, particularly smaller communities, but it is not as onerous as the new regulations proposed last year which ultimately prevented a final agreement from being reached between the House and the Senate.

The commanding features of this bill are its landmark environmental and ecosystem restoration authorities. Nearly 60 percent of the bill authorizes such efforts, including environmental restoration of the Everglades, coastal Louisiana, Chesapeake Bay, Missouri River, Long Island Sound, Salton Sea, Connecticut, the Illinois and Mississippi Rivers, and others.

Additionally, we have included the previously introduced bipartisan proposal to modernize the aging locks on the Mississippi and Illinois Rivers, designed 70 years ago for paddlewheel boats.

We should do simply for the future what our predecessors did for the present and build the systems designed to improve our competitiveness, our standard of living, and environmental protection. It does not happen overnight and we have experienced far too much delay already. We spent 12 years and $70 million to complete what was supposed to be a 6-year, $25 million study.

Without a competitive transportation system, the promise of expanded trade and commercial growth is empty, job opportunities are lost, and we will be unprepared for the challenges of this new century.

A lot of people don't appreciate the fact that one medium-sized river barge tow carries the same freight as 870 trucks. That should speak pretty significantly for the efficiency and environmental protection of water transportation.

Eighty years ago, leaders in this Nation wanting to build a better tomorrow made investments in our productive capacity to help our producers ship goods and hire workers. At that time, investments were expensive and controversial. Some even said the investments were not justified. The Corps said they were not satisfied.

But Congress decided otherwise, that it was a better idea to shape the future rather than to try to make unsound predictions of the future.

Eighty million tons of annual cargo later, it is clear Congress was right in that judgment. In the last 35 years, waterborne commerce on the upper Mississippi River has tripled, but the system is not suited to this century. It is a one-lane highway in a four-lane world economy. If we fail to act, we lose and our foreign competitors win, outsourcing jobs by Government paralysis.

Last year, the United States Department of Agriculture chief economist Keith Collins predicted corn exports through the Gulf would grow 45 percent in 10 years. We asked him why he wasn't making a 50-year prediction, which was asked of that ridiculous 12-year, $70 million study. He said nobody in their right mind could make a prediction 50 years in the future and it was taking a lot of assumptions to make a 10-year prediction. But we cannot see the exports grow, we cannot get revenue for our farmers, we cannot strengthen our rural communities and improve our balance of trade if trade is constrained by the transportation straitjacket we currently have.

A good friend of mine from Alma, MO, Neal Bredehoeft, is a soybean producer from Alma, MO, and president of the American Soybean Association. He said yesterday in St. Louis:

> While U.S. farmers are fighting to maintain market share in a fiercely competitive global marketplace, our international competitors are investing in transportation infrastructure. Argentina has invested over $650 million in their transportation systems to make their exports more competitive. Brazil is restructuring its water transportation network to reduce the cost of shipping soybeans by at least 75 percent. Due in large part to these efforts, the two countries have captured 50 percent of the total growth in world soybean sales during the past three years.
>
> Making the necessary upgrades to improve the Mississippi and Illinois waterways would also protect jobs. Navigation on the Upper Mississippi and Illinois Rivers supports over 400,000 jobs, including 90,000 high-paying manufacturing jobs.

I appreciate the strong bipartisan support for this proposal and the support from labor, the Farm Bureau, the corn growers, soybean producers, Nature Conservancy, the diverse members of MARC 2000, and other shippers and carriers fighting to protect and build markets in an increasingly competitive marketplace while improving protection for this vital resource.

It is important that we understand the budget implications of this legislation in the real world. We are contending with difficult budget realities currently. It is critical we be mindful of these realities as we make investments in the infrastructure that supports the people in our Nation who make and grow and buy and sell things so we can make our economy grow, create jobs, and secure our future.

This is an authorization bill. It does not spend $1. I repeat, regrettably, it does not spend $1. It merely authorizes the spending. With the allocation provided through the budget, the Appropriations Committee and the Congress and the President will fund such projects deemed to be of the highest priority and those remaining will not be funded because the budget will not permit. Strictly speaking, this bill provides options, not commitments. I wish it were otherwise.

I thank my colleagues on the committee and their staff for the very hard work devoted to this difficult matter. I particularly thank Chairman INHOFE for his forbearance. I believe if Members work cooperatively and aim for the center and not the fringe, we can get a bill completed this year. If demands exist that the bill be away from the center, going to the fringe, imposing unreasonable restrictions, we will go another year with Congress unable to complete our work as we did last year, unable to move forward on the 60 percent of economic and environmental restoration and the 40 percent of building the infrastructure we need to strengthen our economy and make sure we remain competitive in the 21st century.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GAS PRICES

Mr. LAUTENBERG. Mr. President, I understand the State Department bill has currently been laid aside. When it returns, I intend to offer an amendment, and I wanted to take advantage of the opportunity today to talk about it.

My amendment—we are calling it the OPEC Accountability Act—is cosponsored by Senators DURBIN and DORGAN. It will bring some sanity and fairness to the world oil markets. It will help provide some relief to our citizens from soaring gas prices that punish American families, businesses, and the entire community.

My amendment will direct the U.S. Trade Representative to initiate World Trade Organization proceedings against OPEC nations. Under the rules of the WTO, countries are not permitted to set or maintain export quotas. It is illegal. But that is exactly what OPEC does. OPEC is a cartel. Everybody knows that. The whole point of the organization is to set quotas. Why set quotas? To control prices. The mission is often to have countries beholden to them outside their little orbit, and they then are able to outrageously set prices for commodities that are essential. They collude to set quotas for the export of oil, which cause gas prices to rise.

I say to people across America, if you are wondering why gas is so expensive these days, a major part of that answer is OPEC. It is an illegal cartel, plain and simple. And we have allowed this cartel to operate for too long. Now it is time to put a stop to it. Every day American families feel the effects of the OPEC cartel at the gas pump. Look at the spike in the price of gas since 2001. Gas prices have nearly doubled since 2001.

I am going to show another chart that more particularly shows the precise prices for gasoline during those periods. In December of 2001, a gallon of gas averaged in price at $1.15. That was 2001. Today a gallon of gas averages $2.30. That is a doubling of the price in just over 4 years. This spike in gasoline prices hurts American families.

We hear a lot of talk about tax relief for middle-income families. But whatever tax cuts they received in that middle-income family in the last 4 years are being eaten up by increased gas prices. When you look at the gas price in that period of time and compare it to the Bush tax cut, the tax cut would have been $659. But the cost for gasoline the average family used in that year is $780, far more than the tax cut brought home to families.

A middle-income family who uses one tank of gas a week is going to pay an extra $780 a year because of rising gas prices eating up every penny and more that they received from the tax cut of the last 4 years.

When Americans drove up to the gas station on December 2001, this is what they saw: Regular gas $1.06 a gallon; the supreme, the high-test gas, $1.25 a gallon. Now after years of administration inaction, what we are looking at is regular is $2.22 compared to $1.06; $2.31 compared to $1.15 for plus gas; and $2.40 for supreme compared to $1.25 just over 4 years ago. It is an outrage.

One of the things that always bothers me is when I look at the forecast for inflation and I see what we are paying. I can't think of anything that is cheaper than it used to be, whether it is food, energy, or gasoline, no matter what it is. Here is the pressure. Frankly, I believe it has been administered poorly. I don't think we have tried to figure out a way to keep these costs down.

Some of these countries that are members of OPEC are totally dependent on America for their security. Yet they are willing to impair our security, our economic well-being, our job creation, our business function. They don't mind that when they have the weapon that they conveniently use against us.

Most people live on a fixed income. They can't stop driving to their job or taking the kids to school or going to the doctor's office or the grocery store.

They have to pay the increased price for gas. That means they have to cut back on other things, perhaps air-conditioning or heat or a visit to the doctor or perhaps foregoing a therapy session for an injury. All of these are taken away by this outrageous increase in the cost of gasoline.

The soaring price of gas is already taking a toll on American families. If something is not done soon, it could get a lot worse. This also is rattling the prices of stocks on the stock exchange, investments, causing all kinds of dislocation there. It is led by the increasing demand for oil.

Goldman Sachs, a very well known financial firm, one of the biggest in the world, predicts that oil could reach $105 a barrel by the end of this year. It is now in the fifties, almost double the current price. While American families suffer, I don't hear anything coming from the President, the administration, to say anything about it. As a matter of fact, during the last campaign, it was frequently suggested that if John Kerry were President, he would be raising taxes on gasoline.

What are we looking at here? However we got here, it is on the watch of the Bush administration. Here are the prices again. Now it is $2.22 for a gallon of gas. It used to be $1.06. That is a lot of money, particularly since the type of vehicle that is frequently driven today is a gas-consuming vehicle. It costs a lot of money now to have that car running and to take care of your family's needs.

President Bush has repeatedly said that he would talk to his Saudi friends in the oil business. Talk is cheap, but oil and gasoline isn't. The American people want action. This amendment is a call to action. We have to find a way to escape the grasp of these countries around our economic well-being and our functioning as a society.

I have released a report explaining exactly how OPEC nations are violating the rules of the WTO. This report is on my Web site. I invite my colleagues and the public to read it. The report reaches a simple and straightforward conclusion. OPEC manipulates world oil markets by imposing export quotas on oil. You hear them brag about it. These quotas keep the price of oil artificially high. Just think about it. Who is the leader? Which is the country that called on us in 1990, come help us; the Iraqis are headed our way; They want to overtake our country. And we sent 540,000 people in uniform to fight off Iraq's attempt to overtake Saudi Arabia.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. Mr. President, I didn't know there was any time limit, but I ask unanimous consent to continue for 10 minutes.

The PRESIDING OFFICER. The Senate is in morning business.

Is there objection? Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, OPEC manipulates world oil markets with their export quotas on oil, which keeps the price artificially high.

Without OPEC, market analysts have estimated that the free market price of oil would be around $10 to $15 lower than today's price. So the expectation is that oil would be lower in cost by $10 to $15 than it is today if it wasn't for this conspiracy out there by some so-called friends and avowed enemies. That includes Iraq and former antagonist of the United States, Libya; and it includes other countries. There is no reason to continue to tolerate OPEC's anticompetitive behavior.

The administration has been lax in dealing with OPEC. In my view, President Bush's close ties to the Saudis and big oil companies have prevented him from sticking up for the American consumers.

Worse yet, high oil prices mean massive profits for countries such as Saudi Arabia and Iran—countries that frequently fund terrorism.

The administration's inaction is allowing tens of billions of dollars to flow into the hands of the mullahs in Iran—money that finds its way to Hamas, Hezbollah, Islamic jihad, and other terrorist organizations that kill innocent Americans.

So while Iran, Saudi Arabia, and terrorists reap profits from OPEC's quotas, American families pay a terribly high price. It is time for us in this body to act. When the Senate returns to the State Department bill, I want to be able to see a vote taken on this issue so that we can see whether my colleagues agree with me that the cost of gasoline is to high, the cost of heating a house is too high, the cost of running a vehicle is too high, and it robs us of revenues that could otherwise go into more useful purposes.

With that, I hope my colleagues will support the Lautenberg-Durbin-Dorgan amendment when this amendment is presented.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to proceed as in morning business for no more than 10 minutes.

The PRESIDING OFFICER. The Senate is in morning business. The Senator from Vermont is recognized.

JUDICIAL INDEPENDENCE

Mr. JEFFORDS. Mr. President, one of my first responsibilities when I arrived in the Senate was to recommend to the first President Bush a nominee for a district court seat. But while I was a relatively new Senator, this was in some respects a fairly easy task.

My predecessor in the Senate, Bob Stafford, had established a sound and fair process with Senator LEAHY for choosing candidates for the judiciary, which we have continued to this day with the participation of Governor Douglas, a Republican.

Vermont is a small State, but it is one with an outsized capacity for public service. Our best lawyers have been willing to accept the financial sacrifice that accompanies serving on the bench. And as a small State, I think it is fairly easy to agree on who the best candidates might be, even though you invariably pass over many very qualified individuals.

Finally, I guess I should say that I was born to it. My father, Olin Jeffords, was a judge the entire time I was growing up. In fact, he was chief justice of the Vermont Supreme Court. He was widely respected, not just by his son, but by our community locally and by the legal community throughout the State. That respect was entirely unremarkable. It reflected the appreciation of the importance of an independent judiciary stocked with able and committed individuals.

My first job following the Navy and law school was as a clerk for Judge Ernest Gibson, Jr., of Vermont. Judge Gibson, a Republican, had resigned as Governor of the State of Vermont in order to accept Harry Truman's offer of nomination to the Federal bench. Judge Gibson could have followed any path in life he wanted. He returned from service in the South Pacific during World War II a hero, and with some fame stemming from having played a role in the rescue of Lieutenant John F. Kennedy and the other survivors of PT-109.

As a young boy, I idolized him and the other heroes returning from the Pacific. To work for him years later was an incredible honor.

So having been around the judiciary all of my life, it was not especially daunting when it came time early in my Senate career to nominate an individual to the Federal district court. The late Fred I. Parker was not only the best candidate for the job, he was also a man I had hired to work with me when I served as attorney general and who had become a close friend over the years. To know Fred was to love him. Years later, when a vacancy on the Second Circuit Court of Appeals opened up, President Clinton nominated Fred to the position to which he was confirmed and served with distinction until his passing.

These three men—a father, a mentor, and a friend—would probably be the first to admit that they were more typical than exceptional of the caliber of individuals that comprise the judiciary. Fred worked hard to pay his way through school, often in the plumbing trade with his father. He was forever mindful of his father's advice that whenever he started becoming convinced of his own importance, he should stick his fist in a bucket of water to see the kind of impression he would leave.

So I take it very personally when politicians seek to score points by attacking the judiciary. These men had and have families, just like today's judges in Florida and Georgia and Illinois. The only thing we should be doing is condemning violence directed against the judiciary, not rationalizing it or implicitly encouraging it.

Of course, my colleagues will not agree with every decision made by the judiciary. My good friend Fred Parker struck down part of the Brady law that I had supported. I might have disagreed with him, but I never would have questioned his motives or integrity.

The first lesson we teach children when they enter competitive sports is to respect the referee, even if we think he might have made the wrong call. If our children can understand this, why can't our political leaders? We shouldn't be throwing rhetorical hand grenades.

Vermonters are proud of their long history of smart, independent, forward-thinking judges. These men and women have shown the true spirit of the judiciary and upheld the law and Constitution, even if it was against what was the popular will at the time. This is what the judiciary was designed to be, a check and balance against the executive and legislative branches.

Our Founding Fathers were concerned that the legislative and executive branches of our Government could be too swayed by public opinion and not uphold the rights of Americans because of political pressure. The judiciary was designed to be independent and make sure that the law and the Constitution were followed even if it went against public opinion.

I am also concerned with the threat of the majority to take what is the so-called nuclear option. Our form of government is founded on a system of checks and balances, which serves to protect the rights of all individuals. The right in the Senate to unlimited debate is an important part of our system of checks and balances and ensures that on important, critical issues a bipartisan consensus is reached of more than a bare minimum majority of Senators.

I sincerely hope that cooler heads will begin to prevail and my colleagues will tone down the rhetoric they have been using to smear the integrity of the judiciary, and the Republican leadership will reject the divisive and unprecedented so-called nuclear option.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to speak for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY

Mr. REED. Mr. President, I rise to express my deep concern about the negative impact the President's proposals that carve out private accounts will have on our Social Security system and also on our mounting Federal debt and the solvency of our Social Security Program in general and, ultimately, the economic prosperity of the Nation over many years.

President Bush's plan to create private accounts within Social Security would lead to the following, I believe, very unfortunate effects:

It would require a massive increase in Federal debt.

It would weaken the Social Security solvency.

It would not increase national savings and could lower it. National savings is a key function of our economy. Without national savings, we do not have the pool of capital we need for investment, innovation, and economic progress.

Finally, it would sharply cut the guaranteed Social Security benefits under the President's preferred full plan.

Let me go into some detail on these issues, drawing upon the excellent work of the Democratic staff of the Joint Economic Committee. I am very privileged to be the ranking member of the Joint Economic Committee. We have assembled a staff of professionals who have looked at all of these issues in great detail. They have concluded, as I suggested, that there are serious problems, not only in terms of solvency of the fund, not only in terms of the increase in Federal debt, but also large cuts in the guaranteed benefits of all of the beneficiaries. That will be a very unfortunate and, indeed, unnecessary consequence of any proposed reform of Social Security.

Let's take a look at this first chart. It lays out the debt issue with respect to Social Security. First, the President has proposed that his plan for private accounts and Social Security reform would begin in the year 2009. He has put no money into his budget or his long-term budget. Typically, when we budget, we at least look ahead 10 years.

In that first 10-year increment, which would be precisely from 2006 to 2015, there would be an increase of $754 billion as a result of these private accounts. Again, beginning in 2009 and essentially stretching to 2015, you would accumulate almost $1 trillion, $754 billion of debt.

But the real staggering number is the first 20 years of these programs if the private accounts are made law. That increased debt would be $4.9 trillion, an extraordinary amount of money. Again, I believe it is appropriate to look at least 20 years. We are talking about solvency for the fund for 75 years. Just in the 20 years, we would have almost $5 trillion in additional Federal debt.

The other issue that is important to point out is that this debt is on top of existing debt. This chart just describes the rapid increase of Federal debt as a result of private accounts from the year 2010 to the year 2060. By 2060, 35 percent of GDP will be equal to the debt we have accumulated for private accounts. I think we will stop for a moment: 35 percent of GDP; the debt will equal 35 percent of gross domestic product in the year 2060, but add that to current debt, the debt we are funding to operate our Government, and by 2060, the staggering total of debt relative to GDP is 70 percent.

We have not run those debt levels since the end of World War II in which we all know we dedicated every resource we had to defeat the Axis. This is a much different world than 1945 and 1946. In 1945 and 1946, we were at the sanctuary, if you will, of economic productivity for the world. Our infrastructure had not been destroyed. We had tooled up to create the most technologically advanced military force in the world. We quickly transitioned our tanks to Oldsmobiles and Chrysler automobiles and washing machines. Now we are in a world of intense competition, global competition, and if we believe we can live with debt equal to 70 percent of our gross domestic product, I think that is a fanciful notion, but that is the consequence of the President's proposal for private accounts.

The other point we should note, too, is that this proposal for private accounts actually accelerates the insolvency of the Social Security fund. Again, the President's proposal is premised on saving Social Security, of making it more solvent. His private accounts would accelerate the insolvency date. This chart shows current law. Again, it is a function of GDP, but it shows where the fund's assets cross the zero line, and that is about 2042. The President's proposal of private accounts would drive the funds into insolvency much earlier—about 2030. It makes no sense to me, if your goal is to increase the solvency of the fund, to have a proposal that actually weakens solvency. In a sense, searching for an analogy, if the boat is leaking, don't break a big hole in the bottom and have more water come in. That is not the way you save a leaking ship.

Turning away from the charts, let's go to the mathematics of how this all works.

The current Social Security shortfall, an estimate by the trustees, the actuaries of the Social Security Administration, is minus $4 trillion. That is how much money we would have to have today to cover the shortfall for the next 75 years.

Here is what the President's plan for private accounts does: First, it costs $4.7 trillion, so that is an additional $4.7 trillion. But what the President proposes is that there is essentially a privatization tax, that those private account holders will have to pay back some money at the time they exercise their retirement benefits. That is $3.1 trillion. Still we have a gap of $1.6 trillion, the net cost of the private accounts.

Add that to $4 trillion and now we have a shortfall of $5.6 trillion. We have created a bigger problem; we have not solved the problem.

The next table also suggests the possible consequences on national savings. Again, national savings is a key macroeconomic construct when it comes to progress in terms of our economy because it is from those national savings which we draw the investment capital and resources to train people, to innovate new equipment, to invest in new plant and equipment.

This is what happens, and national savings is a simple function of private savings, what you and I, our households are saving, together with public savings, what the Government is saving. We have stopped saving. We were saving, which means we had a surplus, until 2000, 2001, and now we are in a huge deficit, about $450 billion a year.

Let us see what would happen with these private accounts. First, the public borrows more money. Public savings go down. Private savings go up because we give that money back to people and say now put it into the stock market. The net effect is zero at best, but it could even be worse than that because something could happen in terms of public behavior.

First, they could reduce their current savings saying, well, I do not have to save anymore for contingencies because now I have this private savings plan. It is a possibility. To what extent it happens in reality, it is a projection, but that is a possibility.

The second is early retirements for these funds. My sense is, every time we have constructed some type of retirement benefit we have found ways to allow people to borrow from it for emergencies. We will probably do the same here. But even if those factors do not take place, zero national savings at best. We need to develop policies that encourage national savings. We should not be devoting huge tax cuts for wealthy Americans. We should be devoting tax cuts to encourage average Americans to save more, and we cannot do both if we have a deficit. My preference obviously would be to encourage average Americans to save more.

Now, chart No. 5 walks through the effect on individuals. The President has not offered a plan yet. He has been talking about it around the country, but the suggestions, the intimations are that in order to help address the solvency problem he is going at benefit payments. Essentially, the Commission to Strengthen Social Security put out the blueprint, and this blueprint would suggest cuts in benefits. One proposal was moving away from wage replacement to simple cost-of-living increases in benefits. That would effectively be a cut over time.

If we look at the combination of guaranteed benefits and the best estimates of the yield on private accounts, here is what happens over time. This is from the Congressional Budget Office. The average earner retiring in the year 2005 is protected. I think we recognize that because we have not made a change yet. By 2015, however, if one is participating in private accounts, they are doing worse than this 2005 beneficiary, and it goes down all the way. We can see as the guaranteed benefits decrease, the private accounts do not make up the difference, and this is some of the work of CBO.

So we have a situation that, frankly, is not a good deal for the retirees and not a good deal for the country when the debt is increased so precipitously. More national savings are not encouraged. A situation is created in which the problem is not getting fixed but is being made worse in so many different dimensions.

When we look at this issue of benefit payments, many people fail to recognize that this is not just about retirees. I have a retiree here. There are a significant number of Americans who collect Social Security because they are disabled. They will not have the benefit of private accounts because by definition they cannot work. They are disabled. So they are not going to be taking their paycheck each month and putting it into their private account. All the most vulnerable Americans are going to see is a benefit reduction, and that is not fair. It is not smart either.

Moreover, there is a suggestion that this is just an issue for seniors and that is all. The Social Security Administration has an interesting statistic, at least I found it very interesting. Their estimate is, of the cohort of 20-year-olds who are out there today just joining the workforce, who are healthy and running around, who have no immediate cares for retirement like middle-aged people, that 3 out of 10 will become disabled before they reach 65 years old. So I ask, where are they going to get the disability insurance to cover the benefits that today Social Security pays to people who become disabled? They cannot afford it. They will not buy it. There will be some disability program, but it will not be the kind of program that today provides at least some modicum of support for individuals who have been disabled through no fault of their own.

This is a topic that will be discussed again and again, but it is important to look at these issues and to make a practical and pragmatic assessment. That is what the American people are doing today. They are looking at the proposal of private accounts. They are seeing it jeopardize our economic future and seeing it eventually cut their prospects for retirement or for protection if they become disabled, and they are rejecting it out of hand. I think they should.

We have to continue to keep the focus on this particular proposal.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. We are in morning business. The Senator is recognized.

SETTING PRIORITIES

Mr. THOMAS. Mr. President, I know we have a lot of things on our minds with some distractions, of course, but I will talk just a moment about some of the things I believe we ought to have as priorities. We need to establish our priorities so that we can work on the things we collectively believe have the most impact and should really be acted upon. Obviously, there are all kinds of ideas among us, and as we talk to people who come to see us and our people at home, why, there are a million things, but there are some that seem to be in need of consideration more quickly.

One of them is energy. We have talked about having an energy policy now for several years. The evidence now is even stronger that we need an energy policy which gives us some kind of insight as to where we need to be in 10 or 15 years so that as we approach the problems, we can discover the things it takes to attain those goals.

Our energy policy has always been a broad policy, as it should be. It has been a policy that talks about conservation, efficiency, alternative sources, renewables, as well as domestic production. Certainly, one of the things that is most important, that the administration and the President has pushed, is to do some work to make sure coal fits into the environment satisfactorily. Coal is our largest fossil fuel, and we ought to be using coal for electric generation rather than some things other than coal, such as gas. Almost all of the generation plants over the last 20 years have been gas, largely because it is more economical to build a smaller plant closer to the market with gas than coal. So not only do we need to do something about the carbon and the exhaust from coal, but we also have to do something about transmission so that we can economically create electricity at the mine mouth and get it through our transmission system to the market.

We passed a highway bill a number of years ago, and we have never been able to get it completely passed, so we have just passed on the old one. It is certainly more than past time to get a highway bill. There is probably nothing that has more impact on our economy, creates more jobs, and allows for other things to happen in the economy than highways. We certainly need to do that.

Additionally, one of the things that becomes clear, and even more clear as we spend time on Social Security, which we should, is personal savings accounts that people can have for themselves. As I have gone about talking about Social Security, I have always tried to remind folks that Social Security was never intended to be a retirement program. It is a supplement. It is a supplement to the retirement programs that we put together.

There are a number of ways, of course, where there are incentives for savings, whether they be retirement programs or 401(k)s in which the employers participate. Now we have a potential for savings that can be spent earlier than retirement, that could be used for almost anything. One of the real issues is to have medical savings accounts so that we can buy cheaper insurance policies with a higher deductible and, therefore, have some money to pay for that.

There is nothing, perhaps, more important than to get ourselves into a position of people preparing for their own retirement. This Social Security discussion has shown basically what young people could do by putting aside a relatively small amount of money every month and having it earn interest for them.

One of the things I recognize is a little bit regional is the Endangered Species Act. It has been in place for a very long time. In my judgment, it has not been as effective as it could be. I am not for doing away with the Endangered Species Act, but we have roughly 1,300 species listed as endangered and have only recovered about a dozen. So the emphasis has been in the wrong place. We are going to have an opportunity to be able to do that, and it has great impact in many cases. It is kind of used as a land management tool so that we lose the multiple-use aspect of public and even private lands because of endangered species.

There are a lot of things I think we ought to be doing.

Finally, it seems to me that we ought to have a system that takes a look at programs after they have been in place 10 years, or whatever—after they have been there for a while. We should restudy those programs, reanalyze those programs to see if, indeed, the need for them is still what it was when they started; to see if they could be made more efficient after 10 years or, indeed, if they don't need to be there anymore. I know it is very difficult. There gets to be a support group that forms around all the programs that are funded, of course. It becomes difficult to change.

But it is too bad, when we think about it, to pass programs that are spending Federal money and have them out there when there is no longer any need for them or when the time has come where something different needs to be done.

I am hopeful we can get something done. I am thinking about putting something in bill form that will provide a review or oversight of programs that are in place to see if they are still important, to see if they are still being done efficiently, and to see if they could be done a better way or, indeed, need to be done at all.

These are some of the things I think are very important. I hope we try to set some priorities. I understand out of 100 people there are going to be many different ideas, but that is part of our challenge, to put 100 people together and decide what are the five most important issues that impact this country and impact our States.

I hope we can do that and I look forward to that opportunity.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Missouri.

HONORING POPE JOHN PAUL II

Mr. TALENT. Mr. President, I rise today just for a few moments to offer a few words in honor of the life of Pope John Paul II. Much has been said this week, and will be said this week, about his life. I want to pay tribute to him on behalf of all the Missourians who are mourning his passing this week.

The Pope left an indelible mark on the history of mankind and, indeed, of the world. I think the title of George Weigel's biography captured the Pope's work the best. He called him "A Witness To Hope." The moral clarity his leadership provided helped spread democracy and justice around a world that desperately needed it. But even more than that, he brought faith and hope to the empty, to the hopeless, to the last and the least among us.

He was a faithful servant of God, an inspiration to Missourians, to countries and cultures around the world. Certainly he was an inspiration to me. One of the greatest honors I have had in all my years in public life was the opportunity to meet him when he visited Missouri 6 years ago.

As we mourn the Pope's passing, we celebrate his spiritual leadership. I want to say, also, we should celebrate his qualities which most impressed me in the brief moment I had to meet him at that time—I mean his humanness, his courage, his works. Those works for years to come will continue giving people hope for the next world and better lives in this one.

Ms. MURKOWSKI. Mr. President, I rise today, to join my colleagues and the rest of the world in the remembrance of Pope John Paul II.

Since the passing of the Pope, it has often been noted that this Pope was by far the most traveled of any in history—quite possibly the one person seen live by the most people of all time.

We were fortunate in my State to receive the Pope twice, once in Anchorage in 1981 and then again in Fairbanks in 1984. During his Anchorage visit, the Pope celebrated Mass with more than 40,000 Alaskans in a downtown Anchorage park. It was the largest gathering of Alaskans up until that time, and beginning in the cold, wet, early February morning, until his departure, crowds lined the streets and Alaskans strained to get a glimpse of the Pontiff. Always known for his compassion and generosity, the Pope extended his visit in Anchorage more than an hour to meet in private with 150 disabled Alaskans at Holy Family Cathedral.

The Pope's visit to the Fairbanks International Airport was even more momentous, and was transformed into the site of major diplomacy. It was an opportunity for the Pope to meet with President Ronald Reagan, who was returning from overseas and, like the Pope, stopped in Alaska to refuel his aircraft. The President, who had arrived the previous night, was the first to greet the Pope. They visited briefly and then the Pope surprised many by making an unexpected tour through the crowd that waited outside the airport in the drizzling rain.

While in Alaska, the Pope spoke about the unity of faith that binds Alaska's diverse Catholic community—from Native Alaskans to people from all over the world. During his Anchorage stopover, John Paul II even enjoyed a brief ride on a dogsled.

Like many Americans and individuals all over the world, I grieve for the loss of the Holy Father. From his humble beginnings to the principal voice for human rights for over two decades, Pope John Paul II will always be remembered. He was an extraordinary, inspirational and spiritual person and the world is a better place thanks to his service and spiritual leadership.

Mr. LIEBERMAN. Mr. President, I wish to submit for the RECORD today a statement joining my colleagues and my countrymen and women in paying tribute to the departed and beloved Pope John Paul II. I join them in mourning his loss, and I extend my condolences to Roman Catholics in Connecticut and all over the world.

It is impossible to overstate the great sense of loss that is being felt by the 1 billion Catholics worldwide, but a telling sign of the Holy Father's lasting legacy is that his life and death have touched billions of non-Catholics as well. The Pontiff built bridges to non-Catholics and transformed forever the Church's perception of Jews in particular from a separated people to "older" brothers and sisters in faith.

Pope John Paul II's outreach to people of all faiths began when he was a young man. Known to his friends and family as "Lolek," the future Pontiff grew up in Wadowice, Poland, in the 1920s and 1930s. Wadowice was a town of about 7,000, more than 20 percent of whom were Jewish, including young Lolek's best friend, Jurek Kluger.

One of Lolek and Jurek's favorite pastimes was soccer. One day, Jurek went to the Parish church to meet up with Lolek before heading to a soccer match together. A woman in the church expressed her amazement at the sight of a Jewish boy standing next to the altar. To the future Pope, however, it was a natural and effortless interfaith communion. As the young Lolek remarked to the amazed onlooker, "Aren't we all God's children?"

Pope John Paul II worked to protect all of God's children as a courageous champion of religious freedom and human rights and a tireless advocate for the poor and sick throughout the world. His fervent opposition to the brutal scourge of Nazism was matched by his tireless work to break Eastern Europe free from the oppressive grip of communism.

In June of 1979, 8 months after being elected to take the throne of St. Peter, Pope John Paul II made a triumphant return to Poland. His beloved nation was struggling to survive under the iron fist of Soviet rule. An adoring crowd of 1 million supporters gave him a hero's welcome.

For his fellow Poles, who for decades were deprived of their freedom to worship, the Pontiff had a strong, clear and inspirational message. "You are men. You have dignity. Don't crawl on your bellies," he said. This visit was a crucial turning point in America's Cold War with the Soviet Union.

Working together with the people of Poland and the United States, the Pontiff transformed his homeland into the spiritual battlefront of the Cold War. Forging an allegiance with Lech Walesa, the Pope provided religious support for the anti-communist Solidarity movement. Over the next decade, a tidal wave of the spirit overcame communism in Poland. One by one, the dominoes of Communist oppression fell across Eastern Europe as faith and freedom triumphed. Stalin once mocked the power of the papacy by asking, rhetorically, "The Pope? How many divisions has he got?" In one of history's sweet ironies, it was indeed a Pope none other than Pope John Paul II who helped dismantle Stalin's empire, not with divisions of armed soldiers, but legions of faithful followers who yearned to be free.

In another historic trip 22 years later, the Pontiff made a pilgrimage to the Holy Land. He visited Yad Vashem, the Holocaust memorial, where he prayed and met with survivors. On his last day in Jerusalem, he went to the Western Wall of the Temple. There, the Holy Father prayed silently before leaving a small written prayer stuffed into a crack in the wall, surrounded by the thousands of notes and prayers people leave there every day.

During his Papacy, while much of the world could not resist the temptation of moral compromise and material excess, Pope John Paul II remained steadfast in his morality and spirituality. He was a tower of integrity, a role model for everyone who sought to defend their values from the growing culture of moral relativism. In an age of materialism and genocide, he was the world's most consistent advocate of spiritual and humanitarian values.

While the Pope's values remained traditional, his ability to communicate was progressive and modern. He forever revolutionized how the church could spread its teachings. He masterfully used modern technology to bring the church to the world.

In each of the seven languages he spoke, he had a unique ability to touch each one in his presence as if they were the only one to whom he was speaking. The Pope was able to inspire those who came to hear his message to go forth and make the world a better place. On January 4, 2001, he called upon a group of hundreds of believers gathered in St. Peter's Square—including a Roman Catholic member of my own staff, Kenneth Dagliere—to make the most of their God-given potential. "If you are to be what you are meant to be, you will set the world ablaze," he told them. Those words are as autobiographical as they are inspirational.

Much as he did in life, Pope John Paul II provided a life-affirming example of dignity in his death. While we are saddened by his death, we take solace in knowing that he left us peacefully and surrounded by those closest to him in his Papal residence. Outside, in St. Peter's Square, hundreds of thousands of adorers held constant vigil, praying for a man who had touched their lives in a way few ever could. It was a spontaneous outpouring of love for a man who seemed to possess an eternal capacity to spread strength and love wherever he went.

Mr. President, Pope John Paul II leaves behind a lasting legacy of faith and leadership. He will be truly missed by hundreds of millions of God's children throughout the world. I thank the Almighty for giving us the gift of Pope John Paul II. And I thank Lolek, who became Pope John Paul II, for using those gifts to bringing us all closer to God.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

FIRST LIEUTENANT DAN THOMAS MALCOM, JR.

Mr. CHAMBLISS. Mr. President, I rise today to honor U.S. Army 1LT Dan Thomas Malcom, Jr., who was killed proudly fighting for his country in Fallujah, Iraq, on November 10, 2004. A marine and Citadel graduate from McDuffie and Miller County, GA, Dan was 24 years old.

First Lieutenant Dan Thomas Malcom, Jr., the son of Dan and Cherrie Malcom, was born April 4, 1979, in Augusta, GA. His father, Dan Senior, was a Marine Corps veteran of combat in Vietnam who tragically was killed in a construction accident just prior to Dan junior's birth. From the earliest age, Dan junior wanted to "be a Marine like my Daddy". Raised in McDuffie, then later Miller County, GA, Dan attended Miller County High School where he was a star student.

Dan graduated from the Citadel in Charleston, SC, in 2001 where he was Lima Company executive officer. Dan was well respected by his classmates and known for his attention to his academic and military duties.

Dan was commissioned into the Marine Corps upon graduation. Dan was serving his second tour in Iraq when, on November 10, 2004, he was killed by a sniper in Fallujah, a town infested with insurgents. The details of his death include the following: As the marines of 1st Battalion, 8th Infantry were clearing Fallujah of the insurgents, Dan's platoon was sent to a rooftop to provide supporting fire to marines maneuvering on the enemy. Dan's marines quickly found themselves under sniper attack from a nearby mosque. Dan left his safe position and led his entire platoon down a stair case to safety. As the last one to clear the rooftop, Dan was hit by a deflected bullet which bounced off his helmet. As Dan jumped down the stairwell, he was hit in the lower back by a second shot which killed him instantly.

Dan was buried at Arlington Cemetery on 23 November 2004, where he rested with our Nation's honored dead. Dan Thomas Malcom, Jr., was all that America stands for. By his short life and through his bravery at the end we are enriched. Dan is survived by his mother, Mrs. Cherrie Malcom, and sister, Mrs. Dana Killebrew. It is our hope that the memory of his life will serve as a beacon for others to honor and remember.

Dan Thomas Malcom, Jr., was a great American, a great marine, a great leader, and an outstanding young man. He and his comrades in Iraq deserve out deepest gratitude and respect as they go about the extraordinarily challenging but extraordinarily important job of rebuilding a country which will result in freedom and prosperity for millions of Iraqis. I join with Dan's family, friends, and fellow soldiers in mourning his loss and want them to know that Dan's sacrifice will not be lost or forgotten, but will truly make a difference in the lives of the Iraqi people.

A MATTER OF PRIORITIES

Mr. LEVIN. Mr. President, I would like to bring an editorial from Monday's edition of the New York Times to the attention of my colleagues. The editorial, titled "Guns for Terrorists," is a logical commentary on several potentially dangerous shortfalls in our Nation's gun safety laws that not only potentially allow individuals on terrorist watch lists to buy guns but also require that records related to the sale be destroyed within 24 hours of the purchase.

Under current law, individuals included on Federal terrorist watch lists are not automatically prohibited from purchasing firearms. A report released by the General Accountability Office on March 8, 2005, found that from February 3, 2004, through June 30, 2004, a total of 44 attempts to purchase firearms were made by individuals designated by the Federal Government as known or suspected terrorists. In 35 cases, the transactions were authorized to proceed because federal authorities were unable to find any information in the national instant criminal background check system, NICS, that would prohibit the individual from lawfully receiving or possessing firearms. Current law also requires that records, even in these cases, where known or suspected terrorists successfully purchase firearms, be destroyed within 24 hours.

Learning about a suspected terrorist's purchase of a firearm could potentially be critical to counterterrorism investigators working to prevent a terrorist attack. Common sense tells us that the automatic destruction of documents related to the successful purchase of firearms by individuals on terrorist watch lists would significantly hamper these investigations. I have cosponsored the Terrorist Apprehension RECORD Retention Act. The legislation would require that in cases where a known or suspected terrorist successfully purchased a firearm, records pertaining to the transaction be retained for 10 years. The bill also requires that all NICS information be shared with appropriate Federal and State counterterrorism officials anytime an individual on a terrorist watch list attempts to buy a firearm.

We should be working to pass legislation to close loopholes that allow potential terrorists to buy dangerous weapons like the AK–47 assault rifle, the .50 caliber sniper rifle, and the Five-Seven armor-piercing handgun. We should be working to provide our law enforcement officials with the tools they need to protect our families and communities.

I ask unanimous consent that the April 4, 2005 New York Times editorial titled "Guns for Terrorists" be printed in the CONGRESSIONAL RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 4, 2005]

GUNS FOR TERRORISTS

If a background check shows that you are an undocumented immigrant, federal law bars you from buying a gun. If the same check shows that you have ties to Al Qaeda, you are free to buy an AK–47. That is the absurd state of the nation's gun laws, and a recent government report revealed that terrorist suspects are taking advantage of it. There are a few promising signs, however, that the federal government is considering injecting some sanity into policies on terror suspects and guns.

The Government Accountability Office examined F.B.I. and state background checks for gun sales during a five-month period last year. It found 44 checks in which the prospective buyer turned up on a government terrorist watch list. A few of these prospective buyers were denied guns for other disqualifying factors, like a felony conviction or illegal immigration status. But 35 of the 44 people on the watch lists were able to buy guns.

The encouraging news is that the G.A.O. report may be prodding Washington to act. The F.B.I. director, Robert Mueller III, has announced that he is forming a study group to review gun sales to terror suspects. In a letter to Senator Frank Lautenberg, the New Jersey Democrat, Mr. Mueller said that the new working group would review the national background check system in light of the report. We hope this group will take a strong stand in favor of changes in the law to deny guns to terror suspects.

In the meantime, Senator Lautenberg is pushing for important reforms. He has asked the Justice Department to consider making presence on a terrorist watch list a disqualifying factor for gun purchases. And he wants to force gun sellers to keep better records. Under a recent law, records of gun purchases must be destroyed after 24 hours, eliminating important information for law enforcement. Senator LAUTENBERG wants to require that these records be kept for at least 10 years for buyers on terrorist watch lists.

Keeping terror suspects from buying guns seems like an issue the entire nation can rally around. But the National Rifle Association is, as usual, fighting even the most reasonable regulation of gun purchases. After the G.A.O. report came out, Wayne LaPierre, the N.R.A.'s executive vice president, took to the airwaves to reiterate his group's commitment to ensuring that every citizen has access to guns, and to cast doubt on the reliability of terrorist watch lists.

Unfortunately, the N.R.A.—rather than the national interest—is too often the driving force on gun policy in Congress, particularly since last November's election. Even after the G.A.O.'s disturbing revelations, the Senate has continued its work on a dangerous bill to insulate manufacturers and sellers from liability when guns harm people. If it passes, as seems increasingly likely, it will remove any fear a seller might have of being held legally responsible if he provides a gun used in a terrorist attack.

OMNIBUS EMISSIONS REDUCTION ACT OF 2005

Ms. SNOWE. Mr. President, I rise today in support of S. 730, the Omnibus Emissions Reduction Act of 2005, that has been introduced by Senator LEAHY of Vermont and myself. Our legislation is the only comprehensive legislation that aims to control mercury emissions for all major sources of mercury pollution and stop releases of this toxic pollutant into the environment.

Mercury is a liquid metal that damages the nervous system through ingestion or inhalation, and is a particularly damaging toxic pollutant in the case of pregnant women and children. This is an alarming problem and I am pleased to note that our bill offers much greater protections for the public's health than the recently released Environmental Protection Agency's mercury emissions rule that simply will not get the job done.

Our bill addresses the problem of how mercury pollution gets into our environment. Mercury, which is contained in coal and emitted up through smokestacks into the atmosphere as the coal is burned, is then transported through the air and carried downwind for hundreds and hundreds of miles where, unfortunately for Maine and every State along the way, it falls to Earth in snow and rain. The mercury ends up in our lakes, rivers, and streams where it is then ingested by fish, and in turn by humans when they eat the fish from these freshwater sources.

The legislation directs the Environmental Protection Agency to promulgate mercury emissions standards for unregulated sources on a much more aggressive timetable to reduce mercury emissions as soon as possible. Our bill stops pollution at its source by requiring a ninety percent reduction of mercury emissions from coal-fired powered plants by 2010, rather than by 22 percent by 2010 as the administration's recent rule calls for.

The Leahy-Snowe bill also addresses mercury releases from other sources as well, all the way from commercial and industrial boilers and chlor-alkali plants, to requiring labeling products containing mercury as simple as a mercury thermometer.

Mercury, as we have historically thought of it, brings to mind the ancient Roman messenger of the gods, or the symbol that made us all proud, that of a small Mercury capsule carrying a lone astronaut into space.

Mercury, as we are now coming to know it, is one of the most toxic substances in our environment, causing great neurologic damage if ingested by humans. There is growing concern around the country about mercury contamination, especially in the freshwater lakes in the northeast, and the risk it posses to those most vulnerable: young children, infants, and the unborn.

Mercury emissions are affecting our wildlife as well. In Maine, the beautiful common loon with its haunting call has been known as a symbol of conservation—and even appears on license plates, the cost of which funds conservation efforts. The haunting call is now coming from biologists whose studies show that, besides the threats to humans, the loons and other birds, such as the bald eagle, may now be having trouble reproducing or fighting diseases because of mercury ingestion.

The Leahy-Snowe Act also aims to reduce transboundary atmospheric and surface mercury pollution by directing the EPA to work with Canada and Mexico to inventory the sources and pathways of mercury air and water pollution within North America. The bill dovetails nicely with the actions the State of Maine has taken and also the goals of the Mercury Action Plan of the Conference of Northeast Governors and Eastern Canadian Premiers.

This bill will go a long way towards developing a much needed solution to the problem of mercury emissions in the environment, and I look forward to the day when the fish advisories are lifted on all of our lakes in Maine so that its citizens can enjoy fuller use of their environment, and also reap greater economic benefits from its natural resources. This goal will not be easy to reach as our environment is already impacted with past and current mercury pollution.

However, the Maine Legislature has already taken a significant step toward this goal by establishing a state program to help Maine cities and towns keep mercury products out of the trash. Trash disposal, especially incineration, is one of the primary ways we introduce mercury to the Northeast's environment.

Under Maine law, some mercury products such as thermometers and thermostats had to be labeled beginning in 2002. Also by 2002, businesses were required to recycle the mercury in these products. Starting this year, a similar requirement applies to homeowners.

Maine has taken an excellent step forward to decrease regional mercury pollution, but realistically no one State or region can solve its mercury pollution problems. What is needed is a nationwide information system and controls for mercury releases starting with the largest polluters. We know that polluted air does not stop at State borders or even international boundaries. And, on the horizon is the fact that the burning coal continues to rapidly increase in developing nations around the globe.

I want to thank Senator LEAHY for his hard work in highlighting the problem of mercury emissions through the introduction of this legislation. This introduction will bring the problem before Congress and the public, to spark debate, and to begin a dialogue, especially with those industries that will be affected by any curbs in emissions and from those people most directly affected by the mercury emissions.

I look forward to working with Senator LEAHY and my Senate colleagues to come up with a fair solution and one that will truly protect the public's health from this pervasive toxic mercury pollution problem.

ADDITIONAL STATEMENTS

TRIBUTE TO ENSIGN JAMES RANDOLPH MOTLEY McMURTRY

• Mr. SANTORUM. Mr. President, today I would like to reflect on the recent passing of Ensign James Randolph Motley McMurtry, a member of the U.S. Navy and a beloved son and friend. Ensign McMurtry tragically died while on vacation in February 2005. The McMurtry family has suffered a tremendous loss, and I offer them my condolences and deepest sympathy during this difficult time.

Ensign McMurtry grew up in Harrisburg, PA, attending the Harrisburg Academy in Wormleysburg. He was an exemplary student and excelled in athletics. As he continued his education at the United States Naval Academy in Annapolis, MD, he served as platoon commander, drill sergeant, and drill officer.

After graduating from the Naval Academy in 2003, Ensign McMurtry was assigned to the Joint Chiefs of Staff of the National Military Command Center at the Pentagon. For all those who worked with Ensign McMurtry at the Pentagon, they knew him as quiet, purposeful, and respectful.

Ensign McMurtry had dedicated his life to protecting the freedom and liberties we hold dear as Americans. I value Ensign McMurtry's courage and patriotism. I am also inspired by this young man's conviction and desire to spend his life serving our Nation. I am deeply saddened that his life ended so tragically.

Ensign McMurtry leaves behind wonderful family, friends, and coworkers. My thoughts and prayers are with those that were blessed to know Ensign McMurtry.•

25TH ANNIVERSARY OF VIETNAM VETERANS OF AMERICA'S FIRST CHAPTER, RUTLAND, VERMONT

• Mr. JEFFORDS. Mr. President, I rise before you in recognition of the 25th anniversary of the very first chapter of Vietnam Veterans of America, which was founded and nurtured in my home town of Rutland, VT.

A quarter-century ago, Vietnam veterans, their families and loved ones were suffering the slings and arrows of anti-Vietnam war sentiment that gripped our Nation. Scant recognition was given to the personal and professional sacrifices of these valiant American young men and women during their service to our country. Officially there was a great deal of denial of the unwarranted price, both physical and emotional, that had been paid by these veterans. It would be decades before post-traumatic stress disorder, PTSD, would be a recognized condition. Many years would also pass before the Federal Government would admit that use of Agent Orange had left a terrible legacy of extreme suffering for our veterans and their families.

The founders of the Vietnam Veterans of America recognized an honor-bound duty as an organization to speak directly to these grave needs. The outpouring of enthusiasm from the veterans themselves demonstrated to all Americans the depth of these convictions.

In 1979, during a trip to Vermont, Vietnam Veterans of America founder Bobby Mueller met the late Don Bodette. Don supported the notion of an organization of and for Vietnam-era veterans, but felt that it would only be truly successful if they mobilized locally and established chapters. The power of Don's logic and commitment persuaded Bobby Mueller to adopt this model. On April 13, 1980, Vietnam Veterans of America Chapter One was established in Rutland, VT. Taking up the challenge, Don was joined by Jake Jacobsen, Albert and Mary Trombley, Mike Dodge, Dennis Ross, Clark Howland and Mark Truhan, to name a few.

Over the years, Vietnam Veterans of America has won huge victories in the fight for fair treatment for Vietnam veterans, and has helped ensure that no other class of veteran will ever get that same treatment. The Vietnam Veterans of America's legacy includes recognition of the effects of Agent Orange and other chemical agents of war, the growing body of science around PTSD diagnosis, and aggressive programs to aid the veteran in the struggle to reintegrate after hostilities. All subsequent veterans benefit from the expertise that has been developed by the staff of the Vietnam Veterans of America and their continuing effectiveness in pushing for better funding for VA health care, higher quality service delivery and respect in the community.

In closing, I would like to add my thanks for the tremendous work done by the Vietnam Veterans of America national and local organizations. As a Vietnam-era veteran myself, we all owe a tremendous debt of gratitude to Vietnam Veterans of America Chapter One's visionary founders and the steadfast members who have followed their lead. Thank you for your outstanding service to your fellow veterans and our country. Happy 25th birthday, Chapter One. May you have many more.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:44 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 436. An act to amend the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes.

H.R. 797. An act to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

H.R. 1025. An act to amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes.

H.R. 1077. An act to improve the access of investors to regulatory records with respect to securities brokers, dealers, and investment advisers.

H.R. 1460. An act to designate the facility of the United States Postal Service located at 6200 Rolling Road in Springfield, Virginia, as the "Captain Mark Stubenhofer Post Office Building".

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 436. An act to amend the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 797. An act to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians; to the Committee on Indian Affairs.

H.R. 1025. An act to amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1077. An act to improve the access of investors to regulatory records with respect to securities brokers, dealers, and investment advisers; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1460. An act to designate the facility of the United States Postal Service located at 6200 Rolling Road in Springfield, Virginia, as the "Captain Mark Stubenhofer Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

MEASURE HELD AT THE DESK

The following concurrent resolution was ordered held at the desk by unanimous consent:

S. Con. Res. 25. Concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1526. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, the annual report on entitlement transfers of basic educational assistance to eligible dependents under the Montgomery GI Bill; to the Committee on Armed Services.

EC–1527. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, a report entitled "Controls Over the Export Licensing Process for Chemical and Biological Items"; to the Committee on Armed Services.

EC–1528. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, a report entitled "Evaluation of the Voting Assistance Program"; to the Committee on Armed Services.

EC–1529. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, a draft of proposed legislation that would amend the Atomic Energy Act of 1954 and in one instance the Omnibus Budget Reconciliation Act of 1990; to the Committee on Environment and Public Works.

EC–1530. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, a draft of proposed legislation that would amend the Atomic Energy Act of 1954; to the Committee on Environment and Public Works.

EC–1531. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: State of Iowa" (FRL No. 7892–1) received on April 4, 2005; to the Committee on Environment and Public Works.

EC–1532. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: State of Maryland; Revised Definition of Volatile Organic Compounds" (FRL No. 7891–3) received on April 4, 2005; to the Committee on Environment and Public Works.

EC–1533. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans and Operating Permits Program: State of Nebraska" (FRL No. 7894–1) received on April 4, 2005; to the Committee on Environment and Public Works.

EC–1534. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: District of Columbia, Maryland, Virginia and Pennsylvania; Revised Carbon Monoxide Maintenance Plans for Washington Metropolitan, Baltimore and Philadelphia Areas" (FRL No. 7894–4) received on April 4, 2005; to the Committee on Environment and Public Works.

EC–1535. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Revisions and Notice of Resolution of Deficiency for Clean Air Act Operating Permit Program in Texas" (FRL No. 7892–6) received on April 4, 2005; to the Committee on Environment and Public Works.

EC–1536. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington" (FRL No. 7893–8) received on April 4, 2005; to the Committee on Environment and Public Works.

EC–1537. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Limited Approval and Promulgation of Implementation Plans; Texas; Excess Emissions During Startup, Shutdown and Malfunction Activities" (FRL No. 7892–7) received on April 4, 2005; to the Committee on Environment and Public Works.

EC–1538. A communication from the Chairman, Federal Accounting Standards Advisory Board, transmitting, pursuant to law, a report entitled "Heritage Assets and Stewardship Land"; to the Committee on Homeland Security and Governmental Affairs.

EC–1539. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2004 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–1540. A communication from the Acting Director, Office of Personnel Management, transmitting, pursuant to law, the Office's annual report for fiscal year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–1541. A communication from the Chairman, Federal Mine Safety and Health Review

Commission, transmitting, pursuant to law, the Commission's report regarding compliance in the calendar year 2004 with the Government in Sunshine Act; to the Committee on Homeland Security and Governmental Affairs.

EC–1542. A communication from the Deputy Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Annual Sunshine Act Report for 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–1543. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Presidential Records Act Procedures" received on April 4, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1544. A communication from the Acting Senior Procurement Executive, National Aeronautics and Space Administration, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005–01" (FAC 2005–1) received on March 24, 2005; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KOHL (for himself and Mr. HATCH):

S. 739. A bill to require imported explosives to be marked in the same manner as domestically manufactured explosives; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. LUGAR, Mrs. LINCOLN, Mrs. MURRAY, Mr. KERRY, Ms. CANTWELL, Mr. KOHL, Mr. LAUTENBERG, Mrs. BOXER, and Mr. CORZINE):

S. 740. A bill to amend title XIX and XXI of the Social Security Act to expand or add coverage of pregnant women under the medicaid and State children's health insurance program, and for other purposes; to the Committee on Finance.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 741. A bill to provide for the disposal of certain Forest Service administrative sites in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself, Mr. KENNEDY, Ms. COLLINS, Ms. LANDRIEU, and Mr. REED):

S. 742. A bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. REID, Mr. GRASSLEY, Mr. BAUCUS, Mr. TALENT, Mrs. MURRAY, Ms. CANTWELL, Mr. DURBIN, and Mr. OBAMA):

S. Con. Res. 25. A concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid; ordered held at the desk.

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 267

At the request of Mr. CRAIG, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 304

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 304, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 337

At the request of Mr. GRAHAM, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 362

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 362, a bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.

S. 495

At the request of Mr. CORZINE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 537

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 737

At the request of Mr. CRAIG, the names of the Senator from Illinois (Mr. OBAMA), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Washington (Ms. CANTWELL), the Senator from New Jersey (Mr. CORZINE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 737, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. CON. RES. 17

At the request of Mr. BIDEN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution calling on the North Atlantic Treaty Organization to assess the potential effectiveness of and requirements for a NATO-enforced no-fly zone in the Darfur region of Sudan.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself and Mr. HATCH):

S. 739. A bill to require imported explosives to be marked in the same manner as domestically manufactured explosives; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today with Senator HATCH to introduce the Imported Explosives Identification Act of 2005. This legislation would require imported explosives include unique identifying markings, just like explosives made here at home.

Domestic manufacturers are required to place identification markings on all explosive materials they produce, enabling law enforcement officers to determine the source of explosives found at a crime scene—an important crime solving tool. Yet, these same identifying markings are not required of those explosives manufactured overseas and imported into our country. Our legislation would simply treat imported explosives just like those manufactured in the United States by requiring all imported explosives to carry the same identifying markings currently placed on domestic explosives.

This is not a radical idea. We already have similar requirements for firearms. For years, importers and manufacturers have been required to place a unique serial number and other identifying information on each firearm. This is a common sense security measure that we have imposed on manufacturers and importers of firearms. There is no reason not to do the same with respect to dangerous explosives.

These markings can be a tremendously useful tool for law enforcement officials, enabling investigators to quickly follow the trail of the explosives after they entered the country. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, marked explosives can be tracked through records kept by those who manufacture and sell them, often leading them to the criminal who has stolen or misused them. At a Senate hearing last year, even FBI Director Mueller recognized the usefulness of markings, saying they "are helpful to the investigator . . . who is trying to identify the sourc[e] of that explosive." Failing to close this loophole unnecessarily impedes law enforcement efforts and poses a significant security risk, and closing it is simple. This bill fixes this problem by requiring the name of the manufacturer, along with the time and date of manufacture, to be placed on all explosives materials, imported and domestic.

ATF first sought to fill this gap in the regulation of explosives when it published a notice of a proposed rulemaking in November 2000. Now, more than 4 years later, this rulemaking still has not been completed. Just last week, ATF again missed its self-imposed deadline for finalizing the rule.

Each year, thousands of pounds of stolen, lost, or abandoned explosives are recovered by law enforcement. When explosives are not marked, they cannot be quickly and effectively traced for criminal enforcement purposes. Each day we delay closing this loophole, we let more untraceable explosive materials cross our borders, jeopardizing our security. Failure to address this very straightforward issue unnecessarily hinders law enforcement's efforts to keep us safe. Because ATF and the Department of Justice have not closed this loophole in a timely manner, it is now incumbent upon us to act.

By Mr. BINGAMAN (for himself, Mr. LUGAR, Mrs. LINCOLN, Mrs. MURRAY, Mr. KERRY, Ms. CANTWELL, Mr. KOHL, Mr. LAUTENBERG, Mrs. BOXER, and Mr. CORZINE):

S. 740. A bill to amend title XIX and XXI of the Social Security Act to expand or add coverage of pregnant women under the medicaid and State children's health insurance program, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce bipartisan legislation with Senators LUGAR, LINCOLN, MURRAY, KERRY, CANTWELL, KOHL, LAUTENBERG, BOXER and CORZINE. This legislation, entitled the "Start Healthy, Stay Healthy Act of 2005," would significantly reduce the number of uninsured pregnant women and newborns by expanding coverage to pregnant women through Medicaid and the Children's Health Insurance Program, or CHIP, and to newborns through the first full year of life.

Today is World Health Day 2005 and the message this year is "Make Every Mother and Child Count". I can think of no better way to honor our Nation's mothers and children than to increase their access to health care services and improve their overall health.

According to a recent report by Save the Children entitled "The State of the World's Mothers," the United States fares no better than 11th in the world. Why is this? According to the report, "The United States earned its 11th place rank this year based on several factors: One of the key indicators used to calculate the well-being for mothers is lifetime risk of maternal mortality. . . . Canada, Australia, and all the Western and Northern European countries in the study performed better than the United States in this indicator."

The study adds, "Similarly, the United States did not do as well as the top 10 countries with regard to infant mortality rates."

In fact, the United States ranks 21st in maternal mortality and 28th in infant mortality, the worst among developed nations. We should and must do better by our Nation's mothers and infants.

There has been long-standing policy in this country linking programs for pregnant women to programs for infants, including Medicaid, WIC, and the Maternal and Child Health Block Grant. Yet the CHIP program, unfortunately, fails to provide coverage to pregnant women beyond the age of 18. As a result, it is more likely that newborns eligible for CHIP are not covered from the moment of birth, and therefore, often miss having comprehensive prenatal care and care during those first critical months of life until their CHIP application is processed.

By expanding coverage to pregnant women through CHIP, the "Start Healthy, Stay Healthy Act" recognizes the importance of prenatal care to the health and development of a child. As Dr. Alan Waxman of the University of New Mexico School of Medicine has written, "Prenatal care is an important factor in the prevention of birth defects and the prevention of prematurity, the most common causes of infant death and disability. Babies born to women with no prenatal care or late prenatal care are nearly twice as likely to [be] low birthweight or very low birthweight as infants born to women who received early prenatal care."

Unfortunately, according to the Centers for Disease Control and Prevention, New Mexico ranked worst in the nation in the percentage of mothers receiving late or no prenatal care in 2003. The result is often quite costly—both in terms of the health of the mother and newborn but also in terms of the long-term expenses for society since the result can be chronic, lifelong health problems.

In fact, according to the Agency for Healthcare Research and Quality, "four of the top 10 most expensive conditions in the hospital are related to care of infants with complications (respiratory distress, prematurity, heart defects, and lack of oxygen)." In addition to reduced infant mortality and morbidity, the provision to expand coverage to pregnant women is cost effective.

The "Start Healthy, Stay Healthy Act" also eliminates the unintended federal policy through CHIP that covers pregnant women only through the age of 18 and cuts off that coverage once the women turn 19 years of age. Certainly, everybody can agree that the government should not be telling women that they are more likely to receive prenatal care coverage only if they become pregnant as a teenager.

This bipartisan legislation has been supported in the past by: the March of Dimes, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the What to Expect Foundation, the American Academy of Family Physicians, the American Academy of Pediatric Dentistry, the American Academy of Child and Adolescent Psychiatry, the National Association of Community Health Centers, the American Hospital Association, the National Association of Children's Hospitals, the Federation of American Health Systems, the National Association of Public Hospitals and Health Systems, Premier, Catholic Health Association, Catholic Charities USA, Family Voices, the Association of Maternal and Child Health Programs, the National Health Law Program, the National Association of Social Workers, Every Child By Two, the United Cerebral Palsy Associations, the Society for Maternal-Fetal Medicine, and Families USA.

This legislation is a reintroduction of a bill that was introduced in 2001 and 2003. Throughout 2001, the Administration made numerous statements in support of the passage of this type of legislation, but unfortunately, reversed course in October 2002 after publishing a regulation allowing states to redefine a "child" as an "unborn child" only and to provide prenatal care, but not postnatal care through CHIP in that manner. In a letter to Senator Nickles dated October 8, 2002, Secretary Thompson argued, "I believe the regulation is a more effective and comprehensive solution to this issue."

While a number of senators strongly disagreed with Secretary Thompson's assertion and sent him letters to that effect on October 10, 2002, and on October 23, 2002, we felt it was important to get the testimony of our nation's medical experts on the health and well-being of both pregnant women and newborns. We called for a hearing in the Senate Health, Education, Labor and Pensions Committee on October 24, 2002. Witnesses included representatives from the March of Dimes, the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, and the What to Expect Foundation. They were asked to compare the regulation to the legislation and I will let their testimony speak for itself.

Dr. Nancy Green testified on behalf of the March of Dimes Birth Defects Foundation. She said:

> We support giving states the flexibility they need to cover income-eligible pregnant women age 19 and older, and to automatically enroll infants born to SCHIP-eligible mothers. By establishing a uniform eligibility threshold for coverage for pregnant women and infants, states will be able to improve maternal health, eliminate waiting periods for infants and streamline administration of publicly supported health programs. Currently, according to the Department of Health and Human Services' Centers for Medicare and Medicaid Services and the National Governors' Association, 36 states and the District of Columbia have income eligibility thresholds that are more restrictive for women than for their newborns. Encouraging states to eliminate this disparity by allowing them to establish a uniform eligibility threshold for pregnant women and their infants should be a national policy priority.

Dr. Green adds:

> Specifically, we are deeply concerned that final regulation fails to provide to the mother the standard scope of maternity care services recommended by the American College of Obstetricians and Gynecologists (ACOG) and the American Academy of Pediatrics (AAP). Of particular concern, the regulation explicitly states that postpartum care is not covered and, therefore, federal reimbursement will not be available for these services. In addition, because of the contentious collateral issues raised by this regulation groups like the March of Dimes will find it even more difficult to work in the states to generate support for legislation to extend coverage to uninsured pregnant women.

Dr. Laura Riley testified on behalf of ACOG. In her testimony, she stated:

> ACOG is very concerned that mothers will not have access to postpartum services under the regulation. The rule clearly states that ". . . care after delivery, such as postpartum services could not be covered as part of the Title XXI State Plan . . . because they are not services for an eligible child.

On the importance of postpartum care, Dr. Riley adds:

> When new mothers develop postpartum complications, quick access to their physicians is absolutely critical. Postpartum care is especially important for women who have preexisting medical conditions, and for those whose medical conditions were induced by their pregnancies, such as gestational diabetes or hypertension, and for whom it is necessary to ensure that their conditions are stabilized and treated.

As a result, Dr. Riley concludes:

> Limiting coverage to the fetus instead of the mother omits a critical component of postpartum care that physicians regard as essential for the health of the mother and the child. Covering the fetus as opposed to the mother also raises questions of whether certain services will be available during pregnancy and labor if the condition is one that directly affects the woman. The best way to address this coverage issue is to pass S. 724, supported by Senators BOND, BINGAMAN and LINCOLN and many others, and which provides a full range of medical services during and after pregnancy directly to the pregnant woman.

Dr. Richard Bucciarelli testified on behalf of the American Academy of Pediatrics. He said:

> Recently, the Administration published a final rule expanding SCHIP to cover unborn children. The Academy is concerned that, as written, this regulation falls dangerously short of the clinical standards of care outlined in our guidelines, which describe the importance of covering all stages of a birth—pregnancy, delivery, and postpartum care.

It is important to note that the regulation subtracts the time that an "unborn child" is covered from the period of continuously eligibility after birth. Consequently, children would be denied insurance coverage at very critical points during the first full year of life. As such, Dr. Bucciarelli expressed support for the legislation over the regulation because it, in his words:

> . . . takes an important step to decrease the number of uninsured children by providing 12 months of continuous eligibility for those children born . . . This legislation ensures that children born to women enrolled in Medicaid or SCHIP are immediately enrolled in the program for which they are eligible. Additionally, this provision prevents newborns eligible for SCHIP from being subject to enrollment waiting periods, ensuring that infants receive appropriate health care in their first year of life.

And finally, Lisa Bernstein testified as Executive Director of The What to Expect Foundation, which takes its name from the bestselling What to Expect pregnancy and parenting series that has helped over 20 million families from pregnancy through their child's toddler years. Ms. Bernstein also supported the legislation as a far superior option over the regulation and make this simple but eloquent point:

> . . . only a healthy parent can provide a healthy future for a healthy child.

The testimony of these experts speaks for itself and I urge my colleagues to pass this legislation as soon as possible.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Start Healthy, Stay Healthy Act of 2005".

SEC. 2. STATE OPTION TO EXPAND OR ADD COVERAGE OF CERTAIN PREGNANT WOMEN UNDER MEDICAID AND SCHIP.

(a) MEDICAID.—

(1) AUTHORITY TO EXPAND COVERAGE.—Section 1902(l)(2)(A)(i) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)(i)) is amended by inserting "(or such higher percent as the State may elect for purposes of expenditures for medical assistance for pregnant women described in section 1905(u)(4)(A))" after "185 percent".

(2) ENHANCED MATCHING FUNDS AVAILABLE IF CERTAIN CONDITIONS MET.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in the fourth sentence of subsection (b), by striking "or subsection (u)(3)" and inserting ", (u)(3), or (u)(4)"; and

(B) in subsection (u)—

(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following:

"(4) For purposes of the fourth sentence of subsection (b) and section 2105(a), the expenditures described in this paragraph are the following:

"(A) CERTAIN PREGNANT WOMEN.—If the conditions described in subparagraph (B) are met, expenditures for medical assistance for pregnant women described in subsection (n) or under section 1902(l)(1)(A) in a family the income of which exceeds the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) that has been specified under subsection (a)(10)(A)(i)(III) or (l)(2)(A) of section 1902, as of January 1, 2005, but does not exceed the income eligibility level established under title XXI for a targeted low-income child.

"(B) CONDITIONS.—The conditions described in this subparagraph are the following:

"(i) The State plans under this title and title XXI do not provide coverage for pregnant women described in subparagraph (A) with higher family income without covering such pregnant women with a lower family income.

"(ii) The State does not apply an effective income level for pregnant women that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) that has been specified under the State plan under subsection (a)(10)(A)(i)(III) or (l)(2)(A) of section 1902, as of January 1, 2005, to be eligible for medical assistance as a pregnant woman.

"(C) DEFINITION OF POVERTY LINE.—In this subsection, the term 'poverty line' has the meaning given such term in section 2110(c)(5).".

(3) PAYMENT FROM TITLE XXI ALLOTMENT FOR MEDICAID EXPANSION COSTS; ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT.—Section 2105(a)(1) of the Social Security Act (42 U.S.C. 1397ee(a)(1)) is amended—

(A) in the matter preceding subparagraph (A), by striking "(or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)))"; and

(B) by striking subparagraph (B) and inserting the following:

"(B) for the provision of medical assistance that is attributable to expenditures described in section 1905(u)(4)(A);".

(4) ADDITIONAL AMENDMENTS TO MEDICAID.—

(A) ELIGIBILITY OF A NEWBORN.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking "so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance".

(B) APPLICATION OF QUALIFIED ENTITIES TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN UNDER MEDICAID.—Section 1920(b) of the Social Security Act (42 U.S.C. 1396r–1(b)) is amended by adding at the end after and below paragraph (2) the following flush sentence:

"The term 'qualified provider' includes a qualified entity as defined in section 1920A(b)(3).".

(b) SCHIP.—

(1) COVERAGE.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN.

"(a) OPTIONAL COVERAGE.—Notwithstanding any other provision of this title, a State may provide for coverage, through an amendment to its State child health plan under section 2102, of pregnancy-related assistance for targeted low-income pregnant women in accordance with this section, but only if the State meets the conditions described in section 1905(u)(4)(B).

"(b) DEFINITIONS.—For purposes of this title:

"(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term child health assistance in section 2110(a) as if any reference to targeted low-income children were a reference to targeted low-income pregnant women, except that the assistance shall be limited to services related to pregnancy (which include prenatal, delivery, and postpartum services and services described in section 1905(a)(4)(C)) and to other conditions that may complicate pregnancy.

"(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means a woman—

"(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

"(B) whose family income exceeds the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) that has been specified under subsection (a)(10)(A)(i)(III) or (l)(2)(A) of section 1902, as of January 1, 2005, to be eligible for medical assistance as a pregnant woman under title XIX but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

"(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b).

"(c) REFERENCES TO TERMS AND SPECIAL RULES.—In the case of, and with respect to, a State providing for coverage of pregnancy-related assistance to targeted low-income pregnant women under subsection (a), the following special rules apply:

"(1) Any reference in this title (other than in subsection (b)) to a targeted low-income child is deemed to include a reference to a targeted low-income pregnant woman.

"(2) Any such reference to child health assistance with respect to such women is deemed a reference to pregnancy-related assistance.

"(3) Any such reference to a child is deemed a reference to a woman during pregnancy and the period described in subsection (b)(2)(A).

"(4) In applying section 2102(b)(3)(B), any reference to children found through screening to be eligible for medical assistance under the State medicaid plan under title XIX is deemed a reference to pregnant women.

"(5) There shall be no exclusion of benefits for services described in subsection (b)(1) based on any preexisting condition and no waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) shall apply.

"(6) Subsection (a) of section 2103 (relating to required scope of health insurance coverage) shall not apply insofar as a State limits coverage to services described in subsection (b)(1) and the reference to such section in section 2105(a)(1)(C) is deemed not to require, in such case, compliance with the requirements of section 2103(a).

"(7) In applying section 2103(e)(3)(B) in the case of a pregnant woman provided coverage under this section, the limitation on total annual aggregate cost-sharing shall be applied to the entire family of such pregnant woman.

"(d) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

(2) ADDITIONAL ALLOTMENTS FOR PROVIDING COVERAGE OF PREGNANT WOMEN.—

(A) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting after subsection (c) the following:

"(d) ADDITIONAL ALLOTMENTS FOR PROVIDING COVERAGE OF PREGNANT WOMEN.—

"(1) APPROPRIATION; TOTAL ALLOTMENT.—For the purpose of providing additional allotments to States under this title, there is appropriated, out of any money in the Treasury not otherwise appropriated, for each of fiscal years 2006 and 2007, $200,000,000.

"(2) STATE AND TERRITORIAL ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraphs (3) and (4), of the amount available for the additional allotments under paragraph (1) for a fiscal year, the Secretary shall allot to each State with a State child health plan approved under this title—

"(A) in the case of such a State other than a commonwealth or territory described in subparagraph (B), the same proportion as the proportion of the State's allotment under subsection (b) (determined without regard to subsection (f)) to the total amount of the allotments under subsection (b) for such States eligible for an allotment under this paragraph for such fiscal year; and

"(B) in the case of a commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth's or territory's allotment under subsection (c) (determined without regard to subsection (f)) to the total amount of the allotments under subsection (c) for commonwealths and territories eligible for an allotment under this paragraph for such fiscal year.

"(3) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are not available for amounts expended before October 1, 2005. Such amounts are available for amounts expended on or after such date for child health assistance for targeted low-income children, as well as for pregnancy-related assistance for targeted low-income pregnant women.

"(4) NO PAYMENTS UNLESS ELECTION TO EXPAND COVERAGE OF PREGNANT WOMEN.—No payments may be made to a State under this title from an allotment provided under this subsection unless the State provides pregnancy-related assistance for targeted low-income pregnant women under this title, or provides medical assistance for pregnant women under title XIX, whose family income exceeds the effective income level applicable under subsection (a)(10)(A)(i)(III) or (l)(2)(A) of section 1902 to a family of the size involved as of January 1, 2005.".

(B) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(i) in subsection (a), in the matter preceding paragraph (1), by inserting "subject to subsection (d)," after "under this section,";

(ii) in subsection (b)(1), by inserting "and subsection (d)" after "Subject to paragraph (4)"; and

(iii) in subsection (c)(1), by inserting "subject to subsection (d)," after "for a fiscal year,".

(3) PRESUMPTIVE ELIGIBILITY UNDER TITLE XXI.—

(A) APPLICATION TO PREGNANT WOMEN.—Section 2107(e)(1)(D) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended to read as follows:

"(D) Sections 1920 and 1920A (relating to presumptive eligibility).".

(B) EXCEPTION FROM LIMITATION ON ADMINISTRATIVE EXPENSES.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR PRESUMPTIVE ELIGIBILITY EXPENDITURES.—The limitation under subparagraph (A) on expenditures shall not apply to expenditures attributable to the application of section 1920 or 1920A (pursuant to section 2107(e)(1)(D)), regardless of whether the child or pregnant woman is determined to be ineligible for the program under this title or title XIX.”.

(4) ADDITIONAL AMENDMENTS TO TITLE XXI.—

(A) NO COST-SHARING FOR PREGNANCY-RELATED SERVICES.—Section 2103(e)(2) of the Social Security Act (42 U.S.C. 1397cc(e)(2)) is amended—

(i) in the heading, by inserting “OR PREGNANCY-RELATED SERVICES” after “PREVENTIVE SERVICES”; and

(ii) by inserting before the period at the end the following: “or for pregnancy-related services”.

(B) NO WAITING PERIOD.—Section 2102(b)(1)(B) of the Social Security Act (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(i) by striking “, and” at the end of clause (i) and inserting a semicolon;

(ii) by striking the period at the end of clause (ii) and inserting “; and”; and

(iii) by adding at the end the following:

“(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman.”.

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after October 1, 2005, without regard to whether regulations implementing such amendments have been promulgated.

SEC. 3. COORDINATION WITH THE MATERNAL AND CHILD HEALTH PROGRAM.

(a) IN GENERAL.—Section 2102(b)(3) of the Social Security Act (42 U.S.C. 1397bb(b)(3)) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(F) that operations and activities under this title are developed and implemented in consultation and coordination with the program operated by the State under title V in areas including outreach and enrollment, benefits and services, service delivery standards, public health and social service agency relationships, and quality assurance and data reporting.”.

(b) CONFORMING MEDICAID AMENDMENT.—Section 1902(a)(11) of such Act (42 U.S.C. 1396a(a)(11)) is amended—

(1) by striking “and” before “(C)”; and

(2) by inserting before the semicolon at the end the following: “, and (D) provide that operations and activities under this title are developed and implemented in consultation and coordination with the program operated by the State under title V in areas including outreach and enrollment, benefits and services, service delivery standards, public health and social service agency relationships, and quality assurance and data reporting”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2006.

SEC. 4. INCREASE IN SCHIP INCOME ELIGIBILITY.

(a) DEFINITION OF LOW-INCOME CHILD.—Section 2110(c)(4) of the Social Security Act (42 U.S.C. 42 U.S.C. 1397jj(c)(4)) is amended by striking “200” and inserting “250”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to child health assistance provided, and allotments determined under section 2104 of the Social Security Act (42 U.S.C. 1397dd) for fiscal years beginning with fiscal year 2006.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 25—EXPRESSING THE SENSE OF CONGRESS REGARDING THE APPLICATION OF AIRBUS FOR LAUNCH AID

Mr. FRIST (for himself, Mr. REID, Mr. GRASSLEY, Mr. BAUCUS, Mr. TALENT, Mrs. MURRAY, Ms. CANTWELL, Mr. DURBIN, and Mr. OBAMA) submitted the following concurrent resolution; which was ordered held at the desk:

S. CON. RES. 25

Whereas Airbus is currently the leading manufacturer of large civil aircraft, with a full fleet of aircraft and more than 50 percent global market share;

Whereas Airbus has received approximately $30,000,000,000 in market distorting subsidies from European governments, including launch aid, infrastructure support, debt forgiveness, equity infusions, and research and development funding;

Whereas these subsidies, in particular launch aid, have lowered Airbus' development costs and shifted the risk of aircraft development to European governments, and thereby enabled Airbus to develop aircraft at an accelerated pace and sell these aircraft at prices and on terms that would otherwise be unsustainable;

Whereas the benefit of these subsidies to Airbus is enormous, including, at a minimum, the avoidance of $35,000,000,000 in debt as a result of launch aid's noncommercial interest rate;

Whereas over the past 5 years, Airbus has gained 20 points of world market share and 45 points of market share in the United States, all at the expense of Boeing, its only competitor;

Whereas this dramatic shift in market share has had a tremendous impact, resulting in the loss of over 60,000 high-paying United States aerospace jobs;

Whereas on October 6, 2004, the United States Trade Representative filed a complaint at the World Trade Organization on the basis that all of the subsidies that the European Union and its Member States have provided to Airbus violate World Trade Organization rules;

Whereas on January 11, 2005, the European Union agreed to freeze the provision of launch aid and other government support and negotiate with a view to reaching a comprehensive, bilateral agreement covering all government supports in the large civil aircraft sector;

Whereas the Bush administration has shown strong leadership and dedication to bring about a fair resolution during the negotiations;

Whereas Airbus received $6,200,000,000 in government subsidies to build the A380;

Whereas Airbus has now committed to develop and produce yet another new model, the A350, even before the A380 is out of the development phase;

Whereas Airbus has stated that it does not need launch aid to build the A350, but has nevertheless applied for and European governments are prepared to provide $1,700,000,000 in new launch aid; and

Whereas European governments are apparently determined to target the United States aerospace sector and Boeing's position in the large civil aircraft market by providing Airbus with continuing support to lower its costs and reduce its risk: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) European governments should reject Airbus' pending application for launch aid for the A350 and any future applications for launch aid;

(2) the European Union, acting for itself and on behalf of its Member States, should renew its commitment to the terms agreed to on January 11, 2005;

(3) the United States Trade Representative should request the formation of a World Trade Organization dispute resolution panel at the earliest possible opportunity if there is no immediate agreement to eliminate launch aid for the A350 and all future models and no concrete progress toward a comprehensive bilateral agreement covering all government supports in the large aircraft sector; and

(4) the President should take any additional action the President considers appropriate to protect the interests of the United States in fair competition in the large commercial aircraft market.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 7, 2005, at 10 a.m., to conduct a hearing on “Regulatory Reform of the Government-Sponsored Enterprises.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 7, 2005 at 9:30 a.m., in Senate Dirksen Office Building Room 226.

Agenda

I. Nominations: Thomas B. Griffith, to be U.S. Circuit Judge for the District of Columbia Circuit; Terrence W. Boyle II, to be U.S. Circuit Judge for the Fourth Circuit; Priscella R. Owen, to be U.S. Circuit Judge for the Fifth Circuit; Robert J. Conrad, Jr., to be U.S. District Judge for the Western District of North Carolina; and James C. Dever III, to be U.S. District Judge for the Eastern District of North Carolina.

II. Bills: Asbestos; S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005, Biden, Specter, Feinstein, Kyl, Cornyn; S. 119, Unaccompanied Alien Child Protection Act of 2005, Feinstein, Schumer, Durbin, DeWine, Feingold, Kennedy, Brownback, Specter; and S. 629, Railroad Carriers and Mass Transportation Act of 2005, Sessions, Kyl.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, April 7, 2005, for a hearing to consider the nomination of Mr. Jonathan B. Perlin to be Under Secretary for Health, Department of Veterans' Affairs. The hearing will take place in room 418 of the Russell Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 7, 2005 at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces be authorized to meet during the session of the Senate on April 7, 2005, at 2:30 p.m., in open session to receive testimony on ballistic missile defense programs in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE HELD AT DESK—S. CON. RES. 25

Mr. McCONNELL. I send a resolution to the desk and ask unanimous consent it be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent at 5 p.m. on Monday, April 11, the Senate proceed to executive session for consideration of Calendar 38, the nomination of Paul A. Crotty, to be United States District Judge for the Southern District of New York; provided further that there be 30 minutes for debate equally divided between the chairman and the ranking member or designees, and that at the expiration or yielding back of time the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate; provided further that following the vote, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 295

Mr. McCONNELL. Mr. President, I ask unanimous consent the majority leader, after consultation with the Democratic leader, shall, no later than July 27, call up S. 295; that if the bill has not been reported by then by the Finance Committee, it be discharged at that time and that the Senate shall consider it under the following time limitation: that there be 2 hours for debate equally divided between the chairman of the Finance Committee and the Democratic leader or his designee; that no amendments or motions be in order, including committee amendments; that after the use or yielding back of time the bill be read the third time and the Senate proceed to vote on the passage of the bill with no intervening action or debate; provided further that the bill become the pending business when the Senate resumes legislative session after July 26 under the terms and conditions if it has not been considered prior to that time.

Mr. REID. Reserving the right to object, and I will not object, I will say that one of the things we are also working on, and I am willing to go forward without this stage, we were moving along with the colloquy of Senator STABENOW and Senator LINDSEY GRAHAM—I am quite certain that was the cosponsor of the amendment—an amendment dealing with international trade. I spoke to Senator GRASSLEY. Senator GRASSLEY indicated he would be willing to enter into a colloquy with her. That was being prepared when the problem arose with the New York Senators and Senator DODD. As a result of that, the colloquy was never finalized—at least brought to the floor.

I hope when we return to that bill, whenever that might be, we can complete that colloquy because, in fact, what Senator GRASSLEY said is that if the amendment were not filed at this time he would be happy to take a look at it. He has another amendment coming and he basically said he agreed with the content of her amendment, but he didn't agree it should be brought up on this bill. He felt his Finance Committee has jurisdiction.

I want that spread on the record. This does not call for anyone agreeing or disagreeing with what I said, just in the future I hope we can work that out.

Mr. McCONNELL. Mr. President, prior to the ruling, the proponents of the legislation have also agreed they would withhold offering amendments in committee or on the floor on the subject matter for the duration of this session of Congress as part of this understanding, as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, APRIL 11, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate stand in adjournment until 2 p.m. on Monday, April 11. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business with Senators permitted to speak for up to 10 minutes each; provided that at 3 p.m. the Senate proceed to the consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill, as provided under the previous order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, on Monday, the Senate will begin consideration of the Iraq-Afghanistan supplemental. The chairman and ranking member will be here, and we will begin the amending process Monday afternoon. As I announced earlier today, the next rollcall vote will occur at 5:30 Monday afternoon on a district judge, the one we announced a few moments ago. Other votes are possible around that 5:30 time in relation to the supplemental bill.

I say to all of our colleagues, this will be a busy week. This is a big, important piece of legislation. We hope to finish it next week. But in any event, whether we finish it then or not, we are going to have a busy week, with lots of votes throughout the entire week, including the likelihood of night sessions.

ADJOURNMENT UNTIL MONDAY, APRIL 11, 2005, AT 2 P.M.

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:16 p.m., adjourned until Monday, April 11, 2005, at 2 p.m.

NOMINATIONS

Executive nomination received by the Senate April 7, 2005:

DEPARTMENT OF DEFENSE

GORDON ENGLAND, OF TEXAS, TO BE DEPUTY SECRETARY OF DEFENSE,VICE PAUL D. WOLFOWITZ.

EXTENSIONS OF REMARKS

TRIBUTE TO DR. ANDREW MESSENGER, A TRUE FRIEND OF LIBERTY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. PAUL. Mr. Speaker, I rise to pay tribute to a friend and patriot, Dr. Andrew L. Messenger, of Riverdale, Michigan.

As a physician, I know Dr. Messenger is the type of doctor all of us would want to have to take care of us. He is capable, loves his work, genuinely cares about his patients, and is always available if someone needs him. In fact, he loves being a doctor so much that he did not retire until this past year at age 83.

Every day he would wake up early to be at the office by 6:45 a.m. He knew that many of his working patients preferred to come in early so he made himself available. Dr. Messenger felt that if he as a doctor was unavailable, he was worthless.

Dr. Messenger also applied this principle to being a father. Leaving the house early in the morning allowed him to spend time with his family in the evenings. Most nights and weekends were spent hunting, fishing, playing at the local playground, and attending athletic events with his six children.

When Dr. Messenger returned home from work, the whole family would sit around the dinner table and discuss personal and newsworthy events of the day. After dinner was done and homework finished, Dr. Messenger would take the kids out to play. Baseball and going to the park were two of the Messenger family's favorite after dinner activities.

His personal involvement in the lives of his children paid off. He has six successful children, three of whom are doctors.

Dr. Messenger lives by the principals of honesty, hard work, and caring for his fellow man, and took great care to instill these same principles into his children.

After raising a family and running a respected practice, Dr. Messenger continues to make a difference not only in his local community and across the United States through his generous support of the Leadership Institute.

When most men embrace the rewards retirement offers, Dr. Messenger pushes on to make a difference in the lives of his countrymen. Dr. Messenger's support of the Leadership Institute gives young people and working professionals the practical tools necessary to advance liberty and protect freedom. Too often freedom has few friends on our college campuses, in our state houses, and in our capitol. Dr. Messenger is providing everyday citizens with the resources necessary to defend the dream of limited government George Washington and the rest of our founding fathers created when they wrote our constitution.

Clearly, Dr. Messenger has not only contributed to society by raising six successful children, he has made provisions for future generations through investing in the long-term mission of the Leadership Institute.

Thank you, Dr. Messenger, for investing in the lives of the future leaders of this country through your faithful and generous support of the Leadership Institute.

PERSONAL EXPLANATION

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. LEWIS of Kentucky. Mr. Speaker, I was absent from the House on Tuesday, April 5th due to illness. Had I been present, I would have voted the following way:

H. Res. 108: Commemorating the life of the late Zurab Zhvania, Prime Minister of Georgia, "yea."

H. Res. 120: Commending the outstanding efforts by members of the Armed Forces and civilian employees of the Department of State and the United States Agency for International Development in response to the earthquake and tsunami of December 26, 2004, "yea."

H. Con. Res. 34: Honoring the life and contributions of Yogi Bhajan, a leader of Sikhs, and expressing condolences to the Sikh community on his passing, "yea."

COMMENTING ON THE ONGOING DISPUTE BETWEEN THE HELLENIC REPUBLIC OF GREECE AND THE REPUBLIC OF MACEDONIA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. BURTON of Indiana. Mr. Speaker, in 1991, the former nation of Yugoslavia dissolved into a number of independent nation-states, including the Republic of Macedonia. However, international recognition of Macedonia's independence from Yugoslavia was significantly delayed in large part by Greece's objection to the new state's use of what it considered to be a Hellenic name and symbols.

Greece even went so far as to impose a trade blockade against Macedonia, citing unfounded concerns of potential border destabilization within the region and fears of Macedonian territorial expansion. The Greek government even persuaded the United Nations Security Council to pass United Nations Security Council Resolution 845 in 1993, which proclaimed that for all intents and purposes the Republic of Macedonia would be referred to as the "the former Yugoslav Republic of Macedonia," pending the outcome of negotiations between Greece and Macedonia on a permanent name.

Greece finally lifted its trade blockade against Macedonia in 1995, and the two countries have since agreed to normalize relations. Although inexplicable, even after 12 long years of discussion and debate between the representatives of Greece and Macedonia, and a host of international mediators, differences over Macedonia's official name remain.

Recently, last November, the United States joined 108 other nations in officially recognizing the constitutional name of the Republic of Macedonia. America's official recognition of the Republic of Macedonia should be seen as a clear message to both sides that this dispute over the name has simply gone on too long.

A new, accelerated round of discussions between officials from Greece and Macedonia—mediated by United States diplomat and United Nations mediator Matthew Nimitz—is scheduled to start before the end of April. For the good of bilateral relations, as well as broader regional stability, I urge both sides, Greek and Macedonian, to work together in a spirit of friendship and open-mindedness with UN envoy Matthew Nimitz, and ultimately conclude this emotionally-embroiled dispute in a mutually acceptable, desirable, and expedient way.

Mr. Speaker, Greece and Macedonia have more to gain by settling this dispute and working together to bring the people and governments of the region into the larger community of nations than they do by continuing this destabilizing dispute. I hope that both sides will seize this opportunity to do the right thing at the April talks and work together to bring this matter to a peaceful conclusion.

RECOGNIZING BAY CITY UNIFICATION ANNIVERSARY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. KILDEE. Mr. Speaker, I am happy to rise before you today, and to ask my colleagues in the 109th Congress to join me in celebrating the 100th anniversary of the unification of Bay City, Michigan. This momentous occasion will be marked by a series of events to take place on Sunday, April 10, 2005.

In 1857, a village, made up of land once used as a campground for the Chippewa Indians, was formed east of the Saginaw River. In 1865, this village, known as Bay City, was formally incorporated as a city. The years that followed saw other villages established in the area, including several to the west of the river. In 1877, three of these communities-Banks,

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Salzburg, and Wenona, consolidated and formed West Bay City. The two communities coexisted and thrived with separate mayors, city councils, police and fire departments, schools, public utilities, and city services, until a campaign to unite the two began, with the hopes that a larger city would increase revenue and promote expansion.

After several consolidation referenda, as well as actions on the part of the Michigan Legislature, the concept of a united Bay City became reality on April 10, 1905, when a common council, consisting of 34 aldermen from 17 wards in the combined city convened and made history.

Mr. Speaker, in the 100 years since the unification of Bay City and West Bay City, we have seen a town rise from a collection of small lumber villages to one of Michigan's largest and most vibrant cities. The shipyards and sawmills of the past have given way to worldwide corporations that create opportunities each day. Bay City's rich heritage is seen in its renowned architecture and diverse history. For generations, the kind hearts and friendly manner of the residents have made Bay City a warm welcoming community. They are the true nucleus of the city.

I would also like to acknowledge the efforts of Mr. Robert Belleman, City Manager, for his vision in recognizing the need to acknowledge this milestone in Bay City's history. I am proud to call him my colleague, my constituent, and my friend.

Mr. Speaker, once again I ask my colleagues to join me in congratulating Bay City, Michigan on the 100th anniversary of its unification.

HONORING THE CONTRIBUTIONS OF BEXAR COUNTY JUDGE KEITH BAKER

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize Judge Keith Baker for his long standing career of service to his country and community.

A Vietnam veteran who had served at Cam Ranh Bay and Chu Lai, Mr. Baker is no stranger to dedicated commitment and sacrifice for his country. During his stay at Chu Lai, Keith Baker worked at the Adjutant 27th Surgical Hospital. He helped to serve our troops where his assistance was greatly needed.

Having started a distinguished law career in the field of law in 1973, Keith Baker has over 30 years experience serving the needs of our citizens. He has also authored numerous articles for the American Bankruptcy Institute Journal. Mr. Baker additionally serves as Trustee to numerous community organizations, including the Texas Military Institute, the Texas Bar Foundation, the North San Antonio Chamber of Commerce, and the San Antonio Manufactures Association.

Judge Baker was first elected in Bexar County as Justice of the Peace in 1982. A dedicated civil servant, Judge Baker works hard for our communities. He specializes in misdemeanor criminal cases, civil cases involving our businesses, consumer cases, and tort.

Mr. Speaker, Judge Keith Baker is an exemplary public servant. I am proud to have the opportunity to thank him here today for all he has done for his fellow Texans.

VISA DENIAL TO INDIAN OFFICIAL LEADS TO BURNING OF PEPSI PLANT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. TOWNS. Mr. Speaker, as you know, the United States government denied a visa to Narendra Modi, Chief Minister of Gujarat, due to the state government's complicity in the massacre of Muslims there and his insensitive statements about minorities. His visa was revoked under the law that prohibits those responsible for violations of religious freedom from getting visas. This was the right thing to do, and I salute those who made this decision.

According to the March 25 issue of India-West, the denial of a visa to Mr. Modi was met with attacks from the Indian government. Prime Minister Manmohan Singh, who, as a Sikh, is a member of a religious minority himself, complained in Parliament that "we do not believe it is appropriate . . . to make a subjective judgment question a constitutional authority in India." The Foreign Ministry said that the denial of Mr. Modi's visa "is uncalled for and displays lack of courtesy and sensitivity toward a constitutionally elected chief minister of a state of India." Of course, they completely neglected to mention Mr. Modi's lack of courtesy and sensitivity towards the 2,000 to 5,000 Muslims killed in the riots that his government helped organize. India's Human Rights Commission held Mt. Modi and his government responsible for the massacre.

The Indian government officially stated that the decision showed "a lack of courtesy and sensitivity" and that their "sovereignty" was violated by the decision. This is the standard argument of tyrants. It is the argument countries like Red China make when they are criticized.

On March 19 in New Delhi, India-West reported, fanatical Hindu nationalist fundamentalists affiliated with the militant organization Bajrang Dal rioted against the United States because Mr. Modi was denied his visa. They barged into a Pepsi-Cola warehouse, smashed bottles of Pepsi, and set fire to the building. The warehouse was partially burned. About a dozen workers fled. The rioters also ransacked a nearby Pepsi office. Another group protested the U.S. consulate in Bombay. They carried signs reading "Down With the United States." Some Bajrang Dal members tried to enter the visa application center in Ahmedabad. Modi himself said, "Let us pledge to work for such a day that an American would have to stand in line for entry into Gujarat." He accused the United States of trying to "impose its laws on other countries." He urged India to deny visas to American officials.

Mr. Speaker, this is just the latest chapter in India's ongoing repression of its minorities, which has been well documented in this House over the years, and its virulent hatred of America. Why do we spend our time, energy, and money supporting such a country?

The time has come to hold India's feet to the fire. Denying Mr. Modi a visa was simply a small first step, and a good one. We must do more. The time has come to stop our aid and trade with India until all people enjoy the full flower of human rights and to support self-determination for all the peoples and nations seeking their freedom through a free and fair plebiscite. The essence of democracy is the right to self-determination. As the world's oldest and strongest democracy, it is up to the United States to take these measures in support of freedom for all.

Mr. Speaker, I would like to place the India-West article of March 25 into the RECORD at this time.

[From the India-West, Mar. 25, 2005]

PEPSI WAREHOUSE BURNED IN VISA DENIAL UPROAR—Continued from page A1

The riots were sparked by the burning of a train coach by Muslims in Godhra, killing 59 Hindu kar sevaks.

Modi was denied a diplomatic visa to travel to the United States and his existing tourist/business visa was revoked under the U.S. Immigration and Nationality Act that bars people responsible for violations of religious freedom from getting a visa.

Modi had been scheduled to address a gathering of Indian American groups and motel owners in New York, Florida and in New Jersey.

India slammed the decision, saying it showed a "lack of courtesy and sensitivity," and Prime Minister Manmohan Singh criticized the American decision in Parliament.

"The American government has been clearly informed . . . we do not believe that it is appropriate to use allegations or anything less than due legal process to make a subjective judgment to question a constitutional authority in India," Singh told the Rajya Sabha.

Responding to opposition leader Jaswant Singh's submission that the decision was unacceptable, Manmohan Singh said, "We agree that this is not a matter of partisan politics, but rather a matter of concern over a point of principle. Our prompt and firm response clearly shows our principled stand in this matter."

Earlier, Indian officials summoned Ambassador Mulford's deputy Robert Blake "to lodge a strong protest."

"This action . . . is uncalled for and displays lack of courtesy and sensitivity toward a constitutionally elected chief minister of a state of India," the Foreign Ministry said in a statement, expressing the government's "deep concern and regret."

The U.S. stood by its decision after a review sought by India. Mulford, who was out of town when the news broke March 18, said the U.S. decision was aimed at Modi alone, and not Gujaratis. He also denied it would affect ties with India.

In Washington, State Department spokesman Adam Ereli said the U.S. response was based on a finding by India's National Human Rights Commission that held Modi's government responsible for the 2002 Hindu-Muslim violence in the state, India's worst in a decade.

The decision led to widespread uproar in parts of Gujarat. A day after the decision, nearly 150 Bajrang Dal activists barged into the warehouse of U.S.-based PepsiCo in the Surat, smashed bottles and set fire to the place, said Dharmesh Joshi, a witness. The warehouse was partially burned.

A witness said about a dozen workers at the warehouse fled during the attack and firefighters doused the flames.

The protesters also ransacked a nearby PepsiCo office and demonstrated outside the American consulate in Mumbai. Some carried placards reading: "Down with the United States," "Boycott the U.S. goods and the Americans."

Up to 150 Bajrang Dal activists also tried to enter the U.S. visa application center in Ahmedabad but were turned back by police.

Modi called the U.S. decision "an insult to India and its Constitution." In a public address in Ahmedabad, he lashed out at the United States.

"A man from Gujarat was thrown out of a train in South Africa. This led to a movement that overthrew the British Empire," Modi thundered, in a reference to Mahatma Gandhi. "Let us pledge to work for such a day that an American would have to stand in line for entry into Gujarat," he added.

"The United States can't impose its laws on other countries. In the same way, India should deny visas to U.S. officials as a protest against Washington's policies in Iraq," Modi said.

"On what basis has the U.S. decided this?" Modi asked. "Where has the U.S. got its information from? The American government should know that every state in India is ruled by the Constitution and no one can violate that. No court has indicted the Gujarat government or the CM of complicity in the incidents that took place in the state."

If the Pakistani president and the Bangladesh prime minister could visit the U.S., two countries in which minorities have suffered, Modi said he could be admitted too.

TRIBUTE TO SHERMAN W. DREISESZUN

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. MOORE of Kansas. Mr. Speaker, I rise today to pay tribute to Sherman W. Dreiseszun, of Leawood, Kansas, who on May 14, 2005, at Kehilath Israel Synagogue of Overland Park, Kansas, will celebrate his Second Bar Mitzvah.

On May 25, 1935, at Voliner Synagogue of Overland Park, Sherman W. Dreiseszun, the son of Sam and Bertha Dreiseszun, was called to the Torah to celebrate his Bar Mitzvah and take his place as an adult in the Jewish Community.

The Old Testament defines a person's life as three score and ten (seventy years). Since the age of Bar Mitzvah is thirteen, when a man has the good fortune to reach his eighty-third birthday, he has earned the right to celebrate his Second Bar Mitzvah.

Sherman's commitment to Judaism and to Kehilath Israel Synagogue was deeply rooted in the promise he made during his service in World War II. Sherman was a waist gunner in the Air Force, and the plane to which he was assigned was forced to ditch in the Atlantic. While in the ocean, hoping to be rescued, Sherman pledged that if he was saved from that peril, he would commit himself to Judaism, his Synagogue, and to the Jewish community.

Sherman made good on that promise, first by becoming the youngest President of Kehilath Israel to ever hold that position in 1959 and 1960, and then being re-elected President in 1978 for an additional term. He has worked for and led numerous organizations, reaching out to improve individual lives in the Jewish community. Sherman's dynamic work on behalf of Kehilath Israel, the Jewish community and the overall Kansas City community has created a new face for the entire metropolitan landscape.

Sherman has been the backbone and the lifeline for Kehilath Israel Synagogue. To show the respect that the congregation has for Sherman, he has been designated as Honorary President for Life.

On July 7, 1946, Sherman married Irene Friedman. Irene and Sherman will be celebrating their 59th wedding anniversary this summer. Irene also will be celebrating her 80th birthday on August 25, 2005.

Irene and Sherman are the parents of the late Barbara Dreiseszun, the late Richard Dreiseszun; daughter-in-law Gail Dreiseszun of Shawnee Mission, Kansas; and of daughter and son-in-law Helone and Marshall Abrams of Denver, Colorado. Their grandchildren Brooke and James Levy and Erica and Evan Fisher all reside in New York City.

Mr. Speaker, I thank you for this opportunity to pay public tribute to Sherman W. Dreiseszun, who has been the backbone and the lifeline of both his Synagogue and his community at large. I congratulate him on his upcoming Second Bar Mitzvah and congratulate him and Irene on their upcoming 59th anniversary.

IN HONOR OF SIBLINGS DAY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mrs. MALONEY. Mr. Speaker, I rise today to salute Siblings Day, a day to honor our brothers and sisters for the many ways in which they enhance our lives. This celebration gives us the opportunity to show our appreciation for our siblings, much like Mother's Day and Father's Day are celebrated. Siblings Day was founded by my constituent, Claudia Evart. Ms. Evart has worked tirelessly to promote the observance of Sibling's Day on April 10th.

Siblings make important contributions to our lives, and often, when our parents have passed away, siblings are our only remaining family. Siblings Day helps us remember the integral role brothers and sisters play in our lives, and it also provides an opportunity to remember siblings who we have lost at an early age.

April 10th marks the birthday of Claudia's sister, Lisette, who died tragically in 1972 at age 19 in a car accident that also killed their father. An additional tragedy struck in 1987, when Ms. Evart's older brother, Alan, died in an accident at his home. He was 36 years old.

According to the Siblings Day Foundation, Siblings Day was recently marked in 22 states (Arkansas, Colorado, Connecticut, Florida, Illinois, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and Wisconsin); the governor of each of these states proclaimed the 10th of April to be Siblings Day.

I ask my colleagues to join me in recognizing the importance of family by saluting the contributions of siblings. I applaud the work of Claudia Evart, who has created a loving tribute to her deceased siblings through her work to establish Siblings Day. Her dedication should serve as an inspiration to us all.

IN CELEBRATION OF NCAA DIVISION II MEN'S BASKETBALL NATIONAL CHAMPIONSHIP

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. SCOTT of Virginia. Mr. Speaker, along with my colleague, Representative ERIC CANTOR, I rise with great pride to call attention to a group of young students who have distinguished themselves, their school, their community, and the Commonwealth of Virginia.

The Virginia Union University Panthers men's basketball team had a remarkable season and we believe the Panthers deserve formal recognition for their accomplishments. On March 26, 2005, the Virginia Union University Panthers won the NCAA Division II Men's Basketball National Championship. The Panthers completed their 2005 season with an impressive 30–4 record.

To quote from Virginia Union's hometown newspaper, the Richmond Times-Dispatch, "Those [Virginia Union's] starters, none over 6–6 or heavier than 223 pounds, carried the Panthers all year past bigger, stronger opponents. . . . It is perhaps the most belabored sports cliché, but when the Panthers looked at each other, they saw a whole greater than the sum of its parts."

En route to their championship victory in Grand Forks, North Dakota, the Panthers won their second straight CIAA Championship on Saturday, March 5, 2005. Their remarkable season carries on the tradition of championship basketball at Virginia Union, which now has 15 CIAA Championships and three National Championships.

Founded in 1865, Virginia Union University is an Historically Black University dedicated to providing educational equity to African-Americans. Virginia Union welcomes diversity among its faculty and staff as well as its student body. In its founding days, Virginia Union's academic missions and social visions were ahead of their time. Now, more than a century later, Virginia Union University is still an innovating and inspiring place for college students and scholar athletes.

My colleague ERIC CANTOR and I would like to extend our enthusiastic congratulations to the Virginia Union University players and their families, Coach Robbins and the rest of his coaching staff, Virginia Union alumni, and the entire Virginia Union community for their remarkable accomplishment.

PERSONAL EXPLANATION

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. DAVIS of Florida. Mr. Speaker, on rollcall No. 91, had I been present, I would have voted "yes."

RECOGNIZING THE ACHIEVEMENTS OF HAYS COUNTY SHERIFF DON MONTAGUE

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the important achievements of Hays County Sheriff Don Montague, of my Congressional District.

Don Montague was elected Hays County Sheriff in 1996, and was re-elected in 2000. As a fourth generation Hays County resident, he began his law enforcement career in 1967 when he joined the Highway Patrol and he rose quickly through the ranks of Hays Counties finest. He has served prior posts as a Patrol Officer, Field Deputy, Sergeant, Lieutenant, and Captain. Sheriff Montague was instrumental in forming and commanding the Hays County Drug Task Force.

Under Sheriff Montague's administration, the sheriff's department has evolved into a thriving, highly successful, and professional organization with unprecedented personnel and equipment growth. He currently holds a Master Proficiency Certificate and Instructors License with the Texas Commission on Law Enforcement Officers Standards and Education.

Sheriff Montague is a man who believes in the value of community involvement and intervention. He is a past director of the Sheriffs Association of Texas, a past President of the Texas Capital Area Law Enforcement Association, a past President Hays County Criminal Justice Association, a member of the Texas Crime Prevention Association, and member of the Texas Narcotics Officers Association. Don Montague is an example of proactive law enforcement in our communities.

Along with his many contributions to the people of Hays County, Sheriff Don Montague has been married to his lovely wife, Harpie, for 36 years and has 3 children and 5 grandchildren.

Mr. Speaker, Sheriff Montague has enriched the community with his vision and I am proud to have this opportunity to thank him.

A TRIBUTE TO ROBERT RODRIGUEZ

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. TOWNS. Mr. Speaker, I rise in honor of Robert Rodriguez who is being honored at the Brooklyn Caribe Lions Club dinner dance as "Mortgage Broker of the Year."

Robert is a successful mortgage broker who was born in Ponce, Puerto Rico. His father, Higinio Rodriguez, was working for the Brooklyn Navy Yard many years ago when he sent for his wife, Rafaela Santos-Rodriguez and family, including a very young Robert who was three years old.

Robert attended Brooklyn College, majored in psychology and later obtained his real estate mortgage and insurance broker's licenses. He also served in the U.S. Marine Corps and received an Honorable Discharge.

Among many enterprises, he opened up Sunset Park Real Estate in 1980. It became a very successful and inspirational real estate firm in an up and coming neighborhood. In 1987, he became a founding member and President of the Fifth Avenue Merchants Association in 1987. Later, he was instrumental in converting that association to The Business Improvement District of Sunset Park. During this period, he became (and continues to be) a member of The Bay Ridge Board of Realtor and a member of the New York Association of Mortgage Brokers. Presently, he is President and sole owner of Dinero Mortgage & Funding Corp. located in Sunset Park. By helping people obtain a mortgage, Robert has personally helped many minorities in accomplishing their dreams of obtaining a home for themselves and their loved ones.

Robert is married to Julie Cardinale Rodriguez, a Loan Officer for Countrywide Mortgage. He has three children, Lisa, Robert Jr. and Shelly along with seven grandchildren. Robert is a wonderful example of how hard work and perseverance can lead to success. May this award inspire and encourage him to continue the important work he has already begun.

Mr. Speaker, Robert Rodriguez has been a leader in his community by building a successful business and helping his fellow community members realize their dream of homeownership. As such, he is more than worthy of receiving our recognition today and the award of Mortgage Broker of the Year. Thus, I urge my colleagues to join me in honoring this truly remarkable person.

TRIBUTE TO KANSAS CITY, KANSAS, SUPERINTENDENT OF SCHOOLS, DR. RAY DANIELS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. MOORE of Kansas. Mr. Speaker, I rise today to pay tribute to Dr. Ray Daniels, superintendent of the Kansas City, Kansas, school system, who is retiring after a distinguished career as an educator and administrator.

As superintendent of the Kansas City, Kansas, Public Schools for the last eight years, Dr. Ray Daniels has been called "the model for what superintendents could and should be." He has devoted his entire professional career to the Kansas City school district.

This distinguished career began at Northwest Junior High School in 1965 where he worked as an English teacher and head boys' basketball coach. He later joined the faculty at Wyandotte High School and served as head track coach. Dr. Daniels worked his way up as an assistant principal at Wyandotte in 1973 and became Director of Personnel for the school district in 1976. He was named Assistant Superintendent for Personnel Services in 1980.

When appointed superintendent in March 1998, Dr. Daniels immediately worked to close the achievement gap for minority students and students living in poverty, and to correct low student achievement, high dropout rates, unsafe schools, and poor attendance. He is recognized as being ahead of the curve, implementing reforms in his district long before the trend of stronger accountability became popular across the country. Dr. Daniels' efforts have paid dividends for Kansas City schools and our community. His district continues to see significant progress in reading and math achievement.

He has provided leadership and served on numerous community organizations including the KCK Area Chamber of Commerce, United Way of Wyandotte County, Heart of America Family Services, Cancer Action, the Wyandotte Health Foundation, Metropolitan Lutheran Ministries, and the Downtown KCK Kiwanis Club.

Dr. Daniels has earned the respect and trust of the community as he has led his district in becoming one of the most successful examples of urban school reform in America. The Kansas Association of School Administrators named Dr. Daniels the 2005 Kansas Superintendent of the Year and he was a candidate for the National Superintendent of the Year honor. Dr. Daniels was also named "Educator of the Year" by Young Audiences.

There is probably not a tougher job than serving as a superintendent of an urban school district and not a better person for the job these last eight years than Dr. Ray Daniels.

Mr. Speaker, on behalf of the citizens and parents of Kansas City, Kansas, I say to Dr. Ray Daniels: thank you for your service to our community and our children. You will be missed!

RECOGNIZING JULIA HOLT AS WINNER OF THE 2005 SAFETY EDUCATION HERO AWARD

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. TANNER. Mr. Speaker, I rise today to congratulate Julia Holt on being awarded the 2005 Safety Education Hero Award. The public safety education she provides to children has proven to be life-saving. She is a true hero in our community and is helping train our young people to be heroes, too.

As Public Education Officer with the Dickson Fire Department, Ms. Holt teaches fire safety lessons at six elementary schools to kids ranging from kindergarten to sixth grade. Although she has only served in that capacity for three years, Ms. Holt was named Tennessee's Fire Educator of the Year in 2004.

In February, 2004, Ms. Holt's Fire safety lessons were put to the test when seven-year-old Dustin Stephens got too close to a living room wall heater and his clothes ignited. Fortunately, Dustin's brothers Ryan and Justin were able to use what Ryan had learned the week before in Ms. Holt's class. The firefighters responding to their call said Justin's life was saved because of the boys' quick action and their exceptional training.

Ms. Holt is an extraordinary public servant, and she has proven her commitment to ensuring that all children have proper training to respond to emergencies like the one Dustin and his brothers faced. Mr. Speaker, I ask that you join me today in thanking Ms. Holt for all she does in our community and congratulating her on receiving this distinguished award.

ENDING TAX BREAKS FOR DISCRIMINATION ACT OF 2005

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mrs. MALONEY. Mr. Speaker, today we are introducing a bill to end government subsidies for private clubs that discriminate against Americans based on sex, race, or color. The Ending Tax Breaks for Discrimination Act of 2005 makes it illegal to deduct expenses at clubs with discriminatory membership policies. We think it's wrong for corporations to write off big expenditures for entertainment, meetings and advertising at clubs that keep women out on America's dollar. Men play and women pay.

I am joined by my distinguished colleague, Representative BRAD SHERMAN from California. In the early '90s Mr. SHERMAN, as a member of the California tax board, implemented legislation similar to this Act. Since then, other states have followed. The time for the federal government to take a stand and end government-subsidized discrimination is long overdue.

Right now, conventions and meetings are considered legitimate business deductions for corporate income tax purposes, including those held at private clubs that discriminate. Half the price of a business lunch is deductible. But if you're a woman, you subsidize one half of a man's lunch with your taxes, even though you can't join the club.

Augusta and other clubs on par with it are already way out of bounds by discriminating. For taxpayers to have to foot the bill for business conducted under these discriminatory conditions is obscene. This is something that comes into focus every Masters Week, but people need to know they are subsidizing discrimination every day of the year.

Members of these clubs profit—either indirectly through career opportunities and board appointments, or directly through tax deductions. Women can't get these same financial gains—just because they're women. Men get the membership, the deal, the deduction, and women get the bill. Ending Tax Breaks for Discrimination Act of 2005 would put a stop to that. It ends deductions for advertising, travel, accommodation and meals associated with these clubs, and it requires discriminatory clubs to print right on their receipts, "not tax deductible".

This bill is not an attack on deductions for big business. Legitimate tax deductions should continue, but when these deductions support clubs that bar Americans from becoming equal partners, equal players, and equal earners—just because of their sex or race—they are NOT legitimate. The time for discrimination is over.

TRIBUTE TO WOODSIDE HIGH SCHOOL WOLVERINES

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. SCOTT of Virginia. Mr. Speaker, along with my colleague, Representative JO ANN DAVIS, I rise with great pride to call attention to a group of young students who have distinguished themselves, their school, their community, and the Commonwealth of Virginia.

The Woodside High School Wolverines boy's basketball team had a remarkable season and we believe the Wolverines deserve formal recognition for their accomplishments. On March 12, 2005, Woodside won its second consecutive Group AAA Boy's Basketball State Championship at the Virginia Commonwealth University Siegel Center in Richmond. The Wolverines completed the 2005 season with a truly impressive record of 30–2.

Established in 1996, Woodside High School is a magnet school specializing in the performing arts. Students must meet rigorous academic requirements, take responsibility for academic progress, behavior and attendance, and they are expected to participate in school and community activities. The Woodside drive for excellence has now been extended into the field of athletics.

With their 2004 and 2005 championship seasons, Woodside has established a new tradition of championship basketball in Newport News. This year the Wolverines were Peninsula District Season and Tournament Champions, and the Eastern Region Champion. Two-time Coach of the Year, John Richardson, has compiled a 59–5 record over the last two years. The Virginia High School Coaches Association also awarded Player of the Year honors to Woodside senior guard, Calvin Baker.

My colleague JO ANN DAVIS and I would like to extend our enthusiastic congratulations to the Woodside High School players and their families, Coach Richardson and the rest of his coaching staff, Woodside High alumni, and the entire Woodside High community for their remarkable accomplishment.

HONORING JIN LEE

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. EMANUEL. Mr. Speaker, I rise today to congratulate Mr. Jin Lee for his recent appointment to the Northeastern Illinois University's Board of Trustees. Jin Lee has been an outstanding citizen of the Fifth Congressional District, and he will be a tremendous asset to Northeastern Illinois University as a member of its Board of Trustees.

Prior to this appointment, Mr. Lee's distinguished career included management positions with Ace Young Company, Daewoo International America Corporation, and Lorenzo Import-Export Company. He was also the Executive Director of the Chicago Korean American Chamber of Commerce and remains a prominent member of the City of Chicago's Human Relations Task Force. In addition, he served on the Asian American Advisory Councils for both the Illinois Secretary of State and the Illinois State Treasurer. Since 1997, Jin Lee has also served as the director of business planning and development for the Albany Park Community Center.

Hard work and determination were the hallmarks of Mr. Lee's early life. When he was 14 years old and without a working knowledge of English, he moved with his family to the United States from South Korea. He quickly mastered the language and subsequently earned a Bachelors degree from the University of Illinois at Urbana-Champaign.

Mr. Lee's reputation for hard work and determination are widely recognized and respected. He has received numerous honors and awards including Loyola University Chicago's' Leadership Certificate, the Illinois Secretary of State's Certificate of Application, and membership in the Asian American Hall of Fame.

As he begins his 4-year term as a member of the Board of Trustees for Northeastern Illinois University, I am confident that Jin Lee will continue to serve the people of the Chicago area with steadfast dedication, just as he has proven in years past.

Mr. Speaker, on behalf of the Fifth Congressional District of Illinois and indeed the entire city of Chicago, I thank Jin Lee for his many outstanding contributions to our community. I wish him continued success as he begins a new challenge and extend my heartfelt congratulations on his appointment to the Northeastern Illinois University Board of Trustees. I am proud to represent Mr. Lee and Northeastern Illinois University in the Fifth Congressional district and am confident both he and the university will find their partnership to be mutually productive and rewarding over the next four years and beyond.

HONORING THE CONTRIBUTIONS OF BISHOP SAMUEL EDWARD IGLEHART

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Bishop Samuel Edward Iglehart for his unparalleled dedication to his community, church, and family.

It is rare to find many people who have gone through life so humbly helping others. However Bishop Samuel Edward Iglehart is one of them. Ordained at the age of 31, Bishop Iglehart has gained a great familiarity with the people of his church and community. Whether it is a fellow officer of the church or a small child in need of assistance, serving humanity is always a top priority for Bishop Iglehart. This priority can be seen in the everyday mission of his church, the Childless Memorial Church of God in Christ. Future goals and milestones Bishop Iglehart plans to implement for the Memorial Church consist of providing a daycare and Christian Academy for children, a learning center for adults, and a Christian book store.

Memorial Church has not been the only medium for Bishop Iglehart to serve the community. He is a life-time member of the NAACP and a strong supporter of the United Negro College Fund. For his active community involvement, Bishop Iglehart was inducted into the "Who's Who Society of Outstanding Church Leaders" in May of 1989.

Besides his commitment to the community Bishop Iglehart dearly loves and is dedicated to his family. His wife Glorious Cosey Iglehart and their six children have a very special bond that can stand the test of time.

Mr. Speaker, I am honored to be given the time to pay reverence to the lifetime of service of Bishop Samuel Edward Iglehart and his lifetime of service.

A TRIBUTE TO THE ESPINAL FAMILY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. TOWNS. Mr. Speaker, I rise in honor of the Espinal Family who are being honored at the Brooklyn Caribe Lions Club dinner dance as "Outstanding Family of the Year."

Jose and Agueda Espinal are the parents of this family, and together, they have raised thirteen children in the community of Sunset Park, Brooklyn, New York. Jose and Agueda immigrated from the Dominican Republic in 1977. They hoped to provide a better life and education for their family. Their children are Carmen, Pablo, Pedro, Maria, Julio, Esteban, Andres, Ceferino, Carlos, Bienvenido, Rafael, Mary Carmen and Juan Martin.

All the members of the Espinal Family have established very successful community based businesses. The majority of the children and grandchildren are professionals with degrees in business administration. They are also well known for their generosity to churches, civic and community organizations, which serve the less fortunate and infirm. This distinguished family is an inspiration and a role model to everyone in the community.

May this award inspire and encourage them to continue the important work that they have already begun. The wonderful example of dedication to their fellow community members and commitment to the important value of family has surely made them worthy of this honor.

Mr. Speaker, by raising thirteen successful children and still finding time and money to assist others, the Espinal Family has been a shining example to the community. As such, they are more than worthy of receiving our recognition today and the award of Outstanding Family of the Year. Thus, I urge my colleagues to join me in honoring this truly remarkable person.

FIFTH ANNUAL MOVERS AND SHAKERS AWARDS OF THE VOLUNTEER CENTER OF JOHNSON COUNTY

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. MOORE of Kansas. Mr. Speaker, I rise today to note an important event in the Third Congressional District of Kansas. On April 18, 2005, the Volunteer Center of Johnson County in Overland Park, Kansas, will honor outstanding youth volunteers. Seventy-one young people have been nominated by school personnel and nonprofit organizations for their dedication and service to the community. Youth volunteerism continues to grow and be a strong force in Johnson County. These 71 youths exemplify the true meaning of volunteerism and giving back to their community. It is my honor to recognize each student volunteer, their school, their age, number of hours volunteered, and their hometown by listing them in the CONGRESSIONAL RECORD.

Molly Allison-Gallimore, Home School, 15, 500+, Spring Hill, KS.

Kirsten Amble, Shawnee Mission Northwest High School, 17, 150, Shawnee, KS.

Brett Beyer, Shawnee Mission Northwest High School, 18, 350, Lake Quivira, KS.

Cheryl Bornheimer, Shawnee Mission West High School, 18, 100, Shawnee Mission, KS.

Brea Buchanan, Olathe East High School, 16, 217, Olathe, KS.

Jessie Bullock, Notre Dame de Sion, 16, 130, Stilwell, KS.

Meghan Burrow, Shawnee Mission South High School, 18, Gold, Overland Park, KS.

Clayton Calder, Olathe South High School, 18, 284, Olathe, KS.

Jenna Christensen, Shawnee Mission North High School, 16, 70, Overland Park, KS.

Jill Christensen, Shawnee Mission North High School, 14, Bronze, Overland Park, KS.

Brittany Clark, Mill Valley High School, 17, 200, Shawnee, KS.

Michael Cobb, Blue Valley High School, 18, 240, Stilwell, KS.

Michelle Cook, Shawnee Mission West High School, 17, 120, Lenexa, KS.

Christopher Connell, Shawnee Mission West High School, 15, Silver, Lenexa, KS.

David Dolginow, Pembroke Hill, 18, 100, Shawnee Mission, KS.

Marissa Dorau, Shawnee Mission West High School, 18, 90, Shawnee Mission, KS.

Morgan Fasbinder, Blue Valley Northwest High School, 17, 50, Overland Park, KS.

Kate Garrett, Shawnee Mission West High School, 16, Gold, Lenexa, KS.

Kevin Garrett, Westridge Middle School, 13, Bronze, Lenexa, KS.

James Geary, Blue Valley Middle School, 12, 63, Overland Park, KS.

Lindsey Gerber, Oregon Trail Junior High, 14, 250, Olathe, KS.

Josh Gordon, Blue Valley North High School, 17, 110, Leawood, KS.

Maggie Gremminger, Mill Valley High School, 17, 165, Shawnee, KS.

Luke Hays, Oxford Middle School, 12, 81, Overland Park, KS.

Kristen Heath, Mill Valley High School, 17, 110, Shawnee, KS.

Samantha Hewitt, Shawnee Mission West High School, 17, 350, Lenexa, KS.

Bethany Hileman, Oxford Middle School, 12, 68, Overland Park, KS.

Mallory Howlett, Shawnee Mission Northwest High School, 18, 300, Shawnee, KS.

Ellen Jorgenson, Shawnee Mission North High School, 17, 150, Shawnee, KS.

Adam Kenne, Gardner-Edgerton High School, 16, 110, Gardner, KS.

Becky Kenton, Mill Valley High School, 18, 225, Shawnee, KS.

Hunter Kiely, Blue Valley West High School, 16, 150, Overland Park, KS.

Jenny Kim, Shawnee Mission South High School, 17, 120, Overland Park, KS.

Danielle Kopp, St. Thomas Aquinas, 15, 92, Leawood, KS.

Kelly Kutchko, Shawnee Mission North High School, 16, 75, Merriam, KS.

Andrew Lacy, Blue Valley Northwest High School, 18, 200, Overland Park, KS.

Max Lehman, Blue Valley High School, 16, 250, Leawood, KS.

Ethan Levine, Pleasant Ridge Middle School, 14, 250, Overland Park, KS.

Emily Limpic, Shawnee Mission East High School, 17, 75, Shawnee Mission, KS.

Blake Lindsay, Olathe South High School, 18, 100, Olathe, KS.

John Liu, Blue Valley High School, 16, 262, Overland Park, KS.

Magdalena May, Olathe North High School, 15, 300, Olathe, KS.

Greg May, Olathe North High School, 17, 300, Olathe, KS.

Emily Minion, Blue Valley West High School, 18, 155, Overland Park, KS.

Jennifer Moore, Shawnee Mission North High School, 17, 150, Overland Park, KS.

Josh Morgan, Gardner-Edgerton High School, 16, 135, Olathe, KS.

Kate Motter, Shawnee Mission West High School, 17, 300, Shawnee Mission, KS.

Rhea Muchalla, Shawnee Mission North High School, 17, 50, Shawnee, KS.

Caroline Mueller, St. Thomas Aquinas, 15, 75, Leawood, KS.

Katheryn Mueller, St. Thomas Aquinas, 17, 100, Leawood, KS.

Lindsay Murphy, Olathe South High School, 18, 265, Olathe, KS.

Katie Murray, Blue Valley North High School, 17, 325, Leawood, KS.

Kasey Nelson, St. Thomas Aquinas, 18, 100, Overland Park, KS.

Hannah Oberkrom, Shawnee Mission West High School, 18, 90, Shawnee, KS.

Miranda Oley, Pioneer Trail Junior High, 14, 10, Olathe, KS.

Jessica Pohl, Blue Valley Northwest High School, 100, 100, Overland Park, KS.

Justin Pohl, Blue Valley Northwest High School, 75, 75, Overland Park, KS.

Ashley Racca, Olathe North High School, 18, 100+, Olathe, KS.

Justice Randolph, Shawnee Mission South High School, 16, 100, Overland Park, KS.

Jennifer Ray, Spring Hill High School, 17, 80, Olathe, KS.

Kelly Regan, Blue Valley West High School, 15, 100, Overland Park, KS.

Brendan Reilly, St. Thomas Aquinas, 18, 200, Overland Park, KS.

Chris Rhodes, Spring Hill High School, 17, 300, Spring Hill, KS.

Cassie Rhodes, Spring Hill Middle School, 14, 200, Spring Hill, KS.

Amber Lynn Roan, Shawnee Mission North High School, 17, 158, Shawnee, KS.

Amy Schneider, Olathe South High School, 18, 165, Olathe, KS.

Amanda Sherraden, Olathe South High School, 18, 159, Olathe, KS.

Stephen Stahl, Home School, 16, 110, Overland Park, KS.

Jonathan Stahl, Home School, 16, 110, Overland Park, KS.

Nate White, Home School, 16, 175, Leawood, KS.

Mary Zima, Notre Dame de Sion, 17, 60, Leawood, KS.

HONORING THE CONTRIBUTIONS OF HAYS COUNTY COMMISSIONER WILL CONLEY

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Hays County Commissioner Will Conley for his contributions to the community.

Will Conley was born in Lake Charles, Louisiana and then went on to attend high school in Houston, Texas. After graduating from high school, Conley spent one year ranching and outfitting in Uvalde, Texas before attending Southwest Texas State University in San Marcos. During his college tenure, Conley was involved in the Student Body Council, South West Texas Ducks Unlimited and Pi Sigma Alpha. Conley graduated in 2000 with a degree in Political Science and a minor in Business.

After receiving his bachelor's degree, Will demonstrated his entrepreneurship abilities when he founded Conley Enterprise Incorporated and the environmentally conscious business of Conley Carwash and Detail. It was working with Conley Carwash and Detail that Will's concern for the environment shown through with the company's policy of recycling 85 percent of the water used for operations. Over the years, Conley's companies have received numerous awards for environmental-soundness such as the Water Efficiency Achievement Award.

After producing great results as an entrepreneur, Conley became the youngest elected County Commissioner of Hays County in 2004. As County Commissioner, Conley has promised to work for the improvement of Hays County by focusing on economic development and instilling a more fiscally responsible policy when it comes to the appropriating of tax payer's dollars. During his short time in office, he has already shown the results he has been known for; he has improved road conditions, extended park development and done so much for the better of Hays County.

Mr. Speaker, Will Conley has a rare youthful spirit that is dedicated to improving Hays County's quality of life for its citizens and I feel greatly privileged to recognize his accomplishments.

TRIBUTE TO REVEREND DOCTOR WILLIAM RAYMOND WHITAKER, JR.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. TOWNS. Mr. Speaker, I rise in honor of Reverend Doctor William Raymond Whitaker, Jr., in recognition of his dedication to his church and community.

Reverend Doctor William Raymond Whitaker, Jr., was born in Newport News, Virginia on November 12, 1959. The Whitaker family moved shortly thereafter to Brooklyn, New York. Dr. Whitaker is a product of the Bedford Stuyvesant Tompkins Project community. He attended Carter G. Woodson Public School 23, Mark Hopkins Junior High School 33, Fort Hamilton High School and graduated from the former Eastern District High School. Furthering his education, he attended Adelphi Academy, majoring in Business. Pastor Whitaker obtained his Bachelor of Theology degree from Community Bible Institute in Brooklyn in May 1999 and his Master of Theology from Chelsea University in London, England, where he graduated with the highest academic distinction, summa cum laude, in May 2004. On October 4, 2004, the Hope for All Bible College bestowed upon Reverend Whitaker the Honorary Doctorate of Divinity degree.

Dr. Whitaker was called to the Ministry at the young age of 16 and preached his initial sermon in October 1976 under the leadership of Reverend Joseph Stiff, Jr., of Bethel Church of God in Christ. He served faithfully as an usher, choir member and Sunday school student. In June 1985, he was licensed by Greater Free Gift and ordained in November 1986. On December 13, 1994, Rev. Whitaker was called by the Lord to serve as Pastor of the Greater Free Gift Baptist Church and since then, the ministry has and continues to multiply. He preaches the Word of God in a manner that can be applied to everyday life.

Dr. Whitaker answered yet another call on his life, which was to establish the Greater Free Gift Bible Institute where he diligently shares his knowledge and wisdom as president and teacher. Under the leadership of this great visionary, hundreds have been blessed, encouraged, inspired and delivered. He continues to lead the Greater Free Gift Baptist Church to make even greater strides in its growth and development, including the formation of the Drama and Dance Ministry and "Serenity on Stockton Street." Rev. Whitaker's sole desire is to help people reach their ultimate potential spirituality by developing a personal relationship with God.

In addition to being dynamic preacher and teacher, Pastor Whitaker is a world-renowned vocalist. He has recorded songs with legendary gospel artists such as "The Godfather of Gospel" Elder Timothy Wright and performed throughout the world including in Paris, France. His commitment to the community is evident by his service as the Former Chair of Evangelism for the Eastern Region of the Progressive National Baptist Convention and his involvement in the National Baptist Convention Housing Staff USA, Inc. He is the former Vice-Chairman of the Board of Trustees, former Director of the Music Department of the New York Missionary Baptist Association as well as the former Ecumenical Director to Congressman ED TOWNS. Additional community affiliations include Central Brooklyn Churches, Police Benevolent Association, 303 Vernon Board of Managers and AIDS Awareness seminar (graduate of ARRIVE where he received his license as counselor). He also serves as a mentor to the students at IS 33.

Mr. Speaker, Reverend Doctor William Raymond Whitaker, Jr., has dedicated his life to his church and community. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

PASSING OF FRED T. KOREMATSU

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Ms. PELOSI. Mr. Speaker, on behalf of my fellow California Representatives MIKE HONDA, BARBARA LEE, DORIS MATSUI, and PETE STARK, I rise today to pay tribute to a true champion of the civil rights movement, Fred Korematsu. Mr. Korematsu passed away on March 30, 2005 at the age of 86.

As a Japanese American facing internment during World War II, Fred Korematsu challenged government authorities by standing up for his rights as an American citizen and refusing to back down. He has earned a place in American history among our most determined fighters for justice. We will miss him greatly.

Born in Oakland, California in 1919 to Japanese immigrants, Fred Korematsu's early life was similar to many other hard-working Americans. He held a job as a welder in the San Francisco shipyards and had dreams of getting married and starting a family. Two months after the attack on Pearl Harbor, however, his dreams were suddenly taken away.

Under baseless fears of Japanese American disloyalty, Executive Order 9066 was signed, authorizing the removal of more than 120,000 Americans of Japanese descent from their homes along the West Coast to guarded camps in the interior of the United States. It displaced families and uprooted entire communities.

On May 30, 1942, Fred Korematsu was jailed for evading authorities. He was sent to Topaz Internment Camp in Utah for 2 years. He bravely filed a lawsuit against the U.S. government, and took his case all the way to the U.S. Supreme Court. The Supreme Court, however, unjustly declared that the internment of Japanese Americans was necessary in a time of war and that allegations of racism by the government were unfounded. Mr. Korematsu, though, did not give up, and, 40 years later, he was vindicated in a ruling by the Federal District Court in San Francisco.

Mr. Korematsu's dedication to protect civil rights did not end with his own exoneration. His courage prompted lawmakers to right the wrongs committed against Japanese Americans during World War II, and in 1988, an official apology and reparations were issued by the government. His work was recognized in 1998 when President Clinton awarded him the Presidential Medal of Freedom. In the wake of the September 11 terrorist attacks, Mr. Korematsu continued to fight the backlash against Arab, Muslim, and Middle Eastern communities, recounting his own struggle against discrimination.

Today, we honor Fred Korematsu for his courage and recognize him as a symbol of justice, determination, and the true American spirit. His passing leaves the Asian American and Pacific Islander communities with a profound sense of loss.

I hope it is a comfort to his family and friends that so many people share their loss and are praying for them at this sad time.

COMMEMORATING THE GREEK REVOLUTION OF 1821

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. TIERNEY. Mr. Speaker, I rise to commemorate the Greek Revolution of 1821, which marked the beginning of a protracted struggle fought and eventually on by a people firmly committed to achieving freedom for themselves and liberation for their country.

It is a day that bears personal significance to—and instills pride in—generations of Greek Americans, who still feel a strong sense of nationalism toward Greece even though they or their ancestors may have moved away long ago.

Furthermore, irrespective of ethnicity, I believe it is a day of particular importance to all Americans, as we share a special kinship with the people of Greece. Whenever we promote democracy, civil liberties, and the principles of self-determination, we pay testament to our countries' shared values.

Mr. Speaker, on this occasion, I also rise to welcome the honorable Mayor of Messini, Messinia, Greece, Christos Christopoulos, to the City of Peabody. On March 23, 2005, in a gesture of solidarity, Mayor Christopoulos and Peabody's Mayor Michael Bonfanti signed a sister-city pact. I extend my congratulations to the mayors, the Saint Vasilios Greek Orthodox Church community, and all Greek Americans of Peabody, many of whom descend from Messinia, on this important event.

HONORING THE CONTRIBUTIONS OF ALDERWOMAN HILDA CALVILLO

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Alderwoman Hilda Calvillo for her public service to the city of Charlotte, Texas.

Hilda Calvillo was born, raised, and educated in the city of Charlotte. As an active participant in local events, she understands the specific needs of her community.

As the first woman to ever be elected, Mrs. Calvillo has served in her city as Alderwoman since 1999. She spends much of her time working in school functions and focusing on local community projects. Having graduated from local schools, she works passionately to ensure that quality education is kept a priority.

Also working to keep our communities beautiful, Hilda Calvillo has recently been instrumental in the recent building of a Charlotte city park.

Hilda Calvillo lives in Charlotte with her husband. She has three children and two grandchildren. Mrs. Calvillo and her family enjoy sports and spending time with the rest of the community.

Mr. Speaker, I am deeply proud to have this opportunity to recognize Alderwoman Hilda Calvillo of Charlotte for her dedicated public service.

HONORING THE CONTRIBUTIONS OF ALDERMAN BUDDY LEE DAUGHTRY

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize alderman Buddy Lee Daughtry for his public service to the city of Charlotte, Texas.

Buddy Lee Daughtry is a hard working alderman in the City of Charlotte. Raised on a small farm, Mr. Daughtry is a family man who continues to help his parents whenever the need arises. While in high school he won numerous awards in science, and later graduated from Charlotte ISD.

Working for the prison system, Buddy Lee Daughtry works tirelessly to keep our streets safe. He has served the city of Charlotte as Alderman for the past eight years and has been involved in numerous local programs. It is important to recognize the contributions of citizens like Buddy Lee Daughtry. Their hard work has vastly improved our local communities.

Buddy Lee Daughtry lives with his wife Karen in Charlotte and enjoys spending time with his family. Their daughter studies at A&M Commerce.

Mr. Speaker, I am deeply proud to have this opportunity to recognize Alderman Buddy Lee Daughtry of Charlotte for his dedicated public service.

SIKHS ABOUT TO CELEBRATE VAISAKHI DAY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. TOWNS. Mr. Speaker, April 13, which is the birthday of Thomas Jefferson, author of the Declaration of Independence, is Vaisakhi Day for the Sikhs. I wish all the Sikhs around the world a happy Vaisakhi Day.

Vaisakhi Day is the anniversary of the day in 1699 when Guru Gobind Singh, the last of the ten Sikh Gurus, created the Khalsa Panth. At that time, he said, "I give sovereignty to the humble Sikhs." Yet over 300 years later, they still struggle for that sovereignty while they suffer under severe repression from "the world's largest democracy."

More than 250,000 Sikhs have been murdered at the hands of the Indian government, according to figures compiled by the Punjab State Magistracy. The Movement Against State Repression reports that 52,268 Sikhs are being held as political prisoners under the repressive TADA law. How can this happen in a democracy?

Sikhs have an opportunity this Vaisakhi Day to reclaim their sovereignty. In January, 35 Sikhs were arrested for simply raising the Sikh flag and making speeches in support of Khalistan, the Sikh homeland that declared its independence on October 7, 1987. Political leaders are coming out for Khalistan. All of India's efforts to suppress the Sikhs sovereignty movement have just given it new life.

What can we do to support this worthy cause? We should stop our aid and trade with India as long as it continues to kill ethnic minorities, hold political prisoners, and engage in other wholesale violations of the most basic human rights. We should go on record in support of self-determination in the form of a free and fair plebiscite on independence in Khalistan, in Kashmir, in Nagaland, and wherever the people are seeking freedom. These measures will help bring a new glow of freedom to all people in the subcontinent.

Mr. Speaker, at this time I would like to place the Council of Khalistan's Vaisakhi Day message into the RECORD for the information of my colleagues.

VAISAKHI DAY SHOULD BE CELEBRATED IN FREEDOM

I would like to take this opportunity to wish you and your family and friends and all Sikhs a Happy Vaisakhi Day. As you know, Vaisakhi Day is the anniversary of the founding of the Khalsa. On Vaisakhi Day in 1699, Guru Gobind Singh baptized the Sikhs and required them to keep the five Ks. He made the Sikhs into saints and soldiers, giving the blessing "In grieb Sikhin ko deon Patshahi" ("I give sovereignty to the humble Sikhs.") Just two years after his departure from this earthly plane in 1708, the Sikhs established our own independent state in Punjab.

Today we struggle to regain the sovereignty that Guru Gobind Singh bestowed upon us over 300 years ago. Yet the Jathedar of the Akal Takht, Joginder Singh Vedanti, was quoted as saying that "We don't want a separate territory." Does Jathedar Vedanti, like every other Sikh, pray "Raj Kare Ga

Khalsa" ("the Khalsa shall rule") every morning and evening? Has he forgotten our heritage of freedom? How can the spiritual leader of the Sikh religion deny the Sikh Nation's legitimate aspiration for freedom and sovereignty? Is he not stung by the words of one of his predecessors, former AkalTakht Jathedar Professor Darshan Singh, who said, "If a Sikh is not a Khalistani, he is not a Sikh"? Is Akal Takht occupied by a person who does not believe in Sikh values and Sikh apsirations?

The flame of freedom continues to burn brightly in the heart of the Sikh Nation. No force can suppress it. On Republic Day, Sikh leaders raised the Sikh flag in Amritsar and made speeches in support of Khalistan. 35 Sikhs were arrested for raising the Kesri Nishan. Eleven of them continue to be held and they have been denied bail. Is this the freedom that Guru Gobind Singh bestowed upon us? Is this the "glow of freedom" that Nehru promised us when Master Tara Singh and the Sikh leaders of the time chose to take our share with India?

Punjab's Chief Minister, Captain Amarinder Singh, was declared a hero of the Sikh Nation for asserting Punjab's sovereignty and preserving Punjab's natural resource, its river water, for the use of Punjab farmers by cancelling Punjab's water agreements. In so doing, Amarinder Singh and the Legislative Assembly explicitly declared the sovereignty of the state of Punjab. In December former Member of Parliament Simranjit Singh Mann again reverted to public support of Khalistan. He pledged that his party will lead a peaceful movement to liberate Khalistan. Obviously, Mr. Mann is aware of the rising support of our cause. Mann joins Sardar Atinder Pal Singh, Sardar D.S: Gill of the International Human Rights Organization, and other Sikh leaders in Punjab in supporting freedom for Khalistan openly. Jagjit Singh, President of Dal Khalsa, was quoted in the Deccan Herald as saying that "the Indian government can never suppress the movement. Sikh aspirations can only be met when they have a separate state." There is no other choice for the Sikh nation but a sovereign, independent Khalistan. Every Sikh leader must come out openly for Khalistan. We salute those Sikh leaders in Punjab who have done so.

Any organization that sincerely supports Khalistan deserves the support of the Sikh Nation. However, the Sikh Nation needs leadership that is honest, sincere, consistent, and dedicated to the cause of Sikh freedom. Leaders like Dr. Jagjit Singh Chohan, Harchand Singh Longowal, Didar Bains, Ganga Singh Dhillon, the Akali Dal leadership, and others who were complicit in the attack on the Golden Temple cannot be trusted by the Sikh Nation. The evidence against them is clear in Chakravyuh: Web of Indian Secularism. The Sikh Nation cannot believe that these leaders will not betray the cause of Khalistan, just as they betrayed the Sikh Nation in 1984. We must be careful if we are to continue to move the cause of freedom for Khalistan forward in 2005 as we did in 2004.

The Akali Dal conspired with the Indian government in 1984 to invade the Golden Temple to murder Sant Bhindranwale and 20,000 other Sikh during June 1984 in Punjab. Even the Pope spoke out strongly against this invasion and desecration of our most sacred shrine. How can these so-called Sikh leaders connive with the people who carried it out? If Sikhs will not even protect the sanctity of the Golden Temple, how can the Sikh Nation survive as a nation?

The Akali Dal has lost all its credibility. The Badal government was so corrupt openly and no Akali leader would come forward and tell Badal and his wife to stop this unparallelled corruption.

If Jathedar Vedanti opposes freedom and sovereignty for the Sikh Nation, then he is not fit to sit in Akal Takht, in the seat of the Khalsa Panth. The Sikh Nation should have a Jathedar who is committed to sovereignty.

The Council of Khalistan has stood strongly and consistently for liberating our homeland, Khalistan, from Indian occupation. For over 18 years we have led this fight while others were trying to divert the resources and the attention of the Sikh Nation away from the issue of freedom in a sovereign, independent Khalistan. Khalistan is the only way that Sikhs will be able to live in freedom, peace, prosperity, and dignity. It is time to start a Shantmai Morcha to liberate Khalistan from Indian occupation.

The Akal Takht Sahib and Darbar Sahib are under the control of the Indian government, the same Indian government that has murdered more than a quarter of a million Sikhs in the past twenty years. The Jathedar of the Akal Takht and the head granthi of Darbar Sahib toe the line that the Indian government tells them. They are not appointed by the Khalsa Panth. Otherwise they would behave like a real Jathedar, Jathedar Gurdev Singh Kaunke, rather than like Indian government puppet Jathedar Aroor Singh, who gave a Siropa to General Dyer for the massacre of Sikhs and others at Jallianwala Bagh. These institutions will remain under the control of the Indian regime until we free the Sikh homeland, Punjab, Khalistan, from Indian occupation and oppression and sever our relations with the New Delhi government.

The Sikhs in Punjab have suffered enormous repression at the hands of the Indian regime in the last 25 years. Over 50,000 Sikh youth were picked up from their houses, tortured, murdered in police custody, then secretly cremated as "unidentified bodies." Their remains were never even given to their families! Another 52,268 are being held as political prisoners. Some have been in illegal custody since 1984! Even now, the capital of Punjab, Chandigarh, has not been handed over to Punjab, but remains a Union Territory. How can Sikhs have any freedom living under a government that would do these things?

Sikhs will never get any justice from Delhi. The leaders in Delhi are only interested in imposing Hindu sovereignty over all the minorities to advance their own careers and their own power. Ever since independence, India has mistreated the Sikh Nation, starting with Patel's memo labelling Sikhs "a criminal tribe." What a shame for Home Minister Patel and the Indian government to issue this memorandum when the Sikh Nation gave over 80 percent of the sacrifices to free India.

How can Sikhs continue to live in such a country? There is no place for Sikhs in supposedly secular, supposedly democratic India. Let us make Viasakhi Day a day of freedom. Let us dedicate ourselves this Vaisakhi Day to living up to the blessing of Guru Gobind Singh. Let us take the occasion of Vaisakhi Day to begin to shake ourselves loose from the yoke of Indian oppression and liberate our homeland, Khalistan, so that all Sikhs may live lives of prosperity, freedom, and dignity.

IN RECOGNITION OF MRS. BETH FREEMAN

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to pay tribute to a distinguished public servant of Alabama's Third Congressional District.

Mrs. Beth Freeman, hired just two months after she turned 18, has worked for the people of Alabama for more than 30 years. Over her career she has progressed from answering phones and clipping newspaper articles to handling nearly every issue addressed by the Federal government, from military affairs to Social Security.

She has been a faithful and non-partisan public servant, having served with the four most recent officials representing this office, including the late Congressman Bill Nichols; Congressman Glenn Browder; and then-Congressman Riley.

While I have only known 'Ms. Beth' since taking office in 2002, in that short time I have developed a deep appreciation for her hard work and dedication to the people of Alabama. Families and seniors across this district have called upon her expertise for years, and relied upon her persistence to get their problems solved. She will be missed here in this office, and across East Alabama.

Beth, on behalf of the citizens of Alabama's Third Congressional District, thank you for your service to our state. We wish you all the best in your retirement.

HONORING THE MEMORY OF THE HON. HOWELL HEFLIN

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. BONNER. Mr. Speaker, the entire state of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to his memory.

Senator Howell Heflin was a devoted family man and dedicated public servant throughout his entire life, someone who devoted nearly a quarter-century in public service to the residents of Alabama.

Born on June 19, 1921, the son of Reverend and Mrs. Marvin Heflin, Senator Heflin was a native of Poulan, Georgia, and spent his childhood moving from one Alabama community to another before his family settled in Colbert County. He was a 1942 graduate of Birmingham-Southern College. Within a short time following his graduation, he joined the United States Marine Corps and served during World War II in the Pacific Theater of Operations. He was wounded twice during his service and was awarded the Silver Star for gallantry in action before being discharged in 1946. Following the completion of his military obligations, he enrolled in the law school at the University of Alabama and graduated from that institution in 1948.

From 1948 until 1970, Senator Heflin worked as a prosecuting attorney in the City of Tuscumbia before winning election as Chief Justice of the Alabama Supreme Court. For the next six years, he served with distinction on the court and is known for many accomplishments during that time, including implementing large reforms of the state court system that eliminated years of backlogged cases. He earned so much respect for his work as Chief Justice that, even after having been elected to the United States Senate, friends, colleagues, and admirers continued to refer to him as "The Judge."

First elected to the Senate in 1978, Senator Heflin served with distinction for 18 years and ably represented the interests of all Alabamians. During his three terms, he served most notably as a member of the Senate Judiciary Committee and as both chairman and vice chairman of the Senate Ethics Committee, a position he held for 12 years. Additionally, he served as a member of that body's Agriculture Committee and was a strong and able advocate for the interests of Alabama's agricultural community.

During his three terms in Congress, Senator Heflin developed a reputation of working with his colleagues to find common ground on numerous issues, and always with the best interests of his constituents at heart. Many times, he put partisanship aside to support issues for which he saw great benefit, but which others were actively working to oppose. And while his personal views tended towards the conservative end of the spectrum on defense and financial matters, he was more progressive on social issues. In fact, two African-American federal judges from Alabama, U.W. Clemon of Birmingham and Myron Thompson of Montgomery, were both championed by Senator Heflin.

In an article appearing in the Mobile Register following the senator's death, former Alabama Congressman Sonny Callahan was quoted as saying, "He was always there for us when we needed him. We had common goals for Alabama and worked towards those goals." Perhaps these words more than many others spoken in the days following his passing are an accurate summation of the tremendous work completed during his long career and of the faith and trust he in turn earned from his constituents.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated public servant and long-time advocate for the state of Alabama, a man whose significant impact and dedication to the needs and interests of his constituents will be felt for many years to come. Senator Heflin will be deeply missed by his family—his wife, Elizabeth Ann Heflin, his son, Tom Heflin, and his two grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

FALL RIVER HERALD NEWS SALUTES CDBG

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. FRANK of Massachusetts. Mr. Speaker, 23 years ago, when Congressional Districts in Massachusetts were changed, one of the first issues I worked on involving the newer parts of my district concerned the Community Development Block Grant Program for the City of Fall River. Working with then Mayor Carlton Viveiros, I was successful in preserving parts of the CDBG Program in Fall River that were being threatened by legislative changes. And in the years since then, Fall River has continued to be a national exemplar of how this program works for the benefit of our constituents.

On Friday, April 1, the newspaper of Fall River, the Herald News, ran an excellent editorial, which testifies both to the value of the CDBG Program nationally, and to the good work that people have done administering it in Fall River. As the editorial eloquently pointed out, "Allowing a community's water mains to decay does nothing to foster self-reliance. An 80-year-old widow on a small pension, living alone, will probably not be lured from the paths of righteousness if she receives some help paying her heating bills." As the Herald News notes, CDBG funds in Fall River "are a good example of tax money being put to a variety of concrete uses that directly benefit people." Given that we are now in a national debate on this program in response to the President's proposal substantially to reduce it and reorganize it, I ask that the very thoughtful editorial by the Fall River Herald News be printed here.

The most common (and often misguided) gripe about government is that you pay your taxes and you never see your money at work.

In fact, it is popular to believe that government spends its entire budget on "pork barrel" projects of the "how do butterflies fly" variety.

This kind of thinking is so enshrined in the American consciousness that no one really believes government ever does anything useful with taxpayer dollars.

That's not true.

Witness the Community Development Block Grant Program. That program brings about $5 million to Fall River every year. That $5 million is not spent on pork.

Money from CDBG funding puts police officers on foot beats, helps poor elderly people pay their utilities and has helped reline miles of city water pipes.

Does that sound like pork to you?

At a recent press conference, Fall River Mayor Edward M. Lambert Jr. spoke strongly about the need to preserve the CDBG program.

Lambert said the program is threatened by an initiative aimed at rolling a number of similar programs together, cutting funding and handing control over to the Department of Commerce. The Department of Housing and Urban Development has always administered CDBG programs.

Frankly, any threat to CDBG money is a threat to Fall River.

Of course, numerous people will say that the cutting of another "entitlement" program is a good thing, that "self-reliance" needs to be encouraged.

It's difficult to see what these people mean. Allowing a community's water mains to decay does nothing to foster self-reliance. An 80-year-old widow on a small pension, living alone, will probably not be lured from the paths of righteousness if she receives some help paying her heating bills.

In Fall River, Community Development Block Grants are a good example of tax money being put to a variety of concrete uses that directly benefit people.

That kind of government program deserves to continue on a steady course.

HUMANITARIAN FOOD AND MEDICINE EXPORT ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce legislation that will remove current, and prohibit future, embargoes on the export of food, medicine, or medical devices. Embargoes on these items, as we have seen time and time again, do not have the desired policy effect on the targeted country. In fact, they only punish the innocent and most vulnerable people in these countries. Does anyone believe that denying the people of a foreign country food or medicine because of our quarrel with their leader will make them more sympathetic toward the United States? We are fond of talking about "humanitarian" treatment in foreign countries. But it is our policy of embargoing the export of food and medicine to certain countries that is most un-humanitarian. We need to practice what we preach.

Also, it is very important to remember the harm we do to our own citizens when we deny them the right to sell their products to whoever they like. It is not very humanitarian to deny our own citizens the right to their livelihood because our political leadership does not get along with the political leadership of another country.

Mr. Speaker, we do ourselves no favors in denying our citizens the right to export the essentials for life to citizens abroad. And we do no real harm to leaders abroad, who actually benefit by our sanction policies, as they provide a convenient scapegoat for their own economic failures. The fact is that trade promotes peace. Forcibly cutting off trade relations with another country promotes militarism and conflict.

I hope my colleagues will join me by cosponsoring this legislation.

TRIBUTE TO THE UKRAINIAN PEOPLE AND THEIR PRESIDENT, VIKTOR YUSHCHENKO

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to applaud the Ukrainian people and their President, Viktor Yushchenko. President Yushchenko's election last fall marked a powerful triumph of popular will over the forces of fraud and repression. Mr. Yushchenko's vision of the Ukraine, shared in his address to Congress this week, is an inspiration to freedom loving men and women in Eastern Europe and across the globe.

Through the power of peaceful protest, the government of the Ukraine embraced the forces of freedom last fall, conducting free elections for the first time in over eight decades. The world watched as nearly 80 percent of eligible Ukrainian voters turned out to cast ballots on December 26, 2004. This remarkable participation is a measure of the collective courage of the Ukraine people, many of whom voted despite threats to their personal safety and employment.

President Yushchenko himself carries visual scars, a tangible badge of his own strength and resolute determination in the struggle for freedom. He has demonstrated enormous grace and selflessness in his perseverance. He is well known as a man of high integrity who surely, with the cooperation of global allies, will work hard to reject the corrupt political forces that sought to block him from public office.

We in this Chamber have pledged our support for the Ukraine through resolutions, words, and deeds. It is an honor to welcome President Yushchenko to the United States. I look forward to working with him and the good people of the Ukraine during this exciting moment in their nation's history.

GREEK INDEPENDENCE DAY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. BURTON of Indiana. Mr. Speaker, I rise today to congratulate Greek-Americans on the occasion of Greek Independence Day, and wish all people of Greek descent across the globe, peace, happiness and prosperity. In the same spirit of friendship and brotherhood, I ask all of my Greek friends to use this joyous occasion to renew their commitment to peace by doing all that they can to facilitate and promote the end of the long-standing stalemate on the beautiful Mediterranean island, Cyprus.

Recent remarks made by Greek Foreign Minister Petros Molyviatis with regards to Greece's support for the resumption of negotiations on the Cyprus question along the lines of the United Nations' Plan for a settlement (the "Annan Plan") are deeply encouraging, and should be supported by the international community and the United States. Greece's role in facilitating negotiations under U.N. auspices and convincing the Greek Cypriot side, under the leadership of President Tassos Papadopoulos, to return to the negotiating table cannot be understated.

Now, the time is right for peace and reconciliation on the island. The Turkish Cypriots have already declared that they are ready and willing to sit down and discuss the "Annan Plan"—a plan they overwhelmingly supported in the referendum held on April 24, 2004—with their Greek Cypriot counterparts. I fervently hope, Mr. Speaker, that all sides will seize the opportunity of Greek Independence Day to come together in a spirit of friendship and cooperation to achieve the final and lasting peace that has so long eluded the people of Cyprus.

HONORING SOJOURNER TRUTH AWARDEES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. KILDEE. Mr. Speaker, I rise today on behalf of the Flint Club of the National Association of Negro Business and Professional Women's Clubs, Inc., who on Saturday, April 9, will hold their 44th annual Sojourner Truth Founder's Day Awards Luncheon. During this ceremony, awards will be presented to nine deserving recipients.

The Sojourner Truth Awards are given each year by the National Association of Negro Business and Professional Women's Clubs, Inc., as a reminder of the endless effort which freedom demands of those who would be free and to recall the fact that slavery comes in many forms: enveloping the spirit as well as the body. In this regard, the Club annually acknowledges those members of the community who have shown to represent these ideals with dignity and distinction.

One such award is the Club's Frederick Douglass Award, which this year will be given to the Honorable Archie L. Hayman, Chief Judge of the 7th District Circuit Court in Genesee County. A lifelong resident of Flint, Judge Hayman received degrees from C.S. Mott Community College and the University of Michigan-Flint, before receiving his Juris Doctorate in 1985 from Detroit College of Law. After stints at General Motors and his own private practice, Judge Hayman was elected to the bench of the 68th District Court in 1995, and was appointed to the Circuit Court one year later by former Governor John Engler. Judge Hayman has consistently shown a willingness to improve the community, as evidenced by his involvement with the Michigan Civil Rights Commission, NAACP, Big Brothers/Big Sisters of Flint, and many others.

The next award is the Positive Image Award, and its recipient is Mrs. Mancine Broome. Mrs. Broome is known throughout the City of Flint as one of its most ardent community activists. In the political arena, she was an integral part in successful campaigns to elect her late husband, Sylvester, to the Genesee County Board of Commissioners. Other campaigns followed, as did several citywide activities designed to enhance community spirit. Mrs. Broome has often been found as an active member or leader of groups including the Greater Flint Afro-American Hall of Fame, Zeta Amicae Auxiliary of Zeta Phi Beta Sorority, Bishop Airport Authority, and the National Association of Media Women. In addition to her long history of activism, Mrs. Broome has worked with Flint Community Schools as Supervisor of Graphic Arts and Printing Services for 38 years.

The Club Appreciation Award goes to Ms. Gloria J. Coles. In 1984, Ms. Coles moved to Flint to become Director of the Flint Public Library, a position she held for 20 years, until her recent retirement. As Director, Ms. Coles led her staff in establishing the Library as a community focal point, a central location for enriching lectures and programs, and a hub for technological advances. During her tenure, Ms. Coles was appointed to the Board of Trustees of the State Library of Michigan, and in 1991, served as Board President. She also chaired Michigan's White House Conference Committees in hopes of setting a federal agenda for our nation's libraries. Ms. Coles has also been active with the Fairwinds Girl Scout Council, the United Way, and the Michigan Humanities Council.

Alexzandria Poole, a senior at Grand Blanc High School, and Otis Wiley, a senior at Carman-Ainsworth High School, have been selected to receive this year's Youth Achievement and Academic Award. Miss Poole is a multi-talented young woman who balances a 3.902 grade point average with activities such as singing, playing and tutoring piano and viola, and studying Mandarin Chinese and Japanese. Mr. Wiley has excelled in the classroom, where he earned a 3.423 grade point average, and also on the athletic front. During his high school career, Mr. Wiley made it to the State Finals in three sports: football, basketball, and track and field, and has been honored for his efforts on local, state, and national levels. Despite his hectic schedule, Mr. Wiley still finds time to volunteer for various church and community projects.

Also being honored during the ceremony are the winners of the Flint Club's Essay Contest: Miss Diamond Nelson (1st Place), Miss Breeanna Walker (2nd Place), and Miss Michelle A. Cochran (3rd Place).

Last, but certainly not least, the Sojourner Truth Award itself this year will go to Ms. Pamela Loving, President and CEO of Career Alliance, Inc. Serving in this position since 1997, Ms. Loving oversees a multi-service organization that provides workforce development strategies and assistance for residents of Genesee and Shiawassee Counties from all walks of life. Each day, 800–1,000 people utilize Career Alliance's services in hopes of learning and/or developing skills that will enable them to increase their effectiveness in the workforce. Ms. Loving draws on extensive experience in the private, public, and corporate sectors to achieve her goals. She is a tireless advocate for promoting civic and community awareness, and improving the quality of life for all those she comes into contact with. Currently Ms. Loving serves as Co-Chair for Governor Jennifer Granholm's Community Challenge, as well as the Board of Directors for the Focus Council, Mission of Peace Housing Development Agency, Flint District Public Library, and Hamilton Community Health Network. She has received numerous awards for her work, including the YWCA Nina Mills Award, and the Jewish Federation Senator Donald Riegle Award, among many others. Ms. Loving is a true role model and is deserving of the highest respect.

Mr. Speaker, I appreciate the National Association of Negro Business and Professional Women's Club's longstanding commitment to community service, and their mission to seek answers toward critical issues in the areas of health, education, employment, and economic development. These awardees have exemplified the highest of qualities, and I ask my colleagues in the 109th Congress to please join me in congratulating them all.

TRIBUTE TO BISHOP BILLY BASKIN—PASTOR, TEACHER AND COMMUNITY LEADER

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. MEEK of Florida. Mr. Speaker, it is with great pride that I rise to pay tribute to Bishop Billy Baskin, one of the preeminent religious leaders of our community. On Sunday, April 10, 2005 beginning at 7 p.m., he will be honored at Miami's New Birth Baptist Church Cathedral of Faith International during a special appreciation service defined by the theme: "Adding Years to Your Life—Adding Life to Your Years." Bishop Victor T. Curry, the Pastor of New Birth Church Cathedral, will lead other members of Miami's clergy and countless admirers throughout Miami-Dade County, in lauding this honoree portrayed as The Man, The Mandate and the Ministry.

Having founded Miami's New Way Fellowship Praise & Worship Center in 1975, Bishop Baskin truly evokes the genuine leadership of a Good Shepherd who attends to his flock in many ways, and the whole week long. As pastor and teacher, he exudes the knowledge and caring of a religious visionary who goes about empowering his congregation with his sermons. He has been a source of inspiration and a mentor to a host of other religious leaders who are now leading other congregations throughout South Florida and beyond.

Throughout the longevity of his pastorate, he has truly persevered in showing us the Way, the Truth and the Life that only his knowledge and experience could expound. As he continues to be involved with our faith-community, Bishop Baskin is never oblivious of the needs and concerns of others, particularly the less fortunate among us. It is his tireless consecration to his ministry that defines the measure of his consummate commitment to serve ". . . the least of these."

His timely and resilient leadership at the New Way Fellowship Praise & Worship Center for some thirty years is genuinely commendable. As a respected community leader, he has indeed earned our deepest respects and utmost admiration.

This is the legacy of Bishop Billy Baskin. I am truly privileged in thanking him for his many years of service. My honor in sharing his friendship is only exceeded by my gratitude for everything that has sacrificed on our community's behalf as he continues to teach us to live by the noble ethic of serving the community.

100TH ANNIVERSARY OF BAY CITY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating its 100th anniversary as a city. Sunday, the residents of Bay City, Michigan celebrate their history that 100 years ago was the result of a true tale of two cities. Much of this history is documented in two excellent articles in the Bay City Times by local reporter Tim Younkman.

Like many of the towns in my district, it was the lumber industry that brought people, commerce, growth and prosperity to the Saginaw Bay area to found the village of Bay City at the mouth of the Saginaw River in 1857. It later became a city in 1865 but was known as the "East Side" because on the opposite side of the river, the "West Side" was comprised of three small communities.

In the late 1800's, the Bay City area was nationally known for being a boom town. The success of the lumber mills attracted pioneers and early entrepreneurs from the far reaches, including New York City. One pioneer in particular, Henry Sage, teamed with local businessman, John McGraw, to build the world's largest sawmill, which is now known as Veterans Memorial Park.

Sage was also credited with creating one of the three West Side communities known as Wenona. In 1877, Wenona consolidated with the community of Banks, named after the Civil War General Nathaniel Banks, and the community of Salzberg, the region of Germany where local settlers came from in the old country, to form West Bay City.

At the turn of the 20th century, lumber tycoon Spencer Fisher and shipbuilder James Davidson worked with local West Bay City families to campaign for the consolidation of the east and west communities into one community to promote more business growth. However, West Bay City Mayor C.J. Barnett, who feared an East side political take-over, opposed the idea. While East Bay City politicians supported the move, East Side business owners feared a rise in property taxes due to the poor financial health of the communities across the river.

A dual city vote in 1903 on the proposal lead to a stale mate when East Side voted in favor and West Side voted against. The measure was then taken to the Michigan Legislature to create a combined city charter to incorporate these municipalities into a unified Bay City. Governor Aaron Bliss signed the single city charter into law in June of 1903. However, in a surprise move by the West Side City Council voted to pass costly community improvement projects onto the united Bay City so the East Side voters retracted the deal and ended the consolidation effort.

To make the retraction effective, the State Legislature passed a law rescinding the consolidation charter and awaited then Governor Fred Warner's signature for completion.

Businessmen still in favor of consolidation lobbied for a veto and those opposed to the consolidation urged the Governor to sign. Governor Warner met with both sides for one hour on February 16, 1905 before departing Lansing for a meeting. Four hours later, he wired back to Lansing saying, "I have decided to veto bill. You can make this known." While some were unhappy with the decision, both sides greeted the Governor's veto, which unified Bay City, with marching bands, banners and a celebration upon their return to Bay City. The newly elected Mayor Gustav Hine held the first meeting of the Bay City Council on April 10, 2005.

In a recent letter from current Mayor Robert Katt and Deputy City Manager/City Clerk Dana Muscott to local clergy on upcoming centennial events, they stated, "it took an act of the State Legislature to force the merger of the two Bay City's. But unified we were. And unified we remain. And that is worth celebrating."

While other cities have struggled after the early lumber boom, Bay City has persevered through innovation and maintained their prosperity. In a city of over 36,000 people and resting at the junction of I–75 and US 10, Bay City now benefits from large auto, chemical and sugar manufacturers. As a leading recreational port, a city that loves to celebrate its famous waterways is particularly proud of two Tall Ships events that bring historic sailing ships to their shores. I can personally attest to the broadly shared opinion that Bay City is a warm and welcoming community which is proud of their history and how far they have prospered together.

Mr. Speaker, I ask the United States House of Representatives to join me in congratulating Bay City and its residents on their first 100 years and in wishing them well through the next century.

HONORING DON MORRIS

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to pay public tribute to a remarkable individual from my home district. Don Morris, a legendary High School basketball coach in Breckinridge and Hardin County, KY, was recently inducted into the Dawahares/Kentucky High School Athletic Association Hall of Fame. His induction honors his 21 years of coaching success; winning an impressive 353 games and leading two teams to the state championship game.

Most people know about Kentucky's love of basketball and the commitment many make every season to win. Coach Morris' athletic achievements epitomize a work ethic and commitment to succeed worthy of the Hall of Fame. But it was the lessons Don Morris instilled in his players about life's priorities, impressions countless young men took far off the court and applied many years after High School, that remain the true measure of his legacy.

A master of the sport, he always conducted himself in the highest standard, expecting both athletic and personal excellence from those he led. Each year, Morris shared with his team a simple message; "Church, home, school and ball and in that order." It was a priority list that has endured in the hearts and minds of hundreds of former players.

I would like to recognize Don Morris today, before the entire U.S. House of Representatives, for his many achievements as a coach. His unique dedication to the development and well-being of student-athletes and the communities they now serve make him an outstanding citizen, worthy of our collective honor and respect.

IN HONOR OF CALICO ROCK, AR'S 100TH ANNIVERSARY

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. BERRY. Mr. Speaker, I am honored to rise today on behalf of Congress to honor the town of Calico Rock, AR on its 100th Anniversary.

Located in a strikingly beautiful section deep in the Ozarks and directly on the banks of the famous White River, Calico Rock affects all who visit it.

Calico Rock has grown from its roots as an important river port on the Upper White River as early as the first half of the 1800s. Legend says the town was named when an early explorer of the White River Valley saw the limestone bluff and called it "The Calico Rocks" because it resembled the calico fabric used to make women's dresses.

Today, Calico Rock is a picture of rural American community with good schools, a hospital, an historic downtown area and world-renown fishing. More importantly, Calico Rock is a place where "community" is not merely a term tossed around on the political stump, but a living, breathing entity acting as an umbrella of protection in the turbulent storm of these times.

Calico Rock lives up to a moral standard based on helping those in need and celebrating life's victories as a neighborhood, a congregation and a society.

On behalf of the Congress, I congratulate Calico Rock on their 100th Anniversary. The community that has been built during that time is a model society should take note of. Calico Rock has shown Arkansas and the entire country that a growing Rural America does not mean abandoning the ideals and values that make a group of people a community.

NATIONAL TARTAN DAY

HON. MIKE FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. FERGUSON. Mr. Speaker, I rise today in support of National Tartan Day, which is celebrated every year on April 6.

National Tartan Day was created with the passage of Senate Resolution 155 on March 20, 1998. April 6th was chosen as the date because the Declaration of Arbroath, the Scottish Declaration of Independence, was signed on April 6, 1320.

On March 9, 2005, the House of Representatives approved House Resolution 41, which expressed the sense of the House of Representatives that April 6 be established as National Tartan Day to recognize the outstanding achievements and contributions made by Scottish-Americans.

National Tartan Day is a time to remember the major role that Scottish Americans have played in this country throughout the course of history. Almost half of the signers of the Declaration of Independence were of Scottish descent, as were Governors in nine of the original 13 states.

Scottish Americans have made invaluable contributions to America in the fields of science, medicine, government, literature, media, and architecture. Today in America more than 200 organizations honor Scottish heritage in the United States.

On this day, let us remember the contributions Scottish-Americans have made to our country and the loyalty and commitment they have shown to the United States throughout the history of our nation.

IN MEMORY OF JOHNNIE COCHRAN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. RANGEL. Mr. Speaker, I rise with much sadness, to mourn the passing of a great American, and one of my dear friends, Johnnie Cochran. At a time like this, I find myself very conflicted. On one hand I am deeply saddened by the loss of my dear friend and confidant, a man who I admired and respected before I came to know him well, and over the most recent years of our friendship as we worked together on the redevelopment of Harlem through the Upper Manhattan Empowerment Zone, which Johnnie chaired, he is a man I would come to love.

On the other hand, I feel great pride and gratefulness in the fact that I had the opportunity to experience his friendship. Johnnie was of one of the greatest legal crusaders of our generation, and hands down, one of the best lawyers I have ever known. Johnnie had a personality that could light up a room. Even his opponents had to acknowledge his charm.

He argued a case with a style and flare that many had never seen in a courtroom. Indeed, most may never see a persona quite like his again. However, Johnnie always remained true to himself. In the legal profession, lawyers often wear a mask. They adopt a sort of legal alter ego. Johnnie won cases being himself, and that is why he was able to connect with jurors, and the public at large, time and time again.

As we all know, Johnnie became recognized the world over through his participation in the OJ Simpson case. But anyone who knows the work of Johnnie Cochran knows that the case was simply a feather in his cap, just one more achievement in a remarkable career.

Anyone who looks beyond the surface would see that Johnnie was not about celebrity clients, he was about seeking justice for those who had been denied it. In his portfolio of clients, one does find the OJ's and P. Diddys of the world, but much more than them you find the little guy: the accused person with no money, no voice, and no hope, and then you find Johnnie right there fighting for them. That was the Johnnie that I knew, and that is the Johnnie that everyone should know.

Johnnie Cochran was born in Shreveport, Louisiana in 1937, the grandson of a sharecropper. His family would move west to California in the late 1940's, where his determined father would work his way up from a shipyard pipe fitter, to an insurance broker for California's leading Black-owned insurance company. The family would eventually settle in Los Angeles where Johnnie would spend the rest of his adolescence.

Although his family's migration to California removed him from the Jim Crow South, the repressive form of segregation and discrimination that Johnnie witnessed as a young child in Louisiana never left him. Instead it instilled in him a deep seated commitment to seek justice for all people.

Johnnie grew up wanting to be a lawyer, and he would see his dream through to fulfillment. After graduating from UCLA, he earned a degree from Loyola Law School in 1962. In the fall of 1961, during his last year in law school, he became the first Black law clerk in the Office of the City Attorney. In early 1963, he became a Deputy City Attorney.

Though he enjoyed his work, he came to realize that most of the people he was prosecuting were Black men who had been severely beaten by police authorities during their arrests. He soon came to believe that something was gravely wrong with the way the justice system related to African American citizens, and he set out to do something about it.

He would leave the City Attorney's office in the late 60's to set up his own practice. He would there begin his crusade of defending those who had been the victims of police brutality and misconduct, who in most cases happened to be minorities.

Along the way he obtained justice for dozens of every day people, who had nowhere else to turn. He would also be the first attorney to get the city of Los Angeles to financially compensate victims of police misconduct. Without question, Johnnie's personal crusade against police violence brought about changes in the law enforcement systems of both Los Angeles and the entire United States.

Johnnie's preoccupation with justice was not confined to situations where the victimization was based on race; he wanted to see justice done in every case. In 1992 he represented Reginald O. Denny, the white truck driver who was brutally beaten by a mob during the Los Angeles Riots. Johnnie argued that the LAPD's reluctance to enter the riot zone cost many people their lives, and put citizens like Denny in harm's way. Indeed, many argued that the riots would never have escalated to the level they did if police had responded sooner.

Though everyone speaks of OJ, as far as Johnnie was concerned, it was the case of Geronomo Pratt that was most meaningful and important to him. He defended Pratt in 1972, but lost the case due to police and prosecutorial misconduct. However, he never gave up on Pratt.

Though he had been elevated to celebrity status, representing rich and famous clients, he never wavered in his quest to get Pratt's conviction overturned. He would ultimately prevail. Pratt's murder conviction was overturned in May 1997. Johnnie also got the state to compensate Pratt $4.5 million, for the 27 years he wrongly spent behind bars.

Many people were opposed to the legal arguments that Johnnie used in the OJ case, regarding police corruption and misconduct. However, Johnnie was ultimately proven right in the late 1990's when the LAPD was rocked by a department wide corruption scandal.

So systemic were the problems in the LA Police Department that the U.S. Department of Justice would have to take over the department for some time. This exemplifies why Johnnie was so important. In his quest for justice, he revealed to society serious problems that they were unable or unwilling to address on their own. This is why we will miss him so. We in the Harlem community will especially miss the leadership and contributor he gave to us in his final years.

In this time of loss however, I am heartened by two things. First is the fact that Johnnie's family is still here with us. His wife Dale has been Johnnie's loving and dedicated partner through all the highs and lows. Indeed, her love may have been the only thing that could render Johnnie defenseless, which was no easy task. He loved his children Jonathan, Tiffany, and Melodie dearly, and seeing them grow and become successful adults made him prouder than any victory he ever achieved in court.

The other thing that heartens me at this time is the knowledge that Johnnie's legacy grows every day. In Los Angeles and in cities around the country, Johnnie has become something of a mythic hero, a sort of legal Robin Hood, and a real role model. Kids across America now not only dream of being like Michael Jordan, or Puff Daddy, they dream of becoming successful lawyers, and being like Johnnie.

There are several young people working in my office right now. One is a lawyer already, and many others aspire to become one. There is no question in my mind that Johnnie in some way has something to do with that. In the end, the unseen influence Johnnie has had on the next generation of passionate advocates may be his greatest legacy.

Johnnie, we will never forget you, and I know we will all meet again. In the meantime, we will continue the fight, for as long as justice reigns, so too, will your spirit live.

HONORING DELEGATE JAMES H. DILLARD

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Delegate James H. Dillard for over 21 years of dedicated service to the Commonwealth of Virginia.

Delegate Dillard has served as Delegate to the Virginia General Assembly from 1972–1977 and then again from 1980–2005. Delegate Dillard represents the 41st District in central Fairfax County. He served in the United States Navy from 1955 to 1957 and received a B.A. from The College of William and Mary and a M.A. in Political Science from The American University.

Delegate Dillard previously served as a Fairfax County teacher and principal and began his political career as a member of the Fairfax Education Association by working to establish a living wage for teachers in the 1960's. His strong interest in education led him to be one of the original architects of the Virginia Standards of Learning. Additionally, he was chief sponsor of legislation placing a guidance counselor in every elementary school, and has been recognized as National Legislator of the Year by the Guidance Counselors Association.

As Chairman of the Natural Resources subcommittee of the House Appropriations Committee, Delegate Dillard initiated the largest growth in parks and conservation activities in Virginia's history. Delegate Dillard was the author and chief sponsor of the Virginia Soil and Siltation Act which protects streams and waterways from pollutants. He has also worked behind the scenes to ensure the development of the Leesylvania State Park sailing marina, one of the finest facilities of its kind on the Potomac River and has been recognized as Legislator of the Year by the Chesapeake Bay Foundation.

Mr. Speaker, in closing, I would like to extend my best wishes to Delegate Dillard on his retirement from the General Assembly. Through his long and distinguished career Delegate Dillard has touched the lives of countless Virginians. While I know that he will be greatly missed, his retirement is well deserved. I call upon my colleagues to join me in honoring Delegate Dillard and his wife Joyce. I wish them the best of luck in all future endeavors.

HONORING MR. MAX FISHER

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. KNOLLENBERG. Mr. Speaker, today I join the people of my Congressional District, as well as thousands around the country and the world, in honoring the passing of a truly great individual Mr. Max Fisher. On March 3, 2005, Max Fisher passed away at the age of 96.

Max Fisher, a resident of Franklin, Michigan, was an internationally known philanthropist, businessman, advisor, and diplomat, and universally recognized as a driving force for positive change in the United States and the world.

The son of Jewish Russian immigrants Velvil and Malka Fisch, Max was born in Pittsburgh in 1908. He attended Ohio State University on a football scholarship and graduated in 1930 with a degree in business administration. After graduating from college Max Fisher moved to the Detroit area where he became an extremely successful businessman and real estate land developer.

Max Fisher played a unique role in U.S.-Israel relations. This role has been described by many, including in the 1992 biography, Quiet Diplomat, by Peter Golden. Former Secretary of State Henry Kissinger wrote in his memoirs that Max Fisher provided an important service as an informal liaison between the White House and the American Jewish leadership under Presidents Nixon and Ford.

Max Fisher also served as the head of a variety of nonprofit and charitable Jewish organizations including United Jewish Appeal, the Republican Jewish Coalition, the Jewish Welfare Federation, the Jewish Agency, Council of Jewish Federations, United Israel Appeal, the American Jewish Committee, and the National Jewish Coalition.

Max was a self-made man who spent much of his life raising money for philanthropic and political endeavors and remained an active supporter of charitable and civic organizations. He was a major benefactor of the Detroit Symphony Orchestra, gave generously to Ohio State's College of Business, and helped found Detroit Renaissance, a nonprofit business roundtable aimed at improving conditions in the city and region.

Max also held 13 honorary degrees from educational institutions.

Max Fisher is survived by his wife, Marjorie Fisher; daughters and sons-in-law, Jane and D. Larry Sherman, Mary Fisher, Julie and Peter Cummings, Marjorie Fisher; son and daughter-in-law, Phillip and Lauren Fisher; 2 sisters; 19 grandchildren and 13 great grandchildren.

Max was a humble man of strong principle, who consistently focused on doing what was right, without seeking fame or prestige. His optimism and positive mental attitude continually motivated those around him to overcome the challenges before them.

Therefore, I express my deepest condolences to his family, friends and admirers. And I also join in honoring Max Fisher for his diplomatic contributions, exceptional philanthropic achievements, boundless generosity, unwavering principle and integrity, and achieving great financial success while maintaining admirable humility.

HONORING THE HEROIC ACTIONS OF THE 106TH AIR RESCUE WING

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. BISHOP of New York. Mr. Speaker, I rise in support of the heroic actions of the members of the 106th Air Rescue Wing. Over the past few days, the Northeast experienced torrential downpours causing massive flooding throughout Sussex County, New Jersey. The rain became so terrible that it washed out the only road connecting tiny Mashipacong Island to the mainland, stranding five residents. In response, Langley Air Force Base scrambled two Pave Hawk helicopters from the Air National Guard's 106th Rescue Wing, which is based at Gabreski Air Force Base in Westhampton, New York. Fortunately, the 106th was able to respond in time; not only did they rescue the five residents, they also rescued one nearby individual on his roof, along with a dog and a cat.

This is the most recent heroic rescue in the storied history of the 106th, and I am proud to commend the men and women of this unit for their selfless dedication to duty and the protection of those in need. The exploits of the members of the 106th were made famous following their actions depicted in the book "The Perfect Storm". More recently, during our ongoing conflict in Iraq, the pararescue specialists of the 106th played an integral role in rescuing two downed soldiers flying on the CH–47 Chinook helicopter that was shot down west of Baghdad in November of 2003.

As the only rescue unit of its kind in the Northeast, the 106th has once again proven its unique value to the safety and security of our region and our nation. Mr. Speaker, the 106th has proven its worth time and time again. We all owe a debt of gratitude to the brave men and women of the 106th Air Rescue Wing. I hope we can show that gratitude by letting them continue to serve and protect our nation.

HONORING BRAD PARKHURST

HON. JEB BRADLEY

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to pay tribute to Mr. Brad Parkhurst upon his retirement from Public Service of New Hampshire after 32 years of service.

Brad Parkhurst has had a long, distinguished career in public service. Public Service of New Hampshire (PSNH) is the Granite State's largest electric utility company and has over 1,200 employees. Brad stands out among them as a recipient of the PSNH Volunteer of the Year Award in 2001 and the PSNH Humanitarian Award in 2004. He received these and numerous other awards for his many contributions to PSNH.

Brad Parkhurst's commitment to the betterment of his community extends far beyond his work at PSNH. He has held many appointed and volunteer positions throughout his hometown of Merrimack, NH. Brad presently serves on the Merrimack Chamber of Commerce Board of Directors and served as President of the Chamber from 2001 to 2003.

For the past 25 years, Brad has been an active member of the Home Builders and Remodelers Association of New Hampshire. Brad was the first-ever inductee into the Association's "Hall of Fame" in 2003 in recognition of his lifetime achievement in providing significant and lasting contributions to the New Hampshire housing industry.

Brad Parkhurst's service has transcended the borders of New Hampshire and the United States. Brad serves as Chair of the Riverside Christian Church Missionary Efforts program. Brad has led several teams to West Africa in efforts to provide medical, educational and nutritional aid to impoverished people. On his missions, Brad and his teams have also rehabilitated a children's orphanage, constructed a new home, and renovated a local church, school and library.

Brad has left a truly lasting impression on those he has touched with his work. I am honored to represent concerned and conscientious citizens like Brad in the U.S. House of Representatives. I wish Brad the best of luck in his well-deserved retirement.

VERMONT STUDENTS WORK TO END SWEATSHOP LABOR

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. SANDERS. Mr. Speaker, I want to celebrate the remarkable work done by the young Vermonters who participate in the Child Labor Education and Action group at Brattleboro Union High School. CLEA is a student-run group dedicated to community education around issues of sweatshop labor in the developing world. It examines the dark and inhumane side of globalization, doing extensive research and traveling to amass the real story on what globalization means for low-income workers who toil in third-world sweatshops. The students then take what they learn and share it with their community in a variety of ways. They have also organized student groups throughout Vermont to address the problems with global sweatshops.

Four years ago, over 20 CLEA members traveled to Guatemala to build a school. Last year, 13 CLEA members went to Nicaragua to learn about the effect of international trace policies on labor conditions in that country. Let me cite a brief report from one of those travelers, Sarah Maceda-Maciel:

> When our plane touched down in Managua, our bags might have been stuffed with light cotton shirts and water bottles, but our heads were filled with numbers like 90,000—the number of Nicaraguan children who are not in school. Or 70 percent, the amount of Nicaraguans who live on less than two dollars a day. Or 6 billion dollars, the sum that Nicaragua has accumulated in foreign debt.
>
> We found the harsh realities of life in the third world. There is something profoundly different between knowing that children are hungry and learning that eight year old children sniff glue to dull the knife of starvation. There is something profoundly different between knowing that maternity leave is not offered in sweatshops and learning that pregnant women are forced to work so hard that they end up having miscarriages in factory bathrooms.

The students returned from their trip determined to make a difference in how Americans view the harsh realities occasioned by free trade. In the words of Katherine Nopper, another CLEA member, "Within our school we hope to engage and inform our classmates on the issues of child labor, free trade, fair trade, and what it means to be part of a sweat-free campaign. And we will continue to present our message to other area schools."

This past year CLEA students have helped with the publication of a remarkable book, Challenging Child Labor: Education and Youth Action to Stop the Exploitation of Children. Several of the contributors are present and former CLEA members; other contributors include Senator TOM HARKIN, Charles Kernaghan of the National Labor Committee, Kailash Satyarthi of the Global March Against Child Labor, and Upala Devi Banerjee of the U.N. Development Fund for Women.

I admire the work CLEA does, and am continually impressed, year in and year out, by the dedication of these young people to making the world a better place. They see the whole world as their province; they also realize that speaking to their peers in school, speaking to the larger community in southern Vermont, is part of the struggle to create a world in which justice has a higher value than profit. These students represent what is best about American youth, just as their advisor, Tim Kipp, represents what is best about American teachers.

Combining learning with service, the international with the local, passion for justice with the willingness to work hard to achieve justice, the members of CLEA serve as a model, a shining beacon, for what high school students can accomplish.

TURKEY AND THE ARMENIAN GENOCIDE

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. FOLEY. Mr. Speaker, as reported by Reuters recently, Turkish Prime Minister Recep Tayyip Erdogan is ready for a "political settling of accounts with history" provided that historians would prepare an unbiased study of claims that millions of Armenians were the victims of genocide under Ottoman rule during the First World War.

That accounting has already been done. A March 7, 2000 public declaration by 126 Holocaust Scholars affirmed the incontestable fact of the Armenian Genocide and urged Western democracies to officially recognize it.

This declaration by foremost scholars from around the world was adopted at the Thirtieth Anniversary of the Scholar's Conference on the Holocaust convening at St. Joseph University, Philadelphia, Pennsylvania, March 3–7, 2000. The petitioners, among whom is Nobel Laureate for Peace Elie Wiesel, also called upon Western democracies to urge the government and parliament of Turkey to finally come to terms with this dark chapter of Ottoman-Turkish history and to recognize the Armenian Genocide. According to this renowned gathering, Turkish acknowledgment would provide an invaluable impetus to that nation's democratization.

As part of the groundbreaking conference held in September 2000 by the Library of Congress and the Armenian National Institute in cooperation with the U.S. Holocaust Museum, the prestigious Cambridge University Press, early in 2004, released a vital new publication—"America and the Armenian Genocide of 1915." This edition covers all facets of the leading U.S. response to the Armenian Genocide, which encompassed the first international human rights movement in American history. Oxford University's Sir Martin Gilbert, Cambridge University's Jay Winter and more than a dozen American academics were among the participants in that landmark conference. In a keynote address, Sir Martin recalled that Rafael Lemkin, who developed the concept of genocide, derived the word itself from the atrocities inflicted on the Armenians.

Prime Minister Erdogan's apparent willingness for a political settling of accounts with history should be treated as an important opportunity for those who have been urging Turkey to come to terms with its Ottoman past. If Turkey is prepared to acknowledge the Armenian Genocide, then its leaders can proceed immediately to direct dialogue with its counterparts in Armenia to define a common vision for the future.

I also urge the government of Turkey to: decriminalize speech within Turkey, destroy all monuments, museums and public references to the specious notion that the Armenian minority committed genocide against the majority Turks, end denial within Turkey, specifically within textbooks and reference books, officially condemn any attacks against all Turks that acknowledge the facts of history, and end the global campaign of threats against any nation that is in the process of affirming the Armenian Genocide.

By so doing, Turkey will begin the vital process of preparing its citizens for a more complete and honest assessment of the final acts of the Ottoman Turkish state. Facing history squarely will liberate Turkey.

THE UNITED STATES MUST CONTINUE TO STAND WITH UKRAINE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. LEVIN. Mr. Speaker, today in this chamber we heard a compelling voice for the power of freedom and democracy in President Viktor Yushchenko of Ukraine. Just a few months ago, the Ukrainian people stood up for genuine liberty in their country by peacefully demanding free and fair elections in what has become known as the Orange Revolution.

I am proud that the United States stood with the hundreds of thousands of Ukrainians that demonstrated for democracy in the streets of Kiev. I will never forget last November 24th, when I joined nearly 1,500 Ukrainian-Americans from around the country at a demonstration in support of fair elections outside Ukraine's Embassy in Washington.

The Orange Revolution marked an important milestone in the history of Ukraine. President Yushchenko today addressed forcefully both the lessons of the past and fervent hopes for the future. Now that this peaceful revolution has been dramatically launched, we must stand with the people of Ukraine as they work to strengthen their democratic institutions and to make their country more prosperous. The U.S. should do more, not less, to help build a democratic and prosperous society in Ukraine.

In particular, we must end trade restrictions that were enacted for a different Ukraine at a different time. To achieve this result, I introduced H.R. 1170, a bill to extend permanent normal trade relations to Ukraine. The U.S. must work promptly for the admission of Ukraine to the WTO.

Mr. Speaker, I congratulate President Yushchenko on his election and the Ukrainian people for their determination to decide the future of their country. I urge the House of Representatives to make sure that the United States continues to stand with Ukraine as a friend and ally.

IN HONOR OF DR. JAMES POOLE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. FARR. Mr. Speaker, I rise today to honor Dr. James A. Poole, a longtime contributor to the Pacific Grove community. Dr. Poole served as a Navy Dentist at the U.S. Naval Postgraduate School in Monterey, CA and established a general dentistry practice in Pacific Grove. He was voted "Best Dentist" by Monterey Peninsula residents.

Born in Portland, Oregon, Dr. Poole attended Oregon State University as a member of Phi Theta Delta. He obtained his degree in dentistry from the University of Oregon School of Dentistry.

Dr. Poole served in Vietnam as both a medical and dental officer for the United States Navy where he received the Rear Admiral's Citation for outstanding care and emergency service for the ship and field personnel. Dr. Poole also bravely established Military Outreach Programs in the form of dental clinics on nearby islands where he attended to the needs of local nationals.

"Painless Poole," as he was known by the Monterey Peninsula clients of his general practice office, also enjoyed hiking, camping, whitewater rafting, skiing and mountain climbing.

Dr. Poole died on March 19th after an admirable and courageous fight following an emergency surgery to correct a dissecting aortic aneurysm. He was an inspiration to family, physicians and hospital staff.

A TRIBUTE

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is my privilege to bring before this Congress the following outstanding young people who have voluntarily served orphans, public school children, college students, juvenile delinquents, and needy families under the official invitation and authority of government agencies in Russia, Mongolia, Romania, Mexico, Australia, New Zealand, Taiwan, Singapore, Indonesia, Malaysia, Philippines and China. The excellent character demonstrated by these young people, as well as their commitment to the principles upon which our Nation was founded, have not only attracted the attention of leaders, parents, the media, and students, but it has also brought honor to the United States of America and to the Lord Jesus Christ whom they serve.

Adams, Grant (OK); Aguilar, Nikki (CA); Allen, Jessica (TX); Allen, Rebekah (KS); Alspaugh, Alissa (OK); Alspaugh, Julie (OK); Altman, Rachel (OH); Alvarez, Humberto (MEX); Anders, Erin (MI); Atherton, Tiffany (KS); Backus, Pamela (AR); Baggott, Jessica (NY); Bair, Aileen (IL); Bair, Robert (IL); Baker, Rachel (OK); Ballmann, Christie Ruth (TX); Ballmann, Karyn (TX); Bartlow, Jeremy (TX); Bartlow, Joshua (TX).

Bavido, Bonnie Jean (OK); Bean, Amy (CA); Beaulieu, Anna (MN); Becker, Jeremy (MS); Becker, Johanna (MS); Behrens, Katherine (MI); Bell, Elaine (TX); Bell, Lauren (TX); Bell, Mike (TX); Bender, Anthony (CA); Bender, Patty M (CA); Bender, Steven (CA); Bohlen, Daniel (MI); Bollinger, Chiree (MO); Bourne, Clifford (PA); Bourne, Daniel (PA); Bourne, William (PA); Boyd, Hannah (TX); Boyd, Rachel (MI).

Brook, Nolan (VA); Brown, Kathryn (CA); Brubaker, David (PA); Brubaker, Emily (PA); Brubaker, Jeni (PA); Brubaker, Leon (PA); Brubaker, Luke (PA); Brubaker, Mary (PA); Brubaker, Nathan (PA); Burge, Everett (AR); Burnett, Lydia (CAN); Bushatz, Luke (OH); Busse, Jenece (MO); Canterbury, Debra (FL); Carlisle, Jeshua (MO); Cato, Cheryl (LA); Cato, David (LA); Cato, Timothy (LA); Cavanaugh, Daniel (IL).

Cavanaugh, Micah (KY); Chen, Anna (NY); Chen, Faith (NY); Chen, Grace (NY); Chen, Karen (NY); Chen, Stephen (NY); Chen, Timothy (NY); Cheney, Bailey (GA); Cheney, Erin (GA); Cheney, Linda L (GA); Cheney, Ted E (GA); Cheng, Shiopei (MD); Cheng, Shiowei (MD); Childers, Michelle (GA); Childers, Zachary (GA); Christiansen, Chad (MN); Christiansen, Marlys (MN); Christiansen, Norm (MN); Christiansen, Nate (MN).

Cook, Bethany (SC); Cook, Joshua (SC); Cook, Kristi (SC); Cooper, Jennifer (TX); Coppersmith, Nathan (MI); Copu, Beny (IL); Copu, Carmen (IL); Copu, Joy (IL); Copu, Paul (IL); Copu, Stefana (IL); Copu, Peter (IL); Copu, Rebecca (IL); Copu, Robert (IL); Copu, Valen (IL); Copu, William (IL).

Cox, Daniel (NC); Craig, Micah (TX); Crawford, Amy (SC); Daniel, Susan (GA); Davis, Elizabeth (VA); Davis, Kelsey (VA); DeBoer, Stephen (IL); DeLuca, Lydia (TX); DeLuca, Sarah (TX); DeMasie, Laura (IL); Dick, Argyl (OK); Dick, Janel (OK); Dicus, Melinda (CA); Diedrich, Abigail (MI); Doolittle, Amy (CA).

Drescher, Jennifer (AZ); Dudley, Wesley (OH); Dumitru, Roxy (OR); DuMont, Brenda (WA); Eby, Benjamin (CAN); Eddy, Jonathan (FL); Elam, Timothy (TX); Engle, Gracia (IN); Erickson, Janice (MN); Erickson, Jennifer (MN); Estes, Autumn (FL); Fagala, Adam (OK); Fagala, Jessica (OK); Fahrenbruck, Corrie (OK); Fahrenbruck, Kathleen (OK).

Fahrenbruck, Kenton (OK); Fahrenbruck, Michelle (OK); Feig, Joel (WI); Feig, Nathaniel (WI); Felber, Britton (IL); Ferguson, Sarah (TX); Fernandez, David (CA); Fisher, Sarah (RI); Fite, Joshua (AR); Florance, James (CA); Ford, Jeremy (CO); Ford, Nathan (CO); Fox, Elizabeth (CA); Fox, Ruth (CA); Francis, Joshua (GA).

Freidel, Marie (IL); Furrow, Christina (WA); Garabedian, Krikor (CAN); Garner, Lisa (IL); Garner, Mary (IL); Garske, Emily (FL); Gay, Carissa (OR); Gay, Charles (OR); Gay, Daniel (OR); Gay, Julie (OR); Gay, Patrick (OR); Gilley, Rebekah (NC); Gillson, Kennan (MN); Gillson, Rowan (IL); Glasgow, Anneliese (OH).

Glick, Amos Lee (PA); Glick, Elizabeth (PA); Goodwin, Joshua (CT); Gothard, Bill

(IL); Greer, Sean (IN); Grindall, Rachel (WA); Gunther, Margaret (MD); Hargrove, Sarah (OH); Hartstrom, Melissa (CA); Havlik, Grace (MN); Hawkins, Anna (WI); Hawkins, Jonathan (OR); Hawkins, Susan (OR); Haynes, Esther (TX); Henderson, Johanna (FL).

Hendon, John Caleb (AL); Hesterberg, Beau (TX); Hiebsh, Chase (KS); Hollingshead, Jerin (CA); Hordyk, Jaclyn (CAN); Houser, Galen (CA); Hullinger, Jennifer (IL); Hulsey, Sarah (TX); Hutanu, Aniela (OR); Hutanu, Simona (OR); Hutson, Kristin (MO); Hynes, Jonathan (VA); Isitt, Gabriel (OR); Jacob, Benjamin (VA); Jacobsen, Elizabeth (CA).

Jefferies, Megan (MI); Jenkins, Christopher (MO); Jernigan, Ginger (FL); Jessup, Jeremiah (MI); Johnson, Alanna (MI); Johnson, Juliana (PA); Jones, Landon (MO); Jones, Priscilla (VA); Jones, Tara (TN); Jordan, Azzan (NZ); Jordan, Grace (NZ); Jordan, Barry (NZ); Jordan, Lois (NZ); Jorgensen, Andrew (PA); Joyner, Sara (NC).

Kaessner, Jennifer (CO); Kallberg, Luke (IL); Kallberg, Naomi (IL); Karram, Rachel (FL); Keller, Daniel (FL); Keller, Joseph (CA); Keller, Kristen (CA); Keller, Priscilla (FL); Kilby, Alison (IL); Kilby, Elisa (IL); Klassen, Jonathan (TX); Klick, Sarah (KS); Klopfenstein, Carissa (IL); Klueber, Stephen (OH); Konen, Lindsey (WI).

Ladd, Vern (WI); Lang, Ryan (IL); Larum, Elizabeth (VA); Lavoie, Jeremi (CAN); Lehman, Regina (PA); Leigh, Daniel (MS); Leigh, Sarah Catherine (MS); Lewis, Mai (WI); Liljenberg, Zachary (WA); Llewellyn, Margaret (MD); Long, Elizabeth (TX); Loverde, Derek (NY); Maduzia, James (CA); Mancillas, Gonzalo (MEX); Mancillas, Yolanda (MEX).

Marble, Emily (VA); Marble, Harrison (VA); Martens, Brooke (MI); Martin, Joseph (PA); Martin, Rebekah (PA); Matchak, Caleb (CA); Matchak, Jacob (CA); Matchak, Joel (CA); Matchak, Nathan (CA); Matchak, Sarah (CA); Mathison, Jodi (MN); Mattix, George (IL); Mazur, Isaac (ID); McAtee, Jo Ann (OK); McAtee, Lawrence (OK).

McCloy, Jenny (TX); McCloy, Mike (TX); McCray, Dr. Kevin (AR); McCray, Elizabeth (AR); McCray, Ellianna (AR); McCray, Emily (AR); McCray, James (AR); McCray, Jason (AR); McCray, Jo (AR); McCray, Melissa (AR); McCray, Mitch (AR); McCray, Virginia (AR); McCurdy, Terry (GA); McDonald, Caleb (TX); McDonald, Jessica (WI).

McEndarfer, Benjamin (OK); McGregor, Benjamin (OK); McGregor, Megan (MO); McNab, Mathieu (CO); McOlin, Erin (TX); Means, Laura (MI); Means, Mary Ann (MI); Mecklin, Leslie (TN); Medina, Jonathan (CA); Melvin, Bryce (FL); Mendenhall, Breanna (MN); Meng, Stephen (NC); Messick, Rebekah (TX); Meyer, Jennifer (IL); Michell, Matt (OR).

Millard, Hannah (OR); Millard, Sarah (OR); Miller, Amber (TX); Miller, Heidi (IL); Miller, Katie (IL); Miller, Rachel (MT); Moody, Christina (IL); Moore, Claire (PA); Mosher, Dale (IL); Muir, Caitlin (OR); Myrick, Rebekah (AL); Nance, Dana (AR); Navar, Francisco (MEX); Neu, Daniel (KS); Neu, Nicole (WI).

Newhook, Trevor (PA); Nisly, Katrina (CAN); Norvell, Clemencia (AR); Norvell, Joseph (AR); Norvell, Robert (AR); Novotny, Amanda (FL); Pallock, Melissa (IL); Pallock, Vanessa (IL); Papp, Josephine (CAN); Payne, Nikolai (IA); Payne, Tara (IA); Pell, Elizabeth (NC); Pell, Katy (NC); Perkins, Catherine (LA); Perkins, Sarah (LA).

Pettman, Evelyn (VA); Pettman, Timothy (VA); Pharris, Erik (TX); Pharris, Kenneth (TX); Pharris, Sacha (TX); Pharris, Susana (TX); Pintilie, David (CO); Pittman, Shepherd (FL); Plattner, Tessa (AUS); Pleus, Gene (FL); Pleus, Ruthann (FL); Ploski, Philip (MI); Policastro, Lauren (WI); Polson, Holly (TX); Popescu, Benjamin (OR).

Popescu, Timothy (OR); Rayla, Lindsey (IN); Reimer, Beth (CAN); Reimer, Brian (TX); Reimer, Joshua (CAN); Reimer, Kate (CAN); Reimer, Randall (CAN); Reinagel, Silas (CA); Richmond, Kezia (OR); Richmond, Priscilla (OR); Risma, Jordan (CO); Roberts, Nicholas (NM); Robertson, Aaron (AL); Robertson, Adam (AL); Robertson, Alan (AL).

Robertson, Amy (AL); Robertson, Andrew (AL); Robertson, Anthony (AL); Robertson, Ashley (AL); Robertson, Autumn (AL); Robertson, Avery (AL); Robertson, Linda (AL); Robertson, Michael (AL); Rogers, Christopher (WA); Roseberry, David (CA); Roseberry, John (CA); Ross, Charles (GA); Ross, Jedidiah (GA); Ross, Mary (GA); Ross, Rebecca (GA).

Roth, Philip (IL); Rupp, Phillip Michael (OH); Salazar, Carla (MEX); Sanborn, Diane (FL); Scheiman, Rebekah (WI); Searle, Daniel (CA); Searle, Shawn (CA); Searle, Shawn (CA); Sellin, Dexter (KS); Sellin, Tammy (KS); Senn, Amanda (LA); Shafer, Laura (AR); Shank, Alisha (CA); Shank, Jennifer (CA); Shepherd, Amanda (TN).

Shepherd, Courney (TN); Sherrer, Katherine (NC); Sherwin, Todd (CO); Shrock, Leisel (OR); Sias, Marlon David (MN); Silverman, Nathaniel (FL); Smillie, Brian (CO); Smillie, David (CO); Smillie, John (CO); Smith, Amy (ME); Smith, Joshua (CAN); Snyder, Joel (AL); Sondergaard, Ron (CA); Spilker, Kristin (MO); Spillers, Daniel (LA).

St. Clair, Elizabeth (LA); Staddon III, Don (WV); Stallings, Grayson (CO); Stedje, Lauree Beth (TX); Steed, Bethany L (CO); Steinbach, Jeff (CA); Stewart, Andrew (OH); Stewart, Lucas (OH); Stewart, Timothy (OH); Storm, Emily (IL); Stutzman, Julie (OH); Sullivan, Andrei (NC); Sullivan, John (NC); Sullivan, Roslyn (NC); Sullivan, Sarah (NC).

Sullivan, Tom (NC); Swicegood, Rebekah (AR); Talbott, Claire (NC); Tanner, Justin (TX); Thomas, Whitney (AL); Thompson, Troy (CA); Thompson, William Edward (FL); Thornton, Will (GA); Tillotson, Vanessa (NE); Toader, Adrian (WA); Trimble, Sean (AK); Trutza, Ruth (IL); Tucker, Charlotte (LA); Tucker, David (LA).

Tucker, Rebecca (LA); Tucker, Robert (LA); Tucker, Stephen (LA); Tudorica, Crina (RO); Uecke, Laura (IL); Van Ry, Sheralee (WA); Van Til, Hilko (FL); Vanderhorst, Daniel (KS); Vaughan, Rachel (CA); Visser, Ronald (IN); Wagler, Maria (KS); Wagler, Vanya (KS); Wagley, Christine (LA); Wagley, Elizabeth (LA); Wagley, Lisa (LA).

Waller, David (WI); Waller, Derrick (WI); Waller, Rachelle (WI); Warfield, Albion (CA); Wassenaar, Katie (TN); Wenstrom, Angela (IL); Wenstrom, Brittany (IL); Wenstrom, Chris (IL); Wenstrom, Heather (IL); Wenstrom, Jim (IL); Wenstrom, Kimberly (IL); Wenstrom, Matthew (IL); Wenstrom, Michelle (IL); Werner, Lauren (OK); Westfal, Stephanie (WY).

Weston, Jennifer (CA); Weston, Kevin (CA); White, Tiffany Brook (MS); Whitten, Jon (IN); Whitten, Josiah (IN); Wilkes, Joshua (VA); Williams, Arnah (VA); Williams, Cheri (CA); Williams, Elizabeth (AUS); Williams, Holly (CA); Williams, Jamie (IL); Williams, Richard (AUS); Winkler, Matthew (TX); Winsted, Rachel (GA); Wishart, Christy (CO); Witt, Jessee (MO); Wolfley, Audra (OK); Woodfield, Julia (MD); Yamane, Jamie (WA); Yoder, Byron (TX).

RECOGNIZING GREEK CONTRIBUTIONS TO THE WORLD

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. STEARNS. Mr. Speaker, our Western Civilization reflects the contributions of many peoples, cultures, and nations. One vital source that gave much toward the depth and richness of our culture is ancient Greece.

One of the great legacies of the city-states of Greece is the practice of self determination or democracy, the rule of the people. Many of the functions of our government are drawn from the Greek political system. Similarly, Greece greatly influenced the development of one of our major religions demonstrated through the word christos, or Jesus Christ. The Letters to the Corinthians and Thessalonians are essential parts of the New Testament.

In countless high schools and colleges throughout the nation, students study the Iliad, a poem originating nearly 3,000 years ago. Modern philosophy still revolves around the thoughts and discussions of Plato and Aristotle. Also, early Greeks developed many of the mathematical disciplines that make our world add up. And, just this past summer the world met in the glory of athletic competition, the modern Olympics, another gift of the Greeks.

I cannot imagine what our society would look like without the rich contributions of the Hellenistic age—architecture, literature, science, and art—but I am sure that it would be more drab and impoverished. In fact, the early roots of Western Civilization trace back to Greece, from where it grew out across the European continent and later across the Atlantic Ocean to the Western Hemisphere.

Unfortunately, modern shortcuts such as the English language and 21st century culture are undermining the Greek language and traditions. As the incubators of so many wonders, the Greek language and the Greek culture deserve to be preserved and celebrated. This is essential for the benefit of the current generation and the enrichment of future generations.

I have had the honor of meeting an individual dedicated to preserving the Hellenic spirit, Captain Panayotis Tsakos. He undertook this mission of love by creating the Maria Tsakos Foundation, which is devoted to honoring the various aspects of ancient, modern, and contemporary Greek culture. The Foundation provides multifaceted activities that teach the Greek language, dances, and literature. So far, more than 3,000 students have learned the language and culture. In addition, the Foundation provides scholarships for study in Greece and supports charities that uphold Greek traditions.

I appreciate this opportunity to share this information with my colleagues, and to commend Captain Tsakos for his dedication to preserving the richness of the Hellenic world.

RECOGNIZING THE JAVITS-WAGNER-O'DAY PROGRAM

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. LAHOOD. Mr. Speaker, I rise today to recognize a small Federal program that is often overlooked as a way to provide employment opportunities for people with disabilities. The Javits-Wagner-O'Day program, often referred to as JWOD, provides more than 36,000 Americans, who are blind or who have other disabilities, with the job skills and training necessary to earn good wages and benefits as well as greater independence and quality of life. The JWOD program empowers people with disabilities who traditionally face an unemployment rate of 70 percent and rely heavily on social support programs, such as welfare and SSI.

By employing people with disabilities, the Javits-Wagner-O'Day program is able to increase independence and self esteem by helping these individuals enjoy full participation in their community and market their JWOD skills into other public/private sector jobs.

Everyday, the National Industries for the Blind and NISH are creating new employment opportunities for people with disabilities, along with local nonprofit organizations in my home district of central Illinois. Demonstrating an excellent federal-private sector partnership, NISH National Industries for the Blind and local nonprofits, such as the Community Workshop & Training Center, Inc., in my state, enhance opportunities for economic and personal independence of people with disabilities by creating, sustaining, and improving employment.

This year, the Community Workshop & Training Center Inc. will be celebrating 45 years of proudly providing employment opportunities and residential support for individuals with disabilities, enriching their quality of life, promoting social change and optimizing their potential for independence. They have been proudly participating in the JWOD program since 1991 by providing the janitorial services to the U.S. Federal Courthouse, including my office in Peoria, Illinois. In that time, 49 individuals have been involved, and David Rinaldi, William Wolf, Tom Sledge, Mary Kuebler and Tom Sieks are currently benefiting from the program.

On behalf of people with disabilities, I rise to salute the important contributions of JWOD and Community Workshop & Training Center, Inc. to central Illinois and its citizens. I hereby commend all persons who are committed to enhancing employment opportunities for people with disabilities.

SERVICES FOR ENDING LONG-TERM HOMELESSNESS ACT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Ms. ESHOO. Mr. Speaker, I'm very pleased to join my colleague Representative DEBORAH PRYCE in introducing the Services for Ending Long-Term Homelessness Act (SELHA). This legislation establishes a grant program that would be administered by the Substance Abuse and Mental Health Services Administration for services related to housing for people who have experienced chronic homelessness and who also have disabling health conditions such as mental illness.

The Department of Health and Human Services currently operates grant programs for homeless individuals but none of them are specifically focused on services such as mental health services, substance abuse treatment, health education, money management, parental skills training, and general health care, coordinated with permanent supportive housing.

Chronically homeless individuals need more than housing. In order to truly help, the federal government needs to provide grants that will enable communities to coordinate and deliver health care-related services to these individuals. Without these services, it will continue to be very hard to end the root causes of chronic homelessness.

SELHA specifically: Establishes a grant program for services in supportive housing within the Department of Health and Human Services (RRS) and administered by the Substance Abuse and Mental Health Services Administration (SAMHSA);

Defines "chronically homeless" as an individual or family who is currently homeless, has been homeless continuously for at least one year or has been homeless on at least four separate occasions in the last three years, and has a head of household with a disabling condition.

Make states, cities, public, or nonprofit entities eligible to apply for the grants.

Gives priority to applicants that target funds to individuals or families that are homeless for longer than one year, frequently use the ER, or interact regularly with law enforcement.

Funds services including mental health services, substance abuse treatment, referrals for primary health care and dental services, health education, money management, and parental skills training.

Requires initial grant awardees to provide $1 for every $3 of federal money.

Requires renewal grant awardees to provide $1 for every $1 of federal money.

Permits 20 percent of the grant awardees' matching funds to come from other federal grants such as the Community Mental Health Services Block Grant. This provision will encourage collaboration with existing programs and access for homeless people to existing mainstream health and human services systems, while assisting the grant awardees in achieving their match.

Establishes initial grant terms of 3–5 years and renewal grant terms of up to 5 years. (To encourage long-term program success and stability for permanent supportive housing projects and formerly homeless tenants, renewal grant awardees only compete against each other and have priority status for additional funding.)

Chronic homelessness is a dreadful but solvable problem. In my District, the most recent one-day survey (February 27, 2004) in Santa Clara County identified over 7,000 homeless individuals, with over 1,000 defined as chronic. In San Mateo County, over 1,730 individuals are homeless, with approximately 650 defined as chronic.

Chronic homelessness is very costly to emergency rooms, psychiatric hospitals, VA hospitals and the criminal justice system. This legislation will provide more resources to reduce these costly expenditures, while simultaneously permitting individuals with complex health needs to be housed and begin their journey to a productive life.

I urge all my colleagues in the House to support this legislation.

TRIBUTE TO ARMY SPECIALIST KEITH "MATT" MAUPIN

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. SWEENEY. Mr. Speaker, Saturday, April 9, 2005 marks a tragic one-year anniversary for Army Specialist Keith "Matt" Maupin and America. Spc. Maupin, better known as Matt to his friends, went missing one year ago and is the only American soldier to be unaccounted for. His courage and valor are unquestioned and our prayers are with his family and friends as they wait daily for word on his whereabouts. The community of Batavia, OH has not forgotten their brave soldier, but we must all remember Matt and pray for his safe return.

Our brave men and women fighting on the front lines in Afghanistan, Iraq and throughout the world sacrifice so much. Beyond their own personal safety, they also sacrifice seeing their wives, husbands, parents and friends. They miss their children's first steps, soccer games and special moments. There is no way to repay the debt we owe them. But we can do the next best thing and honor them through actions. Tell them and their families how grateful we are for their sacrifice and most importantly, bring all of our troops home.

On Saturday, April 9, 2005 lets take a moment to remember Spc. Maupin and all of our American heroes.

SOCIAL SECURITY AND THE 2006 BUSH BUDGET

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mrs. JONES of Ohio. Mr. Speaker, I rise today in opposition to the Bush Administration's 2006 budget which will in essence shortchange the American people. It fails to include the cost of the war in Iraq, increases the cost of health care for our veterans, and cuts billions in education, health care, housing, and environmental programs, while adding more than $4 trillion to the deficit in the next 10 years.

What is more amazing is that while the President has made the privatization of Social Security his top priority, he has failed to provide any details for his proposed program.

Most notably, the budget omits the cost of the proposed privatization which according to independent experts will cost more than $4 trillion in the first 20 years. Additionally, his budget continues the raid on the Social Security Trust Fund, borrowing and spending all of the money from the Social Security Trust Fund over the next five years.

The President's failure to provide a clear and honest accounting of the difficult tradeoffs between increases in the debt, benefit cuts, and tax increases necessary to fund the White House's privatization proposal is another attempt to pull the wool over the eyes of the Americans. But, Mr. President, I want you to know that the American public is not fooled by this false rhetoric.

So today I want to speak on behalf of the over 160,000 people in my district and the more than 48 million people across this country who currently rely on Social Security benefits. These are not just retired Americans, but also people with disabilities and those who have lost a parent. Many of them are seniors who without their Social Security benefits, nearly half would be living in poverty. Instead of privatizing and enacting a plan that will gamble benefits in the stock market we should be working on a plan to make Social Security solvent for the long term. We owe it to the American people who have worked all their lives and paid into this program to strengthen, not weaken Social Security. And we deserve better than this reckless and irresponsible budget.

A SPECIAL TRIBUTE TO THE MEMBERS OF THE OHIO AIR NATIONAL GUARD 180TH FIGHTER WING ON THE OCCASION OF THE 50TH ANNIVERSARY OF THE BASE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to the men and women, both past and present, who serve the Ohio Air National Guard's 180th Fighter Wing in Swanton, Ohio.

In 1955, the 112th Bombardment Squadron moved from the Akron-Canton Airport to Toledo and became a Fighter Interceptor Squadron. Soon after, the base became a Tactical Fighter Squadron and was activated for the Berlin Crisis. Then in 1962, the squadron became part of the newly formed 180th Tactical Fighter Group. After earning the Air Force Outstanding Unit distinction in both 1985 and 1990, members of the base were deployed to Panama during Operation Just Cause and Iraq for both Operation Desert Shield and Operation Desert Storm.

Today, the 180th Fighter Wing is equipped with F–16 Fighting Falcon aircraft and continues to be a tactical asset to the National Guard. Members have served in Operations Provide Comfort and Operation Northern Watch over Iraq in 1996, 1998, and 1999. Additionally, the brave men and women of the 180th were some of the first to scramble jets in defense of our Nation on September 11th.

Because its central location places the 180th Fighter Wing within a 30 minute flight time to nearly 50 million Americans, the base has been a vital force in American airpower for the past 50 years. The men and women who have served our area have benefited from the excellent quality of life in Northwest Ohio, and we in Northwest Ohio have benefited from their service. Many of my constituents have served honorably as members of the 180th Fighter Wing and earned numerous distinctions. In addition, the airmen of the 180th have contributed to our community through programs such as the "Homeless Awareness" project, the "Adopt-A-School" program and the Boy Scouts of America.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to the men and women of the Ohio Air National Guard's 180th Fighter Wing in Swanton, Ohio. Their dedication to duty and contribution to air power has proven the airmen of the 180th Fighter Wing to be American heroes. Today, we pay respect to 50 years of dedicated service to Northwest Ohio and look forward to a future in which our children and grandchildren grow up under the protections provided by these great patriots.

TRIBUTE TO MANUEL HERNANDEZ

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. NUNES. Mr. Speaker, I rise today with my colleague Representative Jim Costa, to pay tribute today to Manuel Hernandez, a long-time community activist in Visalia, California, who died February 25th at the age of 91.

Mr. Hernandez was affectionately known as the "Godfather of North Visalia," where he mentored many up and coming leaders in the large Latino community.

He was born in 1913 in Torreón, in the Coahuila state of northern Mexico. His family moved to the United States in the 1920s. He worked in the fields earning a living by picking cotton, oranges, peaches and other crops for as little as 15 cents an hour.

Later, he worked cleaning up after construction crews. He became a carpenter and took certification courses at College of the Sequoias to become a construction supervisor.

In the 1960s, he was involved in the formation of Self-Help Enterprises, helping low-income families build and own homes. As a longtime member of the Self-Help board and during his service with a long list of organizations and citizens advisory committees, including the Tulare County Grand Jury, he was an advocate for Visalia's less fortunate.

Hundreds gathered at his funeral in March, and as his hearse drove to the cemetery, children stood on the sidewalk and saluted him.

Once again, we urge our colleagues to join us in applauding his many years of selfless dedication to the community he loved. His legacy of hard work, compassion, and cooperation stands as an example for us all.

INTRODUCING A RESOLUTION TO EXPRESS THE SENSE OF THE HOUSE OF REPRESENTATIVES IN SUPPORT OF FEDERAL AND STATE FUNDED IN-HOME CARE OF THE ELDERLY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to express my support of Federal and State funded in-home care for the elderly. This legislation highlights the inadequacies seniors face with electing in-home care. By increasing financial assistance for in-home care, establishing fee payment guidelines, implementing better schooling for in-home aides, and assembling a supervisory board of care givers, we can help ensure the quality of care elderly receive in-home is as adequate as hospitalized attention.

Mr. Speaker, this is an important resolution for three crucial reasons. First, it endorses the efforts of the elderly to remain independent and sustain their viability during the last years of their life. Supporting studies show that seniors who receive in-home care have greater life expectancies than seniors who are moved from everything that is familiar to them and placed in nursing homes. Second, this resolution promotes the expansion of employment opportunities in the nursing and in-home care industries. By implementing government funded in-home care to equal that of nursing home care, more seniors will elect to be nursed at home, which in turn increases job opportunities. Finally, this resolution encourages the establishment of better treatment and guidelines for students and schools who train certified nurse assistants and home health aides. Through adoption of uniformly high standards, we can ensure our seniors have access to qualified professionals when selecting in-home care. Each of these important ambitions are achievable through raising the quality of in-home care.

Mr. Speaker, I urge my colleagues to support this legislation. As Members of Congress, we have a great opportunity to make a positive impact on this issue, an issue that is of concern to many of our grandparents, parents, and will be of concern to us. I look forward to working with my colleagues and moving this resolution forward.

PERSONAL EXPLANATION

HON. RANDY NEUGEBAUER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. NEUGEBAUER. Mr. Speaker, I was unable to return to Washington from my congressional district due to illness on April 5, 2005, and missed Rollcall vote numbers 91–93. Had I been present I would have voted "aye" on all three votes:

Rollcall Vote Number 91: H. Res. 108—Commemorating the life of the late Zurab Zhvania;

Rollcall Vote Number 92: H. Res. 120—Commending the efforts of the Armed Forces and civilian employees in response to the earthquake and tsunami of December 26, 2004; and

Rollcall Vote Number 93: H. Con. Res. 34—Honoring the life and contributions of Yogi Bhajan.

INTRODUCTION OF THE RURAL ACCESS TO BROADBAND SERVICES ACT OF 2005

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise today to introduce a bill to expand broadband access into rural areas so that millions of Americans in this country are not left behind in our increasingly information-dependent society. I am introducing this bill with my colleague from Colorado, Rep. JOHN SALAZAR, and I greatly appreciate his support.

History has shown us that improvements in information-sharing have resulted in increased productivity, a better-educated society, and the growth of technology. The development and mainstream use of the Internet has changed how we conduct business and how we provide community services, and has revolutionized information sharing throughout the world.

The benefits the Internet has provided are invaluable. However, access to this technology has created a divide between haves and have-nots in our country. High speed broadband Internet is commonplace in most urban and suburban areas. Yet although nearly a quarter of the nation's population lives in rural America, rural access to broadband is either nonexistent or extremely costly.

Many rurally based industries are dependent on the rapid transfers of information. Being able to utilize broadband technologies would increase their productivity, efficiency, and in turn, profits. For example, accurate and timely weather predictions allow farmers to better gauge the necessary rate of fertilizer application necessary or use of irrigation to maximize their crop yield. Broadband technologies make in-depth predictions of temperature and rainfall accessible by any farmer throughout the world.

Hospitals are dependent on being able to send and receive information in order to save lives. However, many rural hospitals can barely afford to provide basic health services to their patients, let alone pay for access to broadband technology if it is even available.

Schools in rural areas are also at a disadvantage without access to the Internet. As students leave these schools to study at universities or to compete in the workforce, they start at a disadvantage to other students who have been educated from kindergarten with constant access to the information available online.

Comparisons have been drawn between broadband and the rural electrification. It took assistance from government and industry to bring electricity to rural areas in the 1930s. That kind of assistance is what is needed today to bridge the digital divide. Congress passed legislation in 2002 establishing a grant and loan program within the Rural Utilities Service (RUS) to help fund broadband deployment in rural areas. But the broadband program is oversubscribed and underfunded. The president's FY06 request is down 34% from FY05 levels of $545 million.

We need to push for funding for the RUS broadband program, but that isn't enough. Providing access to broadband technologies in rural America is an expensive endeavor for telecommunication companies. The cost of establishing a network to rural areas is hard to recover simply through subscriber fees. Most companies require an incentive before making such an investment. My bill, similar to the bill my colleague from Colorado, Senator SALAZAR, recently introduced, provides that necessary incentive.

First, my bill provides a tax incentive for companies that invest in broadband access in rural regions of our country. Specifically, broadband providers can expense the cost of equipment for, installation of, or connection to broadband services in the first year of service. It also encourages the development of "next generation" technology, typically more expensive, through the same type of incentive.

My bill also supports research in technologies that enhance broadband service and provide more effective and less expensive service to rural areas. It directs the National Science Foundation to conduct research into both the availability and access of broadband technologies. Research into advanced technologies that can provide telephone, cable television, and Internet service will enable the same equipment to provide these services and hopefully reduce costs in the process, allowing increased access.

Finally, my bill creates an office in the Department of Commerce to coordinate federal resources relating to rural broadband access. In the past, several agencies have been involved with the development and deployment of broadband. This office will provide a central point within the government to monitor this effort and reduce overlap within other agencies.

I believe this is important legislation that will provide rural regions the tools they need to increase economic opportunity and improve their quality of life. I look forward to working with my colleagues on this important legislation.

TRIBUTE TO JEANNINE McLAUGHLIN

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today to honor Jeannine McLaughlin for her unyielding patriotism and support of our great country. Our Nation is fortunate to have people like Jeannine who support our country in unique, but very important ways.

During the summer on 2004, while building a new home in LaGrange, Illinois, Jeannine committed an extraordinary patriotic act: she asked for her house to be built only with products made from American companies.

Throughout the design and building process, Jeannine put forth an extreme amount of time and energy in researching even the minutest details of her home; all in hopes of realizing her American dream home. From the locks on her doors, to the tiles on her bathroom floors, Jeannine assured that all that could be made by American companies in America was used in her home.

Jeannine sacrificed time and money for her American-made home. She endured a ten percent increase in the building costs of her home. Even the smallest fixtures in the house were at times double the cost of those from international competitors. As the labor of her dreams are realized, Jeannine McLaughlin now looks at her home with pride as she knows her home is as American made as any home can be.

Today, I ask my colleagues to join me in honoring Jeannine McLaughlin for her unparalleled dedication to our country. We wish her well in her new, truly American home.

TRIBUTE TO SENATOR HOWELL HEFLIN

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. CRAMER. Mr. Speaker, with profound sadness, I rise today to honor the life of former U.S. Senator Howell Heflin. Senator Heflin served in the U.S. Senate on behalf of the State of Alabama for 18 years. He was a nationally known and popular Senator, who fought tirelessly for the people of Alabama. He passed away on March 31, 2005 at the age of 83.

Before his election to the Senate, Senator Heflin was Chief Justice of the Alabama State Supreme Court. As Chief Justice, he was the lead author of the Alabama Judicial Code, which reformed Alabama's outdated legal system. His grass roots efforts established a model for future constitutional reform not only in Alabama but across the nation.

During his time in the Senate he was known for his sharp wit and deep understanding of the issues being addressed by Congress. He had an innate ability to describe difficult and complex subjects in such a way that most anyone could understand and form an opinion on them.

Senator Heflin was a strong advocate for civil rights, the Marshall Space Flight Center, Redstone Arsenal, the Tennessee Valley Authority, and southern agriculture along with many others. His work helped lay the foundation for the new technological economy of North Alabama.

Senator Heflin was respectably referred to by his colleagues as "The Judge," because of his position as Chief Justice and his long tenure as Chairman of the Senate Ethics Committee. It was said that he ruled over the Chamber with an iron fist and demanded his fellow Senators live up to higher standards.

Mr. Speaker, Senator Heflin commanded respect from his colleagues, and made the least among us feel as important as anyone else. He was a friend to me during and after his time in Washington. He will be missed by all who knew him.

On behalf of everyone in North Alabama, I respectively rise to honor and pay tribute to a great American leader.

FREEDOM FOR THE PEOPLE OF TIBET

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. WEINER. Mr. Speaker, I rise today with indignation over the situation in Tibet. In 1949, Tibet was invaded and occupied by The People's Republic of China. In the course of the invasion and occupation, an estimated 87,000 Tibetans were arrested, deported to labor camps, or killed.

The situation has not much improved over the past sixty years. Tibetan freedom of choice is still not tolerated by the People's Republic of China and harsh punishments await any who diverge from Chinese mandates.

Each year thousands of innocent people are thrown in prison or killed under a corrupt and cruel system. Even peaceful opposition is met with exacting penalties. In fact, Buddhist monks and nuns are regularly shipped to detention for exercising their religion.

The people of Tibet live in constant fear they will be imprisoned, tortured, or killed for peacefully expressing their political and religious beliefs, or in the best case scenario, they will simply disappear in the dark of the night.

We must help the Dali Lama and the people of Tibet in their quest to live free from oppression. We must all work towards a peaceful resolution to this situation so not one more Tibetan is carried off by the night.

PAYING TRIBUTE TO MARY ELLEN SHEETS OF LANSING, MICHIGAN

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the accomplishments of Mary Ellen Sheets of Lansing, Michigan, who recently was named Entrepreneur of the Year by the International Franchise Association.

Mary Ellen Sheets, founder/CEO of Two Men And A Truck, is the first businesswoman to be honored with this prestigious award which has an illustrious honor roll of recipients, including Tom Monaghan, founder of Domino's Pizza Inc., and J. Willard Marriott of the Marriott Corp., as well as leaders in other franchise organizations such as Subway, Jiffy Lube International, Pizza Hut Inc., and Holiday Inn Inc.

Mary Ellen's teenaged sons started a moving business with a pickup truck in the early 1980s. After the boys left for college, customers kept calling so in 1985, this creative mother paid $350 for an old moving truck and officially opened Two Men And a Truck.

When she first sketched the now-famous company logo, a simple graphic of two stick men in a truck cab to catch readers' attention, Mary Ellen never guessed it would lead to such phenomenal entrepreneurial success. From that simple beginning, her business was catapulted into a vibrant, growing franchised company with 152 locations in 26 states.

While becoming a successful entrepreneur, Mary Ellen Sheets never forgets about her community. This very successful businesswoman also makes time to serve on the boards of Lansing Community College, Michigan Freedom Foundation, Michigan Law Abuse Watch, and Edward Sparrow Hospital. She chaired the 2004 United Way Campaign in Lansing, and has been recognized numerous times, including as one of Michigan's Top 25 Women Business Owners, and Lansing Business Person of the Year.

Mary Ellen Sheets epitomizes the American dream. She rose from a small beginning to become a very successful businessperson who believes in giving back to her community.

Mr. Speaker, I ask my colleagues to join me in honoring this very special woman and community leader, who is truly deserving of our respect and admiration.

TRIBUTE TO PAUL ROGERS

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to honor and pay tribute to Mr. Paul Rogers, who recently passed away following an extended illness. He will be sorely missed by his family, friends, and community. The following is a brief biography of Brother Rogers and some of the accomplishments of his long and fruitful life:

Born and raised in Birmingham, Alabama. His father, Andy W. Rogers, was a Deacon at the West End Church and Trustee for the purchase of the Central building in 1941. The Rogers family were charter members at Central (McMinnville). It was here Paul received his early training and encouragement to enter the ministry.

Upon receiving his baccalaureate degree from David Lipscomb University in Nashville and master's degree from Harding Graduate School of Religion in Searcy, AR, he embarked on a long and fruitful career in the ministry. Brother Roger's first sermon was delivered at Central Church of Christ in Birmingham. He began preaching in November, 1952 every Sunday at the Old Jefferson Church of Christ in Smyrna, Tennessee and preached there until graduation from Lipscomb in 1956. He worked as Associate Minister at Church Street Church in Lewisburg, Tennessee 8 months in 1956 and moved to Centerville Church of Christ in January 1957.

Brother Rogers was the Minister of the Centerville Church of Christ, Centerville, Tennessee for more than 48 years. No preacher in the fellowship of Churches of Christ has a longer tenure at his congregation and at no rural church quite as large as the Centerville church according to Jim McInteer, president of 21 st Century Publishing, a book publisher affiliated with the Churches of Christ. In these years, worship attendance has grown from 350 to 700; annual contribution from $19,000 to $600,000.

The congregation has built a new church building, new church camp valued at $1,000,000; off-street parking for 300 cars; $200,000 Outreach Center for benevolence and senior citizens work; a 75–unit, $2,500,000 apartment complex, Tulipwood for senior citizens, and a new $1,200,000 Educational and Fellowship Complex recently constructed. He has also conducted over 800 funeral services in Hickman County, Tennessee.

He was the first president of the Centerville Elementary PTA, past Chairman of Hickman County Library Board, served on Bluegrass Regional Library Board, chairman of Centerville Beautiful Commission, former President of Centerville Kiwanis Club, served on City Industrial Board, served on the Board of Trustees at Clover Bottom Developmental Center for the Retarded in Nashville, Tennessee, and served on Board of First Farmers and Merchants Bank, Centerville, Tennessee. Brother Rogers was awarded Honorary Membership in Hickman County Jaycees for service to the community, selected as Alumnus of the Year in 1975 at Harding Graduate School of Religion, voted Centerville Man of the Year for 1978, selected as Alumnus of the Decade at David Lipscomb College in 1982, received the Distinguished Christian Service Award from Harding University 1988, honored by Tennessee State Legislature in 1983 for long ministry and service in Centerville, honored by Tennessee House of Representatives in 1992, honored in 1997 by Tennessee State Senate on 40th Anniversary with the Centerville Church for the longest full-time tenure among churches of Christ in Tennessee history, selected in December 1999 by the Gospel Advocate as one of "100 Trailblazers of the 20th Century" among Churches of Christ, and in 2004 received the Lifetime Achievement Award from Hickman County Chamber of Commerce to name a few.

Brother has given lectures at David Lipscomb University, Faulkner University, Freed-Hardeman University, Abilene Christian University, Oklahoma Christian University, Harding University, Harding Graduate School of Religion, Western Christian College, Blue Ridge Encampment, Training for Service Series in Chattanooga, North Alabama Training for Service Series in Florence, Alabama, Training for Service Series in Memphis, Training Series in Evansville, Indiana. Yosemite Bible Encampment, Yellowstone Bible Encampment. He served on the Board of David Lipscomb University 1986–2003 and was secretary of the Johnson Scholarship Foundation at David Lipscomb University.

His minister includes; touring Israel and studying archaeology there in 1969, working on the London, England Campaign in 1963, and preached in India in 1975. He also traveled and preached behind the Iron Curtain in 1977, made three trips to the Holy Land, and frequent mission trips to the Turks and Caicos Islands.

Brother Rogers was the author of the following books and booklets: My God and My Service; My God and My Marriage; Things

Surely Believed Among Us (4th printing in 2004); Let the Earth Hear His Voice; When Freedom is Gone; Comments on Revelation; Building Up The Church In A Small Town; God Give Us Christian Homes. His most recent books are I Have Much People In This City (depicting 125–year history of the Centerville Church); and These Forty Years (a biography of his ministry with the Centerville Church).

He accomplished all these things in life while at the same time being a loving husband to the former Judy Johns and father to four children and six grandchildren.

Mr. Speaker, I am honored to pay tribute to Paul Rogers today. His dedication and selflessness to his community are examples to all who wish to lead. All the honors and awards that Brother Rogers has received in his life still do not do justice to recognize the contribution this man has made to his community and the world. Paul will be missed very much by all who knew him.

TRIBUTE TO MARY RITA TAMAYO

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Mary Rita Tamayo for her service to troubled young people in Sonoma County. Ms. Tamayo passed away in July of 2003 at the age of 85. On April 17, 2005, Social Advocates for Youth in Sonoma County will announce the new transitional housing facility in Santa Rosa—the Tamayo House—to commemorate Mary and Jose Tamayo's contributions to the community. The Tamayo House will provide 24 young men and women, who are aging out of the foster care system, with a place to live.

Born in 1918 in Kansas to Mexican immigrant parents, Mary was raised a devout Catholic. She moved with her husband, Jose, from Nebraska to California in 1977 to open a family owned Mexican restaurant. Husband and wife co-founded the restaurant La Tortilla Factory Mexicantessan.

Not only did Mary provide employment opportunities and support youth organizations, but she also encouraged teenagers to complete their education. Her biggest regret in life was never finishing high school, but she made sure her five sons graduated from college.

Mr. Speaker, it is my pleasure to honor Mary Tamayo, whose kindness and generosity exemplify the best that a person has to offer. Her commitment to Sonoma County's youth population is an inspiration to immigrant families and to all of us who care about our community. She is already missed, but the opening of Tamayo House will keep her memory alive for generations to come.

BROOKLYN CENTER LIONS CELEBRATE 50TH ANNIVERSARY OF SERVING MINNESOTANS

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to the Brooklyn Center, Minnesota, Lions Club, which has served the great City of Brooklyn Center and all of Minnesota for 50 years with extraordinary excellence.

The Brooklyn Center Lions Club rose from humble beginnings a half century ago, with early membership in the single digits, scrap drive projects and the purchase of a single pair of eyeglasses for a needy child. The Lions Club has now grown to over 70 members, who organize projects that shape the community and better the lives of thousands of people.

Membership has been strong and growing over the past 50 years, but only Lion Larry Roen remains as an original charter member. Congratulations Lion Roen!

Mr. Speaker, the Brooklyn Center Lions Club also has the distinction of producing five District 5M5 Governors over the last 50 years: Frank Erwin, Bill Legler, Richard Risley, Thomas Shinnick and Orlander "Ole" Nelson, each of whom represented the finest Lions Club tradition of public service to help those in need.

The Lions gave generously 36 years ago when they built beautiful Lions Park in Brooklyn Center. Their generosity didn't stop there, as they later added a fantastic picnic shelter to the park.

Through the Quest Youth Outreach program, which emphasizes drug abuse prevention, community service, education, environment, health, recreation and service-learning, the Brooklyn Center Lions have reached out to three school districts with their important public service.

Mr. Speaker, the Brooklyn Center Lions serve people through many important programs like Campaign Sight First, Hearing Dog and Leader Dog. The Brooklyn Center Lions are also active in the Minnesota Lions Eye Bank and the Children's Eye Clinic and Hearing Foundation. Additionally, the Lions sponsor the Earle Brown Days Parade, one of the largest parades in Minnesota, as well as numerous Halloween parties. The Brooklyn Center Lions are also active in Boy and Girl Scouts.

Deeply involved in diabetes research, the Brooklyn Center Lions, with the help of other 5M5 District Clubs, have raised $20,000 for this important cause.

Mr. Speaker, in keeping with the true spirit of the Lions' motto, "We Serve," the Brooklyn Center Lions have served the people of Brooklyn Center very well for 50 years. We thank them for their service, which they have performed with pride and distinction. Congratulations, Brooklyn Center Lions, on your 50 years of service!

IN HONOR OF HOUSING OPPORTUNITIES OF NORTHERN DELAWARE

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Housing Opportunities of Northern Delaware, Inc., an organization that has served on the front lines of the battle for fairness in housing. Through their advocacy for equal opportunities in the sale, rental, or leasing of housing, they have made invaluable contributions to my district. On April 4, 2005, Housing Opportunities of Northern Delaware will enjoy their 22nd Annual Proclamation Ceremony, marking their continued commitment to a housing environment devoid of discrimination.

For 37 years, millions of Americans have achieved the dream of home ownership under the auspices of the Federal Housing Act. With April 2005 designated as Fair Housing Month, I believe this recognition is especially appropriate, and ask that we continue to follow in the footsteps of this landmark legislation.

Mr. Speaker, once again, I applaud the efforts of Housing Opportunities of Northern Delaware, Inc. and commend the cause which they hold so dear.

HONORING POLLY ANN GONZALEZ

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Ms. BERKLEY. Mr. Speaker, on March 28, 2005, my community of southern Nevada lost one of its most outstanding citizens. Polly Ann Gonzalez was taken from us in a highway accident, a tragic event that shocked the community. Southern Nevadans by the thousands have expressed their sense of loss and their loving memories of Polly through their e-mails of condolence, their attendance at memorial services, and their contributions in support of Polly's daughters, Sabrina and Gabriella.

The passing of Polly Gonzalez is a heartrending instance of the good dying young, far too young. In her mere 43 years, Polly attained the highest levels of accomplishment, both as a newswoman and as an advocate for people in need.

Polly first earned the reputation as a top-notch television investigative reporter in northern California, exposing the social and economic injustices faced by agricultural workers and by revealing the growing threat of gang violence, among other important stories she brought to light. Honored with an Emmy Award, Polly moved on to Las Vegas, where she quickly established herself as one of the area's most popular, admired, and energetic television news anchors.

Polly's passion for bringing truth to the public through her reporting was matched by her commitment to public service. She established herself as a most effective advocate for the advancement of the Latino community and for the less advantaged. She went beyond the call of duty to be involved in community organizations and events, accepting myriad requests for her time, her talent, and her energy to support the people of the Las Vegas area.

As was stated on KLAS–TV8, where Polly worked for 10 years, she "always was . . . standing up for people whose voices might not have carried as much weight as hers." She was a preeminent role model for young women, whom she showed, "if they put their mind to it they could accomplish anything."

Polly's passing has brought an overwhelming and nearly unprecedented outpouring of emotion from those who knew her personally or knew her only through her newscasts. I join all southern Nevadans in mourning the loss of a great friend, a great newswoman, and a great contributor to the building of a community with opportunity for all. I miss you, Polly, and I thank you, my friend, for the treasured moments I shared with you, for your soaring spirit, and for the marvelous work you accomplished.

THE CIVIL LIBERTIES RESTORATION ACT

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. BERMAN. Mr. Speaker, today, I am joined by my colleague BILL DELAHUNT (D–MA) in introducing the Civil Liberties Restoration Act.

Three and a half years ago, following the attacks of Sept. 11th, the Attorney General asked Congress for a long list of new powers he felt were necessary to protect the United States from future terrorist attacks. Six weeks later, Congress granted those powers in the USA PATRIOT Act.

I voted for the PATRIOT Act in 2001 because I felt that a number of its provisions provided essential tools to fight terrorism. I did so expecting that Congress would undertake diligent oversight of the Attorney General's use of the tools we provided. Unfortunately, that has not been the case.

The Civil Liberties Restoration Act (CLRA) is our effort to return oversight to our legal system and restore the kind of checks and balances that are the foundation of our government.

Since we enacted the PATRIOT Act almost, there has been tremendous public debate about its breadth and implications on due process and privacy. I do believe that there are some misperceptions about the law and its effects, but I also believe that many of the concerns raised are legitimate and worthy of review by Congress.

The CLRA does not repeal any part of the PATRIOT Act, nor does it in any way impede the ability of agencies to share information. Instead, it inserts safeguards in a number of PATRIOT provisions.

The bill addresses two pieces of the PATRIOT Act in particular. First, it ensures that when the Attorney General asks a business or a library for personal records, he must have reason to believe that the person to whom the records pertain is an agent of a foreign power. Second, the bill would make clear that evidence gained in secret searches under the Foreign Intelligence Surveillance Act (FISA) cannot be used against a defendant in a criminal proceeding without providing, at the very least, a summary of that evidence to the defendant's lawyers. One of my biggest concerns when we passed the PATRIOT Act was that the changes we made in FISA would encourage law enforcement to circumvent the protections of the 4th Amendment by conducting searches for criminal investigations through FISA authority rather than establishing probable cause. This provision in the CLRA does not take away any of the powers we provided in the PATRIOT Act. It simply requires that if the government wants to bring the fruits of a secret search into a criminal courtroom it must share the information with the defendant under existing special procedures for classified information.

The Civil Liberties Restoration Act deals with more than the PATRIOT Act. It also addresses a number of unilateral policy actions taken by Attorney General Ashcroft both before and after enactment of the PATRIOT Act without consultation with or input from the Congress. For example, the Administration has undertaken the 'mining' of data from public and non-public databases. Left unchecked, the use of these mining technologies threatens the privacy of every American. The CLRA requires that any federal agency that initiates a data-mining program must report to Congress within 90 days so that the privacy implications of that program can be monitored.

The Attorney General unilaterally instituted a number of policies dealing with detention of noncitizens that we address. For example, the AG ordered blanket closure of immigration court hearings and prolonged detention of individuals without charges. The CLRA would permit those court hearings to be closed to protect national security on a case by-case basis and requires that individuals be charged within 48 hours, unless they are certified as a threat to national security by the AG as mandated under the Patriot Act.

The CLRA also addresses the special tracking program (known as NSEERS) created by the Attorney General, which requires men aged 16 and over from certain countries to be fingerprinted, photographed and interrogated for no specific cause. This program creates a culture of fear and suspicion in immigrant communities that discourages cooperation with antiterrorism efforts. The CLRA terminates this program and provides a process by which those individuals unjustly detained could proceed with interrupted immigration petitions. This is the only provision of the CLRA that eliminates a program outright, but this program has already been partially repealed by the Department of Homeland Security and largely replaced by the US VISIT system.

When I voted for the PATRIOT Act, I understood that my vote carried with it a duty to undertake active oversight of the powers granted by the bill and carefully monitor their use. When Congress passed this law, Mr. Speaker, we included a sunset provision that would require us to reconsider and evaluate the policies we adopted. This afternoon, the House Judiciary Committee held its first hearing to consider these sunset provisions, and we heard testimony from Attorney General Alberto Gonzales asking that we make the sunsetted provisions of the PATRIOT Act permanent.

In light of the many policies implemented unilaterally by this Administration since passage of the PATRIOT Act, our review of this Congress must go beyond just the sunset provisions in order to fulfill our duty of oversight. The review started today by the House Judiciary Committee must encompass the whole of our anti-terrorism policies. Congress should continue to examine whether the policies pursued by the Attorney General are the most effective methods to protect our nation from terrorists, whether they represent an efficient allocation of our homeland security resources, and whether they are consistent with the foundations of our democracy.

Fortunately, the 9/11 Commission laid out a standard by which we can evaluate our current policies. First, Congress should not renew any provision unless the government can show, "(a) that the power actually materially enhances security and (b) that there is adequate supervision of the executive's use of the powers to ensure protection of civil liberties." Second, the Commission advises that "if the power is granted, there must be adequate guidelines and oversight to properly confine its use." This is the standard that we ought to apply across the board. It is the standard that Mr. Delahunt and I applied in drafting this legislation.

It is my hope Mr. Speaker, that this standard will guide us in our work and that we will enjoy an active debate on these issues and this legislation.

TRIBUTE TO MARY NELL PORTER

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. HULSHOF. Mr. Speaker, I rise today in recognition of a Missourian who has devoted countless hours promoting the arts in my hometown of Columbia, Missouri. She is in every sense a true Renaissance woman. Mr. Speaker, I am referring to Mary Nell Porter.

After graduating from Chillicothe Business College, Mary Nell moved to Washington, D.C. to support her country in the effort that yielded victory in World War II. It was during this time that Mary Nell began what would become a lifetime commitment to volunteerism. Her unwavering support for fellow Americans is reflected in her activities that included volunteering her time at recruiting stations and at Cardinal Spellman's Foundling Home in New York.

At the end of World War II, she moved to New York City, where she defied the limits that hindered the progress of women in the workforce. By rising to positions of authority and respect in prominent companies such as American Cynamid and Alexander's Department Store, Mary Nell served as an inspiration to countless women who made the decision to pursue a professional career.

Upon her return to Missouri, Mary Nell continued her pursuit of knowledge and graduated from the University of Missouri-Columbia with a degree in Business Administration. Since that time, she has focused her efforts on a passion for music and joined the Women's Symphony League, Friends of Music of the University of Missouri, the University of Missouri's Arts & Sciences Alum Association Board and later served on the Missouri Symphony Society Board of Directors.

Mary Nell's time, energy and generous spirit have been invaluable to the Missouri Symphony Society as well as the Missouri Theatre. She has been critical in the creation of a thriving arts community in my hometown of Columbia. I am eternally grateful for her devotion to our community, and it is my pleasure to share Mary Nell Porter's accomplishment and valuable contributions with my colleagues.

THE UNITED STATES COMMISSION ON AN OPEN SOCIETY WITH SECURITY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Ms. NORTON. Mr. Speaker, today, I reintroduce the United States Commission on an Open Society and Security Act, expressing an idea I began working on when the first signs of the closing of parts of our open society appeared after the Oklahoma City bombing tragedy, well before 9/11. This bill has grown more urgent as increasing varieties of security throughout the country have proliferated without any thought about their effect on common freedoms and ordinary access. The bill I introduce today would begin a systematic investigation that takes full account of the importance of maintaining our democratic traditions while responding adequately to the real and substantial threats terrorism poses.

To be useful in accomplishing its difficult mission, the commission would be composed not only of military and security experts, but for the first time, they would be at the same table with experts from such fields as business, architecture, technology, law, city planning, art, engineering, philosophy, history, sociology, and psychology. To date, questions of security most often have been left almost exclusively to security and military experts. They are indispensable participants, but these experts cannot alone resolve all the new and unprecedented issues raised by terrorism in an open society. In order to strike the balance required by our democratic traditions, a cross cutting group needs to be working together at the same table.

For years now before our eyes, parts of our open society have gradually been closed down because of terrorism and fear of terrorism—whether checkpoints at the Capital even when there are no alerts or applications of technology without regard to their effects on privacy. However, particularly following the unprecedented terrorist attack on our country, Americans have a right to expect additional and increased security adequate to protect citizens against this new frightening threat. People expect government to be committed and smart enough to undertake this awesome new responsibility without depriving them of their personal liberty. These years in our history will long be remembered by the rise of terrorism in the world and in this country. As a result, American society faces new and unprecedented challenges. We must provide ever-higher levels of security for our people and public spaces while maintaining a free and open democratic society. As yet, our country has no systematic process or strategy for meeting these challenges.

When we have been faced with unprecedented and perplexing issues in the past, we have had the good sense to investigate them deeply and to move to resolve them. Examples include the National Commission on Terrorist Attacks Upon the United States (also known as the 9/11 Commission), the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (also known as the Silberman Robb Commission) and the Kerner Commission following riotous uprisings that swept American cities in the 1960's and 1970's.

The important difference in the Commission proposed by this bill is that it seeks to act before a crisis in basic freedoms gradually takes hold and becomes entrenched. Because global terrorism is likely to be long lasting, we can not afford to allow the proliferation of security that most often requires no advance civilian oversight or analysis of alternatives and repercussions on freedom and commerce.

With only existing tools and thinking, we have been left to muddle through, using blunt 19th century approaches, such as crude blockades and other denials of access, or risking the right to privacy using applications of the latest technology with little attention to privacy. The threat of terrorism to our democratic society is too serious to be left to ad hoc problem-solving. Such approaches are often as inadequate as they are menacing.

We can do better, but only if we recognize and then come to grips with the complexities associated with maintaining a society of free and open access in a world characterized by unprecedented terrorism. The place to begin is with a high-level presidential commission of wise men and women expert in a broad spectrum of disciplines who can help chart the new course that will be required to protect both our people and our precious democratic institutions and traditions.

THE SAFETY OF SILICONE BREAST IMPLANTS

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. NORWOOD. Mr. Speaker, in addition to my remarks today, I am also submitting a letter written by Dr. Scott Spear to the Senate Health Education Labor and Pensions Committee and the House Energy and Commerce Committee. In it, Dr. Spear, who is the President of the American Society of Plastic Surgeons, brings to light an important health issue that the Food and Drug Administration (FDA) is currently debating: the safety of silicone gel-filled breast implants. The FDA's General and Plastic Surgery Devices Panel has scheduled an upcoming hearing that will focus primarily on the safety of these products for the American consumer. The information that Dr. Spear shares in his letter is important for us to take note of as this panel continues its work to make an informed, science-based decision on the safety of these implants. In addition, I am submitting for the RECORD a pamphlet entitled Safety of Silicone Breast Implants that reviews the long term studies that have been performed on silicone gel-filled breast implants. Taken along with Dr. Spear's letter, this brochure makes a compelling argument that in determining the very real and unquestionably important issue of determining the safety of these implants, we must set preconceived notions aside, and ensure that science dictates our actions. I urge my colleagues to review these two documents and I encourage you to join me in supporting the unbiased and open-minded work of the FDA panel as it determines the safety of silicone gel-filled breast implants for American consumers.

MARCH 4, 2005.

U.S. Senate Health, Education, Labor, and Pensions Committee, U.S. House Energy and Commerce Committee, (Members and Health Legislative Assistants).

DEAR SENATORS: The Food and Drug Administration (FDA) is conducting an ongoing regulatory process regarding breast implants, which the American Society of Plastic Surgeons (ASPS) fully supports. As physicians and patient advocates, we support sound science and have confidence that the FDA will review valid scientific data and make its decisions based on the best interests of patients. Moreover, we believe a strong post-market surveillance process will serve the best interests of our patients.

As part of this process, the FDA's General and Plastic Surgery Devices Panel will be conducting hearings on April 11–13 regarding the pre-market approval (PMA) applications of two manufacturers' silicone gel-filled breast implants. The FDA appointed panel represents areas of expertise and judgment relevant to the product under review including academicians in specific fields, such as from radiology, oncology, biostatistics, ethics, plastic surgery, general surgery and other disciplines. Each panelist is vigorously screened and cleared by the FDA in advance of their participation. Historically, panelists have been permitted to engage in educational activities promoting patient care. These activities have not been deemed conflicts of interest. Anti-breast implant advocates continue to raise this issue to discredit qualified and reputable clinicians.

As a matter of background, the FDA's General and Plastic Surgery Devices Panel conducted a similar hearing in October 2003. The hearings were conducted in a highly open and transparent process, with more than 20 hours of public testimony and signification deliberation. Ultimately, the 2003 Advisory Panel recommended approval of the device with a number of conditions. The conditions outlined by the panel include development of a model informed consent form, patient education, surgeon education, patient follow-up and exams, annual reports to FDA, implant retrieval testing, a breast implant registry, and recommendation for removal of ruptured implants. In January 2004, the FDA decided to postpone action pending submission of additional manufacturer data outlined in a revised draft guidance to be addressed at this subsequent panel hearing.

Given the level of interest in the FDA's review of silicone breast implants, it is important that Members of Congress are provided accurate and science-based information concerning these medical devices.

PATIENT SAFETY

The ASPS believes that the FDA's scrutiny of this product is appropriate to ensure patient safety. We are not interested in supporting any device that is not proven safe. In 2000, the Institute of Medicine (IOM) issued an exhaustive report that reviewed and analyzed the scientific literature on silicone breast implants. The IOM concluded that there is no link between silicone breast implants and systemic disease. The primary safety issues for women who choose breast implants are local in nature and include the following complications: (1) Capsular contracture or tightening of natural scar tissue around the implant (contracture is unpredictable and, when severe, may require corrective surgery); (2) Implant rupture, which carries risk of additional surgery for replacement; and (3) Infections associated with breast implants, which are generally not common. The IOM report noted that while breast implants have improved over time, patient safety issues associated with local complications require additional research. The ASPS has supported and is supporting continued research in these and other areas.

Our clinical experience over 35 years with breast augmentation surgery shows an excellent track record and the demand for breast augmentation surgery has grown steadily with nearly 250,000 procedures performed in 2003. The ASPS believes that an important component of patient safety and satisfaction with breast augmentation depends on patients being fully informed about both the benefits and risks of the surgical procedure. Consequently, ASPS has developed a comprehensive document that covers all of the risks and potential complications in breast implant surgery for plastic surgeons to use when discussing the procedure with their patients.

CHOICE

Currently saline-filled breast implants, approved by the FDA in 2000, are the only implants available for general use in breast augmentation. Silicone gel-filled implants may only be used in clinical trials for reconstructive breast surgery and limited clinical trials for breast augmentation. The FDA's device approval process will determine whether requirements for safety and efficacy have been met and whether women should have additional choices regarding the type of implants they may select for breast surgery. The implant type that provides the best aesthetic outcome depends on a variety of individual patient factors. In all cases, patient safety and informed decision making should be primary considerations in selecting a particular type of implant.

Like other implantable medical devices, breast implants may not last a lifetime. Hundreds of thousands of women understand this fact and still choose to undergo breast implant surgery. Current research shows that an overwhelming majority are happy with their decision.

HISTORY/SCIENCE

It is important to distinguish between anecdotal and scientific evidence with regard to breast implants. Anecdotal evidence and junk science do not provide valid contributions to the review and analysis of this device. Plastic surgeons actively support valid scientific research on the safety and efficacy of breast implants, as well as the psychological impact of breast augmentation. The following are select areas of scientific research that Congress should be aware of in relation to breast implants.

The National Academy of Sciences' Institute of Medicine report, issued in 2000, found no scientific evidence of an association between silicone breast implants and disease; the report represents a comprehensive and unbiased review of breast implant safety by top experts in a variety of medical fields. Safety of Silicone Breast Implants, Institute of Medicine, National Academy Press, 2000.

Recent studies about suicide among Scandinavian women who have breast implants warrant further investigation. Suicide is a very complicated problem with many contributing factors; biological, genetic, social and cultural. It is important to note that the recent studies do not show a "cause and effect" relationship between breast implants and suicide. Plastic surgeons and the medical community in the U.S. have studied breast implants, breast augmentation patients, and breast reconstruction patients for more than 30 years with no indication of a relationship between breast implant surgery and suicide. Further investigation of this issue is appropriate. Mortality among augmentation mammoplasty patients. Epidemiology. 2001; 12:321–326. Total and cause specific mortality among Swedish women with cosmetic breast implants: prospective study. Brit Med j. 326:527–528, 2003.

The National Institutes of Health (NIH) issued a report to Congress in May of 2003 on the status of its research on the long-term health effects of breast implants. The report stated that there was not sufficient evidence to support any relationship between breast implants and connective tissue disorders. The NIH report also cited a recent National Cancer Institute (NCI) finding that women with breast implants showed a slight decrease in the risk for breast cancer. National Institutes of Health. Breast implants: status of research at the National Institutes of Health, May 2003.

Since the Institute of Medicine report in 2000, numerous studies have been conducted which investigate the purported connection of breast implants to cancer. However, researchers have consistently found no persuasive evidence of causal association between breast implants and any type of cancer. Breast Implants and Cancer: Causation, Delayed Detection and Survival, May, 2001 Plastic and Reconstructive Surgery.

In 2000, the Plastic Surgery Educational Foundation established the National Breast Implant Registry (NaBIR). It was founded to collect and analyze data regarding breast implant surgery to further understand the risks and benefits of this procedure. To date more than 21,000 women have registered with NaBIR and there are 316 surgical facilities entering data. We believe that NaBIR is quickly becoming a world standard for an electronic breast implant registry, as it is being considered in a number of European and Latin American countries. In December of 2002, the European Union mandated that participating countries implement breast implant registries by 2004; Denmark, England, Finland, and Germany have already implemented programs. Australia and Brazil have also implemented registries.

The ASPS and its members support sound science and have been leaders in the research on the safety and efficacy of breast implant surgery. Our primary concern is the safety of our patients and we are strongly interested in the collection of accurate and reliable data pertaining to breast implants. We recently launched the medically-grounded online resource for women and other concerned parties, www.reastimplantsafety.org. We encourage you to visit the site for the latest information on breast implants and patient safety. We believe that the upcoming hearing of the FDA General and Plastic Survery Devices panel will again be rigorous and the panel deliberations will be largely based on the findings of science, rather than emotion and anecdote.

The ASPS has offered to work with the FDA, public, and manufacturer in order to address many of the conditions attached to the panel's affirmative recommendation. Specifically, the panel recommended that the manufacturer work with professional organizations to create patient and surgeon education materials, a model informed consent form, and establish a breast implant registry and we are responding to that call. We hear stories every day of women whose lives have been dramatically improved with the use of this device. We are hopeful that the FDA's regulatory review process can continue moving toward a conclusion based on science.

Sincerely,

SCOTT L. SPEAR, MD,
ASPS President.

SAFETY OF SILICONE BREAST IMPLANTS

BACKGROUND

In October, 2003, the General and Plastic Surgery Devices Panel convened by the Food and Drug Administration (FDA) concluded that there was a dearth of long-term safety data related to silicone breast implants. Contrary to this contention, there are in fact almost 100 published papers in the peer-reviewed biomedical literature assessing long-term effects of cosmetic breast implants, virtually all of which are reassuring in their lack of evidence for adverse effects.

Concerns about a link between silicone breast implants and varlious adverse health outcomes were initially raised in the 1980's and early 1990's by anecdotal case reports. However, as unanimously concluded by several independent expert review committees by the late 1990's,[1–5] these alleged health risks have not been supported by the numerous analytic epidemiologic studies of cosmetic breast implant recipients. Since publication of these independent reviews from various countries, including the United States, a large number of long-term cohort studies of connective tissue diseases, undefined connective tissue disease, cancer, neurologic disorders, mother-offspring effects and mortality have been published.[6–38]

CONNECTIVE TISSUE DISEASE

More than 20 case-control and cohort investigations have been conducted in in North America and Europe to evaluate the potential association between cosmetic silicone breast implants and the occurrence of CTDs. Initially, the primary concern was the occurrence of systemic sclerosis, although these epidemiologic studies have examined the occurrence of numerous other CTDs. The published case-control studies,[39–49] and cohort studies,[6,18,35,37,50–59] many of which have been large, long-term follow-up studies, have been remarkably consistent in finding no evidence of an association between silicone breast implants and any individual CTD or all established CTDs combined. Moreover, meta-analyses, weight-of-the-evidence, and critical reviews have unanimously concluded that there is no evidence of an association between breast implants and any of the CTDs evaluated individually or combined.[2–5,60–66]

"ATYPICAL:" CONNECTIVE TISSUE DISEASE

An association has also been hypothesized between silicone breast implants and some new "atypical" disease, which does not fulfill established diagnostic criteria for any known CTD and may bear some resemblance to fibromyalgia.[67] Those studies which did include undefined CTD as an outcome, many of which have been large, long-term follow-up studies, have been strikingly consistent in finding no convincing evidence of an association between silicone breast implants and atypical connective tissue or rheumatic disease.[2,5,6,8,14,18,24,46,68]

FIBROMYALGIA

In 2001, Brown et al.[35] reported an excess of self-reported fibromyalgia among women who had ruptured implants with extracapsular silicone migration (extracapsular rupture) diagnosed by magnetic resonance imaging (MRI). However, this elevated risk ratio cannot be meaningfully interpreted, due to the inappropriate use of a combined group of women with intracapsular rupture and women with intact implants as the comparison group.[68–70] It is also noteworthy that the rates of fibromyalgia reported among women with intact implants or intracapsular ruptures in the study by Brown et al.[36] are remarkably high compared with the estimated prevalence rate of 3.4% for U.S. women[71] and with similar or lower prevalence rates reported in many other countries,[6,55,72–76] indicating a biased selection of women in that study.

Most recently, Holmich et al.[18] explicitly tested the hypothesis of an increased risk of fibromyalgia by rupture status among 238 unselected women with cosmetic silicone breast implants. There was no excess of undefined CTD or other chronic inflammatory condition, including fibromyalgia. None of the women with extracapsular rupture reported fibromyalgia. Thus, the finding by Brown et al.[35] of a greater than two-fold excess of self-reported fibromyalgia among women with extracapsular rupture was not confirmed in the study by Holmich et al.,[18] who concluded that implant rupture is not associated with fibromyalgia or other rheumatic conditions.

BREAST AND OTHER CANCERS

More than 10 epidemiologic studies, many of which have been large and able to assess long-term risks, have been conducted in Europe and North America to evaluate the potential association between cosmetic breast implants and the incidence of breast or other cancers, notably lung cancer, cancers of the cervix and vulva, leukemia, and multiple myeloma.[17,23,24,32–34,77–81]. Although the primary concern has been breast cancer risk, epidemiologic studies have been remarkably consistent in finding no evidence of increased risk for breast or other cancers among women with breast implants; in fact; in most studies the risk of breast cancer was below expectation.[1,2,84,85] The rare reported excesses of lung and cervical cancer are likely due to confounding by lifestyle factors and/or reproductive characteristics. In fact only the cohort study by Brinton et al.,[34] which reported a significant excess of deaths from brain cancer, has reported an association with a cancer that is not a likely result of lifestyle factors such as smoking or other activities that are unrelated to implants. The extreme risk estimate for brain cancer reported in this study, which suffers from several methodological shortcomings, is inconsistent with the overwhelming weight of the epidemiologic evidence and is biologically implausible.[86]

BREAST CANCER DETECTION

Concern has been raised that the ability to detect early breast cancer is limited in women with breast implants. The hypothesis that breast implants may interfere with physical breast examination or mammographic visualization of breast tumors, leading to delays in breast cancer diagnosis and worse prognosis among women receiving implants, is based on the findings of a few early clinical studies,[87,88] many of them originating from the same clinic. However, the interpretation of these clinical case series is hampered by potential referral or ascertainment bias, small sample size and absence of a control group. The results of numerous analytic epidemiologic studies, which used control groups to provide comparison data, consistently show that women with breast implants do not in fact present with more advanced stages of breast cancer or experience shorter survival (the clinically relevant outcomes), thus indicating no delay in breast cancer detection following breast augmentation.[19,32,71,89–97]

In a recently published large-scale study,[98] women receiving silicone gel implants for breast reconstruction after breast cancer had significantly lower mortality rates than those women who did not receive breast implants after cancer surgery. Thus, there is no evidence that silicone gel implants adversely affect survival following breast cancer.

NEUROLOGIC DISEASE

With respect to other outcomes, during the past six years, three large, population-based cohort studies have been conducted to evaluate risk for neurologic disease among women with cosmetic breast implants,[9,28,99] and no association has been found.

OFFSPRING EFFECTS AND BREASTFEEDING

Similarly, three epidemiologic investigations,[10,15,100] all population-based retrospective cohort studies, have examined health outcomes among children born to mothers with silicone breast implants, and none has found evidence of adverse health outcomes among the children. Concerns about possible contamination of breast milk with silicone compounds and of potential adverse health effects to infants who are breastfed by mothers with silicone breast implants are not supported by the scientific literature. In fact, the American Academy of Pediatrics[101] policy statement on the transfer of drugs and other chemicals into human milk concluded that "The Committee on Drugs does not feel that the evidence currently justifies classifying silicone implants as a contraindication to breastfeeding." Similarly, the Institute of Medicine of the National Academy of Sciences[2] concluded that "convincing evidence is available that silicon concentrations in breast milk are the same in mothers with and without breast implants, and thus there are no data to support transmission of silicone to infants in breast milk of mothers with implants."

RUPTURE INCIDENCE

There has been only one published study to date that directly examined the true incidence rate of breast implant rupture by repeated MRI.[21] In a follow-up to their rupture prevalence study,[12] in which 271 women study had a baseline MRI in 1999, a repeat MRI was performed two years later and a rupture incidence analysis was performed based on 317 implants (in 186 women). The authors found an overall rupture incidence rate for definite ruptures of 5.3% per year. The rupture rate increased significantly with implant age. For "third generation" implants (barrier-coated, low bleed implants available since 1988), the percentage of implants that remained intact was estimated as 98% at 5 years and 83%–85% at 10 years.[21] Only one prospective study to date has been conducted to address the possible health implications of ruptured, in situ silicone breast implants.

In this unique study, Holmich et al,[25] examined the possible health implications, including changes over time in MRI findings, serological markers, or self-reported breast symptoms, of untreated silicone breast implant ruptures. Sixty-four women with implant rupture diagnosed by MRI were followed for two years, and a second MRI was performed. A control group of women with no evidence of rupture on either MRI was used for comparison. The majority of women had no visible MRI changes of their ruptured implants. There was no increase in autoantibody levels, and no increase in reported breast hardness. Women did report a significant increase in non-specific breast changes compared with women in the control group. The authors concluded that, for most women, rupture is a harmless condition which does not appear to progress or to produce significant clinical symptoms.

LONG-TERM FOLLOW-UP

Over the past six years, the majority of the epidemiologic cohort studies were performed in Scandinavia, where unique nationwide databases and data-linking possibilities exist. Table 1 presents the average years of follow-up and the maximum years of follow-up for these cohort studies, by country:

TABLE 1

Country	Ave. yrs. of follow-up	Max. yrs. of follow-up
Denmark	9	23
Breiting et al[24]	19	35
Finland	10	30
Sweden	11	29

These studies had, on average, a decade of follow-up and almost three decades of follow-up for the longest term implant recipients. In the recent Danish study by Breiting et al.,[24] the average years of follow-up was 19, with a maximum of 35 years. Thus, the large body of nationwide investigations originating in these populations belies the assertion that there is a dearth of data on long-term effects of silicone breast implants.

SUICIDE

Four mortality studies have reported elevated risks of suicide among women with cosmetic breast implants compared with the general population.[20,29,30,34] Recently, however, the suicide excess has been shown to be related to pre-implant psychiatric disorders.[30]

SUMMARY

In summary, after almost a decade of extensive epidemiologic research, the weight of the epidemiologic evidence is overwhelmingly reassuring that there are no long-term adverse effects associated with silicone breast implants.

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HOUSE OF REPRESENTATIVES—*Friday, April 8, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 8, 2005.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Dr. Alan N. Keiran, Chief of Staff, Office of the Senate Chaplain, offered the following prayer:

Heavenly Father, as the world grieves the loss of Pope John Paul II, we pause to thank You for a life well-lived and the positive impact this incredible man had on our world.

We thank You also for the men and women of this House of Representatives and ask that You grant them the wisdom, power, and opportunity to honor You in all they are and all they do.

Bless our Nation's fighting forces serving at home, at sea, under the sea, in the air, and in foreign lands. Grant special favor to all who are in harm's way. Shield them in Your sovereign grace.

Be with their family members in the lonely hours of the night, as they prayerfully await their loved ones return.

All this I ask in Your powerful name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 7, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on April 7 at 1:37 pm:

That the Senate agreed to without amendment H. Con. Res. 34.

Appointments: Advisory Committee on the Records of Congress.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

OMISSION FROM THE CONGRESSIONAL RECORD OF TUESDAY, MARCH 15, 2005, AT PAGE NO. 4728

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 256. An act to amend title 11 of the United States Code, and for other purposes; to the Committee on the Judiciary; in addition to the Committee on Financial Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m., Tuesday, April 12, 2005, for morning hour debate.

There was no objection.

Accordingly (at 10 o'clock and 3 minutes a.m.), under its previous order, the House adjourned until Tuesday, April 12, 2005, at 12:30 p.m. for morning hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1441. A letter from the Assistant Secretary of the Navy for Financial Management and Comptroller, Department of Defense, transmitting written notification of advance billing, reasons for the advance billing, an analysis of the effects of the advance billing on military readiness, and an analysis of the effects of the advance billing on the customer, pursuant to 10 U.S.C. 2208; to the Committee on Armed Services.

1442. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Timothy W. LaFleur, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

1443. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting reports in accordance with Section 36(a) of the Arms Export Control Act, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

1444. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Disclosure of Return Information to the Bureau of the Census [TD 9188] (RIN: 1545-BE-01) received March 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1445. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule – Transition Relief for Certain Partnership and Other Pass-Thru Entities under Section 470 [Notice 2005-29] received March 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1446. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — United States dollar approximate separate transactions method [Notice 2005-27] received March 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1447. A letter from the Acting Chief, Publications & Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and in methods of accounting. (Rev. Proc. 2005-17) received March 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1448. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Project nominations under the Brownfields Demonstration Program for Qualified Green Building and Sustainable Design Projects [Notice 2005-28] received March 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1449. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Diversification Requirements for Variable Annuity, Endowment, and Life Insurance Contracts [TD 9185] (RIN: 1545-BB77) received March 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1450. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

final rule — Modification of Notice 2005-04 [Notice 2005-24] received March 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1451. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — 2005 Calendar Year Resident Population Estimates [Notice 2005-16] received March 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1452. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Tsunamis Occurring on December 26, 2004, Designated as a Qualified Disaster under Section 139 of the Internal Revenue Code [Notice 2005-23] received March 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1453. A communication from the President of the United States, transmitting the Annual Report to the Congress on Foreign Economic Collection and Industrial Espionage, pursuant to Public Law 103–359, section 809(b) (108 Stat. 3454); to the Committee on Intelligence (Permanent Select).

1454. A letter from the Board Members, Railroad Retirement Board, transmitting the 2004 report of the Board for the fiscal year ended September 30, 2003, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(l) of the Railroad Unemployment Insurance Act; jointly to the Committees on Transportation and Infrastructure and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. S. 256. An act to amend title 11 of the United States Code, and for other purposes (Rept. 109-31 Pt. 1).

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Financial Services discharged from further consideration. S. 256 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RYAN of Wisconsin (for himself and Mr. CARDIN):

H.R. 1532. A bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants; to the Committee on Ways and Means.

By Mr. TOM DAVIS of Virginia (for himself and Mr. WAXMAN):

H.R. 1533. A bill to ensure jobs for our future with secure and reliable energy; to the Committee on Energy and Commerce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBLE:

H.R. 1534. A bill to suspend temporarily the duty on certain synthetic staple fibers that are not carded, combed, or otherwise processed for spinning; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 1535. A bill to suspend temporarily the duty on acrylic or modacrylic synthetic filament tow; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 1536. A bill to suspend temporarily the duty on certain synthetic staple fibers that are carded, combed, or otherwise processed for spinning; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 1537. A bill to suspend temporarily the duty on nitrocellulose; to the Committee on Ways and Means.

By Mr. ISRAEL (for himself and Mrs. LOWEY):

H.R. 1538. A bill to amend the Internal Revenue Code of 1986 to increase the exemption amounts for individuals under the alternative minimum tax; to the Committee on Ways and Means.

By Mrs. McCARTHY:

H.R. 1539. A bill to amend the Public Health Service Act with respect to the responsibilities of a pharmacy when a pharmacist employed by the pharmacy refuses to fill a valid prescription for a drug on the basis of religious beliefs or moral convictions, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GARY G. MILLER of California (for himself and Mr. CALVERT):

H.R. 1540. A bill to amend the Safe Drinking Water Act to provide procedures for claims relating to drinking water; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

14. The SPEAKER presented a memorial of the Legislature of the State of Kansas, relative to Senate Concurrent Resolution No. 1607 memorializing the Congress of the United States to take such action that Corporal Travis Eichelberger, USMC, may retain the Purple Heart medal awarded to him; to the Committee on Armed Services.

15. Also, a memorial of the Senate of the State of Ohio, relative to Senate Resolution No. 36, a notice that the members of the Ohio Senate are joining "Team DSCC," a team of municipal corporations, businesses, organizations, and state and local leaders protecting the Defense Supply Center Columbus (DSCC) from the Base Realignment and Closure process; to the Committee on Armed Services.

16. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 26 memorializing the United States Congress to provide for a national entity to establish and enforce mandatory, national electric transmission reliability standards and to ensure federal oversight of that entity and federal authority to require transmission owner participation in a regional transmission organization; to the Committee on Energy and Commerce.

17. Also, a memorial of the Legislature of the State of Arizona, relative to Senate Memorial 1001 memorializing the Congress and President of the United States to enact the Collegiate Housing and Infrastructure Act; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. DOOLITTLE, Mr. BARROW, Mr. BUTTERFIELD, and Mr. CAMP.

H.R. 282: Ms. MATSUI, Mr. ROGERS of Michigan, Mr. DAVIS of Tennessee, Mr. MURPHY, Mr. CUNNINGHAM, Mr. UPTON, Mr. MCCRERY, Mr. WELDON of Florida, Mr. SHAYS, Mr. COBLE, and Ms. HART.

H. R. 302: Ms. WATERS and Mr. BECERRA.

H.R. 371: Mrs. MILLER of Michigan, Ms. SCHAKOWSKY and Mr. WYNN.

H.R. 515: Mr. ALLEN.

H.R. 521: Mr. MICHAUD, Mr. LATOURETTE, and Mrs. JO ANN DAVIS of Virginia.

H.R. 583: Mr. MCGOVERN.

H.R. 605: Mr. CHANDLER.

H.R. 624: Mr. CLEAVER.

H.R. 625: Mr. GRIJALVA and Ms. MCCOLLUM of Minnesota.

H.R. 626: Mr. THORNBERRY and Mr. UPTON.

H.R. 692: Mr. WEXLER.

H.R. 764: Ms. GINNY BROWN-WAITE of Florida.

H.R. 772: Mr. FOLEY, Mr. KIND, Mr. CARDOZA, and Mr. DAVIS of Tennessee.

H.R. 807: Mrs. CAPPS, Mr. CAPUANO, Mr. HOLT, Mr. MENENDEZ, Mr. PRICE of North Carolina, Ms. ROS-LEHTINEN, Mr. SABO, Mr. FILNER, Mr. BARROW, Ms. WOOLSEY, and Mr. PETERSON of Minnesota.

H.R. 923: Mr. CLEAVER, Mr. SPRATT, Ms. BALDWIN, Mr. VISCLOSKY, and Mr. PALLONE.

H.R. 986: Mr. HYDE.

H.R. 1048: Mr. DAVIS of Alabama.

H.R. 1079: Mr. RYAN of Wisconsin.

H.R. 1095: Mr. PALLONE.

H.R. 1105: Mr. PETERSON of Minnesota.

H.R. 1130: Mr. DAVIS of Illinois, Mr. WEXLER, Ms. MOORE of Wisconsin, Mr. MCNULTY, and Ms. ZOE LOFGREN of California.

H.R. 1298: Mr. CANTOR, Mr. SCHIFF, Mr. PRICE of North Carolina, and Mr. CUMMINGS.

H.R. 1355: Mr. SESSIONS, Mr. KUHL of New York, Mr. KENNEDY of Minnesota, and Mr. FORTUÑO.

H.R. 1426: Mr. WELLER.

H.R. 1508: Mr. DAVIS of Alabama.

H. Con. Res. 107: Mr. FRANK of Massachusetts, Ms. WOOLSEY, Mr. CLAY, Mr. CLEAVER, Mr. UDALL of Colorado, Ms. HARRIS, Mr. BISHOP of Georgia, and Mr. RANGEL.

H. Res. 37: Mr. JACKSON of Illinois and Mr. ROHRABACHER.

H. Res. 54: Mr. DAVIS of Tennessee.

H. Res. 128: Ms. GRANGER, Mr. SESSIONS, Mr. HALL, Mr. GOHMERT, Mr. HENSARLING, Mr. REYES, Mr. MARCHANT, Mr. CARTER, Mr. BRADY of Texas, Mr. POE, Mr. HAYWORTH, Mr. DELAY, Mr. BARROW, Mr. CASE, Mr. ABERCROMBIE, Ms. MCKINNEY, Mr. PAYNE, Ms. KILPATRICK of Michigan, Ms. JACKSON-LEE of Texas, Mr. SERRANO, Mr. WYNN, Mr. GENE GREEN of Texas, Mr. BURGESS, Mr. THORNBERRY, Mr. MENENDEZ, Ms. MATSUI, Mr. NEAL of Massachusetts, Mr. CARDOZA, Mr. MCDERMOTT, Ms. LEE, Mr. HIGGINS, Mr. CROWLEY, Mr. FILNER, Mr. CLEAVER, Mr. SNYDER, Mr. FRANK of Massachusetts, Mr. RUSH, Ms. HARMAN, Mr. ENGEL, Mr. MEEK of Florida, Ms. CARSON, and Mr. MCGOVERN.

H. Res. 184: Mr. TOM DAVIS of Virginia, Mr. TANCREDO, Mr. WELDON of Florida, Mr. WAMP, Mr. HERGER, Mr. JONES of North Carolina, Mr. POE, Mrs. JO ANN DAVIS of Virginia, Mr. CHOCOLA, Mr. CONAWAY, Mr. GINGREY, Mr. CARTER, Mr. MARCHANT, Mr. WESTMORELAND, Mr. COX, Mr. WILSON of South Carolina, Mr. RYAN of Wisconsin, Mr. HENSARLING, Mr. PENCE, Mr. MORAN of Virginia, Mr. SHUSTER, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. AKIN, Mr. STEARNS, Mr. UPTON, Mr. KUCINICH, Mr. BONNER, Mr. KLINE, Mr. MCCOTTER, Mr. BACHUS, Mr. PEARCE, Mr. HALL, and Mr. TOWNS.

H. Res. 185: Mr. MEEK of Florida.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

11. The SPEAKER presented a petition of the Legislature of Tompkins County, New York, relative to Resolution No. 24 petitioning the Congress and President of the United States to pass resolutions ending federal executions as quickly as possible and sign them into law; to the Committee on the Judiciary.

12. Also, a petition of Mr. James N. Thivierge, a Citizen of Amesbury, MA, relative to a letter petitioning the creation of legislation to make it illegal for persons operating a moving school bus to use a mobile telephone, except in the case of emergency; to the Committee on Transportation and Infrastructure.

EXTENSIONS OF REMARKS

HONORING NAPA VALLEY GRAPEGROWERS

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. THOMPSON of California. Mr. Speaker, I rise today in recognition of the Napa Valley Grapegrowers organization as it celebrates its 30th anniversary.

The Napa grapegrowers, or NVG as they are commonly referred to, started in 1975 as a group of 7 local farmers and now boasts over 400 members. Since that time the NVG has worked passionately with one goal in mind: to serve and protect the grapegrowers of the Napa Valley. The members of the NVG are dedicated, hard working individuals who care very deeply about the Napa Valley and the communities in which they live and work. They truly understand what it is that makes the Napa Valley so unique and special.

Mr. Speaker, the NVG has contributed to numerous efforts across the Napa valley and beyond, providing a powerful voice for grapegrowers in Sacramento and Washington, DC. In 1976, just one year after its foundation, the NVG played a crucial role in writing the rules that brought about the recognition of truly unique grapegrowing regions through the creation of the American Viticultural Area designation. As a result, these standards have enhanced the quality and reputation of Napa Valley Wines.

When not fighting for grapegrowers' rights, the NVG is busy on the home front conducting monthly forums, seminars, and outreach programs in order to educate the public on wine related issues. The NVG has always believed that educating its membership and the public is the best way to grow and protect their wonderful industry.

Most recently, the NVG has been an integral part of the Federal, State and local partnership that is fighting to stop the spread of the Glassy-Winged Sharpshooter and Pierce's Disease. If it is not contained, Pierce's Disease, which is spread by the Sharpshooter, could threaten the life-blood of the Napa Valley's economy and California's $45 billion a year wine industry.

Mr. Speaker, under the leadership of many outstanding individuals, the NVG has become a vital part of our local community. As a life long resident of the Napa Valley, I understand the many challenges of being a successful grapegrower and a responsible steward of our land. I speak for grapegrowers and citizens throughout the Napa Valley when I say that we are truly grateful to have the NVG looking out for our best interest. It is certainly appropriate that we take this time to recognize and honor the success of the Napa Valley Grapegrowers as they celebrate 30 years of service to the community.

REGARDING THE RECENT RUNNING OF THE HONOLULU MARATHON AND GREAT ALOHA RUN BY OUR BRAVE SOLDIERS IN AFGHANISTAN

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. CASE. Mr. Speaker, I rise today to provide some good news out of Afghanistan.

On December 11, 2004, members of the 2nd Battalion, 5th Infantry Regiment of the United States Army organized and completed an Afghanistan adjunct to the Honolulu Marathon in the Tarin Kowt area of the country. Subsequently, on January 30, 2005, the 25th Infantry Division (Light) Headquarters Company personnel organized the running of Honolulu's Great Aloha Run in-country.

Both races were resounding successes. On February 15, 2005, I wrote to the President to ensure that he was aware that these events had occurred. I am including a copy of my letter to follow these remarks.

Mr. Speaker, I hope that you and our colleagues are as impressed as me that members of our Armed Forces were able to organize and conduct such multi-faceted events, given the perilous security situation throughout most of the country and these soldiers' many other duties. I urge all other members to join me in lauding these troops for their accomplishments and spirit.

WASHINGTON, DC, *February 15, 2005*.

The Hon. GEORGE W. BUSH,
President of the United States of America, The White House, Washington, DC

DEAR MR. PRESIDENT: This is to ensure your awareness of two recent events in Hawaii and Afghanistan that I am sure you will agree represent the best of our country.

As you know, my Hawaii is ideally suited and dedicated to physical fitness. It is also home to a larger component of our country's armed forces, over 10,000 of whom are now serving in Iraq and Afghanistan.

Two major events on Hawaii's outdoor calendar are the Honolulu Marathon, reportedly the third largest marathon event worldwide, and the Great Aloha Run, an event attracting thousands of residents and visitors. This year, the organizers of both events teamed with our military to recognize our troops serving overseas, many of whom participate in these and other events when they are home in Hawaii, in organizing and conducting these events in Afghanistan as well.

Specifically, on December 11, 2004, Honolulu Marathon day, members of the 2nd Battalion, 5th Infantry Regiment, USA organized and completed the Honolulu Marathon—Afghanistan in the Tarin Kowt area of the country. And on January 30, 2005, Great Aloha Run day, the 25th Infantry Division (Light) Headquarters Company personnel organized the running of the Great Aloha Run—Afghanistan.

All 153 participants in the Honolulu Marathon—Afghanistan were treated like every finisher of the Marathon: each received the same medals, certificates and tee-shirts. An official timing system was flown in and the finishing times were placed on the Marathon's website along with all other finishers from the race in Honolulu. I would like to highlight the reaction of the winner of the Marathon, First Lieutenant Mike Baskin; he burst into tears as he remembered his four fellow soldiers who had recently been killed.

While only military personnel ran in each race, those who ran in the Great Aloha Run—Afghanistan endured sub-freezing temperatures and, more importantly, raised money for local Afghan charities, including an orphanage in downtown Khowst. Because of its shorter distance, the race was conducted in four separate locations throughout the country, including Bagram Airfield and Forward Operating Base Salerno.

I wanted you not only to know of these heartwarming efforts, but also have the opportunity to provide whatever recognition you may wish to the organizers of both events in both Hawaii and Afghanistan and, more important, to our great troops, who demonstrated the finest spirit of our armed services under difficult circumstances. Mahalo nui loa!

With Aloha,

ED CASE,
U.S. Congressman,
Hawai'i, Second District.

IN RECOGNITION OF STAFF SERGEANT EUGENE WELSH

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. CARDOZA. Mr. Speaker, I rise today to honor Mr. Eugene Welsh. During World War II, Eugene Welsh served for 19 months in the Asia-Pacific Theater with the U.S. Army's 19th Infantry Regiment. In one single battle, he rose from the rank of private to staff sergeant and went on to fight in four more major combat actions. As a squad leader, he directed 12 men in combat. During his service, he received numerous wounds and each time was patched up and returned to duty.

Staff Sergeant Welsh's commitment to the United States Army and his fellow soldiers is truly commendable. Among the awards he received are the Purple Heart, the Bronze Star and the Combat Infantry Badge. His actions during the Second World War exemplify the spirit of the infantry soldier go well beyond the call of duty and deserve nothing less than the highest recognition and honors.

Helping ease the burden of combat was a friend back home, Bettye Cavazos. The two wrote to each other as often as possible. Following the war, on June 14, 1946 the two were married and settled in Ceres, California where they raised two sons, Michael and Ronald. Ronald is now deceased. Mr. and Mrs.

Welsh have eight grandchildren and seven great grandchildren.

After the war, Mr. Welsh committed his life to his family and community. He was the owner of Ceres Body Shop and Towing for many years. During the 1950s he served as the commander of the American Legion's Ceres Post and was the Boys State chairman numerous times.

Among his recognitions and honors are Ceres Citizen of the Year, Rotarian of the Year and Stanislaus County Senior of the Year for the 5th District.

Mr. Speaker, it is among the finest traditions and honors to rise today and recognize Mr. Welsh. His commitment to our nation, our community and his family sets an example we all should seek to follow. I wish he and his family all the best.

IN RECOGNITION OF MARY MARANGOS AND THE PANCYPRIAN ASSOCIATION'S WOMEN'S ISSUES NETWORK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mrs. MALONEY. Mr. Speaker, I rise to acknowledge the achievements of the Pancyprian Association's Women's Issues Network (WIN) on the occasion of its annual Woman of the Year Award dinner dance. WIN's 2005 honoree, Dr. Mary Marangos, is a longtime community leader and dedicated public servant.

WIN was founded in 1996 to serve the Cyprian-American community, promote the Hellenic Cypriot culture and provide opportunities for future generations of Cyprian women. The organization sponsors health lectures, health fairs, cultural events and breast and cervical cancer screening for women with no health insurance. Additionally, WIN has worked against the Turkish occupation of Cyprus since 1974.

This year, WIN is honoring the noted community leader and civic activist, Mary Marangos. Dr. Marangos has served the people of the New York's 14th Congressional District with distinction, providing a critical link between the residents of western Queens and their representation in the United States Congress. She has worked to gain access for New Yorkers to constituent services and educational and cultural programs in those communities. Active in numerous causes and community organizations, Dr. Marangos has devoted herself to the Women's Issues Network and other organizations that promote and protect the Hellenic culture.

Dr. Marangos is a recent retiree of the N.Y.C. Public School System where she has served as an educator, administrator and coordinator in vocational and alternative high schools; additionally, Dr. Marangos served as a coordinator of the G.E.D. program of the Vocational Training Center at LaGuardia Airport. Dr. Marangos also coordinated an AIDS Prevention Program on the high school level, training teachers on AIDS prevention instruction, organizing conferences and workshops on the epidemic and promoting staff development on the elementary level.

A graduate of the City's public school system, Dr. Marangos earned an Associate Degree in dental hygiene from Brooklyn Community College and a Bachelor of Science degree in dental hygiene/education from the New York State Education Department. Dr. Marangos went on to earn a Masters Degree in high school administration and supervision from Fordham University and a Ph.D. from Florida State University in International-Intercultural Developmental Education under a U.S. Department of Education full fellowship.

The loving and devoted daughter of Pantelis Marangos from Kalavasos, Cyprus and Despina Kyriacou, descendant from Lesvos, Greece and Cyprus, Dr. Marangos was steadfast in her devotion to her parents.

Dr. Marangos truly exemplifies the tradition of community involvement that makes America the greatest nation in the world. On behalf of the residents of the Fourteenth Congressional District of New York, I would like to extend to Dr. Marangos, the Pancyprian Association and the Women's Issues Network my continuing respect, admiration and support.

Mr. Speaker, I request that my colleagues join me in paying tribute to this wonderful organization and its 2005 Woman of the Year, Dr. Mary Marangos.

EXPRESSING CONCERN WITH THE CUTS IN THE PROPOSED BUDGET OF THE SMALL BUSINESS ADMINISTRATION

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. CASE. Mr. Speaker, I rise today to express my continued disappointment with the proposed budget for the Small Business Administration. The budget request for fiscal year 2006 is $593 million, nearly $100 million below what was requested last year, representing a ten percent decline in program funding. These funding cuts are coming from some of the most important programs within the SBA, including the 7(a) loan program, Disaster Loan Program, and the Program for Investment in Microentrepreneurs (PRIME).

Mr. Speaker, I hope that as this House considers the budget resolution, we can remember the important service that the SBA provides to all of our constituents. To remind my colleagues of the importance of the SBA, I have included an article that appeared in the March 16, 2005 edition of the Honolulu Advertiser. Entitled "SBA Faces Budget Cuts," this article highlights several individuals in my home state whose businesses would not have survived without the timely assistance of the SBA.

[From the Honolulu Advertiser, Mar. 1, 2005]

SBA FACES BUDGET CUTS

(By Catherine E. Toth)

If Pablo Gonzalez didn't get $30,000 worth of government-backed loans over the past five years, he would have had to shut down his juice bar.

Fortunately, the U.S. Small Business Administration provided guarantees for two loans—one in 2000, another in 2002—that allowed Gonzalez to expand his business.

Since then sales at Lanikai Juice Co. have increased nearly 15 percent every year, Gonzalez said. He hopes to open a second location sometime soon.

"As a small business, your chances to survive are more difficult," said Gonzalez, who moved to Hawai'i eight years ago from Barcelona, Spain. "You have to live with higher prices and less profit. . . . If It weren't for SBA, honestly, I don't think I'd still be here."

Nearly 20 million small businesses nationwide have benefited from technical assistance, loans and grant programs offered by the SBA. Its current business loan portfolio of about 219,000 loans worth more than $45 billion makes it the largest single financial backer of U.S. businesses in the nation.

But the agency may find it harder to carry out its mission next year if Congress approves proposed cuts to its fiscal 2006 budget.

The proposed budget for SBA is $593 million, a 13 percent decline from the agency's 2005 request and a 36 percent drop over the past five years.

More than 50 small-business programs, including those in Hawai'i, are slated for cuts or elimination in the proposed budget, up from 35 last year.

Among those slated for elimination are the agency's Microloan program, its startup loan program for low-income entrepreneurs, and the SBIC Participating Securities program, its flagship venture capital program.

(As in fiscal 2005, the 7(a) loan guarantee program—the agency's primary business lending program—will not be subsidized. Instead of taxpayer funds, it will be sustained entirely on an increase in fees by lenders and borrowers.)

This doesn't bode well for entrepreneurs who can't get conventional loans, especially with the Hawaii Community Loan Fund, a lender of last resort, filing for bankruptcy last month.

"(The Microloan program) is very worthwhile because you're helping people who couldn't get a start," said Dr. Tin Myaing Thein, executive director of the Pacific Gateway Center, which administers SBA's microloans. "This is for people who don't have a chance with the bank, who would have no chance at all to start their own business. We have so many success stories here."

Abracadabra Cabinets at Campbell Industrial Park fell into a slump after the terrorist attacks of Sept. 11. Owner Joanne Gibeault needed some extra cash to keep her business going.

But she couldn't get a loan or a line of credit from her bank. So she turned to SBA.

Through the agency's Community Express loan program, which offers microloans to small-business owners, Gibeault got $15,000 last year to pay bills and grow her business.

Since then the business has grown nearly 50 percent, she said. Her biggest problem now is finding experienced cabinet-makers to hire.

"We had a hard time recovering after 9/11, like everybody did, but it took a little longer for us to catch up," said Gibeault, who lives in Makakilo. "We struggled for a while. . . . The loan was just enough to get us over and keep the business going."

Gibeault started her custom cabinet company 10 years ago in Kailua. A journeyman cabinet maker, Gibeault had no experience operating a business. She took classes and attended seminars offered by the Hawai'i Women's Business Center.

Funding for these centers also is slated for cuts in the proposed budget.

"I can build stuff," Gibeault said. "But I didn't know how to run a business when I started. These programs are definitely needed."

As with the Women's Business Centers, funding for the agency's Small Business Development Centers may be cut or, at the least, remain flat, despite a request to increase its funding to $109 million from $88 million the year prior, said SBDC state director Darryl Mleynek.

The Hawai'i SBDC receives $500,000 from the federal government and $638,000 from the state annually. That amount hasn't changed for more than five years.

This year the Hawai'i SBDC requested another $584,000 in funding from the state to help with growing operating costs. Expenses have increased about 17 percent over the past four years, Mleynek said.

"What we do is extremely important," Mleynek said. "Working with small businesses offers state governments the fastest opportunity for creating sustainable economic development. And the reason is because small businesses are such a large part of our economy and when they get assistance, they increase their sales rapidly, they hire new people, and all of that comes back very quickly."

While his program competes with others, in particular social programs, for funding from the state, Mleynek is confident that lawmakers will realize the value of investing in small business to the overall health and growth of the economy. And he's hoping for extra money in light of potential cuts to federal funding for the center.

"I believe the Legislature understands the value of putting money into our program, but money these last few years has been very tight," Mleynek said. "To put money into one program and not another, those are very difficult choices. . . . But I'm cautiously optimistic."

RECOGNIZING HANS-PETER KLEIN OF UKIAH, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Hans-Peter Klein for his nearly three decades of distinguished public service as Counsel for Mendocino County in California. Peter's devotion and service have left a lasting impression on Mendocino County.

Born in Germany, Peter immigrated with his parents to the United States at the age of four. He received his Bachelors Degree from the University of California before he was drafted into the United States Army during the Vietnam War. Upon his military discharge, Peter enrolled in an evening law school program. At the time, he worked for the Port of San Francisco and volunteered with Marin County Legal Aid. He received the Demetrius Sepatsis Award for Academic Excellence upon graduation.

Peter joined the Mendocino County Counsel's office in 1978, one month after its creation. In 1983, he was appointed as Mendocino's County Counsel, a position in which he has served with dedication and distinction for the past 22 years. Peter also served on the Board of Directors for the California State County Counsel Association, where he has been a long time member of the Association's Ethics Committee. The Association is dedicated to the maintenance of the highest professional standards in the practice of governmental law and service to the public.

After so many years of serving others, I know that Peter is looking forward to spending more time with his wife Toni, and their three grown children.

Mr. Speaker, it is appropriate that we recognize Hans-Peter Klein for his commitment and dedication to his profession and for his service to the people of Mendocino County and his country.

THE DEATH OF POPE JOHN PAUL II

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. EVANS. Mr. Speaker, it is with great sadness that I join my fellow Catholics and all citizens of the world in mourning the passing of Pope John Paul II. Though he is no longer with us, his extraordinary influence and tremendous contributions to the fight against tyranny and oppression will live on.

Pope John Paul II was the 263rd successor to Saint Peter, and was elected on October 16, 1978. He was the youngest Pope in 132 years at age 58. He was also the first Polish Pope and the first non-Italian Pope in 450 years. He was seen as active and charismatic, and could often be found on the ski slopes of Europe.

Throughout his papacy, Pope John Paul II worked tirelessly on behalf of human rights and the dignity of all mankind. In contrast with the Vatican's preoccupation with Europe, he was the most traveled Pope in history and involved the Church in world issues.

He visited Africa more than a dozen times, yet refused to visit South Africa until it had ended its apartheid system. He sought to end religious and ethnic violence in Sudan and Rwanda. In Latin America, John Paul pressured Chile's General Augusto Pinochet to hold free elections and helped defuse a dispute between Argentina and Peru. He also visited Southeast Asia, the Indian subcontinent, the Philippines, Haiti, North America, and Scandinavia, among other destinations.

Pope John Paul II is widely credited with helping depose Eastern European communism. He helped inspire the worker rebellions and the Solidarity movement in his native Poland soon after he was elected. Twenty million Poles greeted the Pope during his nine day homecoming, an exceptional show of discontent with the one-party dictatorship that ruled the country.

He also insisted that the Catholic Church confront its past misdeeds, including the Inquisition in the 15th century. In 1999, he ordered the Vatican to issue an "act of repentance" for the church's failure to prevent Nazi genocide against Jews in World War II and acknowledged centuries of preaching contempt for Jews. The pope expanded upon this in March 2000, when he asked forgiveness for many of his church's past sins, including its treatment of Jews, heretics, women and native peoples. While John Paul believed in the infallibility of the church, he recognized that its servants are human and sometimes stray from the teachings of Jesus.

Along with John Paul's involvement in human rights, I have been moved and personally strengthened by his active engagement in papal duties in spite of the development of Parkinson's disease. He did not shrink from activity or the public eye though his body began to shake and become unsteady. In fact, it became part of his mission: to show the world the value of each life, even in those who are suffering from physical pain and the aging process.

The world is now coming to grips with the passing of Pope John Paul II. We are comforted that his teachings live on as he moves to his final resting place. May he rest in peace.

THE INTRODUCTION OF THE COLLEGIATE HOUSING AND INFRASTRUCTURE ACT OF 2005

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. RYAN of Wisconsin. Mr. Speaker, I am today introducing legislation, along with my colleague Congressman BEN CARDIN, that would allow charitable and educational organizations to make grants to fraternities, sororities, and other collegiate organizations to provide housing and student facilities to the same extent that tax-exempt colleges and universities may provide such facilities for students. We introduced this legislation in the 108th Congress and it enjoyed wide bipartisan support.

By way of background, taxpayers may generally deduct contributions to nonprofit educational organizations (i.e., educational organizations described in section 501(c)(3) of the Internal Revenue Code ("Code")) such as colleges or universities. These colleges and universities may expend their funds (including donated funds) on student facilities such as dormitories, dining halls, study areas, libraries, computers, laundry facilities, physical fitness facilities, and social or recreational areas without jeopardizing their tax-exempt status.

State and private colleges and universities do not, and cannot, provide all of the housing and related student facilities necessary for their student bodies. Collegiate organizations such as fraternities, sororities, and other student associations (e.g., Muslim Students Association, Fellowship of Christian Athletes, and Hillel) fill a large part of the collegiate housing gap. Fraternities and sororities alone provide housing for more than 250,000 students each year. These student associations take on significant financial burdens in order to provide student housing without cost to affiliated colleges and universities.

Fraternities, sororities, and student associations provide collegiate housing through tax-exempt organizations, but their exemption comes under Code section 501(c)(7), with the result that direct contributions to these organizations are not deductible. However, educational organizations established to benefit these fraternities, sororities, and other student associations may qualify under Code section 501(c)(3) to receive deductible contributions.

The current IRS position is that it will not give a tax-exemption ruling to these educational organizations unless they limit student facility grants to those that are solely for educational use (with exceptions for minor social or recreational use). According to this IRS position, a fraternity foundation, for example, may make grants to a fraternity for the construction (or for annual operating expenses) in a fraternity house of a library, study area, computer area, or instructional area. The fraternity foundation may also make grants for computers, computer desks, and chairs, if similar to what is provided by the specific college with which the fraternity is associated, and for Internet wiring, if the specific college also provides Internet wiring. However, the IRS says that fraternity foundations may not make student facility grants for the construction or operation of sleeping quarters, dining areas, laundry facilities, or dedicated social or recreational areas (such as physical fitness facilities or equipment), or hallways or rooms used for both educational and other purposes.

Under the current IRS position, a charitable organization could not make a grant to a section 501(c)(7) collegiate housing organization (or to an affiliated section 501(c)(2) or (c)(7) organization) to provide fire safety upgrades unless those upgrades were limited to areas that are solely for educational use. However, fire safety upgrades will not provide necessary protection unless they are made throughout an entire building. It has been estimated that just the cost of installing sprinklers in fraternity and sorority housing is over $300 million nationwide.

There is no policy reason for distinguishing between the types of student facilities that may be provided by a tax-exempt college and those that may be provided by another tax-exempt charitable or educational organization to a collegiate organization for the benefit of individuals who are full-time college students. The current IRS position, which we believe is an incorrect interpretation of the law, puts collegiate organizations at a significant disadvantage in obtaining the funds necessary to provide or maintain housing and infrastructure, including the funds necessary to provide fire safety upgrades.

I believe that clarifying that tax-exempt charitable or educational organizations may make collegiate housing and infrastructure grants will encourage private sector contributions to address student housing needs, thus relieving a burden that would otherwise fall on financially strapped colleges and universities. Accordingly, this bill provides that charitable and educational organizations may make grants to collegiate housing organizations (including affiliate organizations holding title to property) for the construction or operation of collegiate housing and infrastructure facilities that are of the type tax-exempt colleges are permitted to provide for their students, including, but not limited to, sleeping quarters, fire safety equipment and upgrades, dining areas, social and recreational areas, study areas, libraries, and computers and related furniture and wiring.

I urge our colleagues to support this important legislation.

HONORING KOREAN WAR VETERAN HAROLD ARENDT, JR.

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. BLUMENAUER. Mr. Speaker, it gives me great pleasure to honor Mr. Harold Arendt, Jr., Korean War veteran and Oregon resident. While in service, Harold Arendt sustained an injury inflicted by enemy forces. Now, 54 years later, it is my pleasure to award the actual Purple Heart medal for one of Oregon's treasured veterans. On Friday, April 8, 2005 Harold Arendt will be presented with this prestigious honor in recognition of his service to our nation during the Korean War. Though his injury has stayed with him throughout the years, he has been without this well-deserved recognition far too long. Today, we honor the extraordinary service of this courageous individual and recognize him and his family for their sacrifices. I am also very honored to congratulate Mr. and Mrs. Harold and Karen Arendt on their recent 50th wedding anniversary. On behalf of the Congress, I wish them our most sincere congratulations and best wishes.

HONORING PRIVATE FIRST CLASS MICHAEL ARCIOLA

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mrs. LOWEY. Mr. Speaker, I rise today to pay tribute to Private First Class Michael Arciola who gave his life in service to our country in Ar Ramadi, Iraq.

Michael, a resident of Elmsford, New York, was the epitome of a dedicated citizen, knowing from the day he entered high school that he wanted to serve his country as a soldier in the U.S. Army. While Michael's initial plans included attending the United States Military Academy at West Point, his priorities shifted after the terrorist attacks of September 11th. Michael instead entered the U.S. Army deferred entry program in the summer of 2002, where he received Army training during his senior year of high school, allowing him to immediately enlist upon graduation.

Less than two weeks after graduation, Michael left for Basic Training at Fort Benning, Georgia. After weeks of training, Michael emerged as a full-fledged infantryman and reported to his first unit, A Company, 1st Battalion, 503rd Parachute Infantry Regiment, 2nd Infantry Division, based in South Korea.

In July of 2004, Michael and his unit were deployed to Iraq as part of Operation Iraqi Freedom. On February 15th of this year, Michael died of injuries sustained from enemy forces using small arms fire.

Michael was a true patriot who paid the ultimate price for loyalty to his country. All Americans are truly fortunate to have had a person of Michael's caliber working to defend our nation and keep it safe, strong, and secure.

Mr. Speaker, I ask my colleagues to join me in honoring Private First Class Michael Arciola along with all of our nations' other fallen heroes.

MOURNING THE LOSS OF POPE JOHN PAUL II

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. JONES of North Carolina. Mr. Speaker, like many of my colleagues, I mourn the loss of Pope John Paul II.

However, I thank God for blessing us with the gift of such an incredible world leader. He was a wonderful moral and political leader for Catholics and non-Catholics alike, and I know he will be dearly missed by millions of Americans and billions of others around the world. He was a man of great faith and conviction, and his legacy as a servant to the Lord is sure to carry on for many years to come.

I consider him a personal role model for his courage in the face of adversity, his unwavering devotion to his beliefs and values, and his piety in everyday life.

I stand here today in support of House Resolution 190, honoring the life and achievements of His Holiness, Pope John Paul II. No one person has touched as many lives as he, and no one has been more loved. May he rest in peace with his Lord and Savior, and may we continue to be inspired by his grace and humility.

PERSONAL EXPLANATION

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. COBLE. Mr. Speaker, on Thursday, March 17, I missed rollcall votes Nos. 82–89. Had I been present on this date, I would have voted "aye" on rollcall votes Nos. 83, 84, 88 and 89. I would have voted "no" on rollcall votes Nos. 82, 85, 86 and 87. On this date, I delivered a eulogy at the funeral of my friend, Alamance County Commissioner Worthy B. "Junior" Teague.

Additionally, on Sunday, March 21, I missed rollcall vote No. 90. Had I been present on this date, I would have voted "aye," but I was traveling on official business with International Relations Committee Chairman HYDE in Mexico and Panama. As chairman of the Subcommittee on Crime, Terrorism and Homeland Security, I met with numerous government officials to discuss efforts to combat drug trafficking, prevent global terrorism, and to promote fair trade.

Finally, on Tuesday, April 5, I missed rollcall votes Nos. 91–93. Had I been present on this date, I would have voted "aye" on each of these votes. My mother, Mrs. Johnnie Holt Coble, died on April 2, 2005, and funeral services were conducted on April 5, 2005.

TRIBUTE TO COMMISSIONER DR. BARBARA CAREY-SHULER: A TRUE PUBLIC SERVANT

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 8, 2005

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to one of the most dedicated public servants I have had the pleasure of working with, Miami-Dade County Commissioner Dr. Barbara Carey-Shuler.

Dr. Carey-Shuler has served in many capacities—as a teacher, counselor, administrator, university professor, assistant superintendent for Dade County Public Schools, and most importantly, "a leader of community leaders." In October 2002, Dr. Carey-Shuler made history when she was selected by her peers as the first African-American woman to serve as Chairperson of Miami-Dade County Board of Commissioners—a position in which she served with distinction.

Throughout her elected service, which dates back to her appointment to the County Commission in 1979, Dr. Carey-Shuler has truly been a groundbreaking elected official. She introduced and led the effort to pass the set-aside law and affirmative action policy in Miami-Dade County, the latter of which was argued all the way to the Supreme Court. Both policies were enormously successful in producing more jobs and more business opportunities for minorities and women.

Among her many triumphs, Commissioner Carey-Shuler created the infill housing ordinance to provide clean-title lots to non-profits for the construction of low-income housing; initiated the "No More Stray Bullets" campaign to educate New Year's Eve revelers of the dangers of shooting weapons as part of the celebration; and established the Youth Crime Task Force which provides funding for new prevention and intervention programs to benefit at-risk youth.

During her 30-year career of service to this community, Dr. Barbara Carey-Shuler has been recognized for her outstanding service. She has received major appointments to boards, committees and task forces by U.S. presidents and state governors. She has also received hundreds of honors and recognition for her service and contributions.

Most recently she has been honored by the International Committee of Artists for Peace, a coalition supporting the United Nations International Decade for a Culture of Peace and Non-Violence for the Children of the World, and by the Dean of the Martin Luther King, Jr. International Chapel at Morehouse College in Atlanta for her work in promoting peace and non-violence. Her district includes much of the City of Miami, including the communities of Liberty City, Little Haiti, Overtown, the Upper East Side, Allapattah and Wynwood, as well as Miami Shores.

Dr. Carey-Shuler has made and continues to make significant contributions to the growth and dynamism of South Florida, and I take great pride in acknowledging and thanking her for all that she has meant to our community.

SENATE—*Monday, April 11, 2005*

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BURR, a Senator from the State of North Carolina.

The PRESIDING OFFICER. The opening prayer will be given by our guest Chaplain, COL Ralph G. Benson, Pentagon Chaplain.

PRAYER

The guest Chaplain offered the following prayer:

Won't you pray with me.

Lord God, Creator and Sustainer of the universe. You uplift us in times of prosperity and comfort us in times of want. You are the still small voice who reminds us of all that is good, all that is holy, all that is just. We live in an unstable world. Yet You, O Lord, are never changing, all forgiving, all merciful, all holy.

Provide today, O Lord, Your divine guidance and blessing. Allow our Senators to hear Your still small voice. Open their discussions to that which will bless our people and crown our Nation with blessing.

Enable us to avoid the pitfalls of sin and direct us to those decisions that are merciful, holy, and true. May we magnify Your will through our endeavors in Government today. For indeed, Lord, our desire is to please You and to follow the leadings of Your divine will. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BURR led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE,
Washington, DC, April 11, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BURR, a Senator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BURR thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will begin this afternoon with a period for morning business to allow Senators to make statements and introduce legislation. At 3 p.m. today, Chairman COCHRAN will be here to begin consideration of the Emergency Supplemental Appropriations Act for defense, the global war on terror, and tsunami relief. I expect opening statements on that bill during the afternoon. I also hope if Senators have amendments, they will begin to offer those amendments during today's session. At the very least, Senators should notify the cloakrooms of their desire to offer specific amendments so that the chairman and ranking member may begin the process of scheduling their considerations.

I remind all Senators we have a vote scheduled this afternoon at 5:30 on the confirmation of a U.S. district judge. That is the nomination of Paul Crotty to the Southern District of New York. In addition to that vote, we have a resolution relating to airbus that we will likely schedule for a rollcall vote. Therefore, Senators can expect at least two votes today. I add that if amendments are offered to the appropriations bill today, I will also be talking to the managers of the bill and the Democratic leader about scheduling votes on those as well.

This important bill provides necessary funds for the ongoing operations in Iraq and Afghanistan, as well as additional funding for humanitarian assistance related to the tsunami. I hope the Senate will act effectively and efficiently on this appropriations bill and use the underlying legislation as focus of the intent of this bill and not as target practice for other amendments. There has been a lot of discussion over the issue of immigration. I believe the Senate will need to address immigration reform. However, this is not the place for comprehensive immigration reform. We need to be thoughtful and deliberate on that issue and not allow funding for our troops to become ensnarled in that national debate. The Democratic leader and I have begun discussions on the aspect of how we might address immigration. I do urge our colleagues to show restraint on this issue and on other issues that will clearly slow down this emergency spending bill.

Having said that, we will have a very busy week on the bill. We can expect full sessions and well into some evenings as we consider this legislation. I do thank my colleagues.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

U.S. CAPITOL POLICE

Mr. REID. Mr. President, before the Republican leader leaves the floor, I would like to say, through the Chair, that Senator FRIST and I were in his office when we were approached by the Sergeant at Arms about an incident in front of the Capitol. People were able to watch on national TV what took place. Parts of the building were evacuated.

The reason I mention this, without going into a lot of detail, is because of the great police force we have that takes care of the U.S. Capitol. They did work that was brilliant. I spoke to the Sergeant of Arms before we went into session. What they did to get ready to take that man down was extraordinary.

We have the finest trained police force anyplace in the country. I would put our men and women up against anyone else. They do such a wonderful job. I express my appreciation for the whole Senate for the work of the Sergeant at Arms and Chief Gainer. This is professionalism at its best.

What we do not see, of course, are the many times when they work off camera, when they do it late at night in various parts of this building where there are not a lot of people watching them.

Mr. President, again, I applaud and congratulate every member of our Capitol Police force.

UNANIMOUS CONSENT AGREEMENT—S. CON. RES. 25

Mr. FRIST. Mr. President, I ask unanimous consent that following the 5:30 p.m. vote today, the Senate then immediately proceed to consideration of S. Con. Res. 25; provided further, the Senate then proceed to a vote on adoption of the concurrent resolution, with no intervening action or debate, and no amendments in order to the resolution or preamble.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. BYRD. Mr. President, am I recognized?

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. BYRD. I thank the Chair. Mr. President, my speech will probably need 40 minutes. I ask unanimous consent that I may utilize as much time as I need.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized.

Mr. BYRD. I thank the Chair.

THE GASOLINE CRISIS—A TIME FOR ACTION

Mr. BYRD. Mr. President, in my home State of West Virginia and all across America, our people are frustrated and outraged with the soaring cost of gasoline.

The rising cost of gasoline means workers in West Virginia are seeing their paychecks dramatically reduced by the simple fact that they have to drive to get to work and to get back home. It is darned difficult and expensive for a coal miner to pay $2.25 a gallon to drive his pickup truck to work on the two-lane, hilly, winding roads of West Virginia.

Noting that West Virginians have become "hawkish about watching gas prices," the Charleston, WV, Gazette of March 11, 2005, pointed out that they "have few mass transportation options, travel farther to work, and often traverse [much] more rugged terrain."

Automobiles are essential for West Virginians to get to work. According to Census data, although West Virginia is a relatively small State, workers in West Virginia spend more time commuting to work than the national average.

Mr. President, 86 percent of West Virginians use cars or trucks to get to work, and nearly 75 percent of West Virginians commute by themselves in their pickup trucks and other such vehicles.

The percentage of people in West Virginia who own a pickup truck is almost double the national average. Nearly one-third of West Virginians must travel outside their home county to get to work. Let me say that again. Nearly one-third of West Virginians must travel outside their home county to get to work, a figure that is 17 percent above the national average, and an average West Virginian drives more miles—now get this—the average West Virginian drives more miles each year than average Americans throughout the rest of the country.

The point is this: West Virginians rely on their cars and their pickup trucks to keep West Virginia working. Large, rugged vehicles are not an expensive luxury for workers in West Virginia and in many other rural States, and anyone who has tried to navigate the narrow, uphill climbs of West Virginia's mountains by weaving around corners, constantly slowing, constantly accelerating and stopping and starting knows the need for these rugged vehicles and, regrettably, the cost of fueling them.

Imagine navigating that kind of terrain not only to work but also in getting children to school, as well as to the grocery store.

The frustration and the outrage of West Virginians paying $25, $30, and $45 just to gas up is certainly understandable.

Family budgets already strained by the rising costs of health insurance, the rising costs of college tuition, and other everyday expenses are being stretched even thinner by these record-breaking gasoline prices in West Virginia. West Virginia's small businesses depend on deliveries. Floral shops, pizza parlors, produce shippers, taxi companies, construction and remodeling businesses, plumbers, electricians, landscapers are finding it harder to make ends meet. Many are going out of business.

I recently read of an independent trucker who lives and works in Norfolk, VA, telling the Christian Science Monitor that last year she paid more than $250 a week for fuel, and that was making her life as a single parent very difficult. She was even forced to decide between paying a doctor bill for her child or buying new tires for her truck. Guess who lost. "My truck lost," she explained.

Today's record high gasoline prices in West Virginia are affecting literally everyone from commuters, consumers, and businesses to public and private agencies. Meals on Wheels programs are having trouble delivering meals. Think of it. Local governments already straining to pay for essential services in these days of cutbacks in Federal assistance are simply overwhelmed in their efforts to keep schoolbuses, police cars, firetrucks, and other city and county vehicles in operation. What a shame.

The damage is devastating and is everywhere. Last year, polling data showed that more than half of the American people said the rising cost of gasoline had been hard on them financially while more than a third said it had caused them serious problems. U.S. consumer confidence fell for a third month in March, and this is being attributed to the cost of gasoline. It is awful. It is terrible.

At one time, inflation was called the cruelest tax. Soaring energy costs are the ecumenical tax. Did everyone get that? Soaring energy costs are the ecumenical tax. Why? They tax everyone with a car or a truck—everyone, regardless of race, sex, age, occupation. Low-income workers are being hit the hardest, however, as they usually have to travel the farthest to work because of the need for affordable housing. They have less access to mass transportation. One can understand that when they look at those mountains in West Virginia. And they drive older, less fuel-efficient vehicles.

As the American people cry out for help in this current crisis, what do they do? They look to Washington for action. The White House's response to this outcry has been to moan and groan about the failure of Congress to pass its so-called energy plan and recycle old legislation.

When it comes to dealing with today's energy mess, the White House is out of gas. For three Congresses, an energy bill has clanged about Washington like Marley's ghost. The administration's national energy policy has been drafted by special interests, ironed out behind closed doors now and presented as a fait accompli for Members to support, take it or leave it. But the national energy policy in its totality would do little to seriously address our energy needs now or in the long term.

The only major provisions that might provide tangible progress are the energy tax incentives, but these, too, could be a mirage as the President's proposed fiscal year 2006 budget only provides $6.7 billion over the next 10 years for all energy incentives, only about a third of what was provided 2 years ago in the Senate Energy bill. Analysis by the Department of Energy's own Energy Information Administration, EIA, of the Energy bill of the 108th Congress has clearly shown that the bill would have a negligible impact on increasing production, reducing consumption, lowering imports, or affecting energy prices. Now, take that home for dinner.

Furthermore, this administration actually significantly slashes funding for oil and gas research programs. Like its agricultural policies, the administration's energy policy promises the

American people a rose garden. It ruminates with much rhetoric but then fails to fertilize with funding.

While the White House has failed to propose any serious policy options or take any action to remedy the current crisis, I am suggesting that it is time—it is time, I say to the White House—to get serious. It is time that this Nation makes the necessary investments so we can reduce our dependence on foreign oil.

What does this mean? It means getting the next generation of vehicles on the road. It means investing in fuels that can be made from domestically secure sources such as agricultural residues and through coal gasification. It means investments in building. It means upgrading our refining and pipeline infrastructure in order to move our petroleum products to market.

At the end of the day, it requires that we set our sights on the goal of getting off foreign oil. Senator BINGAMAN sent a letter to the Secretary of Energy and the Administrator of the Environmental Protection Agency in April 2004. That letter laid out 13 concrete actions that President Bush could take to respond to high gasoline prices. I concurred with many of these recommendations in a letter to the President myself in May 2004. However, this administration has not followed through on any of these suggestions.

Right now, more than ever, what we need are not only long-term policies but also near-term programs and actions that address the immediate problem. For one thing, as the great British economist John Maynard Keynes reminded us, "In the long run we are all dead."

I am also reminded of the response that an aide to President Franklin Roosevelt gave when asked why the administration was acting so quickly and forcefully at the time to put people back to work during the dark days of the Great Depression—I lived in them—when in the long run market forces would eventually do it. The aide, Harry Hopkins, snapped: People do not eat in the long run. They eat every day.

While we do need long-term energy policies to reduce our dependency on foreign energy, we still drive cars every day during the dark days of these soaring gasoline prices. American workers, American consumers, and American small businesses suffer because of the failure of their Government to provide short-term relief.

Here are some suggestions which might provide assistance. The White House could direct the Secretary of Energy to suspend the delivery of oil to the Strategic Petroleum Reserve until market conditions improve. We might consider liberalizing the vehicle depreciation allowance to assist workers who daily commute more than 30 miles one way to work, and $15.5 billion in targeted tax incentives over the next 10 years, including $2 billion to deploy advanced clean coal technologies, would help to strengthen the economy, enhance our Nation's energy resources, promote an array of advanced energy technologies and increase jobs while promoting a healthy government.

Yes, we can do more. We can do plenty. We need an investigation into what is going on and why the people in West Virginia and other States are getting squeezed, why the people in West Virginia and other States are getting gouged, when huge oil companies are enjoying recordbreaking profits. I call on the White House to direct the Federal Trade Commission to review whether speculations in the futures market may be playing a role in driving up gasoline prices. I call for a congressional investigation to ascertain the role of oil companies in setting the steep price that West Virginians and people in other rural States pay at the pump.

Finally, I urge the White House to stop wimping out and to confront OPEC. Press these oil-producing countries to increase oil supply to help stabilize global prices. While running for the Presidency, George Bush promised to get tough with OPEC, especially the Saudis. Now, Mr. President, is the time to do it.

The White House should work on rehabilitating its own weak, creaky spine which has kept it from playing hardball with the foreign countries that sell us most of our oil. In his book, "Plan of Attack," Bob Woodward reported that Saudi Arabia offered to fine-tune oil prices in the months before the 2004 Presidential election. Why not use the bully pulpit now to call for increased oil production? Why not dispatch the Secretary of State to OPEC countries to twist arms and knock heads together to get an increase in oil production? Why does the White House remain silent, as silent as a stone, when OPEC announces, as it did on March 30, that it had ruled out an increase in oil production? Why does the administration hold its tongue when Middle Eastern potentates collude to separate working Americans from their hard-earned dollars?

Instead of reading headlines about tough administrative action to reduce oil prices, we read of scandals about lucrative billion-dollar, no-bid contracts for Iraqi oil fields. Instead of lowering prices at the pump in the USA, less than 18 months ago the White House asked Congress to approve $900 million in taxpayer money to send more gasoline to filling stations. Where? Baghdad.

The President might not have a short-term energy strategy for the United States, but he has a great one for Iraq. The only problem is that the American people are paying for it twice, once on April 15, the day our income taxes are due, and once again on every trip to the filling station.

I yield back the remainder of my time. I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 3 p.m. having arrived, the Senate will proceed to the consideration of H.R. 1268, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for States driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 1268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

[DIVISION A—EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005

[TITLE I—DEFENSE-RELATED APPROPRIATIONS

[CHAPTER 1

[DEPARTMENT OF DEFENSE

[DEPARTMENT OF DEFENSE—MILITARY

[MILITARY PERSONNEL

[MILITARY PERSONNEL, ARMY

[For an additional amount for "Military Personnel, Army", $11,779,642,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Military Personnel, Navy

[For an additional amount for "Military Personnel, Navy", $534,080,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Military Personnel, Marine Corps

[For an additional amount for "Military Personnel, Marine Corps", $1,251,726,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Military Personnel, Air Force

[For an additional amount for "Military Personnel, Air Force", $1,473,472,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Reserve Personnel, Army

[For an additional amount for "Reserve Personnel, Army", $40,327,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Reserve Personnel, Navy

[For an additional amount for "Reserve Personnel, Navy", $11,111,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Reserve Personnel, Marine Corps

[For an additional amount for "Reserve Personnel, Marine Corps", $4,115,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Reserve Personnel, Air Force

[For an additional amount for "Reserve Personnel, Air Force", $130,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[National Guard Personnel, Army

[For an additional amount for "National Guard Personnel, Army", $430,300,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[National Guard Personnel, Air Force

[For an additional amount for "National Guard Personnel, Air Force", $91,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OPERATION AND MAINTENANCE

[Operation and Maintenance, Army

[For an additional amount for "Operation and Maintenance, Army", $17,366,004,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Navy

[For an additional amount for "Operation and Maintenance, Navy", $3,030,801,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Marine Corps

[For an additional amount for "Operation and Maintenance, Marine Corps", $982,464,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Air Force

[For an additional amount for "Operation and Maintenance, Air Force", $5,769,450,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Defense-Wide

[For an additional amount for "Operation and Maintenance, Defense-Wide", $3,061,300,000 (reduced by $1,000,000) (increased by $1,000,000), of which—

[(1) not to exceed $25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom; and

[(2) up to $1,220,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the Committees on Appropriations on the use of funds provided in this paragraph: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Army Reserve

[For an additional amount for "Operation and Maintenance, Army Reserve", $8,154,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Navy Reserve

[For an additional amount for "Operation and Maintenance, Navy Reserve", $75,164,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Marine Corps Reserve

[For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $24,920,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Army National Guard

[For an additional amount for "Operation and Maintenance, Army National Guard", $188,779,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Overseas Humanitarian, Disaster, and Civic Aid

[For an additional amount for "Overseas Humanitarian, Disaster, and Civic Aid", $10,000,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Afghanistan Security Forces Fund

[(INCLUDING TRANSFER OF FUNDS)

[For the "Afghanistan Security Forces Fund", $1,285,000,000, to remain available until September 30, 2006: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Forces Command-Afghanistan, or the Secretary's designee to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[IRAQ SECURITY FORCES FUND

[(INCLUDING TRANSFER OF FUNDS)

[For the "Iraq Security Forces Fund", $5,700,000,000, to remain available until September 30, 2006: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That, notwithstanding any other provision of law, from funds made available under this heading, up to $99,000,000 may be used to provide assistance to the Government of Jordan to establish a regional training center designed to provide comprehensive training programs for regional military and security forces and military and civilian officials, to enhance the capability of such forces and officials to respond to existing and emerging security threats in the region: *Provided further*, That assistance authorized by the preceding proviso may include the provision of facilities, equipment, supplies, services, training and funding, and the Secretary of Defense may transfer funds to any Federal agency for the purpose of providing such assistance: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[PROCUREMENT

[AIRCRAFT PROCUREMENT, ARMY

[For an additional amount for "Aircraft Procurement, Army", $458,677,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[MISSILE PROCUREMENT, ARMY

[For an additional amount for "Missile Procurement, Army", $340,536,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

[For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $2,678,747,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[PROCUREMENT OF AMMUNITION, ARMY

[For an additional amount for "Procurement of Ammunition, Army", $532,800,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OTHER PROCUREMENT, ARMY

[(INCLUDING TRANSFER OF FUNDS)

[For an additional amount for "Other Procurement, Army", $6,634,905,000, to remain available until September 30, 2007, of which $85,000,000 shall be derived by transfer from "Iraq Freedom Fund": *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[AIRCRAFT PROCUREMENT, NAVY

[For an additional amount for "Aircraft Procurement, Navy", $200,295,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[WEAPONS PROCUREMENT, NAVY

[For an additional amount for "Weapons Procurement, Navy", $71,600,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

[For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $141,735,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OTHER PROCUREMENT, NAVY

[For an additional amount for "Other Procurement, Navy", $78,372,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[PROCUREMENT, MARINE CORPS

[For an additional amount for "Procurement, Marine Corps", $3,588,495,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[AIRCRAFT PROCUREMENT, AIR FORCE

[For an additional amount for "Aircraft Procurement, Air Force", $279,241,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[PROCUREMENT OF AMMUNITION, AIR FORCE

[For an additional amount for "Procurement of Ammunition, Air Force", $6,998,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OTHER PROCUREMENT, AIR FORCE

[For an additional amount for "Other Procurement, Air Force", $2,658,527,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[PROCUREMENT, DEFENSE-WIDE

[For an additional amount for "Procurement, Defense-Wide", $646,327,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

[For an additional amount for "Research, Development, Test and Evaluation, Army", $25,170,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

[For an additional amount for "Research, Development, Test, and Evaluation, Navy", $202,051,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

[For an additional amount for "Research, Development, Test and Evaluation, Air Force", $121,500,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Research, Development, Test and Evaluation, Defense-Wide

[For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $159,600,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[REVOLVING AND MANAGEMENT FUNDS

[Defense Working Capital Funds

[For an additional amount for "Defense Working Capital Funds", $1,411,300,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[National Defense Sealift Fund

[For an additional amount for "National Defense Sealift Fund", $32,400,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OTHER DEPARTMENT OF DEFENSE PROGRAMS

[Drug Interdiction and Counter-Drug Activities, Defense

[(including transfer of funds)

[For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $257,000,000, to remain available until December 31, 2005: *Provided*, That these funds may be used for such activities related to Afghanistan and the Central Asia area: *Provided further*, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; and research, development, test and evaluation: *Provided further*, That the funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That not to exceed $70,000,000 of the funds provided herein may be used to reimburse fully this account for obligations incurred for the purposes provided under this heading prior to enactment of this Act: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Office of the Inspector General

[For an additional amount for "Office of the Inspector General", $148,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[RELATED AGENCIES

[Intelligence Community Management Account

[For an additional amount for "Intelligence Community Management Account", $250,300,000, of which $181,000,000 is to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[GENERAL PROVISIONS—THIS CHAPTER

[(transfer of funds)

[Sec. 1101. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,000,000,000 of the funds made available to the Department of Defense in this chapter: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2005, except for the fourth proviso: *Provided further*, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Sec. 1102. Section 8005 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 969), is amended by striking "$3,500,000,000" and inserting "$5,500,000,000": *Provided*, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[(transfer of funds)

[Sec. 1103. During fiscal year 2005, the Secretary of Defense may transfer amounts in or credited to the Defense Cooperation Account, pursuant to section 2608 of title 10, United States Code, to such appropriations or funds of the Department of Defense as he shall determine for use consistent with the purposes for which such funds were contributed and accepted: *Provided*, That such amounts shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary shall report to the Congress all transfers made pursuant to this authority: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Sec. 1104. (a) Authority To Provide Support.—Of the amount appropriated by this Act under the heading, "Drug Interdiction and Counter-Drug Activities, Defense", not to exceed $34,000,000 may be made available for support for counter-drug activities of the Government of Afghanistan, and not to exceed $4,000,000 may be made available for support for counter-drug activities of the Government of Pakistan: *Provided*, That such support shall be in addition to support provided for the counter-drug activities of said Governments under any other provision of the law.

[(b) Types of Support.—(1) Except as specified in subsections (b)(2) and (b)(3) of this section, the support that may be provided under the authority in this section shall be limited to the types of support specified in section 1033(c)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85, as amended by Public Law 106–398 and Public Law 108–136) and conditions on the provision of support as contained in section 1033 shall apply for fiscal year 2005.

[(2) The Secretary of Defense may transfer vehicles, aircraft, and detection, interception, monitoring and testing equipment to said Governments for counter-drug activities.

[(3) For the Government of Afghanistan, the Secretary of Defense may also provide individual and crew-served weapons, and ammunition for counter-drug security forces.

[Sec. 1105. The paragraph under the heading "Operation and Maintenance, Defense-Wide" in title II of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 954), is amended in the first proviso by striking "$32,000,000" and inserting "$40,000,000".

[Sec. 1106. For fiscal year 2005, the limitation under paragraph (3) of section 2208(l) of title 10, United States Code, on the total amount of advance billings rendered or imposed for all working capital funds of the Department of Defense in a fiscal year shall be applied by substituting "$1,500,000,000" for "$1,000,000,000".

[Sec. 1107. Section 1201(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2077), as amended by section 102 of title I of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is further amended by striking "$500,000,000" in the matter preceding paragraph (1) and inserting "$854,000,000".

[Sec. 1108. Section 8090(b) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287), is amended by striking "$185,000,000" and inserting "$210,000,000".

[Sec. 1109. (a) During calendar year 2005 and notwithstanding section 5547 of title 5, United States Code, the head of an Executive agency may waive the limitation, up to $200,000, established in that section for total compensation, including limitations on the aggregate of basic pay and premium pay payable in a calendar year, to an employee who performs work while in an overseas location that is in the area of responsibility of the Commander of the U.S. Central Command, in support of, or related to—

[(1) a military operation, including a contingency operation; or

[(2) an operation in response to a declared emergency.

[(b) To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

[(c) The Director of the Office of Personnel Management may issue regulations to ensure appropriate consistency among heads of executive agencies in the exercise of authority granted by this section.

[Sec. 1110. Section 1096(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended—

[(1) in the matter preceding paragraph (1), by striking "in the fiscal year after the effective date of this Act" and inserting "during fiscal years 2005 and 2006"; and

[(2) in paragraph (1), by striking "500 new personnel billets" and inserting "a total of 500 new personnel positions".

[Sec. 1111. Section 1051a(e) of title 10, United States Code, is amended by striking "September 30, 2005" and inserting "December 31, 2005".

[Sec. 1112. Notwithstanding subsection (c) of section 308e of title 37, United States Code, the maximum amount of the bonus paid to a member of the Armed Forces pursuant to a reserve affiliation agreement entered into under such section during fiscal year 2005 shall not exceed $10,000, and the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may prescribe regulations under subsection (f) of such section to modify the method by which bonus payments are made under reserve affiliation agreements entered into during such fiscal year.

[Sec. 1113. (a) Increase in SGLI Maximum.—Section 1967 of title 38, United States Code, is amended—

[(1) in subsection (a)(3)(A)(i), by striking "$250,000" and inserting "$400,000 or such lesser amount as the member may elect in increments of $50,000";

[(2) in subsection (a)(3)(B), by striking "member or spouse" in the last sentence and inserting "member, be evenly divisible by $50,000 and, in the case of a member's spouse"; and

[(3) in subsection (d), by striking "of $250,000" and inserting "in effect under subsection (a)(3)(A)(i)".

[(b) Spouse Consent and Beneficiary Notification.—Section 1967(a)(3)(B) of such title is amended—

[(1) by inserting "(i)" after "(B)"; and

[(2) by adding at the end the following new clauses:

["(ii) A member who is married may not, without the written concurrence of the member's spouse—

["(I) elect not to be insured under this subchapter or to be insured under this subchapter in an amount less than the maximum amount provided for under subparagraph (A)(i); or

["(II) designate any other person as a beneficiary under this program.

["(iii) Whenever a member who is not married elects not to be insured under this subchapter or to be insured under this subchapter in an amount less than the maximum amount provided for under subparagraph (A)(i), the Secretary concerned shall provide a notice of such election to any person designated by the member as a beneficiary or designated as the member's next-of-kin for the purpose of emergency notification, as determined under regulations prescribed by the Secretary of Defense.".

[(c) Limitation on Spouse Coverage to Amount of Member Coverage.—Section 1967(a)(3)(C) of such title is amended by inserting before the period at the end the following: "as applicable to such member under subparagraph (A)(i)".

[(d) Conforming Amendments to VGLI Provisions.—Section 1977 of such title is amended by striking "$250,000" each place it appears and inserting "$400,000".

[(e) Military Death Gratuity.—Section 1478 of title 10, United States Code, is amended—

[(1) in subsection (a), by striking "$12,000 (as adjusted under subsection (c))" and inserting "$100,000"; and

[(2) by striking subsection (c).

[(f) Effective Date.—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

[Sec. 1114. (a) Special Death Gratuity for Certain Prior Deaths in Service.—In the case of the death of a member of the uniformed services that is a qualifying death (as specified in subsection (b)), the Secretary concerned shall pay a death gratuity of not more than $238,000. Of that amount—

[(1) $150,000 shall be paid in the manner specified in subsection (c); and

[(2) $88,000 shall be paid in the manner specified in subsection (d).

[(b) Qualifying Deaths.—The death of a member of the uniformed services is a qualifying death for purpose of this section if—

[(1) the member died during the period beginning on October 7, 2001, and ending on the day before the date of the enactment of this Act;

[(2) for the purpose of section 1114(a)(2), the death was a direct result of an injury or illness (or combination of one or more injuries or illness) incurred in Operation Enduring Freedom or Operation Iraqi Freedom, as determined under regulations prescribed by the Secretary of Defense; and

[(3) for the purpose of section 1114(a)(1), the death was a direct result of an injury or illness (or combination of one or more injuries or illness) incurred by any active duty military member in the performance of duty.

[(c) SGLI Beneficiaries.—A payment pursuant to subsection (a)(1) by reason of a covered death shall be paid—

[(1) to a beneficiary in proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds paid on the basis of that death under the Servicemembers Group Life Insurance program under subchapter III of chapter 19 of title 38, United States Code; or

[(2) in the case of a member who elected not to be insured under the provisions of that subchapter, in equal shares to the person or persons who would have received proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries.

[(d) Military Death Gratuity Beneficiaries.—A payment pursuant to subsection (a)(2) by reason of a covered death shall be paid equal shares to the beneficiaries who were paid the death gratuity that was paid with respect to that death under subchapter II of chapter 75 of title 10, United States Code.

[(e) Status of Payments.—A death gratuity payable under this section by reason of a qualifying death is in addition to any other death gratuity or other benefit payable by the United States by reason of that death.

[(f) Definition.—For the purposes of this section, the term "Secretary concerned" has the meaning given that term in section 101 of title 37, United States Code.".

[Sec. 1115. Funds appropriated in this chapter, or made available by transfer of funds in or pursuant to this chapter, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

[Sec. 1116. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal year 2004 and 2005 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

[CHAPTER 2

[DEPARTMENT OF DEFENSE

[Military Construction, Army

[For an additional amount for "Military Construction, Army", $930,100,000, to remain available until September 30, 2006: *Provided*, That $669,100,000 of such additional amount may not be obligated until after that date on which the Secretary of Defense submits to the Committees on Appropriations of the House of Representatives and Senate the comprehensive master plans for overseas military infrastructure required by House Report 108–342: *Provided further*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Military Construction, Navy and Marine Corps

[For an additional amount for "Military Construction, Navy and Marine Corps", $92,720,000, to remain available until September 30, 2006: *Provided*, That $32,380,000 of such additional amount may not be obligated until after that date on which the Secretary of Defense submits to the Committees on Appropriations of the House of Representatives and Senate the comprehensive master plans for overseas military infrastructure required by House Report 108–342: *Provided further*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Military Construction, Air Force

[For an additional amount for "Military Construction, Air Force", $301,386,000, to remain available until September 30, 2006: *Provided*, That $301,386,000 of such additional amount may not be obligated until after that date on which the Secretary of Defense submits to the Committees on Appropriations of the House of Representatives and Senate the comprehensive master plans for overseas military infrastructure required by House Report 108–342: *Provided further*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Military Personnel, Army

[For an additional amount for "Military Personnel, Army", $1,542,100,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operation and Maintenance, Army

[For an additional amount for "Operation and Maintenance, Army", $66,300,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Defense Health Program

[For an additional amount for "Defense Health Program", $175,550,000 for operation and maintenance: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[TITLE II—INTERNATIONAL PROGRAMS AND ASSISTANCE FOR RECONSTRUCTION AND THE WAR ON TERROR

[CHAPTER 1

[BILATERAL ECONOMIC ASSISTANCE

[FUNDS APPROPRIATED TO THE PRESIDENT

[UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

[International Disaster and Famine Assistance

[For an additional amount for "International Disaster and Famine Assistance", $44,000,000 (increased by $50,000,000), to remain available until expended, for emergency expenses related to the humanitarian crisis in the Darfur region of Sudan: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Operating Expenses of the United States Agency for International Development

[For an additional amount for "Operating Expenses of the United States Agency for International Development", $24,400,000, to remain available until September 30, 2006.

[Operating Expenses of the United States Agency for International Development

[Office of Inspector General

[For an additional amount for "Operating Expenses of the United States Agency for International Development Office of Inspector General", $2,500,000, to remain available until September 30, 2006.

[OTHER BILATERAL ECONOMIC ASSISTANCE

[Economic Support Fund

[For an additional amount for "Economic Support Fund", $684,700,000 (reduced by $3,000,000), to remain available until September 30, 2006, of which up to $200,000,000 may be provided for programs, activities, and efforts to support Palestinians.

[For an additional amount for "Economic Support Fund", $376,500,000, to remain available until September 30, 2006: *Provided*, That these funds are hereby designated by Congress to be emergency requirements pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Assistance for the Independent States of the Former Soviet Union

[For an additional amount for "Assistance for the Independent States of the Former Soviet Union" for assistance for Ukraine, $33,700,000, to remain available until September 30, 2006.

[DEPARTMENT OF STATE

[International Narcotics Control and Law Enforcement

[(INCLUDING TRANSFER OF FUNDS)

[For an additional amount for "International Narcotics Control and Law Enforcement", $594,000,000, to remain available until September 30, 2007, of which not more than $400,000,000 may be made available to provide assistance to the Afghan police: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Migration and Refugee Assistance

[For an additional amount for "Migration and Refugee Assistance", $53,400,000 (increased by $50,000,000), to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Nonproliferation, Anti-Terrorism, Demining and Related Programs

[For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $17,100,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[MILITARY ASSISTANCE

[FUNDS APPROPRIATED TO THE PRESIDENT

[Foreign Military Financing Program

[For an additional amount for the "Foreign Military Financing Program", $250,000,000.

[Peacekeeping Operations

[For an additional amount for "Peacekeeping Operations", $10,000,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[GENERAL PROVISIONS—THIS CHAPTER

[Sec. 2101. Section 307(a) of the Foreign Assistance Act of 1961 is amended by striking "Iraq,".

[(RESCISSION)

[Sec. 2102. The unexpended balance appropriated by Public Law 108-11 under the heading "Economic Support Fund" and made available for Turkey is rescinded.

[Sec. 2103. Section 559 of division D of Public Law 108-447 is amended by adding at the end the following:

["(e) Subsequent to the certification specified in subsection (a), the Comptroller General of the United States shall conduct an audit and an investigation of the treatment, handling, and uses of all funds for the bilateral West Bank and Gaza Program in fiscal year 2005 under the heading 'Economic Support Fund'. The audit shall address—

["(1) the extent to which such Program complies with the requirements of subsections (b) and (c), and

["(2) an examination of all programs, projects, and activities carried out under such Program, including both obligations and expenditures.".

[Sec. 2104. The Secretary of State shall submit to the Committees on Appropriations not later than 30 days after enactment, and prior to the initial obligation of funds appropriated under this chapter, a report on the proposed uses of all funds on a project-by-project basis, for which the obligation of funds is anticipated: *Provided*, That up to 10 percent of funds appropriated under this chapter may be obligated before the submission of the report subject to the normal notification procedures of the Committees on Appropriations: *Provided further*, That the report shall be updated and submitted to the Committees on Appropriations every six months and shall include information detailing how the estimates and assumptions contained in previous reports have changed: *Provided further*, That any new projects and increases in funding of ongoing projects shall be subject to the prior approval of the Committees on Appropriations: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations, not later than 210 days following enactment of this Act and annually thereafter, a report detailing on a project-by-project basis the expenditure of funds appropriated under this chapter until all funds have been fully expended.

[Sec. 2105. The Comptroller General of the United States shall conduct an audit of the use of all funds for the bilateral Afghanistan counternarcotics and alternative livelihood programs in fiscal year 2005 under the heading "Economic Support Fund" and "International Narcotics Control and Law Enforcement": *Provided*, That the audit shall include an examination of all programs, projects and activities carried out under such programs, including both obligations and expenditures.

[Sec. 2106. No later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress detailing—

[(1) information regarding the Palestinian security services, including their numbers, accountability, and chains of command, and steps taken to purge from their ranks individuals with ties to terrorist entities;

[(2) specific steps taken by the Palestinian Authority to dismantle the terrorist infrastructure, confiscate unauthorized weapons, arrest and bring terrorists to justice, destroy unauthorized arms factories, thwart and preempt terrorist attacks, and cooperate with Israel's security services;

[(3) specific actions taken by the Palestinian Authority to stop incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and to promote peace and coexistence with Israel;

[(4) specific steps the Palestinian Authority has taken to ensure democracy, the rule of law, and an independent judiciary, and transparent and accountable governance;

[(5) the Palestinian Authority's cooperation with United States officials in their investigations into the late Palestinian leader Yasser Arafat's finances; and

[(6) the amount of assistance pledged and actually provided to the Palestinian Authority by other donors:

[*Provided*, That not later than 180 days after enactment of this Act, the President shall submit to the Congress an update of this report: *Provided further*, That up to $5,000,000 of the funds made available for assistance to the West Bank and Gaza by this title under "Economic Support Fund" shall be used for an outside, independent evaluation by an internationally recognized accounting firm of the transparency and accountability of Palestinian Authority accounting procedures and an audit of expenditures by the Palestinian Authority: *Provided further*, That the waiver authority of section 550(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108-447) may not be exercised with respect to funds appropriated for assistance to the Palestinians under this chapter: *Provided further*, That the waiver detailed in

Presidential Determination 2005–10 issued on December 8, 2004, shall not be extended to funds appropriated under this chapter.

[CHAPTER 2

[DEPARTMENT OF STATE AND RELATED AGENCY

[DEPARTMENT OF STATE

[Administration of Foreign Affairs

[Diplomatic and Consular Programs

[For an additional amount for "Diplomatic and Consular Programs", $748,500,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Embassy Security, Construction, and Maintenance

[For an additional amount for "Embassy Security, Construction, and Maintenance", $592,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[International Organizations

[Contributions for International Peacekeeping Activities

[(including transfer of funds)

[For an additional amount for "Contributions for International Peacekeeping Activities", $580,000,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress): *Provided further*, That up to $55,000,000 provided under this heading may be transferred to "Peacekeeping Operations", to be available for costs of establishing and operating a Sudan war crimes tribunal.

[RELATED AGENCY

[Broadcasting Board of Governors

[International Broadcasting Operations

[For an additional amount for "International Broadcasting Operations" for activities related to broadcasting to the broader Middle East, $4,800,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[CHAPTER 3

[DEPARTMENT OF AGRICULTURE

[Foreign Agricultural Service

[Public Law 480 Title II Grants

[For an additional amount for "Public Law 480 Title II Grants", $150,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[TITLE III—DOMESTIC APPROPRIATIONS FOR THE WAR ON TERROR

[CHAPTER 1

[DEPARTMENT OF ENERGY

[NATIONAL NUCLEAR SECURITY ADMINISTRATION

[Defense Nuclear Nonproliferation

[For an additional amount for "Defense Nuclear Nonproliferation", $110,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[CHAPTER 2

[DEPARTMENT OF HOMELAND SECURITY

[UNITED STATES COAST GUARD

[Operating Expenses

[For an additional amount for "Operating Expenses", $111,950,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Acquisition, Construction, and Improvements

[For an additional amount for "Acquisition, Construction, and Improvements", $49,200,000, to remain available until September 30, 2007: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[CHAPTER 3

[DEPARTMENT OF JUSTICE

[Federal Bureau of Investigation

[Salaries and Expenses

[For an additional amount for "Salaries and Expenses", $78,970,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[Drug Enforcement Administration

[Salaries and Expenses

[For an additional amount for "Salaries and Expenses," $7,648,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[TITLE IV—INDIAN OCEAN TSUNAMI RELIEF

[CHAPTER 1

[FUNDS APPROPRIATED TO THE PRESIDENT

[OTHER BILATERAL ASSISTANCE

[Tsunami Recovery and Reconstruction Fund

[(including transfers of funds)

[For necessary expenses to carry out the Foreign Assistance Act of 1961, for emergency relief, rehabilitation, and reconstruction aid to countries affected by the tsunami and earthquakes of December 2004, and for other purposes, $656,000,000 (increased by $3,000,000), to remain available until September 30, 2006: *Provided*, That these funds may be transferred by the Secretary of State to any Federal agency or account for any activity authorized under part I (including chapter 4 of part II) of the Foreign Assistance Act, or under the Agricultural Trade Development and Assistance Act of 1954, to accomplish the purposes provided herein: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That funds appropriated under this heading may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act, including Public Law 480 Title II grants: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress): *Provided further*, That of the amounts provided herein: up to $10,000,000 may be transferred to and consolidated with the Development Credit Authority for the cost of direct loans and loan guarantees as authorized by sections 256 and 635 of the Foreign Assistance Act of 1961 in furtherance of the purposes of this heading; up to $15,000,000 may be transferred to and consolidated with "Operating Expenses of the United States Agency for International Development", of which up to $2,000,000 may be used for administrative expenses to carry out credit programs administered by the United States Agency for International Development in furtherance of the purposes of this heading; up to $500,000 may be transferred to and consolidated with "Operating Expenses of the United States Agency for International Development, Office of Inspector General"; and up to $5,000,000 may be transferred to and consolidated with "Administration of Foreign Affairs Emergencies in the Diplomatic and Consular Service" for the purpose of providing support services for U.S. citizen victims and related operations.

[GENERAL PROVISION

[Sec. 4101. Amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961 to address relief and rehabilitation needs for countries affected by the tsunami and earthquake of December 2004, prior to the enactment of this Act, shall be in addition to the amount that may be obligated in fiscal year 2005 under that section.

[Sec. 4102. The Secretary of State shall submit to the Committees on Appropriations not later than 30 days after enactment, and prior to the initial obligation of funds appropriated under this chapter, a report on the proposed uses of all funds on a project-by-project basis, for which the obligation of funds is anticipated: *Provided*, That up to 10 percent of funds appropriated under this chapter may be obligated before the submission of the report subject to the normal notification procedures of the Committees on Appropriations: *Provided further*, That the report shall be updated and submitted to the Committees on Appropriations every six months and shall include information detailing how the estimates and assumptions contained in previous reports have changed: *Provided further*, That any proposed new projects and increases in funding of ongoing projects shall be reported to the Committees on Appropriations in accordance with regular notification procedures: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations, not later than 210 days following enactment of this Act, and every six months thereafter, a report detailing on a project-by project basis, the expenditure of funds appropriated under this chapter until all funds have been fully expended.

[CHAPTER 2

[DEPARTMENT OF DEFENSE—MILITARY

[OPERATION AND MAINTENANCE

[Operation and Maintenance, Navy

[For an additional amount for "Operation and Maintenance, Navy", $124,100,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OPERATION AND MAINTENANCE, MARINE CORPS

[For an additional amount for "Operation and Maintenance, Marine Corps", $2,800,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OPERATION AND MAINTENANCE, AIR FORCE

[For an additional amount for "Operation and Maintenance, Air Force", $30,000,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OPERATION AND MAINTENANCE, DEFENSE-WIDE

[For an additional amount for "Operation and Maintenance, Defense-Wide", $29,150,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

[For an additional amount for "Overseas Humanitarian, Disaster, and Civic Aid", $36,000,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[CHAPTER 3

[DEPARTMENT OF DEFENSE

[DEFENSE HEALTH PROGRAM

[For an additional amount for "Defense Health Program", $3,600,000 for operation and maintenance: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[CHAPTER 4

[DEPARTMENT OF HOMELAND SECURITY

[UNITED STATES COAST GUARD

[OPERATING EXPENSES

[For an additional amount for "Operating Expenses", $350,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[CHAPTER 5

[DEPARTMENT OF THE INTERIOR

[UNITED STATES GEOLOGICAL SURVEY

[SURVEYS, INVESTIGATIONS, AND RESEARCH

[For an additional amount for "Surveys, Investigations, and Research", $8,100,000, to remain available until September 30, 2006: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[CHAPTER 6

[DEPARTMENT OF COMMERCE

[NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[OPERATIONS, RESEARCH, AND FACILITIES

[For an additional amount for "Operations, Research, and Facilities", $4,830,000, to remain available until September 30, 2006, for United States tsunami warning capabilities and operations: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[PROCUREMENT, ACQUISITION AND CONSTRUCTION

[For an additional amount for "Procurement, Acquisition and Construction", $9,670,000, to remain available until September 30, 2007, for United States tsunami warning capabilities: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

[TITLE V—GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

[SEC. 5001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

[(INCLUDING TRANSFERS OF FUNDS)

[SEC. 5002. Notwithstanding any other provision of law, upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds previously made available in the Department of Defense Appropriations Act, 2005 (Public Law 108–287): *Provided*, That the amounts transferred shall be made available for the same purpose and the same time period as the appropriation to which transferred: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the amounts shall be transferred between the following appropriations, in the amounts specified:

[To:

[Under the heading, "Research, Development, Test and Evaluation, Air Force, 2005/2006", $500,000;

[From:

[Under the heading, "Other Procurement, Air Force", $500,000.

[To:

[Under the heading, "Other Procurement, Air Force, 2005/2007", $8,200,000;

[From:

[Under the heading, "Other Procurement, Navy, 2005/2007", $8,200,000.

[SEC. 5003. Funds appropriated by this Act may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) and section 10 of Public Law 91–672 (22 U.S.C. 2412), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

[SEC. 5004. The last proviso under the heading "Operation and Maintenance" in title I of division C of Public Law 108–447 is amended by striking "Public Law 108–357" and inserting "Public Law 108–137".

[SEC. 5005. Section 101 of title I of division C of Public Law 108–447 is amended by striking "per project" and all that follows through the period at the end and inserting "for all applicable programs and projects not to exceed $80,000,000 in each fiscal year.".

[SEC. 5006. The matter under the heading "Water and Related Resources" in title II of division C of Public Law 108–447 is amended by inserting before the period at the end the following: ": *Provided further*, That $4,023,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted into law by Public Law 106–554)".

[SEC. 5007. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to "Department of Energy—Energy Programs—Nuclear Waste Disposal" is amended by—

[(1) inserting "to be derived from the Nuclear Waste Fund and" after "$346,000,000,"; and

[(2) striking "to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act" and inserting "to participate in licensing activities and other appropriate activities pursuant to the Act".

[SEC. 5008. Section 144(b)(2) of title I of division E of Public Law 108–447 is amended by striking "September 24, 2004" and inserting "November 12, 2004".

[SEC. 5009. In the statement of the managers of the committee of conference accompanying H.R. 4818 (Public Law 108–447; House Report 108–792), in the matter in title III of division F, relating to the Fund for the Improvement of Education under the heading "Innovation and Improvement"—

[(1) the provision specifying $500,000 for the Mississippi Museum of Art, Jackson, MS for Hardy Middle School After School Program shall be deemed to read "Mississippi Museum of Art, Jackson, MS for a Mississippi Museum of Art After-School Collaborative";

[(2) the provision specifying $2,000,000 for the Milken Family Foundation, Santa Monica, CA, for the Teacher Advancement Program shall be deemed to read "Teacher Advancement Program Foundation, Santa Monica, CA for the Teacher Advancement Program";

[(3) the provision specifying $1,000,000 for Batelle for Kids, Columbus, OH for a multi-state effort to evaluate and learn the most effective ways for accelerating student academic growth shall be deemed to read "Battelle for Kids, Columbus, OH for a multi-state effort to implement, evaluate and learn the most effective ways for accelerating student academic growth";

[(4) the provision specifying $750,000 for the Institute of Heart Math, Boulder Creek, CO for a teacher retention and student dropout prevention program shall be deemed to read "Institute of Heart Math, Boulder Creek, CA for a teacher retention and student dropout prevention program";

[(5) the provision specifying $200,000 for Fairfax County Public Schools, Fairfax, VA for Chinese language programs in Franklin Sherman Elementary School and Chesterbrook Elementary School in McLean, Virginia shall be deemed to read "Fairfax County Public Schools, Fairfax, VA for Chinese language programs in Shrevewood Elementary School and Wolftrap Elementary School";

[(6) the provision specifying $1,250,000 for the University of Alaska/Fairbanks in Fairbanks, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED) shall be deemed to read "University of Alaska/Southeast in Juneau, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED)";

[(7) the provision specifying $25,000 for QUILL Productions, Inc., Aston, PA, to develop and disseminate programs to enhance the teaching of American history shall be deemed to read "QUILL Entertainment Company, Aston, PA, to develop and disseminate programs to enhance the teaching of American history";

[(8) the provision specifying $780,000 for City of St. Charles, MO for the St. Charles Foundry Arts Center in support of arts education shall be deemed to read "The Foundry Art Centre, St. Charles, Missouri for support of arts education in conjunction with the City of St. Charles, MO";

[(9) the provision specifying $100,000 for Community Arts Program, Chester, PA, for arts education shall be deemed to read "Chester Economic Development Authority, Chester, PA for a community arts program";

[(10) the provision specifying $100,000 for Kids with A Promise—The Bowery Mission, Bushkill, PA shall be deemed to read "Kids with A Promise—The Bowery Mission, New York, NY";

[(11) the provision specifying $50,000 for Great Projects Film Company, Inc., Washington, DC, to produce "Educating America", a documentary about the challenges facing our public schools shall be deemed to read "Great Projects Film Company, Inc., New York, NY, to produce 'Educating America', a documentary about the challenges facing our public schools";

[(12) the provision specifying $30,000 for Summer Camp Opportunities Provide an Edge (SCOPE), New York, NY for YMCA Camps Skycrest, Speers and Elijabar shall be deemed to read "American Camping Association for Summer Camp Opportunities Provide an Edge (SCOPE), New York, NY for YMCA Camps Skycrest and Speers-Elijabar"; and

[(13) the provision specifying $163,000 for Space Education Initiatives, Green Bay, WI for the Wisconsin Space Science Initiative shall be deemed to read "Space Education Initiatives, De Pere, WI for the Wisconsin Space Science Initiative".

[SEC. 5010. In the statement of the managers of the committee of conference accompanying H.R. 4818 (Public Law 108–447; House Report 108–792), in the matter in title III of division F, relating to the Fund for the Improvement of Postsecondary Education under the heading "Higher Education"—

[(1) the provision specifying $145,000 for the Belin-Blank Center at the University of Iowa, Iowa City, IA for the Big 10 school initiative to improve minority student access to Advanced Placement courses shall be deemed to read "University of Iowa, Iowa City, IA for the Iowa and Israel: Partners in Excellence program to enhance math and science opportunities to rural Iowa students";

[(2) the provision specifying $150,000 for Mercy College, Dobbs Ferry, NY for the development of a registered nursing program shall be deemed to read "Mercy College, Dobbs Ferry, NY, for the development of a master's degree program in nursing education, including marketing and recruitment activities";

[(3) the provision specifying $100,000 for University of Alaska/Southeast to develop distance education coursework for arctic engineering courses and programs shall be deemed to read "University of Alaska System Office to develop distance education coursework for arctic engineering courses and programs"; and

[(4) the provision specifying $100,000 for Culver-Stockton College, Canton, MO for equipment and technology shall be deemed to read "Moberly Area Community College, Moberly, MO for equipment and technology".

[SEC. 5011. The matter under the heading "Corporation for National and Community Service—National and Community Service Programs Operating Expenses" in title III of division I of Public Law 108–447 is amended by inserting before the period at the end the following: ": *Provided further*, That the Corporation may use up to 1 percent of program grant funds made available under this heading to defray its costs of conducting grant application reviews, including the use of outside peer reviewers".

[SEC. 5012. Section 114 of title I of division I of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by inserting before the period "and section 303 of Public Law 108–422".

[SEC. 5013. Section 117 of title I of division I of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by striking "that are deposited into the Medical Care Collections Fund may be transferred and merged with" and inserting "may be deposited into the".

[SEC. 5014. Section 1703(d)(2) of title 38, United States Code, is amended by striking "shall be available for the purposes" and inserting "shall be available, without fiscal limitation, for the purposes".

[SEC. 5015. Section 621 of title VI of division B of Public Law 108–199 is amended by striking "of passenger, cargo and other aviation services".

[SEC. 5016. Section 619(a) of title VI of division B of Public Law 108–447 is amended by striking "Asheville-Buncombe Technical Community College" and inserting "the International Small Business Institute".

[SEC. 5017. (a) Section 619(a) of title VI of division B of Public Law 108–447 is amended by striking "for the continued modernization of the Mason Building".

[(b) Section 621 of title VI of division B of Public Law 108–199, as amended by Public Law 108–447, is amended by striking ", for the continued modernization of the Mason Building".

[SEC. 5018. The Department of Justice may transfer funds from any Department of Justice account to "Detention Trustee": *Provided*, That the notification requirement in section 605(b) of title VI of division B of Public Law 108–447 shall remain in effect for any such transfers.

[SEC. 5019. The referenced statement of managers under the heading "Community Development Fund" in title II of division K of Public Law 108–7 is deemed to be amended—

[(1) with respect to item number 39 by striking "Conference and Workforce Center in Harrison, Arkansas" and inserting "in Harrison, Arkansas for facilities construction of the North Arkansas College Health Sciences Education Center"; and

[(2) with respect to item number 316 by striking "for renovation of a visitor center to accommodate a Space and Flight Center" and inserting "to build-out the Prince George's County Economic Development and Business Assistance Center".

[SEC. 5020. The referenced statement of the managers under the heading "Community Development Fund" in title II of division G of Public Law 108–199 is deemed to be amended—

[(1) with respect to item number 56 by striking "Conference and Training Center" and inserting "North Arkansas College Health Sciences Education Center";

[(2) with respect to item number 102 by striking "to the Town of Groveland, California for purchase of a youth center" and inserting "to the County of Tuolomne for the purchase of a new youth center in the mountain community of Groveland";

[(3) with respect to item number 218 by striking "for construction" and inserting "for design and engineering";

[(4) with respect to item number 472 by striking "for sidewalk, curbs and facade improvements in the Morton Avenue neighborhood" and inserting "for streetscape renovation"; and

[(5) with respect to item number 493 by striking "for land acquisition" and inserting "for planning and design of its Sports and Recreation Center and Education Complex".

[SEC. 5021. The referenced statement of the managers under the heading "Community Development Fund" in title II of division I of Public Law 108–447 is deemed to be amended as follows—

[(1) with respect to item number 706 by striking " a public swimming pool" and inserting "recreation fields";

[(2) with respect to item number 667 by striking "to the Town of Appomattox, Virginia for facilities construction of an African-American cultural and heritage museum at the Carver-Price building" and inserting "to the County of Appomattox, Virginia for renovation of the Carver-Price building";

[(3) with respect to item number 668 by striking "for the Town of South Boston, Virginia for renovations and creation of a community arts center at the Prizery" and inserting "for The Prizery in South Boston, Virginia for renovations and creation of a community arts center";

[(4) with respect to item number 669 by striking "for the City of Moneta, Virginia for facilities construction and renovations of an art, education, and community outreach center" and inserting "for the Moneta Arts, Education, and Community Outreach Center in Moneta, Virginia for facilities construction and renovations";

[(5) with respect to item number 910 by striking "repairs to" and inserting "renovation and construction of"; and

[(6) with respect to item number 902 by striking "City of Brooklyn" and inserting "Fifth Ave Committee in Brooklyn".

[SEC. 5022. Section 308 of division B of Public Law 108–447 is amended by striking all after the words "shall be deposited", and inserting "as offsetting receipts to the fund established under 28 U.S.C. 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and Other Judicial Services and the Administrative Offices of the United States Courts.".

[SEC. 5023. Section 198 of division H of Public Law 108–447 is amended by inserting "under title 23 of the United States Code" after "law".

[SEC. 5024. The District of Columbia Appropriations Act, 2005 (Public Law 108–335) approved October 18, 2004, is amended as follows:

[(1) Section 331 is amended as follows:

[(A) in the first sentence by striking the word "$15,000,000" and inserting "$42,000,000, to remain available until expended," in its place; and

[(B) by amending paragraph (5) to read as follows:

["(5) The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate in writing 30 days in advance of any obligation or expenditure.".

[(2) By inserting a new section before the short title at the end to read as follows:

["SEC. 348. The amount appropriated by this Act may be increased by an additional amount of $206,736,000 (including $49,927,000 from local funds and $156,809,000 from other funds) to be transferred by the Mayor of the District of Columbia to the various headings under this Act as follows:

[''(1) $174,927,000 (including $34,927,000 from local funds, and $140,000,000 from other funds) shall be transferred under the heading 'Government Direction and Support': *Provided*, That of the funds, $33,000,000 from local funds shall remain available until expended: *Provided further*, That of the funds, $140,000,000 from other funds shall remain available until expended and shall only be available in conjunction with revenue from a private or alternative financing proposal approved pursuant to section 106 of DC Act 15-717, the 'Ballpark Omnibus Financing and Revenue Act of 2004' approved by the District of Columbia, December 29, 2004, and

[''(2) $15,000,000 from local funds shall be transferred under the heading 'Repayment of Loans and Interest', and

[''(3) $14,000,000 from other funds shall be transferred under the heading 'Sports and Entertainment Commission', and

[''(4) $2,809,000 from other funds shall be transferred under the heading 'Water and Sewer Authority'.''.

[TITLE VI—

[HUMANITARIAN ASSISTANCE CODE OF CONDUCT

[SEC. 6001. SHORT TITLE.

[This title may be cited as the ''Humanitarian Assistance Code of Conduct Act of 2005''.

[SEC. 6002. CODE OF CONDUCT FOR THE PROTECTION OF BENEFICIARIES OF HUMANITARIAN ASSISTANCE.

[(a) PROHIBITION.—None of the funds made available for foreign operations, export financing, and related programs under the headings ''Migration and Refugee Assistance'', ''United States Emergency Refugee and Migration Assistance Fund'', ''International Disaster and Famine Assistance'', or ''Transition Initiatives'' may be obligated to an organization that fails to adopt a code of conduct that provides for the protection of beneficiaries of assistance under any such heading from sexual exploitation and abuse in humanitarian relief operations.

[(b) SIX CORE PRINCIPLES.—The code of conduct referred to in subsection (a) shall, to the maximum extent practicable, be consistent with the following six core principles of the United Nations Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises:

[(1) ''Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment.''.

[(2) ''Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defense.''.

[(3) ''Exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior, is prohibited. This includes exchange of assistance that is due to beneficiaries.''.

[(4) ''Sexual relationships between humanitarian workers and beneficiaries are strongly discouraged since they are based on inherently unequal power dynamics. Such relationships undermine the credibility and integrity of humanitarian aid work.''.

[(5) ''Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, he or she must report such concerns via established agency reporting mechanisms.''.

[(6) ''Humanitarian agencies are obliged to create and maintain an environment which prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems which maintain this environment.''.

[SEC. 6003. REPORT.

[Not later than 180 days after the date of the enactment of this Act, and not later than one year after the date of the enactment of this Act, the President shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate a detailed report on the implementation of this title.

[SEC. 6004. EFFECTIVE DATE; APPLICABILITY.

[This title—

[(1) takes effect 60 days after the date of the enactment of this Act; and

[(2) applies to funds obligated after the effective date referred to in paragraph (1)—

[(A) for fiscal year 2005; and

[(B) any subsequent fiscal year.

[TITLE VII—ADDITIONAL GENERAL PROVISIONS

[SEC. 7001. None of the funds made available in this Act may be used for embassy security, construction, and maintenance.

[SEC. 7002. None of the funds made available in this Act may be used to fund any contract in contravention of section 15(g)(2) of the Small Business Act (15 U.S.C. 644(g)(2)).

[SEC. 7003. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

[(1) Section 2340A of title 18, United States Code.

[(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-822; 8 U.S.C. 1231 note) and any regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

[This division may be cited as the ''Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005''.

[DIVISION B—REAL ID ACT OF 2005

[SECTION 1. SHORT TITLE.

[This division may be cited as the ''REAL ID Act of 2005''.

[TITLE I—AMENDMENTS TO FEDERAL LAWS TO PROTECT AGAINST TERRORIST ENTRY

[SEC. 101. PREVENTING TERRORISTS FROM OBTAINING RELIEF FROM REMOVAL.

[(a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)) is amended—

[(1) by striking ''The Attorney General'' the first place such term appears and inserting the following:

[''(A) ELIGIBILITY.—The Secretary of Homeland Security or the Attorney General'';

[(2) by striking ''the Attorney General'' the second and third places such term appears and inserting ''the Secretary of Homeland Security or the Attorney General''; and

[(3) by adding at the end the following:

[''(B) BURDEN OF PROOF.—

[''(i) IN GENERAL.—The burden of proof is on the applicant to establish that the applicant is a refugee, within the meaning of section 101(a)(42)(A). To establish that the applicant is a refugee within the meaning of such section, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be a central reason for persecuting the applicant.

[''(ii) SUSTAINING BURDEN.—The testimony of the applicant may be sufficient to sustain the applicant's burden without corroboration, but only if the applicant satisfies the trier of fact that the applicant's testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant is a refugee. In determining whether the applicant has met the applicant's burden, the trier of fact may weigh the credible testimony along with other evidence of record. Where the trier of fact determines, in the trier of fact's discretion, that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain the evidence without departing the United States. The inability to obtain corroborating evidence does not excuse the applicant from meeting the applicant's burden of proof.

[''(iii) CREDIBILITY DETERMINATION.—The trier of fact should consider all relevant factors and may, in the trier of fact's discretion, base the trier of fact's credibility determination on any such factor, including the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not made under oath), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. There is no presumption of credibility.''.

[(b) WITHHOLDING OF REMOVAL.—Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) is amended by adding at the end the following:

[''(C) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A), the trier of fact shall determine whether the alien has sustained the alien's burden of proof, and shall make credibility determinations, in the manner described in clauses (ii) and (iii) of section 208(b)(1)(B).''.

[(c) OTHER REQUESTS FOR RELIEF FROM REMOVAL.—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1230(c)) is amended—

[(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

[(2) by inserting after paragraph (3) the following:

[''(4) APPLICATIONS FOR RELIEF FROM REMOVAL.—

[''(A) IN GENERAL.—An alien applying for relief or protection from removal has the burden of proof to establish that the alien—

["(i) satisfies the applicable eligibility requirements; and

["(ii) with respect to any form of relief that is granted in the exercise of discretion, that the alien merits a favorable exercise of discretion.

["(B) SUSTAINING BURDEN.—The applicant must comply with the applicable requirements to submit information or documentation in support of the applicant's application for relief or protection as provided by law or by regulation or in the instructions for the application form. In evaluating the testimony of the applicant or other witness in support of the application, the immigration judge will determine whether or not the testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant has satisfied the applicant's burden of proof. In determining whether the applicant has met such burden, the immigration judge shall weigh the credible testimony along with other evidence of record. Where the immigration judge determines in the judge's discretion that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant demonstrates that the applicant does not have the evidence and cannot reasonably obtain the evidence without departing from the United States. The inability to obtain corroborating evidence does not excuse the applicant from meeting the burden of proof.

["(C) CREDIBILITY DETERMINATION.—The immigration judge should consider all relevant factors and may, in the judge's discretion, base the judge's credibility determination on any such factor, including the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not made under oath), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. There is no presumption of credibility.".

[(d) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—Section 242(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(4)) is amended by adding at the end, after subparagraph (D), the following: "No court shall reverse a determination made by a trier of fact with respect to the availability of corroborating evidence, as described in section 208(b)(1)(B), 240(c)(4)(B), or 241(b)(3)(C), unless the court finds that a reasonable trier of fact is compelled to conclude that such corroborating evidence is unavailable.".

[(e) CLARIFICATION OF DISCRETION.—Section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)) is amended—

[(1) by inserting "or the Secretary of Homeland Security" after "Attorney General" each place such term appears; and

[(2) in the matter preceding clause (i), by inserting "and regardless of whether the judgment, decision, or action is made in removal proceedings," after "other provision of law,".

[(f) REMOVAL OF CAPS.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended—

[(1) in subsection (a)(1)—

[(A) by striking "Service" and inserting "Department of Homeland Security"; and

[(B) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security or the Attorney General";

[(2) in subsection (b)—

[(A) by striking "Not more" and all that follows through "asylum who—" and inserting "The Secretary of Homeland Security or the Attorney General, in the Secretary's or the Attorney General's discretion and under such regulations as the Secretary or the Attorney General may prescribe, may adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—"; and

[(B) in the matter following paragraph (5), by striking "Attorney General" and inserting "Secretary of Homeland Security or the Attorney General"; and

[(3) in subsection (c), by striking "Attorney General" and inserting "Secretary of Homeland Security or the Attorney General".

[(g) EFFECTIVE DATES.—

[(1) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect as if enacted on March 1, 2003.

[(2) The amendments made by subsections (a)(3), (b), and (c) shall take effect on the date of the enactment of this division and shall apply to applications for asylum, withholding, or other removal made on or after such date.

[(3) The amendment made by subsection (d) shall take effect on the date of the enactment of this division and shall apply to all cases in which the final administrative removal order is or was issued before, on, or after such date.

[(4) The amendments made by subsection (e) shall take effect on the date of the enactment of this division and shall apply to all cases pending before any court on or after such date.

[(5) The amendments made by subsection (f) shall take effect on the date of the enactment of this division.

[(h) REPEAL.—Section 5403 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

[SEC. 102. WAIVER OF LAWS NECESSARY FOR IMPROVEMENT OF BARRIERS AT BORDERS.

[Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended to read as follows:

["(c) WAIVER.—

["(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive, and shall waive, all laws such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section.

["(2) NO JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), no court, administrative agency, or other entity shall have jurisdiction—

["(A) to hear any cause or claim arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1); or

["(B) to order compensatory, declaratory, injunctive, equitable, or any other relief for damage alleged to arise from any such action or decision.".

[SEC. 103. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.

[(a) IN GENERAL.—So much of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) as precedes the final sentence is amended to read as follows:

["(i) IN GENERAL.—Any alien who—

["(I) has engaged in a terrorist activity;

["(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

["(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

["(IV) is a representative (as defined in clause (v)) of—

["(aa) a terrorist organization (as defined in clause (vi)); or

["(bb) a political, social, or other group that endorses or espouses terrorist activity;

["(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

["(VI) is a member of a terrorist organization described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

["(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

["(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or

["(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years,

[is inadmissible.".

[(b) ENGAGE IN TERRORIST ACTIVITY DEFINED.—Section 212(a)(3)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as follows:

["(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization—

["(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

["(II) to prepare or plan a terrorist activity;

["(III) to gather information on potential targets for terrorist activity;

["(IV) to solicit funds or other things of value for—

["(aa) a terrorist activity;

["(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

["(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

["(V) to solicit any individual—

["(aa) to engage in conduct otherwise described in this subsection;

["(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

["(cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

["(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

["(aa) for the commission of a terrorist activity;

["(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

["(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or

["(dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.

[This clause shall not apply to any material support the alien afforded to an organization or individual that has committed terrorist activity, if the Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Attorney General, after consultation with the Secretary of State and the Secretary of Homeland Security, concludes in his sole unreviewable discretion, that this clause should not apply.".

[(c) TERRORIST ORGANIZATION DEFINED.—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

["(vi) TERRORIST ORGANIZATION DEFINED.—As used in this section, the term 'terrorist organization' means an organization—

["(I) designated under section 219;

["(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

["(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).".

[(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this division, and these amendments, and section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), as amended by this section, shall apply to—

[(1) removal proceedings instituted before, on, or after the date of the enactment of this division; and

[(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

[SEC. 104. REMOVAL OF TERRORISTS.

[(a) IN GENERAL.—

[(1) IN GENERAL.—Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

["(B) TERRORIST ACTIVITIES.—Any alien who is described in subparagraph (B) or (F) of section 212(a)(3) is deportable.".

[(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this division, and the amendment, and section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)), as amended by such paragraph, shall apply to—

[(A) removal proceedings instituted before, on, or after the date of the enactment of this division; and

[(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

[(b) REPEAL.—Effective as of the date of the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), section 5402 of such Act is repealed, and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

[SEC. 105. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

[(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

[(1) in subsection (a)—

[(A) in paragraph (2)—

[(i) in subparagraph (A), by inserting "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title" after "Notwithstanding any other provision of law";

[(ii) in each of subparagraphs (B) and (C), by inserting "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in subparagraph (D)" after "Notwithstanding any other provision of law"; and

[(iii) by adding at the end the following:

["(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in subparagraph (B) or (C), or in any other provision of this Act which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or pure questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section."; and

[(B) by adding at the end the following:

["(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, except as provided in subsection (e).

["(5) EXCLUSIVE MEANS OF REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act, except as provided in subsection (e). For purposes of this Act, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).";

[(2) in subsection (b)—

[(A) in paragraph (3)(B), by inserting "pursuant to subsection (f)" after "unless"; and

[(B) in paragraph (9), by adding at the end the following: "Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact."; and

[(3) in subsection (g), by inserting "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title" after "notwithstanding any other provision of law".

[(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this division and shall apply to cases in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this division.

[(c) TRANSFER OF CASES.—If an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this division, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation, or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section, or under section 309(c)(4)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note). The court of appeals shall treat the transferred case as if it had been filed pursuant to a petition for review under such section 242, except that subsection (b)(1) of such section shall not apply.

[(d) TRANSITIONAL RULE CASES.—A petition for review filed under former section 106(a) of the Immigration and Nationality Act (as in effect before its repeal by section 306(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1252 note)) shall be treated as if it had been filed as a petition for review under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, such petition for review shall be the sole and exclusive means for judicial review of an order of deportation or exclusion.

[SEC. 106. DELIVERY BONDS.

[(a) DEFINITIONS.—For purposes of this section:

[(1) DELIVERY BOND.—The term "delivery bond" means a written suretyship undertaking for the surrender of an individual against whom the Department of Homeland Security has issued an order to show cause or a notice to appear, the performance of which is guaranteed by an acceptable surety on Federal bonds.

[(2) PRINCIPAL.—The term "principal" means an individual who is the subject of a bond.

[(3) SURETYSHIP UNDERTAKING.—The term "suretyship undertaking" means a written agreement, executed by a bonding agent on behalf of a surety, which binds all parties to its certain terms and conditions and which provides obligations for the principal and the surety while under the bond and penalties for forfeiture to ensure the obligations of the principal and the surety under the agreement.

[(4) BONDING AGENT.—The term "bonding agent" means any individual properly licensed, approved, and appointed by power of attorney to execute or countersign surety bonds in connection with any matter governed by the Immigration and Nationality Act as amended (8 U.S.C. 1101, et seq.), and who receives a premium for executing or countersigning such surety bonds.

[(5) SURETY.—The term "surety" means an entity, as defined by, and that is in compliance with, sections 9304 through 9308 of title 31, United States Code, that agrees—

[(A) to guarantee the performance, where appropriate, of the principal under a bond;

[(B) to perform the bond as required; and

[(C) to pay the face amount of the bond as a penalty for failure to perform.

[(b) VALIDITY, AGENT NOT CO-OBLIGOR, EXPIRATION, RENEWAL, AND CANCELLATION OF BONDS.—

[(1) VALIDITY.—Delivery bond undertakings are valid if such bonds—

[(A) state the full, correct, and proper name of the alien principal;

[(B) state the amount of the bond;

[(C) are guaranteed by a surety and countersigned by an agent who is properly appointed;

[(D) bond documents are properly executed; and

[(E) relevant bond documents are properly filed with the Secretary of Homeland Security.

[(2) BONDING AGENT NOT CO-OBLIGOR, PARTY, OR GUARANTOR IN INDIVIDUAL CAPACITY, AND NO REFUSAL IF ACCEPTABLE SURETY.—Section 9304(b) of title 31, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, no bonding agent of a corporate surety shall be required to execute bonds as a co-obligor, party, or guarantor in an individual capacity on bonds provided by the corporate surety, nor shall a corporate surety bond be refused if the corporate surety appears on the current Treasury Department Circular 570 as a company holding a certificate of authority as an acceptable surety on Federal bonds and attached to the bond is a currently valid instrument showing the authority of the bonding agent of the surety company to execute the bond.".

[(3) EXPIRATION.—A delivery bond undertaking shall expire at the earliest of—

[(A) 1 year from the date of issue;

[(B) at the cancellation of the bond or surrender of the principal; or

[(C) immediately upon nonpayment of the renewal premium.

[(4) RENEWAL.—Delivery bonds may be renewed annually, with payment of proper premium to the surety, if there has been no breach of conditions, default, claim, or forfeiture of the bond. Notwithstanding any renewal, when the alien is surrendered to the Secretary of Homeland Security for removal, the Secretary shall cause the bond to be canceled.

[(5) CANCELLATION.—Delivery bonds shall be canceled and the surety exonerated—

[(A) for nonrenewal after the alien has been surrendered to the Department of Homeland Security for removal;

[(B) if the surety or bonding agent provides reasonable evidence that there was misrepresentation or fraud in the application for the bond;

[(C) upon the death or incarceration of the principal, or the inability of the surety to produce the principal for medical reasons;

[(D) if the principal is detained by any law enforcement agency of any State, county, city, or any politial subdivision thereof;

[(E) if it can be established that the alien departed the United States of America for any reason without permission of the Secretary of Homeland Security, the surety, or the bonding agent;

[(F) if the foreign state of which the principal is a national is designated pursuant to section 244 of the Act (8 U.S.C. 1254a) after the bond is posted; or

[(G) if the principal is surrendered to the Department of Homeland Security, removal by the surety or the bonding agent.

[(6) SURRENDER OF PRINCIPAL; FORFEITURE OF BOND PREMIUM.—

[(A) SURRENDER.—At any time, before a breach of any of the bond conditions, if in the opinion of the surety or bonding agent, the principal becomes a flight risk, the principal may be surrendered to the Department of Homeland Security for removal.

[(B) FORFEITURE OF BOND PREMIUM.—A principal may be surrendered without the return of any bond premium if the principal—

[(i) changes address without notifying the surety, the bonding agent, and the Secretary of Homeland Security in writing prior to such change;

[(ii) hides or is concealed from a surety, a bonding agent, or the Secretary;

[(iii) fails to report to the Secretary as required at least annually; or

[(iv) violates the contract with the bonding agent or surety, commits any act that may lead to a breach of the bond, or otherwise violates any other obligation or condition of the bond established by the Secretary.

[(7) CERTIFIED COPY OF BOND AND ARREST WARRANT TO ACCOMPANY SURRENDER.—

[(A) IN GENERAL.—A bonding agent or surety desiring to surrender the principal—

[(i) shall have the right to petition the Secretary of Homeland Security or any Federal court, without having to pay any fees or court costs, for an arrest warrant for the arrest of the principal;

[(ii) shall forthwith be provided 2 certified copies each of the arrest warrant and the bond undertaking, without having to pay any fees or courts costs; and

[(iii) shall have the right to pursue, apprehend, detain, and surrender the principal, together with certified copies of the arrest warrant and the bond undertaking, to any Department of Homeland Security detention official or Department detention facility or any detention facility authorized to hold Federal detainees.

[(B) EFFECTS OF DELIVERY.—Upon surrender of a principal under subparagraph (A)(iii)—

[(i) the official to whom the principal is surrendered shall detain the principal in custody and issue a written certificate of surrender; and

[(ii) the Secretary of Homeland Security shall immediately exonerate the surety from any further liability on the bond.

[(8) FORM OF BOND.—Delivery bonds shall in all cases state the following and be secured by a corporate surety that is certified as an acceptable surety on Federal bonds and whose name appears on the current Treasury Department Circular 570:

["(A) BREACH OF BOND; PROCEDURE, FORFEITURE, NOTICE.—

["(i) If a principal violates any conditions of the delivery bond, or the principal is or becomes subject to a final administrative order of deportation or removal, the Secretary of Homeland Security shall—

["(I) immediately issue a warrant for the principal's arrest and enter that arrest warrant into the National Crime Information Center (NCIC) computerized information database;

["(II) order the bonding agent and surety to take the principal into custody and surrender the principal to any one of 10 designated Department of Homeland Security 'turn-in' centers located nationwide in the areas of greatest need, at any time of day during 15 months after mailing the arrest warrant and the order to the bonding agent and the surety as required by subclause (III), and immediately enter that order into the National Crime Information Center (NCIC) computerized information database; and

["(III) mail 2 certified copies each of the arrest warrant issued pursuant to subclause (I) and 2 certified copies each of the order issued pursuant to subclause (II) to only the bonding agent and surety via certified mail return receipt to their last known addresses.

["(ii) Bonding agents and sureties shall immediately notify the Secretary of Homeland Security of their changes of address and/or telephone numbers.

["(iii) The Secretary of Homeland Security shall establish, disseminate to bonding agents and sureties, and maintain on a current basis a secure nationwide toll-free list of telephone numbers of Department of Homeland Security officials, including the names of such officials, that bonding agents, sureties, and their employees may immediately contact at any time to discuss and resolve any issue regarding any principal or bond, to be known as 'Points of Contact'.

["(iv) A bonding agent or surety shall have full and complete access, free of charge, to any and all information, electronic or otherwise, in the care, custody, and control of the United States Government or any State or local government or any subsidiary or police agency thereof regarding the principal that may be helpful in complying with section 105 of the REAL ID Act of 2005 that the Secretary of Homeland Security, by regulations subject to approval by Congress, determines may be helpful in locating or surrendering the principal. Beyond the principal, a bonding agent or surety shall not be required to disclose any information, including but not limited to the arrest warrant and order, received from any governmental source, any person, firm, corporation, or other entity.

["(v) If the principal is later arrested, detained, or otherwise located outside the United States and the outlying possessions of the United States (as defined in section 101(a) of the Immigration and Nationality Act), the Secretary of Homeland Security shall—

["(I) immediately order that the surety is completely exonerated, and the bond canceled; and

["(II) if the Secretary of Homeland Security has issued an order under clause (i), the surety may request, by written, properly filed motion, reinstatement of the bond. This subclause may not be construed to prevent the Secretary of Homeland Security from revoking or resetting a bond at a higher amount.

[“(vi) The bonding agent or surety must—

[“(I) during the 15 months after the date the arrest warrant and order were mailed pursuant to clause (i)(III) surrender the principal one time; or

[“(II)(aa) provide reasonable evidence that producing the principal was prevented—

[“(aaa) by the principal's illness or death;

[“(bbb) because the principal is detained in custody in any city, State, country, or any political subdivision thereof;

[“(ccc) because the principal has left the United States or its outlying possessions (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); or

[“(ddd) because required notice was not given to the bonding agent or surety; and

[“(bb) establish by affidavit that the inability to produce the principal was not with the consent or connivance of the bonding agent or surety.

[“(vii) If compliance occurs more than 15 months but no more than 18 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 25 percent of the face amount of the bond shall be assessed as a penalty against the surety.

[“(viii) If compliance occurs more than 18 months but no more than 21 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 50 percent of the face amount of the bond shall be assessed as a penalty against the surety.

[“(ix) If compliance occurs more than 21 months but no more than 24 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 75 percent of the face amount of the bond shall be assessed as a penalty against the surety.

[“(x) If compliance occurs 24 months or more after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 100 percent of the face amount of the bond shall be assessed as a penalty against the surety.

[“(xi) If any surety surrenders any principal to the Secretary of Homeland Security at any time and place after the period for compliance has passed, the Secretary of Homeland Security shall cause to be issued to that surety an amount equal to 50 percent of the face amount of the bond: *Provided, however*, That if that surety owes any penalties on bonds to the United States, the amount that surety would otherwise receive shall be offset by and applied as a credit against the amount of penalties on bonds it owes the United States, and then that surety shall receive the remainder of the amount to which it is entitled under this subparagraph, if any.

[“(xii) All penalties assessed against a surety on a bond, if any, shall be paid by the surety no more than 27 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III).

[“(B) The Secretary of Homeland Security may waive penalties or extend the period for payment or both, if—

[“(i) a written request is filed with the Secretary of Homeland Security; and

[“(ii) the bonding agent or surety provides an affidavit that diligent efforts were made to effect compliance of the principal.

[“(C) COMPLIANCE; EXONERATION; LIMITATION OF LIABILITY.—

[“(i) COMPLIANCE.—A bonding agent or surety shall have the absolute right to locate, apprehend, arrest, detain, and surrender any principal, wherever he or she may be found, who violates any of the terms and conditions of his or her bond.

[“(ii) EXONERATION.—Upon satisfying any of the requirements of the bond, the surety shall be completely exonerated.

[“(iii) LIMITATION OF LIABILITY.—Notwithstanding any other provision of law, the total liability on any surety undertaking shall not exceed the face amount of the bond.”.

[(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this division and shall apply to bonds and surety undertakings executed before, on, or after the date of the enactment of this division.

[SEC. 107. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.

[(a) IN GENERAL.—Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

[“(2) subject to such reasonable regulations as the Secretary of Homeland Security may prescribe, shall permit agents, servants, and employees of corporate sureties to visit in person with individuals detained by the Secretary of and, subject to section 241(a)(8), may release the alien on a delivery bond of at least $10,000, with security approved by the Secretary, and containing conditions and procedures prescribed by section 105 of the REAL ID Act of 2005 and by the Secretary, but the Secretary shall not release the alien on or to his own recognizance unless an order of an immigration judge expressly finds and states in a signed order to release the alien to his own recognizance that the alien is not a flight risk and is not a threat to the United States”.

[(b) REPEAL.—Section 286(r) of the Immigration and Nationality Act (8 U.S.C. 1356(r)) is repealed.

[(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this division.

[SEC. 108. DETENTION OF ALIENS DELIVERED BY BONDSMEN.

[(a) IN GENERAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following:

[“(8) EFFECT OF PRODUCTION OF ALIEN BY BONDSMAN.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond whether or not the Department of Homeland Security accepts custody of the alien. The obligor on the bond shall be deemed to have substantially performed all conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.”.

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this division and shall apply to all immigration bonds posted before, on, or after such date.

[TITLE II—IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS

[SEC. 201. DEFINITIONS.

[In this title, the following definitions apply:

[(1) DRIVER'S LICENSE.—The term “driver's license” means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

[(2) IDENTIFICATION CARD.—The term “identification card” means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

[(3) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

[(4) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

[SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

[(a) MINIMUM STANDARDS FOR FEDERAL USE.—

[(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this division, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

[(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary of Transportation. Such certifications shall be made at such times and in such manner as the Secretary of Transportation, in consultation with the Secretary of Homeland Security, may prescribe by regulation.

[(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

[(1) The person's full legal name.

[(2) The person's date of birth.

[(3) The person's gender.

[(4) The person's driver's license or identification card number.

[(5) A digital photograph of the person.

[(6) The person's address of principle residence.

[(7) The person's signature.

[(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

[(9) A common machine-readable technology, with defined minimum data elements.

[(c) MINIMUM ISSUANCE STANDARDS.—

[(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

[(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

[(B) Documentation showing the person's date of birth.

[(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

[(D) Documentation showing the person's name and address of principal residence.

[(2) SPECIAL REQUIREMENTS.—

[(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

[(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

[(i) is a citizen of the United States;

[(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

[(iii) has conditional permanent resident status in the United States;

[(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

[(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

[(vi) has a pending application for asylum in the United States;

[(vii) has a pending or approved application for temporary protected status in the United States;

[(viii) has approved deferred action status; or

[(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

[(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

[(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

[(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

[(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

[(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

[(3) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

[(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

[(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

[(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

[(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

[(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

[(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

[(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

[(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

[(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

[(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

[(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

[(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

[(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

[(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

[SEC. 203. LINKING OF DATABASES.

[(a) IN GENERAL.—To be eligible to receive any grant or other type of financial assistance made available under this title, a State shall participate in the interstate compact regarding sharing of driver license data, known as the "Driver License Agreement", in order to provide electronic access by a State to information contained in the motor vehicle databases of all other States.

[(b) REQUIREMENTS FOR INFORMATION.—A State motor vehicle database shall contain, at a minimum, the following information:

[(1) All data fields printed on drivers' licenses and identification cards issued by the State.

[(2) Motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

[SEC. 204. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

[(a) CRIMINAL PENALTY.—Section 1028(a)(8) of title 18, United States Code, is amended by striking "false authentication features" and inserting "false or actual authentication features".

[(b) USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.—

[(1) IN GENERAL.—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

[(2) FALSE DEFINED.—In this subsection, the term "false" has the same meaning such term has under section 1028(d) of title 18, United States Code.

[SEC. 205. GRANTS TO STATES.

[(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this title.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this title.

[SEC. 206. AUTHORITY.

[(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

[(b) COMPLIANCE WITH STANDARDS.—All authority to certify compliance with standards under this title shall be carried out by the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the States.

[(c) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

[SEC. 207. REPEAL.

[Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

[SEC. 208. LIMITATION ON STATUTORY CONSTRUCTION.

[Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

[TITLE III—BORDER INFRASTRUCTURE AND TECHNOLOGY INTEGRATION

[SEC. 301. VULNERABILITY AND THREAT ASSESSMENT.

[(a) STUDY.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

[(b) REPORT TO CONGRESS.—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a).

[SEC. 302. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

[(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this division, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation

Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

[(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

[(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

[(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment of the technologies considered best suited to address such threats.

[(b) ADDITIONAL REQUIREMENTS.—

[(1) IN GENERAL.—The pilot program shall include the utilization of a variety of ground surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

[(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

[(B) the cost, utility, and effectiveness of such technologies for border security; and

[(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

[(2) TECHNOLOGIES.—The ground surveillance technologies utilized in the pilot program shall include the following:

[(A) Video camera technology.

[(B) Sensor technology.

[(C) Motion detection technology.

[(c) IMPLEMENTATION.—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

[(d) REPORT.—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

[SEC. 303. ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY.

[(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this division, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

[(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

[(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local government agencies, and Indian tribal agencies on such matters.

[(b) REPORT.—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary.]

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—DEFENSE-RELATED APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $13,609,308,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $535,108,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $1,358,053,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $1,684,943,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $39,627,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy", $9,411,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps", $4,015,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force", $130,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $291,100,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", $91,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $16,767,304,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $3,430,801,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $970,464,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $5,528,574,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $3,308,392,000, of which—

(1) not to exceed $25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom; and

(2) up to $1,370,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: Provided, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15

days following notification to the appropriate congressional committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $21,354,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $75,164,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $24,920,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $326,879,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

AFGHANISTAN SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Afghanistan Security Forces Fund", $1,285,000,000, to remain available until September 30, 2006: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Forces Command—Afghanistan, or the Secretary's designee to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction: Provided further, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That of the amounts provided under this heading, $290,000,000 shall be transferred to "Operation and Maintenance, Army" to reimburse the Department of the Army for costs incurred to train, equip and provide related assistance to Afghan security forces: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: Provided further, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Iraq Security Forces Fund", $5,700,000,000, to remain available until September 30, 2006: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction: Provided further, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That of the amounts provided under this heading, $210,000,000 shall be transferred to "Operation and Maintenance, Army" to reimburse the Department of the Army for costs incurred to train, equip, and provide related assistance to Iraqi security forces: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: Provided further, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That, notwithstanding any other provision of law, from funds made available under this heading, $99,000,000 shall be used to provide assistance to the Government of Jordan to establish a regional training center designed to provide comprehensive training programs for regional military and security forces and military and civilian officials, to enhance the capability of such forces and officials to respond to existing and emerging security threats in the region: Provided further, That assistance authorized by the preceding proviso may include the provision of facilities, equipment, supplies, services and training: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $458,677,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", $280,250,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $2,406,447,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $475,000,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $5,322,905,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $200,295,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", $66,000,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps",

$133,635,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Other Procurement, Navy

For an additional amount for "Other Procurement, Navy", $78,397,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Procurement, Marine Corps

For an additional amount for "Procurement, Marine Corps", $2,929,045,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Aircraft Procurement, Air Force

For an additional amount for "Aircraft Procurement, Air Force", $269,309,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Procurement of Ammunition, Air Force

For an additional amount for "Procurement of Ammunition, Air Force", $6,998,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Other Procurement, Air Force

For an additional amount for "Other Procurement, Air Force", $2,653,760,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Procurement, Defense-Wide

For an additional amount for "Procurement, Defense-Wide", $591,327,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Test and Evaluation, Army

For an additional amount for "Research, Development, Test and Evaluation, Army", $37,170,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Research, Development, Test and Evaluation, Navy

For an additional amount for "Research, Development, Test and Evaluation, Navy", $179,051,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Research, Development, Test and Evaluation, Air Force

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $132,540,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Research, Development, Test and Evaluation, Defense-Wide

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $203,561,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

For an additional amount for "Defense Working Capital Funds", $1,311,300,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

National Defense Sealift Fund

For an additional amount for "National Defense Sealift Fund", $32,400,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For an additional amount for "Defense Health Program", $225,550,000 for Operation and maintenance: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Drug Interdiction and Counter-Drug Activities, Defense

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $227,000,000: Provided, That these funds may be used only for such activities related to Afghanistan and Pakistan: Provided further, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; and procurement: Provided further, That the funds transferred shall be merged with and be available for the same purposes and for the same time period, as the appropriation to which transferred: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Office of the Inspector General

For an additional amount for "Office of the Inspector General", $148,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCY

Intelligence Community Management Account

For an additional amount for "Intelligence Community Management Account", $89,300,000, of which $20,000,000 is to remain available until September 30, 2006: Provided, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

SPECIAL TRANSFER AUTHORITY

(TRANSFER OF FUNDS)

Sec. 1101. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,000,000,000 of the funds made available to the Department of Defense in this Act: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: Provided further, That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2005, except for the fourth proviso: Provided further, That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL TRANSFER AUTHORITY

(TRANSFER OF FUNDS)

Sec. 1102. Section 8005 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 969), is amended by striking "$3,500,000,000" and inserting in lieu thereof "$5,685,000,000": Provided, That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

COUNTER-DRUG ACTIVITIES

Sec. 1103. (a) Authority to Provide Support.—Of the amount appropriated under the heading,. "Drug Interdiction and Counter-Drug Activities, Defense" in this Act, not to exceed $40,000,000 may be made available for the provision of support for counter-drug activities of the Governments of Afghanistan and Pakistan: Provided, That such support shall be provided in addition to support provided for the counter-drug activities of said Government under any other provision of law.

(b) Types of Support.—

(1) Except as specified in subsections (b)(2) and (b)(3) of this section, the support that may be provided under the authority in this section shall be limited to the types of support specified in section 1033(c)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85, as amended by Public Law 106-398 and Public Law 108-136) and conditions on the provision of support as contained in section 1033 shall apply for fiscal year 2005.

(2) The Secretary of Defense may transfer vehicles, aircraft, and detection, interception, monitoring and testing equipment to said Governments for counter-drug activities.

(3) For the Governments of Afghanistan and Pakistan, the Secretary of Defense may also provide individual and crew-served weapons, and ammunition for counter-drug security forces.

EXTRAORDINARY AND EMERGENCY EXPENSES

Sec. 1104. Under the heading, "Operation and Maintenance, Defense-Wide", in title II of the Department of Defense Appropriations Act, 2005 (Public Law 108-287), strike "$32,000,000" and insert "$43,000,000".

ADVANCE BILLING

Sec. 1105. Notwithstanding section 2208(l) of title 10, United States Code, during the current fiscal year working capital funds of the Department of Defense may utilize advance billing in a total amount not to exceed $1,500,000,000.

WEAPONS PURCHASE AND DISPOSAL

SEC. 1106. Notwithstanding any other provision of law, from funds made available in this Act to the Department of Defense under "Operation and Maintenance, Defense-Wide", not to exceed $10,000,000 may be used to purchase and dispose of weapons from any person, foreign government, international organization or other entity, for the purpose of protecting U.S. forces overseas: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding the purchase and disposal of weapons under this section.

COMMANDER'S EMERGENCY RESPONSE PROGRAM

SEC. 1107. Section 1201(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375), as amended by section 102, title I, division J, Consolidated Appropriations Act, 2005 (Public Law 108–447), is further amended by striking "$500,000,000" and inserting "$854,000,000".

CLASSIFIED PROGRAM

SEC. 1108. Section 8090(b) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287), is amended by striking "$185,000,000" and inserting "$210,000,000".

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 1109. Section 1096(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), is amended—

(1) by striking "in the fiscal year after the effective date of this Act" and inserting in lieu thereof "in the fiscal years 2005 and 2006"; and

(2) in paragraph (1) by striking "500 new personnel billets" and inserting in lieu thereof "the total of 500 new personnel positions".

RESERVE AFFILIATION BONUS

SEC. 1110. Notwithstanding subsection (c) of section 308e of title 37, United States Code, the maximum amount of the bonus paid to a member of the Armed Forces pursuant to a reserve affiliation agreement entered into under such section during fiscal year 2005 shall not exceed $10,000, and the Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast Guard, may prescribe regulations under subsection (f) of such section to modify the method by which bonus payments are made under reserve affiliation agreements entered into during such fiscal year.

SERVICEMEMBERS' GROUP LIFE INSURANCE

SEC. 1111. SERVICEMEMBERS' GROUP LIFE INSURANCE ENHANCEMENTS. (a) INCREASED MAXIMUM AMOUNT UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.—Section 1967 of title 38, United States Code, is amended—

(1) in subsection (a)(3)(A), by striking clause (i) and inserting the following new clause:

"(i) In the case of a member—

"(I) $400,000 or such lesser amount as the member may elect;

"(II) in the case of a member covered by subsection (e), the amount provided for or elected by the member under subclause (I) plus the additional amount of insurance provided for the member by subsection (e); or

"(III) in the case of a member covered by subsection (e) who has made an election under paragraph (2)(A) not to be insured under this subchapter, the amount of insurance provided for the member by subsection (e)."; and

(2) in subsection (d), by striking "$250,000" and inserting "$400,000".

(b) ADDITIONAL AMOUNT FOR MEMBERS SERVING IN CERTAIN AREAS OR OPERATIONS.—

(1) INCREASED AMOUNT.—Section 1967 of such title is further amended—

(A) by redesignating subsection (e) as subsection (f); and

(B) by inserting after subsection (d) the following new subsection (e):

"(e)(1) A member covered by this subsection is any member as follows:

"(A) Any member who dies as a result of one or more wounds, injuries, or illnesses incurred while serving in an operation or area that the Secretary designates, in writing, as a combat operation or a zone of combat, respectively, for purposes of this subsection.

"(B) Any member who formerly served in an operation or area so designated and whose death is determined (under regulations prescribed by the Secretary of Defense) to be the direct result of injury or illness incurred or aggravated while so serving.

"(2) The additional amount of insurance under this subchapter that is provided for a member by this subsection is $150,000, except that in a case in which the amount provided for or elected by the member under subclause (I) of subsection (a)(3)(A) exceeds $250,000, the additional amount of insurance under this subchapter that is provided for the member by this subsection shall be reduced to such amount as is necessary to comply with the limitation in paragraph (3).

"(3) The total amount of insurance payable for a member under this subchapter may not exceed $400,000.

"(4) While a member is serving in an operation or area designated as described in paragraph (1), the cost of insurance of the member under this subchapter that is attributable to $150,000 of insurance coverage shall be contributed as provided in section 1969(b)(2) of this title and may not be deducted or withheld from the member's pay.".

(2) FUNDING.—Section 1969(b) of such title is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraph:

"(2) For each month for which a member insured under this subchapter is serving in an operation or area designated as described by paragraph (1)(A) of section 1967(e) of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary and certified to the Secretary concerned to be the cost of Servicemembers' Group Life Insurance which is traceable to the cost of providing insurance for the member under section 1967 of this title in the amount of $150,000.".

(c) CONFORMING AMENDMENT.—Section 1967(a)(2)(A) of such title is amended by inserting before the period at the end the following: ", except for insurance provided under paragraph (3)(A)(i)(III)".

(d) COORDINATION WITH VGLI.—Section 1977(a) of such title is amended—

(1) by striking "$250,000" each place it appears and inserting "$400,000"; and

(2) by adding at the end of paragraph (1) the following new sentence: "Any additional amount of insurance provided a member under section 1967(e) of this title may not be treated as an amount for which Veterans' Group Life Insurance shall be issued under this section.".

(e) REQUIREMENTS REGARDING ELECTIONS OF MEMBERS TO REDUCE OR DECLINE INSURANCE.—Section 1967(a) of such title is further amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

"(C) Pursuant to regulations prescribed by the Secretary of Defense, notice of an election of a member not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under paragraph (3)(A)(i)(I), shall be provided to the spouse of the member."; and

(2) in paragraph (3)—

(A) in the matter preceding clause (i), by striking "and (C)" and inserting ", (C), and (D)"; and

(B) by adding at the end the following new subparagraphs:

"(D) A member with a spouse may not elect not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under subparagraph (A)(i)(I), without the written consent of the spouse.".

(f) REQUIREMENT REGARDING REDESIGNATION OF BENEFICIARIES.—Section 1970 of such title is amended by adding at the end the following new subsection:

"(j) A member with a spouse may not modify the beneficiary or beneficiaries designated by the member under subsection (a) without the written consent of the spouse.".

(g) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

(h) TERMINATION.—The amendments made by this section shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of sections 1967, 1969, 1970, and 1977 of title 38, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

DEATH GRATUITY

SEC. 1112. DEATH GRATUITY ENHANCEMENTS. (a) DEATHS FROM COMBAT-RELATED CAUSES OR CAUSES INCURRED IN DESIGNATED OPERATIONS OR AREAS.—

(1) AMOUNT.—Section 1478 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting ", except as provided in subsection (c)" after "$12,000";

(B) by redesignating subsection (c) as subsection (d); and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) The death gratuity payable under sections 1475 through 1477 of this title is $100,000 (as adjusted under subsection (d)) in the case of a death resulting from wounds, injuries, or illnesses that are—

"(1) incurred as described in section 1413a(e)(2) of this title; or

"(2) incurred in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense under section 1967(e)(1)(A) of title 38.".

(2) INCREASES CONSISTENT WITH INCREASES IN RATES OF BASIC PAY.—Subsection (d) of such section, as redesignated by paragraph (1)(B), is further amended by striking "amount of the death gratuity in effect under subsection (a)" and inserting "amounts of the death gratuities in effect under subsections (a) and (c)".

(3) CONFORMING AMENDMENT.—Subsection (a) of such section, as amended by paragraph (1), is further amended by striking "(as adjusted under subsection (c))" and inserting "(as adjusted under subsection (d))".

(4) EFFECTIVE DATE; TERMINATION.—

(A) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(B) The amendments made by this subsection shall terminate on September 30, 2005. Effective as of October 1, 2005, the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

(b) ADDITIONAL GRATUITY FOR DEATHS BEFORE EFFECTIVE DATE.—

(1) REQUIREMENT TO PAY ADDITIONAL GRATUITY.—

(A) In the case of a member of the Armed Forces described in subparagraph (B), the Secretary of the military department concerned shall pay a death gratuity in accordance with this subsection that is in addition to the death gratuity payable in the case of such death under sections 1475 through 1477 of title 10, United States Code.

(B) The requirements of this subsection apply in the case of a member of the Armed Forces who died before the date of the enactment of this Act as a direct result of one or more wounds, injuries, or illnesses that—

(i) were incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom; or

(ii) were incurred as described in section 1413a(e)(2) of title 10, United States Code, on or after October 7, 2001.

(2) AMOUNT.—The amount of the additional death gratuity is $238,000.

(3) BENEFICIARIES.—The beneficiary or beneficiaries who are entitled under section 1477 of title 10, United States Code, to receive payment of the regular military death gratuity in the case of the death of a member referred to in paragraph (2) shall be entitled to receive the additional death gratuity payable in such case. If there are two or more such beneficiaries, the portion of the total amount of the additional death gratuity payable to a beneficiary in such case shall be the amount that bears the same ratio to the total amount of the additional death gratuity under paragraph (2) as the amount of the share of the regular military death gratuity payable to that beneficiary bears to the total amount of the regular military death gratuity payable to all such beneficiaries in such case.

(4) DEFINITIONS.—In this subsection:

(A) The term "additional death gratuity" means the death gratuity provided under paragraph (1).

(B) The term "regular military death gratuity", means a death gratuity payable under sections 1475 through 1477 of title 10 United States Code.

INTELLIGENCE ACTIVITIES AUTHORIZATION

SEC. 1113. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

PROHIBITION OF NEW START PROGRAMS

SEC. 1114. (a) None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal year 2005 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior notification to the congressional defense committees.

(b) Notwithstanding subsection (a) of this section, the Department of the Army may use funds made available in this Act under the heading, "Procurement of Ammunition, Army" to procure ammunition and accessories therefor that have a standard-type classification, under Army regulations pertaining to the acceptability of materiel for use, and that are the same as other ammunition and accessories therefor that have been procured with funds made available under such heading in past appropriations Acts for the Department of Defense, only for 25mm high explosive rounds for M2 Bradley Fighting Vehicles, 120mm multi-purpose anti-tank and obstacle reduction rounds for M1 Abrams tanks, LA10 aircraft countermeasure flares, 81mm mortar red phosphorous smoke rounds, MD73 impulse cartridge for aircraft flares, and 20mm high explosive rounds for C–RAM, whose stocks have been depleted and must be replenished for continuing operations of the Department of the Army.

CHEMICAL WEAPONS DEMILITARIZATION

SEC. 1115. (a)(1) Notwithstanding section 917 of Public Law 97–86, as amended, of the funds appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005 (Public Law 108–287), the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005 (Public Law 108–324), and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, that had not been obligated as of March 15, 2005, shall remain available for obligation solely for such purpose and shall be made available not later than 30 days after the date of the enactment of this Act to the Program Manager for Assembled Chemical Weapons Alternatives for activities related to such purpose at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado.

(2) The amount of funds appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, that had not been obligated or expended as of March 15, 2005, is $372,280,000.

(3) Of the funds made available to the Program Manager under paragraph (1), not less than $100,000,000 shall be obligated by the Program Manager not later than 120 days after the date of the enactment of this Act.

(b)(1) Notwithstanding section 917 of Public Law 97–86, as amended, none of the funds appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, may be deobligated, transferred, or reprogrammed out of the Assembled Chemical Weapons Alternatives Program.

(2) The amount appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, is $813,440,000.

(c) No funds appropriated or otherwise made available to the Secretary of Defense under this Act or any other Act may be obligated or expended to finance directly or indirectly any study related to the transportation of chemical weapons across State lines.

PHILADELPHIA REGIONAL PORT AUTHORITY

SEC. 1116. Section 115 of division H of Public Law 108–199 is amended by striking all after "made available" and substituting ", notwithstanding section 2218(c)(1) of title 10, United States Code, for a grant to Philadelphia Regional Port Authority, to be used solely for the purpose of construction, by and for a Philadelphia-based company established to operate high-speed, advanced-design vessels for the transport of high-value, time-sensitive cargoes in the foreign commerce of the United States, of a marine cargo terminal and IT network for high-speed commercial vessels that is capable of supporting military sealift requirements.".

CONTINUITY OF GOVERNMENT TRANSPORTATION

SEC. 1117. Notwithstanding any other provision of the law, to facilitate the continuity of Government, during fiscal year 2005, no more than 11 officers and employees of the Executive Office of the President may be transported between their residence and place of employment on passenger carriers owned or leased by the Federal Government.

LPD–17 COST ADJUSTMENT

(TRANSFER OF FUNDS)

SEC. 1118. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: Provided, That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 2005/2009":

LCU (X), $19,000,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2008":

LPD–17, $19,000,000:

Provided further, That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROHIBITION ON COMPETITION OF THE NEXT GENERATION DESTROYER (DD(X))

SEC. 1119. (a) No funds appropriated or otherwise made available by this Act, or by any other Act, may be obligated or expended to prepare for, conduct, or implement a strategy for the acquisition of the next generation destroyer (DD(X)) program through a winner-take-all strategy.

(b) WINNER-TAKE-ALL STRATEGY DEFINED.—In this section, the term "winner-take-all strategy", with respect to the acquisition of destroyers under the next generation destroyer program, means the acquisition (including design and construction) of such destroyers through a single shipyard.

CIVILIAN PAY

SEC. 1120. None of the funds appropriated to the Department of Defense by this Act or any other Act for fiscal year 2005 or any other fiscal year may be expended for any pay raise granted on or after January 1, 2005 that is implemented in a manner that provides a greater increase for non-career employees than for career employees on the basis of their status as career or non-career employees, unless specifically authorized by law: Provided, That this provision shall be implemented for fiscal year 2005 without regard to the requirements of section 5383 of title 5, United States Code: Provided further, That no employee of the Department of Defense shall have his or her pay reduced for the purpose of complying with the requirements of this provision.

INDUSTRIAL MOBILIZATION CAPACITY

SEC. 1121. Of the amounts appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, $12,500,000 shall be available only for industrial mobilization capacity at Rock Island Arsenal.

CHAPTER 2

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for "Military Construction, Army", $897,191,000, to remain available until September 30, 2007: Provided, That such funds may be used to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for "Military Construction, Navy and Marine Corps", $107,380,000, to remain available until September 30, 2007: Provided, That such funds may be used to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $140,983,000, to remain available until September 30, 2007: Provided, That such funds may be used to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TITLE II—INTERNATIONAL PROGRAMS AND ASSISTANCE FOR RECONSTRUCTION AND THE WAR ON TERROR

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For additional expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $150,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", $757,700,000, to remain available until September 30, 2006, of which $10,000,000 is provided for security requirements in the detection of explosives: Provided, That of the funds appropriated under this heading, not less than $250,000 shall be made available for programs to assist Iraqi and Afghan scholars who are in physical danger to travel to the United States to engage in research or other scholarly activities at American institutions of higher education: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", $592,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", $680,000,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations" for activities related to broadcasting to the broader Middle East, $4,800,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for "Broadcasting Capital Improvements" for capital improvements related to broadcasting to the broader Middle East, $2,500,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for "International Disaster and Famine Assistance", $44,000,000, to remain available until expended, for emergency expenses related to the humanitarian crisis in the Darfur region of Sudan: Provided, That these funds may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TRANSITION INITIATIVES

For an additional amount for "Transition Initiatives", $63,000,000, to remain available until expended, for necessary international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, to support transition to democracy and the long-term development of Sudan: Provided, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: Provided further, That of the funds appropriated under this heading, not less than $2,500,000 shall be made available for criminal case management, case tracking, and the reduction of pre-trial detention in Haiti, notwithstanding any other provision of law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development", $24,400,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for "Operating Expenses of the United States Agency for International Development Office of Inspector General", $2,500,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic Support Fund", $1,631,300,000, to remain available until September 30, 2006: Provided, That of the funds appropriated under this heading, $200,000,000 should be made available for programs, activities, and efforts to support Palestinians, of which $50,000,000 should be made available for assistance for Israel to help ease the movement of Palestinian people and goods in and out of Israel: Provided further, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for assistance for displaced persons in Afghanistan: Provided further, That of the funds appropriated under this heading, not less than $5,000,000 should be made available to support Afghan women's organizations that work to defend the legal rights of women and to increase women's political participation: Provided further, That of the funds appropriated under this heading, up to $10,000,000 may be transferred to the Overseas Private Investment Corporation for the cost of direct and guaranteed loans as authorized by section 234 of the Foreign Assistance Act of 1961: Provided further, That such costs, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

For an additional amount for "Assistance for the Independent States of the Former Soviet Union" for assistance to Ukraine, $70,000,000, to remain available until September 30, 2006: Provided, That of the funds appropriated under this heading, $5,000,000 shall be made available for democracy programs in Belarus, which shall be administered by the Bureau of Democracy, Human Rights and Labor, Department of State: Provided further, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available through the United States Agency for International Development for humanitarian, conflict mitigation, and other relief and recovery assistance for needy families and communities in Chechnya, Ingushetia and elsewhere in the North Caucasus: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "International Narcotics Control and Law Enforcement", $660,000,000, to remain available until September

30, 2007, of which up to $46,000,000 may be transferred to and merged with "Economic Support Fund" if the Secretary of State, after consultation with the Committees on Appropriations, determines that this transfer is the most effective and timely use of resources to carry out counternarcotics and reconstruction programs: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $108,400,000, to remain available until September 30, 2006: Provided, That of the funds appropriated under this heading, not less than $55,000,000 shall be made available for assistance for refugees in Africa and to fulfill refugee protection goals set by the President for fiscal year 2005: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $32,100,000, to remain available until September 30, 2006, of which not to exceed $15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

GLOBAL WAR ON TERROR PARTNERS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the purposes of the Foreign Assistance Act of 1961 for responding to urgent economic support requirements in countries supporting the United States in the Global War on Terror, $40,000,000, to remain available until expended: Provided, That these funds may be used only pursuant to a determination by the President, and after consultation with the Committees on Appropriations, that such use will support the global war on terrorism to furnish economic assistance to partners on such terms and conditions as he may determine for such purposes, including funds on a grant basis as a cash transfer: Provided further, That funds made available under this heading may be transferred by the Secretary of State to other Federal agencies or accounts to carry out the purposes under this heading: Provided further, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in the Act for the use of economic assistance: Provided further, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program", $250,000,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations", $210,000,000, to remain available until September 30, 2006, of which $200,000,000 is for military and other security assistance to coalition partners in Iraq and Afghanistan: Provided, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

VOLUNTARY CONTRIBUTION

SEC. 2101. Section 307(a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), is further amended by striking "Iraq,".

REPORTING REQUIREMENT

SEC. 2102. Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress detailing: (1) information regarding the Palestinian security services, including their numbers, accountability, and chains of command, and steps taken to purge from their ranks individuals with ties to terrorist entities; (2) specific steps taken by the Palestinian Authority to dismantle the terrorist infrastructure, confiscate unauthorized weapons, arrest and bring terrorists to justice, destroy unauthorized arms factories, thwart and preempt terrorist attacks, and cooperate with Israel's security services; (3) specific actions taken by the Palestinian Authority to stop incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and to promote peace and coexistence with Israel; (4) specific steps the Palestinian Authority has taken to ensure democracy, the rule of law, and an independent judiciary, and transparent and accountable governance; (5) the Palestinian Authority's cooperation with United States officials in investigations into the late Palestinian leader Yasser Arafat's finances; and (6) the amount of assistance pledged and actually provided to the Palestinian Authority by other donors: Provided, That not later than 180 days after enactment of this Act, the President shall submit to the Congress an update of this report: Provided further, That up to $5,000,000 of the funds made available for assistance for the West Bank and Gaza by this chapter under "Economic Support Fund" shall be used for an outside, independent evaluation by an internationally recognized accounting firm of the transparency and accountability of Palestinian Authority accounting procedures and an audit of expenditures by the Palestinian Authority.

(RESCISSION OF FUNDS)

SEC. 2103. The unexpended balance appropriated by Public Law 108–11 under the heading "Economic Support Fund" and made available for Turkey is rescinded.

DEMOCRACY EXCEPTION

SEC. 2104. Funds appropriated for fiscal year 2005 under the heading "Economic Support Fund" may be made available for democracy and rule of law programs and activities, notwithstanding the provisions of section 574 of division D of Public Law 108–447.

TITLE III—DOMESTIC APPROPRIATIONS FOR THE WAR ON TERROR

CHAPTER 1

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $2,500,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $11,935,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $66,512,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

In addition, notwithstanding any other provision of law, the Federal Bureau of Investigation shall have the authority to execute a lease of up to 160,000 square feet of space for the Terrorist Screening Center within the Washington, D.C. Metropolitan area.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $7,648,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $5,100,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF ENERGY

NATIONAL NUCLEAR SECURITY ADMINSTRATION

WEAPONS ACTIVITIES

For an additional amount for "Weapons Activities", $26,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for "Defense Nuclear Nonproliferation", $84,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant *to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).*

CHAPTER 3

DEPARTMENT OF HOMELAND SECURITY

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $276,000,000, of which not less than $11,000,000 shall be available for the costs of increasing by no less than seventy-nine the level of full-time equivalents on board on the date of enactment of this Act: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $111,950,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements", $49,200,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

CAPITOL POLICE

SALARIES

For an additional amount for salaries of employees of the Capitol Police, including overtime, hazardous duty pay differential, and Government contributions for health, retirement, social security, professional liability insurance, and other applicable employee benefits, $10,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

EXPENSES

For an additional amount for necessary expenses of the Capitol Police, $13,300,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ARCHITECT OF THE CAPITOL

CAPITOL POLICE BUILDINGS AND GROUNDS

For an additional amount for Capitol Police Buildings and Grounds, $23,000,000, to remain available until September 30, 2010: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TITLE IV—INDIAN OCEAN TSUNAMI RELIEF

CHAPTER 1

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", $7,070,000, to remain available until September 30, 2007, for United States tsunami warning capabilities and operations: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction", $10,170,000, to remain available until September 30, 2008, for United States tsunami warning capabilities: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $124,100,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $2,800,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $30,000,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $29,150,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For an additional amount for "Overseas Humanitarian, Disaster, and Civic Aid", $36,000,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $3,600,000 for Operation and maintenance: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 3

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $350,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

DEPARTMENT OF THE INTERIOR

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", $8,100,000, to remain available until September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 5

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

TSUNAMI RECOVERY AND RECONSTRUCTION FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Foreign Assistance Act of 1961, for emergency relief, rehabilitation, and reconstruction aid to countries affected by the tsunami and earthquakes of December 2004 and March 2005, $656,000,000, to remain available until September 30, 2006: Provided, That these funds may be transferred by the Secretary of State to Federal agencies or accounts for any activity authorized under part I (including chapter 4 of part II) of the Foreign Assistance Act, or under the Agricultural Trade Development and Assistance Act of 1954, to accomplish the purposes provided herein: Provided further, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That funds appropriated under this heading may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act, including Public Law 480 Title II grants: Provided further, That of the amounts provided herein: up to $10,000,000 may be transferred to and consolidated with "Development Credit Authority" for the cost of direct loans and loan guarantees as authorized by sections 256 and 635 of the Foreign Assistance Act of 1961 in furtherance of the purposes of this heading; up to $20,000,000 may be transferred to and consolidated with "Operating Expenses of the United States Agency for International Development", of which up to $2,000,000 may be used for administrative expenses to carry out credit programs administered by the United States Agency for International Development in furtherance of the purposes of this heading; up to $500,000 may be transferred to and consolidated with "Operating Expenses of the United States Agency for International Development Office of Inspector General"; and up to $5,000,000 may be transferred to and consolidated with "Emergencies in the Diplomatic and Consular Service" for the purpose of providing support services for United States citizen victims and related operations: Provided further, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for environmental recovery activities in Aceh, Indonesia, to be administered by the United States Fish and Wildlife Service: Provided further, That of the funds appropriated under this heading, not less than $12,000,000 should be made available for programs to address the needs of people with physical and mental disabilities resulting from the tsunami: Provided further, That of the funds appropriated under this heading, not less than $25,000,000 should be made available for programs to prevent the spread of the Avian flu: Provided further, That of the funds appropriated under this heading, $1,500,000 shall be *made available for trafficking in persons monitoring and prevention programs and activities in tsunami affected countries: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).*

GENERAL PROVISIONS, THIS CHAPTER

ANNUAL LIMITATION

SEC. 4501. Amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2292a), to address relief and rehabilitation needs for countries affected by the Indian Ocean tsunami and earthquakes of December 2004 and March 2005, prior to the enactment of this Act, shall be in addition to the amount that may be obligated in fiscal year 2005 under that section.

AUTHORIZATION OF FUNDS

SEC. 4502. Funds appropriated by this chapter and chapter 2 of title II may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), section 10 of Public Law 91–672 (22 U.S.C. 2412), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

TITLE V—OTHER EMERGENCY APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For an additional amount for "Research and Education Activities" to provide a grant to the University of Hawaii to partially offset the cost of damages to the research and educational resources of the College of Tropical Agriculture and Human Resources incurred as a result of the catastrophic flood that occurred on October 30, 2004, as authorized by law, $3,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATURAL RESOURCES CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for the emergency watershed protection program established under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair damages to the waterways and watersheds resulting from natural disasters, $103,000,000, to remain available until expended: Provided, That of the amount provided, no less than $66,000,000 shall be for eligible work in the State of Utah: Provided further, That notwithstanding any other provision of law, the Secretary of Agriculture shall count local financial and technical resources, including in-kind materials and services, contributed toward recovery from the flooding events of January 2005 in Washington County, Utah, toward local matching requirements for the emergency watershed protection program assistance provided to Washington County, Utah: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

RURAL HOUSING SERVICE

SEC. 5101. Hereafter, notwithstanding any other provision of law, the Secretary of Agriculture may transfer any unobligated amounts made available under the heading "Rural Housing Service", "Rural Housing Insurance Fund Program Account" in chapter 1 of title II of Public Law 106–246 (114 Stat. 540) to the Rural Housing Service "Rental Assistance Program" account for projects in North Carolina: Provided, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RURAL HOUSING ASSISTANCE GRANTS

SEC. 5102. The Secretary of Agriculture shall consider the Village of New Miami (Ohio) to be eligible for loans and grants provided through the Rural Housing Assistance Grants program.

NATURAL RESOURCES CONSERVATION SERVICE

SEC. 5103. (a) Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance to carry out measures (including research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works, and changes in the use of land) to prevent damage to the Manoa watershed in Hawaii.

(b) There is hereby appropriated $15,000,000, to remain available until expended, to carry out provisions of subsection (a): Provided, That the amounts provided under this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FARM SERVICE AGENCY

SEC. 5104. The funds made available in section 786 of title VII of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 as contained in division A of the Consolidated Appropriations Act, 2005 (Public Law 108–447) may be applied to accounts of Alaska dairy farmers owed to the Secretary of Agriculture.

CHAPTER 2

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Departmental Management", $3,000,000 to support deployment of business systems to the bureaus and offices of the Department of the Interior, including the Financial and Business Management System: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

For an additional amount for "National Forest System" to pay necessary expenses of the Forest Service to restore land and facilities in the State of California damaged by torrential rainfall during fiscal year 2005, $2,410,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for "Capital Improvement and Maintenance" to pay necessary expenses of the Foresi Service to construct, repair, decommission, and maintain forest roads and trails in the Angeles National Forest, Cleveland National Forest, Los Padres National Forest, and San Bernardino National Forest, $31,980,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 3

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING RESCISSIONS OF FUNDS)

For an additional amount for the "Public Health and Social Services Emergency Fund" in title II of Public Law 108–447, $10,000,000, to remain available until expended, for infrastructure grants to improve the supply of domestically produced vaccine: Provided, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress): Provided further, That under the heading "Health Resources and Services Administration, Health Resources and Services", the unobligated balance for the Health Professions Teaching Facilities Program authorized in sections 726 and 805 of the Public Health Service Act; the unobligated balance of the Health Teaching Construction Interest Subsidy Program authorized in section 726 and title XVI of the Public Health Service Act; and the unobligated balance of the AIDS Facilities Renovation and Support Program authorized in title XVI of the Public Health Service Act are all hereby rescinded: Provided further, That under the heading "Office of the Secretary, Office of the Inspector General", the unobligated balance of the Medicaid Fraud Control Program authorized in section 1903 of the Social Security Act and appropriated to the Office of the Inspector General in the Department of Health and Human Services is hereby rescinded: Provided further, That under the heading "Assistant Secretary for Health Scientific Activities Overseas (Special Foreign Currency Program)" the unobligated balance of the Scientific Activities Overseas (Special Foreign Currency Program) account within the Department of Health and Human Services is hereby rescinded.

RELATED AGENCY

INSTITUTE OF MUSEUM LIBRARY SERVICES

OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND ADMINISTRATION

For an additional amount for the "Institute of Museum and Library Services, Office of Museum and Library Services: Grants and Administration", $10,000,000, to be available until expended, for the Hamilton Library at the University of Hawaii at Manoa, including replacing the collections at the regional federal depository library: Provided, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses, Courts of Appeals, District Courts and Other Judicial Services" for unforeseen costs associated with recent Supreme Court decisions and recently enacted legislation, $60,000,000, to remain available until September 30, 2006: Provided, That notwithstanding section 302 of division B of Public Law 108–477, such sums shall be available for transfer to accounts within the Judiciary subject to section 605 of said Act: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOUSING FOR PERSONS WITH DISABILITIES

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 108–447, $238,080,000 are rescinded.

For an additional amount for "Housing for Persons with Disabilities", $238,080,000, to remain available until September 30, 2006: Provided, That these funds shall be available under the same terms and conditions as authorized for funds under this heading in Public Law 108–447.

GENERAL PROVISION, THIS CHAPTER

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 5401. (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall make a grant to the University of Hawaii to cover unreimbursed expenses associated with costs resulting from the catastrophic flood that occurred on October 30, 2004.

(b) There is hereby appropriated $10,000,000, to remain available until expended, to carry out provisions of subsection (a): Provided, That the amount provided under this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TITLE VI—GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

AVAILABILITY OF FUNDS

SEC. 6001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

TRANSFER AUTHORITY—DEPARTMENT OF JUSTICE

SEC. 6002. Notwithstanding section 106 of title I of division B of Public Law 108–447, the Department of Justice may transfer funds from any Department of Justice account, except "Buildings and Facilities, Federal Prison System" and "Office of Justice Programs" accounts, to the "Detention Trustee" account: Provided, That the notification requirement in section 605 of title VI of division B of Public Law 108–447 shall apply to any such transfers.

SPACE CONSIDERATIONS—FEDERAL BUREAU OF INVESTIGATION

SEC. 6003. Notwithstanding any other provision of law, the Special Technologies and Application Section within the Federal Bureau of Investigation shall have the authority to use existing resources to acquire, renovate, and occupy up to 175,000 square feet of additional facility space within its immediate surrounding area.

TECHNICAL CORRECTIONS—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FISCAL YEAR 2005

SEC. 6004. The referenced statement of managers under the heading "National Oceanic and Atmospheric Administration" in title II of division B of Public Law 108–447 is deemed to be amended after "Bonneau Ferry, SC" by striking "20,000" and inserting "19,200": Provided, That these amounts are available for transfer to "Response and Restoration Base".

SEC. 6005. The referenced statement of managers under the heading "National Oceanic and Atmospheric Administration" in title II of division B of Public Law 108–447 is deemed to be amended under the heading "Construction/Acquisition, Coastal and Estuarine Land Conservation Program" by striking "Tonner Canyon, CA" and inserting "Tolay Lake, Sonoma County, CA".

SEC. 6006. The referenced statement of managers under the heading "National Oceanic and Atmospheric Administration" in title II of division B of Public Law 108–447 is deemed to be amended under the heading "Construction/Acquisition, Coastal and Estuarine Land Conservation Program" by striking "Port Aransas Nature Preserve Wetlands Project, TX—3,000" and under the heading "Section 2 (FWCA) Coastal/Estuarine Land Acquisition" by inserting "Port Aransas Nature Preserve Wetlands Project, TX—3,000".

LOCAL BUDGET AUTHORITY FOR THE DISTRICT OF COLUMBIA

SEC. 6007. The District of Columbia Appropriations Act, 2005 (Public Law 108–335) approved October 18, 2004, is amended as follows:

(1) Section 331 is amended as follows:

(A) in the first sentence by striking "$15,000,000" and inserting "$42,000,000, to remain available until expended," in its place, and

(B) by amending subsection (5) to read as follows:

"(5) The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate in writing 30 days in advance of any obligation or expenditure.".

(2) By inserting a new section before the short title at the end to read as follows:

"SEC. 348. The amount appropriated by this Act may be increased by an additional amount of $206,736,000 (including $49,927,000 from local funds and $156,809,000 from other funds) to be transferred by the Mayor of the District of Columbia to the various headings under this Act as follows:

"(1) $174,927,000 (including $34,927,000 from local funds and $140,000,000 from other funds) shall be transferred under the heading 'Government Direction and Support': Provided, That of the funds, $33,000,000 from local funds shall remain available until expended: Provided further, That of the funds, $140,000,000 from other funds shall remain available until expended and shall only be available in conjunction with revenue from a private or alternative financing proposal approved pursuant to section 106 of DC Act 15–717, the 'Ballpark Omnibus Financing and Revenue Act of 2004' approved by the District of Columbia, December 29, 2004, and

"(2) $15,000,000 from local funds shall be transferred under the heading 'Repayment of Loans and Interest', and

"(3) $14,000,000 from other funds shall be transferred under the heading 'Sports and Entertainment Commission', and

"(4) $2,809,000 from other funds shall be transferred under the heading 'Water and Sewer Authority'.".

DE SOTO COUNTY, MISSISSIPPI

SEC. 6008. Section 219(f)(30) of the Water Resources Development Act of 1992 (106 Stat. 4835; 106 Stat. 3757; 113 Stat. 334) is amended by striking "$20,000,000" and inserting "$55,000,000" in lieu thereof, and by striking "treatment" and inserting "infrastructure" in lieu thereof.

SEC. 6009. The Secretary is authorized and directed to reimburse the non-Federal local sponsor of the project described in section 219(f)(30) of the Water Resources Development Act of 1992 (106 Stat. 4835; 106 Stat. 3757; 113 Stat. 334) for costs incurred between May 13, 2002 and September 30, 2005 in excess of the required non-Federal share if the Secretary determines that such costs were incurred for work that is compatible with and integral to the project: Provided, That the non-Federal local sponsor, at its option, may choose to accept, in lieu of reimbursement, a credit against the non-Federal share of project costs incurred after May 13, 2002.

FORT PECK FISH HATCHERY, MONTANA

SEC. 6010. Section 325(f)(1)(A) of Public Law 106–541 is modified by striking "$20,000,000" and inserting in lieu thereof "$25,000,000".

ALI WAI CANAL, HAWAII

SEC. 6011. For an amount from within available funds from "General Investigations" for the expansion of studies necessitated by severe flooding, up to $1,800,000, to remain available until expended.

INTERCOASTAL WATERWAY, DELAWARE RIVER TO CHESAPEAKE BAY, SR-1 BRIDGE, DELAWARE

SEC. 6012. The first proviso under the heading "Operation and Maintenance" in title I of division C of Public Law 108–447 is amended by striking "October 1, 2003, and September 30, 2004" and inserting "October 1, 2004, and September 30, 2005".

OFFSHORE OIL AND GAS FABRICATION PORTS

SEC. 6013. In determining the economic justification for navigation projects involving offshore oil and gas fabrication ports, the Secretary of the Army, acting through the Chief of Engineers, is directed to measure and include in the National Economic Development calculation the benefits of future energy exploration and production fabrication contracts and transportation cost savings that would result from larger navigation channels.

MCCLELLAN KERR NAVIGATION SYSTEM ADVANCED OPERATION AND MAINTENANCE

SEC. 6014. The last proviso under the heading "Operation and Maintenance" in title I of division C of Public Law 108–447 is amended by striking "Public Law 108–357" and inserting "Public Law 108–137".

SILVERY MINNOW OFF-CHANNEL SANCTUARIES

SEC. 6015. The Secretary of the Interior is authorized to perform such analyses and studies as needed to determine the viability of establishing an off-channel sanctuary for the Rio Grande Silvery Minnow in the Middle Rio Grande Valley. In conducting these studies, the Secretary shall take into consideration:

(1) providing off-channel, naturalistic habitat conditions for propagation, recruitment, and maintenance of Rio Grande silvery minnows; and

(2) minimizing the need for acquiring water or water rights to operate the sanctuary.

If the Secretary determines the project to be viable, the Secretary is further authorized to design and construct the sanctuary and to thereafter operate and maintain the sanctuary. The Secretary may enter into grant agreements, cooperative agreements, financial assistance agreements, interagency agreements, and contracts with Federal and non-Federal entities to carry out the purposes of this Act.

DESALINATION ACT EXTENSION

SEC. 6016. Section 8 of Public Law 104–298 (The Water Desalination Act of 1996) (110 Stat. 3624) as amended by section 210 of Public Law 108–7 (117 Stat. 146) is amended by—

(1) in paragraph (a) by striking "2004" and inserting in lieu thereof "2009"; and

(2) in paragraph (b) by striking "2004" and inserting in lieu thereof "2009".

BUREAU OF RECLAMATION, HUMBOLDT TITLE TRANSFER

SEC. 6017. Notwithstanding Public Law 108–137, title II, sec. 217(a)(3) the State of Nevada shall be exempt from any payments associated with the Humboldt Title Transfer as described in Public Law 107–282, title VIII, sec. 804(f): Provided, That transfer costs shall not exceed $850,000.

OFFICE OF SCIENCE

SEC. 6018. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to "Department of Energy, Energy Programs, Science" is amended by inserting ": Provided, That $2,000,000 is provided within available funds to continue funding for project #DE–FG0204ER63842–04090945, the Southeast Regional Cooling, Heating and Power and Bio-Fuel Application Center, and

$3,000,000 is provided from within available funds for the University of Texas Southwestern Medical Center, University of Texas at Dallas Metroplex Comprehensive Imaging Center: Provided further, That within funds made available herein $500,000 is provided for the desalination plant technology program at the University of Nevada-Reno (UNR) and $500,000 for the Oral History of the Negotiated Settlement project at UNR: Provided further, That $4,000,000 is to be provided from within available funds to the Fire Sciences Academy in Elko, Nevada, for purposes of capital debt service" after "$3,628,902,000".

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

SEC. 6019. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to "Atomic Energy Defense Activities, National Nuclear Security Adminstration, Weapons Activities" is amended by inserting after "various locations" the following: ": Provided further, That $3,000,000 shall be used to continue funding of project #DE-FC04-02AL68107, the Technology Ventures Corporation: Provided further, That notwithstanding the provisions of section 302 of Public Law 102–377 and section 4705 of Public Law 107–314, as amended, the Department may transfer up to $10,000,000 from the Weapons Activities appropriation for purposes of carrying out section 3147 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108–375".

DEFENSE SITE ACCELERATION COMPLETION

SEC. 6020. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to "Atomic Energy Defense Activities, Environmental and Other Defense Activities, Defense Site Acceleration Completion" is amended by inserting before the period the following: ": Provided, That $4,000,000 is to be provided from within available funds for the cleanup of lands transferred from NNSA to Los Alamos County or Los Alamos School District".

DEFENSE ENVIRONMENTAL SERVICES

SEC. 6021. To the extent activities directed to be funded from within division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), in division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 104–447), the item relating to the "Atomic Energy Defense Activities, National Nuclear Security Administration, Environmental and Other Defense Activities, Defense Environmental Services" is amended by inserting before the period the following: ": Provided, That to the extent activities to be funded within the 'Defense Environmental Services' cannot be funded without unduly impacting mission activities and statutory requirements, up to $30,000,000 from 'Defense Site Acceleration Completion' may be used for these activities".

CHERNOBYL RESEARCH AND SERVICE PROJECT

SEC. 6022. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 104–447), the item relating to the "Atomic Energy Defense Activities, National Nuclear Security Administration, Environmental and Other Defense Activities, Other Defense Activities" is amended by inserting before the period the following: ": Provided, That $5,000,000 is to be provided from within available funds to initiate the Chernobyl Research and Service Project to support radiation effects during the Chernobyl Shelter Implementation Plan within the Office of Environment Safety and Health".

DEPARTMENT OF ENERGY SMALL BUSINESS CONTRACTS

SEC. 6023. Section 15(g) of the Small Business Act (15 U.S.C. §644), is amended by adding the following new paragraph:

"(3) For purposes of this section, the term 'prime contract' shall, with respect to the Department of Energy, mean prime contracts awarded by the Department of Energy, and subcontracts awarded by Department of Energy management and operating contractors, management and integration contractors, major facilities management contractors, and contractors that have entered into similar contracts for management of a departmental facility. Contracting goals established for the Department of Energy under this section shall be set at a level not greater than the applicable Government-wide goal.".

YUCCA MOUNTAIN

SEC. 6024. Title III of division C of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2951) is amended in the matter under the heading "Nuclear Waste Disposal"—

(1) by inserting "to be derived from the Nuclear Waste Fund and" after "$346,000,000,"; and

(2) in the second proviso, by striking "to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act" and inserting "to participate in licensing activities and other appropriate activities pursuant to that Act".

POWER MARKETING ADMINISTRATION

SEC. 6025. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to "Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration" is amended by inserting before the period at the end the following: ": Provided further, That of the amount herein appropriated, $500,000 is provided on a non-reimbursable basis from within available funds for a transmission study on the placement of 500 megawatts of wind energy in North Dakota and South Dakota".

DEPARTMENT OF HOMELAND SECURITY

REVOLVING FUNDS

SEC. 6026. (a) The Department of Homeland Security "Working Capital Fund" is abolished and any remaining unobligated or unexpended fund balances shall be immediately transferred to the "Office of the Chief Financial Officer" and shall be subject to section 503 of Public Law 108–334.

(b) The Department of Homeland Security may not use any funds made available under section 403 of the Government Management Reform Act of 1994 (Public Law 103-356).

(c)(1) There is established the "Continuity of Government Operations and Emergency Management Revolving Fund" (in this subsection referred to as the "Revolving Fund") which shall be administered by a board of directors designated by the Under Secretary for Emergency Preparedness and Response.

(2) There shall be deposited into the Revolving Fund such amounts—

(A) that would have been deposited into the "Working Capital Fund" abolished under subsection (a) in accordance with any memorandum of understanding between the Federal Emergency Management Agency and any agency or other entity providing for the funding of the "Working Capital Fund" before the date of enactment of Public Law 107-296;

(B) provided for in any other memorandum of understanding approved by the board of directors after the date of enactment of this Act; and

(C) derived from agreements defined in (c)(2)(A) that were transferred to the "Office of the Chief Financial Officer" pursuant to subsection (a).

(3) Funds in the Revolving Fund may be used only for activities and services relating to continuity of Government and emergency management carried out by the Federal Emergency Management Agency before March 1, 2003, or approved by the Committees on Appropriations of the Senate and the House of Representatives.

REPROGRAMMING PROVISIONS

SEC. 6027. Section 503 of the Department of Homeland Security Appropriations Act, 2005 (118 Stat. 1315) is amended by striking subsection (d) and inserting the following:

"(d) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for any information technology project that: (1) is funded by the 'Office of the Chief Information Officer'; or (2) is funded by multiple components through the use of reimbursable agreements; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such obligation of funds.

"(e) Notifications of reprogrammings, transfers, and obligations pursuant to subsections (a), (b), (c) and (d) shall not be made later than June 30, 2005, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.".

SEC. 6028. Any funds made available to the Department of Homeland Security by this Act shall be subject to the terms and conditions of Title V of Public Law 108–334.

BUREAU OF LAND MANAGEMENT TECHNICAL CORRECTION

SEC. 6029. Section 144 of division E of Public Law 108–447 is amended in paragraph (b)(2) by deleting "September 24, 2004" and inserting "November 12, 2004".

FOREST SERVICE TRANSFER

SEC. 6030. Funds in the amount of $1,500,000, provided in Public Law 108–447 for the "Forest Service, Capital Improvement and Maintenance" account, are hereby transferred to the "Forest Service, State and Private Forestry" account.

WEST YELLOWSTONE VISITOR INFORMATION CENTER

SEC. 6031. Notwithstanding any other provision of law, the National Park Service is authorized to expend appropriated funds for the construction, operations and maintenance of an expansion to the West Yellowstone Visitor Information Center to be constructed for visitors to, and administration of, Yellowstone National Park.

PESTICIDES TOLERANCE FEES

SEC. 6032. None of the funds in this or any other Appropriations Act may be used by the Environmental Protection Agency or any other Federal agency to develop, promulgate, or publish a pesticides tolerance fee rulemaking.

GULF ISLANDS NATIONAL SEASHORE

SEC. 6033. (a) The Secretary of the Interior shall allow the State of Mississippi, its lessees, contractors, and permittees, to conduct, under reasonable regulation not inconsistent with timely and generally full extraction of the oil and gas minerals:

(1) exploration, development and production operations on sites outside the boundaries of Gulf Islands National Seashore that use directional drilling techniques which result in the drill hole crossing into the Gulf Islands National Seashore and passing under any land or water the surface of which is owned by the United States, including terminating in bottom hole locations thereunder; or

(2) seismic and exploration activities inside the boundaries of Gulf Islands National Seashore related to extraction of the oil and gas located within the boundaries of the Gulf Islands National Seashore, all of which oil and gas is owned by the State of Mississippi.

(b) The provisions of subsection (a) shall not take effect until the State of Mississippi enters into an agreement with the Secretary providing that any actions by the United States in relation to the provisions in this section shall not trigger any reverter of any estate conveyed by the State of Mississippi to the United States within the Gulf Islands National Seashore in Chapter 482 of the General Laws of the State of Mississippi, 1971, and the quitclaim deed of June 15, 1972.

SURFACE MINING CONTROL AND RECLAMATION ACT

SEC. 6034. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "June 30, 2005," and inserting "September 30, 2005,".

REPEAL OF TRANSFER AUTHORITY

SEC. 6035. Section 101 and section 208 of Division F of Public Law 108–447 are hereby repealed.

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF EDUCATION—FISCAL YEAR 2005

SEC. 6036. In the statement of the managers of the committee of conference accompanying H.R. 4818 (Public Law 108–447; House Report 108–792), in the matter in title III of division F, relating to the Fund for the Improvement of Education under the heading "Innovation and Improvement"—

(1) the provision specifying $500,000 for the Mississippi Museum of Art, Jackson, MS for Hardy Middle School After School Program shall be deemed to read "Mississippi Museum of Art, Jackson, MS for a Mississippi Museum of Art After-School Collaborative";

(2) the provision specifying $2,000,000 for the Milken Family Foundation, Santa Monica, CA, for the Teacher Advancement Program shall be deemed to read "Teacher Advancement Program Foundation, Santa Monica, CA for the Teacher Advancement Program";

(3) the provision specifying $1,000,000 for Batelle for Kids, Columbus, OH for a multi-state effort to evaluate and learn the most effective ways for accelerating student academic growth shall be deemed to read "Battelle for Kids, Columbus, OH for a multi-state effort to implement, evaluate and learn the most effective ways for accelerating student academic growth";

(4) the provision specifying $750,000 for the Institute of Heart Math, Boulder Creek, CO for a teacher retention and student dropout prevention program shall be deemed to read "Institute of Heart Math, Boulder Creek, CA for a teacher retention and student dropout prevention program";

(5) the provision specifying $200,000 for Fairfax County Public Schools, Fairfax, VA for Chinese language programs in Franklin Sherman Elementary School and Chesterbrook Elementary School in McLean, Virginia shall be deemed to read "Fairfax County Public Schools, Fairfax, VA for Chinese language programs in Shrevewood Elementary School and Wolftrap Elementary School";

(6) the provision specifying $1,250,000 for the University of Alaska/Fairbanks in Fairbanks, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED) shall be deemed to read "University of Alaska/Southeast in Juneau, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED)";

(7) the provision specifying $25,000 for QUILL Productions, Inc., Aston, PA, to develop and disseminate programs to enhance the teaching of American history shall be deemed to read "QUILL Entertainment Company, Aston, PA, to develop and disseminate programs to enhance the teaching of American history";

(8) the provision specifying $780,000 for City of St. Charles, MO for the St. Charles Foundry Arts Center in support of arts education shall be deemed to read "The Foundry Art Centre, St. Charles, Missouri for support of arts education in conjunction with the City of St. Charles, MO";

(9) the provision specifying $100,000 for Community Arts Program, Chester, PA, for arts education shall be deemed to read "Chester Economic Development Authority, Chester, PA for a community arts program";

(10) the provision specifying $100,000 for Kids with A Promise—The Bowery Mission, Bushkill, PA shall be deemed to read "Kids with A Promise—The Bowery Mission, New York, NY";

(11) the provision specifying $50,000 for Great Projects Film Company, Inc., Washington, DC, to produce "Educating America", a documentary about the challenges facing our public schools shall be deemed to read "Great Projects Film Company, Inc., New York, NY, to produce 'Educating America', a documentary about the challenges facing our public schools";

(12) the provision specifying $30,000 for Summer Camp Opportunities Provide an Edge (SCOPE), New York, NY for YMCA Camps Skycrest, Speers and Elijabar shall be deemed to read "American Camping Association for Summer Camp Opportunities Provide an Edge (SCOPE), New York, NY for YMCA Camps Skycrest and Speers-Elijabar"; and

(13) the provision specifying $163,000 for Space Education Initiatives, Green Bay, WI for the Wisconsin Space Science Initiative shall be deemed to read "Space Education Initiatives, De Pere, WI for the Wisconsin Space Science Initiative".

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION—FISCAL YEAR 2005

SEC. 6037. In the statement of the managers of the committee of conference accompanying H.R. 4818 (Public Law 108–447; House Report 108–792), in the matter in title III of division F, relating to the Fund for the Improvement of Postsecondary Education under the heading "Higher Education"—

(1) the provision specifying $145,000 for the Belin-Blank Center at the University of Iowa, Iowa City, IA for the Big 10 school initiative to improve minority student access to Advanced Placement courses shall be deemed to read "University of Iowa, Iowa City, IA for the Iowa and Israel: Partners in Excellence program to enhance math and science opportunities to rural Iowa students";

(2) the provision specifying $150,000 for Mercy College, Dobbs Ferry, NY for the development of a registered nursing program shall be deemed to read "Mercy College, Dobbs Ferry, NY, for the development of a master's degree program in nursing education, including marketing and recruitment activities";

(3) the provision specifying $100,000 for University of Alaska/Southeast to develop distance education coursework for arctic engineering courses and programs shall be deemed to read "University of Alaska System Office to develop distance education coursework for arctic engineering courses and programs"; and

(4) the provision specifying $100,000 for Culver-Stockton College, Canton, MO for equipment and technology shall be deemed to read "Moberly Area Community College, Moberly, MO for equipment and technology".

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF EDUCATION—FISCAL YEAR 2004

SEC. 6038. In the statement of the managers of the committee of conference accompanying H.R. 2673 (Public Law 108–199; House Report 108–401), in the matter in title III of division E, relating to the Fund for the Improvement of Education under the heading "Innovation and Improvement" the provision specifying $1,500,000 for the University of Alaska at Fairbanks for Alaska System for Early Education Development (SEED) program to expand early childhood services and to train Early Head Start teachers with AAS degrees for positions in rural Alaska shall be deemed to read "University of Alaska/Southeast in Juneau, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED) program to expand early childhood services and to train Early Head Start teachers with AAS degrees for positions in rural Alaska".

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR GRANT REVIEWS

SEC. 6039. The matter under the heading "Corporation for National and Community Service—National and Community Service Programs Operating Expenses" in title III of division I of Public Law 108–447 is amended by inserting before the period at the end the following: ": Provided further, That the Corporation may use up to 1 percent of program grant funds made available under this heading to defray its costs of conducting grant application reviews, including the use of outside peer reviewers".

COPYRIGHT ROYALTY JUDGES

SEC. 6040. (a) During fiscal year 2005, the Librarian of Congress shall transfer from funds under the subheading "SALARIES AND EXPENSES" under the heading "LIBRARY OF CONGRESS" under title I of the Legislative Appropriations Act, 2005 to the account under the subheading "SALARIES AND EXPENSES" under the heading "COPYRIGHT OFFICE" under the heading "LIBRARY OF CONGRESS" under title I of that Act such funds as necessary to carry out the Copyright Royalty Judges program under chapter 8 of title 17, United States Code, as amended by the Copyright Royalty and Distribution Reform Act of 2004 (Public Law 108–419), subject to subsection (b).

(b) No more than $485,000 may be transferred under this section.

TECHNICAL CORRECTION—DEPARTMENT OF TRANSPORTATION

SEC. 6041. The matter under the heading "Federal Transit Administration, Capital Investment Grants" in title I of division H of Public Law 108–447 is amended by striking "$3,591,548" and inserting "$1,362,683" and by striking "$22,554,144" and inserting "$12,998,815": Provided, That the amount of new fixed guideway funds available for each project expected to complete its full funding grant agreement this fiscal year shall not exceed the amount which, when reduced by the across-the-board rescission of 0.80 percent of such Act, is equal to the amount of new fixed guideway funds required to complete the commitment of Federal new fixed guideway funds reflected in the project's full funding grant agreement: Provided further, That of the new fixed guideway funds available in Public Law 108–447, $1,352,899 shall be available for the Northern New Jersey Newark Rail Link MOS 1 project, no funds shall be available for the Northern New Jersey Newark-Elizabeth Rail Line MOS 1 project, and $316,427 shall be available for the Northern New Jersey Hudson-Bergen Light Rail MOS 1 project.

THE JUDICIARY

SEC. 6042. Section 308 of division B of Public Law 108–447 is amended by striking "shall be deposited" and all that follows through "expenses" and inserting in lieu thereof "shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and Other Judicial Services and the Administrative Office of the United States Courts".

SEC. 6043. Section 325 of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, as passed by the Senate on March 10, 2005, is amended—

(1) by striking subsection (b) and inserting the following:

"(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

"(1) by striking paragraph (1) and inserting the following:

"'(1)(A) 29.75 percent of the fees collected under section 1930(a)(1)(A) of this title; and

"'(B) 39.67 percent of the fees collected under section 1930(a)(1)(B);';

"(2) in paragraph (2), by striking 'one-half' and inserting '75 percent'; and

"(3) in paragraph (4), by striking 'one-half' and inserting '100 percent'.";

(2) by striking subsection (c) and inserting the following:

"(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking 'pursuant to 28 U.S.C. section 1930(b)' and all that follows through '28 U.S.C. section 1931' and inserting 'under section 1930(b) of title 28, United States Code, 29.75 percent of the fees collected under section 1930(a)(1)(A) of that title, 39.67 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title'."; and

(3) by striking subsections (d) and (e) in their entirety.

TECHNICAL CORRECTIONS—GENERAL SERVICES ADMINISTRATION

SEC. 6044. Under the heading "Federal Buildings Fund" in title IV of division H of Public Law 108–447, strike "$60,000,000" and insert in lieu thereof "$60,600,000" in reference to the Las Cruces United States Courthouse.

SEC. 6045. Section 408 in title IV of division H of Public Law 108–477 is amended by striking "Section 572(a)(2)(ii)" and inserting in lieu thereof "Section 572(a)(2)(A)(ii)".

TECHNICAL CORRECTION—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 6046. (a) The referenced statement of the managers under the heading "Community Development Fund" in title II of division I of Public Law 108–447 is deemed to be amended with respect to item 230 by striking "City" and inserting "Port".

(b) The referenced statement of the managers under the heading "Community Development Fund" in title II of division I of Public Law 108–447 is deemed to be amended with respect to item 233 by inserting "Port of" before the words "Brookings Harbor".

(c) The referenced statement of the managers under the heading "Community Development Fund" in title II of division I of Public Law 108–447 is deemed to be amended with respect to item number 30 by inserting "to be used for planning, design, and construction" after "California,".

(d) The referenced statement of managers under the heading "Community Development Fund" in title II of division G of Public Law 108–199 is deemed to be amended with respect to item number 122 by inserting "to be used for planning, design, and construction" after "California,".

This Act may be cited as the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005".

Amend the title so as to read: "An Act Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.".

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the Senate now has under consideration H.R. 1268, the fiscal year 2005 emergency supplemental appropriations bill. Pending is the substitute amendment recommended by the Committee on Appropriations. The committee met last Wednesday, April 6, and reported the bill with the substitute amendment by a unanimous consent vote of 28 to 0.

Our recommended substitute would provide a total of $80,581,832,000 in supplemental appropriations for fiscal year 2005. The recommendation is $1,460,796,000 below the President's request and $758,046,000 below the amount recommended in the House-passed bill.

The substitute is comprised of six titles.

Title I provides a total of $74,426,257,000 for defense-related activities, primarily the costs of continuing operations in Iraq and Afghanistan.

Title II includes $4,322,700,000 for international security programs, for assistance for reconstruction in Iraq and Afghanistan, and for support for coalition allies.

Title III provides appropriations in the amount of $687,145,000 for domestic activities related to homeland security and counterterrorism.

Title IV includes appropriations for Indian Ocean tsunami relief in the amount of $907,344,000.

Title V includes $238,390,000 for other emergency appropriations.

Title VI includes general provisions and technical corrections.

This is a straightforward bill. It meets the needs of our fighting forces overseas. It provides funding to meet our international responsibilities. It offers relief to the victims of the catastrophic tsunami in the Indian Ocean and addresses emergency requirements at home. It is critically important we move this bill through the Senate in a deliberate but expeditious fashion so we may confer with our colleagues from the other body and present legislation for the President's signature by the end of this month.

I will not take further time of the Senate today to go into all of the details of the proposal. Individual subcommittee chairmen and their ranking minority members will be available to Senators to explain the details of the bill as needed and as requested by Senators.

At the appropriate time, I will move the committee substitute be adopted and be treated as original text for the purposes of further amendment.

Before yielding to my distinguished friend and colleague from West Virginia, Senator BYRD, the ranking minority member of the committee, I share with the Senate an interesting email that was sent to one of my staff members by one of the helicopter pilots who was aboard the USS *Abraham Lincoln*, which steamed into the Indian Ocean immediately upon hearing about the devastating earthquakes and the tsunami tidal waves in that region of the world. They were one of our largest ships in the general region. They immediately got underway from their port when they heard the news and could tell how serious this situation was and steamed to the region.

This friend wrote an e-mail to my detailee from the Department of Defense who is a CDR Brian Glackin. At this time he has gone back to active duty for his full-time job in the Navy. He gets this e-mail, which he gave me a copy of, which I will read portions of so we can appreciate the response of the United States, as quickly as it was made, to this devastating situation.

> Stationed aboard the Abraham Lincoln we were inport Hong Kong on the morning of 26 Dec when we heard of the massive earthquake and devastating Tsunamis in the Bay of Bengal. As soon as we were aware of the horrible destruction we departed Hong Kong and headed South at best speed . . .

Then he described what happened when they arrived.

> I was in the first wave of helos sent ashore to establish a logistical hub and move supplies from Banda Acch airport—only a few miles from the destroyed north coast of the island.

He describes the bodies in the water, the houses floating in the ocean, the scenes along the coast as they were flying into the airport.

> We arrived at the airport to a scene of confusion and near chaos. Six days after the disaster and there was no infrastructure in place to assist these people. About 500 displaced Indonesians who had survived had made their way to the airport in search of a flight out of the area.
>
> . . . there was only one other American military member at the airport—an Army Major who had made his way up from the Embassy in Jakarta. A few Australians were already there and had set up a logistics hub to accept supplies. The Indonesian military had a base here as well and were accepting supplies but they had no other way than trucks to travel to the destroyed areas inland to move the food and water.

Then he talks about being a fixed wing pilot. He was not able to fly helicopters, but he helped coordinate the relief efforts. He complimented the nongovernment organizations that within an hour had loaded our first relief supplies to move down the west coast. He complimented the USAID and the International Organization of Migration as being invaluable in the establishing of assistance. He said:

> USAID has amazing logistical support to gather supplies from all over the world. The one thing both of these organizations lacked was the ability to distribute supplies to the people in need. That is where we came into play.
>
> We have set up a system now to have twelve of our Helicopters flying from sunrise to sunset to assist. We have been carrying everything from biscuits, rice, noodles, milk, water and medical supplies. We transport doctors and medical staff as well. The Indonesian people are in need of everything.

> Their homes along the coast have been washed away and we are finding them wandering aimlessly with no ability to acquire food, water or badly needed medical assistance. They all lack the ability to communicate as all phone lines are destroyed and there is no electricity. As our pilots drop off these supplies there are stories of the Indonesians hugging them with relief and joy.
>
> Our pilots then fly north to return back to [the airport] for resupply and they are finding small pockets of personnel who do not have any aid. They are able to pick many of them up and fly them to [the airport]. Most are near death.
>
> Yesterday we had a helo land with seven badly injured or dehydrated personnel all in critical condition. One was a seven year old girl. The doctors told me we saved her life as she would not have lived through the night. I couldn't help but think of my beautiful daughters and it was then that I realized the gravity of what we really were doing.

He said:

> I see on the news [now] the incredible outpouring of support from the US—it is a wonderful and necessary thing. The effort here at sea is equally as impressive. These young sailors are all extremely eager to get ashore and do whatever is needed despite the threat of disease and the obvious destruction.

He pointed out earlier that no sailors were asked to do anything who did not volunteer to do it. The commanding officer asked if sailors would like to participate and go ashore, and there were huge numbers who did.

> My squadron alone has already put numerous sailors ashore to assist with the loading and moving of the helos. I have never been so proud to be a member of the US military. We often are focused on keeping the peace and deterring evil acts. To now be able to have a direct impact in saving lives and attempt to rebuild a society is a testament to the United States' amazing resolve and capabilities.
>
> I thank you all for your efforts and your support. Please continue to keep the Indonesians in your thoughts and prayers. As of today this country alone is approaching 100,000 deaths from this disaster—we need to do all that is possible to mitigate any further suffering or loss of life.

Signed: CDR T.R. Williams, Executive Officer, deployed aboard the USS *Abraham Lincoln*.

Mr. President, I ask unanimous consent that the entire e-mail that I read from be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From: Glackin, Brian CDR AAUSN–PTGN (FM&C) [mailto:brian.glackin@navy.mil]
Sent: Thursday, January 13, 2005 7:08 AM
To: Cochran, Thad (Cochran)
Subject: FW: Tsunami update from the Lincoln

SENATOR, Below is a letter from a fellow naval aviator and good friend explaining his role in the Tsunami relief efforts. I think you will find it interesting.

Very Respectfully,

BRIAN.

Hello family and friends,

I just spent 3 days ashore at Banda Aceh working to assist all of those in dire need in Indonesia.

Stationed aboard the Abraham Lincoln we were inport Hong Kong on the morning of 26 Dec. when we heard of the massive earthquake and devastating Tsunamis in the Bay of Bengal. As soon as we were aware of the horrible destruction we departed Hong Kong and headed South at best speed—without any official request from governments. As we proceeded, we were completely unaware of what we could do or even if we would be needed, but we continued through the Strait of Malacca enroute to Indonesia and Thailand. Our mission was quickly defined and we were tasked to assist Indonesia as best as able. To do so we requested volunteers aboard the ship to assist. The response as you can imagine was overwhelming as all sailors want to do is help any way possible. We also knew that this would be a job for the SH–60 Helicopters we have aboard. We have currently shut down the flying for all carrier fixed wing aircraft (that's me) as there was no mission or request. For the first time in my 17 year Naval career, I have seen us stop flying tactical fixed wing aircraft—the primary purpose of an aircraft carrier—completely as all of our focus is on this disaster.

We arrived off the north shore of Indonesia on the morning of January 1st. I was in the first wave of helos sent ashore to establish a logistical hub and move supplies from Banda Aceh airport—only a few miles from the destroyed north coast of the island. Not knowing what to expect as we lifted off the deck, we were quickly given a glimpse as we could see numerous corpses floating in the water. There were large clusters of debris that looked like one time houses floating in piles scattered all over the ocean. As we approached the decimated shore we saw a cargo ship that was at least 300 feet long capsized on the beach. Proceeding further inland we were amazed that the coastal town was gone. You could see outlines of where foundations once were, but as the earthquake shook them loose, the Tsunamis washed everything out to sea. As we continued inland, the devastation was evident more than 2 miles from the coast. We then approached very green and lush mountains—a sharp contrast to the leveled brown terrain of the decimated coast. We climbed in the helos over these 2,000 foot peaks and entered an area of surreal, beautiful countryside.

We arrived at the airport to a scene of confusion and near chaos. Six days after the disaster and there was no infrastructure in place to assist these people. About 500 displaced Indonesians who had survived had made their way to the airport in search of a flight out of the area southeast to the safe havens of Medan or Jakarta where there is little or no damage.

Upon arrival, there was only one other American military member at the airport—an Army Major who had made his way up from the Embassy in Jakarta. A few Australians were already there and had set up a basic logistics hub to accept supplies. The Indonesian military had a base here as well and were accepting supplies but had no way other than trucks which could not travel on the destroyed roads to move the food and water.

Being a Prowler pilot with no helicopter flying abilities, I was sent in to be the Carrier Air Wing Two liaison to move supplies! Realizing there was no one to liaise with, myself and my squadron mate, Lt. Ken "Jub" Velez became the primary coordinators to make this relief effort happen. Arriving at 0900, we were able to coordinate with the Indonesians and the NGO's (Non-Government Organizations), and within an hour have our first load of relief supplies moving down the west coast. The two primary NGO's USAID and IOM (International Organization of Migration) have been invaluable in the establishing of assistance. They have a small medical tent with trained doctors capable of triaging and stabilizing patients.

US AID has amazing logistical support to gather supplies from all over the world. The one thing both of these organizations lacked was the ability to distribute supplies to the people in need. That is were we came into play.

We have set up a system now to have twelve of our Helicopters flying from sunrise to sunset to assist. We have been carrying everything from biscuits, rice, noodles, milk, water and medical supplies. We transport doctors and medical staff as well. The Indonesian people are in need of everything. Their homes along the coast have been washed away and we are finding them wondering aimlessly with no ability to acquire food, water or badly needed medical assistance. They all lack the ability to communicate as all phone lines are destroyed and there is no electricity. As our pilots drop off these supplies there are stories of the Indonesians hugging them with relief and joy. Our pilots then fly north to return back to Banda Aceh for resupply and they are finding small pockets of personnel who do not have any aid. They are able to pick many of them up and fly them to Banda Aceh. Most are near death. Yesterday we had a helo land with seven badly injured or dehydrated personnel all in critical condition. One was a 7 year old little girl. The doctors told me we saved her life as she would not have lived through the night. I couldn't help but think of my beautiful daughters and it was then that I realized the gravity of what we really were doing.

We will continue this effort as long as we are needed. It is difficult to imagine shifting back to fixed wing flight ops and leaving the area any time soon as the work to be done is almost insurmountable. We have been working hard with the hordes of press who badly need to tell this story. I enlisted the support of my squadron mate, LCDR Dave "Smack" Edgarton to specifically deal with the media. With every flight of two that we send down the coast, we embark a two man journalist team, as well as member of the IOM to coordinate with any injured or displaced persons who need our help. Yesterday we hosted Dan Rather and his CBS crew for a 60 minutes evening magazine special he was doing that should air sometime this week in the states. I had breakfast with Mr. Rather aboard the carrier as we discussed the days' events and what he would like to see. He and his staff's graciousness and professionalism impressed me. We have flown Mike Chinoy from CNN and correspondents from all the major U.S. and international networks and newspapers. If something is coming from Banda Aceh, the U.S. Navy has helped them get their story.

I must say a few words about the volunteer effort here—it is truly an effort of amazement. I see on the news the incredible outpouring of support from the U.S.—it is a wonderful and necessary thing. The effort here at sea is equally as impressive. These young sailors are all extremely eager to get ashore and do whatever is needed despite the threat of disease and the obvious destruction. My squadron alone has already put numerous sailors ashore to assist with the loading and moving of the helos. I have never been so proud to be a member of the U.S. military. We often are focused on keeping the peace and deterring evil acts. To now be able to have a direct impact in saving lives and attempt to rebuild a society is a testament to the United States' amazing resolve and capabilities. I thank you all for your efforts and your support.

Please continue to keep the Indonesians in your thoughts and prayers. As of today this country alone is approaching 100,000 deaths from this disaster—we need to do all that is possible to mitigate any further suffering or loss of life.

My best to all,

CDR T.R. WILLIAMS,
Executive Officer, VAQ–131.

Mr. COCHRAN. This bill before the Senate contains funds that help replenish the accounts that were depleted by our agencies that were actively involved in the tsunami relief. We are asking in the bill for the Senate to approve about $1 billion for related activities that were involved in that operation. The military, of course, incurred costs, too, and we hope this bill will help make up the difference in their accounts so they will continue to be able to protect our security interests around the world.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, this is the first appropriations bill brought to the floor under the chairmanship of my good friend, the senior Senator from the great State of Mississippi, THAD COCHRAN. He has scrubbed the numbers so that, as he has pointed out, the bill is under both the President's request and the House of Representatives allowance. I commend Senator COCHRAN for his efforts. This was not easy. He has been fairminded. He has been evenhanded in the processing of this bill.

I will say a few words about our former chairman, the very distinguished Senator from the State of Alaska, TED STEVENS. Because of the committee chair term limits imposed under the Republican Caucus, TED STEVENS has taken over the reins of the Senate Commerce Committee. He will do a good job there.

He is always up to the deed, up to the moment. He carries his responsibilities manfully, nobly, and he never forgets the Constitution of the United States, the fact that this Government is under that Constitution, that the separation of powers is a part of that Constitution, that the Senate is equal to the House of Representatives, and they make up the Congress of the United States, and that the Congress is equal to each of the other branches, the executive branch and the judicial branch.

But Senator STEVENS, although he has left the chairmanship, and had to leave by virtue of the Republican Caucus rules, still serves on the Appropriations Committee. He chairs the Subcommittee on Defense. He very ably chairs that subcommittee. He has had a lot of experience. He knows what he is doing, and he has a mind that is like a tar bucket. Everything that hits it sticks to it. He will continue to be a power. He has served and he continues to serve the people of Alaska with honor and dignity as their Senator.

Both of these men, the former chairman and the current chairman, are true gentlemen to the depths of their hearts in their relations with their colleagues. We know they are fair, and we are grateful for that.

Senator COCHRAN has worked hard to produce this fiscal year 2005 emergency supplemental appropriations bill. As he explained, it totals $80,581,832,000. That is $1,460,796,000 below the President's budget request and $785,046,000 below the House-passed bill. The supplemental bill that is before the Senate includes over $74.4 billion for the Department of Defense.

I must say that our men and women in uniform are indeed among the finest of our country's citizens. I heard the chairman read the letter from a man who was instrumental in helping the people who had been disadvantaged by the recent tsunami. This man was on a helicopter. He helped move that fixed-wing aircraft into the various parts of one of the islands or more than one perhaps.

I was there 50 years ago. I had to sleep in the mosquito cages, and I looked at a huge tarantula crawling around and listened to lizards over in the windows rustling about in the room in which I was to sleep. Well, this is terribly hot. Gee whiz, when I went there you had to lie down. You did not have enough energy to walk around. You slept in mosquito cages.

Well, think of what this man who wrote the letter was going through on the helicopter. He was on a mission of mercy—mercy—thank God. I salute him for that letter. What a graphic story of what was going on, and the service our men and women were performing. I salute them for their valor. I thank them for their service.

But we owe our troops more than mere gratitude for a job well done. We owe our troops the confidence of a clearly defined military mission, one that has measurable goals and benchmarks and, more importantly, one that has an identifiable endpoint. In short, we owe our troops—our men and women, our magnificent troops—in Iraq not only the resources with which to fight the war but also a strategy to end that war. I was never in favor of it in the beginning, but that is a matter of record and history.

Unfortunately, the President's supplemental budget request fails to deliver what our troops need most. The President is asking the Congress to continue to shovel out money into United States military operations in Iraq with no further clarity as to what goals the military is expected to achieve, no hint—not even a hint—of a possible timetable, and no end to the occupation in sight.

The recent elections in Iraq gave the United States a unique window of opportunity to change course in order to lower the profile of the American military presence and to open the door to greater international cooperation. But the administration, despite all of its conciliatory gestures to our European allies, has effectively squandered that opportunity.

The very size of this supplemental request sends a clear message that the United States is not winding down its military operations in Iraq. Instead, the United States appears to be gearing up either to accommodate a permanent military presence in Iraq or to establish a launching pad for other military operations in the region. Oh, how long—how long—is this going to continue in this fashion? Either way, we are sending the wrong signals to the people of Iraq, to its neighbors in the region, and to the larger international community.

Instead of taking this opportunity to temper anti-American sentiment among disaffected Iraqis and their neighbors, the administration has turned up the heat, and now the Iraqis are saying: Get out. Leave us alone. Come back some other day, but let us alone. Let us alone. Those protests are mounting. The administration has turned up the heat with the construction of new military facilities in Iraq and the construction of the most costly Embassy in the world in Iraq, a country of only 25 million inhabitants.

You taxpayers out there who are watching this debate through those magnificent lenses, it is your money, your sons, your daughters.

I am troubled by many aspects of this request. I want to support our troops. I fully intend to support our troops. I would not think of doing otherwise. They are there. They have been there too long. Few of them asked to go there, but they are there. They are the empty chairs at the table on Thanksgiving, on Christmas, on holy days—empty chairs.

I am not willing to give the executive branch carte blanche to run roughshod over the Congress and to pursue policies never debated fully on this floor.

The request sent to the Congress by this administration contained "ambiguous flexibilities" to spend money on unspecified activities with little or no involvement of the Members of Congress. I am grateful that Chairman COCHRAN has responded to my entreaties to limit these extraordinary authorities. I suggest the committee bill still goes too far.

The President also requested, and the bill still includes, ambitious policy initiatives, including the construction of a permanent maximum security prison at Guantanamo, Cuba, and a host of seemingly enduring military facilities in Iraq. Why? The courts have yet to determine what the legal status is of detainees from the war on terrorism or whether the United States can continue to hold them indefinitely without charging them with any specific crime. Yet this bill includes $36 million to build a permanent prison facility at Guantanamo Bay. I went there years ago. These are policy decisions, not simply pocketbook issues. Decisions to build permanent facilities should not be made via an emergency supplemental appropriations bill.

In fact, the White House has turned on its head the definition of an emergency supplemental appropriation. In his budget, the President calls on Congress to deploy a stricter standard for what constitutes emergency spending, spending that is thus excluded from constraints on spending. He urges the Congress to only approve emergency spending for activities that are "necessary expenditures, sudden, urgent, unforeseen, and not permanent." Yet the President has asked the Congress to approve funding for the most expensive U.S. Embassy in the world. And he hasn't done it in a regular bill; he has done it in an emergency war supplemental. This Embassy would be larger than the U.S. Embassy in Russia, larger than the U.S. Embassy in China, larger than the U.S. Embassy in Saudi Arabia, and 10 times the size of most U.S. Embassies. Funds to staff that Embassy, which will not be needed until fiscal year 2006, are also requested in this emergency bill. As noted earlier, to build a permanent prison at Guantanamo Bay is also requested.

A supplemental bill is being used to tunnel deeper and deeper and deeper into Iraq with no definitive exit strategy in sight and no light on the horizon. This request encompasses serious and far-reaching policy questions, and we are having it shoved down our throats.

Moreover, on July 17, 2003, the Senate voted 81 to 15 for my amendment expressing the sense of the Senate that the President should request funds for the wars in Iraq and Afghanistan—they are two different wars—in the regular budget, rather than through emergency supplemental appropriations bills.

On June 24, 2004, I offered the same sense-of-the-Senate amendment which was approved by an even wider margin in the Senate by a vote of 89 to 9. Both sides joined in. Republicans and Democrats joined in that vote. It was 89 to 9. These are strong, emphatic, definitive votes. This provision was included in both the fiscal year 2004 and fiscal year 2005 Defense Appropriations Acts. I didn't put those words in those acts alone. It was with the support of Republicans and Democrats on both sides of the aisle. So much for the views of the Senate.

Instead, the White House chose to seek an $81.9 billion emergency supplemental for fiscal year 2005 and requested nothing for the war for fiscal year 2006. This is not truth in budgeting. This is not leveling with the American people about their money. This is not truth in budgeting. This is hocus-pocus. Now you see it; now you don't. It is not there.

Tactics such as this hide the real cost of the wars. I say it to you people out there who are watching through those lenses, watching the most deliberative body, upper body in the world today—and I hope it remains that way; I hope the nuclear option is pushed aside—tactics like this, putting these requests into emergency supplementals, hiding the real costs of the wars. The American people don't see those costs. That is wrong. That is not being fair with the American people. That is not being honest with the American people. That is not being straightforward with the American people. That is not laying it on the line with the people who are going to pay the cost.

By seeking $81.9 billion as an emergency supplemental, rather than in his budget, the President avoids a debate about priorities and how the war should be paid for. By seeking an $81.9 billion emergency supplemental for the war, by asking for that much money in an emergency supplemental for the war in Iraq, the President avoids any discussion of the tradeoffs that are inherent in a decision to spend another $81.9 billion on defense and foreign aid.

If the President's emergency request for 2005 is approved, the Congress will have approved over $210 billion just for the war in Iraq. How much is $210 billion? That is $210 for every minute since Jesus Christ was born 2,000 years ago. How much is it? That is $210 for every minute that has passed since Jesus Christ was born 2,000 years ago.

While the budget deficit grows to record levels, the President tells us we have to cut domestic programs by $192 billion over the next 5 years. The President tells us we have to charge veterans—those brave men and women—for their medical care, and we have to cut grants for firefighters and first responders, that we cannot adequately fund the No Child Left Behind Act, and that we should cut funding for the National Institutes of Health.

For fiscal year 2006, the President fails to request any funding for the two wars in Iraq and Afghanistan. I will say that again. For fiscal year 2006, the President fails to request any funding for the wars in Iraq and Afghanistan. The President pretends that he cannot project what the war will cost in 2006. Well, I assure the American people the costs will not be zero. The President will not tell the American people what the war in Iraq will cost. No, he will not tell the American people what the war will cost in Iraq. It is your money. I say to the people of this country. Republicans, Democrats, Independents, whatever you will, it is your money.

Nor will the President give the American people a plan for getting out of Iraq. How long are the American people going to suffer under the weight of this colossal burden? The President continues to insist on borrowing the money to fund the war in Iraq 1 year at a time through emergency supplemental appropriations requests. So far, the Department of Defense has received appropriations of $16 billion, $14 billion, $7 billion, $10 billion, $63 billion, $65 billion, and $25 billion for the costs of the wars in Afghanistan and Iraq—all emergency spending, one piece at a time, and all of it, adding to our horrendous debt. What a shame. What a colossal shame.

In his budget for fiscal year 2006, the President's only plan to help pay for his tax cuts and his war in Iraq is to slash that small portion of the budget that pays for priorities at home. In order to hide the consequences of his proposed cuts in domestic programs—cuts of $192 billion over 5 years—the President's budget excludes the details that are traditionally included in the budget. However, based on data the Office of Management and Budget has provided to the Congress on the levels of funding in each of the next 5 years, the Center on Budget and Policy Priorities has studied the impact of the proposed cuts.

Adjusted for inflation for 2010, when the President's proposed reductions would reach their full dimensions, education funding for kindergarten through the 12th grade would be cut by $4.6 billion or 12 percent. Grants to States and localities would be cut by nearly $22 billion in 2010. The number of low-income women, infants, and young children receiving assistance through the WIC supplemental nutrition program would be cut, cut, cut by $670,000. The number of children in low-income working families who receive childcare assistance would be cut, cut, cut by $300,000. The number of low-income families, elderly people, and people with disabilities who receive rental assistance through the provision of rental vouchers that help them to afford modest apartments would be cut, cut, cut by $370,000. Environmental protection would be reduced by 23 percent, including EPA programs that support State and local efforts to ensure clean drinking water, reduce air pollution, and upgrade sewage treatment facilities which would be sliced 28 percent.

I call on the President—Mr. President, I say this to the President in the White House—to send Congress a budget amendment this week that includes his estimates for the real costs of the wars in Iraq and Afghanistan. There are tradeoffs we are making to fund these efforts to the tune of about $1 billion a week. There needs to be a debate about that. The issue becomes crystal clear when these war costs are shown as part of the regular budget process. As we consider the budget for fiscal year 2006, Congress should understand the full cost of the wars.

I want to say that again. I shall say it again. As we consider the budget for fiscal year 2006, Congress should understand and the American people should understand the full costs of the wars, and especially the war in Iraq, so that we, the Members of Congress, can make reasoned spending choices so that we can inform our constituents about how we plan to pay for those choices.

Again, I thank my chairman. I thank the staff, the magnificent staff of the Appropriations Committee, the staff who worked hard to help our chairman and to help me and to help the members of our Appropriations Committee in our efforts to bring this full bill to the floor.

The majority staff is led by Keith Kennedy. There is a man, Keith Kennedy. He knows what he is doing. He knows this bill up and down and sideways. Keith Kennedy. I am gratified that the chair has chosen him, and I am also thankful to the chair that he has chosen a man like Mr. KENNEDY.

I am also thankful for the minority staff, led by Terry Sauvain, that man from Notre Dame, and a deputy named Chuck Kieffer. He has worked on both the legislative and executive sides. He knows the appropriations process inside, outside, from the executive branch viewpoint and from the legislative side. I thank all of the members of the appropriations staff on both sides of the aisle. I thank the Chair, and I thank all Senators. Again, I thank my illustrious chairman.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to and be considered as original text for the purpose of further amendments and that no points of order be waived by virtue of this agreement.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BYRD. Mr. President, that request is supported on this side of the aisle 100 percent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

Mr. COCHRAN. Mr. President, I compliment and thank most sincerely my friend from West Virginia, the distinguished senior Democratic member of the Appropriations Committee, for his support during the committee markup in terms of the procedures for the consideration of the House-passed bill. We substituted a complete text in the committee markup for the House bill and proceeded to consider amendments to that text. We made some changes in that House bill, as is reflected by the total amount we are recommending be appropriated in the bill by the Senate.

We bring the bill in below the level of funds requested by the President for this bill, and it is below the level approved by the House of Representatives. We hope Senators will consider their ideas for changes or improvements in the bill. We are not attempting to rush the Senate to completion of action on this bill, but we do want to move ahead with dispatch so we can get the funds that are provided in this bill to the agencies where they are needed, to the Department of Defense and the Department of State for depleted accounts.

The challenges we face in Iraq and Afghanistan have been costly, as we all recognize, but we need to move forward to a successful conclusion of those operations so that troops can be returned home as soon as possible, so that stability can be restored in that and other regions of the world, and so that the economy of those countries can be free flowing once again.

In that connection, I was heartened to receive a call from the Secretary of Agriculture last week advising me that the interim government in Iraq had decided to purchase 60,000 tons of rice from the United States. This is an indication, it seems to me, that their economy is beginning to move forward, that the Iraqi Government and the people of Iraq are moving toward the day when they will be able to stand on their own two feet, that they will be able to take care of themselves from a security standpoint and in every other way be a functioning entity in that region for stability and economic progress. That is the goal; that is the purpose of the sacrifices we are making today—to make this world safer for all people.

I compliment the President and the leadership of his Cabinet—particularly Secretary Rumsfeld and Secretary Rice—as they carry out the missions of the Departments of Defense and State at this very difficult time. Now is not the time for the Senate to start eroding the confidence we have in the challenges we face and the way we are proceeding to meet those challenges. I believe we are making good progress, and we ought to compliment the administration for the work they have done in this very difficult period in our Nation's history.

I urge the Senate to approve this substitute.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am pleased to come to the floor to support the defense portion of the emergency supplemental appropriations bill before us. I thank Senator COCHRAN and Senator BYRD for their support of the funding requested by the Pentagon to continue the efforts of our Nation in Iraq and Afghanistan and the global war on terrorism.

The bill has been highlighted by the chairman and Senator BYRD. It provides $73.3 billion in new discretionary spending authority for the Department of Defense programs. Most of those funds are to continue the operations in Iraq and Afghanistan, but we also have authorized use of that to pay back those accounts from which funds were borrowed during the first half of the current fiscal year on an emergency basis for continued operations in those areas.

Mr. President, $17.5 billion of this money will go toward military appropriations accounts. Those moneys are used to fund pay allowances and subsistence and other personnel costs for active Guard and Reserve troops activated for duty throughout the world.

This bill also includes funding for special pay, such as imminent danger pay, family separation allowances, and hardship duty pay.

We also provide additional funds for the Servicemembers' Group Life Insurance Program and for an enhanced death gratuity. Specifically, this bill increases service members' insurance coverage from $250,000 to $400,000 and raises the death gratuity from $12,000 to $100,000. This has been requested, and Congress has authorized to fund these enhanced benefits to cover those military personnel who have been or may be killed in combat operations.

We recommend an increase in the death gratuity benefit to cover those service members killed in training or in other combat-related activities. Almost half of the defense portion of this bill goes toward the operation and maintenance accounts of the Department of Defense—$37.4 billion. Now, this reflects the cost of ground operations, flying hours, logistics support, fuel, travel, transportation, and support of the global war on terrorism.

Additionally, it will finance the repair and refurbishment of equipment used in Iraq and Afghanistan to ensure that our forces remain ready to meet global operational commitments.

The bill provides $15.9 billion for procurement activity across the military. It funds force protection equipment, replacement and repair of equipment lost in operations, and the equipping of units to support upcoming rotations. Senior Department of Defense officials informed our committee that they need to receive this supplemental funding by early May in order not to impact readiness levels.

We all know it will take some time to take this bill through conference, so I urge the Senate to complete action on the supplemental bill as soon as possible so that we can proceed to confer with our friends in the House and give this bill to the President for signature so it can be reviewed by the processes downtown, which takes at least 10 days, and get this money to the Department in time to meet these contingencies so they don't have to borrow additional moneys from other accounts. It complicates the operation when that continues.

I hope Senators will come forward with their amendments, if they have any, on this portion of the supplemental bill.

Again, I commend our distinguished chairman and senior ranking member, Senator COCHRAN and Senator BYRD, for their cooperation with us in bringing this portion of this bill before the Senate. We are a little bit lower than the House, and the bill is lower than the President's request. I think as matters continue we are going to have to review the numbers and make sure we meet the pressing, urgent needs of those who wear the uniform of the United States.

Again, I urge Senators to come forward and make suggestions for amendments, if they have them. I look forward to continued support of this bill.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, the bill before us, as noted by the Senator from Alaska, includes $74.4 billion. Of that amount, $73.3 billion is under the jurisdiction of the Subcommittee on Defense.

The vast majority of this funding, approximately $42.5 billion, is recommended to cover the costs of operations in Iraq and Afghanistan. With 150,000 military personnel in Iraq and another 18,000 in Afghanistan, the funding included in this bill is essential to support our forces.

The bill also includes $12 billion to repair and replace equipment damaged in the operations abroad. This funding will allow the military departments to reequip our forces who are returning from combat. Without these funds, our military would not be equipped to meet future crises.

The bill provides $5.3 billion for new equipment for our Army and Marine forces as they restructure their forces to create additional combat capability. While some may question whether these funds qualify as emergencies, it should be clear that our military forces will need these funds as they begin restructuring transformation.

Finally, the remaining funds are provided to support those nations which are taking part in the operations abroad, including training and equipping the Afghanis and Iraqis, and to support related efforts for recruiting, morale welfare, recreation, and other military personnel needs.

I support this bill, and I urge all of my colleagues to join me in supporting this measure. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF PAUL A. CROTTY TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session for the consideration of Executive Calendar No. 38, which the clerk will report.

The assistant legislative clerk read the nomination of Paul A. Crotty, of New York, to be United States District Judge for the Southern District of New York.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 30 minutes of debate equally divided between the chairman and ranking member of the Committee on the Judiciary or their designees.

The Senator from New York.

Mr. SCHUMER. Mr. President, I rise to speak in favor of an extremely fine gentleman, Paul Crotty, to be confirmed to the Southern District of the New York bench. Paul Crotty is a fine man, an outstanding lawyer, and he will make a terrific judge. Paul Crotty is an impressive nominee who has long enjoyed strong bipartisan support for a judgeship in New York. I am glad that at long last his nomination has finally been brought to the floor for a vote after languishing since last November.

First, I would like to talk a little bit about Paul Crotty. He has the support of not only myself and Senator CLINTON, he has the support of a broad range of New Yorkers, in fact. I personally would like to thank two who worked religiously on behalf of Paul Crotty's nomination, two former mayors of New York City, one a Democrat and one a Republican. They are Mayor Ed Koch and Mayor Rudy Giuliani.

Both had worked with Paul Crotty when they were mayor, and both speak extremely highly of him. In fact, I would like to read from the letter, for instance, that Mayor Giuliani sent:

> Paul Crotty is one of the finest men I know. He possesses all the qualities of an excellent judge—wisdom, compassion, toughness, curiosity, common sense, unwavering integrity, and an abiding love of the law. . . . Many possess knowledge of the law or knowledge of government. Paul Crotty is the rare individual who possesses mastery of both. He has set and achieved the highest standards at every stage of his career. Our Nation will be fortunate to have him join the Federal bench.

I don't have Mayor Koch's letter, but it was Mayor Koch who suggested to me the idea that Paul Crotty be nominated to the bench. I knew Paul in many different walks of life and thought it was a great idea and was happy to not only support his nomination but to work hard to see that it would pass.

Let me tell you a little bit about Paul Crotty. He has had a long and distinguished career in both the public and private sectors of the New York legal community. He graduated from Cornell Law School in 1967. He clerked 2 years for U.S. District Court Judge Lloyd MacMahon of the Southern District, the court to which he is now nominated. He served in city government as Mayor Koch's commissioner of finance and commissioner of housing. He was a partner in the very prestigious New York law firm of Donovan Leisure Newton Irvin.

He went on to serve Mayor Giuliani as New York City's corporation counsel and the head of the city's law department, perhaps the single most difficult legal job in municipal government anywhere in America.

Mr. President, Paul Crotty is an incredible choice. I have known him for a long time. He is smart, compassionate, decent. He has the two qualities I look for in a judge: a fine and deep intellect and a practical sense. Sometimes I worry that judges without practical experience impose things on Government or on society that cannot work, even though they might sound fine when you see it in writing and in black and white.

Paul's extensive and practical experience, as well as his legal experience, makes him a perfect candidate for a judge in the district court in the Southern District of New York, one of the most important courts in the country.

I want to make one other point. In New York, Paul Crotty's nomination is not the exception, it is the rule. We have worked extremely well together—the White House, the Justice Department, and the Senator from New York—to bring judges to the floor. There have been no vacancies that have been outstanding for a long period of time in either the Second Circuit, which I know my good friend and colleague, the ranking member, Senator LEAHY, is part of as well, nor have there been in the four district courts of New York in the East, Northwest, and South.

I think we have worked together well on this Crotty nomination. In general, we have worked well together in New York. The White House and Senate, including Democrats in the Senate, can work well together to bring fine men and women to the bench.

The candidates who have been nominated in the Second Circuit and in the courts of New York—I don't agree with them on everything at all, but they are fine people. They are qualified people, and I would say none of them are at the extremes—either far right or far left. They are not the kind of ideologues who seek to make law. They are, rather, the kind of people the Founding Fathers wanted to see on the bench, people who would interpret the law.

Judges have awesome power, and judges on the Federal level have a lifetime appointment. You combine those two and you know you need people who don't think they know better than the public, that they know better than the Congress, that they know better than others. They interpret law; they don't make law. Paul Crotty exemplifies this. I am proud to support his nomination. I hope he will get unanimous support on the floor of the Senate. I know he will make an outstanding judge.

I congratulate Paul Crotty for his great career, and his wife, his children, and the entire Crotty family, who are well known in New York for their public service from one end of the State in Buffalo, where the family originally came from, to the other end in New York City.

I yield the floor to our ranking member, Senator LEAHY.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from New York, Mrs. CLINTON, be recognized, but that I retain the last 5 minutes of the time before the vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New York, Mrs. CLINTON, is recognized.

Mrs. CLINTON. Mr. President, I thank my colleague and our ranking member of the Judiciary Committee. I, too, am enthusiastic about this nominee. This is a supremely qualified judicial nominee, and he will serve with great distinction in the Southern District in New York. He does hail from a family and tradition of public service, and his hometown of Buffalo is particularly pleased this vote is about to occur.

Mr. President, he has distinguished himself in both the public and the private sectors. He served for years as a practicing attorney in New York City. He has served as a counsel for a major corporation, and he has always served his community. After the attack of September 11, Paul Crotty signed on to serve on the Lower Manhattan Development Board to help Lower Manhattan recover from those devastating attacks. He has been active in organizations, such as the New York Urban League, City Bar Fund, and the Tri-State United Way. He worked very closely with Mayor Ed Koch, first as commissioner of financial services, and then as commissioner of housing preservation and development.

He later served as corporation counsel to Mayor Giuliani, during which he advised the mayor on a wide variety of issues. So, without question, Paul Crotty has the intellect, demeanor, and commitment to justice to serve the people of New York and America with distinction.

I, also, congratulate the entire Crotty family: Paul's wife Jane, his children John, Elizabeth, and David, his daughter-in-law Katherine, and his brothers Bob and Jerry, because this is a family accomplishment. The Crotty family, which extends far beyond the names I have mentioned—there are too many to enumerate—is a very close-knit family. I know how much pride they take in this nomination. Paul's father, Peter J. Crotty, who passed away in 1992, was a great political leader in New York. He instilled in his children that sense of tradition.

Finally, I want to acknowledge Paul's mother Margaret who is 92 years old and still lives in Buffalo. She has been and remains a tremendous influence in Paul Crotty's life and that of the entire Crotty family.

With this nomination today, Mr. President, the Senate will have confirmed 205 of the judicial nominations sent to the Senate by the President. I am very pleased we were all able to come together across the aisle to unanimously, I hope, support someone who is so well qualified for this lifetime appointment. Again, I thank my friend and colleague from Vermont, and I yield back my time.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I am pleased to see the Senate finally be able to vote on the nomination of Paul Crotty to be a U.S. District Court Judge for the Southern District of New York. The seat to which Mr. Crotty has been nominated has been unnecessarily vacant for months, and Democrats have been asked for months now, since last year, for this nominee to be considered, debated, voted on and confirmed.

As I have noted in earlier statements in the Judiciary Committee, among this President's renominations there are two noncontroversial judicial nominations on which we should have been able to make immediate progress. I have often spoken of the President's nomination of Mr. Crotty to the District Court for the Southern District of New York and the nomination of Michael Seabright to the District Court of Hawaii. All Democrats on the Judiciary Committee have been prepared to vote favorably on these nominations for some time. We were prepared to report them last year, but they were not listed by the then-chairman on the committee agenda. I thank Chairman SPECTER for including them at our meeting on March 17.

Last week I noted that both these consensus nominations were continuing to languish without action on the Senate calendar and that the Senate Republican leadership was refusing to work with us to schedule them for action. I thank the Senate Republican leadership for being willing to turn to the Crotty nomination this evening. I hope that they will not make Mr. Seabright, the people of Hawaii and the Hawaii District Court wait much longer before we are allowed to consider, debate and confirm Michael Seabright, as well.

Once confirmed, Mr. Crotty will be the 205th of 215 nominees brought before the full Senate for a vote to be confirmed. That means that 829 of the 875 authorized judgeships in the Federal judiciary, or 95 percent, will be filled. As late as it is in the year, we are still ahead of the pace the Republican majority set in 1999, when President Clinton was in the White House. That year, the Senate Republican leadership did not allow the Senate to consider the first judicial nominee until April 15.

Of the 46 judicial vacancies now existing, President Bush has not even sent nominees for 28 of those vacancies; more than half. I have been encouraging the Bush administration to work with Senators to identify qualified and consensus judicial nominees and do so, again, today.

It is now the second week in April, we are more than one-quarter through the year, and so far the President has sent only one new nominee for a Federal court vacancy all year—only one. Instead of sending back divisive nominees, would it not be better for the country, the courts, the American people, the Senate and the administration if the White House would work with us to identify, and for the President to nominate, more consensus nominees like Paul Crotty who can be confirmed quickly with strong, bipartisan votes?

I commend the Senators from New York for their ability and efforts in connection with Mr. Crotty's nomination. Their support is very helpful and indicative of the type of bipartisan efforts Senate Democrats have made with this President and remain willing to make. We can work together to fill judicial vacancies with qualified, consensus nominees. The vast majority of the more than 200 judges confirmed during the last 3½ years were confirmed with bipartisan support. The truth is that in President Bush's first term, the 204 judges confirmed were more than were confirmed in either of President Clinton's two terms, more than during the term of this President's father, and more than in Ronald Reagan's first term when he was being assisted by a Republican majority in the Senate. By last December, we had reduced judicial vacancies from the 110 vacancies I inherited in the summer of 2001 to the lowest level, lowest rate and lowest number in decades, since Ronald Reagan was in office.

There should be no misunderstanding; Mr. Crotty has strong Republican ties. He worked as Corporation Counsel for then-Mayor Rudolph Giuliani, and served in New York City government in a variety of posts over the years. After the terrorist attack on September 11, 2001, Mr. Crotty played a major role in coordinating Verizon's work in restoring telephone service to the New York Stock Exchange, Federal, State and local agencies and large business customers. He continues to play a significant role in Verizon's revitalization of its telephone network in Lower Manhattan. In 2002, Mr. Crotty led Verizon's efforts in a complex administrative proceeding to gain the New York Public Service Commission's authorization to rebalance retail revenues in light of the increasing competition in New York's communication market.

Mr. Crotty has also given generously of his time and currently serves on the Boards of the Lower Manhattan Development Corporation, Tri-State United Way, where he is also the Corporate Secretary, Polytechnic University, Council of Governing Boards, St. Vincent's Hospital-Manhattan, New York State Business Development Corporation, Regional Plan Association, and the New York Urban League. He has served on the Executive Committee of the Association of the Bar of the City of New York since 2001. In addition, Mr. Crotty serves on the Advisory Boards of the New York Law School and the C.U.N.Y. Irish Studies program.

Senate Democrats have long supported and requested action on this nomination. We will be delighted that the New York Senators will be able to call Mr. Crotty tonight and tell him that after 5 months of unnecessary delay the Senate finally did consider his nomination and granted consent overwhelmingly. I add my congratulations to Mr. Crotty and his family.

I have been urging this President and Senate Republicans for years to work with all Senators and engage in genuine, bipartisan consultation. That process leads to the nomination, confirmation, and appointment of consensus nominees with reputations for fairness. The Crotty nomination, the bipartisan support of his home State Senators and the Senate's act of granting its consent tonight with a strong bipartisan vote is a perfect example of what I have been urging.

I have noted that there are currently 28 judicial vacancies for which the President has delayed sending a nominee. In fact, he has sent the Senate only one new judicial nominee all year. I wish he would work with all Senators to fill those remaining vacancies rather than through his inaction and unnecessarily confrontational approach manufacture longstanding vacancies. It is as if the President and his most partisan supporters want to create a crisis. Last week we heard some extremists call for mass impeachments of judges, court-stripping and punishing judges by reducing court budgets. Rather than promote crisis and confrontation, I urge that this President do what most others have and work with us to identify outstanding consensus nominees. It ill serves the country, the courts, and most importantly the American people for this administration and the Senate Republican leadership to continue down the road to conflict. The Crotty nomination shows how unnecessary that conflict really is. Let us join together to debate and confirm these consensus nominees to these important lifetime posts on the Federal judiciary.

It is the Federal judiciary that is called upon to rein in the political branches when their actions contravene the constitutional limits on governmental authority and restrict individual rights. It is the Federal judiciary that has stood up to the overreaching of this administration in the aftermath of the September 11 attacks. It is more and more the Federal judiciary that is being called upon to protect Americans' rights and liberties, our environment and to uphold the rule of law as the political branches under the control of one party have overreached. Federal judges should protect the rights of all Americans, not be selected to advance a partisan or personal agenda. Once the judiciary is filled with partisans beholden to the administration and willing to reinterpret the Constitution in line with the administration's demands, who will be left to protect American values and the rights of the American people? The Constitution establishes the Senate as a check and a balance on the choices of a powerful President who might seek to make the Federal judiciary an extension of his administration or a wholly-owned subsidiary of any political party.

Today, Republicans are threatening to take away one of the few remaining checks on the power of the executive branch by their use of what has become known as the nuclear option. This assault on our tradition of checks and balances and on the protection of minority rights in the Senate and in our democracy should be abandoned.

Eliminating the filibuster by the nuclear option would destroy the Constitution's design of the Senate as an effective check on the executive. The elimination of the filibuster would reduce any incentive for a President to consult with home State Senators or seek the advice of the Senate on lifetime appointments to the Federal judiciary. It is a leap not only toward one-party rule but to an unchecked executive.

Rather than blowing up the Senate, let us honor the constitutional design of our system of checks and balances and work together to fill judicial vacancies with consensus nominees. The nuclear option is unnecessary. What is needed is a return to consultation and for the White House to recognize and respect the role of the Senate appointments process.

The American people have begun to see this threatened partisan power grab for what it is and to realize that the threat and the potential harm are aimed at our democracy, at an independent and strong Federal judiciary and, ultimately, at their rights and freedoms. Tonight's confirmation is a civics lesson that shows that the Republican's threatened use of the nuclear option is unnecessary and unwise.

Mr. President, I see the chairman of the committee on the floor. While I had the remainder of the time reserved, I will yield it to him, if that is possible—we are still going to vote at 5:30—if the chairman wishes. I yield the remainder of my time to the chairman.

The ACTING PRESIDENT pro tempore. The minority's time has expired. There were 15 minutes to each side. The Senator from Pennsylvania does have 15 minutes.

Mr. SPECTER. Mr. President, I thank the distinguished ranking member for his cooperation in moving the nomination of Paul A. Crotty to the U.S. District Court for the Southern District of New York.

By way of a very brief reply, I came in in the middle of the comments by the Senator from Vermont because he and I just attended a very lengthy meeting on the asbestos issue. We are working very hard and cooperatively on many matters on the Judiciary Committee. Asbestos is very high on the list. Just a brief comment there.

There are thousands of victims of mesothelioma who are dying and not being compensated because their companies have gone into bankruptcy. Some 74 companies have gone into bankruptcy, an enormous drain on the economy. I think it is fair to say that we just had a positive meeting with a number of Democrats and with Members of my side of the aisle. We are making progress.

I could not be here at the start of the argument because of the commitment there. I came in to hear the Senator from Vermont comment about the President, and I believe the President has made comments which are supportive of the Federal judiciary, as has the majority leader, Senator FRIST, made comments supportive of the Federal judiciary.

The Schaivo case raised the emotional level very high in the United States—really, beyond—for people who were on both sides of the issue. The rhetoric, I am pleased to see, has cooled, at least to some extent, but I believe that the Federal judiciary acquitted themselves in accordance with their authority under separation of power, and there has been respect for the judicial role expressed by both the President of the United States and the majority leader of the Senate. That is enough said on that subject. I had not intended to get into it to any extent, but having heard those comments, I believe it is appropriate to respond.

Paul Crotty has a very distinguished academic record. He has a law degree from Cornell Law School, where he was a member of the Order of the Coif. He then clerked for Judge Lloyd MacMahon in the Southern District of New York. He has 35 years of legal experience. He is with the very prestigious New York firm of Donovan Leisure Newton & Irvine. He has had a notable career in public service, having served as a New York City commissioner in two mayoral administrations, first for Ed Koch and later for Rudolf Giuliani. So he worked on both sides of the aisle, Democratic and Republican.

He is currently the group president for New York and Connecticut of Verizon Communications. The American Bar Association gave him the highest rating of "well qualified." He has the support of both New York Senators, and he has an excellent record.

I see the Senator from New York just arrived. He has already spoken. I do not have to make an act of generosity and give him 2 minutes, which will bring us to 5:30.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 10 minutes remaining.

Mr. SPECTER. I intend to conclude at 5:30 so we can start the vote because there are two votes. I know people are anxious to have the votes start. I do not think there is any question about Mr. Crotty being confirmed. He is an able candidate.

It is my hope that we will be able to move other nominees to the Senate floor for confirmation. The committee has reported out the nomination of William Myers, and it is my hope we will get an up-or-down vote on Mr. Myers. There is significant opposition, which I understand.

We are moving to conclude the consideration of Mr. Griffith, and then we have other nominees behind him.

I yield back the remainder of my time, and I ask for the yeas and nays on this nomination.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Paul A. Crotty, of New York, to be United States District Judge for the Southern District of New York?

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. McCONNELL. The following Senators are necessarily absent: the Senator from Wyoming (Mr. ENZI) and the Senator from Alaska (Ms. MURKOWSKI).

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. HARKIN), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 87 Ex.]

YEAS—95

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Durbin
Ensign
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—5

Dorgan
Enzi
Harkin
Lautenberg
Murkowski

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The President will be immediately notified of the Senate's action.

Mr. DORGAN. Mr. President, I would like the RECORD to reflect that I was necessarily absent for the vote on the nomination of Paul Crotty to be United States District Judge for the Southern District of New York. Had I been present, I would have voted in support of the nomination.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

AIRBUS LAUNCH AID

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report S. Con. Res. 25 by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 25) expressing the sense of Congress regarding the application of Airbus for launch aid.

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the concurrent resolution. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators are necessarily absent: the Senator from Wyoming (Mr. ENZI) and the Senator from Alaska (Ms. MURKOWSKI).

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—4

Enzi
Harkin
Lautenberg
Murkowski

The concurrent resolution (S. Con. Res. 25) was agreed to, as follows:

S. CON. RES. 25

Whereas Airbus is currently the leading manufacturer of large civil aircraft, with a full fleet of aircraft and more than 50 percent global market share;

Whereas Airbus has received approximately $30,000,000,000 in market distorting subsidies from European governments, including launch aid, infrastructure support, debt forgiveness, equity infusions, and research and development funding;

Whereas these subsidies, in particular launch aid, have lowered Airbus' development costs and shifted the risk of aircraft development to European governments, and thereby enabled Airbus to develop aircraft at an accelerated pace and sell these aircraft at prices and on terms that would otherwise be unsustainable;

Whereas the benefit of these subsidies to Airbus is enormous, including, at a minimum, the avoidance of $35,000,000,000 in debt as a result of launch aid's noncommercial interest rate;

Whereas over the past 5 years, Airbus has gained 20 points of world market share and 45 points of market share in the United States, all at the expense of Boeing, its only competitor;

Whereas this dramatic shift in market share has had a tremendous impact, resulting in the loss of over 60,000 high-paying United States aerospace jobs;

Whereas on October 6, 2004, the United States Trade Representative filed a complaint at the World Trade Organization on the basis that all of the subsidies that the European Union and its Member States have provided to Airbus violate World Trade Organization rules;

Whereas on January 11, 2005, the European Union agreed to freeze the provision of launch aid and other government support and negotiate with a view to reaching a comprehensive, bilateral agreement covering all government supports in the large civil aircraft sector;

Whereas the Bush administration has shown strong leadership and dedication to bring about a fair resolution during the negotiations;

Whereas Airbus received $6,200,000,000 in government subsidies to build the A380;

Whereas Airbus has now committed to develop and produce yet another new model, the A350, even before the A380 is out of the development phase;

Whereas Airbus has stated that it does not need launch aid to build the A350, but has nevertheless applied for and European governments are prepared to provide $1,700,000,000 in new launch aid; and

Whereas European governments are apparently determined to target the United States aerospace sector and Boeing's position in the large civil aircraft market by providing Airbus with continuing support to lower its costs and reduce its risk: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) European governments should reject Airbus' pending application for launch aid for the A350 and any future applications for launch aid;

(2) the European Union, acting for itself and on behalf of its Member States, should renew its commitment to the terms agreed to on January 11, 2005;

(3) the United States Trade Representative should request the formation of a World Trade Organization dispute resolution panel at the earliest possible opportunity if there is no immediate agreement to eliminate launch aid for the A350 and all future models and no concrete progress toward a comprehensive bilateral agreement covering all government supports in the large aircraft sector; and

(4) the President should take any additional action the President considers appropriate to protect the interests of the United States in fair competition in the large commercial aircraft market.

AIRBUS SUBSIDIES

Mr. FRIST. Mr. President, I am pleased that the Senate voted this afternoon in support of the resolution I submitted along with the Democratic leader, Senator REID, and the chairman and ranking member of the Senate Finance Committee expressing the Senate's concern about various subsidies provided by European governments to Airbus. This resolution sends a strong signal that the Senate supports the President's leadership and commitment to leveling the playing field in the large civil aircraft market.

As many of my colleagues know, the administration has been working hard to resolve this issue through the World Trade Organization, WTO. Last October, the United States filed a complaint at the WTO alleging that the subsidies provided to Airbus were in violation of WTO rules. This January, the European Union agreed to freeze launch aid payments and other support to Airbus while attempting to negotiate a comprehensive agreement on government support to the civil aircraft sector.

Unfortunately, despite the heroic efforts by former U.S. Trade Representative and current Deputy Secretary of State Robert Zoellick, the negotiations begun in January have broken down. Nevertheless, I want to commend him in particular for his involvement in these talks and his commitment to achieving a fair resolution of this issue. Since January, there has been little discernible progress in addressing the launch aid issue, which directly affects Boeing, Airbus's main competitor in the civil aircraft market.

The Senate, in passing this resolution today, is stating very clearly that EU subsidies to Airbus must end and that launch aid must be rejected in order to avoid WTO action by the U.S. I am encouraged by the comments of EU Trade Commissioner Mandelson in favor of extending the negotiation period that expires today to give both sides more time to reach a fair deal. However, additional discussions will only be productive if Commissioner Mandelson recommits to the framework agreed to 90 days ago. If the EU continues to flout the January agreement, WTO action may be unavoidable.

In addition, in my view, if the EU were to provide any new launch aid support for the A350, the U.S. would have no choice but to immediately request a WTO panel. This would be the largest trade dispute in the history of the WTO. I hope we do not have to go that route. It would be much better if both sides would come back to the table and restart substantive negotiations with the goal of reaching a bilateral agreement. American companies can compete with anyone in the world, but not on an uneven playing field. Airbus is a mature, profitable company that should compete on commercial terms without government subsidies. This resolution today says that we believe the playing field must be leveled for all competitors in the commercial aircraft market.

FOURTH "RESOLVED" CLAUSE

Mr. LOTT. Mr. President, I would ask the majority leader, who sponsored this concurrent resolution, to clarify his intended meaning of the fourth "Resolved" clause on page four of the resolution. I am specifically interested in the intention of the use of the terms "any additional action" and "large commercial aircraft market." I ask because the aerospace industry is an integrated and global industry. In most every instance, aerospace companies are vertically integrated to some degree and they are engaged in many other related activities. In many instances, they are component manufacturers, as well as platform manufacturers. Would it be correct to understand that the majority leader does not intend that this clause target these other business activities that are not directly associated with the marketing and sale of large fixed-wing aircraft to commercial carriers in the passenger transportation market?

Mr. FRIST. Mr. President, I thank the Senator for his question. The phrases "any additional action" and "large commercial aircraft market" are solely intended to address those activities associated with business activities regarding the marketing and sale of large fixed-wing aircraft to commercial carriers in the passenger transportation market. They are not intended to address business activities of any specific company at the secondary or tertiary supplier level. Nor are they intended to address other business activities of any specific company engaged in other platform-related activities.

Mr. LOTT. Mr. President, I thank the majority leader for his response. Additionally, I understand that it is not the purpose of this resolution, and more specifically of the fourth "Resolved" clause, to suggest punitive action be taken against any company's activities related to products sold to U.S. Government agencies, such as the Department of Defense, Department of Homeland Security, or the U.S. Coast Guard, whether those products are radars, components of radars, or helicopters. Is this understanding correct?

Mr. FRIST. Mr. President, I agree with the understanding of the Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the majority leader for his clarification of the resolution and its intent. I would encourage all of my colleagues to consider with care the possibility of unintended consequences. The complexity of this industry is such that my State and almost every State has numerous business and economic interests that could be negatively impacted if we are not careful about how we respond to a legitimate concern.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I would like to be recognized for two unanimous consent requests.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. INHOFE. Mr. President, on behalf of the leader, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that the two Senators from Washington, Senators CANTWELL and MURRAY, be recognized now to speak for up to 30 minutes and that I be recognized to speak for up to 30 minutes at the conclusion of their remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

AIRBUS

Ms. CANTWELL. Mr. President, I thank the Senator from Oklahoma for yielding to my colleague, Senator MURRAY, and me. We are going to speak about the resolution that the Senate passed, and passed with large support from my colleagues on both sides of the aisle, which we are very happy to see. The issue of a level playing field for a competitive aerospace market is something that is critically important to the American people and to the workforce of America. I thank our leaders, Senators FRIST and REID, and Senator BAUCUS for bringing this resolution to the Senate floor today and for moving this through the process so that we can send a message from the Senate about how important we think it is to have a competitive aerospace market.

My colleague has been following this issue for years and is going to lay out some of the issues that we in the United States have been trying to elevate to the point of awareness so we can establish a competitive marketplace. The bottom line is, negotiations that were begun in January of this year between the United States and the European Union to discuss how to battle the competitive aerospace market today that doesn't unfairly have government backing and subsidization of major aerospace manufacturers, those negotiations have broken down. Now we are at a point where the issues to be resolved, specifically launch aid and the financing of the production of a new A350 plane by the European Union, are something it is important to address quickly.

The reason I say that is because we know when you have the financial backing of a government juxtaposed to the financial backing of the private sector, in the United States, when Boeing builds a plane, it goes out and finances that with the backing of the capital markets, of Wall Street, of the private banking institutions, and they have to prove that plane is a success. They don't get any forgiveness on the loan. They don't get any special rate. They don't get any discounts if the plane is not a success. When they go to the capital markets, they have to prove the success of the marketplace.

I can tell you now that success is happening with the 787 plane, the newest product that Boeing launched a year ago and is out there in the marketplace selling today. But they are competing against a plane that is being or has the potential to be financed by the European Union. So if you think about the A350 getting launch aid, or potentially getting launch aid from the European Union, it doesn't matter whether the plane is a success. It doesn't matter how many planes are sold. They have a special arrangement so that in the backing of the financing of that plane, the European Union becomes the deep pocket.

What does that mean to consumers who are buying these planes and what does it mean to the workforce? It means simply this: The Americans have a disadvantage when selling Boeing planes around the globe because they have to meet the competitive markets of private financing while the Europeans—it doesn't matter whether their plane is a success—get the backing of the European Union. The whole global economy is based on a fair and competitive marketplace in which we are going to drive down costs to consumers—the airlines, in this particular case—and we are going to let the best airplane win in the marketplace because they have designed a product that the workforce, the consumers, the aviation industry wants to see.

We don't want government making those decisions. We want the private sector making the decisions. That is why I am so glad the administration has taken an aggressive approach on this issue and has pushed for the discussions that are now ending. The administration, through the USTR office in the White House, has said if the European Union continues to use new launch aid subsidies for the A350 plane, then, yes, we are going to go to the World Trade Organization and file a complaint. That is an appropriate action by this administration.

What would be better is if the Europeans would sit down at the table and come back to this discussion that should have been part of the 1992 discussion on how to have a competitive aerospace industry. But that didn't happen. So now in January of this year, the two sides, the European Union and the United States, sat down at a table and said they were going to negotiate in good faith. Part of that negotiation was to have the parties at the table make no new government support agreements during the time of the negotiations. Yet that is exactly what Airbus is now coming in to talk about—subsidies and launch aid for the A350.

It is important that this body send the message it sent today, that we are going to be behind the administration, behind USTR, behind the White House in making sure a fair and competitive aerospace market takes place, that we are not going to sit by and see one manufacturer make a great product that has basically taken off in the marketplace, getting sales, getting people to buy the plane because they built it the old-fashioned way. They had an idea. They had the right feature set. They had the right product. They had the right design and customers are buying that. Yet they may have to compete against somebody who has the deep financial backing of a government that doesn't care whether it is the right feature set or the right product.

So we in the United States care greatly about the competitiveness of this marketplace. We have lots of jobs in aerospace, and we certainly, in Washington State, have benefited from that and so have many of my other colleagues in the Senate because there are probably aerospace manufacturing jobs all over the country.

But the point is that we have to have a competitive marketplace, not just in aerospace but in other areas. The sooner we get back to the table and address the issue of how unfair launch aid is as a concept, the sooner we can get to a competitive marketplace. And the sooner we can get a fair and competitive marketplace, the sooner the consumers will win and the United States will continue to have a level playing field in which our workforce, which is producing a great product that is winning in the marketplace, will continue to win based on the success of their results and not be basically disadvantaged because of an unlevel playing field.

So I am glad to be here with my colleagues on both sides of the aisle to speak enthusiastically about the resolution we just passed. I hope it will be noticed by the European Union that we are united—Democrats and Republicans—in getting this issue addressed and that a competitive aerospace market that is driven by private investment backing is the best way to go for us, not just as a nation but for true global competition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington, Mrs. MURRAY, is recognized.

Mrs. MURRAY. Mr. President, I rise this evening, as well, to join my colleague in support of the fair aerospace competition resolution that passed this body 96 to 0.

Thousands of American aerospace workers have lost their jobs in the past decade. That trend is going to continue unless we take action.

This evening I especially thank leaders on both sides of the aisle—Senator FRIST and Senator REID—for their help and support of this measure. Senators GRASSLEY and BAUCUS of the Finance Committee have been of great help. And, as always, I am proud to serve with Senator MARIA CANTWELL, my colleague from Washington State and another strong advocate for America's aerospace workers.

Our country invented the aerospace industry 100 years ago. Through it, American workers have done more than feed their families and pay for mortgages; they have made air travel safer and brought economic growth and innovation to every corner of our economy.

Many in this body have heard me talk for years about Europe's efforts to distort the commercial aerospace industry. In short, Airbus has done everything it can to kill our aerospace industry. Airbus has received billions in illegal launch aid. Airbus has tried to play tricks on this side of the ocean with their slick PR campaign. And Airbus will continue the unfair tactics until they completely dominate the global aerospace market.

While Airbus is doing all of these things to hurt American workers, it is actually trying to get us to think they are a friend to the very men and women they are putting out of work.

Unfortunately, EADS, Airbus, and European governments will do and say anything to dominate the global aerospace market. I am here today to call their bluff and show this body, once again, that Airbus is no friend of the United States or our workers and to ensure that their doubletalk is exposed for all to see.

I have worked closely with several U.S. Trade Representatives on this issue over the years. For the past several months, the United States has tried to negotiate with the Europeans, but it is very clear that the Europeans do not take our concerns seriously. Those discussions appear to have broken down, and the Europeans are threatening a radical escalation if we pursue our right to file a WTO case.

You would think after all Airbus has done to kill American jobs, they would at least make a good-faith effort now that we are finally calling them to account for their behavior. But the Airbus and European leaders have done just the opposite. They have pounded their chest about how their latest subsidized plane will dominate the industry.

Instead of coming clean—or at least stopping their trade-distorting behavior—Airbus has sought to influence public opinion. They have pursued a deceptive public relations campaign. They have taken out ads in the Capitol Hill publications and major newspapers around the country, just like the one behind me.

Airbus claims to be a good friend of American workers, but it is selling to America's sworn enemies. Airbus claims to support hundreds of thousands of American jobs, but they cannot document them. Airbus claims it wants to be a more American company, but then it turns and preaches European domination when they think we are not looking.

We need to stand up for this unfair competition and send a strong signal to the Europeans that this Congress and this country will not allow a European-subsidized company to destroy America's aerospace industry.

They can talk out of both sides of their mouth all they want, but I am here to lay the facts on the table and to stand up for our workers.

Mr. President, I applaud the Bush administration, and specifically Ambassador Robert Zoellick, for the work they are doing to end unfair trade practices in the aerospace industry. This administration entered into negotiations in good faith. They wanted to restore balance and fairness to the commercial aircraft trade.

Unfortunately, Europe has never taken these talks or this issue seriously. Our willingness to seek a negotiated settlement has been greeted by more arrogant entitlement from Airbus and its European backers. While publicly committing to negotiations, Airbus and European leaders have been working behind the scenes to continue subsidies to Airbus in spite of U.S. threats to file a WTO case.

Now European Commission Ambassador John Bruton is saying, ". . . one result of a case would be that maximum aid would be given" for Airbus's new A350.

Today, this campaign is more directly than ever in Congress's line of sight. I hope to clearly show Airbus is not an American company and Airbus is simply continuing its policy of saying and doing anything to get what it wants.

A week ago last Friday, European Union Trade Commissioner Peter Mandelson wrote an eye-popping piece in the Washington Post. He, once again, restated baseless accusations against Boeing in an effort to justify billions of dollars in illegal Airbus launch aid.

The issue Mandelson correctly identifies as central to American concerns is the massive subsidies in the form of launch aid, landing rights, and other giveaways that European governments give to Airbus. Now the Europeans would like you to think that we offer similar subsidies to Boeing, but the facts simply don't line up. I don't need to talk at great length about the subsidies tonight, but I think it is worthwhile to make you all understand what those subsidies actually do.

European governments give Airbus huge direct subsidies to build new airplanes. These subsidies take the form of launch aid, supplier subsidies, R&D subsidies, and facilities subsidies. These subsidies create an uneven playing field and allow Airbus to do what normal, private companies cannot afford to do. They develop new products without any risk.

One American company is playing by traditional business norms—borrowing money at commercial rates, being responsible to shareholders, and knowing if they don't make a profit, they are in trouble. That is why Boeing "bets the company" when they develop a new plane. Airbus enjoys virtually a risk-free product development, and it operates far outside of the bounds of fair competition. All of this comes at the expense of U.S. companies and American workers.

What does that mean in real terms? Let's take the new superjumbo Airbus A380 as an example. According to a January 20 article in the Financial Post, titled "The Airbus 380," A380 subsidies are officially at $4.3 billion. Other estimates put it at over $6 billion.

The same day, the independent newspaper said:

> To break even on its own investment, Airbus needs to sell 250 of the A380. To repay the four governments it needs to shift to 700. To count as a real commercial success, Airbus needs to sell twice that number. So far, it has firm orders for 149.

It is no wonder that last summer respected industrial analyst Richard Aboulafia of the Teal Group called the plane a "bloated airborne welfare queen."

No other company in the world would be able to handle such huge cost overruns. But Airbus can because if the plane fails, they will simply write off the costs and move on to the next one.

To make matters worse, they have been making outlandish claims in this country for years. First, they claim Airbus has created and supports 120,000 jobs in this country. The Commerce Department can only document 500. Airbus says it subcontracts with as many as 800 firms in the United States, though they have moved that number up and down over the years. The Commerce Department can only come up with 250.

This last week, our Commerce Department released an exhaustive study done at the request of this Congress on the U.S. jet transport industry. That 150-page report once again comes to the same conclusion we have heard time and time again. Airbus is not an American company, and Airbus does almost nothing to support the hundreds of thousands of American workers who depend on this important industry.

Airbus and EADS are not helping America's aerospace industry; they are destroying it. In 15 years, 700,000 American workers have lost their jobs while Europe keeps adding new workers to the EADS and Airbus payroll. That is simply unacceptable.

Looking at their claims in American press alone, Airbus appears to be a pseudo-American company looking to create more jobs and helping to grow our economy. That is not the real story. Take a look at what Airbus proprietors say in Europe when they think we are not looking. A few months ago, with a lot of pomp and circumstance, the latest European Airbus product, the A380, was unveiled with four heads of state. Their comments show Europe's true intentions.

From the Spanish Prime Minister, Jose Luis Rodriquez Zapetero:

> The European Union has built the plane that is the standard bearer for European and global aeronautics.

He went on to boast:

> What we see here today is Europe cannot be stopped.

He is saying that Europe, not a company, cannot be stopped.

From the French President, Jacques Chirac:

> It is a technological feat and a great European success. When it takes to the skies, it will carry the colors of our continent, and our technological ambitions to even greater heights.

From the British Prime Minister, Tony Blair:

> It is European cooperation at its best. Airbus demonstrates that we can achieve more together in Europe than we ever can alone.

Finally, the German Chancellor, when asked about subsidies to Airbus, said:

> We have done that in the past, we are doing it now, and we will do so in the future.

This does not sound like a company bent on doing anything for American workers, but, again, that is what Airbus and its supporters are saying and doing to get what they want.

Unfortunately, the examples only continue. I do not have to look any further than the NBC Nightly News to find another shocking attack on American values and workers. For years, Airbus told us they will do anything to get a deal, and apparently they will sell to anyone. Not long ago, NBC News uncovered direct evidence of Airbus efforts to sell military aircraft to a country focused on destabilizing and undermining American interests in the Middle East, a country that is currently in the pursuit of nuclear weapons, a country to which no real American company would dare sell weapons.

NBC News was able to get a camera crew into an airshow in Kish, Iran, and they found EADS pitching their military helicopters to Iran.

I ask unanimous consent that the full transcript of the NBC story be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

EUROPEAN FIRMS DISPLAY WARES IN IRAN

[By Lisa Myers & the NBC Investigative Unit]

KISH, IRAN.—As President Bush pressures European allies to get tougher with Iran, NBC News got a rare glimpse inside the country—at an Iranian air show attended by some of the world's leading military contractors eager to do business with America's adversary.

On the island of Kish, mullahs mixed with Ukrainian generals amid photos of the Ayatollah Khomeini. Iran's contempt for the United States was clear—emblazoned underneath a helicopter, in Farsi: "Death to America."

It's generally illegal for American companies to do business with Iran. But NBC News found more than a dozen European defense and aviation firms eager to fill the void. Some do business with the Pentagon, yet they were actively selling their wares to Iran.

"We sell to Iran [sic] Air Force," said Francois Leloup from Aerazur, a French company that markets fighter pilot vests, anti-gravity suits and other protective gear for military pilots.

"We sell mainly to security people like police," said Arnaud Chevalier with Auxiliaire Technique, which was representing a group of companies at its exhibition booth. Some of the brochures on dispay showed tank helmets, communication systems for light armored vehicles and an "infantry headset." Chevalier said such equipment was "not for sale."

NBC News showed our video from the air show to arms expert John Pike, director of the nonprofit organization GlobalSecurity.org.

"I think that the Europeans would sell their grandmothers to the Iranians if they thought they could make a buck," says Pike.

Also exhibiting at the show—European Aeronautic Defence and Space Company (EADS) and its subsidiary Eurocopter—which has launched a campaign in the United States to get a bigger share of Pentagon contracts, featuring ads that wrap the company in the American flag.

But if the company is so pro-American, why is it ignoring U.S. policy to isolate Iran?

"As a European company, we're not supposed to take into account embargoes from the U.S.," says Michel Tripier, with EADS.

"The emphasis here is on our civil helicopters. We are not offering military helicopters here," he adds.

Yet, prominent on the company's video in Iran—a military helicopter.

"It says 'Navy' in their own promotional videotape," says John Pike. "I guess they're hoping Iran's navy is going to want to buy it."

EADS says the helicopter just happened to be on the video, and that it abides by U.S. and European rules against selling military goods to Iran.

Another company, Finmeccanica, recently won a contract to build a new version of the presidential helicopter, Marine One, as part of a group led by U.S. contractor Lockheed Martin.

It was also in Kish showing off its helicopters to Iran.

"This company is building the American president's new helicopter, and they're trying to trade with the enemy!" exclaims Pike.

Steven Bryen used to be the Pentagon official responsible for preventing technology from going to countries like Iran. Now he's the president of Finmeccanica in the United States. Does he think Iran is an enemy of the United States? .

"I think they're our enemy at this point," says Bryen. "I mean, they're behaving like our enemy."

So why would Bryen's company trade with an enemy?

"In Europe, they don't call it the enemy," he says. "If it's a civilian item that doesn't threaten anyone, then I don't have a problem with that."

European subsidiaries of NBC's parent company, General Electric, have sold energy and power equipment to Iran, but GE recently announced it will make no new sales. (MSNBC is a Microsoft-NBC joint venture.)

Still, even with the president now pushing hard to isolate Tehran, European allies are likely to continue their role as what one company called, "a reliable partner for Iran."

Mrs. MURRAY. I will read just a bit from that piece:

> Also exhibiting at the show, European Aeronautic Defence and Space Company, EADS, and its subsidiary Eurocopter, which has launched a campaign in the United States to get a bigger share of Pentagon contracts, featuring ads that wrap the company in American flag.
>
> But if the company is so pro-American, why is it ignoring U.S. policy to isolate Iran.
>
> As a European company, we are not supposed to take into account embargoes from the U.S., says Michael Tripler, with EADS.

Michael Tripler, from EADS, once again, saying and doing anything anywhere to advance the European interests of a European company. Airbus and EADS clearly sing one tune in newspapers in the United States, another at media events in France, and quite a different one while selling their products in Iran.

Taken together, the goal is clear: EADS and Airbus do not intend to stop until they have gobbled up the entire aerospace market.

So what is next for Airbus? Any question of their intentions was answered as we tried to work out an amicable solution to the dispute this past January. On a day that could have been a turning point in the process, Airbus CEO Noel Forgeard said he would seek new launch aid from European nations for the Airbus A350.

While in one breath Airbus says it does not need launch aid to build the A350, they have nevertheless applied for, and European governments are prepared to provide, $1.7 billion in new launch aid.

To once again paraphrase German Chancellor Schroeder: They have done that in the past, they are doing it now, and they will do so in the future.

But again, no need to take my word alone on the illegality of the launch aid or their central role in the ongoing dispute. The Financial Times, a European newspaper, called the plan to subsidize the A350 and Forgeard's announcement unwise and deeply unhelpful, and went on to say:

> Launch aid, Airbus' unique subsidy, is an especially blatant violation of the principles of fair competition. The EU should let it go. State support for private companies, even those with long lead times and big development costs, becomes indefensible as they mature. Infant industries must grow up.

In a Business Week commentary from the same week, Stanley Holmes writes:

> The U.S. should call the Europeans' bluff. Let the facts speak for themselves, and resolve this dispute at the WTO.

Months ago, I made the same suggestion, and although there appeared to be hope of avoiding that fate within the past few weeks, I now believe we must work through the WTO and hold our line.

With the Europeans bent on keeping their subsidies, it is time to take bold action to protect our workers and send a strong message to Europe that enough is enough. Europe has to understand that continued attempts to undermine our aerospace industry and its workers will not stand.

The need to restore a competitive balance to the aerospace industry is not going away. Thousands of American jobs have been lost in the last decade, and thousands more are at risk due to continued direct subsidies to Airbus.

I will continue to work closely with the USTR and with the Bush administration to protect American jobs and ensure the future strength of the American aerospace industry. Whether through the continuation of these negotiations or through a trade case at the WTO, a competitive balance has to be restored. We in Congress have to show the Europeans that we are serious about this action.

I thank my colleagues for supporting the resolution that was just adopted by the Senate 96 to 0. I will continue to be a voice for American workers. Again, I thank the Bush administration, Senator FRIST, and Senator REID for helping us with the resolution.

Mr. INHOFE. Will the Senator yield for a comment before yielding the floor?

Mrs. MURRAY. I would be happy to yield.

Mr. INHOFE. I have been listening intently, and I applaud the Senator for all she has done. It is reminiscent that this is not something new. Back when I was serving in the other body in the late 1980s, Congressman JIM OBERSTAR and I actually made a trip to Europe—that was before the European Union days—both to Germany and France to find out the level of subsidy they had. At that time, we were not able to find out, and we did an exhaustive search. They were denying that they did, and later on they admitted they were subsidizing. With their type of accounting, perhaps it is even worse than the figures the Senator is expressing today. So I applaud the Senator for her efforts.

Mrs. MURRAY. I thank the Senator, and I look forward to working with him to fight for our aerospace industry and to make sure companies in this country have a fair playing field.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

CHINA'S SPREADING GLOBAL INFLUENCE

Mr. INHOFE. Mr. President, I rise for a second time in 8 days to update all of us on an issue of deepest importance. In my recent speech on China I delivered this past Monday, I detailed how China is indeed a growing threat. When the fragmented pieces of current events and policies are glued together, they form an alarming picture of the threat to our national security. I believe this threat is of the most serious order, and until we address it I will continue to draw America's attention to it.

In 2000, Congress established the U.S.-China Security Economic Review Commission to act as the bipartisan authority on how our relationship with China affects our economy, industrial base, China's military and weapons proliferation, and our influence in Asia. I fear that the Commission's findings have largely been ignored.

A major part of our economic relationship with China is the growing trade deficit. This deficit grew to $162 billion in 2004, by far the largest economic imbalance the United States has with any country. One potential key factor contributing to this imbalance is the undervaluation of the Chinese yaun. Through currency manipulation, China has been able to create an uneven economic playing field in its favor. Let's keep in mind this bipartisan commission worked on this for several years. The Commission recommends that Congress pursue legislation that will push the administration toward correcting these imbalances and for the U.S. Trade Representative and Department of Commerce to undertake an investigation of China's questionable economic practices. I think this is very sound advice. In fact, I voted last Wednesday to not table a Chinese currency manipulation amendment.

China joined the World Trade Organization in December 2001. Their transition was to be overseen by the Transitional View Mechanism—TRM. Although China has made some progress in the areas of tariffs and other WTO commitments, they have consistently frustrated the TRM's ability to assess China's WTO compliance through lack of transparency. As the Commission recommends, the Bush administration must be encouraged to take action to preserve TRM's oversight and cooperate with other trading partners to create a cooperative effort to address China's shortfalls.

Another problem area is that the Chinese Government has been listing State Owned Enterprises—SOEs—on international capital markets. These companies lack accountability standards that normally track the companies' cash flow. At least one Chinese SOE, China North Industries Corporation, has been sanctioned by the U.S. Government for proliferating illegal weapons technology. As the 2004 Commission report outlines:

> Without adequate information about Chinese firms trading in international capital markets, U.S. investors may be unwittingly pouring money into black box firms lacking basic corporate governance structures, as well as enterprises involved in activities harmful to U.S. security interests.

Beyond dangerous investing, there are other security aspects to China's trade practices. The hard currency that China is gaining through its manipulative economy is buying foreign technology and modernizing their military. We used to be concerned about their nuclear capability, but now it is also conventional weaponry, as the Presiding Officer knows, since he sits on the Senate Armed Services Committee. We know China is pushing very hard to get the E.U. to remove their arms embargo. The embargo was put in place after the 1989 Tiananmen Square massacre to protest China's appalling human rights record. The E.U. claims that the embargo is no longer effective, but ignores the obvious—why lift the embargo without replacing it with a better one? Their solution, an informal "code of conduct", allows for no comprehensive enforcement. We can also expect E.U. technology to proliferate beyond China's borders, to countries that would gladly use it against the U.S. The E.U. does not consider this a strategic threat. In fact, President Chirac just demanded an early lifting of the embargo. However, the Commission reports:

> Access to more advanced systems and integrating technologies from Europe would have a much more dramatic impact on overall Chinese capabilities today than say five or ten years ago. For fourteen years China has been unable to acquire systems from the West. Analysts believe a resumption of EU arms sales to China would dramatically enhance China's military capability. If the EU arms embargo against China is lifted, the U.S. military could be placed in a situation where it is defending itself against arms sold to the PLA by NATO allies.

Think about this: we share military technology with our European allies and then find our security threatened and possibly our servicemen killed by this same technology. All this is made possible because China is exploiting economic grey areas to come up with the money to buy all this new technology. This is a critical issue to which Congress must respond to.

Further, some experts believe that China's economic policy is a purposeful attempt to undermine the U.S. industrial base and likewise, the defense industrial base. Perhaps it is hard to believe that China's economic manipulation is such a threat to our Nation. In response, I would like to read from the book Unrestricted Warfare, written by two PLA—People's Liberation Army—senior colonels:

> Military threats are already no longer the major factors affecting national security . . .

> traditional factors are increasingly becoming more intertwined with grabbing resources, contending for markets, controlling capital, trade sanctions and other economic factors . . . the destruction which they do in the areas attacked are absolutely not secondary to pure military wars.

The book goes on to argue that the aggressor must "adjust its own financial strategy" and "use currency revaluation" to weaken the economic base and the military strength of the other country. This is the Chinese saying this, not some American commentator. You need to hear that in context of the U.S.-China Commission's statement:

> One of Beijing's stated goals is to reduce what it considers U.S. superpower dominance in favor of a multipolar global power structure in which China attains superpower status on par with the United States.

I think the picture is clear. We must link China's trading privileges to its economic practices. As China's No. 1 importing customer, accounting for 35 percent of total Chinese exports, we have the influence. As I said last Monday, a week ago, I agree that the way we handle an emerging China must be dynamic, but it must not be weak. The Commission puts it well:

> We need to use our substantial leverage to develop an architecture that will help avoid conflict, attempt to build cooperative practices and institutions, and advance both countries' long-term interests. The United States has the leverage now and perhaps for the next decade, but this may not always be the case. We also must recognize the impact of these trends directly on the domestic U.S. economy, and develop and adopt policies that ensure that our actions do not undermine our economic interests . . . the United States cannot lose sight of these important goals, and must configure its policies toward China to help make them materialize . . . If we falter in the use of our economic and political influence now to effect positive change in China, we will have squandered an historic opportunity.

The bipartisan U.S.-China Commission has been doing an outstanding job in translating how recent events affect our national security. I plan on giving two more speeches highlighting the Commission's findings, followed by a resolution to effect their conclusions. I hope America is listening.

It is so similar to what we are facing right now and what we voted on, the fact that the European Union is subsidizing a company which would undermine the aerospace industry here in the United States. At the same time, if the European Union lifts the sanctions which they have right now, they would be doing essentially the same thing to our country.

I yield the floor.

VOTE EXPLANATION

Mr. CRAPO. Mr. President, on April 6, 2005, I was unable to cast a vote on amendment No. 286 to S. 600. This was due to an unavoidable medical procedure that requires me to commute daily to Baltimore. Had I been there, I would have voted "nay."

ANTIBIOTICS FOR HUMAN TREATMENT ACT OF 2005

Mr. KENNEDY. Mr. President, it is a privilege to join my distinguished colleagues, in proposing The Preservation of Antibiotics for Human Treatment Act of 2005. Our goal in this important initiative is to take needed action to preserve the effectiveness of antibiotics in treating diseases.

These drugs are truly a modem medical miracle. During World War II, the newly developed "wonder drug" penicillin revolutionized the care for our soldiers wounded in battle. Since then, they have become indispensable in modem medicine, protecting all of us from deadly infections. They are even more valuable today, safeguarding the nation from the threat of bioterrorism. Unfortunately, over the past years, we have done too little to prevent the emergence of antibiotic-resistant strains of bacteria and other germs, and many of our most powerful drugs are no longer effective.

Partly, the resistance is the result of the overprescribing of such drugs in routine medical care. But, mounting evidence also shows at the indiscriminate use of critical drugs in animal feed is also a major factor in the development of antibiotic resistant germs.

Obviously, if animals are sick, whether as pets or livestock, they should be treated with the best veterinary medications available. That is not a problem. The problem is the widespread practice of using antibiotics to promote growth and fatten healthy livestock. This nontherapeutic use clearly undermines the effectiveness of these important drugs because it leads to greater development of antibiotic-resistant bacteria that can make infections in humans difficult or impossible to treat.

In 1998—7 years ago—a report prepared at the request of the Department of Agriculture and the Food and Drug Administration, by the National Academy of Sciences, concluded "there is a link between the use of antibiotics in food animals, the development of bacterial resistance to these drugs, and human disease." The World Health Organization has specifically recommended that antibiotics used to treat humans should not be used to promote animal growth, although they could still be used to treat sick animals.

In 2001, Federal interagency task force on antibiotic resistance concluded that "drug-resistant pathogens are a growing menace to all people, regardless of age, gender, or socio-economic background. If we do not act to address the problem . . . [d]rug choices for the treatment of common infections will become increasingly limited and expensive-and, in some cases, nonexistent."

The Union of Concerned Scientists estimates that 70 percent of all U.S. antibiotics are used nontherapeutically in animal agriculture—eight times more than in are used in all of human medicine. This indiscriminate use clearly reduces their potency.

Major medical associations have been increasingly concerned and taken strong stands against antibiotic use in animal agriculture. In June 2001, the American Medical Association adopted a resolution opposing nontherapeutic use of antibiotics in animals. Other professional medical organizations that have taken a similar stands include the American College of Preventive Medicine, the American Public Health Association, and the Council of State and Territorial Epidemiologists. The legislation we are offering has been strongly endorsed by the American Public Health Association and numerous other groups and independent experts in the field.

Ending this detrimental practice is feasible and cost-effective. In fact, most of the developed countries in the world, except for the United States and Canada, already restrict the use of antibiotics to promote growth in raising livestock. In 1999, the European Union banned such use and money saved on drugs has been invested in improving hygiene and animal husbandry practices. Researchers in Denmark found a dramatic decline in the number of drug-resistant organisms in animals—and no significant increase in animal diseases or in consumer prices.

These results have encouraged clinicians and researchers to call for a similar ban in the United States. The title of an editorial in the New England Journal of Medicine 4 years ago said it all: "Antimicrobial Use in Animal Feed—Time to Stop."

On Thursday, the American Academy of Pediatrics, the American Public Health Association, Environmental Defense, the Food Animal Concerns Trust, and the Union of Concerned Scientists joined together in filing a formal petition with FDA calling for the withdrawal of certain classes of drugs from animal feed.

Earlier last week, Acting FDA Commissioner Lester Crawford emphasized his own concern that the use of such drugs in food-producing animals has an adverse health impact on humans. He stated that the FDA agrees with the GAO recommendation to review approved animal drugs that are critical to human health, and described FDA's progress in doing so. He stated, however, that the review process is extremely slow and labor intensive, and that even when safety issues are identified, the FDA can do little more than hope that the animal pharmaceutical companies will cooperate in addressing the issue.

There is no question that the Nation stands at risk of an epidemic outbreak of food poisoning caused by drug-resistant bacteria or other germs. It is time to put public safety first and stop the abuse of drugs critical to human health.

The bill we propose will phase out the nontherapeutic use in livestock of medically important antibiotics, unless manufacturers can show such use is no danger to public health. The act requires applying this same strict standard to applications for approval of new animal antibiotics. Treatment is not restricted if the animals are sick or are pets or other animals not used for food. In addition, FDA is given the authority to restrict the use of important drugs in animals, if the risk to humans is in question.

According to the National Academy of Sciences, eliminating the use of antibiotics as feed additives in agriculture would cost each American consumer not more than five to ten dollars a year. The legislation recognizes, however, economic costs to farmers in making the transition to antibiotic-free practices may be substantial. In such cases, the Act provides for federal payments to defray the cost of shifting to antibiotic-free practices, with preference for family farms.

Antibiotics are among the greatest miracles of modern medicine, yet we are destroying them faster than the pharmaceutical industry can create replacements. If doctors lose these critical remedies, the most vulnerable among us will suffer the most—children, the elderly, persons with HIV/AIDS, who are most in danger of resistant infections. I urge my colleagues to support this clearly needed legislation to protect the health of all Americans from this reckless and unjustified use of antibiotics.

Ms. SNOWE. Mr. President, today we are facing a public health crisis which most of us certainly did not anticipate. Nearly a half century ago, following the development of modern antibiotics, Nobel Laureate Sir McFarland Burnet stated, "One can think of the middle of the twentieth century as the end of one of the most important social revolutions in history, the virtual elimination of infectious diseases as a significant factor in social life."

How things have changed. Today some of our most deadly health threats come from infectious diseases. When we consider the greatest killers—HIV, tuberculosis, malaria—it is clear that infectious diseases have not abated. At the same time we have seen an alarming trend—increasingly physicians are stymied as existing antibiotics are becoming less effective in treating infections. We know that resistance to drugs can be developed, and that the more we expose bacteria to antibiotics, the more resistance we will see. So it is crucial that we preserve antibiotics for use in treating disease.

Most Americans appreciate this fact, and now understand that colds and flu are caused by viruses. So we know that treating a cold with an antibiotic is inappropriate, and we understand that such use of antibiotics is unwise. Over 9 out of 10 Americans now know that resistance to antibiotics is growing. Our health care providers are getting the message too. Physicians know that when a patient who has been inappropriately prescribed an antibiotic actually develops a bacterial infection, it is more likely to be resistant to treatment.

When we overuse antibiotics, we risk eliminating the very cures which scientists fought so hard to develop. The threat of bioterrorism amplifies the danger. I have supported increased NIH research funding, as well as Bioshield legislation, in order to promote development of essential drugs. Yet as we work hard to develop lifesaving medications, their misuse will render them ineffective.

Every day in America antibiotics continue to be used in huge quantities for no treatment purpose whatsoever. I am speaking of the non-therapeutic use of antibiotics in agriculture. Simply put, the practice of feeding antibiotics to healthy animals jeopardizes the effectiveness of these medicines in treating ill people and animals.

Recognizing the public health threat caused by antibiotic resistance, Congress in 2000 amended the Public Health Threats and Emergencies Act to curb antibiotic overuse in human medicine. Yet today it is estimated that 70 percent of the antimicrobials used in the United States are fed to farm animals for non-therapeutic purposes including growth promotion, poor management practices and crowded, unsanitary conditions.

In March 2003, the National Academies of Sciences stated that a decrease in antimicrobial use in human medicine alone will not solve the problem of drug resistance. Substantial efforts must be made to decrease inappropriate overuse of antibiotics in animals and agriculture.

Last week five major medical and environmental groups—the American Academy of Pediatrics, the American Public Health Association, Environmental Defense, the Food Animal Concerns Trust and the Union of Concerned Scientists—jointly filed a formal regulatory petition with the U.S. Food and Drug Administration urging the agency to withdraw approvals for seven classes of antibiotics which are used as agricultural feed additives. They pointed out what we have known for years—that antibiotics which are crucial to treating human disease should never be used except for their intended purpose—to treat disease.

In a study just reported in the New England Journal of Medicine, researchers at the Centers for Disease Control and Prevention found 17 percent of drug-resistant staph infections had no apparent links to health-care settings. Nearly one in five of these resistant infections arose in the community—not in the health care setting. While must do more to address inappropriate antibiotic use in medicine, and use in our environment cannot be ignored.

This is why I have joined with Senator KENNEDY to again introduce the "Preservation of Antibiotics for Medical Treatment Act". This bill phases out the non-therapeutic uses of critical medically important antibiotics in livestock and poultry production, unless their manufacturers can show that they pose no danger to public health. I am pleased that we have been joined in this effort by Senator COLLINS, Senator LANDRIEU, and Senator REED in introducing this measure.

Our legislation requires the Food and Drug Administration to withdraw the approval for nontherapeutic agricultural use of antibiotics in food-producing animals if the antibiotic is used for treating human disease, unless the application is proven harmless within two years. The same tough standard of safety will apply to new applications for approval of animal antibiotics.

This legislation places no unreasonable burden on producers. It does not restrict the use of antibiotics to treat sick animals, or for that matter to treat pets and other animals not used for food. The act authorizes Federal payments to small family farms to defray their costs, and it also establishes research and demonstration programs that reduce the use of antibiotics in raising food-producing animals. The act also requires data collection from manufacturers so that the types and amounts of antibiotics used in animals can be monitored.

As we are constantly reminded, the discovery and development of a new drug can require great time and expense. It is simply common sense that we preserve the use of the drugs which we already have, and use them appropriately. I call on my colleagues to support us in this effort.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

Mr. LEAHY. Mr. President, yesterday marked the beginning of National Crime Victims' Rights Week. For a quarter of a century, we have set this week aside each year to renew our commitment to address the needs of victims and their families and to promote victims' rights.

This year's commemoration comes at a critical juncture in the history of the victims' rights movement. Much has been achieved in the past 25 years to provide victims with greater rights and assistance, but perhaps none so important as the passage of the Victims of Crime Act of 1984, VOCA, and its establishment of a dedicated source of funds to support victims' services. The Crime Victims Fund provides critical funding that helps millions of victims of all types of crime every year. The future of the fund is in doubt, however, and 25 years of progress may be at risk due to the administration's proposal to rescind all amounts remaining in the fund at the end of fiscal year 2006—an estimated $1.267 billion. That would dry up the fund, leaving it with a balance of zero going into fiscal year 2007 to support vital victim services.

Our new Attorney General, upon his confirmation, gave a speech to discuss his priorities for the Department of Justice. He stated, "As we battle crime, we must also defend the rights of crime victims and assist them in their recovery." While I agree on the importance of this goal, rescinding the Crime Victims Fund is not the way to achieve it.

The Crime Victims Fund is the Nation's premier vehicle for the support of victims' services. Nearly 90 percent of the fund is used to award State crime victim compensation and victim assistance formula grants. VOCA-funded victim assistance programs serve nearly 4 million crime victims each year, including victims of domestic violence, sexual assault, child abuse, elder abuse, and drunk driving, as well as survivors of homicide victims. VOCA-funded compensation programs have helped hundreds of thousands of victims of violent crime.

The Crime Victims Fund also serves victims of Federal crimes. VOCA funding supports victim assistance services provided by U.S. Attorneys Offices and the FBI, as well as the Federal victim notification system. It is used for child abuse prevention and treatment grants, and it is also used to provide emergency relief to victims of terrorism and mass violence.

Since fiscal year 2000, Congress has set a cap on annual fund obligations expressly for the purpose of ensuring "that a stable level of funding will remain available for these programs in future years." The "rainy day" fund created by this spending cap has been used to make up the difference between annual deposits and distributions three times during the past six years.

When Congress began considering caps on fund obligations, I proposed and Congress enacted an amendment to the Victims of Crime Act to clarify our intent to stabilize and preserve the fund for the benefit of victims. The amendment, now codified at section 10601(c) of title 42, requires that ". . . all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation." Thus, in both the authorization and the appropriations processes, Congress has clearly and emphatically stated its intent to maintain a stable source of federal support for essential victim services.

Over the past 4 years, the Bush administration and this Republican Congress have squandered record surpluses and racked up $7.6 trillion in Federal debt as a result of reckless spending and budget-busting tax cuts. Now the Bush administration proposes to reduce the deficit by siphoning off resources that we set aside to assist victims of crime. In this regard, it bears emphasis that the Crime Victims Fund does not receive appropriated funding; deposits come from Federal criminal fines, forfeited bail bonds, penalties, and special assessments, not from the pockets of American taxpayers.

Together with Senators BIDEN and SCHUMER, I wrote to President Bush on March 11, 2005, to urge him to reconsider and withdraw his proposal to rescind the Crime Victims Fund. We received no response to that letter.

On March 17, 2005, I offered and the Senate approved by voice vote a budget resolution amendment intended to head off the administration's plans to raid the Crime Victims Fund. I was joined by Senators KENNEDY, MIKULSKI, FEINGOLD, BIDEN, DURBIN, OBAMA and DODD, and I thank them again for their support. As amended, the budget resolution passed by the Senate rejects the proposed rescission by assuming that all amounts that have been and will be deposited into the Crime Victims Fund, including all amounts to be deposited in fiscal year 2006 and thereafter, will remain in the fund for use as authorized by the Victims of Crime Act.

In every State and every community across the country, the Crime Victims Fund plays an essential role in helping crime victims and their families meet critical expenses, recover from the horrific crimes they endured, and move forward with their lives. I ask unanimous consent to print in the RECORD a letter from a number of victims' organizations, representing the millions of Americans who become victims of crime every year. They wrote that rescinding the Crime Victims Fund at the end of fiscal year 2006 would create a "disastrous" situation for victim service providers and their clients.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CRIME VICTIM
ORGANIZATIONS CONTACT GROUPS,
Washington, DC, March 12, 2005.

Hon. DANIEL K. AKAKA,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR AKAKA: We, the undersigned members of the National Crime Victim Organizations Contact Group, represent the millions of citizens that become victims of crime every year in our nation and the agencies that provide supportive services to them. The Crime Victims Fund provides crucial support to thousands of nonprofit organizations and public agencies who help millions of crime victims. We have joined together to urge all members of Congress to oppose the Administration's proposal to remove $1.2 billion from this essential and lifesaving fund.

The Fund was created under the Victims of Crime Act in 1984 as a "separate account" meaning that the revenues in the Fund are intended to be used solely for financial support of victim services, primarily through State crime victim compensation and State victim assistance formula grants. The Fund comes from the collection of Federal criminal fines, forfeitures and assessments; it does not depend on general taxpayer appropriations. Since the Fund's inception, Congress directed that all amounts deposited into the Fund would remain available to support victim services "without fiscal year limitation."

Over 4,400 victim service agencies in every state and every district depend upon VOCA funding for essential victim services, such as emergency shelters, counseling, legal advocacy, and assistance participating in the criminal justice system. In FY 2003, 3.8 million crime victims received VOCA-funded assistance, including victims of domestic violence, sexual assault, child abuse, elder abuse, survivors of homicide victims and drunk driving crashes. Hundreds of thousands of victims were provided financial assistance through VOCA grants to State crime victim compensation programs.

Initially, the money collected every year was released to states the following year. When collections grew to nearly $1 billion in fines in FY 1999, Congress placed a cap on the amount that was distributed each year. Congress began limiting annual Fund obligations expressly "to ensure that a stable level of funding will remain available for these programs in future years" (Conference Report 106–479).

Capping annual Fund obligations created a Fund balance—a "rainy day" fund consisting of amounts that otherwise would have been used by States to support immediate victim assistance needs. The Fund balance was used to make up the difference between annual deposits and Congressional caps three times over the past six years.

Having recently recognized the 20th anniversary of this successful and effective program, we were shocked to learn that the Administration now proposes rescinding the entire Fund at the end of FY 2006, including the amounts that Congress promised and, in fact, needed to protect against Fund fluctuations and to ensure the Fund's stability as well as deposits made during FY 2006. More stable long-term sources of funding are already required to maintain a sufficient amount in the Fund. Rescinding the Fund will zero out the Fund going into FY 2007 and unquestionably create a disastrous situation for victim service providers and their clients. The entire crime victims' field stands united in its opposition to the proposed rescission.

We ask Congress to reject the Administration's recommendation to rescind the Fund and to work with us to guarantee the Fund's future viability and support for victim services.

Sincerely,

David Beatty, Contact Group Coordinator, Justice Solutions, NPO.

Jeanette Adkins, National Organization for Victim Assistance.

Marybeth Carter, National Alliance to End Sexual Violence.

Nancy Chandler, National Children's Alliance.

Steve Derene, National Association of VOCA Assistance Administrators.

Dan Eddy, National Association of Crime Victim Compensation Boards.

Wendy Hamilton, Mothers Against Drunk Driving.

Mary Lou Leary, National Center for Victims of Crime.

Dan Levey, National Organization for Parents of Murdered Children.

Jill Morris, National Coalition Against Domestic Violence.

Diane Moyer, Pennsylvania Coalition Against Rape.

Lynn Rosenthal, National Network to End Domestic Violence.

Mr. LEAHY. Mr. President, National Crime Victims' Rights Week is upon us. I urge my colleagues to honor our longstanding commitment to crime victims by working together to preserve the Crime Victims Fund.

FREEDOM PARK

Mr. ALLARD. Mr. President, I bring to the Senate's attention the importance of Freedom Park in Edwards, CO, to commemorate the sacrifices of our Armed Forces and emergency services personnel.

Similar to many other memorials, an American flag stands waving at its center, reflecting in the clear blue waters of a mountain lake. Yet this monument differs from most in that it recognizes not only our Armed Forces but our emergency services. The liberties that we as citizens hold dear today have been protected both abroad and domestically, and this monument is a faithful reminder of all Americans who have dedicated their lives to serving freedom.

The concept of Freedom Park began with local veterans in Edwards, CO, but soon grew into a valley-wide, grassroots effort. Citizens from all walks of life have come together to accomplish this noble goal, including military veterans and their families, emergency service members, business professionals, local government officials, and countless others. The fruit of their labor will be recognized for generations to come in the name of commemorating American liberty.

From the Revolutionary War to the global war on terrorism, Freedom Park uniquely honors those who have given their lives in the line of duty throughout America's history. Clearly displayed at every entrance to the park, these words are posted: "The greatest tribute we can give them is to become wiser through their legacy." This quote demonstrates the founders' goal, which is two-fold: to memorialize those who have served in the name of freedom and to teach future generations the meaning of the sacrifices that were made.

Freedom Park memorial appropriately holds the dedication of our men and women in the Armed Forces and emergency services in great esteem so that we may honor their dedication to our Nation and learn from their sacrifices.

FPI REFORM BILL

Mr. BURNS. Mr. President, today I voice my support for the Federal prison industries, FPI, reform bill.

This bill would level the playing field for small businesses and provide relief to all Federal agencies by amending the Office of Federal Procurement Policy Act to establish a Governmentwide policy requiring competition in certain executive agency procurements.

I understand the importance of keeping our Federal prisoners occupied, but not at the expense of our law abiding, American small businesses. As a Senator representing the great State of Montana, where small business dominates our economy, I have a vital interest in protecting business from unfair Government competition. Many times bids were requested from private firms that offered better pricing and more reasonable terms of delivery. I am for fair competition in the Government procurement process. Congress has a responsibility to ensure that no Government entity, such as FPI, has special status in the Government procurement process that forces Government agencies to buy from that entity. This contradicts one of the fundamental ideas in which this great Nation was founded upon, the ideal of competition. Accordingly, I provide my support to protect small business interests across Montana and America.

ADDITIONAL STATEMENTS

LIEUTENANT COLONEL JULIA COOK

• Mr. ALLARD. Mr. President, I would like to bring to the Senate's attention the retirement of a Colorado native from the U.S. Army, LTC Julia Cook.

Lieutenant Colonel Cook has distinguished herself with exceptionally meritorious conduct while serving in key positions of ever increasing responsibility as an Army quartermaster and human resources officer, culminating her career as a legislative liaison for Secretary of the Army, Office of the Chief Legislative Liaison. During her years of superlative service, Lieutenant Colonel Cook consistently demonstrated exceptional leadership, resourcefulness and professionalism while making lasting contributions to Army soldiers and families, readiness and mission accomplishment. Lieutenant Colonel Cook's 20 years of dedicated and faithful service enhanced the soldiers and the units to which she was assigned and reflects the greatest credit upon herself and the U.S. Army.

Lieutenant Colonel Cook was commissioned a second lieutenant through the ROTC program, Quartermaster Corps, after graduating from the University of Colorado in December 1984. Her first assignment, following the quartermaster officer basic course, was to Ft. Leonard Wood, MO, from 1985 to 1986, serving as XO for an AIT company that trained 63Bs and 64Cs and as an assistant brigade S4. She volunteered to serve in Korea from 1986 to 1988, distinguishing herself as tech supply platoon leader in 595th Maintenance Company, K-16 Air Base and as battalion S1, 227th Maintenance Battalion, Youngman. Following her tour in Korea, she completed the quartermaster officer advance course and was assigned to Ft. Carson, CO, from 1988 to 1993. Again she served superbly in a variety of positions, as the 4th ID DISCOM support operations officer; the S2/3, 704th Main Support Battalion; as commander, Company C, 704th Main Support Battalion; and as the division equal opportunity officer. She also deployed on a 6-month rotation to JTF-B, Honduras, serving as the logistics plans officer. From 1993 to 1997 she performed her duties as a soldier assigned to Headquarters, U.S. Army Materiel Command, AMC. She served in a variety of positions including, logistics operations officer in the Emergency Operations Center, staff action control officer for the Secretary of the General Staff, executive officer for the Chief of Staff, special project officer to Project Manager Soldier, and team executive officer for the Secretary of the Army's Senior Review Panel on Sexual Harassment after the Aberdeen Proving Ground Sexual Harassment scandal.

After graduation from the Command and General Staff College, she was assigned to the 21st Theater Support Command, Kaiserslautern, Germany, from 1998 to 2001. While overseas, she served as chief, Distribution Management Center, where she developed supply distribution initiatives for a command supporting over 65,000 soldiers in European-based units. Lieutenant Colonel Cook's work enabled the Command to reduce shipping costs through the air challenge process by $2 million for the first two quarters of fiscal year 1999. She served as executive officer of the 191st Ordnance Battalion, Miesau, Germany, and was responsible for internal operations of a 600-soldier battalion consisting of a headquarters and headquarters company, an ammunition company, a quartermaster rigging detachment, and two explosive ordnance disposal companies, all while exercising oversight of a $2 million annual budget. Lieutenant Colonel Cook finished her career serving with the Army's office of the Chief of Legislative Liaison from August 2001 to May 2005 where she was the staff action officer and legislative assistant to the Undersecretary of the Army and the Sergeant Major of the Army. She prepared the Undersecretary and Sergeant Major for all interactions with Congress including hearings, office calls, and phone calls. Finally, she served in the program division as the Army legislative liaison between the U.S. Congress and the Army staff for all issues related to logistics.

Through these assignments, Lieutenant Colonel Cook has provided outstanding leadership, advice, and sound professional judgment on numerous critical issues of enduring importance to both the Army and Congress. Her actions and counsel were invaluable to Army leaders and Members of Congress as they considered the impact of important issues. Lieutenant Colonel Cook's dedication to accomplishing the Army's legislative liaison mission has been extraordinary. She is truly an outstanding officer who displays superb professional leadership skills and is totally dedicated to mission accomplishment in the highest traditions of military service, and I thank her for her service to this great Nation.●

RETIREMENT OF BILLY ROSS BROWN

● Mr. COCHRAN. Mr. President, my friend, Billy Ross Brown, has retired from the First South Farm Credit, ACA Board of Directors where he served faithfully for many years.

Billy Ross became a director on the Oxford, MS, PCA Board in 1968 and he served as chairman of the board from 1975 to 1985. He was then elected to serve on the First South Farm Credit Board and served from 1985 to 1990.

He left the First South Board after being recommended by me and appointed by President George H.W. Bush to serve on the Board of the Farm Credit Administration and the Farm Credit System Insurance Corporation in Washington, DC. During this time he served as the first chairman of the Farm Credit System Insurance Corporation where he nurtured it through its startup as a Federal agency and directed it as it began to capitalize the Farm Credit System insurance fund. He was subsequently appointed chairman and CEO of the Farm Credit Administration where he served with distinction until October 1974.

While at the FCA, he undertook the first critical internal review of the agency, which provided him with useful insights and perspectives as he guided the agency through a difficult period of adjustment, following the system's financial stress in the mid-1980s. At his recommendation and under his direction, FCA undertook its first efforts at relieving regulatory burdens. He authored the agency's first statement on regulatory philosophy which reflected his commitment to cost-effective regulation and risk-based examination and supervision. It was his belief that any cost savings or efficiencies derived by the cooperatively owned Farm Credit Institutions would ultimately benefit the system's farmer borrowers and thereby benefit all agricultural producers.

After Billy Ross moved back to Oxford from Washington, the First South Farm Credit nominating committee nominated Billy Ross to run again for the First South Farm Credit Board. Billy Ross served again on the First South Board from June 1999 until his mandatory retirement in March 2005.

Billy Ross has served the Farm Credit System and U.S. agricultural interests for over 36 years. Combined with his father's service to the Farm Credit and the local PCA, the immediate Brown family has over 55 years of service to American agriculture.

No person has served First South Farm Credit, ACA, the Farm Credit Administration, and the Farm Credit System Insurance Corporation with more loyalty, dignity, and honor than Billy Ross Brown.

Over the years, I have observed Billy Ross' dedicated service to his family, his community and his country. He is a true gentleman with a great heart and love for all mankind.

While I wish him well in his retirement, I suspect he will continue to be involved in the ongoing success of Mississippi agricultural interests and I hope he will still find time to fish with his friends, but only if the weather is good.●

CONGRATULATIONS TO BERNICE DICKERSON

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Bernice Dickerson of Adairville, KY, for her service on the Adairville City Council.

At age 91, Mrs. Dickerson has dedicated herself to improving the community of Adairville. As a councilwoman for Adairville, Mrs. Dickerson has made a difference in people's lives and has served as an example for all who know her.

The citizens of Kentucky are fortunate to have the leadership of Bernice Dickerson. Her example of dedication, hard work and compassion should be an inspiration to all throughout the Commonwealth. She has my most sincere appreciation for her work and I look forward to her continued service to Kentucky.●

INSTITUTE OF THE MISSIONARY SISTERS OF THE SACRED HEART OF JESUS

● Mrs. CLINTON. Mr. President, it is with great pride that I commemorate the 125th anniversary of the founding of the Missionary Sisters of the Sacred Heart of Jesus whose assistance to New York's Italian community in the late 19th century is a model for immigrant outreach. The efforts of the Missionary Sisters of the Sacred Heart of Jesus initiated by the first American citizen saint, Frances Cabrini, led the Vatican to name her Patroness of Immigrants.

From the missionary sisters' first New York initiative, a home for destitute Italian orphans that opened in 1889, to the vibrant network of schools, hospitals and social service agencies serving immigrants in New Jersey, Pennsylvania, Louisiana, Illinois, Colorado, Washington State and California, as well as New York, the missionary sisters brought solace to immigrants in both urban and rural areas, visiting them in homes, public hospitals, prisons and mines. Today this enduring mission flourishes in 16 nations on six continents where the Cabrinian religious institute eases misery, works for justice, and educates new generations. The institute's compassionate work cares for AIDS orphans in Swaziland and street children in the Philippines, provides health and child care and educates young people in Australia, Central and South America and the United States.

Frances Cabrini's legacy can be seen in 21st century New York State in Dobbs Ferry at the St. Cabrini Nursing Home and the Cabrini Elder Care Consortium. Dobbs Ferry is also home to the Monsignor Terence Attridge Adult Day Health Center and Cabrini Immigrant Services. New York City is fortunate to have the Cabrini Center for Nursing and Rehabilitation, Cabrini Care at Home, Cabrini Immigrant Services, Cabrini Hospital, Sister Josephine Tsuei Senior Day Services, Cabrini High School, the Cabrini Shrine and the Cabrini Housing Development Fund's apartments for the elderly.

This year the St. Cabrini Nursing Home honors two individuals who exemplify the dedication and service of the Cabrinian values—Donna McNamara whose efforts were crucial to the creation of Cabrini Immigrant Services and Cabrini Care at Home; and James A. Smith, longtime board member who has given leadership to the Cabrini Elder Care Consortium. I am thankful for the efforts of Ms. McNamara and Mr. Smith and for the 125 years of compassion and care that are hallmarks of the life of Frances Cabrini and those who continue to serve the ideals to which she dedicated her life.●

NCAA DIVISION III MEN'S BASKETBALL CHAMPION

● Mr. FEINGOLD. Mr. President, it is with great pleasure that I congratulate the University of Wisconsin-Stevens Point men's basketball team for their second straight NCAA Division III national championship. The Pointers capped off a dominating run through the tournament with their victory over Rochester University in the championship game. With the victory, the Pointers become just the third team in NCAA Division III history to win back to back titles. The championship game was also a milestone for Head Coach Jack Bennett, who earned his 200th career victory with the win and has since been selected as the Basketball Times Coach of the Year.

The Pointers posted a terrific 29–3 record this season, winning many of their games by wide margins and tying the school record for wins in a season set last year. The Pointers had the stingiest defense in the Wisconsin Intercollegiate Athletic Conference this season, allowing just over 56 points a game. They also outscored their opponents by an overwhelming average of 17 points per game. Stevens Point led their conference in many statistical categories, including three-point and overall shooting percentage and assists. Their tough play throughout the season earned them a share of the conference championship. The Pointers also won their second straight WIAC Tournament title.

A talented roster of student-athletes, led by All-American Nick Bennett and Division III Men's Basketball Player of the Year Jason Kalsow, played unselfishly and always with passion. Members of the University of Wisconsin-Stevens Point men's basketball team that fought hard for the championship include senior Tamaris Relerford from Beloit, WI; freshman Shawn Lee from Marshfield, WI; sophomore Brett Hirsch from Menomonee Falls, WI; freshman Brad Kalsow from Huntley, IL; freshman Steve Hicklin from Sussex, WI; senior Kyle Grusczynski from Seymour, WI; sophomore Cory Krautkramer from Cameron, WI; sophomore Jon Krull from Marshall, WI; junior Matt Bouche from Dane, WI; junior Brian Bauer from Auburndale, WI; junior Mike Prey from Shawano, WI; senior Eric Maus from Green Bay, WI; freshman Gbena Awe from Milwaukee, WI; freshman Tyler Doyle from Appleton, WI; freshman Matt Atkinson from Suamico, WI; senior John Gleich from Wheaton, IL; and freshman Zach Leahy from Hartland, WI. Many of these champions are volunteers in the community at basketball camps and with Big Brothers and Big Sisters. They are also students dedicated to academics as well as to basketball.

The team's competitive spirit is an inspiration to youngsters in Wisconsin. When March Madness is in the air, Division III may not always be in the spotlight. But the Pointers' second straight national championship is a trophy all Wisconsinites are proud of. Their victory is a substantial part of the incredible postseason for Wisconsin college basketball teams.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Intelligence.

(The nomination received today is printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1545. A communication from the Administrator and Chief Executive Officer, Bonneville Power Administration, Department of Energy, transmitting, pursuant to law, a report on the Federal Columbia River Power System's financial statements and audit reports; to the Committee on Energy and Natural Resources.

EC–1546. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oklahoma Abandoned Mine Land Reclamation Plan" (OK–031–FOR) received on April 4, 2005; to the Committee on Energy and Natural Resources.

EC–1547. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Wyoming Regulatory Program" (WY–032–FOR) received on April 4, 2005; to the Committee on Energy and Natural Resources.

EC–1548. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Designation of Critical Habitat for Riverside Fairy Shrimp (Streptocephalus woottoni)" (RIN1018–AT42) received on April 4, 2005; to the Committee on Energy and Natural Resources.

EC–1549. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Arroyo Toad (Bufo californicus)" (RIN1018–AT42) received on April 4, 2005; to the Committee on Energy and Natural Resources.

EC–1550. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the Department's biennial report on the administration of the Montgomery GI Bill (MGIB) educational assistance program; to the Committee on Veterans' Affairs.

EC–1551. A communication from the Acting Director, Office of Government Ethics, transmitting, pursuant to law, the report of a correction to page 13 of the Office's previously submitted report relative to the evaluation of the financial disclosure process for employees of the executive branch; to the Committee on Homeland Security and Governmental Affairs.

EC–1552. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act by the Department of the Navy, Case number 04–04; to the Committee on Appropriations.

EC–1553. A communication from the Comptroller General, Government Accountability Office, transmitting, pursuant to law, a report concerning Government Accountability Office (GAO) employees who were assigned to congressional committees during fiscal year 2004 and a report on the cost and staff days of GAO work for fiscal years 2001 to 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–1554. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, the Commission's Annual Report on Category Rating for the year 2004; to the Committee on Finance.

EC–1555. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report containing the initial estimate of the Secretary's recommendation for the applicable percentage increase in Medicare's hospital inpatient prospective payment system (IPPS) rates for Federal fiscal year (FY) 2006; to the Committee on Finance.

EC–1556. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Program: Time Limitation on Recordkeeping Requirements Under the Drug Rebate Program" (RIN0938–AN55) received on April 7, 2005; to the Committee on Finance.

EC–1557. A communication from the Director, Office of White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Commissioner of Education Statistics, received on April 7, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1558. A communication from the Director, Office of White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Commissioner, Rehabilitation Services Commission, received on April 7, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1559. A communication from the Director, Office of White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Commissioner, Rehabilitation Services Commission, received on April 7, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1560. A communication from the Director, Office of White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of General Counsel, received on April 7, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1561. A communication from the Director, Office of White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of General Counsel, received on April 7, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1562. A communication from the Director, Office of White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Secretary, received on April 7, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1563. A communication from the Director of Public Affairs, American Battle Monuments Commission, transmitting, pursuant to law, a report of the Commission's administration of the Freedom of Information Act for Fiscal Year 2004; to the Committee on the Judiciary.

EC–1564. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report of the Department's fiscal year 2004 inventory of inherently government and commercial activities; to the Committee on the Judiciary.

EC–1565. A communication from the Director, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the details of the Office's 2005 Compensation Plan; to the Committee on Banking, Housing, and Urban Affairs.

EC–1566. A communication from the General Counsel, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report of a rule entitled "Corporate Governance: Final Amendments" (RIN2550–AA24) received on April 7, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1567. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR part 560: Iranian Transactions Regulations" received on April 7, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1568. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations 70 FR 9540 02.28.05" (44 CFR 67) received on April 7, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1569. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility 70 FR 6364 02.27.05" ((44 CFR 64)(Doc. No. FEMA–7865)) received on April 7, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1570. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility 70 FR 8534 02.22.05" ((44 CFR 64)(Doc. No. FEMA–7867)) received on April 7, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1571. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations 70 FR 9539 02.28.05" (44 CFR Part 65) received on April 7, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1572. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations 70 FR 9536 02.28.05" ((44 CFR 65)(FEMA–D–7567)) received on April 7, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1573. A communication from the Assistant Secretary of Defense, Reserve Affairs, Department of Defense, transmitting, pursuant to law, the National Guard ChalleNGe Program Annual Report for Fiscal Year 2004; to the Committee on Armed Services.

EC–1574. A communication from the Acting Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, two reports entitled "Department of Defense (DOD) Chemical and Biological Defense Program (CBDP) Annual Report to Congress" and "Department of Defense (DOD) Chemical and Biological Defense Program (CBDP) Performance Plan for Fiscal Years 2004–2006"; to the Committee on Armed Services.

EC–1575. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to chemical agent destruction operations at the Newport Chemical Agent Disposal Facility in Newport, Indiana; to the Committee on Armed Services.

EC–1576. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the quarterly report entitled "Acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account"; to the Committee on Armed Services.

EC–1577. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report entitled "Distribution of DoD Depot Maintenance Workloads"; to the Committee on Armed Services.

EC–1578. A communication from the General Counsel, Department of Defense, transmitting, a report of proposed legislation entitled "National Defense Authorization Bill for Fiscal Year 2006"; to the Committee on Armed Services.

EC–1579. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Major Systems Acquisition" (DFARS Case 2003–D030) received on April 7, 2005; to the Committee on Armed Services.

EC–1580. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Army (Civil Works), received on April 7, 2005; to the Committee on Armed Services.

EC–1581. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Army (Civil Works), received on April 7, 2005; to the Committee on Armed Services.

EC–1582. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Under Secretary of Defense (Acquisition and Technology), received on April 7, 2005; to the Committee on Armed Services.

EC–1583. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Director, Operational Test and Evaluation, received on April 7, 2005; to the Committee on Armed Services.

EC–1584. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Secretary of the Air Force, received on April 7, 2005; to the Committee on Armed Services.

EC–1585. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Under Secretary of Defense (Logistics and Materiel Readiness), received on April 7, 2005; to the Committee on Armed Services.

EC–1586. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of the Army, received on April 7, 2005; to the Committee on Armed Services.

EC–1587. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of Defense (Legislative Affairs), received on April 7, 2005; to the Committee on Armed Services.

EC–1588. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of Defense (International Security Policy), received on April 7, 2005; to the Committee on Armed Services.

EC–1589. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of Defense (International Security Policy), received on April 7, 2005; to the Committee on Armed Services.

EC–1590. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of Defense (Acquisition and Technology), received on April 7, 2005; to the Committee on Armed Services.

EC–1591. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Air Force (Acquisition), received on April 7, 2005; to the Committee on Armed Services.

EC–1592. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy (Installations and Environment), received on April 7, 2005; to the Committee on Armed Services.

EC–1593. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy (Installations and Environment), received on April 7, 2005; to the Committee on Armed Services.

EC–1594. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy (Installations and Environment), received on April 7, 2005; to the Committee on Armed Services.

EC–1595. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Army (Manpower and Reserve Affairs), received on April 7, 2005; to the Committee on Armed Services.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN:

S. 743. A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

S. 744. A bill to establish a Caribbean Basin Port Assistance Program; to the Committee on Foreign Relations.

By Mr. BYRD (for himself, Mr. JEFFORDS, Mr. KERRY, and Mr. BINGAMAN):

S. 745. A bill to amend the Global Environmental Protection Assistance Act of 1989 to promote international clean energy development, to open and expand clean energy markets abroad, to engage developing nations in the advancement of sustainable energy use and climate change actions, and for other purposes; to the Committee on Foreign Relations.

By Mrs. FEINSTEIN:

S. 746. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project; to the Committee on Energy and Natural Resources.

By Mr. LUGAR (for himself, Mr. BINGAMAN, Mr. COCHRAN, Mr. KERRY, Mr. DURBIN, and Mrs. FEINSTEIN):

S. 747. A bill to give States the flexibility to reduce bureaucracy by streamlining enrollment processes for the medicaid and State children's health insurance programs through better linkages with programs providing nutrition and related assistance to low-income families; to the Committee on Finance.

By Mr. GREGG (for himself and Mr. SUNUNU):

S. 748. A bill to authorize the establishment at Antietam National Battlefield of a memorial to the officers and enlisted men of the Fifth, Sixth, and Ninth New Hampshire Volunteer Infantry Regiments and the First New Hampshire Light Artillery Battery who fought in the Battle of Antietam on September 17, 1862, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. THOMAS, Mr. GRASSLEY, and Ms. STABENOW):

S. 749. A bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KYL:

S. 750. A bill to amend the Internal Revenue Code of 1986 to allow look-through treatment of payments between related foreign corporations; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 751. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing personal information, to disclose any unauthorized acquisition of such information; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, and Mr. DORGAN):

S. 752. A bill to require the United States Trade Representative to pursue a complaint of anti-competitive practices against certain oil exporting countries; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 753. A bill to provide for modernization and improvement of the Corps of Engineers, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. SMITH, and Mr. DURBIN):

S. 754. A bill to ensure that the Federal student loans are delivered as efficiently as possible, so that there is more grant aid for students; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BUNNING:

S. 755. A bill to authorize the Secretary of Health and Human Services to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment to provide free examinations to women needing such services, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNETT (for himself, Mrs. MURRAY, Mr. SHELBY, and Mr. HATCH):

S. 756. A bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAFEE (for himself, Mr. REID, Mr. TALENT, Mrs. CLINTON, and Mr. HATCH):

S. 757. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLEN (for himself and Mr. WYDEN):

S. 758. A bill to amend the Internal Revenue Code of 1986 to ensure that the federal excise tax on communication services does not apply to internet access service; to the Committee on Finance.

By Mr. SCHUMER (for himself, Mr. BIDEN, Ms. SNOWE, Mr. DURBIN, and Mr. SMITH):

S. 759. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. HATCH, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, and Mr. CONRAD):

S. 760. A bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN (for himself and Mr. WARNER):

S. Res. 102. A resolution commending the Virginia Union University Panthers men's basketball team for winning the 2005 National Collegiate Athletic Association Division II National Basketball Championship; considered and agreed to.

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. Res. 103. A resolution commending the Lady Bears of Baylor University for winning the 2005 National Collegiate Athletic Association Division I Women's Basketball Championship; considered and agreed to.

ADDITIONAL COSPONSORS

S. 8

At the request of Mr. ENSIGN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 37

At the request of Mrs. FEINSTEIN, the names of the Senator from Montana (Mr. BURNS), the Senator from North Carolina (Mrs. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Maryland (Ms. MIKULSKI) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 50

At the request of Mr. INOUYE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 50, a bill to authorize and strengthen the National Oceanic and Atmospheric Administration's tsunami detection, forecast, warning, and mitigation program, and for other purposes.

S. 103

At the request of Mr. TALENT, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 193

At the request of Mr. BROWNBACK, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 193, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 233

At the request of Mr. ROBERTS, the name of the Senator from Montana

(Mr. BURNS) was added as a cosponsor of S. 233, a bill to increase the supply of quality child care.

S. 241

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 285

At the request of Mr. BOND, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 338

At the request of Mr. SMITH, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 338, a bill to provide for the establishment of a Bipartisan Commission on Medicaid.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 352, a bill to revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants, and for other purposes.

S. 370

At the request of Mr. LOTT, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 370, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 382

At the request of Mr. ENSIGN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 403

At the request of Mr. ENSIGN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 409

At the request of Mr. COLEMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 409, a bill to establish a Federal Youth Development Council to improve the administration and coordination of Federal programs serving youth, and for other purposes.

S. 420

At the request of Mr. KYL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

S. 424

At the request of Mr. BOND, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 440

At the request of Mr. BUNNING, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 471

At the request of Mr. SPECTER, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Delaware (Mr. CARPER), the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 484

At the request of Mr. WARNER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 485

At the request of Mr. CRAIG, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 485, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 489

At the request of Mr. ALEXANDER, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 489, a bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes.

S. 493

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 493, a bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes.

S. 495

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

At the request of Mr. CORZINE, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 495, supra.

S. 503

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 503, a bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes.

S. 506

At the request of Mr. HAGEL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 506, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies.

S. 515

At the request of Mr. BYRD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 530

At the request of Mr. REED, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 530, a bill to amend section 691 of title 10, United States Code, to increase the end strengths of the Army and the Marine Corps for fiscal years after fiscal year 2005, and for other purposes.

S. 558

At the request of Mr. REID, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 569

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 569, a bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services.

S. 577

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 577, a bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Minnesota (Mr. DAYTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 642

At the request of Mr. FRIST, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 656

At the request of Mr. REED, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 659

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 659, a bill to amend title 18, United States Code, to prohibit human chimeras.

S. 662

At the request of Ms. COLLINS, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 662, a bill to reform the postal laws of the United States.

S. 688

At the request of Mr. COCHRAN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 688, a bill to amend the Internal Revenue Code of 1986 to clarify the excise tax exemptions for aerial applicators of fertilizers or other substances.

S. 702

At the request of Mr. BAUCUS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 702, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 737

At the request of Mr. CRAIG, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 737, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. CON. RES. 11

At the request of Mr. SESSIONS, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Carolina (Mrs. DOLE), the Senator from Iowa (Mr. HARKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. Con. Res. 11, a concurrent resolution honoring the Tuskegee Airmen for their bravery in fighting for our freedom in World War II, and for their contribution in creating an integrated United States Air Force.

S. CON. RES. 25

At the request of Mr. DEMINT, his name was added as a cosponsor of S. Con. Res. 25, a concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid.

At the request of Mr. BROWNBACK, his name and the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. Con. Res. 25, supra.

At the request of Mr. ISAKSON, his name was added as a cosponsor of S. Con. Res. 25, supra.

At the request of Mrs. LINCOLN, her name was added as a cosponsor of S. Con. Res. 25, supra.

At the request of Mr. FRIST, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Wyoming (Mr. THOMAS), the Senator from Oregon (Mr. SMITH), the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Dakota (Mr. CONRAD) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Con. Res. 25, supra.

S. RES. 31

At the request of Mr. COLEMAN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as "National Health Center Week" in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes.

AMENDMENT NO. 316

At the request of Mr. NELSON of Florida, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 316 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 743. A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR NABIL RAJA DANDAN, KETTY DANDAN, SOUZI DANDAN, RAJA NABIL DANDAN, AND SANDRA DANDAN.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan enter the United States before the filing deadline specified in subsection (c), Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan shall each be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan, the Secretary of State shall instruct the proper officer to reduce by 5, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

By Mr. BYRD (for himself, Mr. JEFFORDS, Mr. KERRY, and Mr. BINGAMAN):

S. 745. A bill to amend the Global Environmental Protection Assistance Act of 1989 to promote international clean energy development, to open and expand clean energy markets abroad, to engage developing nations in the advancement of sustainable energy use and climate change actions, and for other purposes; to the Committee on Foreign Relations.

Mr. BYRD. Mr. President, today I am introducing the International Clean Energy Deployment and Global Energy Markets Investment Act of 2005. This is a forward-thinking, made-in-America action plan that can serve as a building block that puts the right structure and mechanisms in place, mobilizes the necessary resources, and helps define the course we will have to take in order to better design the global energy system that will be built in coming decades. But let me also state up front what this legislation does not do. It is not intended to be a substitute for the need to seek globally binding climate change agreements that would include commitments from the largest industrial and developing country emitters of greenhouse gases. However, my legislation can serve as a meaningful first step to seriously engage developing countries in tackling the critical link between our mutual energy and climate change challenges. Additionally, such engagement can be a new cornerstone for the U.S. to demonstrate that we are committed to working with other nations on a broad range of international issues.

We must start by honestly addressing several bottom line issues. We know that the world's population will likely grow by about 50 percent during this century, and those people, most of whom will live in developing nations, will be seeking the necessary resources to live. These nations will be growing rapidly and their requirements for energy will follow suit for the foreseeable future. But at the same time, we know that growth needs to be undertaken in as clean and efficient a manner as possible. When economies heat up so does energy use, greenhouse gas emissions, and that global change. How can any nation's economy continue to grow and provide good jobs in a way that does not undermine its environment and vice versa? How do we find ways to address these problems of mutual concern for our citizens and for their children and grandchildren? These issues matter as much in the United States as they do in places in China, India, Brazil, and Mexico.

This legislation's journey began several years when I included, in the fiscal year 2001 Energy and Water Appropriations bill, language that called for a clean energy exports and market development strategic plan. The Bush administration sent that report to Congress in October 2002. Since that time, I have been urging, cajoling, and pushing Federal agencies like the Department of State, Department of Energy, Department of Commerce, and the U.S. Agency for International Development to cooperate more and increase public/private efforts to help export U.S. clean energy technologies and open more of these markets abroad. It is now time to take the next step and introduce this legislation in order to expand upon that foundation.

By taking this next step, I am suggesting that we must work together to develop a broad-based action plan that builds on American ingenuity, encourages the export of made-in-America clean energy technologies, helps advance developing country climate change engagement, increases international sustainable development, and strengthens interagency and public/private cooperation. The objectives of this legislation further include efforts to increase access to clean and reliable energy services, reduce greenhouse gas emissions, increase energy security, and integrate these goals in a manner that is consistent with U.S. foreign policy interests around the world. Finally, my legislation essentially codifies and enhances the administrative structure that has already been put in place.

On a related but separate note, I am very aware that on February 16, 2005, the Kyoto Protocol came into force. As the primary author of Senate Resolution 98, which passed unanimously in 1997, I worked to establish core principles which should be part of any future binding, international climate change agreement. Those principles were that a treaty should be cost effective and should include the participation of developing nations, especially the largest emitters. The Kyoto Protocol does not meet those principles for the United States.

There have been widely varying interpretations of that resolution, especially by the Bush administration. The Byrd-Hagel resolution was intended to guide our Nation's role in international negotiations, not kill that effort. It was meant to strengthen the hand of any administration as it sat at the international negotiating table, but this White House has used the Senate's vote as an excuse to totally abandon the negotiations and offer, instead, only hollow alternatives. Yet, it is the height of hypocrisy for the Bush administration to claim that it is defending that resolution's principles when, as a matter of fact, it has disregarded its very purpose.

That Senate resolution directed that any climate change treaty include commitments for the developing world, like China and India, which will surpass the U.S. in greenhouse gas emissions by 2025. These commitments could lead to real reductions. An international treaty with binding commitments also could allow for developing countries' continued economic growth with relatively modest requirements at first, pacing upwards, with ultimate goals to be achieved over time.

Moreover, given their expected economic growth and energy demands, developing nations are a primary market for clean energy technologies. But, this multi-billion dollar window of opportunity could close for the United States. With little pressure on developing countries to reduce or contain their emissions growth, these potentially enormous markets for clean energy technologies, made in the U.S., could slip away. Thus, my legislation can serve as a commonsense foot-in-the-door to help jump start efforts to seek fair and effective globally binding agreements in the future.

Despite this, the President has clearly stated that the U.S. would only pursue voluntary measures both domestically and internationally, and he continues to follow that path despite the fact that no major environmental problem has ever been solved by a purely voluntary basis. Since retreating from the international forum, his own climate change program is a strong testament to prove that voluntary actions are not likely to result in any serious decrease in overall emissions. While global climate change is long-term problem, it does not mean that we can put off action indefinitely. If we wait for decades to take more significant actions, then more radical measures will likely be necessary.

Additionally, I have long said that the U.S. needs a comprehensive, national energy strategy that has bipartisan support. A serious energy efficiency program, bolstered by the promotion of renewable energy and other clean home-grown energy sources, provides a compass point for a U.S. energy strategy. At its core, we must rely on our nation's domestic energy assets, especially coal. Coal must become a primary fuel source for new energy demands into the 21st century. However, to do so requires that we think differently about coal.

It is a myth to say that the U.S. or other major nations like China and India will stop burning coal any time soon. Yet, we must begin to treat this plentiful resource like black gold and use it in a much cleaner and more efficient way. We must accelerate the deployment of commercial-scale technologies that move us away from simply burning coal toward the enhanced ability to transform coal into a variety of energy products. We can begin to meet this challenge by demonstrating and deploying advanced power generation, especially coal gasification and carbon sequestration technologies, as well as by producing synthetic fuels and, eventually, hydrogen for use in other sectors of the economy. This broad approach also requires sending strong and clear regulatory and market signals which can significantly reconcile numerous environmental and climate change concerns, stimulate technology deployment, and set the stage for coal into the future.

The path that I am proposing here today goes far beyond the energy proposals that this White House has offered. Pursuing this course will take steadfast leadership, hard work, and American ingenuity to move forward in a responsible, balanced, and intelligent way. It is time for industry, labor, academic, environmental, and community interests to work with policymakers to find common ground. Commonsense market-based and regulatory approaches, emerging technology platforms, and new policy perspectives can bring these divergent groups together.

I believe it is time to send the message that there will likely be a binding carbon management regime in place for the U.S. at some point in the future. It may not be in place tomorrow or the next day or even in the next 2 to 4 years. It may also be a modest approach initially, but it is on the horizon. We certainly cannot run until we have walked, and we cannot walk until we have taken a step. But we can no longer stand still forever. By acting boldly, we can champion a new energy and environmental legacy that will benefit all the world's citizens.

With regard to my legislation's introduction today, our Nation must recognize the incredible impact that U.S. technologies and ideas can have in helping to meet other nations' energy needs in a more sustainable way. We must work to open and expand international markets for a range of U.S. clean energy technologies and simultaneously address global energy security, economic, trade, and environmental objectives.

I thank you for this opportunity and hope this legislation will receive serious consideration. I urge Members to see this as a key component of the architecture that will be necessary if we ever hope to seriously tackle the tough energy and environment issues before us as well as a way to enhance our broader foreign policy and climate change efforts around the world.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 745

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Clean Energy Deployment and Global Energy Markets Investment Act of 2005".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the cooperation of the United States with developing countries in addressing critical energy needs and global climate change;

(2) to promote sustainable economic development, increase access to modern energy services, reduce greenhouse gas emissions, and strengthen energy security and independence in developing countries through the deployment of clean energy technologies;

(3) to facilitate the export of clean energy technologies to developing countries;

(4) to reduce the trade deficit of the United States through the export of United States energy technologies and technological expertise;

(5) to retain and create manufacturing and related service jobs in the United States;

(6) to integrate the objectives described in paragraphs (1) through (5) in a manner consistent with interests of the United States, into the foreign policy of the United States;

(7) to authorize funds for clean energy development activities in developing countries; and

(8) to ensure that activities funded under part C of title VII of the Global Environmental Protection Assistance Act of 1989 (as added by section 3) contribute to economic growth, poverty reduction, good governance, the rule of law, property rights, and environmental protection.

SEC. 3. CLEAN ENERGY TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES.

Title VII of the Global Environmental Protection Assistance Act of 1989 (Public Law 101–240; 103 Stat. 2521) is amending by adding at the end the following:

"PART C—CLEAN ENERGY TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES

"SEC. 731. DEFINITIONS.

"In this part:

"(1) CLEAN ENERGY TECHNOLOGY.—The term 'clean energy technology' means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in any developing country—

"(A) is reliable, affordable, economically viable, socially acceptable, and compatible with the needs and norms of the host country;

"(B) results in—

"(i) reduced emissions of greenhouse gases; or

"(ii) increased geological sequestration; and

"(C) may—

"(i) substantially lower emissions of air pollutants; and

"(ii) generate substantially smaller or less hazardous quantities of solid or liquid waste.

"(2) DEPARTMENT.—The term 'Department' means the Department of State.

"(3) DEVELOPING COUNTRY.—

"(A) IN GENERAL.—The term 'developing country' means any country not listed in Annex I of the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

"(B) INCLUSION.—The term 'developing country' may include a country with an economy in transition, as determined by the Secretary.

"(4) GEOLOGICAL SEQUESTRATION.—The term 'geological sequestration' means the capture and long-term storage in a geological formation of a greenhouse gas from an energy producing facility, which prevents the release of greenhouse gases into the atmosphere.

"(5) GREENHOUSE GAS.—The term 'greenhouse gas' means—

"(A) carbon dioxide;

"(B) methane;

"(C) nitrous oxide;

"(D) hydrofluorocarbons;

"(E) perfluorocarbons; and

"(F) sulfur hexafluoride.

"(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(7) INTERAGENCY WORKING GROUP.—The term 'Interagency Working Group' means the Interagency Working Group on Clean Energy Technology Exports established under section 732(b)(1)(A).

"(8) NATIONAL LABORATORY.—The term 'National Laboratory' means any of the following laboratories owned by the Department of Energy:

"(A) Ames Laboratory.

"(B) Argonne National Laboratory.

"(C) Brookhaven National Laboratory.

"(D) Fermi National Accelerator Laboratory.

"(E) Idaho National Engineering and Environmental Laboratory.

"(F) Lawrence Berkeley National Laboratory.

"(G) Lawrence Livermore National Laboratory.

"(H) Los Alamos National Laboratory.

"(I) National Energy Technology Laboratory.

"(J) National Renewable Energy Laboratory.

"(K) Oak Ridge National Laboratory.

"(L) Pacific Northwest National Laboratory.

"(M) Princeton Plasma Physics Laboratory.

"(N) Sandia National Laboratories.

"(O) Stanford Linear Accelerator Center.

"(P) Thomas Jefferson National Accelerator Facility.

"(9) QUALIFYING PROJECT.—The term 'qualifying project' means a project meeting the criteria established under section 735(b).

"(10) SECRETARY.—The term 'Secretary' means the Secretary of State.

"(11) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(12) STRATEGY.—The term 'Strategy' means the strategy established under section 733.

"(13) TASK FORCE.—The term 'Task Force' means the Task Force on International Clean Energy Cooperation established under section 732(a).

"(14) UNITED STATES.—The term 'United States', when used in a geographical sense, means all of the States.

"SEC. 732. ORGANIZATION.

"(a) TASK FORCE.—

"(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this part, the President shall establish a Task Force on International Clean Energy Cooperation.

"(2) COMPOSITION.—The Task Force shall be composed of—

"(A) the Secretary, who shall serve as Chairperson; and

"(B) representatives, appointed by the head of the respective Federal agency, of—

"(i) the Department of Commerce;

"(ii) the Department of the Treasury;

"(iii) the Department of Energy;

"(iv) the Environmental Protection Agency;

"(v) the United States Agency for International Development;

"(vi) the Export-Import Bank;

"(vii) the Overseas Private Investment Corporation;

"(viii) the Trade and Development Agency;

"(ix) the Small Business Administration;

"(x) the Office of United States Trade Representative; and

"(xi) other Federal agencies, as determined by the President.

"(3) DUTIES.—

"(A) LEAD AGENCY.—The Task Force shall act as the lead agency in the development and implementation of strategy under section 733.

"(B) COORDINATION AND IMPLEMENTATION.—The Task Force shall support the coordination and implementation of programs under sections 1331, 1332, and 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13361, 13362, 13387).

"(4) TERMINATION.—The Task Force, including any working group established by the Task Force, shall terminate on January 1, 2016.

"(b) WORKING GROUPS.—

"(1) ESTABLISHMENT.—The Task Force—

"(A) shall establish an Interagency Working Group on Clean Energy Technology Exports; and

"(B) may establish other working groups as necessary to carry out this part.

"(2) COMPOSITION OF INTERAGENCY WORKING GROUP.—The Interagency Working Group shall be composed of—

"(A) the Secretary of Energy, the Secretary of Commerce, and the Administrator of the United States Agency for International Development, who shall jointly serve as Chairpersons; and

"(B) other members, as determined by the Task Force.

"(c) INTERAGENCY CENTER.—

"(1) ESTABLISHMENT.—There is established an Interagency Center in the Office of International Energy Market Development of the Department of Energy.

"(2) DUTIES.—The Interagency Center shall—

"(A) assist the Interagency Working Group in carrying out this part; and

"(B) perform such other duties as are determined to be appropriate by the Secretary of Energy.

"SEC. 733. STRATEGY.

"(a) INITIAL STRATEGY.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this part, the Task Force shall develop and submit to the President a Strategy to—

"(A) support the development and implementation of programs and policies in developing countries to promote the adoption of clean energy technologies and energy efficiency technologies and strategies, with an emphasis on those developing countries that are expected to experience the most significant growth in energy production and use over the next 20 years;

"(B) open and expand clean energy technology markets and facilitate the export of clean energy technology to developing countries, in a manner consistent with the subsidy codes of the World Trade Organization;

"(C) integrate into the foreign policy objectives of the United States the promotion of—

"(i) clean energy technology deployment and reduced greenhouse gas emissions in developing countries; and

"(ii) clean energy technology exports;

"(D) establish a pilot program that provides financial assistance for qualifying projects; and

"(E) develop financial mechanisms and instruments (including securities that mitigate the political and foreign exchange risks of uses that are consistent with the foreign policy of the United States by combining the private sector market and government enhancements) that—

"(i) are cost-effective; and

"(ii) facilitate private capital investment in clean energy technology projects in developing countries.

"(2) TRANSMISSION TO CONGRESS.—On receiving the Strategy from the Task Force under paragraph (1), the President shall transmit to Congress the Strategy.

"(b) UPDATES.—

"(1) IN GENERAL.—Not later than 2 years after the date of submission of the initial Strategy under subsection (a)(1), and every 2 years thereafter—

"(A) the Task Force shall—

"(i) review and update the Strategy; and

"(ii) report the results of the review and update to the President; and

"(B) the President shall submit to Congress a report on the Strategy.

"(2) INCLUSIONS.—The report shall include—

"(A) the updated Strategy;

"(B) a description of the assistance provided under this part;

"(C) the results of the pilot projects carried out under this part, including a comparative analysis of the relative merits of each pilot project;

"(D) the activities and progress reported by developing countries to the Department under section 736(b)(2); and

"(E) the activities and progress reported towards meeting the goals established under section 736(b)(2).

"(c) CONTENT.—In developing, updating, and submitting a report on the Strategy, the Task Force shall—

"(1) assess—

"(A) energy trends, energy needs, and potential energy resource bases in developing countries; and

"(B) the implications of the trends and needs for domestic and global economic and security interests;

"(2) analyze technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technologies and strategies;

"(3) examine relevant trade, tax, finance, international, and other policy issues to assess what policies, in the United States and in developing countries, would help open markets and improve clean energy technology exports of the United States in support of—

"(A) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;

"(B) improving energy end-use efficiency technologies (including buildings and facilities) and vehicle, industrial, and co-generation technology initiatives; and

"(C) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives;

"(4) investigate issues associated with building capacity to deploy clean energy technology in developing countries, including—

"(A) energy-sector reform;

"(B) creation of open, transparent, and competitive markets for clean energy technologies;

"(C) the availability of trained personnel to deploy and maintain clean energy technology; and

"(D) demonstration and cost-buydown mechanisms to promote first adoption of clean energy technology;

"(5) establish priorities for promoting the diffusion and adoption of clean energy technologies and strategies in developing countries, taking into account economic and security interests of the United States and opportunities for the export of technology of the United States;

"(6) identify the means of integrating the priorities established under paragraph (5) into bilateral, multilateral, and assistance activities and commitments of the United States;

"(7) establish methodologies for the measurement, monitoring, verification, and reporting under section 736(b)(2) of the greenhouse gas emission impacts of clean energy projects and policies in developing countries;

"(8) establish a registry that is accessible to the public through electronic means (including through the Internet) in which information reported under section 736(b)(2) shall be collected;

"(9) make recommendations to the heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve the role of the agencies in the international development, demonstration, and deployment of clean energy technology;

"(10) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to deploy clean energy technology;

"(11) recommend conditions and criteria that will help ensure that funds provided by the United States promote sound energy policies in developing countries while simultaneously opening their markets and exporting clean energy technology of the United States;

"(12) establish an advisory committee, composed of representatives of the private sector and other interested groups, on the export and deployment of clean energy technology;

"(13) establish a coordinated mechanism for disseminating information to the private sector and the public on clean energy technologies and clean energy technology transfer opportunities; and

"(14) monitor the progress of each Federal agency in promoting the purposes of this part, in accordance with—

"(A) the 5-year strategic plan submitted to Congress in October 2002; and

"(B) other applicable law.

"SEC. 734. CLEAN ENERGY ASSISTANCE TO DEVELOPING COUNTRIES.

"(a) IN GENERAL.—Subject to section 736, the Secretary may provide assistance to developing countries for activities that are consistent with the priorities established in the Strategy.

"(b) ASSISTANCE.—The assistance may be provided through—

"(1) the Millennium Challenge Corporation established under section 604(a) of the Millennium Challenge Act of 2003 (22 U.S.C. 7703(a));

"(2) the Global Village Energy Partnership; and

"(3) other international assistance programs or activities of—

"(A) the Department;

"(B) the United States Agency for International Development; and

"(C) other Federal agencies.

"(c) ELIGIBLE ACTIVITIES.—The activities supported under this section include—

"(1) development of national action plans and policies to—

"(A) facilitate the provision of clean energy services and the adoption of energy efficiency measures;

"(B) identify linkages between the use of clean energy technologies and the provision of agricultural, transportation, water, health, educational, and other development-related services; and

"(C) integrate the use of clean energy technologies into national strategies for economic growth, poverty reduction, and sustainable development;

"(2) strengthening of public and private sector capacity to—

"(A) assess clean energy needs and options;

"(B) identify opportunities to reduce, avoid, or sequester greenhouse gas emissions;

"(C) establish enabling policy frameworks;

"(D) develop and access financing mechanisms; and

"(E) monitor progress in implementing clean energy and greenhouse gas reduction strategies;

"(3) enactment and implementation of market-favoring measures to promote commercial-based energy service provision and to improve the governance, efficiency, and financial performance of the energy sector; and

"(4) development and use of innovative public and private mechanisms to catalyze and leverage financing for clean energy technologies, including use of the development credit authority of the United States Agency for International Development and credit enhancements through the Export-Import Bank and the Overseas Private Investment Corporation.

"SEC. 735. PILOT PROGRAM FOR DEMONSTRATION PROJECTS.

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this part, the Secretary, in consultation with the Secretary of Energy and the Administrator of the United States Agency for International Development, shall, by regulation, establish a pilot program that provides financial assistance for qualifying projects consistent with the Strategy and the performance criteria established under section 736.

"(b) QUALIFYING PROJECTS.—To be qualified to receive assistance under this section, a project shall—

"(1) be a project—

"(A) to construct an energy production facility in a developing country for the production of energy to be consumed in the developing country; or

"(B) to improve the efficiency of energy use in a developing country;

"(2) be a project that—

"(A) is submitted by a firm of the United States to the Secretary in accordance with procedures established by the Secretary by regulation;

"(B) meets the requirements of section 1608(k) of the Energy Policy Act of 1992 (42 U.S.C. 13387(k));

"(C) uses technology that has been successfully developed or deployed in the United States; and

"(D) is selected by the Secretary without regard to the developing country in which the project is located, with notice of the selection published in the Federal Register; and

"(3) when deployed, result in a greenhouse gas emission reduction (when compared to the technology that would otherwise be deployed) of at least—

"(A) in the case of a unit or energy-efficiency measure placed in service during the period beginning on the date of enactment of this part and ending on December 31, 2009, 20 percentage points;

"(B) in the case of a unit or energy-efficiency measure placed in service during the period beginning on January 1, 2010, and ending on December 31, 2019, 40 percentage points; and

"(C) in the case of a unit or energy-efficiency measure placed in service after December 31, 2019, 60 percentage points.

"(c) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—For each qualifying project selected by the Secretary to participate in the pilot program, the Secretary shall make a loan or loan guarantee available for not more than 50 percent of the total cost of the project.

"(2) INTEREST RATE.—The interest rate on a loan made under this subsection shall be equal to the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

"(3) HOST COUNTRY CONTRIBUTION.—To be eligible for a loan or loan guarantee for a project in a host country under this subsection, the host country shall—

"(A) make at least a 10 percent contribution toward the total cost of the project; and

"(B) verify to the Secretary (using the methodology established under section 733(c)(7)) the quantity of annual greenhouse gas emissions reduced, avoided, or sequestered as a result of the deployment of the project.

"(4) CAPACITY BUILDING RESEARCH.—

"(A) IN GENERAL.—A proposal made for a qualifying project may include a research component intended to build technological capacity within the host country.

"(B) RESEARCH.—To be eligible for a loan or loan guarantee under this paragraph, the research shall—

"(i) be related to the technology being deployed; and

"(ii) involve—

"(I) an institution in the host country; and

"(II) a participant from the United States that is an industrial entity, an institution of higher education, or a National Laboratory.

"(C) HOST COUNTRY CONTRIBUTION.—To be eligible for a loan or loan guarantee for research in a host country under this paragraph, the host country shall make at least a 50 percent contribution toward the total cost of the research.

"(5) GRANTS.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy and the Administrator of the United States Agency for International Development, may, at the request of the United States ambassador to a host country, make grants to help address and overcome specific, urgent, and unforeseen obstacles in the implementation of a qualifying project.

"(B) MAXIMUM AMOUNT.—The total amount of a grant made for a qualifying project under this paragraph may not exceed $1,000,000.

"SEC. 736. PERFORMANCE CRITERIA FOR MAJOR ENERGY CONSUMERS.

"(a) IDENTIFICATION OF MAJOR ENERGY CONSUMERS.—Not later than 1 year after the date of enactment of this part, the Task Force shall identify those developing countries that, by virtue of present and projected energy consumption, represent the predominant share of energy use among developing countries.

"(b) PERFORMANCE CRITERIA.—As a condition of accepting assistance provided under sections 734 and 735, any developing country identified under subsection (a) shall—

"(1) meet the eligibility criteria established under section 607 of the Millennium Challenge Act of 2003 (22 U.S.C. 7706), notwithstanding the eligibility of the developing country as a candidate country under section 606 of that Act (22 U.S.C. 7705); and

"(2) agree to establish and report on progress in meeting specific goals for reduced energy-related greenhouse gas emissions and specific goals for—

"(A) increased access to clean energy services among unserved and underserved populations;

"(B) increased use of renewable energy resources;

"(C) increased use of lower greenhouse gas-emitting fossil fuel-burning technologies;

"(D) more efficient production and use of energy;

"(E) greater reliance on advanced energy technologies;

"(F) the sustainable use of traditional energy resources; or

"(G) other goals for improving energy-related environmental performance, including the reduction or avoidance of local air and water quality and solid waste contaminants.

"SEC. 737. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this part for each of fiscal years 2006 through 2015.".

By Mrs. FEINSTEIN:

S. 746. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to authorize the Inland Empire Regional Water Recycling initiative to be part of the U.S. Bureau of Reclamation's Title XVI program. These water recycling projects will produce approximately 100,000 acre-feet of new water annually in one of the most rapidly growing regions in the United States.

The legislation would authorize two project components: the first of which will be constructed by the Inland Empire Utilities Agency, IEUA and will produce approximately 90,000 acre feet of new water annually. The second of these projects, to be constructed by the Cucamonga Valley Water District CVWD, will produce an additional 5,000 acre feet of new water annually. Combined, approximately 100,000 acre feet of new water would be produced locally by 2010, reducing the need for imported water from the Colorado River and northern California through the California Water Project.

Significantly, the Federal cost share is only 10 percent of the upfront capital costs.

We must continue to approve measures preventing water supply shortages in the Western United States. The Inland Empire region is one of the fastest growing areas in the nation. This legislation means that the Inland Empire will use less water from the Colorado

River and northern California, and the bill will have other benefits like improved water quality, energy savings, and job creation.

The development of recycled water has enormous capacity to produce significant amounts of water, and have it "on line" in a relatively short period of time. Recycled water provides our State and region with the ability to "stretch" existing water supplies significantly and in so doing, minimize conflict and address the many needs that exist. According to the State of California's Recycled Water Task Force, water recycling is a critical part of California's water future with an estimated 1.5 million acre-feet of new supplies being developed over the next 25 years.

Today's Commissioner of Reclamation said it best when, in a speech to the WateReuse Association he declared that recycled water is "the last river to tap."

IEUA produces recycled water for a variety of non-potable purposes, such as landscape irrigation, agricultural irrigation, construction, and industrial cooling. By replacing these water-intensive applications with high-quality recycled water, fresh water can be conserved or used for drinking, thereby reducing the dependence on expensive imported water.

As we look into the future, it is appropriate that we are guided by lessons from the recent past. In the late 1980's, California confronted a sustained, multi-year drought. It was so serious that some observed that our State had 6-year-old first graders who had never seen "green grass." California faced a crisis and water agencies and water districts, particularly in Southern California found a solution—recycled water.

In 1991, the Secretary of the Interior in President George H.W. Bush's administration, Manual Lujan, recognized that California was receiving more water from the Colorado River than its allocation. The Interior Secretary looked into the future and saw a day when California would get its allocation—4.4. million acre-feet, but no longer would it get up to 800,000 acre-feet of "surplus flows." As is well known, that day has arrived.

For any political leader, it's always a tremendous challenge to look into the future and design programs and solutions to a crisis. Secretary Lujan did exactly that. In August 1991, he launched the Southern California Water Initiative, a program to evaluate and study the feasibility of water reclamation projects. Mr. Lujan's vision was to build replacement water capacity to offset the anticipated Colorado River water supply reductions. In this endeavor, Secretary Lujan was assisted by then Commissioner of Reclamation Dennis Underwood. Last week, Mr. Underwood was selected by the Metropolitan Water District of Southern California, MWD, board of directors as their new general manager and CEO.

Congress saw the wisdom of the Lujan initiative too. Congress, in 1992, was completing work on major water legislation. The Lujan initiative, a year after it was first announced, became Title XVI, the Bureau of Reclamation water recycling program that today serves the entire West, not just California. Today, water recycling is an essential water supply element in Albuquerque, Phoenix, Denver, Salt Lake City, Tucson, El Paso, San Antonio, Portland and other western metropolitan areas.

The Inland Empire Regional Water Recycling Initiative has the support of all member agencies of IEUA, as well as the water agencies downstream in Orange County. IEUA encompasses approximately 242 square miles and serves the cities of Chino, Chino Hills, Fontana, through the Fontana Water Company, Ontario, Upland, Montclair, Rancho Cucamonga through the Cucamonga Valley Water District, and the Monte Vista Water District.

This bill is also supported by and fully consistent with the Metropolitan Water District of Southern California, MWD's Integrated Resource Plan, Santa Ana Watershed Project Authority, SAWPA's Integrated Watershed Plan, and the Chino Basin Watermaster's Optimum Basin Management Plan, Inland Empire Utility Agency's Feasibility Study, Cucamonga Valley Water District's "Every Drop Counts" Urban Water Reuse Management Strategy, the Bureau of Reclamation's Southern California Comprehensive Water Recycling and Reuse Feasibility Study, the State of California's Water Recycling Task Force, the WateReuse Association, the Association of California Water Agencies, ACWA and the U.S. Department of the Interior's Water 2025 Initiative.

Environmental groups such as the Mono Lake Committee, Environmental Defense, Clean Water and Natural Resources Defense Council strongly support recycling projects. Business leaders such as Southern Cal Edison and Building Industry Association also support these water recycling projects.

These projects were authorized for feasibility study in Public Law 102-575, Title XVI, Section 1606, the Southern California Comprehensive Water Recycling and Reuse Feasibility Study in 1992. The State of California, Metropolitan Water District of Southern California, SAWPA and others provided $3 million of the $6 million required for the regional feasibility study of which these projects were one part.

Detailed Feasibility Studies and environmentally reports have been prepared and approved by both agencies and certified by the State of California.

Congressman DAVID DREIER introduced identical legislation in the House in the 108th Congress. The House Resources Committee and then the House of Representatives both passed the bill unanimously.

His bill is cosponsored by Representatives GARY MILLER, GRACE NAPOLITANO, KEN CALVERT and JOE BACA.

And these valuable recycling projects would never have progressed at all without the hard work and dedication of Mr. Robert DeLoach, general manager of the Cucamonga Valley Water District, and Mr. Rich Atwater, CEO and general manager of the Inland Empire Utilities Agency.

I urge my colleagues to support this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INLAND EMPIRE AND CUCAMONGA VALLEY RECYCLING PROJECTS.

(a) SHORT TITLE.—This section may be cited as the "Inland Empire Regional Water Recycling Initiative".

(b) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108-316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

"SEC. 1638. INLAND EMPIRE REGIONAL WATER RECYCLING PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Inland Empire Utilities Agency, may participate in the design, planning, and construction of the Inland Empire regional water recycling project described in the report submitted under section 1606(c).

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.

"SEC. 1639. CUCAMONGA VALLEY WATER RECYCLING PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Cucamonga Valley Water District, may participate in the design, planning, and construction of the Cucamonga Valley Water District satellite recycling plants in Rancho Cucamonga, California, to reclaim and recycle approximately 2 million gallons per day of domestic wastewater.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the capital cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000.".

(c) CONFORMING AMENDMENTS.—The table of sections in section 2 of the Reclamation

Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108–316 (118 Stat. 1202)) and inserting the following:

"Sec. 1637. Williamson County, Texas, Water Recycling and Reuse Project.
"Sec. 1638. Inland Empire Regional Water Recycling Program.
"Sec. 1639. Cucamonga Valley Water Recycling Project.".

By Mr. LEVIN (for himself, Mr. THOMAS, Mr. GRASSLEY, and Ms. STABENOW):

S. 749. A bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. LEVIN. Mr. President, I am pleased to join with Senators CRAIG THOMAS, CHUCK GRASSLEY and DEBBIE STABENOW in introducing the Federal Prison Industries Competition in Contracting Act. Our bill is based on a straightforward premise: it is unfair for Federal Prison Industries to deny businesses in the private sector an opportunity to compete for sales to their own government.

We have made immeasurable progress on this issue since I first introduced a similar bill ten years ago. It may seem incredible, but at that time, Federal Prison Industries (FPI) could bar private sector companies from competing for a federal contract. Under the law establishing Federal Prison Industries, if Federal Prison Industries said that it wanted a contract, it would get that contract, regardless whether a company in the private sector could provide the product better, cheaper, or faster.

Four years ago, the Senate took a giant step toward addressing this inequity when we voted 74–24 to end Federal Prison Industries' monopoly on Department of Defense contracts. Not only was that provision enacted into law, we were able to strengthen it with a second provision in last year's defense bill. Last year, we took another important step, enacting an appropriations provision which extends the DOD rules to other Federal agencies. This means that, for the first time, private sector companies should be able to compete against for contracts awarded by all Federal agencies.

Despite this progress, work remains to be done. We have heard reports from federal procurement officials and from small businesses that FPI continues to claim that it retains the mandatory source status that protected it from competition for so long. This kind of misleading statement may undermine the right to compete that we have fought so hard for so long to establish.

In addition, FPI continues to sell its services into interstate commerce on an unlimited basis. I am concerned that the sale of prison labor into commerce could have the effect of undermining companies and work forces that are already in a weakened position as a result of foreign competition. We have long taken the position as a nation that prison-made goods should not be sold into commerce, where prison wages of a few cents per hour could too easily undercut private sector competition. It is hard for me to understand why the sale of services should be treated any differently than the sale of products.

The bill that we are introducing today would address these issues by making it absolutely clear that FPI no longer has a mandatory source status, by reaffirming the critical requirement that FPI compete for its contracts, and by carefully limiting the circumstances under which prison services may be sold into the private sector economy.

I look forward to working with my colleagues on these important issues, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GOVERNMENTWIDE PROCUREMENT POLICY RELATING TO PURCHASES FROM FEDERAL PRISON INDUSTRIES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following:

"SEC. 42. GOVERNMENTWIDE PROCUREMENT POLICY RELATING TO PURCHASES FROM FEDERAL PRISON INDUSTRIES.

"(a) COMPETITION REQUIRED.—In the procurement of any product that is authorized to be offered for sale by Federal Prison Industries and is listed in the catalog published and maintained by Federal Prison Industries under section 4124(b) of title 18, United States Code, or any service offered to be provided by Federal Prison Industries, the head of an executive agency shall, except as provided in subsection (d)—

"(1) use competitive procedures for entering into a contract for the procurement of such product, in accordance with the requirements applicable to such executive agency under sections 2304 and 2305 of title 10, United States Code, or sections 303 through 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 through 253c); or

"(2) make an individual purchase under a multiple award contract in accordance with competition requirements applicable to such purchases.

"(b) OFFERS FROM FEDERAL PRISON INDUSTRIES.—In conducting a procurement pursuant to subsection (a), the head of an executive agency shall—

"(1) notify Federal Prison Industries of the procurement at the same time and in the same manner as other potential offerors are notified;

"(2) consider a timely offer from Federal Prison Industries for award in the same manner as other offers (regardless of whether Federal Prison Industries is a contractor under an applicable multiple award contract); and

"(3) consider a timely offer from Federal Prison Industries without limitation as to the dollar value of the proposed purchase, unless the contract opportunity has been reserved for competition exclusively among small business concerns pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)) and its implementing regulations.

"(c) IMPLEMENTATION BY AGENCIES.—The head of each executive agency shall ensure that—

"(1) the executive agency does not purchase a Federal Prison Industries product or service unless a contracting officer of the executive agency determines that the product or service is comparable to a product or service available from the private sector that best meet the executive agency's needs in terms of price, quality, and time of delivery; and

"(2) Federal Prison Industries performs its contractual obligations to the executive agency to the same extent as any other contractor for the executive agency.

"(d) EXCEPTION.—

"(1) OTHER PROCEDURES.—The head of an executive agency may use procedures other than competitive procedures to enter into a contract with Federal Prison Industries only under the following circumstances:

"(A) The Attorney General personally determines in accordance with paragraph (2), within 30 days after Federal Prison Industries has been informed by the head of that executive agency of an opportunity for award of a contract for a product or service, that—

"(i) Federal Prison Industries cannot reasonably expect fair consideration in the selection of an offeror for award of the contract on a competitive basis; and

"(ii) the award of the contract to Federal Prison Industries for performance at a penal or correctional facility is necessary to maintain work opportunities not otherwise available at the penal or correctional facility that prevent circumstances that could reasonably be expected to significantly endanger the safe and effective administration of such facility.

"(B) The product or service is available only from Federal Prison Industries and the contract may be awarded under the authority of section 2304(c)(1) of title 10, United States Code, or section 303(c)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)), as may be applicable, pursuant to the justification and approval requirements relating to noncompetitive procurements specified by law and the Federal Acquisition Regulation.

"(2) DETERMINATION.—

"(A) IN GENERAL.—A determination made by the Attorney General regarding a contract pursuant to paragraph (1)(A) shall be—

"(i) supported by specific findings by the warden of the penal or correctional institution at which a Federal Prison Industries workshop is scheduled to perform the contract;

"(ii) supported by specific findings by Federal Prison Industries regarding the reasons that it does not expect to be selected for award of the contract on a competitive basis; and

"(iii) made and reported in the same manner as a determination made pursuant to section 303(c)(7) of the Federal Property and

Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)).

"(B) Nondelegation.—The Attorney General may not delegate to any other official authority to make a determination that is required under paragraph (1)(A) to be made personally by the Attorney General.

"(e) Performance as a Subcontractor.—

"(1) In general.—A contractor or potential contractor under a contract entered into by the head of an executive agency may not be required to use Federal Prison Industries as a subcontractor or supplier of a product or provider of a service for the performance of the contract by any means, including means such as—

"(A) a provision in a solicitation of offers that requires a contractor to offer to use or specify a product or service of Federal Prison Industries in the performance of the contract;

"(B) a contract clause that requires the contractor to use or specify a product or service (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

"(C) any contract modification that requires the use of a product or service of Federal Prison Industries in the performance of the contract.

"(2) Subcontractor or supplier.—A contractor using Federal Prison Industries as a subcontractor or supplier in furnishing a commercial product pursuant to a contract of an executive agency shall implement appropriate management procedures to prevent an introduction of an inmate-produced product into the commercial market.

"(3) Definition.—In this subsection, the term 'contractor', with respect to a contract, includes a subcontractor at any tier under the contract.

"(f) Protection of Classified and Sensitive Information.—The head of an executive agency may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

"(1) any data that is classified or will become classified after being merged with other data;

"(2) any geographic data regarding the location of—

"(A) surface or subsurface infrastructure providing communications or water or electrical power distribution;

"(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

"(C) other utilities; or

"(3) any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.".

(b) Clerical Amendment.—The table of contents in section 1(b) of such Act is amended by adding at the end the following:

"Sec. 42. Governmentwide procurement policy relating to purchases from Federal Prison Industries.".

SEC. 2. CONFORMING AMENDMENTS.

(a) Repeal of Inconsistent Requirements Applicable to Department of Defense.—

(1) In general.—Section 2410n of title 10, United States Code, is repealed.

(2) Table of sections.—The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2410n.

(b) Repeal of Inconsistent Requirements Applicable to Other Agencies.—Section 4124 of title 18, United States Code, is amended—

(1) by striking subsections (a) and (b) and redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(2) in subsection (a), as redesignated by paragraph (1), by striking "Federal department, agency, and institution subject to the requirements of subsection (a)" and inserting "Federal department and agency".

(c) Other Laws.—

(1) Javits-Wagner-O'Day Act.—Section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48) is amended by striking "which, under section 4124 of such title, is required" and inserting "which is required by law".

(2) Small Business Act.—Section 31(b)(4) of the Small Business Act (15 U.S.C. 657a(b)(4)) is amended by striking "a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.)" and inserting "a different source under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) or Federal Prison Industries under section 40(d) of the Office of Federal Procurement Policy Act or section 4125 of title 18, United States Code".

SEC. 3. UNLAWFUL TRANSPORTATION OR IMPORTATION OF PRODUCTS, SERVICES, OR MINERALS RESULTING FROM CONVICT LABOR.

(a) Prohibition.—Section 1761 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after "reformatory institution," the following: "or knowingly sells in interstate commerce any services, other than disassembly and scrap resale activities to achieve landfill avoidance, furnished wholly or in part by convicts or prisoners, except convicts or prisoners on parole, supervised release, or probation, or in any penal or reformatory institution,"; and

(2) in the matter preceding paragraph (1) in subsection (c), by inserting ", or services furnished," after "or mined".

(b) Completion of Existing Agreements.—Any prisoner work program operated by the Federal Government or by a State or local government which was providing a service for the commercial market through inmate labor on October 1, 2005, may continue to provide such commercial services until—

(1) the expiration that was specified in the contract or other agreement with a commercial partner on October 1, 2005; or

(2) until September 30, 2006, if no expiration date was specified in a contract or other agreement with a commercial partner.

(c) Approval Required for Long-Term Operation of State and Local Programs.—Except as provided in subsection (b), a prison work program operated by a State or local government may provide a service for the commercial market through inmate labor only if such program has been certified pursuant to section 1761(c) of title 18, United States Code, and is in compliance with the requirements of such subsection and its implementing regulations.

(d) Approval Required for Long-Term Operation of Federal Programs.—Except as provided in subsection (b), a prison work program operated by the Federal Government may provide a service for the commercial market through inmate labor only if a Federal Prison Industries proposal to provide such services is approved in accordance with the requirements of this subsection by the Secretary of Commerce, the Secretary of Labor, and the Administrator of the Small Business Administration. Such a proposal may be approved only upon a determination, after notice and an opportunity for public comment, that—

(1) the service to be provided would be provided exclusively by foreign labor in the absence of the Federal Prison Industries proposal; and

(2) the approval of the proposal will not have an adverse impact on employment in any United States business.

(e) Protection of Classified and Sensitive Information.—A prison work program operated by a State or local government may not provide a service, including a service for the commercial market through inmate labor pursuant to section 1761(c) of title 18, United States Code, under which an inmate worker would have access to—

(1) any data that is classified or will become classified after being merged with other data;

(2) any geographic data regarding the location of—

(A) surface or subsurface infrastructure providing communications or water or electrical power distribution;

(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

(C) other utilities or transportation infrastructure; or

(3) any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.

SEC. 4. ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.

(a) Cooperation With Charitable Organizations.—Chapter 307 of title 18, United States Code, is amended by adding at the end the following:

"SEC. 4130. COOPERATION WITH CHARITABLE ORGANIZATIONS.

"(a) Sale or Donation of Products or Services to Charitable Entities.—Federal Prison Industries may, subject to subsection (b), sell or donate a product or service to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code. Any product or service sold or donated under this section may be donated or sold by the charitable organization to low-income individuals who would otherwise have difficulty purchasing such products or services.

"(b) Work Agreements With Charitable Organizations.—

"(1) In general.—Federal Prison Industries may sell or donate a product or service to a charitable organization under subsection (a) only pursuant to a work agreement with the charitable organization receiving the product or service.

"(2) Terms.—Federal Prison Industries may enter a work agreement relating to a product and service under paragraph (1) only if—

"(A) the Attorney General determines, in consultation with the Secretary of Labor and the Secretary of Commerce, that the product or service would not be available except for the availability of inmate workers provided by Federal Prison Industries; and

"(B) the work agreement is accompanied by a written certification by the chief executive officer of the charitable organization that—

"(i) no job of a noninmate employee or volunteer of the charitable organization (or any affiliate of the charitable organization) will be abolished, and no such employee's or volunteer's work hours will be reduced, as a result of the entity being authorized to utilize inmate workers; and "(ii) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the charitable organization.

"(3) NONDELEGATION.—The Attorney General may not delegate authority to make determinations under paragraph (2)(A) to any person serving in a position below the lowest level of positions that are filled by appointment by the President, by and with the advice and consent of the Senate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by adding at the end the following:

"4130. Cooperation with charitable organizations.

SEC. 5. ADDITIONAL REHABILITATIVE OPPORTUNITIES FOR INMATES.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"SEC. 4049. ENHANCED IN-PRISON EDUCATIONAL AND VOCATIONAL ASSESSMENT AND TRAINING PROGRAM.

"(a) IN GENERAL.—There is established the Enhanced In-Prison Educational and Vocational Assessment and Training Program within the Federal Bureau of Prisons.

"(b) REQUIREMENTS.—The program established under this section shall provide, at a minimum, a full range of educational opportunities, vocational training and apprenticeships, and comprehensive release-readiness preparation for inmates in Federal prisons.".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"4049. Enhanced In-Prison Educational and Vocational Assessment and Training Program.

(b) IMPLEMENTATION OBJECTIVE.—It shall be the objective of the Federal Bureau of Prisons to implement the program established under section 4049 of title 18, United States Code (as added by subsection (a)), in all Federal prisons not later than 8 years after the date of the enactment of this Act.

SEC. 6. NEW PRODUCTS AND EXPANDED PRODUCTION OF EXISTING PRODUCTS.

Federal Prison Industries shall, to the maximum extent practicable, increase inmate employment by producing new products or expanding the production of existing products for the public sector that would otherwise be produced outside the United States.

SEC. 7. TRANSITIONAL PERSONNEL MANAGEMENT AUTHORITY.

Any correctional officer or other employee of Federal Prison Industries being paid with nonappropriated funds who would be separated from service because of a reduction in the net income of Federal Prison Industries before the date that is 5 years after the date of the enactment of this Act shall be—

(1) eligible for appointment (or reappointment) in the competitive service in accordance with subpart B or part III of title 5, United States Code;

(2) registered on a Bureau of Prisons reemployment priority list; and

(3) given priority for any other position within the Bureau of Prisons for which such employee is qualified.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

Mr. THOMAS. President, today I am pleased to join Senator LEVIN in introducing a bill that will further my efforts to limit unfair government competition with the private sector. Throughout my career in public office, I have always taken the position that government should not compete unfairly with American small businesses. If a function or product is available in the private sector, then that should be the first avenue of choice as opposed to having that function provided by government.

For several years now, Federal Prison Industries (FPI), a government entity with the purpose of keeping prisoners busy while serving their sentences, has been providing a growing variety of products and services to both the Federal Government and the private sector. Currently, FPI employs approximately 21,000 Federal prisoners or roughly 12 percent of a population of 174,000. These prisoners are responsible for producing a diverse range of products for FPI, ranging from office furniture to clothing, as well as providing a variety of services, including telemarketing. The remaining Federal prisoners who work do so in and around Federal prisons.

Through its status as a sole provider of certain goods to the Federal Government, FPI has effectively blocked private sector businesses from having a chance to provide products, even though they may be able to provide a better product in a more cost effective and efficient manner. This situation is not in the best interest of the American taxpayer and is blatantly unfair to American small businesses across the country. Along with Senators GRASSLEY and STABENOW, SENATOR LEVIN and I propose to enact thorough and lasting reforms to Federal Prison Industries that would ensure that they no longer compete unfairly with private sector small businesses.

We have already taken steps to remedy the situation. In last year's Omnibus Appropriations bill, language was included that prohibited funding for sole source products from FPI and subjected such procurements to follow the competitive requirements set out in the Federal Acquisitions Regulations. However, there are questions as to whether the mandatory sourcing requirement still remains under these regulations. Our bill makes it very clear to Federal Managers and Federal Prison Industries that contracting officers are to use competitive procedures for the procurement of products and services. This approach allows federal agencies to select FPI for contracts if, as a result of a competitive process, FPI can meet that particular agency's requirements and the product or service is the best value offered at a fair and reasonable price. By removing FPI's status as the sole provider and subjecting procurement to competition, the above outlined provision in our bill places the control of government procurement in the hands of contracting officers and allows them to pursue the most cost effective and efficient use of taxpayer dollars.

While we believe that it is important to keep prisoners working, we do not believe that this effort should unduly harm or conflict with law-abiding businesses. This bill seeks to minimize the unfair competition that private sector companies face with the FPI. As FPI continues to expand its reach into providing services, the low costs of inmate labor is undercutting private sector businesses that provide similar services. The result is an unfair advantage for FPI. While allowing for the conclusion of current contracts, this bill also looks to limit services provided by inmates that compete with the private sector in interstate commerce. Additionally, the bill prohibits FPI from production of goods or services in which an inmate would have access to classified or sensitive data.

We support the goal of keeping prisoners busy while serving their time in prison. But FPI should not be placed in a position of advantage when providing goods to the federal government, and these activities should not unfairly compete with services already provided in the private sector. However, I recognize that there may be cases in which a particular contract is deemed essential to the safety and effective administration of a particular prison. To deal with these exceptions, a provision is included that allows the Attorney General to grant a waiver to these reform measures in certain cases.

In addition to bringing a halt to unfair business practices with the private sector, this bill allows for FPI to search for other means to keep prisoners working that do not impact the employment of individuals in the private sector. There is a need to keep inmates busy, and this legislation addresses further work opportunities though public service activities and cooperation with charitable organizations. Additionally, the bill recognizes the need for further avenues of rehabilitation and directs the Federal Bureau of Prisons to establish an Enhanced In-Prison Educational and Vocational Assessment and Training Program for inmates.

I am confident that by allowing competition for government contracts our bill will save taxpayer dollars. Through healthy competition with the private sector for procurement contracts, FPI will be forced to look internally for ways to improve its own effectiveness and efficiency. The reform of Federal Prison Industries will bring about numerous improvements, not just in cost savings, but also in preserving jobs for law abiding Americans in the private sector who work in small businesses. And the most important effect will be the better use of tax dollars. The American taxpayer is the one who will benefit most from this legislation.

A similar version of our bill was reported favorably out of the Senate Governmental Affairs Committee in the 108th Congress, and reform measures have passed overwhelming in the House of Representatives. Our bill has the support of small business groups from across the country, as well as organized labor. Clearly, reforming the way Federal Prison Industries does business is an issue that enjoys broad, bipartisan support. I believe this bill provides that reform. I would ask my colleagues to look at this legislation and consider giving it their support.

By Mr. KYL:

S. 750. A bill to amend the Internal Revenue Code of 1986 to allow look-through treatment of payments between related foreign corporations; to the Committee on Finance.

Mr. KYL. Mr. President, the 108th Congress began the necessary process, as part of the American Jobs Creation Act, of rationalizing the way the United States taxes the foreign income of U.S.-based companies, thereby helping U.S. employers to be more competitive in international markets. There was one provision, however, that passed both the Senate and the House but that was dropped out of the conference report at the eleventh hour for reasons that were unrelated to the merits of the provision. That provision extended the general rule of tax deferral to dividends, interest, rents and royalties that are paid out in the ordinary course of active business activities by one foreign affiliate of a U.S. company to another affiliate in another country. Today, I am introducing legislation to make this important change.

The United States taxes U.S. companies on their worldwide income, but the general rule is that foreign subsidiary income is not taxed by the United States until the subsidiary earnings are brought back to the U.S. parent, usually in the form of a dividend. Subpart F of the Internal Revenue Code sets forth a number of exceptions to this general rule. Subpart F imposes current tax on subsidiary earnings generally when that income is passive in nature. One such exception taxes the U.S. parent when a subsidiary receives dividends, interest, rents or royalties from another subsidiary that is located in a different country. If the two subsidiaries are in the same country, however, current taxation does not apply.

The proposal I am introducing today would extend this "same-country" treatment to payments between related foreign subsidiaries that are located in different countries. This proposal is identical to the one that passed the Senate last year.

Today's global economy is significantly different from the environment that existed when the subpart F rules were first introduced in 1962. As the global economy has changed, the traditional model for operating a global business has changed as well. In today's world, it makes no sense to impose a tax penalty when a company wants to fund the operations of a subsidiary in one country from the active business earnings of a subsidiary in a second country. For example, to operate efficiently, a U.S.-based manufacturer will probably establish specialized manufacturing sites, distribution hubs, and service centers. As a result, multiple related-party entities may be required to fulfill a specific customer order. U.S. tax law today inappropriately increases the cost for these foreign subsidiaries to serve their customers in a very competitive business environment by imposing current tax on these related-party payments, even though the income remains deployed in the foreign market.

Further, financial institutions have established foreign subsidiaries with headquarters in a financial center, such as London, and branches in multiple countries in the same geographic region. This permits an efficient "hub and spoke" form of regional operation; however, this efficient business model may make it difficult for the same country exception under current law to be met for payments of dividends and interest.

Under the existing rules, American companies are at a real and significant competitive disadvantage as compared to foreign-based companies. By creating current U.S. taxation of active business income when subsidiaries make cross-border payments, U.S.-based multinationals are penalized for responding to market or investment opportunities by redeploying active foreign earnings among foreign businesses conducted through multiple subsidiaries. To remove this impediment, subpart F should be amended to provide a general exception for interaffiliate payments of dividends, interest, rents or royalties that are generated from an active business.

The right answer is to apply "look-through" treatment to payments of dividends, interest, rents and royalties between subsidiaries. If the underlying earnings would not have been subject to subpart F, the payments should not be subpart F income. Look-through treatment for payments of dividends, interest, rents and royalties should be permitted as long as the payments are made out of active business, non-subpart F, income. "Look-through" principles are already well-developed for other purposes of the Internal Revenue Code. For example, a look-through approach to the characterization of foreign income is used for purposes of calculating foreign tax credits. A consistent application of look-through principles would simplify the interaction between subpart F and the foreign tax credit rules.

If we want to keep U.S.-based multinational companies—who employ millions of workers here at home—headquartered in the United States, we must modernize our tax rules so that our companies can be competitive around the globe I urge my colleagues to cosponsor this legislation to make a modest change in the law that will enhance the position of U.S.-based employers trying to succeed in competitive foreign markets.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, and Mr. DORGAN):

S. 752. A bill to require the United States Trade Representative to pursue a complaint of anti-competitive practices against certain oil exporting countries; to the Committee on Finance.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "OPEC Accountability Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Gasoline prices have nearly doubled since January, 2002, with oil recently trading at more than $58 per barrel for the first time ever.

(2) Rising gasoline prices have placed an inordinate burden on American families.

(3) High gasoline prices have hindered and will continue to hinder economic recovery.

(4) The Organization of Petroleum Exporting Countries (OPEC) has formed a cartel and engaged in anti-competitive practices to manipulate the price of oil, keeping it artificially high.

(5) Six member nations of OPEC—Indonesia, Kuwait, Nigeria, Qatar, the United Arab Emirates and Venezuela—are also members of the World Trade Organization.

(6) The agreement among OPEC member nations to limit oil exports is an illegal prohibition or restriction on the exportation or sale for export of a product under Article XI of the GATT 1994.

(7) The export quotas and resulting high prices harm American families, undermine the American economy, impede American and foreign commerce, and are contrary to the national interests of the United States.

SEC. 3. ACTIONS TO CURB CERTAIN CARTEL ANTI-COMPETITIVE PRACTICES.

(a) DEFINITIONS.—In this Act:

(1) GATT 1994.—The term "GATT 1994" has the meaning given such term in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B)).

(2) UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES.—The term "Understanding on Rules and Procedures Governing the Settlement of Disputes" means the agreement described in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16)).

(3) WORLD TRADE ORGANIZATION.—

(A) IN GENERAL.—The term "World Trade Organization" means the organization established pursuant to the WTO Agreement.

(B) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

(b) ACTION BY PRESIDENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President shall, not later than 15 days after the date of enactment of this Act, initiate consultations with the countries described in paragraph (2) to seek the elimination by those countries of any action that—

(A) limits the production or distribution of oil, natural gas, or any other petroleum product,

(B) sets or maintains the price of oil, natural gas, or any petroleum product, or

(C) otherwise is an action in restraint of trade with respect to oil, natural gas, or any petroleum product, when such action constitutes an act, policy, or practice that is unjustifiable and burdens and restricts United States commerce.

(2) COUNTRIES DESCRIBED.—The countries described in this paragraph are the following:

(A) Indonesia.

(B) Kuwait.

(C) Nigeria.

(D) Qatar.

(E) The United Arab Emirates.

(F) Venezuela.

(c) INITIATION OF WTO DISPUTE PROCEEDINGS.—If the consultations described in subsection (b) are not successful with respect to any country described in subsection (b)(2), the United States Trade Representative shall, not later than 60 days after the date of enactment of this Act, institute proceedings pursuant to the Understanding on Rules and Procedures Governing the Settlement of Disputes with respect to that country and shall take appropriate action with respect to that country under the trade remedy laws of the United States.

By Mr. FEINGOLD (for himself and Mr. McCAIN):

S. 753. A bill to provide for modernization and improvement of the Corps of Engineers, and for other purposes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Corps of Engineers Modernization and Improvement Act of 2005. I am pleased to be joined by the senior Senator from Arizona, Mr. McCAIN, who worked with me in the 107th and 108th Congresses to reform the Corps.

We cannot ignore the record-breaking deficits that the Nation faces. Fiscal responsibility has never been so important. This legislation provides Congress with a unique opportunity to underscore our commitment to that goal. Too often, some have suggested that fiscal responsibility and environmental protection are mutually exclusive. Through this legislation, however, we can save taxpayers billions of dollars and protect the environment. As evidence of this unique opportunity, this bill is supported by Taxpayers for Common Sense, the National Taxpayers Union, the National Wildlife Federation, American Rivers, the Corps Reform Network, and Earthjustice.

Reforming the Army Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a Federal agency rocked by scandals and constrained by endlessly growing authorizations and a gloomy Federal fiscal picture, and yet an agency that Wisconsin, and many other States across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps is involved in providing aid to navigation, environmental remediation, water control and a variety of other services in my state alone.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that service Wisconsin, and I want the fiscal and management cloud over the Corps to dissipate so that the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers' projects. In response to my initiative, the bill's managers, who included the former Senator from New Hampshire, Senator Bob Smith, and the senior Senator from Montana, Mr. BAUCUS, adopted an amendment as part of their managers' package to require a National Academy of Sciences study on the issue of peer review of Corps projects.

The bill I introduce today includes many provisions that were included the bill I authored in the 108th Congress. It codifies the idea of independent review of the Corps, which was investigated through the 2000 Water Resources bill. It also provides a mechanism to speed up completion of construction for good Corps projects with large public benefits by deauthorizing low priority and economically wasteful projects.

I will note, however, that this is not the first time that the Congress has realized that the Corps needs to be reformed because of its association with pork projects. In 1836, a House Ways and Means Committee report discovered that at least 25 Corps projects were over budget. In its report, the Committee noted that Congress must ensure that the Corps institutes "actual reform, in the further prosecution of public works." In 1902, Congress created a review board to determine whether Corps projects were justified. The review board was dismantled just over a decade ago, and the Corps is still linked with wasteful spending. Here we are, more than 100 years later, talking about the same issue.

The reality is that the underlying problem is not with the Corps, the problem is with Congress. All too often, Members of Congress have seen Corps projects as a way to bring home the bacon, rather than ensuring that taxpayers get the most bang for their Federal buck.

This bill puts forth bold, comprehensive reform measures. It modernizes the Corps project planning guidelines, which have not been updated since 1983. It requires the Corps to use sound science in estimating the costs and evaluating the needs for water resources projects. The bill clarifies that the national economic development and environmental protection are coequal objectives of the Corps. Furthermore, the Corps must use current discount rates when determining the costs and benefits of projects. Several Corps projects are justified using a discount rate formula established over 30 years ago, not the current government-wide discount rate promulgated by the Office of Management and Budget. By using this outdated discount rate formula, the Corps often overestimates project benefits and underestimates project costs.

This legislation also requires that a water resource project's benefits must be 1.5 times greater than the costs to the taxpayer. According to a 2002 study of the Corps backlog of projects, at least 60 Corps projects, whose combined costs total $4.6 billion, do not meet this 1.5 to 1 benefit-cost ratio. Thus, this benefit-cost ratio will save the taxpayer billions of dollars. The bill also mandates federal-local cost sharing of flood control projects and reduces the federal cost burden of these projects.

While the bill assumes a flat 50 percent cost-share for flood control projects, my home state of Wisconsin has been on the forefront of responsible flood plain management and also happens to be home to the Association of State Flood Plain Managers. As Congress considers the issue of Corps reform and the Water Resources Development Act, I hope my colleagues will take a closer look at the issue of a sliding cost scale. We should explore the possibility of creating incentives for communities with cutting-edge flood plain management practices to reduce their local share for projects.

The bill requires independent review of Corps projects. The National Academy of Sciences, the General Accounting Office, and even the Inspector General of the Army agree that independent review is an essential step to assuring that each Corps project is economically justified. Independent review will apply to projects in the following circumstances: 1. the project has costs greater than $25 million, including mitigation costs; 2. the Governor of a state that is affected by the project requests a panel; 3. the head of a federal agency charged with reviewing the project determines that the project is likely to have a significant adverse environmental or cultural impact; or 4. the Secretary of the Army determines that the project is controversial. Any party can request that the Secretary make a determination of whether the project is controversial.

This bill also creates a Director of Independent Review within the Office of the Inspector General of the Department of the Army. The Director is responsible for empaneling experts to review projects. The Secretary is required to respond to the panel's report and explain the extent to which a final report addresses the panel's concerns. The panel report and the underlying data that the Corps uses to justify the project will be made available to the public.

The bill also requires strong environmental protection measures. The Corps is required to mitigate the environmental impacts of its projects in a variety of ways, including by avoiding damaging wetlands in the first place and either holding other lands or constructing wetlands elsewhere when it cannot avoid destroying them. The Corps requires private developers to meet this standard when they construct projects as a condition of receiving a Federal permit, and I think the Federal Government should live up to the same standards. Too often, the Corps does not complete required mitigation and enhances environmental risks.

I feel very strongly that mitigation must be completed, that the true costs of mitigation should be accounted for in Corps projects, and that the public should be able to track the progress of mitigation projects. The bill requires the Corps to develop a detailed mitigation plan for each water resources project, and conduct monitoring to demonstrate that the mitigation is working. In addition, the concurrent mitigation requirements of this bill would actually reduce the total mitigation costs by ensuring the purchase of mitigation lands as soon as possible.

This bill streamlines the existing automatic deauthorization process. Estimates of the project backlog runs from $58 billion to $41 billion. The bill requires the Corps to conduct a fiscal transparency report to review and report on the current backlog of Corps projects. Under current law, a project will be deauthorized anywhere from 7.5 to 11.5 years after authorization for construction if it receives no funding, and any type of funding will keep the project alive. This bill reduces the amount of time until automatic deauthorization based on funding to between 7.5 to 6.5 years. After 4 years of receiving no construction funding, a project goes on the Fiscal Transparency Report list. To keep one of those projects alive, Federal funds must be obligated for construction within 30 months of submission of the Fiscal Transparency Report. If no funds are obligated during that time, the project is deauthorized.

This legislation will bring out comprehensive revision of the project review and authorization procedures at the Army Corps of Engineers. My goals for the Corps are to increase transparency and accountability, to ensure fiscal responsibility, and to allow greater stakeholder involvement in their projects. I remain committed to these goals, and to seeing Corps Reform enacted as part of this Congress's Water Resources bill.

I feel that this bill is an important step down the road to a reformed Corps of Engineers. This bill establishes a framework to catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, end old unjustified projects, and provide planners desperately needed support against the never-ending pressure of project boosters. Those boosters include congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance.

I wish it were the case that the changes we are proposing today were not needed, but unfortunately, there is still need for this bill. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing the taxpayers more than the Corps estimated, do not have unanticipated environmental impacts, and are built in an environmentally compatible way. This bill will help the Corps do a better job, which is what the taxpayers and the environment deserve.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Corps of Engineers Modernization and Improvement Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—MODERNIZING PROJECT PLANNING

Sec. 101. Modern planning principles.
Sec. 102. Independent review.
Sec. 103. Benefit-cost analysis.
Sec. 104. Benefit-cost ratio.
Sec. 105. Cost sharing.

TITLE II—MITIGATION

Sec. 201. Full mitigation.
Sec. 202. Concurrent mitigation.
Sec. 203. Mitigation tracking system.

TITLE III—IMPROVING ACCOUNTABILITY

Sec. 301. Fiscal Transparency Report.
Sec. 302. Project deauthorizations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Corps of Engineers is the primary Federal agency responsible for developing and managing the harbors, waterways, shorelines, and water resources of the United States;

(2) the scarcity of Federal resources requires more efficient use of Corps resources and funding, and greater oversight of Corps analyses;

(3) appropriate cost sharing ensures efficient measures of project demands and enables the Corps to meet more national project needs;

(4) the significant demand for recreation, clean water, and healthy wildlife habitat must be fully reflected in the project planning and construction process of the Corps;

(5) the human health, environmental, and social impacts of dams, levees, shoreline stabilization structures, river training structures, river dredging, and other Corps projects and activities must be adequately considered and, in any case in which adverse impacts cannot be avoided, fully mitigated;

(6) the National Academy of Sciences has concluded that the Principles and Guidelines for water resources projects need to be modernized and updated to reflect current economic practices and environmental laws and planning guidelines; and

(7) affected interests must have access to information that will allow those interests to play a larger and more effective role in the oversight of Corps project development and mitigation.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that the water resources investments of the United States are economically justified and enhance the environment;

(2) to provide independent review of feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(3) to ensure timely, ecologically successful, and cost-effective mitigation for Corps projects;

(4) to ensure appropriate local cost sharing to assist in efficient project planning focused on national needs;

(5) to enhance the involvement of affected interests in feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(6) to modernize planning principles of the Corps to meet the economic and environmental needs of riverside and coastal communities and the nation;

(7) to ensure that environmental protection and restoration, and national economic development, are co-equal goals, and given co-equal emphasis, during the evaluation, planning, and construction of Corps projects;

(8) to ensure that project planning, project evaluations, and project recommendations of the Corps are based on sound science and economics and on a full evaluation of the impacts to the health of aquatic ecosystems; and

(9) to ensure that the determination of benefits and costs of Corps projects properly reflects current law and Federal policies designed to protect human health and the environment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACADEMY.—The term "Academy" means the National Academy of Sciences.

(2) CORPS.—The term "Corps" means the Corps of Engineers.

(3) PRINCIPLES AND GUIDELINES.—The term "Principles and Guidelines" means the principles and guidelines of the Corps for water resources projects (consisting of Engineer Regulation 1105-2-100 and Engineer Pamphlet 1165-2-1).

(4) Secretary.—The term "Secretary" means the Secretary of the Army.

TITLE I—MODERNIZING PROJECT PLANNING

SEC. 101. MODERN PLANNING PRINCIPLES.

(a) Planning Principles.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended to read as follows:

"SEC. 209. CONGRESSIONAL STATEMENT OF OBJECTIVES.

"(a) In General.—It is the intent of Congress that—

"(1) national economic development and environmental protection and restoration are co-equal objectives of water resources project planning and management; and

"(2) Federal agencies manage and, if clearly justified, construct water resource projects—

"(A) to meet national economic needs; and

"(B) to protect and restore the environment.

"(b) Revision of Planning Guidelines, Regulations and Circulars.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2005, the Secretary, in collaboration with the National Academy of Sciences, shall develop proposed revisions of, and revise, the planning guidelines, regulations, and circulars of the Corps.

"(c) Additional Requirements.—Corps planning regulations revised under subsection (b) shall—

"(1) incorporate new and existing analytical techniques that reflect the probability of project benefits and costs;

"(2) apply discount rates provided by the Office of Management and Budget;

"(3) eliminate biases and disincentives that discourage the use of nonstructural approaches to water resources development and management;

"(4) encourage, to the maximum extent practicable, the restoration of ecosystems through the restoration of hydrologic and geomorphic processes;

"(5) consider the costs and benefits of protecting or degrading natural systems;

"(6) ensure that projects are justified by benefits that accrue to the public at large;

"(7) ensure that benefit-cost calculations reflect a credible schedule for project construction;

"(8) ensure that each project increment complies with section 104;

"(9) include as a cost any increase in direct Federal payments or subsidies and exclude as a benefit any increase in direct Federal payments or subsidies; and

"(10) provide a mechanism by which, at least once every 5 years, the Secretary shall collaborate with the National Academy of Sciences to review, and if necessary, revise all planning regulations, guidelines, and circulars.

"(d) National Navigation and Port Plan.—

"(1) In general.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2005, the Corps shall develop, and update not less frequently than every 4 years, an integrated, national plan to manage, rehabilitate and, if justified, modernize inland waterway and port infrastructure to meet current national economic and environmental needs.

"(2) Tools.—To develop the plan, the Corps shall employ economic tools that—

"(A) recognize the importance of alternative transportation destinations and modes; and

"(B) employ practicable, cost-effective congestion management alternatives before constructing and expanding infrastructure to increase waterway and port capacity.

"(3) Benefits and proximity.—The Corps shall give particular consideration to the benefits and proximity of proposed and existing port, harbor, waterway, rail and other transportation infrastructure in determining whether to construct new water resources projects.

"(e) Notice and Comment.—The Secretary shall comply with the notice and comment provisions of chapter 551 of title 5, United States Code, in issuing revised planning regulations, guidelines and circulars.

"(f) Applicability.—On completion of the revisions required under this section, the Secretary shall apply the revised regulations to projects for which a draft feasibility study or draft reevaluation report has not yet been issued.

"(g) Project Reformulation.—Projects of the Corps, and separable elements of projects of the Corps, that have been authorized for 10 years, but for which less than 15 percent of appropriations specifically identified for construction have been obligated, shall not be constructed unless a general reevaluation study demonstrates that the project or separable element meets—

"(1) all project criteria and requirements applicable at the time the study is initiated, including requirements under this section; and

"(2) cost share and mitigation requirements of this Act.".

(b) Conforming Amendments.—

(1) Section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–17) is repealed.

(2) Section 7(a) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 941) is repealed.

SEC. 102. INDEPENDENT REVIEW.

(a) Definitions.—In this section:

(1) Affected State.—The term "affected State", with respect to a water resources project, means a State or portion of a State that—

(A) is located, at least partially, within the drainage basin in which the project is carried out; and

(B) would be economically or environmentally affected as a result of the project.

(2) Director.—The term "Director" means the Director of Independent Review appointed under subsection (c)(1).

(b) Projects Subject to Independent Review.—

(1) In general.—The Secretary shall ensure that each feasibility report, general reevaluation report, and environmental impact statement for each water resources project described in paragraph (2) is subject to review by an independent panel of experts established under this section.

(2) Projects subject to review.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project has an estimated total cost of more than $25,000,000, including mitigation costs;

(B) the Governor of an affected State requests the establishment of an independent panel of experts for the project;

(C) the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse impact on environmental, cultural, or other resources under the jurisdiction of the agency; or

(D) the Secretary determines under paragraph (3) that the project is controversial.

(3) Controversial projects.—

(A) In general.—The Secretary shall determine that a water resources project is controversial for the purpose of paragraph (2)(D) if the Secretary finds that—

(i) there is a significant dispute as to the size, nature, or effects of the project;

(ii) there is a significant dispute as to the economic or environmental costs or benefits of the project; or

(iii) there is a significant dispute as to the benefits to the communities affected by the project of a project alternative that—

(I) was not the focus of the feasibility report, general reevaluation report, or environmental impact statement for the project; or

(II) was not considered in the feasibility report, general reevaluation report, or environmental impact statement for the project.

(B) Written requests.—Not later than 30 days after the date on which the Secretary receives a written request of any party, or on the initiative of the Secretary, the Secretary shall determine whether a project is controversial.

(c) Director of Independent Review.—

(1) Appointment.—The Inspector General of the Army shall appoint in the Office of the Inspector General of the Army a Director of Independent Review.

(2) Qualifications.—The Inspector General of the Army shall select the Director from among individuals who are distinguished experts in biology, hydrology, engineering, economics, or another discipline relating to water resources management.

(3) Limitation on appointments.—The Inspector General of the Army shall not appoint an individual to serve as the Director if the individual has a financial interest in or close professional association with any entity with a financial interest in a water resources project that, on the date of appointment of the Director, is—

(A) under construction;

(B) in the preconstruction engineering and design phase; or

(C) under feasibility or reconnaissance study by the Corps.

(4) Terms.—

(A) In general.—The term of a Director appointed under this subsection shall be 6 years.

(B) Term limit.—An individual may serve as the Director for not more than 2 nonconsecutive terms.

(5) Duties.—The Director shall establish a panel of experts to review each water resources project that is subject to review under subsection (b).

(d) Establishment of Panels.—

(1) In general.—After the Secretary selects a preferred alternative for a water resources project subject to review under subsection (b) in a formal draft feasibility report, draft general reevaluation report, or draft environmental impact statement, the Director shall establish a panel of experts to review the project.

(2) Membership.—A panel of experts established by the Director for a project shall be composed of not less than 5 nor more than 9 independent experts (including 1 or more biologists, hydrologists, engineers, and economists) who represent a range of areas of expertise.

(3) Limitation on appointments.—The Director shall not appoint an individual to serve on a panel of experts for a project if the individual has a financial interest in or close professional association with any entity with a financial interest in the project.

(4) Consultation.—The Director shall consult with the Academy in developing lists of individuals to serve on panels of experts under this section.

(5) Notification.—

(A) IN GENERAL.—To ensure that the Director is able to effectively carry out the duties of the Director under this section, the Secretary shall notify the Director in writing not later than 90 days before the release of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement, for every water resources project.

(B) CONTENTS.—The notification shall include—

(i) the estimated cost of the project; and

(ii) a preliminary assessment of whether a panel of experts may be required.

(6) COMPENSATION.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Inspector General of the Army.

(7) TRAVEL EXPENSES.—A member of a panel of experts under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the panel.

(e) DUTIES OF PANELS.—

(1) IN GENERAL.—A panel of experts established for a water resources project under this section shall—

(A) review each draft feasibility report, draft general reevaluation report, and draft environmental impact statement prepared for the project;

(B) assess the adequacy of the economic, scientific, and environmental models used by the Secretary in reviewing the project to ensure that—

(i) the best available economic and scientific methods of analysis have been used;

(ii) the best available economic, scientific, and environmental data have been used; and

(iii) any regional effects on navigation systems have been examined;

(C) receive from the public written and oral comments concerning the project;

(D) not later than the deadline established under subsection (f), submit to the Secretary a report concerning the economic, engineering, and environmental analyses of the project, including the conclusions of the panel, with particular emphasis on areas of public controversy, with respect to the feasibility report, general reevaluation report, or environmental impact statement; and

(E) not later than 30 days after the date of issuance of a final feasibility report, final general reevaluation report, or final environmental impact statement, submit to the Secretary a brief report stating the views of the panel on the extent to which the final analysis adequately addresses issues or concerns raised by each earlier evaluation by the panel.

(2) EXTENSIONS.—

(A) IN GENERAL.—The panel may request from the Director a 30-day extension of the deadline established under paragraph (1)(E).

(B) RECORD OF DECISION.—The Secretary shall not issue a record of decision until after, at the earliest—

(i) the final day of the 30-day period described in paragraph (1)(E); or

(ii) if the Director grants an extension under subparagraph (A), the final day of the 60-day period beginning on the date of issuance of a final feasibility report described in paragraph (1)(E) and ending on the final day of the extension granted under subparagraph (A).

(f) DURATION OF PROJECT REVIEWS.—

(1) DEADLINE.—Except as provided in paragraph (2), not later than 180 days after the date of establishment of a panel of experts for a water resources project under this section, the panel shall complete—

(A) each required review of the project; and

(B) all other duties of the panel relating to the project (other than the duties described in subsection (e)(1)(E)).

(2) EXTENSION OF DEADLINE FOR REPORT ON PROJECT REVIEWS.—Not later than 240 days after the date of issuance of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement for a project, if a panel of experts submits to the Director before the end of the 180-day period described in paragraph (1), and the Director approves, a request for a 60-day extension of the deadline established under that paragraph, the panel of experts shall submit to the Secretary a report required under subsection (e)(1)(D).

(g) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY SECRETARY.—

(A) IN GENERAL.—If the Secretary receives a report on a water resources project from a panel of experts under this section by the applicable deadline under subsection (e)(1)(E) or (f), the Secretary shall, at least 14 days before entering a final record of decision for the water resources project—

(i) take into consideration any recommendations contained in the report; and

(ii) prepare a written explanation for any recommendations not adopted.

(B) INCONSISTENT RECOMMENDATIONS AND FINDINGS.—Recommendations and findings of the Secretary that are inconsistent with the recommendations and findings of a panel of experts under this section shall not be entitled to deference in a judicial proceeding.

(2) PUBLIC REVIEW; SUBMISSION TO CONGRESS.—After receiving a report on a water resources project from a panel of experts under this section (including a report under subsection (e)(1)(E)), the Secretary shall—

(A) immediately make a copy of the report (and, in a case in which any written explanation of the Secretary on recommendations contained in the report is completed, shall immediately make a copy of the response) available for public review; and

(B) include a copy of the report (and any written explanation of the Secretary) in any report submitted to Congress concerning the project.

(h) PUBLIC ACCESS TO INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall ensure that information relating to the analysis of any water resources project by the Corps, including all supporting data, analytical documents, and information that the Corps has considered in the analysis, is made available—

(A) to any individual upon request;

(B) to the public on the Internet; and

(C) to an independent review panel, if such a panel is established for the project.

(2) TYPES OF INFORMATION.—Information concerning a project that is available under paragraph (1) shall include—

(A) any information that has been made available to the non-Federal interests with respect to the project; and

(B) all data and information used by the Corps in the justification and analysis of the project.

(3) EXCEPTION FOR TRADE SECRETS.—

(A) IN GENERAL.—The Secretary shall not make information available under paragraph (1) that the Secretary determines to be a trade secret of any person that provided the information to the Corps.

(B) CRITERIA FOR TRADE SECRETS.—The Secretary shall consider information to be a trade secret only if—

(i) the person that provided the information to the Corps—

(I) has not disclosed the information to any person other than—

(aa) an officer or employee of the United States or a State or local government;

(bb) an employee of the person that provided the information to the Corps; or

(cc) a person that is bound by a confidentiality agreement; and

(II) has taken reasonable measures to protect the confidentiality of the information and intends to continue to take the measures;

(ii) the information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law; and

(iii) disclosure of the information is likely to cause substantial harm to the competitive position of the person that provided the information to the Corps.

(i) COSTS.—

(1) LIMITATION ON COST OF REVIEW.—The cost of conducting a review of a water resources project under this section shall not exceed—

(A) $250,000 for a project, if the total cost of the project in current year dollars is less than $50,000,000; and

(B) 0.5 percent of the total cost of the project in current year dollars, if the total cost is $50,000,000 or more.

(2) TREATMENT.—The cost of conducting a review of a project under this section shall be considered to be part of the total cost of the project.

(3) COST SHARING.—A review of a project under this section shall be subject to section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)).

(4) WAIVER OF LIMITATION.—The Secretary may waive a limitation under paragraph (1) if the Secretary determines that the waiver is appropriate.

(j) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

SEC. 103. BENEFIT-COST ANALYSIS.

Section 308(a) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(a)) is amended—

(1) in paragraph (1)(B), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semi-colon; and

(3) by adding at the end the following:

"(3) any projected benefit attributable to any change in, or intensification of, land use arising from the draining, reduction, or elimination of wetlands; and

"(4) any projected benefit attributable to an increase in direct Federal payments or subsidies.".

SEC. 104. BENEFIT-COST RATIO.

(a) RECOMMENDATION OF PROJECTS.—Beginning in fiscal year 2006, in the case of a water resources project that is subject to a benefit-cost analysis, the Secretary may recommend the project for authorization by Congress, and may choose the project as a recommended alternative in any record of decision or environmental impact statement, only if the project, in addition to meeting any other criteria required by law, has projected national benefits that are at least 1.5 times as great as the estimated total costs of the project, based on current discount rates provided by the Office of Management and Budget.

(b) DEAUTHORIZATION OF PROJECTS.—

(1) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report identifying each water resources project (or separable element of such a project) that is subject to a benefit-cost analysis and authorized for construction, the projected remaining benefits of which are less than 1.5 times as great as the remaining projected costs.

(2) Deauthorizations.—

(A) In general.—Effective beginning on the date that is 3 years after the date of submission of the report under paragraph (1), any project identified in the report shall be deauthorized unless the project was reauthorized by Congress during the preceding 3 years.

(B) Construction in progress.—If construction (other than preconstruction engineering or design) began on or before the date of enactment of this Act for a project that is deauthorized under subparagraph (A), the Secretary may take such actions with respect to the project as the Secretary determines to be necessary to protect public health and safety and the environment.

(c) Public Notification.—The Secretary shall—

(1) publish in the Federal Register the report under subsection (b)(1); and

(2) make the report available to the public on the Internet.

(d) Final Deauthorization List.—The Secretary shall publish in the Federal Register a list of all projects deauthorized under this section.

SEC. 105. COST SHARING.

(a) Operations and Maintenance of Inland Waterways.—Section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212) is amended by striking subsections (b) and (c) and inserting the following:

"(b) Operation and Maintenance.—

"(1) Federal share.—The Federal share of the cost of operation and maintenance shall be 100 percent in the case of—

"(A) a project described in paragraph (1) or (2) of subsection (a); or

"(B) the portion of the project authorized by section 844 that is allocated to inland navigation.

"(2) Source of federal share.—

"(A) From the general fund.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is less than or equal to 2 cents per ton mile, or in the case of the portion of the project authorized by section 844 that is allocated to inland navigation, the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury.

"(B) From the general fund and inland waterways trust fund.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 2 but less than or equal to 10 cents per ton mile—

"(i) 75 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury; and

"(ii) 25 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

"(C) From the inland waterways trust fund.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 10 cents per ton mile but less than 30 cents per ton mile, 100 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

"(D) Non-federal responsibility.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 30 cents per ton-mile, the cost of operations and maintenance shall be a non-Federal responsibility.".

(b) Flood Damage Reduction.—Section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) is amended—

(1) in subsections (a)(2) and (b), by striking "35" each place it appears and inserting "50";

(2) in the paragraph heading of subsection (a)(2), by striking "35 percent minimum"' and inserting "Minimum"'; and

(3) in the paragraph heading of subsection (b), by striking "35" and inserting "50".

TITLE II—MITIGATION

SEC. 201. FULL MITIGATION.

Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Projects.—

"(A) In general.—After November 17, 1986, the Secretary shall not submit to Congress any proposal for the authorization of any water resources project, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment, unless the report contains—

"(i) a specific plan to fully mitigate losses of aquatic and terrestrial resources and fish and wildlife created by the project; or

"(ii) a determination by the Secretary that the project will have negligible adverse impact on aquatic and terrestrial resources and fish and wildlife.

"(B) Specific requirements.—Specific mitigation plans shall ensure that impacts to bottomland hardwood forests and other habitat types are mitigated in kind.

"(C) Consultation.—In carrying out this paragraph, the Secretary shall consult with appropriate Federal and non-Federal agencies."; and

(2) by adding at the end the following:

"(3) Standards for mitigation.—

"(A) In general.—To fully mitigate losses to fish and wildlife resulting from a water resources project, the Secretary shall, at a minimum—

"(i) acquire and restore 1 acre of superior or equivalent habitat of the same type to replace each acre of habitat adversely affected by the project; and

"(ii) replace the hydrologic functions and characteristics, the ecological functions and characteristics, and the spatial distribution of the habitat adversely affected by the project.

"(B) Detailed mitigation plan.—The specific mitigation plan for a water resources project under paragraph (1) shall include, at a minimum—

"(i) a detailed and specific plan to monitor mitigation implementation and ecological success, including the designation of the entities that will be responsible for monitoring;

"(ii) specific ecological success criteria by which the mitigation will be evaluated and determined to be successful, prepared in consultation with the United States Fish and Wildlife Service;

"(iii) a detailed description of the land and interests in land to be acquired for mitigation and the basis for a determination that land and interests are available for acquisition;

"(iv) sufficient detail regarding the chosen mitigation sites and type and amount of restoration activities to permit a thorough evaluation of the plan's likelihood of ecological success and resulting aquatic and terrestrial resource functions and habitat values; and

"(v) a contingency plan for taking corrective actions if monitoring demonstrates that mitigation efforts are not achieving ecological success as described in the ecological success criteria.

"(C) Applicable law.—A time period for mitigation monitoring or for the implementation and monitoring of contingency plan actions shall not be subject to the deadlines described in section 202.

"(4) Determination of mitigation success.—

"(A) In general.—Mitigation shall be considered to be successful at the time at which monitoring demonstrates that the mitigation has met the ecological success criteria established in the mitigation plan.

"(B) Requirements for success.—To ensure the success of any attempted mitigation, the Secretary shall—

"(i) consult yearly with the United States Fish and Wildlife Service on each water resources project requiring mitigation to determine whether mitigation monitoring for that project demonstrates that the project is achieving, or has achieved, ecological success;

"(ii) ensure that implementation of the mitigation contingency plan for taking corrective action begins not later than 30 days after a finding by the Secretary or the United States Fish and Wildlife Service that the original mitigation efforts likely will not result in, or have not resulted in, ecological success;

"(iii) complete implementation of the contingency plan as expeditiously as practicable; and

"(iv) ensure that monitoring of mitigation efforts, including those implemented through a mitigation contingency plan, continues until the monitoring demonstrates that the mitigation has met the ecological success criteria.

"(5) Recommendation of projects.—The Secretary shall not recommend a water resources project alternative or choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan for the alternative will successfully mitigate the adverse impacts of the project on aquatic and terrestrial resources, hydrologic functions, and fish and wildlife.

"(6) Implementation of mitigation before construction of new projects.—The Secretary shall implement all mitigation required by a record of decision for water resources projects in a particular district of the Corps before beginning physical construction of any new water resources project (or separable element of such a project) in that district.".

SEC. 202. CONCURRENT MITIGATION.

Section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(a)) is amended—

(1) by striking "(a)(1) In the case" and inserting the following:

"(a) Mitigation.—

"(1) In general.—In the case";

(2) in paragraph (1), by striking "interests—" and all that follows through

"losses)," and inserting the following: "interests shall be undertaken or acquired—

"(A) before any construction of the project (other than such acquisition) commences; or

"(B) concurrently with the acquisition of land and interests in land for project purposes (other than mitigation of fish and wildlife losses);";

(3) in paragraph (2), by striking "(2) For the purposes" and inserting the following:

"(2) COMMENCEMENT OF CONSTRUCTION.—For the purpose"; and

(4) by adding at the end the following:

"(3) IMPLEMENTATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), to ensure concurrent mitigation, the Secretary shall implement—

"(i) 50 percent of required mitigation before beginning construction of a project; and

"(ii) the remainder of required mitigation as expeditiously as practicable, but not later than the last day of construction of the project or separable element of the project.

"(B) EXCEPTION FOR PHYSICAL IMPRACTICABILITY.—In a case in which the Secretary determines that it is physically impracticable to complete mitigation by the last day of construction of the project or separable element of the project, the Secretary shall reserve or reprogram sufficient funds to ensure that mitigation implementation is completed as expeditiously as practicable, but in no case later than the end of the next fiscal year immediately following the last day of that construction.

"(4) USE OF FUNDS.—Funds made available for preliminary engineering and design, construction or operations and maintenance shall be available for use in carrying out this section.".

SEC. 203. MITIGATION TRACKING SYSTEM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a recordkeeping system to track each water resources project constructed, operated, or maintained by the Secretary, and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

(1) the quantity and type of wetland and other habitat types affected by the project, project operation, or permitted activity;

(2) the quantity and type of mitigation required for the project, project operation or permitted activity;

(3) the quantity and type of mitigation that has been completed for the project, project operation or permitted activity; and

(4) the status of monitoring for the mitigation carried out for the project, project operation or permitted activity.

(b) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

(1) include information on impacts and mitigation described in subsection (a) that occur after December 31, 1969; and

(2) be organized by watershed, project, permit application, and zip code.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

TITLE III—IMPROVING ACCOUNTABILITY

SEC. 301. FISCAL TRANSPARENCY REPORT.

(a) DEFINITIONS.—In this section:

(1) CONSTRUCTION.—The term "construction" includes any physical work carried out under a construction contract relating to a water resources project.

(2) PHYSICAL WORK.—The term "physical work" does not include any activity relating to—

(A) project planning;

(B) project engineering and design;

(C) relocation; or

(D) the acquisition of land, an easement, or a right-of-way.

(b) REPORT.—

(1) IN GENERAL.—On the third Tuesday of January of each year beginning after the date of enactment of this Act, the Chief of Engineers shall submit to the Committee of Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a fiscal transparency report describing—

(A) the expenditures of the Corps during the preceding fiscal year;

(B) the estimated expenditures of the Corps for the fiscal year during which the report is submitted; and

(C) a list of projects that the Chief of Engineers expects to complete during the fiscal year during which the report is submitted.

(2) CONTENTS.—In addition to the information described in paragraph (1), the report shall contain a detailed account of—

(A) for each general construction project that is under construction on the date of submission of the report, or for which there is a signed cost-sharing agreement, complete information regarding planning, engineering, and design of the project, including—

(i) the primary purpose of the project;

(ii) each allocation made to the project on or before the date of submission of the report;

(iii) a description of any construction carried out relating to the project;

(iv) the projected date of completion of construction of the project;

(v) the estimated annual Federal cost of completing construction of the project on or before the projected date under clause (iv); and

(vi) the date of completion of the most recent feasibility study, reevaluation report, and environmental review of the project;

(B) for each general investigation and reconnaissance and feasibility study, information including—

(i) the number of studies initiated on or before the date of submission of the report;

(ii) the number of studies in progress on the date of submission of the report;

(iii) the number of studies expected to be completed during the fiscal year; and

(iv) a list of any completed study of a project that is not authorized for construction on the date of submission of the report, and the date of completion of the study;

(C) for each inland and intracoastal waterway operated and maintained under section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804), information including—

(i) the estimated annual cost of operating and maintaining the reach of the waterway at the depth of the waterway;

(ii) the actual cost of operating and maintaining the reach of the waterway at the depth of the waterway during the previous fiscal year; and

(iii) the number of barges (including the number of loaded barges) and the total tonnage shipped over each waterway during the preceding fiscal year; and

(D) for each water resources project (or separable element of such a project) that is authorized for construction, for which Federal funds have not been obligated for construction during any of the 4 preceding fiscal years, information including—

(i) the primary purpose of the project;

(ii) the date of authorization of the project;

(iii) each allocation made to the project on or before the date of submission of the report, including the amount and type of the allocation;

(iv) the percentage of construction of the project that has been completed on the date of submission of the report;

(v) the estimated cost of completing the project, and the percentage of estimated total costs that has been obligated to the project on or before the date of submission of the report;

(vi)(I) a benefit-cost analysis of the project, expressed as a ratio using current discount rates;

(II) the estimated annual benefits and annual costs of the project; and

(III) the date on which any economic data used to justify the project was collected;

(vii) the date of completion of the most recent feasibility study, reevaluation report, and environmental review of the project; and

(viii) a brief explanation of any reason why Federal funds have not been obligated for construction of the project.

(c) CONGRESSIONAL AND PUBLIC NOTIFICATIONS.—On submission of a report under this section, the Secretary shall notify each Senator in the State of whom, and each Member of the House of Representatives in the district of whom, a project identified in the report is located.

(d) PUBLICATION.—For any report under this section, the Secretary shall—

(1) publish the report in the Federal Register; and

(2) make the report available to—

(A) any person, on receipt of a request of the person; and

(B) the public on the Internet.

SEC. 302. PROJECT DEAUTHORIZATIONS.

Section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a) is amended to read as follows:

"(a) DEFINITIONS.—In this section:

"(1) CONSTRUCTION.—The term 'construction' includes any physical work carried out under a construction contract relating to a water resources project.

"(2) PHYSICAL WORK.—The term 'physical work' does not include any activity relating to—

"(A) project planning;

"(B) project engineering and design;

"(C) relocation; or

"(D) the acquisition of land, an easement, or a right-of-way.

"(b) DEAUTHORIZATIONS.—

"(1) IN GENERAL.—Effective beginning on the date that is 30 months after the date of submission of a fiscal transparency report under section 301 of the Corps of Engineers Modernization and Improvement Act of 2005, each project identified under section 301(b)(2)(D) of that Act shall be deauthorized unless Federal funds were obligated for construction of the project during the preceding 30 months.

"(2) EFFECT OF PARAGRAPH.—Paragraph (1) does not apply—

"(A) in the case of a beach nourishment project, beginning on the date on which initial construction of the project is completed; or

"(B) in the case of any other project, beginning on the date on which construction of the project is completed.

"(c) FINAL DEAUTHORIZATION LIST.—The Secretary shall annually publish in the Federal Register a list of all projects deauthorized under this section.".

By Mr. KENNEDY (for himself, Mr. SMITH, and Mr. DURBIN):

S. 754. A bill to ensure that the Federal student loans are delivered as efficiently as possible, so that there is more grant aid for students; to the

Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Aid Reward Act of 2005".

SEC. 2. STUDENT AID REWARD PROGRAM.

Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 489 the following:

"SEC. 489A. STUDENT AID REWARD PROGRAM.

"(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a Student Aid Reward Program to encourage institutions of higher education to participate in the student loan program under this title that is most cost-effective for taxpayers.

"(b) PROGRAM REQUIREMENTS.—In carrying out the Student Aid Reward Program, the Secretary shall—

"(1) provide to each institution of higher education participating in the student loan program under this title that is most cost-effective for taxpayers, a Student Aid Reward Payment, in an amount determined in accordance with subsection (c), to encourage the institution to participate in that student loan program;

"(2) require each institution of higher education receiving a payment under this section to provide student loans under such student loan program for a period of 5 years after the date the first payment is made under this section;

"(3) where appropriate, require that funds paid to institutions of higher education under this section be used to award students a supplement to such students' Federal Pell Grants under subpart 1 of part A;

"(4) permit such funds to also be used to award need-based grants to lower- and middle-income graduate students; and

"(5) encourage all institutions of higher education to participate in the Student Aid Reward Program under this section.

"(c) AMOUNT.—The amount of a Student Aid Reward Payment under this section shall be not less than 50 percent of the savings to the Federal Government generated by the institution of higher education's participation in the student loan program under this title that is most cost-effective for taxpayers instead of the institution's participation in the student loan program that is not most cost-effective for taxpayers.

"(d) TRIGGER TO ENSURE COST NEUTRALITY.—

"(1) LIMIT TO ENSURE COST NEUTRALITY.—Notwithstanding subsection (c), the Secretary shall not distribute Student Aid Reward Payments under the Student Aid Reward Program that, in the aggregate, exceed the Federal savings resulting from the implementation of the Student Aid Reward Program.

"(2) FEDERAL SAVINGS.—In calculating Federal savings, as used in paragraph (1), the Secretary shall determine Federal savings on loans made to students at institutions of higher education that participate in the student loan program under this title that is most cost-effective for taxpayers and that, on the date of enactment of the Student Aid Reward Act of 2005, participated in the student loan program that is not most cost-effective for taxpayers, resulting from the difference of—

"(A) the Federal cost of loan volume made under the student loan program under this title that is most cost-effective for taxpayers; and

"(B) the Federal cost of an equivalent type and amount of loan volume made, insured, or guaranteed under the student loan program under this title that is not most cost-effective for taxpayers.

"(3) DISTRIBUTION RULES.—If the Federal savings determined under paragraph (2) is not sufficient to distribute full Student Aid Reward Payments under the Student Aid Reward Program, the Secretary shall—

"(A) first make Student Aid Reward Payments to those institutions of higher education that participated in the student loan program under this title that is not most cost-effective for taxpayers on the date of enactment of the Student Aid Reward Act of 2005; and

"(B) with any remaining Federal savings after making Student Aid Reward Payments under subparagraph (A), make Student Aid Reward Payments to the institutions of higher education eligible for a Student Aid Reward Payment and not described in subparagraph (A) on a pro-rata basis.

"(4) DISTRIBUTION TO STUDENTS.—Any institution of higher education that receives a Student Aid Reward Payment under this section—

"(A) shall distribute, where appropriate, part or all of such payment among the students of such institution who are Federal Pell Grant recipients by awarding such students a supplemental grant; and

"(B) may distribute part of such payment as a supplemental grant to graduate students in financial need.

"(5) ESTIMATES, ADJUSTMENTS, AND CARRY OVER.—

"(A) ESTIMATES AND ADJUSTMENTS.—The Secretary shall make Student Aid Reward Payments to institutions of higher education on the basis of estimates, using the best data available at the beginning of an academic or fiscal year. If the Secretary determines thereafter that loan program costs for that academic or fiscal year were different than such estimate, the Secretary shall adjust by reducing or increasing subsequent Student Aid Reward Payments rewards paid to such institutions of higher education to reflect such difference.

"(B) CARRY OVER.—Any institution of higher education that receives a reduced Student Aid Reward Payment under paragraph (3)(B), shall remain eligible for the unpaid portion of such institution's financial reward payment, as well as any additional financial reward payments for which the institution is otherwise eligible, in subsequent academic or fiscal years.

"(e) DEFINITION.—In this section:

"(1) STUDENT LOAN PROGRAM UNDER THIS TITLE THAT IS MOST COST-EFFECTIVE FOR TAXPAYERS.—The term 'student loan program under this title that is most cost-effective for taxpayers' means the loan program under part B or D of this title that has the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.

"(2) STUDENT LOAN PROGRAM UNDER THIS TITLE THAT IS NOT MOST COST-EFFECTIVE FOR TAXPAYERS.—The term 'student loan program under this title that is not most cost-effective for taxpayers' means the loan program under part B or D of this title that does not have the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.".

By Mr. BENNETT (for himself,
Mrs. MURRAY, Mr. SHELBY, and
Mr. HATCH):

S. 756. A bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus; to the Committee on Health, Education, Labor, and Pensions.

Mr. BENNETT. Mr. President, I rise today to introduce the Lupus—Research, Education, Awareness, Communication, Health Care—or REACH Amendments of 2005. This bill will strengthen the Nation's research efforts to identify the causes and cure of lupus, improve lupus data collection and epidemiology, and enhance public and health professional awareness and understanding of lupus—one of the Nation's most devastating, yet least understood autoimmune diseases. It has been almost 40 years since the FDA has approved a drug specifically to treat lupus.

Lupus is a life-threatening, life diminishing autoimmune disease that can cause inflammation and tissue damage to virtually any organ system in the body, including the skin, joints, other connective tissue, blood and blood vessels, heart, lungs, kidney, and brain. It affects women nine times more often than men and 80 percent of newly diagnosed cases of lupus develop among women of child-bearing age.

This disease is not well known or well understood despite the fact that according to the Lupus Foundation of America at least 1.5 to 2 million Americans live with some form of lupus. Many are either misdiagnosed or not diagnosed at all. As the prototypical autoimmune disease, discoveries on lupus may apply to more than 20 other autoimmune diseases.

Of serious concern is that this disease disproportionately affects women of color—it is two to three times more common among African-Americans, Hispanics, Asians and Native Americans—a health disparity that remains unexplained. According to the Centers for Disease Control and Prevention the rate of lupus mortality has increased since the late 1970s and is higher among older African-American women. Comprehensive and definitive epidemiologic studies will help improve our understanding of these health disparities and move us toward closing the gaps.

The symptoms of lupus make diagnosis difficult because they are sporadic and imitate the symptoms of many other illnesses. If diagnosed promptly and properly treated, the majority of lupus cases can be controlled. Unfortunately, because of the dearth of medical research on lupus and the length of time it takes to make a diagnosis, many lupus patients suffer debilitating pain and fatigue. The resulting effects make it difficult, if not impossible, for these individuals to carry on normal everyday activities, including work. Thousands of these debilitating cases needlessly end in death each year. Our Nation must do more to ensure that health professionals are aware of its signs and symptoms so that people with lupus can receive the prompt, appropriate care they need and deserve.

The Lupus REACH Amendments of 2005 seek to expand biomedical research and strengthen lupus epidemiology. This bill authorizes a study and report by the Institute of Medicine, IOM, evaluating various Federal and State activities and research. This legislation will raise public awareness of lupus and improve health professional education. It aims to promote increased awareness of early intervention and treatment, direct communication and education efforts, and target at-risk women and health professionals to help them quickly achieve a correct diagnosis of lupus.

I would urge all my colleagues, to join me in sponsoring this legislation to increase research, education, and awareness of lupus.

By Mr. SCHUMER (for himself, Mr. BIDEN, Ms. SNOWE, Mr. DURBIN, and Mr. SMITH):

S. 759. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable, and for other purposes; to the Committee on the Judiciary.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Make College Affordable Act of 2005".

SEC. 2. EXPANSION OF DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) AMOUNT OF DEDUCTION.—Subsection (b) of section 222 of the Internal Revenue Code of 1986 (relating to deduction for qualified tuition and related expenses) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.

"(B) APPLICABLE DOLLAR LIMIT.—The applicable dollar limit for any taxable year shall be determined as follows:

"Taxable year:	Applicable dollar amount:
2005	$8,000
2006 and thereafter	$12,000.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $65,000 ($130,000 in the case of a joint return), bears to

"(ii) $15,000 ($30,000 in the case of a joint return).

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(i) without regard to this section and sections 199, 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of the sections referred to in clause (ii), adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(D) INFLATION ADJUSTMENTS.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2005, both of the dollar amounts in subparagraph (B)(i)(II) shall be. increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.".

(b) QUALIFIED TUITION AND RELATED EXPENSES OF ELIGIBLE STUDENTS.—

(1) IN GENERAL.—Section 222(a) of the Internal Revenue Code of 1986 (relating to allowance of deduction) is amended by inserting "of eligible students" after "expenses".

(2) DEFINITION OF ELIGIBLE STUDENT.—Section 222(d) of such Code (relating to definitions and special rules) is amended by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) ELIGIBLE STUDENT.—The term 'eligible student' has the meaning given such term by section 25A(b)(3).".

(c) DEDUCTION MADE PERMANENT.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to the amendments made by section 431 of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2004.

SEC. 3. CREDIT FOR INTEREST ON HIGHER EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. INTEREST ON HIGHER EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $1,500.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000 ($100,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a credit under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000 ($40,000 in the case of a joint return).

"(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 199, 222, 911, 931, and 933.

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2005, the $50,000 and $100,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2004' for '1992'.

"(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

"(c) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—A credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' has the meaning given such term by section 221(d)(1).

"(2) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount taken into account for any deduction under any other provision of this chapter.

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Interest on higher education loans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 25C(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 2004.

Mr. INOUYE (for himself, Mr. HATCH, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, and Mr. CONRAD):

S. 760. A bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, today I introduce "The Wakefield Act," also known as the "Emergency Medical Services for Children Act of 2005" along with my colleagues Mr. HATCH, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, and Mr. CONRAD. Since Senator HATCH and I worked toward authorization of EMSC in 1984, this program has been the driving force toward improving a wide range of children's emergency services. From specialized training for emergency care providers to ensuring ambulances and emergency departments have state-of-the-art pediatric-sized equipment, EMSC has provided the vehicle for improving survival of our smallest citizens when accidents or medical emergencies threatened their lives.

It remains no secret that children present unique anatomic, physiologic, emotional and developmental challenges to our primarily adult-oriented emergency medical system. As has been said many times before, children are not little adults. Evaluation and treatment must take into account their special needs, or we risk letting them fall through the gap between adult and pediatric care. EMSC has bridged that gap while fostering collaborative relationships among emergency medical technicians, paramedics, nurses, emergency physicians, surgeons, and pediatricians.

Yet, with the increasing number of children with special healthcare needs, the looming prospect of bioterrorism and the increasing importance of disaster preparedness, gaps still remain in our emergency healthcare delivery system for children. Re-authorization of EMSC will ensure children's needs are given the attention and priority necessary to coordinate and expand services for victims of life-threatening illnesses and injuries.

I join the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Surgeons, and thirty other supporting healthcare organizations in celebrating the 20th anniversary of the EMSC program. EMSC remains the only Federal program dedicated to examining the best ways to deliver various forms of care to children in emergency settings. I look forward to re-authorization of this important legislation and the continued advances in our emergency healthcare delivery system.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wakefield Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) There are 31,000,000 child and adolescent visits to the nation's emergency departments every year, with children under the age of 3 years accounting for most of these visits.

(2) Ninety percent of children requiring emergency care are seen in general hospitals, not in free-standing children's hospitals, with one-quarter to one-third of the patients being children in the typical general hospital emergency department.

(3) Severe asthma and respiratory distress are the most common emergencies for pediatric patients, representing nearly one-third of all hospitalizations among children under the age of 15 years, while seizures, shock, and airway obstruction are other common pediatric emergencies, followed by cardiac arrest and severe trauma.

(4) Up to 20 percent of children needing emergency care have underlying medical conditions such as asthma, diabetes, sickle-cell disease, low birthweight, and bronchopulmonary dysplasia.

(5) Significant gaps remain in emergency medical care delivered to children, with 43 percent of hospitals lacking cervical collars (used to stabilize spinal injuries) for infants, less than half (47 percent) of hospitals with no pediatric intensive care unit having a written transfer agreement with a hospital that does have such a unit, one-third of States lacking a physician available on-call 24 hours a day to provide medical direction to emergency medical technicians or other non-physician emergency care providers, and even those States with such availability lacking full State coverage.

(6) Providers must be educated and trained to manage children's unique physical and psychological needs in emergency situations, and emergency systems must be equipped with the resources needed to care for this especially vulnerable population.

(7) The Emergency Medical Services for Children (EMSC) Program under section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is the only Federal program that focuses specifically on improving the pediatric components of emergency medical care.

(8) The EMSC Program promotes the nationwide exchange of pediatric emergency medical care knowledge and collaboration by those with an interest in such care and is depended upon by Federal agencies and national organizations to ensure that this exchange of knowledge and collaboration takes place.

(9) The EMSC Program also supports a multi-institutional network for research in pediatric emergency medicine, thus allowing providers to rely on evidence rather than anecdotal experience when treating ill or injured children.

(10) States are better equipped to handle occurrences of critical or traumatic injury due to advances fostered by the EMSC program, with—

(A) forty-eight States identifying and requiring all EMSC-recommended pediatric equipment on Advanced Life Support ambulances;

(B) forty-four States employing pediatric protocols for medical direction;

(C) forty-one States utilizing pediatric guidelines for acute care facility identification, ensuring that children get to the right hospital in a timely manner; and

(D) thirty-six of the forty-two States having statewide computerized data collection systems now producing reports on pediatric emergency medical services using statewide data.

(11) Systems of care must be continually maintained, updated, and improved to ensure that research is translated into practice, best practices are adopted, training is current, and standards and protocols are appropriate.

(12) Now celebrating its twentieth anniversary, the EMSC Program has proven effective over two decades in driving key improvements in emergency medical services to children, and should continue its mission to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical and emergency surgical care children receive.

(b) PURPOSE.—It is the purpose of this Act to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical care children receive.

SEC. 3. REAUTHORIZATION OF EMERGENCY MEDICAL SERVICES FOR CHILDREN PROGRAM.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is amended—

(1) in subsection (a), by striking "3-year period (with an optional 4th year" and inserting "4-year period (with an optional 5th year";

(2) in subsection (d)—

(A) by striking "and such sums" and inserting "such sums"; and

(B) by inserting before the period the following: "$23,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010";

(3) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(4) by inserting after subsection (a) the following:

"(b)(1) The purpose of the program established under this section is to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical care children receive, through the promotion of projects focused on the expansion and improvement of such services, including those in rural areas and those for children with special healthcare needs. In carrying out this purpose, the Secretary shall support emergency medical services for children by supporting projects that—

"(A) develop and present scientific evidence;

"(B) promote existing and innovative technologies appropriate for the care of children: or

"(C) provide information on health outcomes and effectiveness and cost-effectiveness.

"(2) The program established under this section shall—

"(A) strive to enhance the pediatric capability of emergency medical service systems originally designed primarily for adults; and

"(B) in order to avoid duplication and ensure that Federal resources are used efficiently and effectively, be coordinated with all research, evaluations, and awards related to emergency medical services for children undertaken and supported by the Federal Government.".

Mr. HATCH. Mr. President, I am pleased to join Senator INOUYE in introducing "The Wakefield Act", which reauthorizes the Emergency Medical Services for Children (EMSC) program. It has been 20 years since Senator INOUYE and I first worked for passage of the original bill authorizing the EMSC program. We embarked upon this partnership after realizing that there was a critical gap in our Nation's ability to provide emergency medical services for the most precious segment of our population: our children.

Since the Emergency Medical Services for Children Act was first passed, its programs have spread across the nation, enhancing the care received in the more than 31 million visits made by children and adolescents to our nation's emergency departments every year. In part due to this program, the pediatric death rate from injuries has fallen 40 percent over the last 20 years. Imagine that—40 percent! In that light, it is extremely disappointing that President Bush would recommend eliminating funding for this very important program.

More than 30 groups have endorsed this legislation, including the American Academy of Pediatrics, American College of Emergency Physicians, American College of Surgeons, Brain Injury Association of America, Emergency Nurses Association, Family Violence Prevention Fund, National Association of Children's Hospitals, National Association of Emergency Medical Technicians, Rural Metro Corporation, Society for Pediatric Research, and the Society of Critical Care Medicine.

While much has been accomplished, more remains to be done. Children's physiology and response to illness and injury differ significantly from those of adults, necessitating specialized training to recognize and treat these patients properly. Ninety percent of the children who require emergency care receive it in general hospitals, not in free-standing specialty children's hospitals. Of those hospitals that lack pediatric intensive care units, only 47 percent have appropriate written transfer agreements with hospitals that do have such specialized units. One-third of states do not have a physician available on-call 24 hours to provide medical direction to EMTs or other non-physician emergency care providers. Of those states that do, many do not have full state coverage.

It is clear that despite the progress made since the Emergency Medical Services for Children Act was first enacted, deficiencies in our pediatric emergency care system remain. What is more, the need for a strong and healthy population, as well as a robust, prepared, and responsive health care system, has never been greater. This cannot occur in the absence of an emergency medical structure that is fully trained and ready to care for our nation's youth.

The Wakefield Act fills this role by supporting states' efforts to improve the care of children within their emergency medical services systems. EMSC-supported projects include strengthening emergency care infrastructures, assessing local provider needs, and developing comprehensive education and training modules. The impact of this program is undeniable: in 2003, 78 percent of States reported that either all or some of their pediatric emergency training programs were dependent on EMSC grant funding.

The EMSC program also ensures timely distribution of best practices and lessons learned in the area of pediatric emergency care, as well as facilitating the sharing of innovations through its national resource center. Furthermore, EMSC-supported projects have a proven record of success at the State and local level. For example, in 1997, no State disaster plan had specific pediatric components, but by 2003, 13 EMSC projects were working actively with their State's disaster preparedness offices to address children's needs in the event of a disaster.

I am proud that my home State of Utah has played a vital role in advancing the level of emergency medical care for children and teenagers. Working with the Emergency Medical Services for Children program, Utah has participated in the Intermountain Regional Emergency Medical Services for Children Coordinating Council. The University of Utah is home to both the National Emergency Medical Services for Children Data Analysis Resource Center and the Central Data Management Coordinating Center for the Pediatric Emergency Care Applied Research Network. Utah-based projects also helped pioneer the development of training materials on caring for special needs pediatric patients.

Over the course of its 20 year history, the Emergency Medical Services for Children program has made great strides in improving the lives of our Nation's children. It has largely eliminated discrepancies in regulations among States, establishing a national norm and making children's issues in emergency medical care a priority. The national EMSC program is a dynamic and flexible program that has proved to be responsive to both the Nation's and the individual States' needs. The program has funded pediatric emergency care improvement initiatives in every State, territory and the District of Columbia, as well as national improvement programs.

I urge my colleagues to support this important and necessary legislation.

Mr. CONRAD. Mr. President, I rise today to support the introduction of the Wakefield Act, which will reauthorize the Emergency Medical Services for Children, EMSC, program. This program is the only Federal program that focuses specifically on improving the quality of children's emergency care. With more than 31 million child and adolescent visits to emergency rooms each year, the EMSC program is important to ensuring that our children receive the best trauma care available.

As research shows, first responders cannot treat children as small adults, a different approach is needed. The EMSC program provides vital funding to States to improve the quality of pediatric emergency care. EMSC funds can be used for a variety of initiatives, including for the purchase of child appropriate equipment and training programs for nurses, physicians and emergency responders. These funds fill an important need. For example, 43 percent of hospitals in this country lack cervical collars for infants. The EMSC program is helping to address inadequacies in our Nation's EMS system.

This bill is particularly important to me because it is named for the family of a dear friend of mine, Mary Wakefield, who suffered a horrible tragedy this past January. Mary lost her brother, Thomas Wakefield, and two of his children, Mikal and Nicole, in a car accident. This terrible tragedy highlights the importance of providing appropriate training and equipment for children involved in trauma cases, and I urge all of my colleagues to cosponsor this important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 102—COMMENDING THE VIRGINIA UNION UNIVERSITY PANTHERS MEN'S BASKETBALL TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION II NATIONAL BASKETBALL CHAMPIONSHIP

Mr. ALLEN (for himself and Mr. WARNER) submitted the following resolution; which was considered and agreed to:

S. RES. 102

Whereas the students, alumni, faculty, and supporters of Virginia Union University are to be congratulated for their commitment to and pride in the Virginia Union University Panthers National Champion men's basketball team;

Whereas in the National Collegiate Athletic Association (NCAA) championship game against the Bryant Bulldogs, the Panthers led throughout the first half, on the strength of senior forward Antwan Walton's 19 points and 11 rebounds;

Whereas the Panthers won the 2005 NCAA Division II National Basketball Championship with an outstanding second-half performance, answering a 17 to 9 run by Bryant to regain the lead in the final moments of the game, winning the Championship game by a score of 63 to 58;

Whereas the Panthers added the NCAA Division II title to the Central Intercollegiate Athletic Association title to claim their second championship in 2005;

Whereas every player on the Panthers basketball team—Luqman Jaaber, Lantrice Green, Duan Crockett, Antwan Walton, Steve Miller, Remington Hart, Emerson Kidd, Trevor Bryant, Quincy Smith, B.J. Stevenson, Justin Wingfield, Arthur Kidd, Ralph Brown, Darius Hargrove, Phillip Moore and Chris Moore—contributed to the team's success in this impressive championship season;

Whereas the Panthers basketball team Head Coach Dave Robbins has become only the third man to win 3 Division II National Championships;

Whereas Coach Robbins is the first coach to win at least 1 Division II National Championship in 3 different decades; and

Whereas Assistant Coaches Willard Coker, Jerome Furtado, and Mike Walker deserve high recommendation for their strong leadership of, and superb coaching support to, the Virginia Union University Panthers men's basketball team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Virginia Union University Panthers men's basketball team for winning the 2005 National Collegiate Athletic Association Division II National Championship;

(2) recognizes the achievements of all of the team's players, Head Coach Dave Robbins, assistant coaches, and support staff; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Head Coach of the National Champion Virginia Union University Panthers basketball team.

SENATE RESOLUTION 103—COMMENDING THE LADY BEARS OF BAYLOR UNIVERSITY FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WOMEN'S BASKETBALL CHAMPIONSHIP

Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted the following resolution; which was considered and agreed to:

S. RES. 103

Whereas the Baylor University women's basketball team won its first national championship by defeating Michigan State, 84 to 62, the second largest margin of victory in the history of women's basketball championship games;

Whereas the Lady Bears finished the 2004–2005 season with a record of 33 wins and 3 losses, including winning their final 20 consecutive games;

Whereas Coach Kim Mulkey-Robertson brought the Lady Bears to their first national championship and became the first woman to have been both a head coach and a player on a national championship team;

Whereas Coach Kim Mulkey-Robertson took the Lady Bears from the bottom of the Big 12 standings in 2000 to a national championship in 5 years;

Whereas All-American Sophia Young, who averaged 22 points in the tournament, reached double figures in all 36 games in the 2004-2005 season, with 17 double-doubles, and had 26 points in the final game to be the high scorer in the championship game;

Whereas All-American Steffanie Blackmon scored 22 points and had 7 rebounds to lead the Lady Bears to the championship;

Whereas Emily Niemann made key 3-point shots to boost the Lady Bears to victory in an exciting final game;

Whereas the entire team should be commended for their work together;

Whereas Baylor University has demonstrated its excellence in both athletics and academics, and has significantly advanced the sport of women's basketball by demonstrating hard work and sportsmanship; and

Whereas the Baylor University Lady Bears are the pride of Waco and the rest of the great State of Texas: Now, therefore, be it

Resolved, That the Senate commends the Lady Bears of Baylor University for—

(1) winning the 2005 National Collegiate Athletic Association Division I Women's Basketball Championship; and

(2) completing the 2004–2005 women's basketball season with a record of 33 wins and 3 losses.

AMENDMENTS SUBMITTED AND PROPOSED

SA 333. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 334. Mr. KERRY (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 335. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 336. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 337. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 333. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY

SEC. 1122. Section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

SA 334. Mr. KERRY (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, strike line 6 and all that follows through page 160, line 22, and insert the following:

SEC. 1112. (a) INCREASE IN DEATH GRATUITY.—

(1) AMOUNT.—Section 1478(a) of title 10, United States Code, is amended by striking "$12,000" and inserting "$100,000".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

(3) NO ADJUSTMENT FOR INCREASES IN BASIC PAY BEFORE DATE OF ENACTMENT.—No adjustment shall be made under subsection (c) of section 1478 of title 10, United States Code, with respect to the amount in force under subsection (a) of that section, as amended by paragraph (1), for any period before the date of the enactment of this Act.

(4) PAYMENT FOR DEATHS BEFORE DATE OF ENACTMENT.—Any additional amount payable as a death gratuity under this subsection for the death of a member of the Armed Forces before the date of the enactment of this Act shall be paid to the eligible survivor of the member previously paid a death gratuity under section 1478 of title 10, United States Code, for the death of the member. If payment cannot be made to such survivor, payment of such amount shall be made to living survivor of the member otherwise highest on the list under 1477(a) of title 10, United States Code.

On page 161, line 23, strike "$238,000" and insert "$150,000".

SA 335. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes: which was ordered to lie on the table; as follows:

On page 170 between lines 15 and 15, insert the following:

CHAPTER 3

SEC. 1201. SHORT TITLE.

This chapter may be cited as the "Patriot Penalty Elimination Act of 2005".

SEC. 1202. INCOME PRESERVATION PAY FOR RESERVES SERVING ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) Authority.—Chapter 1209 of title 10, United States Code, is amended by inserting after section 12316 the following new section:

"§ 12316a. Reserves: income preservation pay

"(a) Requirement To Pay.—The Secretary of the military department concerned shall pay income preservation pay under this section to an eligible member of a reserve component of the armed forces in connection with the member's active-duty service as described in subsection (b).

"(b) Eligible Member.—A member is eligible for income preservation pay if—

"(1) in the case of a member who is an employee of the Federal Government—

"(A) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(B) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; and

"(C) with respect to such active-duty service, the amount of the member's preservice earned income determined under subparagraph (A) of subsection (c)(1) exceeds the amount of the member's military service income determined under subparagraph (B) of such subsection; or

"(2) in the case of any other member, the member—

"(A) meets the requirements of paragraph (1); and

"(B) is not receiving employment income preservation payments from the qualifying employer of the member as described in section 12316b of this title.

"(c) Amount.—(1) Subject to paragraph (2), the amount payable under this section to a member in connection with active-duty service is the amount equal to the excess (if any) of—

"(A) the amount computed by multiplying—

"(i) the preservice average monthly earned income of the member, by

"(ii) the total number of the member's service months for such active-duty service, over

"(B) the amount computed by multiplying—

"(i) the military service average monthly income of the member, by

"(ii) the total number of months determined under subparagraph (A)(ii).

"(2) The total amount of income preservation pay that is paid to a member under this section may not exceed $10,000.

"(d) Preservice Average Monthly Earned Income.—For the purposes of this section, the preservice average monthly earned income of a member who serves on active duty as described in subsection (b) shall be computed by dividing 12 into the total amount of the member's earned income for the 12 months immediately preceding the member's first service month of the period for which income preservation pay is to be paid to the member under this section.

"(e) Military Service Average Monthly Income.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (b) is the amount determined by dividing—

"(1) the sum of the total amount of the member's earned income (other than basic pay) and the total amount of the member's basic pay (under section 204 of title 37) for the member's service months for such active-duty service, by

"(2) the total number of such months.

"(f) Time and Manner of Payment.—(1) Subject to paragraph (2), the total amount of income preservation pay that is payable under this section to a member in connection with service on active duty is due and payable, in one lump sum, not later than 30 days after the date on which the member is released from the active duty.

"(2) The Secretary concerned may make advance payment of income preservation pay in whole or in part under this section to a member, under such terms and conditions as the Secretary determines appropriate, if it is clear from the circumstances that it is likely that the member's active-duty service will satisfy the requirements of subsection (b). In any case in which advance payment is made to a member whose period of such active-duty service does not satisfy such requirements, the Secretary concerned may waive recoupment of the advance payment if the Secretary determines that recoupment would be against equity and good conscience or would be contrary to the best interests of the United States.

"(g) Definitions.—In this section:

"(1) The term "earned income" has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

"(2) The term 'service month', with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

"(h) Termination of Authority.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.".

(b) Recharacterization of Existing Section on Payment of Certain Reserves on Active Duty.—The heading of section 12316 of title 10, United States Code, is amended to read as follows:

"§ 12316. Reserves: payment of other entitlement instead of pay and allowances".

(c) Clerical Amendment.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, is amended by striking the item relating to section 12316 and inserting the following new items:

"12316. Reserves: payment of other entitlement instead of pay and allowances.
"12316a. Reserves: income preservation pay.".

(d) Effective Date.—Section 12316a of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

SEC. 1203. EMPLOYMENT INCOME PRESERVATION ASSISTANCE GRANTS FOR EMPLOYERS OF RESERVES.

(a) Authority.—Chapter 1209 of title 10, United States Code, as amended by section 1202(a) of this chapter, is further amended by inserting after section 12316a the following new section:

"§ 12316b. Reserves: employment income preservation assistance grants for employers of reserves

"(a) Requirement To Make Grants.—The Secretary of the military department concerned shall make a grant to each qualifying employer to assist such employer in making employment income preservation payments to a covered member of a reserve component of the armed forces who is an employee of such employer to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

"(b) Qualifying Employer.—(1) Except as provided in paragraph (2), for the purposes of this section, a qualifying employer is any employer who makes employment income preservation payments to a covered member to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

"(2) A State or local government is not a qualifying employer for the purpose of this section.

"(c) Covered Member.—For the purposes of this section, a member is a covered member if—

"(1) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(2) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; and

"(3) with respect to such active-duty service, the amount of the member's preservice average monthly wage or salary (as determined under subsection (e)) exceeds the amount of the member's military service average monthly income (as determined under subsection (f)).

"(d) Employment Income Preservation Payments.—(1) For the purposes of this section, employment income preservation payments are any payments made by a qualifying employer to a covered member in connection with the active-duty service of the member described in subsection (c) in order to make up any excess of the member's preservice average monthly wage or salary over the member's military service average monthly income.

"(2) The total amount of employment income preservation payments with respect to a covered member for which a grant may be made under subsection (a) may not exceed $10,000.

"(e) Preservice Average Monthly Wage or Salary.—For the purposes of this section, the preservice average monthly wage or salary of a covered member who serves on active duty as described in subsection (c) shall be computed by dividing—

"(1) the number of months of employment of the member with the qualifying employer during the 12-month period preceding the member's commencement on active duty as described in subsection (c); into

"(2) the total amount of the member's wage or salary paid by the qualifying employer during such months.

"(f) MILITARY SERVICE AVERAGE MONTHLY INCOME.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (c) is the amount determined by dividing—

"(1) the sum of the total amount of the member's earned income (other than basic pay) and the total amount of the member's basic pay (under section 204 of title 37) for the member's service months for such active-duty service, by

"(2) the total number of such months.

"(g) DEFINITIONS.—In this section:

"(1) The term "earned income" has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

"(2) The term 'service month', with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

"(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, as amended by section 1202(c) of this chapter, is further by inserting after the item relating to section 12316a the following new item:

"12316b. Reserves: income preservation assistance grants for employers of reserves.".

(c) EFFECTIVE DATE.—Section 12316b of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

SA 336. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

SEC. 1122. FUNDING FOR VETERANS HEALTH ADMINISTRATION FOR HEALTH CARE FOR VETERANS WHO SERVE ABROAD IN THE GLOBAL WAR ON TERRORISM.

(a) TRANSFER FROM OPERATION AND MAINTENANCE ACCOUNTS.—The Secretary of Defense shall transfer to the Secretary of Veterans Affairs, from amounts appropriated or otherwise made available by this Act for the Operation and Maintenance accounts of the Department of Defense, an aggregate of $975,000,000, with the amount so transferred to be derived from amounts so appropriated or otherwise made available in such distribution as the Secretary of Defense determines appropriate.

(b) DEPOSIT OF TRANSFERRED AMOUNT.—The Secretary of Veterans Affairs shall deposit the amount transferred under subsection (a) in the Medical Services account of the Veterans Health Administration of the Department of Veterans Affairs. Upon deposit, such amount shall be merged with funds in such account, and shall, subject to subsection (c), be available for the same purposes, and subject to the same limitations as the funds with which merged.

(c) AVAILABILITY OF AMOUNT.—The amount deposited in the Medical Services account of the Veterans Health Administration under subsection (b) shall be available only for the provision of care and treatment, including mental health care services, to veterans who serve abroad in the Global War on Terrorism. Such amount shall be available, without fiscal year limitation, until expended.

SA 337. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, strike line 6 and all that follows through page 161, line 21, and insert the following:

SEC. 1112. (a) INCREASE IN DEATH GRATUITY.—

(1) INCREASE.—Section 1478(a) of title 10, United States Code, is amended by striking "$12,000" and inserting "$100,000".

(2) EFFECTIVE DATE; TERMINATION.—

(A) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B) The amendment made by paragraph (1) shall terminate on September 30, 2005. Effective as of October 1, 2005, the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

(b) ADDITIONAL GRATUITY FOR DEATHS BEFORE EFFECTIVE DATE.—

(1) REQUIREMENT TO PAY ADDITIONAL GRATUITY.—In the case of a member of the Armed Forces who died before the date of the enactment of this Act, but on or after October 7, 2001, the Secretary of the military department concerned shall pay a death gratuity in accordance with this subsection that is in addition to the death gratuity payable in the case of such death under sections 1475 through 1477 of title 10, United States Code.

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs will hold a field hearing in St. Paul, MN entitled "Tax Related Financial Products Can Be Costly," regarding the Subcommittee's investigations into tax-related financial products. These bank products include refund anticipation loans (RALs), refund anticipation checks (RACs) and refund transfers that are offered by tax preparers such an H&R Block and Jackson Hewitt. Also included are products offered solely by the tax preparation companies such as tax preparation guarantees. The Subcommittee field hearing will examine these products' costs, the extent to which these products are fairly marketed, and whether the costs of these products are fully disclosed. Additionally, the Subcommittee will examine the refunds, incentives and rebates that are paid by banks to tax preparers for selling these products and the ethical implications that can be presented from a client service perspective.

The Subcommittee hearing is scheduled for Friday, April 15, 2005, at 1 p.m. in "The Reading Room" of the James J. Hill Reference Library at 80 West 4th Street in St. Paul, Minnesota. For further information, please contact Raymond V. Shepherd, III, Staff Director and Chief Counsel to the Permanent Subcommittee on Investigations, at 224–3721.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, April 26, 2005, at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to review the preparedness of the Departments of Agriculture and the Interior for the 2005 wildfire season, including the agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies' ability to deal with the upcoming fire season.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Frank Gladics at (202) 224–2878 or Amy Millet at (202) 224–8276.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and

Transportation be authorized to meet on the S. 241—to exempt the Universal Service Fund from sections of the Antideficiency Act, on Monday, April 11, 2005, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, April 11, 2005 at 9:30 a.m. to hold a Nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities be authorized to meet during the session of the Senate on April 11, 2005, at 2 p.m., in open session to receive testimony on the Chemical Demilitarization Program of the Department of Defense in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that Mr. Les Spivey, Mr. B.G. Wright, and Mr. Chad Schulken of the Appropriations Committee staff be granted full floor access during the consideration of H.R. 1268, the fiscal year 2005 emergency supplemental appropriations bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that Harry Christie, a detailee to the committee from the U.S. Secret Service, be granted floor privileges for the duration of the debate on H.R. 1268.

The ACTING PRESIDENT pro tempore. Without objection it so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Katy Hagan, a detailee with the Defense Appropriations Subcommittee, be granted privileges of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I ask unanimous consent that Jyoti Sharma, a legal fellow for Senator CLINTON's office, be granted the privilege of the floor during today's session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOTICE: REGISTRATION OF MASS MAILINGS

The filing date for 2005 first quarter mass mailings is Monday, April 25, 2005. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 9 a.m. to 5:30 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

CONGRATULATING VIRGINIA UNION MEN'S BASKETBALL TEAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 102 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 102) commending the Virginia Union University Panthers men's basketball team for winning the 2005 National Collegiate Athletic Association Division II National Basketball Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 102) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 102

Whereas the students, alumni, faculty, and supporters of Virginia Union University are to be congratulated for their commitment to and pride in the Virginia Union University Panthers National Champion men's basketball team;

Whereas in the National Collegiate Athletic Association (NCAA) championship game against the Bryant Bulldogs, the Panthers led throughout the first half, on the strength of senior forward Antwan Walton's 19 points and 11 rebounds;

Whereas the Panthers won the 2005 NCAA Division II National Basketball Championship with an outstanding second-half performance, answering a 17 to 9 run by Bryant to regain the lead in the final moments of the game, winning the Championship game by a score of 63 to 58;

Whereas the Panthers added the NCAA Division II title to the Central Intercollegiate Athletic Association title to claim their second championship in 2005;

Whereas every player on the Panthers basketball team—Luqman Jaaber, Duan Crockett, Antwan Walton, Ralph Brown, Darius Hargrove, Lantrice Green, Steve Miller, Quincy Smith, Arthur Kid, and Chris Moore—contributed to the team's success in this impressive championship season;

Whereas the Panthers basketball team Head Coach Dave Robbins has become only the third man to win 3 Division II National Championships;

Whereas Coach Robbins is the first coach to win at least 1 Division II National Championship in 3 different decades; and

Whereas Assistant Coaches Willard Coker, Jerome Furtado, and Mike Walker deserve high recommendation for their strong leadership of, and superb coaching support to, the Virginia Union University Panthers men's basketball team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Virginia Union University Panthers men's basketball team for winning the 2005 National Collegiate Athletic Association Division II National Championship;

(2) recognizes the achievements of all of the team's players, Head Coach Dave Robbins, assistant coaches, and support staff; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Head Coach of the National Champion Virginia Union University Panthers basketball team.

CONGRATULATING BAYLOR WOMEN'S BASKETBALL TEAM

Mr. FRIST. I ask unanimous consent the Senate now proceed to the consideration of S. Res. 103 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 103) commending the Lady Bears of Baylor University for winning the 2005 National Collegiate Athletic Association Division I Women's Basketball Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 103) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 103

Whereas the Baylor University women's basketball team won its first national championship by defeating Michigan State, 84 to 62, the second largest margin of victory in the history of women's basketball championship games;

Whereas the Lady Bears finished the 2004–2005 season with a record of 33 wins and 3 losses, including winning their final 20 consecutive games;

Whereas Coach Kim Mulkey-Robertson brought the Lady Bears to their first national championship and became the first woman to have been both a head coach and a player on a national championship team;

Whereas Coach Kim Mulkey-Robertson took the Lady Bears from the bottom of the Big 12 standings in 2000 to a national championship in 5 years;

Whereas All-American Sophia Young, who averaged 22 points in the tournament, reached double figures in all 36 games in the 2004-2005 season, with 17 double-doubles, and had 26 points in the final game to be the high scorer in the championship game;

Whereas All-American Steffanie Blackmon scored 22 points and had 7 rebounds to lead the Lady Bears to the championship;

Whereas Emily Niemann made key 3-point shots to boost the Lady Bears to victory in an exciting final game;

Whereas the entire team should be commended for their work together;

Whereas Baylor University has demonstrated its excellence in both athletics and academics, and has significantly advanced the sport of women's basketball by demonstrating hard work and sportsmanship; and

Whereas the Baylor University Lady Bears are the pride of Waco and the rest of the great State of Texas: Now, therefore, be it

Resolved, That the Senate commends the Lady Bears of Baylor University for—

(1) winning the 2005 National Collegiate Athletic Association Division I Women's Basketball Championship; and

(2) completing the 2004-2005 women's basketball season with a record of 33 wins and 3 losses.

COMMEMORATING THE TENTH ANNIVERSARY OF THE ATTACK ON THE ALFRED P. MURRAH FEDERAL BUILDING

Mr. FRIST. I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 96.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 96) commemorating the 10th anniversary of the attack on the Alfred P. Murrah Federal Building.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 96) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 96

Whereas on April 19, 1995, at 9:02 a.m. Central Daylight Time, in Oklahoma City, Oklahoma, the United States was attacked in one of the worst terrorist attacks on United States soil, which killed 168 people and injured more than 850 others;

Whereas this dastardly act of domestic terrorism affected thousands of families and horrified millions of people across the State of Oklahoma and the United States;

Whereas the people of Oklahoma and the United States responded to this tragedy through the remarkable efforts of local, State, and Federal law enforcement, firefighters, and emergency services, search and rescue teams from across the United States, public and private medical personnel, and thousands of volunteers from the community who saved lives, assisted the injured and wounded, comforted the bereaved, and provided meals and support to those who came to Oklahoma City to help those endangered and affected by this terrorist act;

Whereas the people of Oklahoma and the United States pledged themselves to build and maintain a permanent national memorial to remember those who were killed, those who survived, and those changed forever;

Whereas this pledge was fulfilled by creating the Oklahoma City National Memorial, which draws hundreds of thousands of visitors from around the world every year to the site of this tragic event in United States history;

Whereas the Oklahoma City National Memorial brings comfort, strength, peace, hope, and serenity to the many visitors who come to the memorial and its museum each year to remember and to learn;

Whereas the mission of the National Memorial Institute for the Prevention of Terrorism, to aid the Nation's emergency responders in preventing terrorist attacks, or mitigating their effects, should be promoted; and

Whereas the tenth anniversary of the terrorist bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, is on April 19, 2005: Now, therefore, be it

Resolved, That the Senate—

(1) joins with the people of the United States in sending best wishes and prayers to the families, friends, and neighbors of the 168 people killed in the terrorist bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma;

(2) sends Congress's best wishes and thoughts to those injured in the bombing and its gratitude for their recovery;

(3) thanks the thousands of first responders, rescue workers, medical personnel, and volunteers from the Oklahoma City community and across the Nation who answered the call for help that April morning and in the days and weeks thereafter;

(4) resolves to work with the people of the United States to promote the goals and mission established by the Oklahoma City National Memorial on the tenth anniversary of that fateful day;

(5) supports the resolve for the future, written on the wall of the memorial, "We come here to remember those who were killed, those who survived, and those changed forever. May all who leave here know the impact of violence. May this memorial offer comfort, strength, peace, hope, and serenity.";

(6) designates the week of April 17, 2005, as the National Week of Hope, commemorating the tenth anniversary of the Oklahoma City bombing;

(7) calls on the people of the United States to participate in the events scheduled for each day of that week to teach a lesson of hope in the midst of political violence and to teach that good endures in the world even among those who commit bad acts and further to teach that there is a way to resolve differences other than resorting to terrorism or violence, including the—

(A) Day of Faith;
(B) Day of Understanding;
(C) Day of Remembrance;
(D) Day of Sharing;
(E) Day of Tolerance;
(F) Day of Caring; and
(G) Day of Inspiration;

(8) congratulates the people of Oklahoma City for making tremendous progress over the past decade and demonstrating their steadfast commitment to the ability of hope to triumph over violence;

(9) applauds the people of Oklahoma City as they continue to persevere and to stand as a beacon to the rest of the Nation and the world attesting to the strength of goodness in overcoming evil wherever it arises in our midst; and

(10) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Memorial Foundation, as an expression of appreciation.

ORDERS FOR TUESDAY, APRIL 12, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, April 12. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the Iraq-Afghanistan supplemental. We began debating this important appropriations bill this afternoon, and it is my hope that we can begin the amending process early during tomorrow's session. The chairman and ranking member will be here to receive amendments, and I encourage all Senators who intend to offer an amendment to contact the managers as soon as possible.

Again, Senators should expect a busy week this week as the Senate considers the Iraq-Afghanistan appropriations bill. Senators should expect votes throughout the week, with possible late night sessions.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:15 p.m., adjourned until Tuesday, April 12, 2005, at 9:45 a.m.

NOMINATIONS

Executive nomination received by the Senate April 11, 2005:

EXECUTIVE OFFICE OF THE PRESIDENT

LIEUTENANT GENERAL MICHAEL V. HAYDEN, UNITED STATES AIR FORCE, TO BE PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE. (NEW POSITION)

CONFIRMATION

Executive nomination confirmed by the Senate: Monday, April 11, 2005:

THE JUDICIARY

PAUL A. CROTTY, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Monday, April 11, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 12

9:30 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Agriculture.

SD–124

Armed Services

To receive a closed briefing regarding assessment of Iraqi Security Forces.

SR–222

Foreign Relations

To continue hearings to examine the nominations of John Robert Bolton, of Maryland, to be U.S. Representative to United Nations, with the rank and status of Ambassador and U.S. Representative in the Security Council of the United Nations, and Representative to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations.

SD–419

10 a.m.

Energy and Natural Resources

To hold hearings to examine developing a reliable supply of oil from domestic oil shale and oil sands resources, focusing on opportunities to advance technology that will facilitate environmentally friendly development of oil shale and oil sands resources.

SD–366

Intelligence

To hold hearings to examine the nomination of John D. Negroponte, of New York, to be Director of National Intelligence.

SH–216

10:15 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the nominations of Michael D. Griffin, of Virginia, to be Administrator of the National Aeronautics and Space Administration, Joseph H. Boardman, of New York, to be Administrator of the Federal Railroad Administration, Department of Transportation, Nancy Ann Nord, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission, and William Cobey, of North Carolina, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority.

SR–253

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine management and planning issues for the National Mall, including the history of the development, security projects and other planned construction, and future development plans.

SD–366

Armed Services

SeaPower Subcommittee

To hold closed hearings to examine Navy shipbuilding and industrial base status in review of the Defense Authorization Request for fiscal year 2006; to be followed by an open hearing in SR–232A.

SR–222

Intelligence

To continue hearings in closed session to examine the nomination of John D. Negroponte, of New York, to be Director of National Intelligence.

SH–219

Aging

To hold hearings to examine role of employer-sponsored retirement plans in increasing national savings.

SD–106

APRIL 13

9:15 a.m.

Environment and Public Works

Business meeting to consider the nominations of Luis Luna, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency, John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army, Major General Don T. Riley, United States Army, to be a Member and President of the Mississippi River Commission, Brigadier General William T. Grisoli, United States Army, to be a Member of the Mississippi River Commission, D. Michael Rappoport, of Arizona, and Michael Butler, of Tennessee, each to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, Stephen L. Johnson, of Maryland, to be Administrator of the Environmental Protection Agency, and pending legislation.

SD–406

9:30 a.m.

Foreign Relations

To hold hearings to examine the nominations of Daniel Fried, of the District of Columbia, to be an Assistant Secretary of State for European Affairs, and Robert Joseph, of Virginia, to be Under Secretary of State for Arms Control and International Security.

SD–419

Indian Affairs

To hold oversight hearings to examine Indian Health.

SR–485

Judiciary

To hold hearings to examine securing electronic personal data, focusing on striking a balance between privacy and commercial and governmental use.

SD–226

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the Federal Home Loan Bank System.

SD–538

Finance

To hold hearings to examine The U.S.-Central America-Dominican Republic Free Trade Agreement.

SD–628

Health, Education, Labor, and Pensions

Business meeting to consider the nomination of Lester M. Crawford, of Maryland, to be Commissioner of Food and Drugs, Department of Health and Human Services.

SD–430

Armed Services

Readiness and Management Support Subcommittee

To hold hearings to examine high risk areas in the management of the Department of Defense in review of the Defense Authorization Request for fiscal year 2006.

SR–232A

10:30 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Office of the Secretary of the Senate and the Office of the Architect of the Capitol.

SD–116

11 a.m.

Homeland Security and Governmental Affairs

Business meeting to consider S. 21, to provide for homeland security grant coordination and simplification, S. 335, to reauthorize the Congressional Award Act, S. 494, to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, S. 501, to provide a site for the National Women's

History Museum in the District of Columbia, and certain committee reports.
SD–342

11:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

12:30 p.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Office of the Chief Economist, the Office of Farm and Foreign Agricultural Services, the Office of Natural Resources and the Environment, the Office of Rural Development, and the Office of Research, Education, and Economics, all of the Department of Agriculture.
SD–192

1:30 p.m.
Armed Services
Personnel Subcommittee
To hold hearings to examine active and Reserve military and civilian personnel programs in review of the Defense Authorization Request for fiscal year 2006.
SR–232A

2 p.m.
Judiciary
Constitution, Civil Rights and Property Rights Subcommittee
To hold hearings to examine judicial activism regarding federal and state marriage protection initiatives.
SD–226

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings to examine S. 714, to amend section 227 of the Communications Act of 1934 relating to the prohibition on junk fax transmissions.
SR–253

Intelligence
To hold a closed briefing on intelligence matters.
SH–219

APRIL 14

9:30 a.m.
Armed Services
To hold hearings to examine implementation by the Department of Defense of the National Security Personnel System.
SR–325

Judiciary
Business meeting to consider pending calendar business.
SD–226

Appropriations
Transportation, Treasury, the Judiciary, and Housing and Urban Development Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Housing and Urban Development.
SD–138

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the implementation of the Terrorism Risk Insurance Program.
SD–538

Commerce, Science, and Transportation
Business meeting to consider S. 364, to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities, S. 714, to amend section 227 of the Communications Act of 1934 relating to the prohibition on junk fax transmissions, S. 432, to establish a digital and wireless network technology program, the proposed Surface Transportation Safety Improvement Act of 2005, and the nominations of a National Oceanic and Atmospheric Administration Promotion List, Coast Guard Promotion List, and Coast Guard Promotion List.
SR–253

Energy and Natural Resources
To hold hearings to examine S. 388, to amend the Energy Policy Act of 1992 to direct the Secretary of Energy to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity and to provide credit-based financial assistance and investment protection for projects that employ advanced climate technologies or systems, to provide for the establishment of a national greenhouse gas registry.
SD–366

Finance
To hold hearings to examine how to solve the tax gap.
SD–G50

Health, Education, Labor, and Pensions
To hold hearings to examine lifelong education opportunities.
SD–430

Homeland Security and Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To hold oversight hearings to examine a review of the Unfunded Mandates Reform Act (UMRA), focusing on the impact of the UMRA on Federal, state, and local governments and explore if changes are necessary to strengthen the law's procedures, definitions, and exclusions.
SD–342

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America.
345 CHOB

2 p.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Office of Marketing and Regulatory Programs, the Office of Food, Nutrition, and Consumer Services, and the Office of Food Safety and Inpection Service, all of the Department of Agriculture.
SD–192

Appropriations
Energy and Water, and Related Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the National Nuclear Security Administration.
SD–124

Homeland Security and Governmental Affairs
To hold hearings to examine the ongoing need for comprehensive postal reform.
SD–342

2:30 p.m.
Armed Services
Airland Subcommittee
To hold hearings to examine Air Force acquisition oversight in review of the Defense Authorization Request for Fiscal Year 2006.
SR–232A

Judiciary
Immigration, Border Security and Citizenship Subcommittee
Terrorism, Technology and Homeland Security Subcommittee
To hold joint hearings to examine deportation and related issues relating to strengthening interior enforcement.
SD–226

APRIL 19

10 a.m.
Foreign Relations
To hold hearings to examine the Near East and South Asian experience relating to combating terrorism through education.
SD–419

Health, Education, Labor, and Pensions
To hold hearings to examine S. 334, to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs.
SD–430

3 p.m.
Armed Services
SeaPower Subcommittee
To hold hearings to examine the United States Marine Corps ground and rotary wing programs and seabasing in review of the Defense Authorization Request for Fiscal Year 2006.
SR–232A

APRIL 20

10 a.m.
Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine early childhood development.
SD–430

Small Business and Entrepreneurship
To hold hearings to examine the small business health care crisis, focusing on alternatives for lowering costs and covering the uninsured.
SR–428A

2 p.m.
Armed Services
Readiness and Management Support Subcommittee
To hold hearings to examine the readiness of military units deployed in support of Operation Iraqi Freedom and Operation Enduring Freedom in review of the Defense Authorization Request for fiscal year 2006.
SR–222

APRIL 21

9:30 a.m.
Foreign Relations
To hold hearings to examine the anticorruption strategies of the African Development Bank, Asian Development Bank and European Bank on Reconstruction and Development.
SD–419

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine Association Health Plans.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.
345 CHOB

2:30 p.m.
Judiciary
Intellectual Property Subcommittee
To hold hearings to examine the patent system today and tomorrow.
SD–226

APRIL 26

9:30 a.m.
Foreign Relations
To hold hearings to examine the Millennium Challenge Corporation's global impact.
SD–419

10 a.m.
Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine pensions.
SD–430

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine the preparedness of the Department of Agriculture and the Interior for the 2005 wildfire season, including the agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies ability to deal with the upcoming fire season.
SD–366

APRIL 27

9:30 a.m.
Indian Affairs
To hold oversight hearings to examine regulation of Indian gaming.
SR–485

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

APRIL 28

10 a.m.
Foreign Relations
To hold hearings to examine U.S. Assistance to Sudan and the Darfur Crisis.
SH–216

Health, Education, Labor, and Pensions
To hold hearings to examine Higher Education Act.
SD–430

MAY 11

9:30 a.m.
Judiciary
To hold an oversight hearing to examine the Federal Bureau of Investigation's translation program.
SD–226

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

CANCELLATIONS

APRIL 12

10 a.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine.
2200 RHOB

APRIL 19

10 a.m.
Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine pensions.
SD–430

POSTPONEMENTS

APRIL 12

9:30 a.m.
Foreign Relations
To hold hearings to examine U.S. agricultural sales to Cuba.
SD–419

APRIL 13

10 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings to examine proposed budget estimates for fiscal year 2006 for intelligence and global intelligence programs.
S–407 Capitol

SENATE—*Tuesday, April 12, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable DAVID VITTER, a Senator from the State of Louisiana.

The PRESIDING OFFICER. Today, we will be led in a prayer by our guest Chaplain, Rabbi Jehiel Orenstein, of Congregation Beth El, South Orange, NJ.

PRAYER

The guest Chaplain offered the following prayer:

Our God and God of our ancestors, who shall stand in God's holy place? The Psalmist answers, "One who has clean hands and a pure heart who has not used God's name in false oaths." Almighty Legislator of our lives, our hopes, our dreams, as legislators, one may sometimes despair and say, "Who can stand in God's place?" After all, we are human, limited. What a vast distance between us and the Creator of the laws of the universe.

And yet, the Psalmist gives us hope. If you want our law to reflect ultimate law, "Start," says the Psalmist, "with clean hands and a pure heart." No worthy law has ever emanated from this place that was not first and foremost ethical.

And then the Psalmist asks us to remember our vow, a vow given to the Ultimate Legislator and to the American people, to hold fast to our vow no matter how great the pressure.

On this Tuesday in April 2005, may there be a sense of spring and renewal. Let us bridge the distance between the law of the human beings and the law of the Creator of the universe.

Rabbi Akivah taught, "The greatest of God's law is, 'Love thy neighbor as thyself.' (Leviticus 19:18)." May this Senate, may this Congress, may this people come ever closer through our laws to the ultimate law of love. May you be blessed in your work, and may that work make you, and through you, all of America, a home that reflects God's love on this Earth, and let us all say, Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 12, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID VITTER, a Senator from the State of Louisiana, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. VITTER thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, following the 1 hour which is designated for morning business, the Senate will resume consideration of H.R. 1268, the emergency supplemental appropriations bill. I anticipate amendments being offered over the course of the day. Therefore, Senators can expect rollcall votes throughout the day.

I again ask Members to contact their respective cloakrooms if they intend to offer an amendment or amendments to the supplemental. This will allow Chairman COCHRAN and Senator BYRD to facilitate the amendment process.

Yesterday, I mentioned the importance and the timeliness of this legislation, and I hope Members will take that into consideration as they contemplate amendments. We would like to finish this bill which provides funding for our troops as quickly as we can.

Also, today we will have our respective policy luncheons and will recess from 12:30 p.m. to 2:15 p.m. to accommodate those meetings.

Mr. President, at this juncture I will yield to my colleagues for their brief statements and recognition of our guest Chaplain today, and then I will have a brief opening statement.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey, Mr. LAUTENBERG, is recognized.

THE GUEST CHAPLAIN

Mr. LAUTENBERG. Mr. President, this is a very welcome moment for me because I have known Rabbi Orenstein personally for many years. Members of my family have worshiped at his synagogue, the Congregation Beth El in South Orange. I have worshiped with him for 35 years.

Rabbi Orenstein is going to be retiring from Congregation Beth El very shortly. He and his lovely wife Sylvia are going to be honored for their many years of service, and it is going to be done next month.

Rabbi Orenstein is a distinguished scholar. He has a master's degree in Judaica and was ordained as rabbi at the Jewish Theological Seminary of America where he also received a doctorate of divinity.

He has completed course work for a Ph.D. in linguistics at New York University. The rabbi has always inspired education and learning in his congregation and has held interesting meetings for the congregation over the years. He traveled to Russia on four separate occasions to meet and teach refuseniks.

Also, during his career, he served as a chaplain at Lackland Air Force Base in Texas and St. Alban's Naval Hospital, and he is now a chaplain for the New Jersey State police.

I have a personal message for Rabbi Orenstein, and that is, as he contemplates retirement—I speak as one who knows; I tried retirement, and I did not like it. I am not recommending anything differently for you, but I know with your active mind and your social conscience you are going to be doing lots of things that continue to benefit the community, and I expect you will be spending a lot of time with your six grandchildren. We wish all of you well.

The rabbi's daughter Debra is also a rabbi, and she serves at a synagogue in Los Angeles. She has authored a book on Jewish rituals for women. Rabbi Orenstein is justifiably proud of his family, his daughter, and his other two children, one of whom is a professor at the Law School of Indiana, and his son Raphael, who is soon to be a doctor.

I know the 575 families at Congregation Beth El will miss Rabbi Orenstein. I make the plea here: Do not take this retirement too seriously. Stay active; be available to the community. We wish you well. It has been my honor and pleasure to know you well for so many years. I look forward to our contact continuing.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey, Mr. CORZINE, is recognized.

Mr. CORZINE. Mr. President, it is also my honor to bestow my congratulations on Rabbi Orenstein for his 35 years of service to Congregation Beth

El and a lifetime of service to community and mankind.

His words this morning about love and our responsibility to our communities and attention, which is demonstrated both by his family and the Congregation Beth El, are testimony to a human being who has a heart that reflects that love in his everyday life.

Senator LAUTENBERG has gone through his resume, but the real issue of a man's life is what he has done for others, and no one has contributed more to his community or reached out to lift up his fellow man than Rabbi Orenstein.

I am honored that he was able to open this morning's session, but I am also honored to have him as a friend. Thank you very much for being here.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee.

The majority leader is recognized.

Mr. FRIST. Mr. President, I will speak on leader time.

50TH ANNIVERSARY OF THE POLIO VACCINE

Mr. FRIST. Mr. President, today marks the 50th anniversary of the introduction of the polio vaccine. On April 12, 1955, Americans across the country cheered the news that Dr. Jonas Salk and his team of researchers had developed a vaccine that was "safe, effective, and potent." One of mankind's most ancient enemies going as far back as ancient Egypt would finally be vanquished. It was truly a watershed in American history, launching an era of unprecedented vaccine development.

Today, vaccines protect children from more than 12 vaccine-preventable diseases, reducing disease rates by as much as 99 percent in the United States.

It is hard for today's generation to imagine the fear and the panic that gripped the Nation every summer in the first decades of the 20th century. Everyone was at risk—young and old, rich and poor. At the first signs of illness, swimming pools were closed and drained, movie theaters were padlocked shut, mothers cloistered their children for the duration, as everyone waited for that anxious cloud to pass.

Some polio victims died. Others were debilitated for life. The 1916 polio epidemic alone killed 6,000 Americans and paralyzed another 27,000.

Polio's most famous victim was, of course, Franklin Delano Roosevelt, who contracted the virus at the age of 39 while on vacation. As America would later learn, the disease permanently paralyzed the future President.

Even now, half of the 1 million polio survivors today suffer residual bouts of illness. Deborah Cunningham of Nashville, TN, recalls her childhood struggle with the vicious disease. It was 1951. She was only 6 years old. She had just begun the first grade when one morning she woke up with a severe headache. As she tried to walk across her bedroom to get dressed for school, she collapsed on the floor.

Her parents rushed her to the local hospital where doctors examined her. They asked her to try to lift her legs. As she told a newspaper, the Commercial Appeal: "I didn't know why they gave me such funny looks."

She thought she had done as they said but, in fact, neither of her legs moved an inch. Deborah spent the next month in isolation, unable to speak or to eat solid foods. She was then moved to a ward for children with polio for 8 months where she spent the first 3 months encased in an iron lung.

In 1946, there were 25,000 cases of polio across the country. By 1952, the annual tally had more than doubled to 58,000 new cases. Until Jonas Salk's historic breakthrough, polio was one of the most dread diseases in the world. Indeed, the development of the polio vaccine has been compared to the Moon landing.

Today, polio has been nearly eradicated from the globe. Worldwide, only six countries are still significantly afflicted. In 1988, there were 350,000 cases worldwide. In 2003, that number was down to only 784 new cases. The World Health Organization is confident they will eradicate polio from the face of the globe by the end of the year.

One gentleman who has been instrumental in the drive to eliminate polio is Tennessee's own William Sergeant, chairman of the International PolioPlus Committee. The 86-year-old has dedicated over 40 years fighting the spread of the disease. In 1998, he was the first recipient of the Hannah Neil World of Children Award.

Today, the Smithsonian's National Museum of American History will celebrate the vaccine's 50th anniversary. Dr. Salk's youngest son and FDR's granddaughter will be in attendance.

Together they will help launch the Smithsonian's monthlong exhibition on the rise and fall of polio and the heroic efforts of Dr. Salk, and people such as Mr. Sergeant who worked tirelessly to defeat the disease.

As we celebrate polio's final retreat from human history, we must be ever vigilant and aware of the new threats that are taking place today. HIV/AIDS, SARS, West Nile virus, avian flu, and most recently the Marburg virus are among the emerging dangers in the 21st century. Currently, Angola is suffering the most severe Marburg outbreak in recorded history. As of yesterday, the virus has killed 193 victims in 1 month.

Marburg, which is a variant, a cousin, of the Ebola virus, is spread by bodily fluids, by things as small as little beads of sweat. Nine out of 10 people who contract the disease die typically within a week. The virus has an incubation of 5 to 10 days. The victim then suffers a sudden onset of fever, chills, and muscle aches. These symptoms quickly escalate to nausea, vomiting, chest tightness, and abdominal pain, ultimately leading to organ failure and death. There is no cure and there is no effective vaccine.

Scientists do not know the source of the virus or how it is initially transmitted into the human population. It is one plane ride away from the United States of America. There is no cure and there is no vaccine. At this very moment, international health workers in Angola are working feverishly to contain its spread. The epidemic is expected to last up to 3 months.

Meanwhile, there is avian flu. We continue to receive disturbing reports on the avian flu outbreaks in Asia. Already 50 people have died. Experts warn that the virus may mutate into a more lethal and more transmissible form, potentially unleashing a worldwide flu epidemic. If we do not address this threat now, tens of millions of people could die as a result, and we are dangerously behind.

The flu vaccine shortage last winter underscores the fragility of our vaccine supply in this country and indeed around the world. It underscores our need to bolster Federal and State preparedness whether in the event of a bioterror attack or emerging infectious disease. We have had this discussion before. We need to take action.

There are now only five major vaccine manufacturers worldwide that have production facilities in the United States. That is for all vaccines. Only two are U.S. companies. Over the past 2 decades, the number of manufacturers that made vaccines for children has dwindled from 12 now down to 4. Only two of the four manufacturers that make lifesaving vaccines for children are in the United States of America.

Early this year, Republican leadership unveiled the Protecting America in the War on Terror Act of 2005. This legislation contains critical new provisions to strengthen our public health infrastructure, stabilize the vaccine industry, and encourage advanced research and development. It encourages the development of countermeasures against a biological, radiological, or nuclear attack as well as emerging infectious diseases. It does not address routine childhood immunizations.

This legislation incorporates recommendations from top health officials, industry experts, and infectious disease specialists. I urge my colleagues to support these long overdue measures to keep America safe.

I am gratified by my colleagues' efforts in the House to press this public safety issue. Indeed, in a few minutes the House Subcommittee on Labor, Health and Human Services, Education and Related Agencies is holding a hearing on pandemic preparedness and influenza vaccine supply. Officials from the CDC, NAID, and the Office of the Secretary of Health and Human Services will offer testimony this morning on the status of our public health security.

We cannot afford to be complacent. Experts tell us that the emergence of the worldwide flu pandemic is not a mere possibility but an all too frightening probability. Millions of lives could be lost if we fail to act. We must continue to search for preventions and cures to the new diseases on the horizon.

Most recently, thanks to the success of U.S. immunization efforts, the Centers for Disease Control and Prevention announced that rubella is no longer a major health threat in the United States. However, Dr. Julie Gerberding, director of the CDC, stresses:

> We have to remain vigilant because, as we say in public health, our network is only as strong as the weakest link . . . [We] have to sustain our commitment to immunization. We have to strengthen all of the links in the network, and we have to do everything possible to protect the health of children here within our country, as well as beyond.

We have come a long way since the famed Ernest William Goodpasture helped pioneer the development of vaccines. His work at Vanderbilt University helped create the vaccines that protect us from chickenpox, smallpox, yellow fever, typhus, Rocky Mountain fever, and many other viral diseases. I am confident that we possess the ingenuity. America has been the engine of countless lifesaving discoveries and global health efforts. Now it is time for us to demonstrate our resolve once again for the safety of our fellow citizens and millions of people around the globe.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, we have been joined this morning by the Senator from Colorado, and I yield to him such time as he may consume.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

JUDICIAL CONFIRMATION PROCESS

Mr. SALAZAR. Mr. President, I thank the great and wonderful Senator from Delaware for yielding me the time.

I rise to speak briefly about the bipartisan action taken by the Senate yesterday when it confirmed the nomination of Paul Crotty to be U.S. district judge for the southern district of New York.

I commend my colleagues for their willingness to put aside their partisan differences and to make sure that the judicial confirmation process worked in the case of Judge Crotty. I commend them for acting so obviously for the good of the American people.

Even more importantly, it is my hope that this example will prove to be an enduring one for all of us as we move forward with the subject of judicial nominations in the future. Our duty to evaluate Presidential judicial nominations and to confirm or reject nominees is a particularly solemn obligation under our Constitution. Our 871 article III Federal judges hold positions of great respect and great power. They put criminals in jail. They decide our most important private disputes and they explain what our laws mean. Our constitutional duty to evaluate judicial nominees is doubly important because judges are appointed for life. If we make a mistake, our country is stuck with a bad judge for years and sometimes decades.

On March 1, 2005, I sent a letter to President George Bush concerning judicial nominations. I respectfully suggested to the President that there are many well-qualified candidates to serve on the Federal bench, men and women who unquestionably would gain the consensus and approval of this body. The fact that the Senate reached consensus on 205 of the President's 215 judicial nominations over the past 4 years demonstrates the willingness, indeed the strong desire, of the majority and minority in the Senate to achieve this consensus.

Let me repeat that statistic one more time: 205 of the 215 nominations of President Bush have been confirmed by this body. That is a 95-percent confirmation approval rating. When there is that kind of approval of the President's nominees, this body is doing its job and not being, as some people have suggested, an obstructionist body.

Judge Crotty is an example of the way judicial nominations should be pursued in order to be successful under our Constitution. His nomination resulted first from consultations and then from an agreement among Senator SCHUMER, Governor Pataki of New York, and the White House. That kind of collaborative consensus approach to making sure there are no problems with the confirmation of judges who are nominated by the White House is exactly what ought to be pursued in other judicial vacancies that occur in our country.

Partisanship in this particular appointment played no role whatsoever, and it should play no role. Judge Crotty was a consensus choice, a nominee without extreme ideologies or any troubling factors in his background. Judge Crotty's qualifications to sit in judgment of others were apparent to all Senators, Democrats and Republicans alike.

Our duty runs to all the people of our Nation, whether they are Republicans, Democrats, Independents, or something else. At the end of the day, I plead with my colleagues in this Chamber, which has been so much a part of our constitutional history, to avoid moving forward with the so-called nuclear option that has the potential of shutting down the work of this body on behalf of the people of the United States.

At the end of the day, I suggest to the President of the United States and to our leadership in this body that there are issues which are of much greater importance for all of us to work on on behalf of the people. The people's work should be about having a national and homeland security program that works to protect our homeland and protect our Nation. The people's business should be about making sure that we pass energy legislation that addresses our overdependence on foreign oil today. The people's business should be about how we deal with the problem of health care which is strangling so many Americans and so many businesses across our country.

There are so many issues that are important to take care of the people's business that we ought not allow ourselves to get into the distractive avenue of dealing with the controversial issue of the few judges who historically have been rejected by the Senate. I suggest to all of my colleagues that it is important we move forward in the collaborative, cooperative approach that was taken in the nomination and in the confirmation of Judge Crotty to be a Federal district judge for the State of New York.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, would you inform me how much time is remaining in morning business on the Democratic side?

The ACTING PRESIDENT pro tempore. There remains 17 minutes 24 seconds.

CONSIDERATION OF TIMELY ISSUES

Mr. DURBIN. Mr. President, I rise in morning business to speak to several issues which I believe are timely in the consideration of the business of the Senate.

We are still in this national debate relative to Social Security. President Bush has proposed a plan to privatize and change Social Security, creating the possibility of so-called personal accounts. The President has taken this message on the road, saying that he would visit 60 cities in 60 days to talk about this issue. What we found is a reaction across America opposed to the President's proposal.

What we find is when the people of this country hear the details of President Bush's privatization plan, they are very skeptical. The reason is obvious. Even the President concedes that his privatization plan for Social Security will not strengthen Social Security. Today, left untouched, the Social Security Program would, for the next 36 or 37 years at a minimum, make every payment to every retiree every year with a cost-of-living increase.

If the President had his way and privatized Social Security, we have asked how much longer would the Social Security plan last. The answer is it would not only not extend the life of Social Security, it would shorten the life of Social Security because the President's plan is to reach into the Social Security trust fund to take out money that could be invested in the stock market. As you take money out of the trust fund, there is less money, obviously, to pay retirees. So the President's approach is going to weaken Social Security, not strengthen it.

Second, the President's approach involves dramatic cuts in benefits for senior citizens. If you take the money out of the Social Security trust fund, there is less to pay. The President's White House memo that was leaked a few weeks ago discloses that they would change the index by which people are paid Social Security benefits. That index decides what increase will come each year in Social Security. The President would reduce that index, so you would find in 10 or 20 years that retirees in America would get 40 percent less when it comes to their Social Security benefits. That would drive many seniors, who have paid into Social Security for a lifetime, into a position where they would be below the poverty line. So the second aspect of President Bush's privatization plan is not only that it does not strengthen Social Security, but there are dramatic benefit cuts to those who have paid a lifetime into Social Security, driving more seniors into poverty, making them vulnerable to a life that is much different than they had anticipated as they went to work every day and paid into Social Security.

The final point is one of the more important ones as well. President Bush's privatization of Social Security is going to add dramatically to America's national debt. In fact, the estimates from the President's own agencies say that this plan of his to privatize will add $2 trillion to $5 trillion to the national debt. That is a dramatic increase in the mortgage of America that our children will have to pay off. Who will hold the mortgage of America? Right now, the people holding the mortgage happen to be Japan, China, Taiwan, Korea, OPEC. So we will find ourselves more in debt to those who are financing America's national deficit, and our children will have to pay them off. We will have to dance to their tune. If they lose confidence in the American dollar, we will have to raise interest rates in order to entice them to buy our debt. Raising interest rates to lure China and Japan onto our side means raising interest rates at home.

So President Bush's privatization plan on Social Security has run into a firestorm of criticism. It is a plan which does not strengthen Social Security; it threatens massive benefit cuts and adds dramatically to our national debt.

I see my colleague from Delaware is on the floor, so I will speak very briefly.

I ask unanimous consent to have printed in the RECORD an article from the Washington Post of April 9.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 9, 2005]

AND THE VERDICT ON JUSTICE KENNEDY IS: GUILTY

(By Dana Milbank)

Supreme Court Justice Anthony M. Kennedy is a fairly accomplished jurist, but he might want to get himself a good lawyer—and perhaps a few more bodyguards.

Conservative leaders meeting in Washington yesterday for a discussion of "Remedies to Judicial Tyranny" decided that Kennedy, a Ronald Reagan appointee, should be impeached, or worse.

Phyllis Schlafly, doyenne of American conservatism, said Kennedy's opinion forbidding capital punishment for juveniles "is a good ground of impeachment." To cheers and applause from those gathered at a downtown Marriott for a conference on "Confronting the Judicial War on Faith," Schlafly said that Kennedy had not met the "good behavior" requirement for office and that "Congress ought to talk about impeachment."

Next, Michael P. Farris, chairman of the Home School Legal Defense Association, said Kennedy "should be the poster boy for impeachment" for citing international norms in his opinions. "If our congressmen and senators do not have the courage to impeach and remove from office Justice Kennedy, they ought to be impeached as well."

Not to be outdone, lawyer-author Edwin Vieira told the gathering that Kennedy should be impeached because his philosophy, evidenced in his opinion striking down an anti-sodomy statute, "upholds Marxist, Leninist, satanic principles drawn from foreign law."

Ominously, Vieira continued by saying his "bottom line" for dealing with the Supreme Court comes from Joseph Stalin. "He had a slogan, and it worked very well for him, whenever he ran into difficulty: 'no man, no problem,'" Vieira said.

The full Stalin quote, for those who don't recognize it, is "Death solves all problems: no man, no problem." Presumably, Vieira had in mind something less extreme than Stalin did and was not actually advocating violence. But then, these are scary times for the judiciary. An anti-judge furor may help confirm President Bush's judicial nominees, but it also has the potential to turn ugly.

A judge in Atlanta and the husband and mother of a judge in Chicago were murdered in recent weeks. After federal courts spurned a request from Congress to revisit the Terri Schiavo case, House Majority leader Tom Delay (R–Tex.) said that "the time will come for the men responsible for this to answer for their behavior." Sen. John Cornyn (R–Tex.) mused about how a perception that judges are making political decisions could lead people to "engage in violence."

"The people who have been speaking out on this, like Tom DeLay and Senator Cornyn, need to be backed up," Schlafly said to applause yesterday. One worker at the event wore a sticker declaring "Hooray for DeLay."

The conference was organized during the height of the Schiavo controversy by a new group, the Judeo-Christian Council for Constitutional Restoration. This was no collection of fringe characters. The two-day program listed two House members; aides to two senators; representatives from the Family Research Council and Concerned Women for America; conservative activists Alan Keyes and Morton C. Blackwell; the lawyer for Terri Schiavo's parents; Alabama's "Ten Commandments" judge, Roy Moore; and DeLay, who canceled to attend the pope's funeral.

The Schlafly session's moderator, Richard Lessner of the American Conservative Union, opened the discussion by decrying a "radical secularist relativist judiciary." It turned more harsh from there.

Schlafly called for passage of a quartet of bills in Congress that would remove courts' power to review religious displays, the Pledge of Allegiance, same-sex marriage and the Boy Scouts. Her speech brought a subtle change in the argument against the courts from emphasizing "activist" judges—it was, after all, inaction by federal judges that doomed Schiavo—to "supremacist" judges. "The Constitution is not what the Supreme Court says it is," Schlafly asserted.

Former representative William Dannemeyer (R–Calif.) followed Schlafly, saying the country's "principal problem" is not Iraq or the federal budget but whether "we as a people acknowledge that God exists."

Farris then told the crowd he is "sick and tired of having to lobby people I helped get elected." A better-educated citizenry, he said, would know that "Medicare is a bad idea" and that "Social Security is a horrible idea when run by the government." Farris said he would block judicial power by abolishing the concept of binding judicial precedents, by allowing Congress to vacate court decisions, and by impeaching judges such as Kennedy, who seems to have replaced Justice David H. Souter as the target of conservative ire. "If about 40 of them get impeached, suddenly a lot of these guys would be retiring," he said.

> Vieira, a constitutional lawyer who wrote "How to Dethrone the Imperial Judiciary," escalated the charges, saying a Politburo of "five people on the Supreme Court" has a "revolutionary agenda" rooted in foreign law and situational ethics. Vieira, his eyeglasses strapped to his head with black elastic, decried the "primordial illogic" of the courts.'
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> Invoking Stalin, Vieira delivered the "no man, no problem" line twice for emphasis. "This is not a structural problem we have; this is a problem of personnel," he said. "We are in this mess because we have the wrong people as judges."
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> A court spokeswoman declined to comment.

Mr. DURBIN. Mr. President, if you want to know the extremes which are being reached in the debate on the role of judges in America, read this article. There was a meeting in Washington, DC, of some of the more conservative groups on the Republican side. These conservative leaders met to discuss "Remedies to Judicial Tyranny."

They decided that Supreme Court Justice Anthony Kennedy—a Ronald Reagan appointee, I might add—should be impeached.

> Phyllis Schlafly [originally from my home State of Illinois] said [that Justice] Kennedy's opinion forbidding capital punishment for juveniles "is a good ground of impeachment." To cheers and applause from those gathered at a downtown Marriott for a conference on "Confronting the Judicial War on Faith," Schlafly said that Kennedy had not met the "good behavior" requirement for office and that "Congress ought to talk about impeachment."

Unfortunately, hers was not the most incendiary quote. A gentleman by the name of Edwin Vieira, a lawyer-author, the article goes on to say:

> . . . not to be outdone . . . told the gathering that Justice Kennedy should be impeached because his philosophy, evidenced in his opinion striking down an anti-sodomy statute, "upholds Marxist, Leninist, satanic principles drawn from foreign law."
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> Ominously, Vieira continued by saying his "bottom line" for dealing with the Supreme Court comes from Joseph Stalin.

I am quoting Mr. Vieira:

> He [Stalin] had a slogan, and it worked very well for him, whenever he ran into difficulty: "no man, no problem," Vieira said.

The Washington Post goes on to say:

> The full Stalin quote [this is what Stalin really said] . . . is "Death solves all problems: no man, no problem."

This type of outrageous statement from the so-called conservative Republican right is clear evidence that what we have heard from Congressman TOM DELAY in the House of Representatives, and from even Members in our own Chamber, represents a departure from the line of civility which we have refused to assault or cross when it comes to dealing with the separate branches of Government.

There is no doubt that decisions are handed down by Federal courts across America on a daily basis with which I personally disagree and find abhorrent. But to suggest retribution against judges—first from Schlafly that it should involve impeachment and then from Mr. Vieira that it should go further—suggests an assault on the independence of the judiciary about which every American should be concerned. When the men and women who don these robes for lifetime appointments have the courage to rule in cases, even in controversial cases, they should not feel they are going to be threatened on a regular basis by Members of Congress or by those in political parties who happen to see things differently.

We know how this can reach an extreme. We have seen it happen. In my home State of Illinois, the family of one of our outstanding Federal jurists was assaulted, and two of them were murdered. This type of reaction shows that when you give comfort to this crazed mindset, it can have disastrous results. The people who sponsored this conference should be embarrassed that they came together and suggested this kind of action against Federal judges.

It is time to put an end to this. We need to have an independent judiciary in touch with the ordinary lives of American citizens, in touch with the value of our families. But we always should stand and defend the independence of our judiciary and the integrity of the men and women who serve in that branch.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

THE JUDICIARY

Mr. CARPER. Mr. President, yesterday I was in my State capital, Dover, DE, before I came down here. I was a short distance from a place called the Golden Fleece Tavern. It no longer exists, but it was the site of the place where Delaware became the first State to ratify the Constitution. They did that on December 7, 1787. That action took place a couple of months after a Constitutional Convention about 75 miles up the road in Philadelphia.

Some of my colleagues may recall that one of the last issues resolved at the time of the Constitutional Convention was the question of how they were going to select these judges, the third branch of our Government. How do we select these judges? There were some at that time who were fearful of creating a Presidency that would be too strong, having had a bite of the apple of putting up with a king of England for a number of years. They did not want to create a king or someone of royalty in this country to be our leader. Our Founding Fathers worked diligently in any number of ways to create checks and balances to ensure that we didn't end up with a king but ended up with a President. Among the checks and balances they incorporated into our Constitution is one that deals with the selection of our judges. We all know how Presidents nominate and the Senate confirms or does not confirm nominees to lifetime appointments to the Federal bench.

Twice in our Nation's history we have seen instances where a President sought to stack the courts. Both were Democrats. One was Thomas Jefferson at the beginning of his second term as President, and a second was FDR at the beginning of his second term as President. Both times, both Presidents, both Democrats, were rebuffed. Today, Democrats no longer reside in the White House. Today, the Republicans are in the majority here in the Senate and in the House of Representatives.

With the election of last November, President Bush is in a position to see much—not all, but a good deal—of his legislative agenda approved; perhaps modified but ultimately approved. He is also in a position to leave an even more enduring legacy through his nomination of hundreds of judges in the Federal courts of almost every State. In President Bush's first term, he nominated over 200 men and women to the Federal bench, and 215 nominees were actually debated here on the Senate floor, and 205 were approved. That is an approval rate of about 95 percent. Of the 10 who were not approved, our side would say they were simply out of the mainstream.

As the 108th Congress concluded last year, the vacancy rate stood at the lowest, I believe, since the Reagan era. How did that compare with the Clinton era? In President Clinton's time as President for 8 years, 81 percent of his Federal nominees were approved, as compared to 95 percent of President Bush's in the last 4 years. It is kind of an irony, at least to me, that 81 percent for President Clinton was enough, it was OK, but 95 percent for President Bush is unacceptable.

While our Republican friends are prepared to change the rules of the Senate in an effort to make it a lot easier to confirm Federal judges, and are poised, I am told, to turn some 200 years of precedent on its head because 95 percent may not be enough, I think to do so would be a mistake.

We have a chance to pass not only class action legislation, but we have a chance to pass bankruptcy legislation, asbestos litigation reform, a comprehensive energy policy, restructuring of the postal system for the 21st century, and on and on. This could be the most fruitful legislative session in recent memory. I would hate to see us destroy that potential.

I say also that the slope we get on with respect to changing the way we close off debate on judicial nominations is a slippery one. Today, we may want to apply it to judicial nominations; later on we may want to apply it to nominees for Cabinet positions or nominations for other positions. It is a slippery slope.

My Republican friends would be wise to listen to former Republican Senators who served on that side of the aisle, people such as Senators Wallop, McClure, Danforth, and today Senator Dole, Robert Dole. They reminded today's Republican Senators, the majority in the Senate, that the bed we make today is one we may have to sleep in. There won't always be a Republican President. Some day there will be a Democrat President. It could be 4 years from now. There will not always be a Republican majority in the Senate. It goes back and forth.

I say to my friends on the other side of the aisle, before we go down this road, keep in mind a couple of things. No. 1, we have the potential to get so much done this year. I would hate to see us blow that opportunity.

No. 2, this is a slippery slope—a policy change that may be designed initially to make it easier to confirm judicial appointments but could easily be applied to other appointments to other positions.

No. 3, some Democrats would take some consolation in the thought that we are not going to always be in the minority, and as there was a Democrat President for the last 8 years for the last century, there will be another one in the future.

My Republican friends, be careful of the bed you make because someday you will have to chance to sleep in it.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

JUDICIAL NOMINATIONS

Mr. ALLARD. Mr. President, I rise this morning to address one of the most important obligations that we, as Members of the Senate, are bound to fulfill—the approval or disapproval of the President's judicial nominations.

Perhaps no other constitutional duty vests as much responsibility in the executive, or this body, than article II, articulating the President's power of appointment, a power that is only realized when the Constitution works as it was intended to, when we fulfill our obligation as laid out in the clause requiring this body's advice and consent.

This fundamental duty carries with it the weight and responsibility of generations, a lifetime appointment to a position that requires a deep and mature understanding of legal thought, and a solemn oath to uphold the law.

This debate is not about numbers. It is not about percentages, how many judges that Republicans confirmed or how many judges Democrats confirmed. To frame the debate as nothing but a statistical argument is to betray the American people.

We were not sent to Congress to focus on a numerical count but instead to make sure that limited government allows for opportunity and promise without stifling individual freedom and liberty.

We were sent here to build a stronger Union and to uphold our obligations under the Constitution.

The Founding Fathers referred to judges as "the guardians" of the Constitution and gave to the President the responsibility to appoint them.

Alexander Hamilton once wrote that, in order to maintain the health of the three branches of government, all possible care is requisite to enable the judiciary to defend itself.

It is frightening to think that a minority in the Senate is eroding the foundation of the third branch by perpetuating obstruction and endangering the citadels of justice.

No where does the Constitution give Congress the ability to ignore the appointment process.

By refusing to give judicial nominations an up or down vote, it is nothing more than a Congressional veto with a fancy name.

James Madison characterized the appointment of judges as the remote choice of the people.

Failure to provide an up or down vote deprives the people of the United States the choice selected by their representatives, denying choice to the very same people who elected us to office and the same people who live under the Constitution that we have sworn to protect.

The legal prowess of a nominee is obviously an important factor to consider when confirming a judge.

The Constitution calls upon the Senate collectively to determine whether or not a particular nominee is qualified to serve. This determination is made in one gesture, the approval or disapproval of the nomination itself.

In 2003 and 2004, a series of votes were held on various nominees. Some were approved, while others were denied a vote altogether, even though they were clearly supported by a majority of Senators.

Procedural processes do not fulfill the advice and consent requirement. Advice and consent does not mean avoiding the question on a judicial nominee entirely by employing a filibuster.

If a Member of the Senate disapproves of a judge, then let them vote against the nominee. But do not deprive the people of the right to support a nominee through their elected representative.

It is our vote, the right of each Member to collectively participate in a show of "advice and consent" to the President, that exercises the remote choice of the people.

The burden of obstruction is borne by the American people. Empty seats on our highest courts delays the recourse and justice guaranteed by the Constitution.

As so many of my colleagues have stated before me, such justice delayed is justice denied.

In the shadow of September 11, 2001, we now recognize the efforts being made by the enemies of the United States to destroy the liberties and freedom of our great Nation. The most basic of our country's values and traditions are under attack.

Congress responded by enacting new laws and by providing financial assistance to businesses, families and defense; we acted swiftly to suffocate terrorists and destroy the hateful organizations that work to undermine our society.

Through strong and courageous leadership, the President has stood firm against terrorist and terrorist regimes.

But our government cannot function without an equally strong judiciary, the third branch of government. It is through the judiciary that justice is served, rights protected, and that law breakers are sentenced for their crimes.

The Senate cannot willingly refuse to provide an up or down vote on judicial nominees without acknowledging that irreparable harm may be done to an equal branch of government.

Judges must take an oath to uphold the law, regardless of their personal views.

Time after time, a nomination has been blocked by a minority of Senators because they feel that they are better judges of a nominee's ability to fulfill that oath than a majority of the Senate.

The result of this obstruction is a broken nomination process.

I sincerely hope we can work through the impasse on the judicial nomination process.

I hope those opposed to the President's nominees will vote against them and speak their mind about it. But I also hope that we will be allowed to provide the guidance we are required to provide under the Constitution.

As I have said so many times before, "vote them up or vote them down, but just vote."

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I am the Senator from Tennessee, and we know something about country music in our State. There is an old country music song with the line that goes something like this: There is light at the end of the tunnel and I hope it ain't no train.

I am beginning to think it is a train and that there is not much way to avoid a train wreck. The train wreck I am talking about is a threat by the minority to "shut the Senate down in every way" if the majority adopts rules that will do what the Senate has done for 200 years, which is to vote up or down the President's appellate judicial nominees.

Until recently, not to vote at all on a President's judicial nominee was unimaginable. Take the case of Clarence Thomas in 1991: The first President Bush nominated him to the Supreme Court of the United States. I haven't seen any debate in this body with as much passion in it as the Thomas nomination. But he was nominated in July, the Senate voted in October 52 to 48, and it was done. Yet, in the last session of Congress, for some reason that escapes me, the minority felt it had to use the filibuster to deny an up-and-down vote 10 times on 52 of the President's appellate judicial nominees. That has never happened before. There are a lot of ingenious arguments being made on the other side, but that has never happened.

Some people mention Abe Fortas in 1968—I was here then; I was working for Howard Baker in the Senate. The votes against Fortas were in the majority. But even if you give that to the other side, neither party has ever used the tactic of denying an up-or-down vote on judicial nominees in 200 years.

The argument that the Senate doesn't have the power to change this procedure would get thrown out of court in a summary judgment. From 1789 when the Senate first met and adopted its rules by majority vote, it has adopted its rules by majority vote as the Constitution provides.

The nominees who the President put up who were rejected were badly abused. Charles Pickering, from Mississippi, was accused of not being sensitive to civil rights. In 1967, he put his children into desegregated schools in the middle of Mississippi. He testified in court against the grand wizard of the Ku Klux Klan, who was described by Time Magazine as the most evil terrorist in America.

Bill Pryor, not sensitive on civil rights? Too conservative? Bill Pryor was law clerk to John Minor Wisdom in New Orleans, as the Presiding Officer knows, perhaps the leading civil rights judge in the South during the 1950s, 1960s, and 1970s, and Bill Pryor has repeatedly demonstrated he can separate his views from his judicial judgments. Most recently he was part of the court—by his recess appointment—that rejected an appeal on the Terri Schiavo case. I don't know how he felt personally about it, but he felt under the law there was no recourse in Federal courts. Chairman ARLEN SPECTER has sent a certain memorandum around to Members asking us to look at Priscilla Owen's real views on Roe v. Wade. She hasn't said she wants to overturn Roe v. Wade.

The question is not whether the Senate has the power to adopt the rules by majority vote—it unquestionably does; that is common sense—but whether we should.

I am one of the Republicans who believe such a rules change is not a good idea—not good for the Senate, not for the country, not for Republicans, and not for Democrats. The Senate needs a body that by its procedures gives unusual protection to minority rights.

Tocqueville, in the early 19th century, warned of the tyranny of the majority. In South Africa we saw a political miracle when the new Black majority respected the property rights of the White minority. In 1967, when I came here—and I see the Republican whip here; he came about a year or two later—the Republicans were the ones worrying about protecting minority rights. There were 64 Democrats and 36 Republicans then. There were 38 Republicans in 1977 when I came back working with Howard Baker, and in 1979, when Senator BYRD eloquently argued the majority could make Senate rules, there were only 41 Republicans, so the Republicans were worrying about minority rights.

But minority rights can also be abused. Remember what the filibuster was used for in the 1930s, the 1940s, the 1950s, and the 1960s. The filibuster was used to deny Black Americans the right to vote. It was used to keep the poll tax. It was used to stop a Federal anti-lynching law. It was used to keep African Americans from sitting down and having lunch in Nashville. So the filibuster can also be an abuse of minority rights.

It is not my job to advise the Democrats, and I wouldn't presume to do it, but I believe it is a mistake for the Democrats to provoke a rules change, and I believe it is a bigger mistake, as they have threatened, to "shut down the Senate," when it happens. Last month, three dozen Democrats stood on the steps of the Capitol and basically threatened to do that. On December 13, in the Washington Post, the Senator from New York, Mr. SCHUMER, said that the use of the nuclear option would "make the Senate look like a banana republic . . . and cause us to try to shut it down in every way."

Consider what the Senator from New York is saying. Not only will the minority not allow a vote on judges up or down in a country where the rule of law is of paramount concern, but they will shut the Senate down in every way at a time when natural gas prices are at $7, shut the Senate down in every way at a time when oil prices and prices at the pump are at record levels, shut the Senate down in every way when there is a Federal deficit that needs to be brought under control, shut the Senate down in every way when the immigration laws need fixing, and shut the Senate down in every way while we are at war.

I don't believe the American people like the idea of Washington politicians threatening to shut the Senate down in every way. As I remember, the last prominent political leader who said something like that was my friend, Newt Gingrich, 10 years ago. It backfired, and he was out of office in about a year.

The people expect us to go do work, to do our jobs. They expect us to vote on judges, to lower natural gas prices, to reduce the deficit, to fix the immigration laws, and to win the war on terror. We cannot do it if part of the Senate wants to shut the Senate down in every way.

Our Senate leader, BILL FRIST, has been working hard to avoid this train wreck. I still hope we can avoid it. I believe my colleagues in this body know the enormous respect I have for the new Democratic leader, HARRY REID. He and I worked together on American history. I had the privilege of being with him in a delegation for 8 days in Palestine, Israel, Iraq, Kuwait, Georgia, Ukraine, and France, and not once in those 8 days did the Democratic leader undercut the policies of the President of the United States. He conveyed the U.S. position. I am not surprised by that. That is the way it should be. But I am impressed by that. I am impressed by the Democratic leader. I am convinced he and the majority leader can make this Senate do its job if given the chance.

We need to avoid this train wreck if there is a way to do it. Twice I have offered in the Senate my suggestion about how I as one Senator could do it. I said 2 years ago that I would give up my right to filibuster a President's nominee for an appellate judgeship even if it were President KERRY or President Clinton or President REID or any other Democrat. I might vote against that nominee, but I would never filibuster as long as I were a Senator.

Now, if six Democrat Senators and six Republican Senators would say the same thing, then there would be no need for a rules change, and there would be no need for a train wreck. All we need are six Democrat Senators and six Republican Senators who believe there ought to be up-or-down votes regardless of the President's party and who believe it would be wrong to shut the Senate down. The right thing to do is to have an up-or-down vote on any of the President's Federal appellate judicial nominees. That has been the way we have done it for 200 years. The wrong thing to do is to shut the Senate down in every way.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEMINT. Mr. President, I rise today to address the current institutional crisis in the Senate brought on by the insistence of a few on defeating the will of the American people in preventing the Senate from doing its job of voting on the President's nominees to the Federal bench.

We all know that the Constitution is very clear on this front. The judicial nominees are chosen solely by the President with the advice and consent of the Senate. Until President Bush was elected, no one has ever interpreted this requirement to mean anything other than a simple majority vote. The Senate has never denied an up-or-down vote to any appellate court nominee who had majority support. But the Democrats have rejected this 200-year-old Senate tradition and, with it, the very will of the American people.

The Democrats lost the election, and they seem unwilling to accept the fact. Instead, they unilaterally change the rules and politicize the judicial confirmation process. This is extreme behavior and extreme tactics—threatening to shut down the Senate if we should dare to confirm a well-qualified nominee with bipartisan majority support. This is an epitome of arrogance—assuming they know better than the majority of their colleagues and the President. The people back home want to see these nominees treated fairly and given an up-or-down vote.

Is it fair to say to nominees that they are out of the mainstream when they have the support of the Democrats and the Republicans making up the majority of the Senate? I submit it is the obstructionists who are out of the mainstream when they block an up-or-down vote on nominations of justices such as Janice Rogers Brown for years.

Extreme, arrogant, out of the mainstream—this is the anything-goes Senate Democrats who are willing to go to any length to deny exemplary judges the opportunity to dedicate their lives to service to the American people.

By trying to shred the reputation of some of the most respected and admired judges in public service in this country, a few Senators are sending a very powerful message to any others who may aspire to the bench. They are telling us, don't bother. It appears to be increasingly likely that such talent, dedication, and personal sacrifice will be rewarded with attacks on the floor of the Senate and years of uncertainty while a bipartisan majority waits powerless to confirm these nominees.

I call for a return to tradition. The American people have done their jobs and expect us to do the same. We in the Senate need to do our jobs and confirm fair judges through a fair process.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

50TH ANNIVERSARY OF POLIO VACCINE

Mr. McCONNELL. Mr. President, today we celebrate the 50th anniversary of the polio vaccine. The people of my generation, who were youngsters at that time, remember full well the exciting development. Now polio is virtually eradicated.

The Committee on Foreign Operations, which I have had the privilege to either chair or be ranking member for the last decade or so, has appropriated about $160 million toward that fight over the last 6 years.

Of course, the Rotary International, a private organization, deserves the lion's share of the credit for almost total eradication of polio. This private civic group with international chapters made this a project some 20 years ago and have collected and spent about $600 million and delivered the vaccine in all parts of the world. So because of this, today we can celebrate, essentially, the complete eradication of this disease from the Earth. Rotary deserves a big part of the credit for that.

I rise to talk about this for another reason. It had an enormous impact on me personally. I was struck with polio when I was 2 years old. My dad was overseas fighting in World War II. Polio was similar to having the flu—you felt sick all over. Except when polio went away there were residual effects. In my case, when my flu-like symptoms went away, I had a quadricep in my left leg that was dramatically affected.

My mother was, of course, like many mothers of young polio victims, perplexed about what to do, anxious about whether I would be disabled for the rest of my life. But we were fortunate. While my dad was overseas my mother was living with her sister in east central Alabama, only about 40 or 50 miles from Warm Springs. As everyone knows, President Roosevelt established Warm Springs, where he went to engage in his own physical therapy, as a center to treat other polio victims. So my mother was able to put me in the car, go over to Warm Springs, and actually learn, from those marvelous physical therapists who were there, what to do.

They told my mother she needed to keep me from walking. Now, imagine this. You are the mother of a 2-year-old boy. And we all know how anxious little boys are to get up and get around and get into trouble. So my mother convinced me that I could walk, but I couldn't walk—a pretty subtle concept to try to convey to a 2-year-old. In other words, she wanted me to think I could walk, but she wanted me to also understand I should not walk.

Now, obviously, the only way to enforce that with a 2-year-old is to watch them like a hawk all the time. So I was under intense observation by my mother for 2 years. She administered this physical therapy regiment at least three times a day—all of this really before my recollection. But we now know the things that happened to us in the first 5 years of our lives have an enormous impact on us for the rest of our lives.

So this example of incredible discipline that she was teaching me during this period I always felt had an impact on the rest of my life in terms of whatever discipline I may have been able to bring to bear on things I have been involved in. I really have felt my mother taught me that before I was even old enough to remember.

So this went on for 2 years. My first memory in life was stopping at a shoe store in LaGrange, GA. We had left Warm Springs for the last time, and the physical therapist there had told my mother: Your son can walk now. We think he is going to have a normal childhood and a normal life. We stopped at a shoe store in LaGrange, GA, and bought a pair of saddle oxfords, which are low-top shoes—my first recollection in life.

Thanks to my mother, I had a normal childhood. I was not able to run all that well, but I played baseball and have had a normal life. The only impact of that early childhood experience with polio is that I have a little difficulty going down stairs. Most people do not want to go up stairs and do not mind walking down stairs. I like to walk up stairs and take an elevator down because an effected quadricep impacts your ability to descend stairs.

So I am particularly moved by the fact that we can stand here today and say that polio is essentially eradicated from the face of the Earth. When I was a youngster, the fear of polio was enormous. Mothers, every summer, lived in fear that their children would come down with polio, and many did, many died. Many had much more serious aftereffects than I did, certainly.

But it is with great gratitude that I commend Rotary International today for this extraordinary accomplishment of getting this vaccine out all over the world so that we can essentially say, in 2005, that polio has been eradicated from the face of the Earth.

Mr. President, I ask unanimous consent that an article from the Wall Street Journal entitled "Polio and Rotary" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 12, 2005]

POLIO AND ROTARY

Today marks the 50th anniversary of the Salk polio vaccine. Poliomyelitis, also known as infantile paralysis, used to be one of childhood's most feared diseases. A few years after Dr. Jonas Salk announced his vaccine on April 12, 1955, nearly every child in the U.S. was protected. Today polio has disappeared from the Americas, Europe and the Western Pacific and is nearly gone from the rest of the world.

A too-little known part of this feat is the role played by Rotary, the international businessman's club, which 20 years ago adopted the goal of wiping out the disease. Rotary understood that medical breakthroughs are worthless unless people aren't afraid to immunize their children and efficient delivery systems exist to get the vaccine to them. And so it mobilized its members in 30,100 clubs in 166 countries to make it happen.

In 1985, when Rotary launched its eradication program, there were an estimated 350,000 new cases of polio in 125 countries. Last year, 1,263 cases were reported. More than one million Rotary members have volunteered their time or donated money to immunize two billion children in 122 countries. In 1988, Rotary money and its example were the catalyst for a global eradication drive joined by the World Health Organization, Unicef and the U.S. Centers for Disease Control. In 2000 Rotary teamed up with the United Nations Foundation to raise $100 million in private money for the program. By the time the world is certified as polio-free—probably in 2008—Rotary will have contributed $600 million to its eradication effort.

An economist of our acquaintance calls Rotary's effort the most successful private health-care initiative ever. A vaccine-company CEO recently volunteered to us that the work of Rotary and the Gates Foundation, both private groups, has been more effective than any government in promoting vaccines to save lives. It's become fashionable in some quarters to deride civic volunteerism, but Rotary's unsung polio effort deserves the Nobel Peace Prize.

Mr. McCONNELL. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Arizona.

Mr. KYL. Mr. President, as was just indicated, we are now back on the supplemental appropriations bill, which is critical to the funding of our effort to continue our activities in Iraq and Afghanistan and elsewhere around the world.

One of the reasons Senator CORNYN and I want to speak for a few minutes this morning is to make the point that we very much hope our colleagues will join with us in ensuring the quick passage of this bill so we can get on with that effort and then move to other business.

There has been a suggestion that amendments might be offered to the bill that do not relate to the funding of the war effort. For example, some of our colleagues have talked about offering amendments that relate to the subject of immigration. Now, that subject is one we are going to have to debate this year, and we are going to have to consider legislation very seriously later on this year, but our view is that it would be inappropriate to consider that legislation in the context of this supplemental appropriations bill.

We are aware of the fact there was a provision in the House bill that related to driver's license standards and asylum, but those are matters that relate more to terrorist activities than our immigration laws, as they pertain to illegal immigration. Therefore, our view is that we would refrain from offering amendments of that kind and would hope our colleagues would as well.

We would hope, by indicating what we plan to do, that our colleagues would appreciate our commitment—that is to say, Senator CORNYN and myself—to seeing that the issue of illegal immigration generally and immigration reform specifically will, in fact, be considered by the Senate a little bit later on this year.

It is our intention to introduce legislation and to work through the amendment process, perhaps before that, to ensure that we are doing everything we can in the Congress to ensure our borders are secure, that we have adequate law enforcement both at the borders and in the interior of the country, and that we, therefore, create the precondition for the consideration of immigration reform, which is that we do have a commitment to enforce the law and abide by the rule of law in this country.

There is one thing I think almost everybody interested in the immigration debate will agree on, and that is that we have a broken legal system right now. Employers pretend they are not employing illegal immigrants, but they know they are, and they have documents the Government has called for. The Government pretends to enforce the law, but it knows the documents, in many cases, are counterfeit.

The industry will very candidly tell you they do not know what they would do without the illegal employment they have today. So they are putting pressure on some of our Members to come forward with legislation to create a legal regime for these employees and, indeed, there should be.

We should get to the point where nobody in this country hires illegal immigrants anymore. To do that, we are going to have to demonstrate a couple things. The first is that we are committed to enforcing such a law, because our constituents rightly tell us: Why should we consider immigration reform—temporary worker reform, for example—if we don't think it is going to be enforced? You are not enforcing the law today. What makes us think you are going to enforce the law in the future?

It is a good question. We have to be able to answer that question in the affirmative and say we are committed to enforcing the law. It begins with enforcement at the border, and it goes right on through with the rest of the law that makes it illegal to hire illegal immigrants. Those laws do need to be adequately enforced.

If we could commit ourselves to do that, then I believe we could lay the foundation for successfully getting legislation to provide some kind of guest worker or temporary worker program that will both liberalize the ability of employers to bring legal immigrants into this country to work for them on a temporary basis and also deal with the 10 to 15 million—nobody knows exactly how many for sure—illegal immigrants who exist in the country today. Many of those people work hard. They come to work here. They intend only to send money back to their relatives in Central America or Mexico or wherever they came from. Many of them are, indeed, needed in our workforce. But we cannot condone a situation in which they are working illegally. So we have to come up with a structure that would permit us to take advantage of their desire to work here, but to do so in a legal construct and not to reward them with any kind of amnesty.

The specifics of doing that have been discussed a little bit by the President of the United States, who laid out some principles for a guest worker program, as he calls it. What Senator CORNYN and I are here to talk about today is the fact that we are working on legislation to try to embody many of the principles the President has laid out to create a legal mechanism by which we can meet our workforce needs in this country but to do so all within the rule of law, where the law will be strictly enforced, there will be no more hiring of illegal immigrants, and therefore we remove the magnet which currently exists which draws illegal immigrants into our country because they can be employed easily.

So we remove that magnet, but we do so in a way that does not reward the lawbreakers, the people who come here illegally and use illegal documentation to obtain employment and, in many cases, are creating a drain on society, and ensure they are not rewarded for their illegal behavior by amnesty, which I think most people would agree, at a minimum, means they would not be granted a path to citizenship or be able to chain migrate their family into the country ahead of those who want to do so legally; meaning, specifically, that, of course, anyone who wanted to do that could get in line in their country of origin with a worker sponsor for legal, permanent residency or green card status. If they acquired that status, then there are other things that flow from that, such as the ability to apply for citizenship. But that should only come as a result of going home, being there, and getting in line with everybody else. It certainly should not be granted to people who came here illegally and would be permitted to stay here while that status was pending. That is the kind of thing we mean by saying no amnesty.

But at the end of the day, I think President Bush is right, that we have to come to grips with this problem. We have to find a way, as he said, to match willing workers with willing employers but to do so strictly in the confines of a legal regime. What Senator CORNYN and I have been working on for several weeks now is a bill we hope would embody many of those principles. It is not going to track exactly what the President has proposed. I would also say the President has not gotten real specific about several areas, and we are going to have to fill in a lot of those blanks.

We will talk to our colleagues, and we will talk to the various groups that are involved in this issue to see what their ideas are about how best to make this work. But the bottom line so far as we are concerned is, if we do this, we have to be able to commit to the American people that since we now have a legal and relatively easy mechanism for filling the workforce needs here in our country, we are not going to condone any illegal employment in this country. If we establish that principle, we then help to remove that magnet which is drawing so many illegal immigrants to the United States.

Just to conclude with this point. I mentioned the fact we would be introducing legislation, which we intend to do. But there are also opportunities for us to demonstrate this commitment to enforcing the law. Let me mention a few of those. In whatever way we can accomplish this, whether it be before the introduction of such legislation or in conjunction therewith, we intend to move forward.

The intelligence reform bill of last year authorized 2,000 new Border Patrol agents each year for 5 years, but we do not have enough money in the budget for any more than about a tenth of that number.

Currently, there are about 11,000 Border Patrol agents. A pre-9/11 study conducted by the University of Texas said we needed at least 16,000 Border Patrol agents on our southern border alone in order to secure the border. So we clearly have to fund the addition of more Border Patrol agents. Authorized in the intelligence bill as well were 800 additional Immigration and Customs Enforcement investigators, again for a 5-year period, an additional 800 Customs/Border Protection inspectors at our Nation's ports, 8,000 new detention bed spaces, and some other requirements that all follow if we are going to enforce the law.

We need to fund these programs to demonstrate our commitment to the law. We also need to reimburse the States for their incarceration of illegal immigrants in prisons. The so-called SCAAP funding accomplishes that. It is the State Criminal Alien Assistance Program. But there was not any money in the budget this year, and it needs to be at least $750 million. We need to do some other work to ensure that States do not bear the costs of the Federal Government's failure to enforce the Federal law.

There are a lot of things that have to be done. The point we are making is, one, this is complicated. It is big. It has to be done. It should not be attempted on a bill which we have to get passed quickly to ensure funding for our troops in Iraq and Afghanistan and elsewhere. This is a debate we can have in the future, and I am assuring our colleagues we are moving the process forward. I chair the Terrorism and Homeland Security Subcommittee of the Judiciary Committee. My colleague, JOHN CORNYN, chairs the Immigration Subcommittee. We intend to try to move this legislation through the Judiciary Committee as a matter of regular order as soon as we can get our legislation complete.

My colleague from Texas wants to make a presentation regarding this same subject.

The PRESIDING OFFICER. Who seeks time?

The Senator from Texas.

Mr. CORNYN. Mr. President, I want to follow on the comments of Senator KYL because we are working together on this important legislation, what we hope and expect will be comprehensive immigration reform. The message both of us would like to convey is that this is a complex topic. It can't be accomplished this week, especially not on supplemental appropriations designed to make sure our troops have the equipment and resources they need to fight the global war on terrorism.

Let me give a little background to explain my perspective. It tracks closely with what Senator KYL has already said.

Our Nation's immigration system is badly broken. It leaves our borders unprotected, threatens our national security, and makes a mockery of the rule of law. We have failed to enforce our laws and to protect our borders for far too long through years of neglect. In a post-9/11 world, we simply cannot tolerate this situation any longer. National security demands a comprehensive solution to our immigration problem.

Senator KYL and I have determined that we would work together. We have a particular interest, being Senators from two border States along the southern border where the illegal immigration is perhaps the most rampant. We also want to come up with a plan that addresses not only our national security but deals with the economic issues that are integrally intertwined with this complex issue in a way that is compassionate and deals with the very real human consequences and causes for illegal immigration.

We are undertaking a thorough review of our immigration laws as we speak. At the conclusion of our discussions, Senator KYL and I plan to introduce a comprehensive immigration reform bill that will dramatically strengthen enforcement, bolster border security, and comprehensively reform our laws. I particularly am glad to be working with Senator KYL. He chairs the Subcommittee on Terrorism, Technology, and Homeland Security, and I chair the Judiciary Subcommittee on Immigration, Border Security, and Citizenship. We have already had our first hearing, a joint hearing, on border security. The second one, this Thursday, will focus on interior enforcement, or maybe I should say interior nonenforcement, when it comes to our immigration laws.

In the past, we have simply not devoted the funds, the resources, or the manpower to properly enforce our immigration laws and protect our borders. That must change. If we have anything to do with it, it will change.

Let me put the matter as clearly and explicitly as I possibly can. No discussion of comprehensive immigration reform is possible without a clear commitment to, and a dramatic elevation in, our efforts to enforce the law. That includes enforcement both at the border and within the interior. We must have strong border protection between ports of entry and a strong employee verification system to put an end to the jobs magnet for illegal entry.

Our immigration laws also present substantial difficulties to our already overburdened law enforcement and border security officials, separate and apart from inadequate funding and resources. It is my belief these difficulties simply cannot be solved by additional funding and additional resources alone, as important as they are. After all, under our current immigration laws, literally millions of people enter this country outside of legal channels to hold jobs that are offered by American businesses and are needed to ensure American economic growth. There is a serious concern that some fraction of this population may harbor evil impulses toward our country. Yet it is a practical impossibility to separate the well meaning from the ill-intentioned.

Put simply, we must focus our scarce resources on the highest risks to our country and our national security. We need our law enforcement and border security officials to spend their highest energies on people who wish to do us harm rather than those who wish only to help themselves and their families through work. Our comprehensive immigration proposal will strengthen enforcement of the law, but it will also provide laws that are capable of strong enforcement.

We agree with the President's stated principles. They are, however, just principles, and certainly he understands and looks to the Congress to come up with the specifics in the form of legislation. Such laws can be designed in a way to be compassionate and humane. Above all, they must be designed to protect U.S. sovereignty and to further U.S. interests. They must be reformed to better serve our national security and our national economy. They must ensure respect for the rule of law and not permit undocumented workers to gain an advantage over those who have followed the rules.

In the coming months we will craft a proposal that implements all those objectives, and we welcome the coming debate as well as the input and the opportunity to work with our colleagues in the Senate.

Finally, we speak today as the Senate is about to begin debate on a supplemental appropriations bill. Congress should not delay enactment of critical appropriations necessary to ensure the well-being of our men and women in uniform fighting in Iraq and elsewhere around the world. Attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending in the Senate would do just that—it would unnecessarily and inappropriately delay getting those funds to our troops who need them. Our immigration system is badly broken and fails to serve the interests of our national security and our national economy and undermines respect for the rule of law.

To solve that problem, Congress must engage in a careful and deliberate discussion about the need to bolster enforcement of and to comprehensively reform our immigration laws. We should not short-circuit that discussion by enacting legislation outside of the regular order of business in the House and the Senate. I hope we will enact this supplemental appropriations bill soon. Once that process is completed, I will continue to work closely with Senator KYL and any other Member of this body who has a good idea to contribute to enact comprehensive immigration reform that is in the best interests of our Nation.

I yield the floor.

AMENDMENT NO. 344

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. AKAKA, Mr. BYRD, Mrs. BOXER, Mr. BINGAMAN, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. JEFFORDS, Mr. SALAZAR, and Mr. DAYTON, proposes an amendment numbered 344.

Mrs. MURRAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide $1,975,183,000 for medical care for veterans)

On page 188, after line 20, add the following:

CHAPTER 5

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For necessary expenses for furnishing, as authorized by law, outpatient and inpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans as described in paragraphs (1) through (8) of section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the department and including medical supplies and equipment and salaries and expenses of health-care employees hired under title 38, United States Code, and to aid State homes as authorized under section 1741 of title 38, United States Code; $1,975,183,000 plus reimbursements: *Provided*, That of the amount under this heading, $610,183,000 shall be available to address the needs of servicemembers deployed for Operation Iraqi Freedom and Operation Enduring Freedom; *Provided further*, That of the amount under this heading, $840,000,000 shall be available, in equal amounts of $40,000,000, for each Veterans Integrated Service Network (VISN) to meet current and pending care and treatment requirements: *Provided further*, That of the amount under this heading, $525,000,000 shall be available for mental health care and treatment, including increased funding for centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code (commonly referred to as "Vet Centers"), increased funding for post traumatic stress disorder (PTSD) programs, funding for the provision of primary care consultations for mental health, funding for the provision of mental health counseling in Community Based Outreach Centers (CBOCs), and funding to facilitate the provision of mental health services by Department of Veterans Affairs facilities that do not currently provide such services: *Provided further*, That the amount under this heading shall remain available until expended.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add as cosponsors Senators AKAKA, BYRD, BOXER, BINGAMAN, ROCKEFELLER, MIKULSKI, JEFFORDS, SALAZAR, and DAYTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, today in Iraq and in Afghanistan, our men and women in uniform are making great sacrifices to serve our country. Last month I had the opportunity to meet with some of them in Baghdad and in Kuwait and all of us can be very proud of their service. Every person I met with was a dedicated professional who was putting their duty above their personal well-being.

Today, I am very concerned that when all of these new veterans come home and need medical care, they are going to be pushed into a veterans health care system that does not have the medical staff, the facilities, or the funding to take care of them.

There is a train wreck coming in veterans health care. I am offering an amendment to deal with this emergency now before it turns into a crisis. The VA health care system is overcrowded. It is underfunded. It is understaffed. It is struggling to deal with existing veterans. I fear what will happen when tens of thousands of our new veterans are added to this already strained system.

As Americans, we make a promise to those who join our military that we will take care of them when they come home. It is a promise all of us have to work together to keep, and that is why I am on the Senate floor today. This is not a Democratic issue. It is not a Republican issue. This is an American issue. I am willing to work with anyone to make sure all of our veterans get the health care they are promised.

I appreciate the leadership of many Senators, especially Senator CRAIG who chairs the Senate Veterans' Affairs Committee on which I serve. I thank Senator HUTCHISON of Texas who chairs the committee that funds veterans health care. I truly appreciate their commitment to our veterans. I look forward to working with them, and I will work with many others to make sure we are doing everything we need to do to prepare for the influx of many new veterans.

With Senator AKAKA and others, I am offering a veterans health care amendment to this emergency supplemental. Our amendment recognizes that caring for our veterans is part of the cost of war. This is being offered on the emergency supplemental because our amendment recognizes that caring for our veterans is a part of the cost of war.

Our amendment does three things: First, it makes sure all soldiers who need health care when they return home from Operation Enduring Freedom and Operation Iraqi Freedom can get that health care. To do that, this amendment provides $610 million. Second, it provides funding for mental health care for our newest veterans. Specifically, it provides $525 million for expanded mental health services, including $150 million to treat post-traumatic stress disorder for counseling, as well as family therapy. Third, the amendment helps address the shortfalls that are crippling our regional VA networks. It provides $40 million to each and every VISN, Veterans' Integrated Service Network.

This chart shows the 21 regional health networks. For each region, our amendment provides $40 million to spend on their priorities. For some areas it is going to mean erasing big deficits. For others it will help them hire more medical staff. In other parts of the country they will use it to buy medical equipment. That flexible funding that each VISN gets will allow each region to prepare their staff and facilities for our newest veterans. It will put a total of $840 million where these local communities need it the most.

In short, this amendment will ensure that we can handle the health care needs of all the veterans who will seek care after serving our country in Operation Iraqi Freedom and Operation Enduring Freedom.

The total cost of the amendment is $1.98 billion. Let me explain how we arrived at that figure. First, we looked at the number of new veterans who will return to the VA for care. We multiplied that by the average cost per patient and added the cost of reversing the deficits that are today facing our VA hospitals and the cost of meeting increased mental health care needs that everyone assures us we are facing.

Some Senators may wonder if this is the appropriate vehicle to fund veterans health care, so let me talk about that for a minute.

I would have preferred to fund this critical need in the regular budget process. I tried to do it several times last month in the Budget Committee and on the floor with Senator AKAKA. Unfortunately, our amendments were voted down. But the need is not going away. The shortfalls are only going to get worse. So if we are not going to take care of our veterans from Iraq in the regular budget, then we have to take care of them in the bill that funds our war efforts. This is the appropriate bill because the veterans health care train wreck is an emergency, and because caring for our veterans is part of the cost of war.

As I have been talking about this amendment and discussing it with our veterans, I have been pleased by the support it has received. This amendment is supported by the Veterans of Foreign Wars, AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and it is supported by the VA workers who care for our veterans, represented by the American Federation of Government Employees, AFL–CIO. I thank all of these organizations and their members for supporting my amendment and reaching out to their Senators to call for its passage.

Before I go any further, I want to note that veterans health care is a very personal issue for me. My father was a disabled World War II veteran. I grew up knowing the sacrifices that our veterans make. When I was in college, I interned in our VA hospital in Seattle during the Vietnam war, and I saw how important the services were to our soldiers who were returning. I became the first woman to serve on the Senate Veterans Affairs Committee. I know what the costs are and I know what the challenges are.

The VA provides some of the best care, research, and treatment anywhere. Our VA employees have a unique understanding of the challenges that our veterans face when they return, and their dedication is unmatched. Like them, I want to make sure this system works for every veteran of every war and every generation.

I will share some specific examples from throughout our country that illustrate the emergency in veterans health care today. These examples didn't come from me. They came from people who know our VA facilities firsthand. A couple days ago, I posted a form on my Web site, murray.senate.gov, where veterans and their advocates can share their stories and examples with me. I have been heartened with the things people have shared. I invite other veterans to share their stories with me and with their own Senators.

For anyone who thinks this is not an emergency or it doesn't merit emergency funding, I invite you to listen very closely. I am going to talk about different places, but the overall problem is the same everywhere.

For years, VA funding has not kept up with the growing demand for care and with the rising costs of health care. So VA networks around our country have held off making improvements. When a doctor or nurse left, they were not replaced. When equipment needed to be purchased, it was put on hold. When a clinic needed to be opened, it was held in limbo. When there wasn't enough money in the operating budget, they started taking money from their capital budget.

Now all those years of chronic underfunding are coming back to roost at the worst possible time, as we are about to have a major influx of new veterans, men and women serving honorably in Iraq and Afghanistan today, when they are returning, our VA facilities across the country are facing deficits, staff shortages, and inadequate facilities.

Let me give a couple of examples that have been shared with me.

In Alaska, as of yesterday, they are starting a waiting list for nonemergency care for all new priority 7 veterans who are not enrolled in VA primary care. That means those people cannot get an appointment to even see a doctor.

In Colorado, the Eastern Colorado Health Care System is $7.25 million short this year.

In California, last year, the VA hospital there in Los Angeles closed its psychiatric emergency room.

In Florida, the VISN 8 facilities were facing a $150 million deficit earlier this year. West Palm Beach Medical Center has a deficit alone of $6 million.

In Idaho, at the VA in Boise, they are resorting to hiring freezes when we have soldiers coming home.

In Kentucky, veterans at the Louisville hospital, who are having a type of bladder examination, have to lie on a broken table because there is no money to replace that broken equipment.

In Maine, the Togus VA has a $12 million deficit.

In Minnesota, at the Minneapolis VA, they have a $7 million shortfall. They have one of the VA's four sites for dealing with veterans with complex, multiple injuries but they are not hiring anymore staff for that specialized center because of the deficit.

All of us who have visited our returning soldiers at Walter Reed or Bethesda know many of them are returning with these kinds of injuries that need to be treated at hospitals such as the one in Minneapolis.

In Missouri, at the Kansas City VA Medical Center, they have a $10 million operating deficit. I am also told that in Missouri there are not enough doctors and providers to see all the veterans. If a veteran is less than 50-percent service-connected disabled, he or she is put on a waiting list.

In South Dakota, they are expecting to be $7 million in the red by the end of this fiscal year. The VA is proposing to save $2 million by not filling staff vacancies. I am told, in fact, they need 58 new beds, and that some of the bedframes in that facility are held together with duct tape and wire. So because of the deficits they cannot even buy new beds. That is unacceptable for our veterans who have served this country.

I am also told that the Black Hills Health Care System is $3 million in the hole. They have had to use the capital budget to pay staff and other expenses.

In Texas, at the Temple, Texas, VA, nurses in inpatient care are working 16-hour days several times a week because there is not enough staff. We know that nurses providing direct care should only be working 12-hour days, because longer shifts lead to medical errors and unsafe care. This is not a way to treat our veterans who are returning.

In Virginia, as of January 1, I understand that Virginia had a budget shortfall of $14.5 million.

In my home State of Washington, we have problems, too. In Tacoma, at the American Lake VA, you can only get an appointment if you are 50-percent or more service-connected disabled. That is not the promise we made to the men and women who serve our country.

In Puget Sound, as of January, there was an $11 million deficit. At the Seattle and American Lake VA they are leaving vacant positions unfilled. There are about 16 new vacancies every month and those positions are remaining empty. They hope to reduce the workforce by 160 full-time equivalents by the end of this fiscal year.

This is having a huge impact on our patients. As of this month, the next appointment at the Seattle VA urology clinic is not available until August. I can tell you that conditions like these are breaking the hearts of our VA personnel who work day in and day out with the men and women who have served this country. They are frustrated at seeing so many veterans not get the care they have earned. Why? Because Congress is not providing the money.

I share these examples not to criticize or cast blame. We have problems such as this in my State as well, as I have talked about. I share these examples because we have to look at what is happening and realize that our VA system is not prepared to handle a new generation of veterans. All of these examples, from more than a dozen States, point to one conclusion: The VA is having trouble taking care of the patients it has today. It is certainly not prepared to handle a new influx of veterans from Iraq and Afghanistan.

Many of these VA centers are in the hole for millions of dollars. They are not in a position today to begin expanding care to meet the growing need. They cannot do it alone. We have to step in and help them.

Before I close, I want to talk about one claim we made here during this debate. Some Senators have suggested that the VA doesn't need any additional funding because it has some kind of reserve for $500 million. I was troubled by the idea that the VA has extra money it is not using while so many communities are struggling, so at a hearing last week of the Senate Veterans' Affairs Committee I got to the bottom of it. I wanted to share this chart with colleagues.

At our hearing on April 7, I asked Acting Under Secretary for Veterans Health Care Dr. Jonathan Perlin:

> Is there a $500 million reserve?

Dr. Perlin's reply was:

> No . . . I don't know where that might have been suggested, but there is no $500 million reserve that is sitting there for future projects.

I share that with my colleagues to set the record straight. The VA is not sitting on any type of reserve it can use for medical care. That comes straight from the man who runs the program nationwide. We have VA centers that are struggling in every part of our country. They cannot deal with the caseload they have today. How in the world are they going to deal with all of the new veterans who are coming home from Iraq and Afghanistan?

We cannot kick this down the road any longer. It is an emergency today and if we do not deal with it now, it is going to be a crisis tomorrow. This is not a partisan issue; it is an American issue. It is about whether we keep the promise to the men and women we send to serve us overseas.

I am willing to work with anyone who wants to make sure our country is prepared to care for all of the veterans who will be coming home soon. They were there for us. We need to be there for them now. I urge my colleagues to support this veterans health amendment. If you are concerned about this—perhaps I mentioned your State or you have heard from your own veterans—let's talk about it and find a way to make it work.

No matter what party you are in, we are all Americans first. We all have an obligation, as President Lincoln said, "to care for him who shall have borne the battle, and for his widow, and for his orphan."

We need to pass a veterans health amendment and keep this promise to America's veterans. This amendment is the last opportunity we will have to make sure our veterans—the men and women serving us—are taken care of when they return home.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise today with my friend Senator MURRAY to offer an amendment to address the cost of providing health care to troops serving in Iraq and Afghanistan. She has made an excellent statement about what we are facing in the country and the shortfalls we have. She has taken the leadership on this and I am supporting her. We hope we will be able to continue to help our veterans with their health care.

Following the 1991 Gulf war, returning servicemembers began to report unexplained illnesses and ailments that many linked to their service. Only those who had been granted a claim for a service-connected disability or demonstrated a financial need could turn to VA for health care services at that time. Reservists and Guard members were particularly vulnerable as military health care is lost after separation from service.

Back in 1998, this very body voted unanimously to ensure that no combat veteran would be caught up in stringent eligibility rules and be denied treatment. Today, any servicemember who participates in the theater of combat is eligible for free VA health care for 2 full years after separation or release from active duty, without regard for strict eligibility rules.

This benefit is more important than ever, especially to Reservists and Guard members. Experts calculate that about 40 percent of the lower enlisted grades in these services do not have any kind of health insurance. Because TRICARE eligibility is lost after separation or deactivation, VA is the only place many of these service members can turn.

My colleagues in the Senate have already recognized the need to provide funds that would allow VA to absorb an influx of new patients from Operations Iraqi and Enduring Freedom. In 2003, $175 million was added for VA to the supplemental appropriations bill. I point out that this amount was provided only 1 month after the war in Iraq began and before we knew about the level of troop commitment.

This amendment we offer today allows VA to provide care for returning troops, without displacing those veterans currently using the system. We are now 2 years into this conflict, and VA has already begun to see real impact. Last year, VA spent $63 million on returning veterans. Using data from the first quarter, VA will spend an unbudgeted $120 million this year. Yet, the lion's share of our troops have not yet returned home, are rehabilitating in the DoD health care system, or are pending separation.

The amount of this amendment, $1.9 billion, is drawn from what we know about past use of the VA health care system, coupled with what we know to be the cost associated with shoring up the system for all veterans.

This is what we know: VA tells us that 20 percent of returning service members are now turning to VA for care. Using this figure and VA's costs, we know that $600 million in additional funding will be needed for returning service members alone.

We also know that right now VA hospitals are running deficits of about $40 million per each health care network. Let me share some specifics:

Outpatient clinics have stopped seeing even the poorest of patients, sending them hundreds of miles away to other facilities. The Townsend, MA, clinic is only seeing a tiny percent of those who need care.

In Network 20, which serves the Northwest and Alaska, we have now seen the beginnings of what could very well become a nationwide trend. Priority 7 veterans, who often make as little as $26,000 a year, are being denied care, as the Network is running about a $40 million deficit.

Veterans in need of treatment for PTSD or addiction treatment will have one less place to go due to the VA budget. The Psychiatric rehabilitation program at the Chillicothe VA hospital is being shut down.

Thirty nursing home beds at the VA hospital in Manchester, NH, will not be opening. VA officials expect to save $1.3 million by not opening these beds.

As my good friend Senator COLLINS has pointed out, the hospital in Togus, ME, is operating under a $14.2 million deficit. This Maine facility has a hiring freeze and cannot replace equipment.

The Kansas City VA Hospital is short-staffed because they are already $10 million in the hole. The Denver VA Hospital and its affiliated clinics are $7.25 million short. The Maryland Health Care System is $14.5 million in the red already this year. The list goes on and on.

The network that serves Minnesota, Nebraska, Iowa, North Dakota, and South Dakota is facing an overall shortfall of $61 million. South Dakota's facilities are $2.4 million short right now; Minnesota's are $25 million short; and Iowa's hospitals are at least $14 million short of what is currently needed. Bed frames are being held together by duct tape in some facilities, and cleaning staff cannot be hired to keep the facilities sanitary for patients. Health care provider positions also remain open, resulting in shortages of doctors, nurses and medical technicians, to name a few.

Furthermore, Florida's facilities are $150 million in the red. And again, this has resulted in key health care specialist positions going unfilled. In a region where so many veterans and active duty service members reside, a shortfall of this magnitude is shameful.

This trend towards hiring freezes and under-staffing of vital health care programs and services is one that is of great concern to me. I know that the American Federation of Government Employees is also very concerned about the measures being taken by many facilities to compensate for the numerous shortfalls around the country, and I commend AFGE for its support of this amendment.

It will be impossible for VA to care for returning veterans in the midst of this kind of situation. As my colleagues can see, the amount we are asking for today is actually modest when compared to the very real deficits some parts of the country are being forced to deal with. While we know that many Members of this body have worked to see that their VA facilities remain in good condition, we must do more to ensure quality of care throughout the entire VA system.

We also know that VA mental health must be improved if we are to meet the needs of returning service members. Experts predict that as many as 30 percent may need psychiatric care when they come home. Yet, we are told that the system is nowhere near ready to handle this type of workload. Steady budget cuts over the years have diminished VA mental health care capacity.

GAO recently found that VA has lagged in the implementation of recommendations made by its own advisory committee on post-traumatic stress disorder to improve treatment of veterans who suffer from this very serious mental illness. Furthermore, GAO concluded that it is questionable as to whether or not VA can keep pace with the demand for mental health treatment from veterans of Operations Iraqi and Enduring Freedom.

While veterans' clinics now dot the landscape, they do not have the ability to meet mental health needs. Vet Centers, which provide vital outreach and readjustment counseling to veterans of yesterday and today, have seen their workload double, but not one additional nickel has been sent their way. There are large pockets of this country without any access to VA mental health care whatsoever.

Fixing these problems requires resources of at least $525 million. We know this is a conservative estimate. Advocates believe that it would take more than three times this amount to bring VA mental health care up to what it should be, but this amendment gets us going down the right track. The National Mental Health Association's letter of support for this amendment states that ". . . the nation has no higher obligation than to heal its combatants' wounds, whether physical or mental, and it has long looked to the VA health care system to carry out that obligation. To date, however, planning and budgeting for the VA health care system has been badly flawed and is failing America's veterans, and particularly the growing numbers from war." I ask for unanimous consent that the association's letter, as well as one from the National Alliance for the Mentally Ill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ALLIANCE FOR THE
MENTALLY ILL (NAMI),
Arlington, VA, April 11, 2005.

Hon. DANIEL AKAKA,
Hon. PATTY MURRAY,
U.S. Senate,
Washington, DC.

DEAR SENATORS AKAKA AND MURRAY: On behalf of the NAMI Veteran's Council, I am writing to thank you for your support of an amendment to increase the veteran's health care budget by $1.98 billion, with $525 million earmarked for mental health enhancements.

Like all Americans, we feel that caring for the men and women who serve our country is the commitment we make in return for their sacrifices. It is critical that they know we will not abandon that commitment upon their return from the battlefield. Treatment for mental illness is as important to their future, if not more important, than treatment for physical illness.

The Department of Veterans Affairs (VA's) current working statistics reflect a crisis in the making that Congress has the power to avoid. While it is estimated that at least 30% of veterans returning from Iraq will have mental health treatment needs, this is likely a conservative number. We are very encouraged that this amendment includes an extension of time for these needs to be assessed and treated, since we at NAMI know that often the symptoms of mental illnesses are not apparent immediately following trauma. People who have the personal experience report that months or even years may pass before veterans and their families are finally able to determine that treatment is needed, and to seek help.

It is especially important to support the Veteran's Centers, where it is very likely a veteran or family member would initially seek information and assistance. Expansion of mental health care in VA community-based outpatient clinics (CEDCs) is already a VA priority, and an excellent plan, but current limited resources will not support the Operation Enduring Freedom/Operation Iraqi Freedom expected caseload.

We also know that many VA hospitals and clinics are experiencing major funding crises (small increases in their budgets simply do not match spiraling costs of service). As a result, there are site closings, unaddressed maintenance and equipment needs, personnel freezes, and stoppages on needed expansions. This amendment would help alleviate those shortfalls.

We strongly urge the Senate to adopt the provisions in this important amendment. Let us keep our part of the bargain.

Sincerely,

JANE E. FYER,
Chair, Veterans' Council.

NATIONAL MENTAL
HEALTH ASSOCIATION,
Alexandria, VA, April 11, 2005.

Hon. DANIEL K. AKAKA,
Ranking Minority Member, Committee on Veterans Affairs, U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR AKAKA: On behalf of the National Mental Health Association and our 340 affiliates across the country, we are writing to offer our strong support for the Murray-Akaka VA health care amendment to the FY 2005 Emergency Supplemental. We applaud the leadership you and Senator Murray are providing in advancing this important initiative to enable the Department of Veterans Affairs to meet veterans' urgent health needs, and particularly those of veterans from Operations Iraqi and Enduring Freedom.

With a grueling war taking a frightening toll on our men and women in uniform, this nation faces a stern test: will it meet its obligations to its warriors? Surely the nation has no higher obligation than to heal its combatants' wounds, whether physical or mental, and it has long looked to the VA health care system to carry out that obligation. To date, however, planning and budgeting for the VA health care system has been badly flawed and is failing America's veterans, and particularly the growing numbers returning from war.

This important amendment squarely tackles the major funding gaps facing VA at this critical time. Among those gaps, it has long been clear that VA lacks sufficient capacity to meet veterans' mental health needs. With carefully-researched studies documenting the growing mental health needs triggered by a grueling war, Congress must make VA mental health care a major funding priority. This amendment would do so, and would close the critical gap that stands in the way of meeting a fundamental VA obligation.

VA has long had a special obligation to veterans with mental illness, given both the prevalence of mental health and substance use problems among veterans and the large number of those whose illness is of service origin. In furtherance of that obligation, Congress, to its credit, codified in law special safeguards to assure that VA gives priority to the needs of veterans with mental illness. Notwithstanding that step, however, the VA health care system has had an uneven record of service to veterans with mental health needs. Years of oversight by the Senate Committee on Veterans Affairs and other bodies have documented the enormous variability across the country in the availability of VA mental health care, and the relatively limited capacity devoted to rehabilitative help. With the nation at war—and studies finding an already high percentage of returning veterans showing evidence of post-traumatic stress disorder and other war-related mental health problems—VA's special obligation to veterans with mental disorders has special poignancy. VA has taken important steps to make mental health a greater health-care priority, but given the wide gap between VA's mental health capacity and veterans' needs for treatment and support services, real change will require major new funding, particularly to meet war-related needs. Veterans and their families cannot wait. The failure to intervene early increases dramatically the risk that war-related mental health problems will become more severe and chronic in nature. As your amendment highlights, the time to act is now.

Established in 1909, the National Mental Health Association is the nation's oldest and largest advocacy organization dedicated to all aspects of mental health and mental illness. In partnership with our 340 state and local Mental Health Association affiliates nationwide, NMHA works to improve policies, understanding, and services for individuals with mental illness and substance abuse disorders.

Sincerely,

MICHAEL M. FAENZA, M.S.S.W.,
President and CEO.

Mr. AKAKA. The costs of the war we are fighting today will continue to add up long after the final shot is fired, mainly in the form of veterans' health care and benefits.

I urge my colleagues to join us in this effort to see that they are provided the care they are currently earning.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we appreciate the comments of the Senators from Hawaii and Washington concerning the situation in our Veterans Affairs Department and the concerns that they expressed about returning veterans who are now moving into the VA system and questioning whether there are sufficient funds available to take care of the needs in Veterans' Administration hospitals and other different health care facilities throughout the country.

The subcommittee that has jurisdiction over veterans affairs held a hearing recently during which they questioned the Secretary of Veterans Affairs on this subject. They were assured that the Department is not in a crisis requiring emergency appropriations. The fact is, less than 1 percent of the veterans population is made up of new eligibles who are entering into the Veterans' Administration system, and most of those who are requiring health care assistance and hospital care are older veterans who have already been in the system for a number of years.

Because of that, the Department has not asked for any emergency appropriations to be included in this bill. The administration says that sufficient funds exist now in the Department of Veterans Affairs budget to take care of this fiscal year's needs.

We are now in April and a new fiscal year will begin in October and we are already considering the request for the administration for next year's funding. We have had a budget resolution adopted. Some of these issues were raised during the consideration of this issue by the Budget Committee. I think the Senator from Washington offered an amendment to the budget resolution along the lines that she is urging the Senate to consider today, and the committee rejected the amendment.

That committee reviewed the issue closely and they have included in the budget resolution authority for funding for the fiscal year beginning next October. This Senator's amendment suggests the funds appropriated in this amendment, $1.9 billion, should be made available until expended, which means not only is this a suggestion that an emergency appropriation is needed—although the amendment does not say on its face it is an emergency appropriation—it sounds as if this is in addition to this fiscal year's budget that will go on into next fiscal year. So it is an amendment to this fiscal year's funding authority as well as to the next fiscal year and the next. "Until expended" is the way the amendment reads.

I am suggesting that the Senate should look at the information we have before us from the administration: The Secretary of Veterans Affairs, the Department of Defense, which is caring for injured veterans now in the military hospital system. These are not veterans hospitals, where those who have been injured in Iraq or Afghanistan are being cared for. Some may later be cared for there, and may be later cared for as part of the veterans system. But those who are returning now are at Walter Reed Hospital or other hospitals in the Department of Defense system.

I am not the person in charge of the Veterans' Affairs Committee who monitors veterans' needs on a regular basis. The Senator from Idaho, Mr. CRAIG, is chairman of that committee. I have discussed the amendment with him. I expect he wants to be heard on the amendment. The Senator from Texas, Mrs. HUTCHISON, is chair of the appropriations subcommittee that has jurisdiction over the Veterans Affairs funding, and she is available to discuss the merits of the amendment. We have talked informally with her.

At this time I hope the Senate will certainly consider the arguments that have been made by the Senators from Hawaii and Washington. I respect their concerns. I know their concerns are shared by other Senators. I share them. I don't know of any Senator who wants to come into the Chamber and vote against an amendment to fund veterans programs. It is hard to go home and explain to veterans why you voted against an appropriation for veterans health care.

What we are being told by the administration is the funds are not needed, we have the funds available to care for the veterans population. There may be problems in the system that need the attention of the administration and administrators of individual health care centers and hospitals, and certainly they ought to be addressed and we urge that they are. But it is not a matter of not having the money. If there are problems that need to be addressed we can do that, but we are assured that none of the funds being asked for in this amendment are needed for that purpose.

Mr. President, awaiting the arrival of other Senators, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. BURR). Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent that the current amendment be temporarily set aside so we can take up two amendments quickly.

Mr. COCHRAN. Mr. President, reserving the right to object, may I inquire of the Senator? We were in the process of considering the amendment of the Senators from Washington and Hawaii on Veterans Affairs and funding for that Department. The chairman of the committee has arrived on the floor to speak to that amendment. I had told the Senator from Massachusetts I would have no objection to offering his amendment and then setting it aside.

I inquire: How much time will Senator KERRY require?

Mr. KERRY. Seven minutes very quickly, and then I am happy to set those aside.

Mr. COCHRAN. Is there a problem with the Senator from Idaho?

Mr. CRAIG. How long does the Senator plan to speak?

Mr. KERRY. Seven minutes.

Mr. CRAIG. I would like to make my comments. I think we are under unanimous consent to close down at 12:30.

Mr. COCHRAN. The Senator is correct.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed, and after I have completed the Senator from Idaho be permitted to make his statement before we recess.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Mississippi.

AMENDMENTS NOS. 333 AND 334, EN BLOC

Mr. KERRY. Mr. President, I call up amendments numbered 333 and 334.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes amendments numbered 333 and 334, en bloc.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 333

(Purpose: To extend the period of temporary continuation of basic allowance for housing for dependents of members of the Armed Forces who die on active duty)

On page 169, between lines 8 and 9, insert the following:

EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY

SEC. 1122. Section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

AMENDMENT NO. 334

(Purpose: To increase the military death gratuity to $100,000, effective with respect to any deaths of members of the Armed Forces on active duty after October 7, 2001)

On page 159, strike line 6 and all that follows through page 160, line 22, and insert the following:

SEC. 1112. (a) INCREASE IN DEATH GRATUITY.—

(1) AMOUNT.—Section 1478(a) of title 10, United States Code, is amended by striking "$12,000" and inserting "$100,000".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

(3) NO ADJUSTMENT FOR INCREASES IN BASIC PAY BEFORE DATE OF ENACTMENT.—No adjustment shall be made under subsection (c) of section 1478 of title 10, United States Code, with respect to the amount in force under subsection (a) of that section, as amended by paragraph (1), for any period before the date of the enactment of this Act.

(4) PAYMENT FOR DEATHS BEFORE DATE OF ENACTMENT.—Any additional amount payable as a death gratuity under this subsection for the death of a member of the Armed Forces before the date of the enactment of this Act shall be paid to the eligible survivor of the member previously paid a death gratuity under section 1478 of title 10, United States Code, for the death of the member. If payment cannot be made to such survivor, payment of such amount shall be made to living survivor of the member otherwise highest on the list under 1477(a) of title 10, United States Code.

On page 161, line 23, strike "$238,000" and insert "$150,000".

Mr. KERRY. Mr. President, many of us in the Senate have had the privilege of traveling to Iraq where we have visited some of the most remarkable young men and women our country has produced. We have met with hundreds of American soldiers, airmen, Marines and naval personnel, all of whom are doing a magnificent job under, obviously, very difficult conditions. I support this supplemental bill and for the obvious reasons.

The election and increased training and the clarity of a plan that has been put forth and the increased effort of the Iraqis themselves combined provide an important opportunity for the transformation of Iraq. It is obviously vital in these circumstances to make sure our troops have the ability to be safe but to also be able to get the job done. We have always said that. But also I believe we need to do more. Supporting the troops means not just supporting them in the field and in the theaters, but it also means supporting them here at home. It means understanding that their lives, both as warriors fighting for their Nation and as spouses, parents, brothers, sisters, sons and daughters struggling to see that the needs of their families are met—the fact is that too many military families suffer when duty calls. Thousands of reservists take a very significant pay cut when they are called up. Suddenly, single parents are left to struggle with the bills. One in five members of the National Guard don't have any health insurance at all. That is devastating to their families. It is damaging to troop readiness.

I believe that everyone here understands the simple tenet that the Government has to keep faith with our troops. To do that we need to put in place a comprehensive military family bill of rights that puts action behind the promise to support our troops. I understand that the supplemental bill is not the place to ask for the full consideration of that military family bill of rights, so I am not going to propose the entire bill as an amendment here. But I am bringing two amendments to the floor that are broken out of this bill of rights that I believe we could all agree on and which would make an enormous difference in the lives of our soldiers. In agreeing to these, we can take an important step in demonstrating our support for a military family bill of rights which is long overdue.

More than a year ago, I proposed increasing the benefits paid to surviving military families to $500,000 through existing insurance benefits and an increase in the death gratuity. I am not alone in this effort. Members on both sides of the aisle have introduced legislation to improve these benefits, and with very good reason.

Today, families receive only $12,420 to supplement whatever insurance a loved one may have purchased. That $12,420 is completely inadequate. In fact, it is a disgrace. We do right by our fallen police officers and firefighters in America. Their families receive $275,000, and it is time that we did the same for our soldiers. Their survivors' lives remain to be lived, and though no one can ever put a price on the loss of a loved one, it is important for us to be as generous as we can and as realistic as we can as we help people to be able to put their lives back together. I was heartened when the administration embraced a formula to reach the $500,000 threshold, and I am glad the Appropriations Committee has included a benefit increase in this particular bill, but the bill needs to go further and eliminate any distinction between combat and noncombat deaths.

This is important for a number of different reasons.

First of all, the benefit, as matter of principle, ought to go to any American who loses their life while serving our country, and we shouldn't draw a distinction between that kind of service. The fact is that the uniformed leadership of our military doesn't believe we should, either.

GEN Richard Myers, Chairman of the Joint Chiefs of Staff, testified on this matter before the Armed Services Committee, and a number of other leaders. Let me share with colleagues. GEN Richard Cody said:

> It is about service to this country, and I think we need to be very careful about making decisions based upon what type of action. I would rather err on the side of covering all deaths rather than trying to make a distinction.

Admiral Nathman said:

> This has been about how do we take care of the survivors, the families and the children? They can't make a distinction, and I don't think that we should either.

GEN Michael Moseley of the Air Force said:

> I believe a death is a death and our service men and women should not be represented that way.

—i.e, they shouldn't be distinguished as to where it took place.

If you are a pilot flying in the Navy off an aircraft carrier and you are not in combat and you have a catapult failure and die, that family faces the same crisis as a family of somebody who is shot down. We need to understand that. I'm glad the bill addresses that situation, but there are other circumstances it does not.

GEN William Nyland of the Marine Corps said:

> I think we need to understand that before we put any distinctions on the great services of these wonderful men and women, they are all performing magnificently. I think we have to be careful about drawing any distinctions.

The amendment I offer today with Senators PRYOR and OBAMA expands this benefit to every member of the Armed Forces who dies on active duty.

I have a second amendment at the desk to help military families lessen the disruption that a death brings to the family.

At the present time, the survivors of those killed in action have to move out of military housing in 180 days. But for those with young children in school, that becomes entirely disruptive often with respect to the school district kids are able to go to, and it is a very difficult burden in many cases for widows and widowers to have to try to confront all of the difficulties of that transition, including the efforts of finding housing. The 180 days may mean starting a school year in one State and finishing it in another. I don't believe that is a message we ought to be extending to the families of those who give their lives in service to our country.

Given all of the disruption the loss of a parent brings to their lives, I propose allowing survivors the option to keep their housing for a whole year as they deal with the countless other challenges. It may seem like a small change, but I have heard from enough different folks on active duty in the military about the significance of this particular need, and it can make a huge difference for a family who is struggling with the loss of a father or a mother.

Investing in our military families is not just appropriating the money for the equipment or the latest technology for the deployment itself, it is investing in the families themselves. And it is not as an act of compassion, it is a smart investment in America's military. Good commanders know that while you may recruit an individual soldier or marine, you retain a whole family. That is the way we ought to look at our policies.

Nearly 50 percent of America's service members are married today. If we want to retain our most experienced service members, particularly after we have invested millions of dollars in their training, then it is important—especially for the noncommissioned officers who are the backbone of the military—that we keep faith with their families. If we don't, and those experienced enlisted leaders begin to leave, we as a nation are weakened.

The two amendments I have proposed today are the beginning of a larger effort to do right by our military families. I believe it is a strong beginning. By joining measures to take care of military families at home with legislation to take care of those remarkable young men and women serving abroad, we are going to take a firm step toward putting meaning behind the promise to support our troops. I hope these amendments are agreed to.

I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

AMENDMENT NO. 344

Mr. CRAIG. Mr. President, I thank the Senator from Massachusetts for his cooperation in the unanimous consent propounded that allows me the flexibility to speak. I will be brief. We are at the lunch hour.

The chairman of the appropriations subcommittee on MILCON and Veterans Affairs is also on the floor with me. Let me speak for a moment about the concerns we have in relation to the Murray amendment.

First and foremost, let me say for the record that in no way do I question the integrity of the Senator from Washington. She and I have worked very closely together on veterans issues. She is a valuable member of the Veterans Committee, as is the Presiding Officer.

Without question, our dedication to veterans I hope is unquestioned. The reality is are we dealing with an emergency in an emergency supplemental, or is there a very real need out in veterans land and with the Veterans Administration and the systems that it funds and operates to meet current veterans' and incoming veterans' needs? I say certainly without question that there is always a need. We could expand budgets well beyond where they are today to meet needs, but by what definition? Critical, necessary, important for the moment, dealing with the most needy veterans, the most handicapped, or simply spreading it out and making it more available?

Those are some of the tough choices you and I and members of that subcommittee and certainly members of the subcommittee on appropriations have to make. The Senator from Washington has appropriately challenged us to look at a variety of other aspects that have value. The question is, Are they an emergency at the moment? Do they serve veterans who are not being served? In some instances, that would be arguably yes. But are those veterans of critical service in the sense they can find health care elsewhere in the sense of priority?

Let me talk briefly about what we are doing. We have just finished trying to shape through a budget resolution the 2006 budget. We included $450 million more than the President's request, and we have increased the 2006 budget over the 2005 budget by about $1.2 billion—a substantial increase by anybody's observation. We have also done that without turning to veterans in the less needy categories and saying they will have to pay more for their services. We have been able to assume and bring into the system a good deal of that, which is important.

I find the number of $1.98 billion additional, not spread out over fiscal year 2006 but spent now in 2005 and the balance of 2005 in this emergency, a dramatic increase. Can the Veterans' Administration effectively and responsibly spend that kind of a bump up in money? I question that.

It is important to look at what is necessary. According to VA, they have seen approximately 48,000 OIF and OEF veterans since the war began. With Senator MURRAY's $2 billion, it would be $41,000 per patient, an extraordinary amount by any measure.

The PRESIDING OFFICER. Would the Senator suspend? Would the Senator request unanimous consent to extend past 12:30?

Mr. CRAIG. Mr. President, I ask unanimous consent I be allowed to continue. There are three Members in the Senate. I ask unanimous consent we extend to no later than 12:45.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I have given a figure of $41,000 per patient. That is an extraordinary amount by any measure. The VA's average cost per patient is about $5,000.

My point in making this an issue is I want to work with the Senator from Washington. I am never going to argue that there aren't real needs in the Veterans' Administration. I am not going to argue that there ought to be some priorities—mental health and those things that the Senator from Washington and I have shared as a common interest and a common concern.

Let me yield time to the Senator from Texas. She will take a few moments and give the Senator from Washington adequate time to respond before the 12:45 time.

I am willing to work with the Senator from Washington, to examine her numbers, but a $1.98 billion or $2 billion bump-up to be spent before close of business in September—I am getting signals from the Senator we are dealing with a 2-year appropriation. Let's look at those numbers.

I close by saying, in my opinion, there is not an emergency in the VA. This is an emergency supplemental. I will work with the Senator to see where we might go. It is wrong in an emergency to talk about things that are long term in character and necessary to finance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, as the chairman of the Veterans' Administration appropriations committee, I certainly want to look further at Senator MURRAY's numbers, but adding almost $2 billion to the Department of Veterans Affairs for the next 6 months, we have to look very carefully where we would spend that money and what the emergency nature of the request is.

In fact, we had our appropriations hearing with the Veterans' Administration Secretary. I asked the Secretary specifically—we would certainly be looking at supplemental appropriations in the near future; then we would be looking at our full budget for next year—I asked if there were enough resources to meet the needs of all returning veterans from Iraq and Afghanistan for the current year, 2005. The Secretary said, yes, the VA does have the necessary resources in 2005 to continue meeting the needs of all returning veterans from Iraq and Afghanistan.

The key is when people return from Iraq and Afghanistan, we want to make sure their medical needs are met. That is something we all share. Most of the people returning from Iraq and Afghanistan are still in the Department of Defense. They are either on active duty or they are activated as Guard and Reserve. The bulk of them are still treated for their medical needs in the Department of Defense, not in Veterans Affairs. We have to look at how many people are returning and how many people actually go into the VA system, how many people actually are leaving the military service. The number comes down significantly. We have to look at this number.

All Members have the same goal, that we are going to ask for the amount of money we need to give the medical care to our returning service men and women and to people leaving the military. That is why I asked the question of our Secretary of Veterans Affairs, Do you have enough? Then I further asked if the 2006 budget was adequate for the returning veterans. The response was, yes.

I certainly want to do everything we need to do for the purpose of providing the care these veterans who have served our country, who are protecting freedom, deserve from our Government. But we have to look at the fact that is an emergency not in the 2006 budget. That would start October 1 of this year. Then we need to look further down the road at that budget, which our committee certainly intends to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I ask for regular order.

The PRESIDING OFFICER. The Senator's amendment is now pending.

AMENDMENT NO. 344, AS MODIFIED

Mrs. MURRAY. I send a modification to the desk on our amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 344), as modified, is as follows:

On page 188, after line 20, add the following:

CHAPTER 5

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For necessary expenses for furnishing, as authorized by law, outpatient and inpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans as described in paragraphs (1) through (8) of section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the department and including medical supplies and equipment and salaries and expenses of health-care employees hired under title 38, United States Code, and to aid State homes as authorized under section 1741 of title 38, United States Code; $1,975,183,000 plus reimbursements: *Provided*, That of the amount under this heading, $610,183,000 shall be available to address the needs of servicemembers deployed for Operation Iraqi Freedom and Operation Enduring Freedom: *Provided further*, That of the amount under this heading, $840,000,000 shall be available, in equal amounts of $40,000,000, for each Veterans Integrated Service Network (VISN) to meet current and pending care and treatment requirements: *Provided further*, That of the amount under this heading, $525,000,000 shall be available for mental health care and treatment, including increased funding for centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code (commonly referred to as "Vet Centers"), including the staffing of certified family therapists at each center, increased funding for post traumatic stress disorder (PTSD) programs, including funding to fully staff PTSD clinical teams at each Veterans Affairs Medical Center and to provide a regional PTSD coordinator in each VISN and in each Readjustment Counseling Service region, funding for the provision of primary care consultations for mental health, funding for the provision of mental health counseling in Community Based Outreach Centers (CBOCs), and funding to facilitate the provision of mental health services by Department of Veterans Affairs facilities that do not currently provide such services: *Provided further*, That the amount under this heading shall remain available until expended: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to Section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Mrs. MURRAY. Mr. President, let me make a couple of comments. I thank the Senators from Idaho and Texas for working with us on this critical issue. I know both of them have worked very long and hard on veterans issues and care deeply about making sure the men and women who serve are taken care of when they return home, as we promised.

Let me remind everyone, of the 240,000 men and women separated from our services since the beginning of the war in Iraq, 50,000 have already asked the VA for services. Many more of them will continue to do that as they come home and as they get back into their homes and look for services, especially mental health services, as all know who have worked with veterans for a long time.

This is an emergency. If any Members work with veterans in our States, talk to our directors at home, and talk with soldiers who have returned home, we will realize the long lines they are waiting in, the clinics that were promised that have not been opened, the tremendous services that are not being provided.

As I discussed in my opening statement, beds are held together by duct tape in our facilities. This is not how we should be treating our veterans. It is an emergency because more veterans return in higher numbers with the care not available for them.

I am willing to work with the Senators from Idaho and the Senators from Texas over the next several hours, or whatever it takes to come up with a number. If they believe $1.98 billion is too high, I would like to talk to them about that. We can work together. I know both care about this issue, and we want to find a way to make sure our veterans are taken care of.

I remind everyone when we send our men and women overseas, one of the promises we make to them is we will have the care available when they return. When we have veterans who are in beds that are held together by duct tape, when we have veterans who have to endure long waiting lines for simple services, that is an emergency.

I clarify, the money in this bill will be used until it is expended. It does not have to be expended this year. It will be used until expended, allowing our veterans and our veteran services to put in place facilities they need for our men and women coming home.

I close at this time, and I will work with Senators from Idaho and Texas and the chairman of the Appropriations Committee because I believe this is an emergency. I believe we have a responsibility. I will make sure our veterans get the care they need.

I yield the floor.

Mr. AKAKA. Mr. President, the Department of Veterans Affairs has been a recognized leader in the treatment of Post-Traumatic Stress Disorder, PTSD. With its outreach efforts and expert mental health staff, VA has made great strides in its treatment of those suffering from the psychological wounds of war. Unfortunately, VA still has a long way to go before it will achieve the level of PTSD treatment our veterans deserve. Demonstrating this fact is a February 2005 GAO report, which found that VA has not fully met any of the 24 clinical care and education recommendations made in 2004 by VA's Special Committee on PTSD.

Titled "VA Should Expedite the Implementation of Recommendations Needed to Improve Post-Traumatic Stress Disorder Services," this report raises serious concerns about VA's ability to treat our veterans' mental health. In fact, I would like to quote one of the report's most disturbing points: "VA's delay in fully implementing the recommendations raises questions about VA's capacity to identify and treat veterans returning from the Iraq and Afghanistan conflicts who may be at risk for developing PTSD, while maintaining PTSD services for veterans currently receiving them." Further adding to the seriousness of this statement is that GAO reported in September 2004 that officials at six of seven VA medical facilities said they may not be able to meet an increased demand for PTSD services. Moreover, the Special Committee reported in 2004 that "VA does not have sufficient capacity to meet the needs of new combat veterans while still providing for veterans of past wars.

This is further proof of the need for increased funding for VA health care. If we do not give VA the necessary funds, how can we expect it to properly care for the flux of new veterans when it cannot even care for those it currently treats? In fact, VA officials have cited resource constraints as the primary reason for not implementing many of the Special Committee's recommendations.

In all, GAO found that based on the time frames in VA's draft mental health strategic plan, 23 of the 24 recommendations may not be fully implemented until fiscal year 2007 or later. The remaining recommendation is targeted for full implementation by fiscal year 2005, 4 years after the Special Committee first recommended it.

Additionally, the GAO report found that ten of the recommendations are longstanding, as they are consistent with those made in the Special Committee's first report in 1985. VA agreed then that these recommendations would improve the provision of PTSD services to veterans, yet the changes still are not scheduled for full implementation for another two years at the earliest. These delayed initiatives include developing a national PTSD education plan for VA, improving VA collaboration with DoD on PTSD education, and providing increased access to PTSD services.

PTSD is caused by an extremely stressful event and can develop years after military service. Mental health experts estimate that the intensity of warfare in Iraq and Afghanistan could cause more than 15 percent of servicemembers returning from these conflicts to develop PTSD, with a total of nearly 30 percent needing some kind of mental health treatment. While there is no cure for PTSD, these experts believe early identification and treatment of PTSD symptoms may lessen their severity and improve the overall quality of life for individuals with this disorder.

Congress required the establishment of VA's Special Committee on PTSD in 1984, with the original purpose primarily to aid Vietnam-era veterans diagnosed with PTSD. One of the Special Committee's main charges is to carry out an ongoing assessment of VA's capacity to diagnose and treat PTSD and to make recommendations for improving VA's PTSD services.

In addition, a March 20, 2005, article in the Los Angeles Times pointed out how concerned veterans' advocates and even some VA psychiatrists are with VA's handling of PTSD services, saying VA hospitals are "flirting with disaster." The article highlighted the situation at the VA Greater Los Angeles Healthcare System, specifically the Los Angeles VA hospital, which last year closed its psychiatric emergency room. A decade ago, VA hospitals in Los Angeles had rooms to treat 450 mentally ill patients each day. After a series of cutbacks and consolidations, however, the main hospital can now accommodate only 90 veterans overnight in its psychiatric wards. During the same 10-year period, the overall number of mental health patients treated by the VA Greater Los Angeles increased by about 28 percent, to 19,734 veterans in 2004. If this is how VA handles PTSD care for our veterans at the Nation's largest VA hospital, how does that bode for the rest of the nation?

VA must make strides in its provision of mental health services and outreach efforts to servicemembers returning from Iraq and Afghanistan. If we are not careful and do not give VA proper resources, progress will be impossible. As Ranking Member of the Committee on Veterans' Affairs, I will work to ensure that does not happen. As such, I am pleased to tell you that today I am offering an amendment to the Supplemental to partially fix this problem. Our Nation's veterans deserve the best care possible, for both their physical wounds and mental.

I ask unanimous consent that the article from the Los Angeles Times be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Mar. 20, 2005]

MENTAL HEALTH CARE FOR VETERANS DISPUTED; WHILE NEED HAS GROWN, INPATIENT SERVICES HAVE BEEN DRASTICALLY CUT IN THE LAST DECADE.

CRITICS SAY OUTPATIENT PROGRAMS CAN'T DO THE JOB.

(By Charles Ornstein)

As troops return from Iraq and Afghanistan—including thousands with combat-related mental disorders—they enter a Veterans Affairs healthcare system sharply divided about how to care for them.

In the last decade, veterans hospitals across the country have sharply reduced the number of inpatient psychiatric beds, replacing them with outpatient programs and homeless services.

The new offerings, officials say, cost less and are just as effective.

"It used to be with mental illness that once you got it, you never got rid of it," said Dr. Mark Shelhorse, a national VA mental health official. But "mental illness is perceived as a disease now just like hypertension and diabetes. We have medicines to treat it. We know that people recover and lead fully normal lives."

But veterans' advocates and even some VA psychiatrists say the hospitals, including the massive Veterans Affairs Greater Los Angeles Healthcare System, are flirting with disaster. They say the facilities are ill-equipped to deal with veterans who need the most extensive help for psychosis, substance abuse, suicidal impulses and post-traumatic stress disorder.

Last year, the Los Angeles hospital closed its psychiatric emergency room, a move that heightened the anger of the VA's critics.

"We were too easily swayed in the past by the argument that after a while, it [PTSD] will go away," said Jay Morales, a Vietnam veteran who chairs the mental health consumer advisory council at the Los Angeles hospital. "But there are Vietnam vets walking around today, 30 years after the war ended, having these problems."

Dr. William Wirshing, a psychiatrist for 23 years at the Greater Los Angeles VA, agreed. "It's absurd how much they've cut—and it's absurd how much they continue to cut," he said.

A decade ago, VA hospitals in Los Angeles had rooms to treat 450 mentally ill patients each day. After a series of cutbacks and consolidations, the main Wadsworth hospital on Wilshire Boulevard can now accommodate only 90 veterans overnight in its psychiatric wards.

During the same 10-year period, the overall number of mental health patients treated by the VA Greater Los Angeles increased by about 28 percent, to 19,734 veterans in 2004.

The VA hospital in Los Angeles, the largest veterans hospital in the nation, treats 80,000 veterans annually with a budget of more than $450 million. It includes the hospital, nursing homes, a domiciliary, three main outpatient care sites and 10 community clinics. There are an estimated 510,000 veterans in Los Angeles County alone.

VA officials say that despite the cutbacks, the Los Angeles VA hospital offers more mental health services today than ever. Instead of keeping patients in locked wards overnight, the VA offers them outpatient programs and temporary accommodations in partnership with nonprofit groups, officials say.

"It's not like we went into a hospital that was fully occupied and we said, 'We don't need this unit anymore,'" said Dr. Andrew Shaner, the hospital's acting director of mental health. "We built programs that kept people relatively well and therefore out of the hospital, and that's why we were able to do it."

The question remains: Are the current offerings enough?

A report last fall by the U.S. Government Accountability Office cited estimates that 15% of service members stationed in Iraq and Afghanistan would develop post-traumatic stress disorder. As of December, about 1 million troops had spent time in one of the two war zones (about one-third have done more than one tour).

The GAO determined that the VA did not have enough information to know if it could meet the increased demand.

Shelhorse, the VA's acting deputy consultant for patient care services for mental health, said the agency is monitoring the situation carefully and is pumping millions of dollars into mental health programs.

The shift from inpatient to outpatient mental health services has become a controversial issue throughout the VA system. A 1996 federal law prohibits the VA from reducing specialized treatment and rehabilitation for disabled veterans, including mental health services.

A VA committee has found that the agency hasn't abided by that law. While VA hospitals may be treating more mentally ill patients, they aren't spending as much money doing so. At the West Los Angeles VA, the amount spent on mental health has decreased from $74 million in fiscal 1997 to $64.4 million in fiscal 2003, according to a national monitoring system.

Experts disagree on whether outpatient care can replace inpatient treatment.

"I don't think that intensive community treatment can take care of all the people that no longer have the availability of inpatient beds," said Dr. H. Richard Lamb, a psychiatry professor at USC.

Lamb said the trend has led to an increase in homeless mentally ill and those in jails.

But Dr. Robert Rosenheck, director of the VA's Northeast Program Evaluation Center, said changes in the VA system have not produced those results.

Studies, he said, have not shown an increase in jailed veterans after inpatient psychiatric beds have been cut. Nor, he said, have there been significant increases in suicides or veterans showing up at non-VA hospitals for care.

"Veterans very much preferred coming in and being in a supportive environment for an extended period of time," Rosenheck said. But "when you look at objective outcomes, we don't see scientific evidence of adverse effects" because of the cutbacks.

Even so, veterans' advocates and psychiatrists have been complaining for years about cutbacks at the Greater Los Angeles VA.

For many, the final straw came in May when the hospital closed the psychiatric emergency room and shifted mental health emergencies to the main ER. Troubled patients are now cared for by nurses and other staff who, according to the critics, are not adequately trained to handle psychiatric emergencies.

Critics point to several instances since the transition in which psychiatric patients were admitted to inpatient wards without any written orders or treated with disrespect by ER nurses who didn't understand their disorders. At least one female patient with PTSD attempted suicide.

"This is a dangerous situation," said Guy Mazzeo, a veteran and member of the L.A. mental health consumer advisory council. "None of us" was consulted before the change, he said, referring to advocates for veterans and the VA's outside advisory groups. And none agree with it, he said.

The veterans and their doctors have been joined in their criticism by Rep. Henry A. Waxman (D-Los Angeles), whose district includes the VA health center.

He asked the VA in January to hire a full-time psychiatrist for the emergency room and arrange for specially trained psychiatric nurses to work there, among other things. The VA declined his requests.

"I'm disappointed that the VA has not responded more aggressively," Waxman said in an interview. "With Iraq and Afghanistan war veterans returning, these demands are only going to increase."

VA officials say the criticism is unfair. Care in the main ER is more coordinated than the care given in the stand-alone psychiatric emergency room, they say. Patients can get their medical and mental problems treated in one place, instead of having to be shuttled between two.

Administrators say ER staff members have received extensive training. And they say that there's no evidence that patients are receiving inferior care.

Dr. Dean Norman, the hospital's chief of staff, said the closure of the psychiatric ER made sense because the number of patients using it had been decreasing for years, and the hospital did not have enough staff.

"One of our goals is to be good stewards of taxpayer dollars," Norman said. "We didn't make this in a precipitous or reckless fashion. This was well thought out, and we had good reasons for doing this."

Mrs. BOXER. Mr. President, I am pleased to join Senator MURRAY in cosponsoring this important amendment to increase veterans health care funding. We owe it to our veterans, who have so bravely served our country, to give them the best medical care possible. It is disappointing that funding for veterans programs, especially veterans health care, has not kept pace with either the increased number of veterans in the system or medical inflation. This amendment is crucial to providing veterans with the services they have earned.

As I have talked to veterans in California—and as I have met with returning soldiers from Iraq and Afghanistan—I have come to one disturbing conclusion: we are not serving all of the needs of our veterans now and we are not prepared to serve the tens of thousands of veterans who will be returning over the next couple of years.

Senator MURRAY's amendment begins to address this situation. It will increase veterans health care funding by almost $2 billion. This includes $610 million for new veterans returning from Iraq and Afghanistan. Funding for these veterans is not included in the current VA budget. In addition, each of the 21 veterans regions will receive $40 million to address their budget shortfalls. This will allow each region to determine how the funds can best be used to benefit their veteran population.

I am especially pleased that this amendment includes funding designated for veterans mental health care. Specifically, $525 million is designated to expand mental health services, with $150 million targeted for the treatment of Post Traumatic Stress Disorder—PTSD. The VA has estimated that 30 percent of men and women currently serving in the Armed Forces will need treatment for mental illness or readjustment issues. That is why this funding is so critical.

This amendment has the support of many veterans organizations, including the Veterans of Foreign Wars, AMVETS, Disabled American Veterans, and Paralyzed Veterans of America. They realize, as I do, how crucial it is that this funding be made available. Without it, the VA will not be able to meet the needs of the men and women who have so bravely served our country. I urge my colleagues to support this amendment.

Mrs. LINCOLN. Mr. President, today, I rise in support of an amendment to the emergency supplemental to provide an additional $1.98 billion for veterans health care. I am a cosponsor of this amendment because I believe that when we talk about the costs of war, we cannot forget the brave men and women who are returning from war every single day.

In the past couple months, my home State of Arkansas has seen the return of over 3,000 brave men and women from the Army National Guard, who answered their Nation's call to serve in Operation Iraqi Freedom. Many of them will need ready access to health care as they attempt to transition back to the civilian lives they knew before the war.

I am troubled because they are returning to a veterans health care system that is underfunded and overburdened. Increasing health care costs and an influx of thousands of new veterans each month makes it essential that we do what we can to provide for veterans health care, and we do it now.

This amendment would enable the VA to absorb the new veterans being added to the system and would reverse many of the critical budget shortfalls that have left many VA facilities without the medical staff or equipment they desperately need. It would also provide $40 million for every veterans regional network so they can better meet their local needs.

My father fought in Korea and I was raised from an early age to have tremendous respect for the unselfish service of the men and women of the Armed Services. As a United States Senator, I believe we have an obligation to provide them with the health care they were promised and to honor the benefits they have earned. I urge my colleagues to support this amendment because it is the right thing to do, it is our moral responsibility, and it should be a priority for each and every one of us.

Mr. JEFFORDS. Mr. President, the Bush administration has decided that all funding for the conflicts in Iraq and Afghanistan be requested as supplemental emergency funding. I believe, therefore, that we must include in this supplemental funding legislation, additional monies to cover the cost of the war incurred by the Veterans Administration.

The President's budget did not request sufficient funding to cover the significant increases in medical costs of veterans wounded in Iraq and Afghanistan. While severely wounded service members are remaining longer in the Department of Defense health care system than in past conflicts, the VA provides all care for these men and women after they are released from the military, and provides care to Guard members and Reservists beginning immediately after they return home from a deployment.

We must cover these expenses. We cannot turn away these veterans. We also cannot turn away other veterans and deny them care in deference to the newest veterans. That would not be right either.

I am pleased to join Senators MURRAY and AKAKA in offering this amendment to provide $1.9 billion in additional funding to the Veterans Administration. Passage of this amendment would go a long way to covering existing shortfalls and allowing the VA to ramp up to meet the current and expected needs for the coming year. I am pleased that this amendment addresses the critical issue of mental health by providing $525 million specifically for mental health care and treatment.

Unlike prior wars, where soldiers were expected to lay down their guns upon returning home and forget about the war, service members returning from Iraq and Afghanistan understand that it is very important for their mental health and the well-being of their family, that they deal with both the mental effects of the war and the emotional effects on their families of a long and stressful separation. Vet centers exist all across the country to help veterans and their families deal with the ghosts of war and manage the transition back home. These centers do a phenomenal job, but they are generally very small and have been handling a limited case load. With veterans returning from Iraq in huge numbers, particularly members of the National Guard and Reserve who do not live on or near military bases the job of the Vet centers has increased more than a hundred-fold. The Vet centers need an increase in both staff and resources commensurate with the demands now placed upon them.

We have learned from prior wars that much can be done to ease the transition back to civilian life if it is done immediately. Immediate mental health care can prevent the onset of more difficult diagnoses, such as post traumatic stress disorder. The VA has developed expertise in the diagnosis and treatment of PTSD, well beyond that of the private sector. The challenge now is to spread this expertise throughout the VA system. This takes resources. We also have learned that those soldiers who have suffered physical wounds will often need ongoing mental health assistance to face the challenges of life with a disability. We must not turn our backs on them.

The bill before the Senate is designed to cover the costs of these two conflicts. We cannot say we have done so if we do not cover the costs of the physical and emotional wounds from these conflicts. The only way that this can be done with the funding provided by the President's budget is if our obligations to other veterans are set aside. This would be wrong. The only way we can truly honor our obligations to all of our veterans is to support the amendment by the Senator from Washington, Mrs. MURRAY.

I urge my colleagues to support the Murray amendment.

RECESS

Mr. COCHRAN. I ask unanimous consent we stand in recess under the previous order.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:39 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Mississippi.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005—Continued

AMENDMENT NO. 344, AS MODIFIED

Mr. COCHRAN. Mr. President, it is my intention to make a point of order in connection with the amendment that has been offered by Senators MURRAY and AKAKA. But I do not want to do that if they are not here on the floor. I will wait to give them an opportunity to make any statements or motions they may deem appropriate. So I do not want to foreclose anyone from having an opportunity to express themselves on that issue. But I do make that announcement just for the information of all Senators, that we have pending before us an amendment that purports to add as a matter of emergency appropriations $1.9 billion to the Veterans' Administration accounts.

The administration has not asked for these funds. Testimony before the relevant committees of jurisdiction, the Veterans Affairs' Committee and the Appropriations subcommittee that funds or recommends funding for veterans programs, has not led Senators to request funds for inclusion in the committee mark. So there is a disparity between the proponents of the amendment and what they are urging the Senate to approve and what is being requested as a matter of emergency appropriations.

In addition, the language of the amendment actually has a provision that the moneys appropriated under the amendment would be available until expended, which means the funding would carry over into the next fiscal year. We are, right now, having committees consider the funding levels that are needed in the next fiscal year, beginning October 1.

So with no requests for funds, with the administration saying they have enough funds to run the VA health programs and hospital programs between now and the end of this fiscal year, we are going to suggest that this is subject to a point of order. It is my intention to make that point of order.

Seeing that the Senators are on the floor now, Mr. President, pursuant to section 402 of S. Con. Res. 95 of the 108th Congress, I make a point of order that the amendment contains an emergency designation.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, a vote now occurs on the motion to waive, right?

The PRESIDING OFFICER. That is right.

Mr. COCHRAN. Mr. President, there is a question about how much time is going to be——

The PRESIDING OFFICER. The motion to waive is debatable.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, there is some confusion on my part. I thought the Senators were going to debate this, but there was a suggestion that we could agree on a time for a vote on the motion to waive the Budget Act. So I inquire of Senators whether that is the feeling on the other side. We would be willing to enter into an agreement for a vote to occur at a time certain that might suit the convenience of all Senators.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I am happy to talk to the chairman of the Appropriations Committee in order to work out a time agreement. I do have more I would like to say. This amendment is extremely serious. It is an emergency. We would like some more time, so I am happy to talk to the chairman about having an agreement on time, if he would like to do that.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I appreciate the comments of the Senator. Let me suggest, then, if there is no objection, that we enter into an agreement that we have a vote that will occur at 3:30 this afternoon.

Would that be satisfactory with the Senator?

Mrs. MURRAY. Mr. President, I assume the time will be equally divided between now and 3:30 on this amendment. That would be satisfactory.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate vote on the motion to waive the Budget Act with respect to the Murray amendment at 3:30 p.m. today, with debate until the vote equally divided in the usual form and no amendments in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. COCHRAN. I thank the Chair and thank the Senator.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I rise in support of the amendment offered by my colleague, Senator MURRAY. Senator MURRAY, I believe, offered this identical amendment in the Appropriations Committee when it marked up the appropriations supplemental bill. I was very pleased to support her then.

I want to refer back to a time when we held a hearing with the Secretary of Defense. My colleague, Senator MURRAY, was at that hearing. She asked some questions, and other colleagues did, and I did, about this issue of health care, health care for soldiers and health care for veterans. One of the questions we asked was, What is the continuum here between a soldier and a veteran?

I would guess all of us in this Chamber have driven to Bethesda Naval Hospital and Walter Reed Medical Center to visit young men and women who have been wounded with respect to hostilities in Iraq. I have made many such visits. I have seen these brave soldiers lying in their hospital bed, often with an arm missing or a leg missing or other serious wounds, convalescing and recovering. In most cases, God willing, when they recover, they will get rehabilitation, and then they will, in most cases, be discharged from the service.

We asked the Secretary of Defense, at that point, What is the difference between a soldier on active duty and a young soldier who has just been released from Walter Reed Medical Center who is then discharged but continues to need medical help for the wounds they suffered in the war? Is there really any difference? And should there really be a difference in the health care that is delivered?

I am enormously proud of the men and women who work at hospitals such as Walter Reed Medical Center and Bethesda Naval Hospital, those we see most often when we visit. That health care could not be better. They do an extraordinary job.

There was recently an article about the job they do in a publication called the Washington Monthly. I discussed that article with Mr. Principi, then the head of the VA. I said, you ought to send this article out to every single employee of the VA because without sufficient money—and they have not had sufficient money—they have done an extraordinary job.

But the question is, When someone becomes a veteran, having come off active duty with a war wound, what happens? Is there full funding in that case for the kind of health care they need? The answer is no.

My colleague from the State of Washington, Senator MURRAY, understands that. She has led the fight on this issue for a long while, to say: Can't we have full funding for health care for veterans?

You can go any place in this country these days and talk about America's service men and women, and people respond to it. They care about the people who wear this country's uniform, and they want to support them. But that support does not just occur with respect to when they are in a hospital such as Walter Reed or Bethesda. That support must occur with respect to VA hospitals and community-based veterans clinics.

As you know, the President's budget does not provide funding for the clinics that were promised, the clinics that would allow a veteran who has health care issues to show up at a local storefront VA clinic instead of having to drive, particularly in rural States, hundreds and hundreds and hundreds of miles. Well, that is not funded by the President's budget. Even though they had decided they were going to do that, the President says, no, we do not have the money.

My colleague from the State of Washington, Senator MURRAY, asks the question: What is more important in this country? I am not asking you for 10 things, but just give us a couple. What is more important than keeping our promise of health care to veterans? Just give me a couple of things that are more important. These are the people to whom we offered a promise, who answered the call: Uncle Sam wants you. Wear the uniform of this country. Put yourself in harm's way, perhaps lose an arm, perhaps lose a leg, maybe lose your life.

What is more important than saying to those people who answered that call that when you need medical help in our veterans medical system, we will have adequate funding to make sure you get that help?

I recall one day a father calling me and saying: I have a son who fought in the Vietnam war, and he suffered a head wound, a bullet to the brain. It was a very serious head wound that left him in devastating condition, and because of that brain wound and his incapacity, he was suffering muscle atrophy, and at some point he had to have a toe removed. They said, well, to have that toe removed, you have to take this young veteran to Fargo, ND, which was about 250 miles away—500 miles round trip.

So for this young man, who suffered a wound to the head in a war and was incapacitated as a result of it, put him in a car and drive him 500 miles round trip to have a toe removed. I said: Isn't there some common sense here? Couldn't this be done somewhere closer? We finally resolved that.

But the fact is, the money that was left out of the President's budget for the storefront community clinics for veterans, that is exactly the kind of thing they can do in many cases. Yet somehow this is not an urgent priority, with all of the young veterans coming back with wounds from this war, the Iraqi war, and with all of the World War II veterans now reaching that age where they need maximum care, the maximum claim on health care they were promised.

If ever we need to decide as a priority in this Congress that we need to keep our promise to veterans, it is now. That is all the Senator from the State of Washington is saying: Let's keep this promise. There seems to be money for a lot of other priorities around here that rank far lower than health care for America's veterans.

All of us have stories about these veterans, about those we have visited who were involved in World War II, Korea, Vietnam, and now the gulf war. Those stories, individually and collectively, talk about heroism and commitment and service, duty, honor, country. Duty and honor, it seems to me, for us is to make the right choice.

It is always about choices in Congress. Who among us will decide today that it is the wrong choice to fully fund veterans health care in this country? Who among us will decide that is the wrong choice? For me, it is the right choice to decide veterans deserve to know we keep our promise. That is the import of the amendment from Senator MURRAY. I am proud to stand here and speak for it and support it and vote for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise in strong support of the Murray amendment. This is an emergency supplemental bill. We are considering funding for our troops in Iraq and Afghanistan. I voted against this war. I didn't think we were prepared. I didn't think we had a coalition to stand behind us that would send in the soldiers and bring the resources to the battle. Our military went into this war and performed admirably. We were well prepared for the military invasion. Clearly we were not prepared for what happened afterward.

For 2 years now we have been in Iraq and Afghanistan. For 2 years we have seen the casualties come home and we have seen the body bags and caskets come home as well. We have lost over 16,000 of our best and bravest in Iraq to this day. Among our allies, thank goodness there have been fewer losses. But in comparison it shows we are carrying the burden of battle. Our sons and daughters are carrying the burden of battle. The taxpayers, with this bill, will put the resources into material and equipment so these soldiers can do their job and come home safely.

How many of us have stood up on the floor of the Senate on both sides of the aisle praising these men and women in uniform, saying we have to stand behind them, keep them in your thoughts and prayers, don't be ashamed to wave that flag? We are all proud Americans.

Senator MURRAY comes to us today and asks whether our pride in our fighting men and women is enough for us to declare it an emergency to make sure our veterans hospitals and clinics are up to the task of serving these men and women. For us to give all the great speeches about how much we admire the soldiers and then, when they are hurt and come home, to throw them into a VA system unprepared to take care of them is a mockery. If we truly believe in the goodness of the men and women who risk their lives for America, why wouldn't we vote for the Murray amendment to put the money in the veterans hospitals so the very best doctors and nurses and equipment is there for our sons, our daughters, the husband, and wives of people we love.

Let me tell you about one element of this which I am particularly proud that Senator MURRAY has added at my request. It is estimated that at least one out of every five soldiers who serves will come home and face a condition known as posttraumatic stress disorder. What is it? If you saw the movie "Patton," you can recall that scene where George C. Scott, playing Patton, went in the military hospital, saw a soldier on a cot and asked: Where were you hit, soldier? The soldier responded: I wasn't hit. I just can't do it anymore. And Patton reached down and slapped him. He slapped that soldier and that slap reverberated across America, a scandalous headline that this general would slap a soldier because he couldn't face battle.

In all honesty, it is that attitude and denial which have led the United States to ignore this very real problem. It wasn't until 1980, 25 years ago, that the Veterans' Administration acknowledged the fact that when you take men and women in America, train them to be soldiers and sailors, marines and airmen, serve in the Coast Guard, put them into battle, they can have life experiences and witness events which will have a dramatic impact on them personally. They may need help and counseling to come home and set their lives on the right path. The first time we acknowledged posttraumatic stress disorder was 1980. They used to call it shell shock and battle fatigue. But it was never acknowledged as a medical problem that needed attention until 1980.

A few weeks ago I went across my State of Illinois. I went to five different locations for roundtables. I invited medical counselors from the Veterans' Administration to tell me about the soldiers who were trying to come to grips with this torment in their minds over what they had done and what they had seen. I was nothing short of amazed at what happened. In every single stop, these men and women came forward and sat at tables before groups in their communities, before the media, and told their sad stories of being trained to serve this country, being proud to serve, and going into battle situations which caused an impact on their mind they never could have imagined, and coming home with their minds in this turmoil over what they had done and seen, and many times having to wait months and, in one case, a year before they could see a doctor at a VA hospital.

I couldn't believe the stories of World War II veterans. A veteran in southern Illinois who was in the Philippines couldn't come to my meeting because "I just can't face talking about it." 60 years after his experience. Veterans from Korea where my two brothers served, veterans from Vietnam who came home rejected by many, who couldn't resolve their difficulties because they were afraid to even acknowledge they were veterans, tormented by this for decades.

The ones that gripped my heart the most were the Iraqi veterans. I will never forget these men and women. The one I sat next to at Collinsville, a bright, handsome, good looking young marine, talked about going into Fallujah with his unit and how his point man was riddled with bullets, and he had to carry the parts of his body out of that street into some side corner where he could be evacuated, at least the remains could be evacuated. Then he served as point man and went forward. A rocket-propelled grenade was shot at him, and it bounced off his helmet. One of the insurgents came up and shot him twice in the chest. This happened in November. He was there. He survived.

When he came home, he couldn't understand who he was because of what he had seen and been involved in. He had problems with his wife, difficult, violent problems, and he turned to the VA for help.

I said to this young marine: I am almost afraid to ask you this, but how old are you?

He said: I am 19.

Think of what he has been through. Thank goodness he is in the hands of counselors. Thank goodness he is getting some help, moving in the right direction.

But in another meeting in southern Illinois, another soldier said, in front of the group: As part of this battle, I killed children, women. I killed old people. I am trying to come to grips with this in my mind as I try to come back into civilian life.

A young woman, an activated guardswoman from Illinois, said when she came out, still in distress over what she had seen and done, they stopped her at Camp McCoy in Wisconsin and sat her down and asked: Any problems? Of course, that should have been the time for her to come forward and say: I have serious problems. She didn't. Because if you said you had a problem, you had to stay at Camp McCoy for 3 more months. She was so desperate to get home she said: No problems.

She came home and finally realized that was not true. She had serious psychological problems over what she had been through. When she turned to the VA and asked for help, they said: You can come in and see a counselor at the VA in 1 year.

What happens to these veterans, victims of posttraumatic stress disorder, without counseling at an early stage? Sadly, many of them see their marriages destroyed. One I met was on his fourth marriage. Many of them self-medicate with alcohol, sometimes with drugs, desperate to find some relief from the nightmares they face every night. These are the real stories of real people, our sons and daughters, our brothers and sisters, our husbands and wives who go to battle to defend this country and come home with the promise that we will stand behind them.

If we stand behind them, we need to stand by the Murray amendment—$2 billion to make sure these hospitals and clinics have the very best people to treat our soldiers coming home; money as well to make certain that there is family therapy, something that is often overlooked. How many times do you hear the story of the wife who says: Who is this man who came back from battle? He is not the soldier I sent away. He is so distant. He doesn't talk to me. He gets angry in a hurry. He wants to be away from us. That is not the man I sent to battle. The spouses and their children need help, too.

I implore my colleagues. I know it is considered unusual to come in on a President's request and add money for the Veterans' Administration. But we are not doing our duty as Senators to only provide the money for the troops for the battle. We have to do more. We must do that. But we need to provide the physical and mental medical help these same soldiers need when they come home.

I thank Senator MURRAY for her leadership on this amendment. I wish it were a bipartisan amendment. There is certainly bipartisan support for our troops. But maybe when the vote comes, we will find if the same Senators who have said such glowing things about the men and women in uniform will stand by them when they come home and need a helping hand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Illinois for his heartfelt statement. I know he has worked in his State, talking to young men and women who are coming home.

He has looked them in the eyes as I have. I was with him in Kuwait and Iraq a few weeks ago talking to soldiers who are coming home.

The No. 1 question was: We are hearing that services are not going to be available for us when we get home. We are hearing that the veterans from Vietnam and World War II are waiting in line. We have been over here for a year.

They fear this country has forgotten them despite all the rhetoric on this floor. The Senator from Illinois is right. This is not a Republican issue. It is not a Democratic issue. This is an American issue. This is about our American men and women serving us honorably and who deserve to have the services when they come home.

The Senator from Illinois is right. To look into the eyes of a young family where one of them is suffering from posttraumatic stress syndrome affecting their marriage, job, their entire community, and what are we saying? Wait in lines. You don't get in to be served? That is not an emergency?

What we have now in front of us is a point of order saying this is not an emergency. If it is not an emergency to take care of our men and women who are now serving us overseas, who have come home, then I don't know what is. When I am going out and talking to service organizations and every single VISN in this country is telling us they are working under debts, they are not hiring doctors and nurses to replace those who are leaving, they have beds that are being held together by duct tape—if that is not an emergency, then I can't think of one that is.

We have talked to veterans in every single VISN. Every single one of them has given us dramatic stories of the wait lines, of clinics that have been promised and not opened, of service men and women from previous wars who are not getting served. This is not an emergency? I disagree.

I ask unanimous consent to add Senators SCHUMER, JOHNSON, CORZINE, LINCOLN, LANDRIEU, and DORGAN as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I ask unanimous consent to print two letters of support in the RECORD. They are from the national veterans service organizations: The American Legion, the Veterans of Foreign Wars, Amvets, Paralyzed Veterans of America, and Disabled American Veterans.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, DC, April 11, 2005.

Hon. PATTY MURRAY,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURRAY: Thank you for offering an amendment to the H.R. 1268, FY 2005 emergency supplemental appropriations, to add $2 billion for the Department of Veterans Affairs (VA) medical care. VA medical care is truly the ongoing cost of war. You have The American Legion's full support.

VA is not meeting the health care needs of America's veterans. Currently, certain veterans are actually denied access to the VA health care system even though they are willing to make co-payments and have third-party health care insurance, while other face lengthy delays in accessing care. Although providing quality health care, VA cannot meet its own timely access standards simply because it lacks the health care professionals to meet the demand for services.

In 2003, the President's Task Force to Improve Health Care Delivery For Our Nation's Veterans cited "eliminating the mismatch between demand and funding" as a major obstacle. Last year, VA officials claimed to need between 10 and 14 percent annual increases just to maintain current services because of Federal payraises and medical inflation. VA health care is still the best value for the taxpayer's dollar.

As former active-duty service members, especially National Guard and Reservists, transition to their civilian lifestyles, many new veterans will turn to VA to address their health care concerns, especially those with mental health problems associated with combat. VA is a world leader in effective treatment of post-traumatic stress disorder (PTSD) and other readjustments problems. VA must be funded to make sure this newest generation of wartime veterans are properly cared for in a timely manner and not displace other veterans seeking care due simply to limited resources.

Once again, thank you for offering an amendment to add $2 billion for VA medical care. Timely access to VA medical care is an earned benefit from a grateful nation.

Sincerely,
STEVE ROBERTSON,
Director,
National Legislative Commission.

THE INDEPENDENT BUDGET,
Washington, DC, April 6, 2005.

DEAR SENATOR: On behalf of the co-authors of The Independent Budget, AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and the Veterans of Foreign Wars, we are writing to express our support for the proposed Murray-Akaka amendment to the FY 2005 Emergency Supplemental that would provide $1.9 billion in much needed funding for veterans' health care.

Providing health care to returning servicemembers is an ongoing cost of our national defense. Servicemembers who participate in a theater of combat are eligible for health care from the Department of Veterans Affairs for two years after separation or release from active duty, without regard for strict eligibility rules. VA hospitals are facing budget deficits and moving to reduce services. Neither the Administration's FY 2006 budget request nor the recently passed budget resolution, addressed the costs of providing needed health care. The Independent Budget has recommended an increase for VA health care of $3.5 billion for FY 2006. This amendment would provide the funding needed to care for these returning veterans, as well as provide the resources the VA needs to meet shortfalls that are affecting veterans today.

We ask you to support this amendment and to provide the dollars needed to care for servicemembers returning from Iraq and Afghanistan, as well as all veterans who rely upon the VA to provide their health care.

Sincerely,
RICK JONES,
National Legislative Director, AMVETS.
RICHARD B. FULLER,
National Legislative Director, Paralyzed Veterans of America.
JOSEPH A. VIOLANTE,
National Legislative Director, Disabled American Veterans.
DENNIS CULLINAN,
National Legislative Director, Veterans of Foreign Wars of the United States.

Mrs. MURRAY. Mr. President, the VA is not prepared to deal with the soldiers who are coming home. So far 240,000 soldiers have come out of our service and are now available or have available to them veterans services; 50,000 already have asked the VA for care. This is an emergency.

As I talked about this morning, in State after State, in Alaska, where priority 7 veterans who are not enrolled in VA primary care are not getting appointments to date; in Colorado, where they have a $7.25 million shortage this year; in California where the VA hospital in Los Angeles has closed its psychiatric ward at the exact time we have generals telling us that at least 30 percent of our soldiers who are coming home from Iraq will need mental health care capacity and we have psychiatric emergency rooms being closed; in Florida, where there is $150 million deficit; in Idaho, where we have the Boise Idaho VA facility with a hiring freeze; in Kentucky, where we are having soldiers lie on broken tables because there is simply no money to replace any equipment there. In Maine, we have a $12 million deficit; in Minneapolis, $7 million shortfall—I remind the Senate, there are four facilities that see the most difficult, complex injuries once they have been discharged. Minnesota is one of them, and they have a $7 million shortfall.

The list goes on and on. This is an emergency. I cannot think of a more important issue facing our country today. I can't go home and look at my veterans in north central Washington who have to drive over a mountain pass 150 miles to get care today, who have been promised the health care clinic, and say: Sorry, my colleagues don't see this as an emergency.

Any one of us who has taken the time to sit down with our soldiers when they are discharged from the service and out in their communities—they tell us the stories such as the Senator from Illinois talked about, about the help they need getting through the nightmares, the posttraumatic stress syndrome, getting help with serious injuries where they have lost arms and legs.

We should not say on this Senate floor this is not an emergency. I am appalled that that is what the argument has come down to. I believe this vote is about whether we stand with our men and women. It is about whether you are going to vote with our veterans. I am stunned that there are those who say this one issue is not something that is an emergency.

Any one of us who has been out there working with our veterans—I come to this floor as a daughter of a disabled veteran. I lived with my father who was in a wheelchair most of his lifetime. I worked at a VA hospital long before I even thought about being in the Senate. I worked at the Seattle VA hospital during the Vietnam war. Any one of us who has taken the time to talk to people who served in wars and have come home know that if we don't have the care for them, we are doing a disservice not only to the men and women who serve today, but to the men and women whom we are going to ask to serve us in the wars to come.

This is an emergency. I don't care if the administration is saying the VA hospitals have the money they need. When we talk to them, they are all telling us they have a budget deficit, a hiring freeze; they are not replacing the doctors and nurses who are leaving, and they have equipment that is old, decrepit, falling apart, and dangerous. That is an emergency. It is one we have to deal with.

Mr. President, I see my colleague from Minnesota on the floor. I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I thank my colleague from Washington for her leadership on this very important amendment. I share her dismay and astonishment that the other side doesn't recognize this is an emergency. It is an emergency in Minnesota and to the Minneapolis veterans hospital, which has been designated as one of the primary recipients of those returning home injured in the war in Iraq, and which does not have the money even to meet the needs of veterans already in Minnesota, much less the additional demand.

It seems to me incredible that anybody can say they support our troops, as we all do, but then when they come home injured, wounded, even maimed, we are not going to provide them with the resources necessary and everything they need to resume healthy and normal lives.

This is a fundamental question of priorities for this body and for the administration. If we don't believe that sending soldiers to Iraq constitutes an emergency, if we don't believe that supplying them and equipping them, as we will vote to do—as I have supported every time and will again here—constitutes an emergency outside of the normal budget processes, but this instance now where we talk about providing health care to those most in need, in the most emergency-type situations of their lives imaginable, that this is not an emergency expenditure that should be approved unanimously by this body, then I frankly don't see how we can say with any integrity that we support our troops.

We support our troops in Iraq and now we need to support them when they return home. This amendment of the Senator from Washington will accomplish that. I would be astonished if anyone in this body would oppose it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, how much time do we have on this side?

The PRESIDING OFFICER. The Senator has 7 minutes 16 seconds.

Mrs. MURRAY. Mr. President, I note that there is nobody from the other side on the floor. I am frankly not surprised, because I don't see how anyone can argue against making sure that our service men and women get the health care they need, whether it is for a mental or a physical need. We sent them to war. We should be there for them when they come home. Regarding this amendment, I have been trying to do this since the beginning of the year and I have been told this is not the time or the place.

I let my colleagues know this is our last chance this year to make sure our veterans have the care they need. There is no other opportunity. We are going to get to the budget at some point and to the appropriations cycle, and we are going to get to the point where we have an appropriations bill on the floor, and the budget already says there is no more money. We hear the administration say—when we talk about the VISNs, everyone tells us they don't have the resources. If you look at it, you will see these men and women don't have the care they need.

Mr. DAYTON. Will the Senator yield for a question?

Mrs. MURRAY. Yes.

Mr. DAYTON. The Senator knows this is an emergency supplemental, so it is not subject to the normal budget process. In my 4-plus years here, I have not witnessed another occasion where a budget point of order has been raised against any part of the emergency supplemental appropriations. Is the Senator aware of this happening before, or are veterans being singled out in this instance?

Mrs. MURRAY. Mr. President, I have to agree with my colleague from Minnesota. I have not seen that done before. What we are going to vote on is whether our veterans are an emergency so they can be included in the supplemental.

Mr. DAYTON. We are talking about an $82 billion supplemental here that the Senator has amended, which fits within the President's request—or most of it does. It is a small part of this, and it is the least we should be doing on behalf of veterans.

Mrs. MURRAY. The Senator is correct. Actually, the President sent us an $82 billion supplemental. The Senate is considering $80.1 billion. We have the means to still be less than what the President has sent us by adding this amendment. I sincerely cannot think of any other issue more important than to make sure that those men and women who served us, when they come home, have the services they need.

Ms. STABENOW. Will the Senator yield for a question?

Mrs. MURRAY. Yes.

Ms. STABENOW. I first thank the Senator from Washington State. She is exactly on the mark. I have joined with her on a number of occasions and appreciate her leadership on this issue of veterans health care.

Would she not agree that veterans should not have to go through the process every year, fighting every year to try to get what they need and, at the same time, knowing that they give us everything they are asked to do in terms of putting their lives on the line, keeping us safe? Our men and women in Iraq right now are doing that and we have made a promise to them. Would she not agree that as a country, every year it seems as though we are back here trying to keep the promise.

Mrs. MURRAY. The Senator from Michigan is correct. Frankly, I have joined her in trying to make veteran services mandatory so we are not here. It is disturbing to me that we are desperately pleading to our colleagues to call this an emergency. What are we doing to our soldiers when we tell them we are in a desperate fight on the floor of the Senate that we are going to lose on a partisan vote over our veterans? That is the wrong message to send to the men and women in the services. It should be part of our budget, part of the appropriations every year, that if you serve your country, you get your care. We don't have that now, so we are here in our last-ditch effort, last attempt, last ability to try to provide these services for the men and women in the services.

I find that appalling, but I will fight hard because I believe more than anything that we should be making sure if a young man or woman comes home from Iraq or Afghanistan, they are not turned away at their VA hospital. We need to make sure that anybody who serves in any war—Vietnam, Korea, or anywhere—is not turned away at a VA hospital. They should not be put in a bed held together by duct tape. That is wrong. That is why we are here arguing now that this is an emergency, because we have not dealt with it in the past. We now have to deal with it, and I urge my colleagues to join with us on the last chance we have this year to keep our word to the men and women who have served this country honorably.

Ms. STABENOW. Will my colleague yield?

Mrs. MURRAY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes 15 seconds.

Mrs. MURRAY. I yield for a question.

Ms. STABENOW. I wanted to share with my colleague—and then ask a question—the fact that this is an emergency in Michigan. We have a big State, 10 million people, a very large State geographically, where folks often have to drive a long way in order to get to VA assistance. They are now in a situation of having to wait up to 6 months oftentimes to see a doctor and to get the services they need.

I ask my colleague if she is hearing those similar stories around the country—that we wait 6 months, we drive hours and hours to get to a facility right now? Without the additional dollars, that is only going to continue and get worse. I wonder if that is what she is hearing as well.

Mrs. MURRAY. The Senator is exactly right. We are hearing that from every region, including yours. That is why this amendment is before us.

I have little time left. I see some colleagues on the other side are on the floor. They are going to make their arguments. Again, this is an emergency; this is part of the supplemental. We should not tell our soldiers that they are not an emergency when they come home.

I yield to my colleagues on the other side.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, I yield such time as she may consume to the Senator from Texas, Mrs. HUTCHISON.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I want to answer some of the concerns raised by the Senator from the State of Washington.

First, there is not a Senator in the entire Senate who doesn't want to make sure that the veterans are taken care of, whether they served in World War I, II, Korea, or any other war. I have to say I am mentioning World War I because I was at a veterans event about 6 months ago, and I asked people to stand by the wars in which they served and I didn't mention World War I. This very irate veteran in a wheelchair in front of me suggested that I left out World War I. So I want to say that I am most appreciative of the veterans who are here having served in World War I and every other war.

We want to take care of our veterans. We want to make sure that we have the money to do it. We do not have a supplemental request from the administration for the Veterans' Administration. This doesn't mean that some veterans hospitals out in our country are not saying they would like to have more money; it doesn't mean that a clinic hasn't been built yet that is on the drawing boards to be built. Most certainly, we have areas that we need to address in veterans care, and I want to make sure we have the money to do it.

But I have to say that the Veterans' Administration is telling us they have the money they need to fulfill this year's budget and, specifically, to fulfill their needs.

We asked the Secretary of Veterans Affairs if he needed more money in the 2005 year—the year we are in budgetwise—for returning veterans from the Iraqi war and from the Afghanistan area. The answer was: No, we have everything we need to cover those veterans. We asked him if he needed more money than was in the current Presidential budget for 2006, which we will be considering in my subcommittee for those same returning veterans. The answer was: No, we have enough in that budget.

Now, I have to say that, as chairman of the Veterans' Affairs Subcommittee in Appropriations, I am going to look at that and I am going to try to determine for myself if there is enough for 2006. But I have to say in this budget year, 2005, which has about 6 more months to run, the Veterans Affairs Department says they have enough to cover Iraq and Afghanistan.

This does not mean everything is going exactly the way I would want it in the Veterans' Administration. There is a hospital in Dallas that is particularly being noted by the GAO investigators as not performing up to the standards we would expect, and I am asking our Secretary of Veterans Affairs to address that particular hospital. I am sure there are other specific instances.

It is not that we do not have the money put in there. It is that we have had a management problem there, and we are seeking to address that situation immediately.

I asked the Secretary to put in writing what the situation is, and I ask unanimous consent that the April 5, 2005, letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY
OF VETERANS AFFAIRS,
Washington, DC, April 5, 2005.

Hon. KAY BAILEY HUTCHISON,
Chairman, Subcommittee on Military Construction and Veterans Affairs, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: Before I begin the main purpose of this letter, I want to take this opportunity to thank you for the consideration and interest you have shown VA through your leadership in this year's appropriation hearing and many other endeavors on behalf of our veterans. I very much appreciate your proactive involvement and commitment to providing for those who have served this country with such dedication.

I write to you today to address certain issues regarding VA's FY 2005 fiscal situation. I know some have said that VA must have emergency supplemental funds to continue providing the services for which veterans depend on us—timely health care and delivery of benefits. Whenever trends indicate the need for refocusing priorities, VA's leaders ensure prudent use of reserve funding for these purposes. That is just simply part of good management. It does not, however, indicate a "dire emergency". I can assure you that VA does not need emergency supplemental funds in FY 2005 to continue to provide the timely, quality service that is always our goal. We will, as always, continue to monitor workload and resources to be sure we have a sustainable balance. But certainly for the remainder of this year, I do not foresee any challenges that are not solvable within our own management decision capability.

I look forward to continuing to work with you as we strive to provide the very best service possible for those veterans who depend on us the most. Thank you again for your leadership in this important area.

Sincerely yours,
R. JAMES NICHOLSON.

Mrs. HUTCHISON. Now, that is the Secretary of Veterans Affairs who says there is reserve funding available if an emergency arises, and the Veterans Affairs Department does not need extra funding.

One thing has to be determined, and that is the difference between people who are returning who are on active duty, who are at our military hospitals, who are being treated in the Department of Defense because they are active duty. The Veterans Affairs Department is where the people who are going out of our military service go for their health care. There are fewer coming home in the Veterans Affairs' influence where they would be giving the service, as opposed to active duty where they are going to Bethesda, Walter Reed, and other hospitals that are treating our Active-Duty military.

So I think we have to look at where the Veterans Affairs part of this budget is, and do they need more. In fact, of the 240,000 who have gone out of our service in the last 3 years, only 48,000 have even come in to the Veterans Affairs service capability. Some already have insurance. Some might come later but that is something that we can monitor. Right now, we are told we have the reserve funding to be able to handle anyone who is going out of Active-Duty service, out of Active-Duty military health care and into the Veterans' Administration, and that we have the money to cover it.

So I do not want to take the $2 billion that is in this amendment out of other areas such as our armed services, our Active-Duty military who are on the ground, the equipment we are giving them in this supplemental. That is why I must oppose Senator MURRAY's amendment, although I do agree with her overall goal and will continue to work with her as chairman of the subcommittee to monitor the situation.

Let us get our numbers right. Let us act when it is on the budget with the hearings and the anticipation of the needs, rather than adding $2 billion to the emergency appropriations that is before us today and taking it from something else, such as Active-Duty military equipment and preventive measures that we must cover for those who are on the ground today.

With all of this said, we will reach our goal of assuring the very best military veterans' care not by adding $2 billion to the funding for the next 6 months but, instead, planning for it since we are told by the Secretary of Veterans Affairs we have the money we need for this year.

The PRESIDING OFFICER (Mr. COLEMAN). Who yields time? The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the Senator from West Virginia was not able to be on the Senate floor when this was initially discussed, and in deference to his right to speak on this amendment, I yield 10 minutes from our side to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the Appropriations Committee, Senator COCHRAN of Mississippi, for his generosity and for his very gracious and courteous action in this regard. I thank him for the time. I will not use the entire 10 minutes. I take it I may yield some of that time, if I wish, to other Senators.

The wars in Iraq and Afghanistan have strained America. The cost of these wars has strained the Federal budget. The deployments of the National Guard and the Reserves have strained American families. The toll of the wars on our troops and their equipment has strained the readiness of our Armed Forces. But there is no one who bears more of the strains of these wars than the veterans who have served our country in combat.

According to the Department of Defense, nearly 12,000 troops have been wounded in Iraq and another 442 have been wounded in Afghanistan. These troops have received the finest medical care our military can offer, but untold numbers of service men and women will require long-term care from the Department of Veterans Affairs. However, the VA is also feeling the strains of war. VA hospitals are seeing more and more veterans from the wars in Iraq and Afghanistan at the same time the aging veterans from World War II, Korea, and Vietnam are most in need of the VA's health care services, to which they are entitled. However, the administration has not met this growing demand for VA health care services with budget increases.

Fortunately, Congress has stepped in and added billions in needed funds in recent years. Last year, Congress added $1.2 billion to the President's request for veterans health care. Two years ago, Congress added $1.57 billion to the President's budget for VA health care. But the shortfalls in the veterans budget continue. The Disabled American Veterans, in its independent budget for fiscal year 2006, estimated that the White House budget for VA health care is $3.4 billion less than what is required to care for all veterans who are entitled to care. Clearly, more needs to be done to care for veterans.

The Murray-Akaka-Byrd, and others, amendment would increase veterans health care by $1.98 billion. These funds are targeted to provide care for veterans returning from Iraq and Afghanistan to increase mental health services and to support local VA hospitals and clinics. This is a commonsense amendment to support the men and the women who have borne the wounds of battle. I urge my colleagues to support the amendment.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. BYRD. I thank the Chair and again thank my chairman, Mr. COCHRAN.

May I yield the remaining time to Senator MURRAY and Senator AKAKA?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I yield some of that time to the Senator from Hawaii, as much time as he will choose to use.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I thank the chairman of the committee, Senator COCHRAN, and also Senator BYRD and Senator MURRAY for the time.

Mr. President, the amendment before us addresses the costs of providing health care to troops serving in Iraq and Afghanistan.

My colleagues in the Senate have already recognized the need to provide funds that would allow VA to absorb an influx of new patients from Operations Iraqi and Enduring Freedom. We recognized that need in 2003, when Congress added $175 million for VA to the Supplemental Appropriations bill. I again point out that this amount was provided only one month after the war in Iraq began and before we knew about the level of troop commitment.

Does this body believe that things are better in VA today or that massive amounts of troops will not actually come for care? I don't think so.

Our amendment allows VA to provide care for returning troops—without displacing those veterans currently using the system.

The amount of this amendment—$1.9 billion—is drawn from what we know about past use of the VA health care system coupled with what we know to be the costs associated with preparing VA for veterans from the global war on terror.

Earlier we shared data and stories from VA hospitals and clinics across the country. My colleagues on the other side refute the fact that facilities are in crisis situation. I urge my colleagues to talk to VA personnel in their home States.

Perhaps the administration is reluctant to share details of budget shortfalls. Or perhaps network directors have not been allowed to request additional money. But these deficits are real, and they are deficits which will hurt veterans. In my mind that is an emergency.

To reiterate: we know of shortfalls in each and every State. The worst deficits are occurring in Florida, South Dakota, New Hampshire, Washington State, Iowa, and Ohio. These are not fiction.

I urge my colleagues to do what is right for VA hospitals and the veterans served by them.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mrs. MURRAY. How much time is left on the other side?

The PRESIDING OFFICER. There remain 14½ minutes.

Mrs. MURRAY. Mr. President, I do not see anybody on the other side who is going to speak. Let me just reiterate for everyone here. What we are talking about is an amendment for veterans, to make sure they have the health care and support they need when they come home from the war in Iraq and the war in Afghanistan.

What we have been very clear about is in every region across this country there is a debt and a shortfall. We have facilities that are decaying, and no money is being put in to fix them. We have long waiting lines. We have veterans in rural areas who are being told they cannot have health clinics. We are being told that veterans, the men and women who served us, have to travel over mountain passes and travel long distances to get the care they need. Most of it is inaccessible.

We are telling veterans who live in urban areas that the long lines in which they are waiting have to be there. We are telling suburban parents if they send their young son or daughter off to war, we are not going to be there for them when they come home.

I believe this is a emergency. I have outlined it this morning. I have outlined it again this afternoon. I heard from our colleagues on the other side that the Veterans Affairs Secretary, Secretary Nicholson, is saying he has the money he needs. He was on the job for 2 weeks when he said that. I invite the Secretary and any one of us to go out on the ground, go out to Michigan and Minnesota, go to Kentucky, go to Illinois, go to California, go to Texas, go to Idaho, go to any veterans facility and look and tell me there is not an emergency. Look in the eye of any VA doctor or nurse and tell them there is not an emergency. But more importantly, look in the eyes of the young men and women who served us.

I was in Iraq and Kuwait several weeks ago. I had to look in the eyes of 150 Guard and Reserve members who had just finished in Iraq for a year. Their No. 1 concern is they are hearing the facilities will not be available for them when they get home. Their No. 1 concern? Stress. A year on the ground in Iraq. They had heard from soldiers who had already gone home about the troubles they had with migraines, post-traumatic stress syndrome, reintegrating in the community. They want to come home, and we know the support is not there, and we tell them that is not an emergency.

I find it outrageous that this body can send to war our sons and daughters, husbands and wives, and say we will not be there for you when you come home; that we will tell them you will have to wait, your budgets are not a priority, your issues are not a concern to this body. I cannot think of a more important issue. I cannot think of a more important emergency, and I cannot think of anywhere else we are going to be able to deal with this this year.

If we do not provide the funds on the emergency supplemental before us, we will be here a year from now with story after story of young men and women who served us and then came home and were told no. That is an emergency.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we had a full debate of this issue. This is not the first time this issue has been presented to the Senate. As a matter of fact, before this fiscal year began, 2005, there was a question about how much money would be needed by the Veterans' Administration to provide health care benefits and other services to veterans.

The President had submitted a budget request for this year, but after hearings in our Appropriations Committee, the subcommittee recommended an increase over and above what the President had requested.

As we all know, there is a considerable time gap after the President's completion of his budget submission. The hearing process takes place in Congress, a budget resolution is developed, and then the Appropriations Committee conducts hearings and reviews what the facts are and if there have been any changes in the situation that can be reflected in the recommendations made in the Appropriations Committee.

Last year, the Appropriations subcommittee recommended to the full committee an increase in funding over and above the request of the President by $1.2 billion—a substantial increase. That was approved.

In this fiscal year's budget which we are now talking about, the President has already received $1.2 billion that he did not request. As we moved into the year, there have been suggestions that additional funds might be needed. We are already, though, preparing for the next fiscal year, 2006. The other day when we had a budget resolution before the Senate, this was again presented as an issue to the Senate. Senators offered an amendment and debated it, and we had a vote on that resolution. By a vote of 53 to 47, an amendment by the Senator from Hawaii to add about $3 billion to the budget resolution was defeated by the Senate. It was well debated. It was considered carefully. And here we are again.

We have an emergency supplemental now on the floor of the Senate dealing with funds needed to successfully complete, we hope, operations in Iraq and Afghanistan at the soonest possible date so we can have a more stable and peaceful situation, not only in that part of the world but in the war against terror generally, to protect the security of American citizens.

This supplemental is directed, in large part, to that concern and to those needs—the needs of the Department of Defense and the Department of State for depleted accounts in programs under the jurisdiction of that department.

There are some other accounts that are funded in this urgent supplemental, but there are no funds requested by the administration for the Veterans' Administration programs.

The other day there was a hearing on this subject. The Secretary, as the distinguished Senator from Texas pointed out, was questioned about the need for additional funds by the Veterans' Administration. The answer was unequivocal. It was clear. It was precise. Then, to clarify that, the Senator from Washington said that was weeks ago, that was early, and all the needs weren't known then. Here is the letter, dated April 5, 2005. This is what the Secretary of the Veterans' Administration said in response to the suggestions being made by the proponent of this amendment:

> I can assure you that VA does not need emergency supplemental funds in FY 2005 to continue to provide the timely quality service that is always our goal. We will, as always continue to monitor workload and resources to be sure we have a sustainable balance, but certainly for the remainder of this year I do not foresee any challenges that are not solvable within our own management decision capability.

That is about as clear and persuasive a statement about the need for the funds at this time, for the remainder of this fiscal year, as you could possibly ask for by the person who has the responsibility for carrying out these programs and administering these programs for the benefit of our Nation's veterans.

There is another point I am going to make before my time expires.

The Secretary testified not only were the funds sufficient for fiscal year 2005 but that the financial plan is manageable. He said the Department is not in a crisis requiring emergency appropriations.

Then, on the point of the number of servicemen coming back to the States from the wars in Iraq and Afghanistan, the highest projection that has been made, if one looks at the numbers of persons entering the VA system in any given 1 year, the highest projection might be 48,000.

To put that in perspective with respect to the entire system and the entire workload of the Veterans' Administration, returning service members from the Iraqi war entering the VA system will be less than 1 percent of the total VA population.

The Senator from Texas made a point that was very persuasive. I think it should be repeated; that is, most veterans who are coming back to the States at this point and need medical care are still in the Department of Defense. They are at Walter Reed. They are at other hospitals that are under the jurisdiction of the Department of Defense. They are not going to the veterans hospitals. People who are coming back from Iraq are a small percentage of the population, and they are not as likely as older veterans to need services from the Veterans' Administration. The older veterans in the system are a much larger group and require more appointments, medical care, and assistance medications than the younger population coming into the system now.

For these reasons, I urge the Senate to reject the request of the Senators to open this emergency supplemental bill and add the additional $1.9 billion that has been requested.

I am prepared to yield the remainder of our time. I think we talked about the vote being scheduled for 3:30. As I understand, there is before the Chair a motion on the part of the Senator from Washington to waive the Budget Act. Is that correct?

The PRESIDING OFFICER. The Senator has moved to waive the point of order that was raised against her amendment.

Mr. COCHRAN. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. They have been ordered on that motion.

Mr. COCHRAN. I yield the floor and I yield our time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I understand the other side yielded this time. Let me simply respond by saying we are talking about a supplemental bill that talks about the cost of the war. Part of the cost of war is caring for the men and women when they return home. As President Lincoln said:

> We all have an obligation to care for him who shall have borne the battle and for his widow and for his orphan.

That is what this vote is about, whether we carry forward our obligations to care for those we sent to war.

I ask my colleagues to vote with us to override this motion that says this is not an emergency so our veterans can receive the care they deserve.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Specter
Stabenow
Wyden

NAYS—54

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

The PRESIDING OFFICER (Mr. MARTINEZ). On this vote the yeas are 46, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the emergency designation is removed.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I make the point of order that the amendment violates section 302 of the Budget Act.

Mrs. MURRAY. Mr. President, I move to waive the applicable sections of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. MURRAY. Mr. President, what we voted on was whether to make the VA funding emergency funding. This vote is to say that the veterans funding is a priority for this Congress.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Specter
Stabenow
Wyden

NAYS—54

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. ALLARD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I request 15 minutes to speak on the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALLARD. Mr. President, I rise today to discuss the fiscal year 2005 Emergency Supplemental Appropriations bill. I commend Senator COCHRAN, the manager of this bill and the chairman of the Appropriations Committee, for the way he has put together this bill. His leadership was critical in ensuring that provisions in this bill are truly emergencies and are vital to our troops in the field.

I also acknowledge the work done by Senator STEVENS, the chairman of the Appropriations Subcommittee on Defense. Most of the funding in this bill comes from his subcommittee, and I know he has worked hard to ensure every penny will be wisely spent.

Both Senator COCHRAN and Senator STEVENS have also gone out of their way to assist me and Senator MCCONNELL in tackling an important issue related to our nation's chemical weapons stockpile. I will discuss this issue in greater detail in a moment.

The bill before us includes critically-needed funding for our men and women in uniform. It also ensures that the operations against the global war on terror is not interrupted. It provides certain benefits for our troops, including an increased death gratuity, life insurance extensions, and hazardous pay. I strongly support these provisions and believe they will greatly enhance the effectiveness of our military forces.

The bill also includes several provisions related to the Department of Defense chemical demilitarization program. These provisions seek to force the Department of Defense to move forward with the design and construction of two chemical weapons destruction facilities at Pueblo, CO and Blue Grass, KY.

Since the program's inception, the Department of Defense management has been dismal and ineffective. The program is behind schedule and overbudget. In 1986, Congress was told that the program was going to be completed before 2007 at a cost of approximately $2.1 billion. And now, we are told the program could possibly cost as much as $37 billion and be completed as late as 2030.

The Department of Defense has consistently failed to provide sufficient funding for this program, forcing those who run it to make programmatic decisions that pit demilitarization sites against each other.

The Department of Defense has failed to provide adequate program management. It has repeatedly stopped and restarted design work and operations, adding huge start-up costs and considerable schedule delays.

The department has failed effectively to communicate its intentions and plans to the States in which permitting is necessary, nor to local communities whose support is essential.

An example of these failures is the department's handling of the destruction of the chemical weapons stockpile at the Pueblo Depot in Colorado. In 2002, the department accelerated the destruction of the weapons at Pueblo with the goal of completing its work by the 2012 Chemical Weapons Convention deadline.

However, in 2004, the department changed its mind. Without telling Congress, the State of Colorado, or the people in Pueblo, the department unilaterally decided to cease all design work and assign the project in Pueblo to in care-taker status for the next 6 years.

After six months of no activity, the Department of Defense changed its mind again. It ordered a study on whether the stockpile in Pueblo should be relocated to an operational incineration site, even though such an option is illegal under current law and has already been studied at least three times in the past.

A month after that, the department changed its mind again by ordering the start of preparatory construction and the redesign of the facility.

Today, the future of the project still remains uncertain and judging by the department's past performance, it seems likely that the project will be changed many more times.

I am frustrated, and the people of Colorado are frustrated. Try as we might, we cannot seem to get straight answers from the department. One day I was told by department officials that the stockpile would not be relocated outside of Colorado. The very next day, the department ordered the study of transportation options.

In an Armed Services Committee hearing yesterday, the only answer we could get out of department officials was that they needed to conduct more studies on the technology and more studies on transportation options. From my perspective, we can study this issue into eternity and never get anything done. It is time to move forward with destroying these weapons. It is time to eliminate the danger these weapons pose to the local communities. And, it is time for the department to recognize the necessity of complying with our international obligations.

I am very troubled by the Department of Defense's apparent willingness to violate the Chemical Weapons Convention, a treaty this body ratified. I believe the United States has a moral obligation to comply with it. Our Nation's reputation and moral standing are at stake.

If we are not careful, we will find it impossible to hold others to this treaty and to other treaties as well.

The department seems to be on a path towards blaming Congress for its future non-compliance. Yesterday, a DoD official actually told the Armed Services Committee that it would be the fault of Congress if the department could not meet the treaty deadline. This official seems to believe that relocating the stockpiles in Pueblo and Kentucky to operational sites would solve the problem.

I strongly reject that line of thinking. Congress is not to blame for the department's bungling of this program. The fact is that the Congress has been more than willing to provide the funds and political support to get this program done. Last year alone, the Congress added $50 million for the project at Pueblo. I am certain that if the Department of Defense requested additional funding for the overall program, Congress would be more than willing to support its request.

The fact of the matter is that the department has been trying to destroy these weapons since 1986, nearly 20 years, and has spent billions upon billion of taxpayer's hard-earned dollars. And yet we have destroyed less than 40 percent of our Nation's stockpile, which is no where near the 100 percent requirement of the Chemical Weapons Convention.

Let us also be clear that Congress has been very up front about the transport of chemical munitions across State lines. The law that prohibits this activity has been on the books since 1994. Nothing has changed since then. In fact, such a proposal would be dead on arrival if the department ever offered it in this Congress.

Let there be no mistake about it: I will fight this proposal.

The department should heed the words of Congress and get on with the business of destroying these weapons. Conducting more studies is a waste of time and money. We need to move forward, and we need to move forward now.

I believe it is important at this point to mention I am not alone in this fight. The senior Senator from Kentucky, MITCH MCCONNELL has been pushing the department to destroy our chemical weapons stockpile for nearly two decades. Over this time, he has led the fight in forcing the department to work with State and local communities to get this program off the ground.

There is no doubt in Senator MCCONNELL's mind or in my mind that the department has been inconsistent and unreliable regarding this program. We both strongly believe that it is past time for Congress to intervene.

That is why we worked with Senator COCHRAN and Senator STEVENS to include four provisions related to the Chemical Demilitarization program in this bill. These provisions will require the department to stop dragging its feet and move forward with the design and construction of the chemical demilitarization facilities in Pueblo, CO, and Blue Grass, KY.

Specifically, the provisions in this bill will require the Department to do the following:

transfer within 30 days all previous funding appropriated for the Pueblo and Blue Grass facilities to the program manager of the ACWA program;

require the Program Manager to spend at least $100 million within 120 days;

prevent the department from using the funding appropriated for the Pueblo and Blue Grass for any other purpose; and

prohibit the use of appropriated funding from any study pertaining to the transportation of chemical weapons across state lines.

These provisions prevent the department from dragging its feet and requiring more studies. The treaty deadline is fast approaching and cannot be ignored. The department must move quickly if we are to comply with the treaty, and I assure you today that we intend to hold them to it.

I thank the chair for the opportunity to speak on the supplemental appropriations bill. I urge my colleagues to support this bill and get this funding to our troops as quickly as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, for the information of Senators, there are no other amendments that I know of that will be offered this afternoon or this evening. There were two amendments that were offered earlier in the day which we set aside to dispose of the amendment of the Senator from Washington. These are offered by the Senator from Massachusetts, Senator KERRY, amendments numbered 333 and 334. It will be the intention of the manager of the bill to move to table these amendments when we convene tomorrow. We will be pleased to continue to set them aside and have them available for debate during the remainder of today's session. So if Senators want to speak on these amendments, this is the time to do it. Tomorrow when we convene and go to the bill, it will be the intention to move to table these amendments if there is no further debate.

In the meantime, we encourage Senators to let the managers know of their amendments that need to be considered to the bill. We are prepared to move forward. We remind Senators that this is an emergency appropriations bill. These funds are needed so that the Departments of Defense and State can proceed with other agencies that are funded in this bill to carry out their responsibilities.

We know that after we complete action on the bill here in the Senate, we will have to confer with the House to work out differences between the House-passed and Senate-passed bills. That will require some time as well.

This is a matter of some urgency. We encourage the Senate to continue to consider the bill and act expeditiously on amendments that may be offered so we can complete action on the bill and work with our colleagues in the House to have a final bill presented to the President as soon as possible. We appreciate very much having the cooperation of all Senators in that regard.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent the pending business be set aside and I be allowed to file an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 356

Mr. DURBIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. MIKULSKI, Mr. ALLEN, and Mr. CORZINE, proposes an amendment numbered 356.

Mr. DURBIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred)

On page 153, between lines 15 and 16, insert the following:

SEC. 1110. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the "Reservists Pay Security Act of 2005".

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all);

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

"(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(3) the term 'basic pay' includes any amount payable under section 5304.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, I have offered this amendment before. It has passed the Senate twice. For some reason, as soon as it passes the Senate and goes to a conference committee, it disappears, it dies. I don't understand it. It seems that the Senate by overwhelming numbers supports the concept of this amendment, but somewhere, either in the executive branch of this Government or in the House of Representatives, there is opposition to this amendment.

When I explain the amendment and what it does, you may be as puzzled as I am. Here is what the amendment says in a few words: If you are a Federal employee who is activated to serve in either a Guard or Reserve unit, the Federal Government will make up the difference in pay while you serve.

That is it. You understand, I am sure, as we all do, that we have thousands of men and women across America who are members of Guard and Reserve units who are now being activated and deployed overseas for extended periods of time, interrupting their daily lives and putting some hardship on their families and their businesses, but they serve their country. We find that many employers have decided to do not only the right thing but the patriotic thing and have said: We will stand behind our employees. If they are going to serve America, we will make up any loss of pay which they experience during the period of their service activation.

It is something we all applaud. In fact, the President has given speeches about it. There are not too many Senators who have not given speeches applauding those employers who stand behind these Guard families and Reserve families.

It turns out, when we look at all the employers across America, there is one notable omission. The U.S. Government does not make up the difference in pay between the guardsmen and reservists who are activated. So you find many Federal employees going off to serve our country are serving next to someone from the private sector who has the helping hand of their employer while those employees of our Federal Government are being disadvantaged.

America's Federal employees are a valuable asset to our Nation, not just in the public service they perform every day to keep America's Government going but today about 120,000 Federal employees serve America as well in the National Guard or Reserve—120,000. Indeed, about 17,000 have been mobilized and deployed overseas as I speak—17,000 Federal employees. Unfortunately, their employer, the U.S. Federal Government, lags behind leading businesses and States and local governments, which provide support to their workers who are activated. The Federal Government does not.

The amendment I propose is an opportunity to correct this shortcoming, update the Federal Government's support for these workers, and keep pace with the high standards set by other employers. For many years now every employer in America has had to consider how to respond to having workers activated in the Guard and Reserve. In times of peace, companies must accommodate staffing, schedule duties for the requirement for workers to be sent for training or drills. The law requires that they do this, and they follow the law.

In wartime, however, workers can be called away for duty for months, sometimes even years. It is a big challenge for employers.

How are they responding? What we have seen since 9/11 is that America's business communities and State and local governments not only provide the employment and reemployment protections required by law, but many of them go above and beyond requirement and patriotically provide even greater benefits and protections for their workers mobilized for duty in the Guard and Reserve. Many of these same businesses and State and local governments continue health insurance and fringe benefits for the families of those Guard and Reserve soldiers who are overseas. Some provide continued full salary for a few months, and more and more employers make up the difference in lost pay that the workers suffered during mobilization.

Covering the pay gap is an important benefit because some Reserve component members suffer a loss of income during mobilization. A recently released Department of Defense study in May of 2004 reveals that 51 percent of the members of our National Guard and Reserve suffer a loss of income when mobilized for long periods of active duty because military pay is less than pay in their civilian jobs. The average reservist loses $368 a month. That calculates out to about $4,300 a year in income. For many families, that $368 a month has a significant impact. Not only must they deal with the absence of someone they love but now on top of it must also tighten the family financial belt a notch or two and endure a decline in perhaps their standard of living, pressure on the family back home, and certainly more pressure on the soldier who worries about them as they serve our country overseas.

While the average monthly income loss was $368, the DOD Status of Forces Survey found that some reservists were losing a lot more. Eleven percent of all reservists report losing income of more than $2,500 a month, $30,000 a year for the year that they are activated and deployed. That is a huge sacrifice to make in the service of your country on top of risking your life every single day.

The Department of Defense operates a program called Employer Support of the Guard and Reserve—ESGR for short. Its purpose is to help employers understand and comply with the new law regarding protections for members of the Reserve. The program highlights and recognizes those employers who do more than the law requires, particularly those who are supportive of the Guard and Reserve.

To publicize these outstanding employers, ESGR lists them on their Web site. If you scroll down the Web site, you will see listed more than 1,000 companies across America, nonprofit organizations, State and local governments, all of which stand behind their Guard and Reserve while the Federal Government does not. Of those that are listed, more than 900 are saluted for providing pay differential. Think of it: 900 companies, 900 units of government that say, We will stand behind that soldier, we will make up the difference in pay.

On the first page, you will see 3M, A.G. Edwards, Abbot Laboratories, ADT Security Service, and Aetna. That is just the beginning. If you scroll down, you will see ICBM. I am proud to say you will see Sears & Roebuck from my State of Illinois, General Motors, United Parcel Service, and Ford Motor Company. In my State of Illinois, not only Sears but Boeing, State Farm Insurance, the State of Illinois, the city of Chicago, and many other Illinois companies, local governments, and institutions cover the pay differential for Reserve and Guard members called to active duty.

More and more American employers are providing a pay differential benefit to their workers who are mobilized for active duty. The number of "outstanding employers" recognized on the ESGR Web site for providing pay differential has been steadily growing. Even as the war goes on, more and more companies are stepping up for their people. They are stepping up in the private sector for their employees. How can we in the Federal Government do anything less? While the major employers in America are rushing to support the guardsmen and reservists, our Federal Government has not done so.

In a recently released DOD survey, they asked Reserve component members what factors they took into consideration before they decided to leave the National Guard and Reserve.

Let me show you that list. First, as I mentioned earlier, 51 percent of those in the Reserve who are activated lose income when they are mobilized, and 11 percent lose more than $2,500 per month.

I also mentioned this Web site. The employer-supported Guard and Reserve Web site based out of Arlington, VA, has a long list of over 1,000 employers who helped their activated Guard and soldiers, and 900 of them have provided pay differential for indefinite periods of time, some for 12 months and some for 6 months. But they are standing behind their Guard and Reserve units.

When you take a look at the number of outstanding employers who are making a greater sacrifice for their members of Guard and Reserve units, look at what happened since October of 2003. The number of employers making the pay differential for their employees called to Reserve duty has been increasing. But the U.S. Government is still not one of them. They ask the members of the Reserve and Guard: Why didn't you re-up, why didn't you reenlist? Here are the reasons they gave in a survey: 95 percent said it was too great a family burden, 91 percent said too many activations and deployments, 90 percent said activations-deployments are too long, and 78 percent said income lost.

This is a factor in retention and recruitment. It is a factor in the lifestyles of these families of Guard and Reserve unit members.

How can we come before this Congress asking for additional funds for the soldiers overseas and overlook the obvious? The Federal Government is not providing its share of helping these same soldiers. How can we throw bouquets, as we should, to all of these other employers who meet their responsibility and fail to meet our own?

With recruiting numbers falling short in virtually every branch of service, we need to do everything we can to lessen the burden. By ensuring Federal employees, if they are mobilized, that their families will not have to endure loss of income, we can help reduce one of the major factors that drive people away from the Guard and Reserve.

This measure is not only good employee support, it is not only in keeping with the standards established by other leading employers, it is not only the patriotic thing to do, it is prudent management of our Reserve component forces. Reserve component soldiers face different family and professional situations than Active-Duty soldiers. They must not only perform military duties in addition to their civilian career, they have to shift back and forth between these two responsibilities.

Additionally, these Reserve component soldiers bring to their military service something special: all of their accumulated civilian time and civilian career experience.

In Iraq, thanks to Guard and Reserve forces, we have experienced teachers, construction supervisors, civil administrators, engineers, professionals over a wide range of skills, skills particularly helpful in rebuilding that ravaged nation. This derives from the unique nature of the Reserve component service and its value to the nation we must protect.

This provision has already passed the Senate twice. In October 2003, it was agreed to by vote of 96 to 3 as an amendment to the supplemental for fiscal year 2004. In June of 2004, it was agreed to by a voice vote as an amendment to the national defense authorization bill. On both occasions. I watched as this measure went into the bipartisan conference committee and disappeared. Apparently someone is opposed to the Federal Government making up the difference in pay for activated Guard and Reserve soldiers. The same Government that is praising businesses for doing this is deep-sixing this provision when it comes time to consider it in the conference committees.

I have just been handed a letter from the Reserve Officers Association of the United States. I am happy to report it to my colleagues in the Senate.

> The Reserve Officers Association, representing 75,000 Reserve component members, supports your amendment to the emergency supplemental appropriation to provide an income offset for mobilized Federal employees.

I might add that it goes on to quote an Army Times article dated March 7, 2005, entitled "Compensating for lost pay a bad idea, reserve head says." It inferred in this article that a Reserve pay differential would be unfair to Active-Duty troops.

This retired Major General McIntosh goes on to say:

> It is a shame that it is considered OK for Reservists to accept year-after-year pay losses during mobilization on top of the losses from missed promotions, missed contributions to a retirement account, missed incremental pay increases with their civilian job.
>
> Helping to maintain the financial health of our military positively affects everyone by ensuring a strong economic position for the country.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESERVE OFFICERS ASSOCIATION
OF THE UNITED STATES,
Washington, DC, April 12, 2005.

Hon. RICHARD J. DURBIN,
U.S. Senate,
Washington DC.

DEAR SENATOR DURBIN: The Reserve Officers Association, representing 75,000 Reserve Component members, supports your amendment to the emergency supplemental appropriation, SR 109–052, to provide an income offset for mobilized federal employees.

The Guard and Reserve face financial challenges whenever they are mobilized and ROA continues to hear stories of lost businesses, increasing credit card debt, and families forced to sell their homes. Many employees pay the difference between the civilian and military salary for mobilized Reservists; yet one of the largest employers, the federal government, does not.

In the Army Times Article, "Compensating for lost pay a bad idea, reserve head says", dated March 7, 2005, it was inferred a reserve pay differential would be unfair to active-duty troops. It is a shame that it is considered okay for Reservists to accept year-after-year of pay losses during mobilization on top of the losses from missed promotions, missed contributions to a retirement account, missed incremental pay increases with their civilian job.

Helping to maintain the financial health of our military, positively affects everyone by ensuring a strong economic position for the country. Congressional support for our nation's military men and women in the Guard and Reserve is and always will be appreciated.

Sincerely,
ROBERT A. MCINTOSH,
Major General (Ret), USAFR,
Executive Director.

Mr. DURBIN. Thank you very much, Mr. President. These folks who passed this amendment twice recognized reality.

Since the end of the Cold War, employment of our Reserve Forces has shifted profoundly from being primarily an expansion force to augment Active Forces during major war to the situation we face today where the Department of Defense acknowledges that no significant operation can be undertaken without the Guard and Reserve. Today, more than 40 percent of the forces fighting the global war on terrorism are members of our Guard and Reserve. Our part-time warriors have become full-time protectors of freedom.

The Federal Government is the Nation's largest employer. We must set an example. We must show the initiative. We must stand behind the men and women of the Federal workforce who are risking their lives for us overseas. Similar legislation has been enacted in at least 23 other States.

The Presiding Officer and I had a rare opportunity not long ago. We flew into Baghdad 2 or 3 weeks ago. It was a harrowing trip in the back of a C–130. We were strapped into our combat armor, body armor, with helmets on our head, in the C–130 as it made a corkscrew landing into Baghdad. We shared a wonderful, unforgettable opportunity to meet not only the leadership in the Green Zone but to meet with the marines and soldiers who are there risking their lives.

I sat down across the table from those three marines, recalled the guard unit I met the night before, and I thought to myself, we owe them something, not simply thanks but something significant and something tangible.

For those who work in the Federal workforce, this is something tangible we can do. We can make up the difference in lost pay. We can say to them, worry about coming home safely, but don't worry about whether your family is going to make the mortgage payment and pay the utility bills and keep things together while you are overseas.

That is what this amendment is all about. We express our gratitude in many different ways for the men and women in uniform, but this amendment which I have offered with Senator MIKULSKI, Senator ALLEN, and Senator CORZINE, says to my colleagues, on a bipartisan basis, let us offer to these men and women in uniform not only our thanks and our praise but the financial support they need to give them peace of mind.

Mr. GREGG. Mr. President, the pending Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief for 2005, H.R. 1268, as reported by the Senate Committee on Appropriations, provides a net $80.582 billion in budget authority and $32.790 billion in outlays in fiscal year 2005. Of this amount, $74.763 billion is for defense activities, and the balance of $5.819 billion is for nondefense activities.

This bill is $1.299 billion less than the President's request in budget authority, but is $0.699 billion more in outlays. Compared to the House-passed bill, the Senate-reported version is $0.759 billion less in budget authority, but is $0.608 billion more in outlays.

Nearly every individual appropriation item in the bill is designated as an emergency. In total, the bill designates $81.592 billion in budget authority as an emergency, the outlays flowing from that budget authority also have the emergency designation; in fiscal year 2005, the associated outlays are estimated to be $32.790 billion. The bill includes rescission totaling $1.010 billion in budget authority only.

For the information of my colleagues, I would like to briefly summarize where the Senate stands in relation to budgetary enforcement of appropriation bills in 2005. Although the conference report on the 2005 budget resolution was not adopted by both the House and Senate, enactment of the 2005 Defense Appropriations bill, P.L. 108–287, section 14007, did give effect to some of the provisions in that resolution, including a 302(a) allocation to the Appropriations Committee and sections 402 and 403 of the 2005 budget resolution relating to emergency legislation and overseas contingency operations.

First, any appropriation for 2005 that is not designated as an emergency or as an overseas contingency would be subject to a 302(f) point of order because appropriations enacted to date have already exceeded the allocation provided for 2005.

Second, of the total amount designated as an emergency in H.R. 1268, $74.763 billion in budget authority is designated as an emergency for defense activities, which is exempt from the emergency designation point of order. Section 403 of the 2005 budget resolution provided that $50 billion was assumed in the resolution for 2005 appropriations for overseas contingency operations, which would not even require an emergency designation. The same law that gave effect to sections 402 and 403 of the 2005 budget resolution also provided $25 billion for overseas contingency operations that were designated an emergency, but the funds were provided in 2004. One way to think about the $74.763 billion in emergency defense funds provided in this bill is that it exceeds by almost $25 billion in the amount contemplated for overseas contingency operations for fiscal year 2005 in the 2005 budget resolution.

Third, the remaining amount that is designated as an emergency in H.R. 1268—$6.829 billion—is all for nondefense activities. As a result, any member of the Senate may use the emergency designation point of order under section 402 of the 2005 budget resolution to question, or strike, the emergency designation attached to each individual nondefense appropriation item in the bill or an amendment thereto. Such a point of order can be waived with 60 votes. If the point of order is not waived, the designation would be struck from the bill or amendment, leaving only the appropriation, which, absent its emergency designation, which would have prevented the item from "counting" for budget enforcement purposes, would then count against the committee's allocation, meaning a 302(f) point of order would lie against the bill or amendment.

May I also point out to my colleagues that the emergency designation point of order requires that if "a provision of legislation is designated as an emergency requirement . . . the committee report and any joint explanatory statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria," which are defined as follows: "Any such provision is an emergency requirement if the underlying situation poses a threat to life, property, or national security and is—(I) sudden, quickly coming into being, and not building up over time; (II) an urgent, pressing, and compelling need requiring immediate action; (III) . . . unforeseen, unpredictable, and unanticipated; and (IV) not permanent, temporary in nature" with the proviso that an "emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen." I note that the committee report does not include any discussion of how each individual item in this bill that is designated as an emergency meets all of these criteria.

This supplemental appropriations bill has been requested by the President, and the Congress has responded. It will be conferenced quickly and signed by the President. I know the temptation is strong, almost irresistible, for my colleagues to attempt to amend the bill with extraneous items that may be quite important—but this is not the place for them. I will strongly object to making this supplemental appropriations bill "Christmas in April" for various nondefense discretionary items and for new or expanded mandatory spending.

I commend the distinguished Chairman of the Appropriations Committee for bringing this legislation before the Senate, and I ask unanimous consent that a table displaying the Budget Committee scoring of the bill with comparisons to the House-passed bill and the President's request be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 1268, 2005 EMERGENCY SUPPLEMENTAL—SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2005, in millions of dollars]

	Defense (050)	Non-Defense	Total
Senate-reported bill:			
Budget authority	74,763	5,819	80,582
Outlays	31,605	1,185	32,790
House passed:			
Budget authority	77,175	4,166	81,341
Outlays	31,497	685	32,182
President's request:			
Budget authority	75,315	6,566	81,881
Outlays	31,219	902	32,121
Senate-reported bill compared to:			
House-passed:			
Budget authority	−2,412	1,654	−759
Outlays	108	500	608
President's request:			
Budget authority	−552	−747	−1,299
Outlays	386	283	669

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCHANGE RATE OF CHINESE CURRENCY

Mr. VOINOVICH. Mr. President, I rise today to discuss last Wednesday's vote against tabling the Schumer amendment. The Schumer amendment would call on China to move toward a flexible exchange rate or face corrective tariffs on their exports to the United States. Passing the amendment would be a responsible way for the Senate to address the significant problems caused by China's fixing the exchange rate of its currency, known as the renminbi or yuan, to the United States dollar.

I have been concerned about China's trade policies for some time. I am particularly concerned about the undervaluation of the Chinese currency caused by China's currency peg. Presently, the yuan is undervalued by between 15 and 40 percent. This systematic undervaluation of China's currency makes China's exports less expensive and puts U.S. workers at a severe disadvantage. As a result, the United States has lost thousands of manufacturing jobs due to unfair competition with China's exports whose prices are artificially low on account of the undervaluation of the yuan. This is both unfair and it is unacceptable.

China's undervalued currency also harms China's economy. The Chinese people pay much higher prices for their imports and China is presently forced to keep its interest rates artificially low to support the currency peg, which is causing inefficient investment and excessive bank lending in China. Moreover, this undervaluation of the Chinese currency is fueling the dramatic rise of the United States' trade deficit with China and distorting trade relationships around the globe. Currently, we have a $162 billion trade deficit with China, the largest that we have with any country in the world.

Accordingly, supporting efforts to get China to move forward toward a flexible exchange rate is consistent with supporting a more open and efficient global marketplace.

I was recently in China and had the opportunity to meet with Premier Wen Jiabao, who is a member of the Politburo Standing Committee of the Chinese Communist Party's Central Committee. I made precisely these points to him: That it is in China's best interest to move toward a flexible exchange rate, and that the Chinese currency peg benefits neither China nor the United States. I urged him to support moving China toward a flexible exchange rate.

One of the primary arguments Chinese officials have made to defend China's currency peg is that its banking system is not sufficiently developed for China to have a flexible exchange rate, an argument that Secretary of the Treasury John Snow also makes on occasion when he gives reasons why he is not pushing them harder for them to stop fixing their currency.

I have an article from The Economist that explains in detail why exchange rate flexibility is in China's best interest, along with the best interest of the United States. The title of the article from March 19, 2005 is: "China Ought to Allow More Flexibility in Exchange Rate, Sooner Rather Than Later."

I ask unanimous consent to have it printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Economist, Mar. 19, 2005]

ECONOMICS FOCUS—PUTTING THINGS IN ORDER

CHINA OUGHT TO ALLOW MORE FLEXIBILITY IN ITS EXCHANGE RATE, SOONER RATHER THAN LATER

The Chinese government says that it intends, eventually, to make its exchange rate more flexible and to liberalise capital controls. In the past year or so, it has already eased some controls on capital outflows and officials have said recently that they will open the capital account further this year. On the exchange rate, much less has been done. The yuan has been pegged to the dollar for a decade; and the government is loath to change much until the country's banking system is in healthier shape: this week the prime minister, Wen Jiabao, said that a shift would be risky. But is China putting the cart before the horse? Other countries' experience suggests that it is, and that it is better to loosen the exchange rate before, not after, freeing capital flows.

Most commentary on the Chinese yuan tends to focus on the extent to which it is undervalued. It has been pegged to the dollar for a decade, and there is a widespread belief that it is unfairly cheap. In fact, this is not clear-cut. For instance, the increase in China's official reserves is often held up as evidence that the yuan is undervalued. Yet this largely reflects speculative capital inflows lured by the expectation of a currency revaluation. Such inflows could easily be reversed. Given the huge uncertainty about the yuan's correct level, it makes more sense for China to make its currency more flexible than to repeg it at a higher rate. Greater flexibility would be in China's interest: it would afford the country more independence in monetary policy and a buffer against external shocks. By fixing the yuan to the dollar, China has been forced to hold interest rates lower than is prudent, leading to inefficient investment and excessive bank lending.

The problem is that Chinese officials, along with many foreign commentators, tend to confuse exchange-rate flexibility and capital-account liberalisation. A commonly heard argument is that China cannot let its exchange rate move more freely before it has fixed its dodgy banking system, because that could encourage a large outflow of capital. A recent paper* by Eswar Prasad, Thomas Rumbaugh and Qing Wang, all of the International Monetary Fund, argues that, on the contrary, greater exchange-rate flexibility is a prerequisite for capital-account liberalisation.

Flexibility does not necessarily mean a free float. Initially, China could allow the yuan to move within a wider band, or peg it to a basket of currencies rather than the dollar alone. The authors first knock on the head the notion that the banking system must be cleaned up before allowing the exchange rate to move. Although financial reform is certainly essential before scrapping capital controls, the authors argue that with existing controls in place the banking system is unlikely to come under much pressure simply as a result of exchange-rate flexibility. Banks' exposure to currency risks is currently low and flexibility alone is unlikely to cause Chinese residents to withdraw their deposits or provide channels for them to send their money abroad.

The authors argue that it is also not necessary to open the capital account to create a proper foreign-exchange market. Because China exports and imports a lot, with few restrictions on currency convertibility for such transactions, it can still develop a deep, well-functioning market without a fully open capital account. A more flexible currency would itself assist the development of such a market. For example, firms would have more incentive to hedge foreign-exchange risks, encouraging the development of suitable instruments. The experience of greater exchange-rate flexibility would also help the economy to prepare for a full opening of the capital account. While capital controls shielded the economy from volatile flows, China would have time for reforms to strengthen the banking system.

China instead seems intent on relaxing capital controls before setting its exchange rate free. This ignores the history of the past decade or so: the combination of fixed exchange rates and open capital accounts has caused financial crises in many emerging economies, especially when financial systems are fragile. China would therefore be wise to move cautiously in liberalising its capital account, but should move more rapidly towards greater exchange-rate flexibility.

YUAN AT A TIME

The Chinese have tried to offset the recent upward pressure on the yuan by easing controls on capital outflows, for instance by allowing firms to invest abroad. While this is in line with the eventual objective of full capital-account liberalisation, it runs the risk of getting reforms in the wrong order. An easing of controls on outflows may even be counterproductive if it stimulates larger inflows. By making it easier to take money out of the country, investors may be enticed to bring more in.

Capital controls are not watertight. So although China will continue to be protected from international flows, its controls can be evaded through the under- or over-invoicing of trade. Multinationals can also use transfer prices (the prices at which internal transactions are accounted for) to dodge the rules. Despite extensive controls, a lot of capital left China during the Asian crisis in the late 1990s; recently, lots of short-term money has flowed in. Controls are likely to become even more porous as China becomes more integrated into the global economy. Thus, waiting for speculative and other inflows to ease before changing the exchange-rate regime might not be a fruitful strategy.

China ought to move to a flexible exchange rate soon, while its capital controls still work. Experience also suggests that it is best to loosen the reins on a currency when growth is strong and the external account is in surplus. China should take advantage of today's opportunity rather than being forced into change at a much less convenient time.

Mr. VOINOVICH. I also urge my colleagues to read a paper by the staff of the International Monetary Fund entitled "Putting the Cart Before the Horse: Capital Account Liberalization and Exchange Rate Flexibility in China." That is a January publication by the IMF. I would have asked it be printed in the RECORD, but it is 30 pages long and I do not want to burden the CONGRESSIONAL RECORD with 30 pages. If my colleagues are interested in getting a copy of that article, I would be more than happy to supply it.

These papers show how exchange rate flexibility will facilitate economic development in China and why China does not have to wait until its banking system is more fully developed to move toward a flexible exchange rate.

Moreover, they note that China does not need to immediately float its currency to remedy the problems caused by an undervalued currency. All China needs to do is take steps in that direction, such as adopting a wider exchange rate ban or pegging the exchange rate to a basket of currencies instead of the dollar alone, for example, a basket of currencies of the ASEAN countries, including Japan. Either of these policies would likely cause an upward revaluation of the yuan. Unfortunately, the Bush administration has refused to take meaningful action to get China to move toward a flexible exchange rate.

Last year—I remember it well—on September 8—that happens to be my wedding anniversary—four of our leaders in this country summarily said there is no problem in terms of the exchange rate and they refused to go forward with something called a 301 investigation. The 301 investigation is allowable under the WTO. That is the way you bring into question whether somebody is following the rules. They said, no, we are not going to do it. Imagine what kind of a message that sent to the leaders of the Chinese Government, that we were not even willing to look at a 301 investigation. That was a mistake.

The United States-China Economic and Security Review Commission, a bipartisan commission established by Congress to examine China's trade policies, has concluded that China's exchange rate policy violates both its International Monetary Fund and World Trade Organization obligations. The Commission said China is intentionally manipulating its currency for trade advantage in violation of its trading agreements. Yet the administration refuses to act. Unless the United States exerts direct pressure on China, however, it is unlikely that China will address the undervaluation of its currency. During my meeting with Premier Wen, he said, We know there is a problem, but we are not sure when we will do it.

I can say they will not do it unless we continue to put pressure on them to do it and convince them that, again, it is not only in our best interest but their best interest if they want to be a player in the global marketplace.

That is why Wednesday's vote was important. It showed the Senate is willing to take matters into its own hands and take effective steps to address this serious problem if the administration continues to refuse to do so. No one wants to see tariffs imposed on Chinese exports, but the United States needs to take action to address China's unfair exchange rate policy. I hope Wednesday's vote will motivate the administration to do more to get China to address the serious market distortions caused by the undervaluation of China's currency.

I believe in fair trade and improving our trading relationship with China. I was one of the leaders in the Senate to approve normal trade relations with China. I wrote articles in Ohio magazines in support of trade with China. In fact, I gave a copy of an article to Premier Wen to prove to him I am not a protectionist, I am a free trader.

But I also believe in fair trade. It represents a huge potential market for our exports. If we want to have trade with China, though, China must be a better trading partner, starting with its exchange rate policies. Furthermore, if we want to have a free and fair global trading system, China must take actions to move toward a flexible exchange rate. I, therefore, believe

Wednesday's vote was a responsible step aimed at advancing global trade and, in particular, America's long-term trading relationship with China.

I say to the Presiding Officer, as you know, there was an agreement made that the Schumer amendment would be pulled from the foreign relations authorization bill, but that it would be considered again. There is an agreement, in the form of a UC, that we will be bringing it up again. I hope before the Senate considers voting on that amendment with an up-or-down vote the administration will get the message that they have to do something to show a little bit of spirit and indicate to us that they understand and know that the Senate and the House of Representatives are serious about moving forward to deal with this problem.

I also think the vote on this particular amendment sends a strong signal, a signal to Premier Wen and to President Hu, that we are concerned about this issue. I know they are concerned about jobs. We are concerned about jobs. They have to understand that. I am hoping instead of the administration looking at this as some kind of a negative action on the part of the Senate, that they will see that we are helping them communicate the message to Chinese officials that we are serious about this problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAMBLISS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for up to 30 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GLOBAL CLIMATE CHANGE

Mr. INHOFE. Mr. President, today I continue my series of talks on the four pillars of climate alarmism. Last week I showed the first pillar, the 2001 climate change report by the National Academy of Sciences. It was really a farce, and we documented it very well. The same is true of the 2001 report of the IPCC. That is the Intergovernmental Panel on Climate Change. It supposedly provides irrefutable evidence of the global warming consensus. Simply put, it does not, as my speech today will demonstrate.

The media greeted the release of the IPCC's Third Assessment Report with the predictable hysteria with which they normally respond to things such as this. From the Independent newspaper of London:

> In a report published today by the United Nations Intergovernmental Panel on Climate Change (IPCC), hundreds of the world's leading scientists give their unqualified support to the view that global warming is real and that the release of manmade greenhouse gases is largely responsible.

It continues:

> The latest three-volume report, amounting to 2,600 pages of detailed analysis, leaves the reader in little doubt that the scientific uncertainties of the previous decade are being resolved in favor of an emerging, and increasingly pessimistic consensus.

The preceding quotes, and many that followed in the Independent's report, came from the Third Assessment's "Summary for Policymakers." In fact, the media based much, if not all, of its reporting on the summary itself. It did this even though in some respects the summary distorted the actual context of the full report.

The National Academy of Sciences, in its 2001 report, criticized both how the summary was written and how the media portrayed it, as in this chart No. 1:

> The IPCC Summary for Policymakers could give an impression that the science of global warming is settled, even though many uncertainties still remain.

This clearly contradicts the claim of the Independent that there is little doubt that the scientific uncertainties in the previous decade are settled.

Another claim the media featured prominently was that temperature increases over the last century are unprecedented, at least when considered on a time scale of the last 1,000 years. According to the IPCC, the 1990s were the warmest decade on record, and 1998 was the warmest year since temperature records began in 1861. The basis for this claim is a so-called hockey stick graph, shown in chart No. 2. This is an interesting one because this plots out the temperatures over a period of time and then shows the blade, when it gets to be the 19th century, coming up.

The graph was constructed by Dr. Michael Mann of the University of Virginia and his colleagues using a combination of proxy data and modern temperature records. The hockey stick curve showed a gradual cooling period around 1400 A.D., which is the hockey stick handle—that is the horizontal line—then a sharp warming starting about 1900, the hockey stick blade. Its release was revolutionary, overturning widespread evidence adduced over many years confirming significant national variability long before the advent of SUVs. The IPCC was so impressed that the hockey stick was featured prominently in its Third Assessment Report of 2001.

As Dr. Roy Spencer, the principal research scientist at the University of Alabama, noted:

> This was taken as proof that the major climate event of the last 1,000 years was the influence of humans in the 20th century. One of its authors, Dr. Michael Mann, confidently declared in 2003 that the hockey stick "is the indisputable consensus of the community of scientists actively involved in the research of climate variability and its causes."

The hockey stick caused quite a stir, not just in the scientific community but also in the world of politics. It galvanized alarmists in their push for Kyoto. It is supposedly ironclad proof that manmade greenhouse gas emissions are warming the planet at an unsustainable degree. But here again, one of the essential pillars of the alarmists appears to be crumbling.

Two Canadian researchers have produced the most devastating evidence to date that the hockey stick is bad science. Before I describe their work, I want to make a prediction. The alarmists will cry foul, saying this critique is part of an industry conspiracy. And true to form, they will avoid discussion of the substance and engage in personal attacks. That is because one of the researchers, Stephen McIntyre, is a mineral exploration consultant. Dr. Mann already has accused them of having a conflict of interest. This is nonsense.

First, Stephen McIntyre and his colleague, Ross McKitrick, an economist with Canada's University of Guelph, received no outside funding for their work. They are both very well recognized professional people. Second, they published their peer-reviewed critique in geophysical research letters. This is no organ of big oil, but an eminent scientific journal, the same journal, in fact, which published the version of Dr. Mann's hockey stick that appeared in the IPCC's Third Assessment Report. Apparently the journal's editor didn't see much evidence of bias. The remarks of one editor are worth quoting in full:

> S. McIntyre and R. McKitrick have written a remarkable paper on a subject of great importance. What makes the paper significant is that they show that one of the most widely known results of climate analysis, the "hockey stick" diagram of Mann [and company], was based on a mistake in the application of a mathematical technique known as principle component analysis.

Further, he said:

> I have looked carefully at the McIntyre and McKitrick analysis, and I am convinced that their work is correct.

What did McKitrick and McIntyre find? In essence, they discovered that Dr. Mann misused an established statistical method called principal components analysis, PCA. As they explained, Mann created a program that "effectively mines a data set for hockey stick patterns." In other words, no matter what kind of data one uses, even if it is random and totally meaningless, the Mann method always produces a hockey stick. After conducting some 10,000 data simulations, the result was nearly always the same. "In over 99 percent of cases," McIntyre and McKitrick wrote, "it produced a hockey stick shaped PCI series." Statistician Francis Zwiers of Environment Canada, a government agency, says he agrees that Dr. Mann's statistical method "preferentially produces hockey sticks when there are none in the data." Even to a non-statistician, this looks extremely troubling.

But that statistical error is just the beginning. On a public web site where Dr. Mann filed data, McIntyre and McKitrick discovered an intriguing folder titled "BACKTO_1400-CENSORED." What McIntyre and McKitrick found in the folder was disturbing: Mann's hockey stick blade was based on a certain type of tree—a bristlecone pine—that, in effect, helped to manufacture the hockey stick.

Remember, the hockey stick shows a relatively stable climate over 900 years, and then a dramatic spike in temperature about 1900, the inference being that man-made emissions are the cause of rising temperatures. So why is the bristlecone pine important? That bristlecone experienced a growth pulse in the Western United States in the late 19th and early 20th centuries. However, this growth pulse, as the specialist literature has confirmed, was not attributed to temperature. So using those pines, and only those pines, as a proxy for temperature during this period is questionable at best. Even Mann's co-author has stated that the bristlecone growth pulse is a "mystery."

Because of these obvious problems, McIntyre and McKitrick appropriately excluded the bristlecone data from their calculations. What did they find? Not the Mann hockey stick, to be sure, but a confirmation of the Medieval Warm Period, which Mann's work had erased.

This is very interesting because the chart will show, if you would include the calculation—what we refer to as the Medieval Warm Period which, as everybody now understands, is a reality—then temperatures at that time exceeded the temperatures in the blade of the hockey stick. In fact, when I was over in Milan, Italy, at one of the big meetings, I pointed this out as evidence it was done, and done intentionally. Why would he start with the year when you have a level line going for 900 years and totally ignore the Medieval Warming Period, at which time the temperatures of the Earth exceeded the temperatures in this century?

As the CENSORED folder revealed, Mann and his colleagues never reported results obtained from calculations that excluded the bristlecone data. This appears to be a case of selectively using data—that is, if you don't like the result, remove the offending data until you get the answer you want. As McIntyre and McKitrick explained, "Imagine the irony of this discovery . . . Mann accused us of selectively deleting North American proxy series. Now it appeared that he had results that were exactly the same as ours, stuffed away in a folder labeled CENSORED."

McIntyre and McKitrick believe there are additional errors in the Mann hockey stick. To confirm their suspicion, they need additional data from Dr. Mann, including the computer code he used to generate the graph. But Dr. Mann refuses to supply it. As he told the Wall Street Journal, "Giving them the algorithm would be giving in to the intimidation tactics that these people are engaged in."

What we are talking about is he refused to give him the necessary computerized data to come to the conclusion. There is no way of analyzing it.

Who are "these people"? And what "intimidation tactics"? Mr. McIntyre and Mr. McKitrick are trying to find the truth. What is Dr. Mann trying to hide?

For many scientists, McIntyre and McKitrick's work is earth-shattering. For example, Professor Richard Muller of the University of California at Berkeley recently wrote in the MIT Technology Review that McIntyre and McKitrick's findings "hit me like a bombshell, and I suspect it is having the same effect on many others. Suddenly the hockey stick, the poster-child of the global warming community, turns out to be an artifact of poor mathematics." Dr. Rob van Dorland, of the Royal Netherlands Meteorological Institute, and an IPCC lead author, said, "The IPCC made a mistake by only including Mann's reconstruction and not those of other researchers." He concluded that unless the error is corrected, it will "seriously damage the work of the IPCC."

Or consider Dr. Hans von Storch, an IPCC contributing author and internationally renowned expert in climate statistics at Germany's Center for Coastal Research, who said McIntyre and McKitrick's work is "entirely valid." In an interview last October with the German Newspaper Der Spiegel, Dr. von Storch said the Mann hockey stick "contains assumptions that are not permissible. Methodologically it is wrong: rubbish." He stressed that, "it remains important for science to point out the erroneous nature of the Mann curve. In recent years it has been elevated to the status of truth by the U.N. appointed science body, the Intergovernmental Panel on Climate Change, IPCC. This handicapped all that research which strives to make a realistic distinction between human influences and climate and natural variability."

If McIntyre and McKitrick's work isn't convincing enough, consider the recent paper published in the February 10 issue of Nature. The paper, authored by a group of Swedish climate researchers, once again undercuts the scientific credibility of the Mann hockey stick. The press release for the study by the Swedish Research Council says, "A new study of climate in the Northern Hemisphere for the past 2000 years shows that natural climate change may be larger than generally thought."

According to the paper's authors, the Mann hockey stick does not provide an accurate picture of the last 1,000 years. "The new results," they wrote, "show an appreciable temperature swing between the 12th and 20th centuries, with a notable cold period around AD 1600. A large part of the 20th century had approximately the same temperature as the 11th and 12th centuries."

In other words, here's evidence of the Medieval Warm Period and the Little Ice Age, demonstrating that climate, long before the burning of fossil fuels, varied considerably over the last 2,000 years. The researchers note that changes in the sun's output and volcanic eruptions appear to have caused considerable natural variations in the climate system. "The fact that these two climate evolutions," they contend, "which have been obtained completely independently of each other, are very similar supports the case that climate shows an appreciable natural variability—and that changes in the sun's output and volcanic eruptions on the earth may be the cause."

Another important development chipping away at the so-called scientific consensus has to do with economics and statistics, and how both are used by the IPCC.

To determine how man-made greenhouse gases might affect the climate over the next century, the IPCC had to predict 100 years' worth of greenhouse gas emissions. Predicting emissions rates depends on several factors, including population growth, technological advances, and future economic growth rates in developed and developing countries.

Based on these and other factors, the IPCC's Third Assessment Report projected an average global temperature increase by 2100 ranging between 1.4 to 5.8 degrees Celsius, which is about 2.7 to 10.4 degrees Fahrenheit. This temperature range was determined from several different emission scenarios. In each of those scenarios, the IPCC arbitrarily assumed that incomes in poor countries and rich countries would converge by the year 2100. According to Warren McKibbin of Australia National University's Center for Applied Macroeconomics and the Brookings Institution, this assumption is unwarranted. Even if it were to happen, McKibbin and his colleagues write:

> The empirical literature suggests that the rate of convergence in income per capita would be very slow.

Even the IPCC agrees, stating:

> It may well take a century (given all the other factors set favorably) for a poor country to catch up to [income] levels that prevail in the industrial countries today, never mind the levels that might prevail in affluent countries 100 years in the future.

Nevertheless, the IPCC assumed poor and rich countries would achieve parity by the end of the century. To measure that growth over time, the IPCC had to compare what income levels look like today. It did that by using market exchange rates, but this raises a major problem. Relying on exchange rates fails to account for price differences between countries. This has the effect of vastly overstating differences in wealth. "This comparison is valid," says Ian Castles, formerly head of Australia's National Office of Statistics, now with the National Center of Development Studies at Australian National University.

Castles and his colleague David Henderson, former chief economist for the Organization of Economic Cooperation and Development, now of the Westminster Business School, discovered the IPCC's error last year and have published their findings in the distinguished scientific journal Energy and Environment.

Castles and Henderson note that using exchange rates is invalid because it is based on the assumption that "[a] poor Bangladeshi family has converted the whole of its income into foreign currency, and spent it on goods and services at average world prices rather than [at much lower] Bangladeshi prices."

Through the use of exchange rates, the IPCC concluded the average income of rich countries right now is 40 times higher than the average income in developing countries in Asia and 12 times higher than the average income in other non-Asian developing countries.

As my colleagues can see, there is a huge gap, which raises a significant point. If the initial income gap is large, then poor countries will have to grow incredibly fast to catch up. According to the IPCC, the greater the economic growth, the greater the emissions released into the atmosphere, and hence higher temperatures.

The IPCC, as the Economist Magazine wrote, is simply wrong. They said:

> The developing-country growth rates yielded by this method [market exchange rates] are historically implausible, to put it mildly. The emissions forecasts based on those implausibly high growth rates are accordingly unsound.

Castles and Henderson have shown convincingly that the IPCC's temperature range rests on a majority of major economic error and, therefore, is wildly off the mark. Because of this error, even the IPCC's low end emission scenario is implausible. As the Economist Magazine wrote:

> But, as we pointed out before, even the scenarios that give the lowest cumulative emissions assume that incomes in the developing countries will increase at a much faster rate over the course of the century than they have ever done before.

The Economist continued:

> Disaggregated projections published by the IPCC say that—even in the lowest-emission scenarios—growth in poor countries will be so fast that by the end of the century Americans will be poorer on average than South Africans, Algerians, Argentines, Libyans, Turks and North Koreans.

And I do not think any of us are ready to accept that.

Let us get a better sense of why that is odd. Under the IPCC's low-end scenario, the amount of goods and services produced per person in developing countries in Asia would increase 70-fold by 2100, and increase nearly 30-fold for other developing countries. To put that in perspective, the United States only achieved a 5-fold increase in per capita income growth in the 19th century, and Japan achieved a nearly 20-fold increase in the 20th Century.

The IPCC's mistakes are fatal. Jacob Ryten, a leading figure in the development, evaluation, and implementation of the United Nations International Comparisons Programme, said the IPCC suffers from "manifest ignorance of the conceptual and practical issues involved in developing and using intercountry measures of economic product."

The Economist said that the IPCC's method proved it was guilty of dangerous economic incompetence.

Castles and Henderson, along with the Economist and other scientists, have pressed the IPCC to abandon its use of market exchange rates in its upcoming Fourth Assessment Report. They say this is essential to provide a more accurate projection of future emissions. Thus far, the IPCC has ignored their request, but this is no surprise. The IPCC has become politicized and appears more intent on pursuing propaganda over science.

Consider the case of Dr. Christopher Landsea, the world's foremost expert on hurricanes. Dr. Landsea accepted an invitation to provide input on Atlantic hurricanes for the IPCC's Fourth Assessment Report due out in 2007. But over time, Dr. Landsea realized that certain key members of the IPCC were bent on advancing a political agenda rather than providing an objective, fact-based understanding of climate change. As a result, he resigned from the IPCC process.

Dr. Landsea was outraged that Dr. Kevin Trenberth, the lead author of observations for the upcoming Fourth Assessment, and other scientists participated in a politically charged press conference at Harvard University on the supposed causal link between global warming and extreme weather events. The press conference was promoted this way:

> Experts to warn global warming likely to continue spurring more outbreaks of intense hurricane activity.

In other words, they were trying to blame these catastrophes that come up on what they consider to be global warming.

As Dr. Landsea explained, the topic was bogus. It has no scientific basis, and none of the scientists who participated had any expertise in the matter.

In his resignation letter, Dr. Landsea wrote:

> To my knowledge, none of the participants in that press conference had performed any research on hurricane variability, nor were they reporting on any new work in the field . . . It is beyond me why my colleagues would utilize the media to push an unsupported agenda that recent hurricane activity has been due to global warming.

What is the real state of the science on this topic?

> All previous and current research in the area of hurricane variability has shown no reliable, long-term trend in the frequency or intensity of tropical cyclones, either the Atlantic or any other basin.

Dr. Landsea wrote, and this is in the chart:

> Moreover, the evidence is quite strong and supported by most recent credible studies that any impact in the future from global warming upon hurricanes will likely be quite small.

Dr. Landsea noted that the most recent science shows that "by around 2080 hurricanes may have winds and rainfall about 5 percent more intense than today. It has been proposed that even this tiny change may be an exaggeration as to what may happen by the end of the 21st Century."

Dr. Landsea concluded that because the IPCC process has been compromised, resigning was his only option. He said:

> I personally cannot in good faith continue to contribute to a process that I view as both being motivated by preconceived agendas and being scientifically unsound.

As with Castles and Henderson, the IPCC leadership has brushed off Dr. Landsea's concerns. This is outrageous. In doing so, the IPCC is seriously undermining its credibility.

One can only hope that the IPCC will change its ways. Otherwise, we can expect yet another assessment report that is unsupported by facts and science.

It is no surprising that alarmists want to fabricate the perception that there is consensus about climate change. We know the costs of this would be enormous. Wharton Econometrics Forecasting Associates estimates that implementing Kyoto would coast an American family of four $2,700 annually. Acknowledging a full-fledged debate over global warming would undermine their agenda. And what is that agenda? Two international leaders have said it best. Margot Wallstrom, the EU's Environment Commissioner, states that Kyoto is "about leveling the playing field for big businesses worldwide." French President Jacques Chirac said during a speech at the Hague in November 2000 that Kyoto represents "the first component of an authentic global governance."

Look at this and you realize what is motivating these people. People ask me if science is not behind this and there is that much damage that can be effected, what is the motive? That is what the motive is.

Facts and science are showing that the catastrophic global warming consensus does not exist. The IPCC has been exposed as a political arm of U.N.'s Kyoto Protocol, with a mission to prop up its flawed scientific conclusions.

The Mann hockey stick, the flagship of the IPCC's claims that global warming is real, has now been thoroughly discredited in scientific circles. Projections of future carbon emissions—which drive temperature model conclusions—have been proven to be based on political decisions that, by the end of the century, countries like Bangladesh will be as wealthy, or wealthier, than the United States.

A world renowned scientist has just resigned from the IPCC because it is too politicized, saying that the IPCC plans to make claims that contradict scientific understanding. Increasingly, it appears that the scientific case for catastrophic global warming is a house of cards that will soon come tumbling down.

Despite this, there are still some who choose to ignore science.

After I spoke about this last week, Duke Energy CEO Paul Anderson advocated a tax on carbon dioxide and other greenhouse gases. In doing so, the company has seemingly bought into the spurious notion that the science is settled. But perhaps it is not. Unfortunately, to some global warming advocates, the science is irrelevant.

As Myron Ebell of the competitive Enterprise Institute says:

> Duke Energy has now admitted that the costs will be significant. But the fact is it will only be expensive for their competitors. Nuclear plants don't emit carbon dioxide and Duke is already one-third nuclear generation. Moreover, the company has announced plans to build even more nuclear plants, giving it an even bigger competitive edge.

This is a lot of scientific stuff. I have said several times since I became chairman of the Environment and Public Works Committee that the first thing we did was study this because it was assumed that global warming is taking place and anthropogenic gases are causing it, methane and CO_2, only to find out that is not the case. Virtually all the science since 1999 has refuted these assertions. I think we have an obligation to recognize these far-left environmentalist extremist groups are huge contributors to campaigns and they have a lot of political power, but in the long run we have to be more concerned about America than we are about political campaigns.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky is recognized.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DOUG FERTIG

Mr. FRIST. Mr. President, I rise today to pay tribute to a dedicated member of the Senate family, Doug Fertig, Human Resources Director of the Senate Sergeant at Arms office, who passed away on April 2, 2005, at the age of 54.

Doug Fertig came to the Sergeant at Arms in 1996 facing a formidable challenge to standardize processes, establish pay bands and job classifications and a leave accountability system to comply with the Congressional Accountability Act. Doug Fertig's dedication, knowledge and compassion to the Senate Sergeant at Arms organization turned the Human Resources Department into the professional organization it is today.

Doug Fertig was born in Columbus, OH, received his B.A. from Oberlin College in 1972, and held Masters Degrees from Stanford University and Ohio State University. Doug Fertig was a dedicated family man who was very proud of his wife Susan, daughter Emily, and son Andrew. He was passionate about education and any sport involving Ohio State University.

During his tenure with the Senate Sergeant at Arms, Doug Fertig was faced with many challenges, including anthrax in October 2001 and ricin in February 2004.

Because of Doug's experience and calm demeanor, the challenges of relocating the Human Resources operation and continuing to serve the Senate community were met with calm leadership and competent direction and stability.

Today we honor Doug for his dedication to the Senate, his love for his family, his compassion for the staff in the Human Resources department and the Senate Sergeant at Arms organization. His passing leaves the Senate community with a profound sense of loss. I hope it is of comfort to his family that so many people share their loss at this sad time.

TRIBUTE TO TOM STONEBURNER

Mr. REID. Mr. President, I rise today to recognize the life and work of Tom Stoneburner, a Nevada labor leader who passed away on February 21, 2005.

A veteran of the U.S. Marine Corps, Tom served as a deputy sheriff in Mono County, CA, before moving to Nevada in 1969. During his 36 years in Nevada, he became one of the most effective labor leaders in the State, fighting tirelessly on behalf of the working people of Nevada. As a casino security guard, he successfully organized union elections for guards at two Reno hotel casinos and later went on to serve as president of the United Plant Guard Workers.

Tom was dedicated to helping all of Nevada's workers. That is why in 1997 he formed the Alliance for Workers Rights, an organization expressly committed to advocating on behalf of workers in Nevada who had no union representation. Through his leadership of this organization, Tom successfully lobbied for strengthened State safety protections after several workers died in industrial accidents in 1998 and 2001.

His passion and determination in protecting the rights of Nevada's workers belied the soft-spoken and mild-mannered nature that many close to him have recalled since his passing. Tom's example has undoubtedly inspired many others who will carry on his work, including his wife Kathy who will continue his important work at the Alliance for Worker's Rights.

Mr. President, please join me in recognizing Tom Stoneburner's contributions to Nevada workers and in sending condolences to Tom's family for their loss.

THE DEATH OF POPE JOHN PAUL II

Mr. DORGAN. Mr. President, with the passing of Pope John Paul II, I take this opportunity to pay homage to one of the great spiritual leaders of our time. He was a truly gifted religious leader who touched people all over the world: young and old, rich and poor, the powerful and the underprivileged, Catholics and non-Catholics.

Pope John Paul II defied political labels and was constant in his beliefs. For him, defending life included opposing capital punishment and recourse to war as well as opposing abortion. Defending families meant a commitment to faith and moral uprightness, but it also meant standing up for just wages and a social safety net. These beliefs and convictions made him a respected leader all over the world.

One of John Paul's strengths was reaching out to young adults. World Youth Day was established by the Pope on Palm Sunday, 1984. He invited the Youth of Rome to celebrate the Holy Year of Redemption with him at Saint Peter's Square. It was a great success. Building upon this success and its popularity, the Pope held this worldwide event every 3 years.

Over the last 20 years, millions of young people from hundreds of countries have participated in World Youth Day. One young woman who attended said that young people loved the Pope because the Pope loved them: "People think that teenagers and young people are just out there and reckless, but he didn't see it that way. He said, 'You are the future and I love you for that.'"

The world is now mourning the death of Pope John Paul II. In parishes from the Americas to Europe to Africa to Asia, millions are paying tribute to a leader whose central message was love, respect, faith and responsibility to our fellow man. That example is his legacy, and regardless of our individual faiths, it is an example for all of us of how to live and relate to our neighbors. May God grant Pope John Paul II eternal rest and peace, and we thank him for a life lived in the service of people everywhere.

IN HONOR OF THE 50TH ANNIVERSARY OF THE SUCCESSFUL SALK POLIO VACCINE TRIALS

Mr. LEVIN. Mr. President, I would like to take this opportunity to commemorate an historic event that changed the world. Fifty years ago today, Dr. Thomas Francis, Jr., director of the Poliomyelitis Vaccine Evaluation Center and founding chair of the Department of Epidemiology at the University of Michigan School of Public Health, announced that the Salk polio vaccine was "safe, effective, and potent."

That announcement marked the culmination of the most comprehensive field trials ever conducted, unprecedented in scope and magnitude. In the early 1950s, Dr. Jonas Salk, a postdoctoral student of Dr. Francis at the University of Michigan, developed a promising vaccine against poliomyelitis in his laboratory at the University of Pittsburgh. Dr. Salk returned to the University of Michigan to work with his longtime mentor, Dr. Francis, who led the year-long field trials demonstrating that "the vaccine works." More than 300,000 individuals participated in the work of the trials, including 20,000 physicians and public health officers, 40,000 registered nurses, 14,000 school principals, and 200,000 volunteers. More than 100 statisticians and epidemiologists tabulated data from the approximately 1.8 million children across the United States, Canada, and Finland who were involved in the trial. These brave children, who stepped forward to receive a shot not knowing if it would be the real vaccine or a placebo or whether it would be safe or harmful, are now affectionately known as polio pioneers.

While we rarely consider the possibility of contracting polio today, let me remind you that for generations polio was one of the most feared childhood diseases. Poliomyelitis, a neuromuscular disease also known as infantile paralysis, is caused by the polio virus. The virus invades nerve cells in the spinal cord, resulting in weakness or paralysis of the limbs and muscles. Prior to the successful work of Drs. Salk and Thomas, no one knew how to prevent polio, and there was no cure for the disease. Hot weather in late summer was "polio season," bringing on a rash of new cases of paralytic polio each year. In 1916, a devastating epidemic struck New York, killing 9,000 people and leaving 27,000 disabled. For the next 40 years, not a summer passed without an epidemic occurring somewhere in the U.S. In the 1940s and 1950s, the number of cases reported in the U.S. ranged from 40,000 to 60,000 each year. The warmer months of the year were termed "nightmare summers of quarantine and contagion." President Roosevelt, who suffered personally from the effects of polio, founded the National Foundation for Infantile Paralysis, now called the March of Dimes, and called upon millions of private citizens to donate dimes to fund the foundation's work to fight polio. Today, polio has been nearly eradicated.

Fifty years ago this morning, before more than 500 scientists, physicians, and reporters at Rackham Auditorium in Ann Arbor, Dr. Francis told an anxious world of parents that the Salk vaccine had been proven to be effective in preventing polio. Please join me in honoring the success of Drs. Francis and Salk in combating this devastating disease.

ADDITIONAL STATEMENTS

COMMENDING THE EFFORTS OF BASKETBALL WITHOUT BORDERS

• Mr. DODD. Mr. President, I commend the efforts of Basketball without Borders, an initiative that promotes friendship, understanding, and healthy living for young people around the world.

Today, the National Basketball Association, NBA, and the International Basketball Federation, FIBA, announced that Basketball without Borders will hold four instructional camps in the coming year. For the first time, Basketball without Borders will be staged on four continents: North America, Europe, Asia, and Africa. It will feature professional basketball players from diverse backgrounds, including China's Yao Ming, Argentina's Manu Ginobili, Germany's Dirk Nowitzki, and Congo's Dikembe Mutombo.

The Basketball without Borders initiative is more than an opportunity for children to meet their favorite players and learn basketball skills. It is also a chance for them to learn important lessons about the world in which they live.

In addition to basketball instruction, the children who participate in Basketball without Borders will learn about HIV/AIDS prevention, the importance of education, and ways to lead a healthier life. They will also have the opportunity to meet children whose ethnicities, backgrounds, and cultures are different from their own.

I also applaud the NBA and FIBA for the charitable efforts that are part of the Basketball without Borders initiative. As part of this year's program, the NBA will be conducting several auctions on its website, with the proceeds funding community improvement efforts worldwide, particularly in disadvantaged areas.

As public figures, professional athletes can send a strong message by serving as role models both on and off the playing field. It is my hope that the players who are taking part in Basketball without Borders will inspire basketball fans around the world to take a closer look at ways they can extend a hand of friendship to diverse communities around the globe. I salute the athletes who are participating in this worthy venture, as well as all those whose hard work has made this initiative possible.•

TRIBUTE TO RALPH STURGES, CHIEF OF THE MOHEGAN TRIBE

• Mr. DODD. Mr. President, I honor Ralph Sturges, Chief of the Mohegan Tribe. On April 13, Chief Sturges will receive the Citizen of the Year award from the Chamber of Commerce of Eastern Connecticut.

Chief Sturges is known throughout southeastern Connecticut for his leadership, his community involvement, and his humility. Even as he has risen in the ranks of the Mohegan Tribe, from serving as a member of the Tribal Council in the 1980s to becoming lifetime chief in 1991, he has never lost a sense of who he is or what he stands for.

Born in 1918, Ralph Sturges served in our armed forces during the World War II as a security and intelligence officer. He went on to work for the Philadelphia Legal Aid Society and the Salvation Army, as well as the Legnos Boat Company.

Chief Sturges was renowned for his skills as a craftsman, particularly as a sculptor of traditional Mohegan cultural symbols. Among his many works were a whale sculpture donated to Governor Ella Grasso and the carving of a base for the headstone of the Mohegan chief Samuel Uncas.

When Ralph Sturges was elected lifetime chief of the Mohegan Tribe, as he puts it, he "didn't have a telephone and didn't have an office." He devoted a great deal of time and energy over the coming decade to the cause of securing federal recognition for the Mohegans—a goal that was realized on March 7, 1994.

Today, the Mohegan Tribe stands as a remarkable success story. So much of this success is due to the efforts and dedication of Ralph Sturges, as well as countless others who worked with him over the years.

Chief Sturges is an outstanding citizen, a respected leader, and a devoted member of the Mohegan tribe. He has forged strong bonds between his tribe and the State of Connecticut, as well as the Federal Government. These bonds have reaped tremendous benefits, not only for the Mohegan Tribe, but all of Southeastern Connecticut. The relationship between Connecticut and the Mohegan Tribe serves as a model that other states and tribal nations would do well to emulate.

The honor Chief Sturges will receive this Wednesday is well-deserved. I applaud Ralph Sturges for all of his accomplishments. I congratulate him on this distinguished award, and I wish him continued health and happiness.•

TRIBUTE TO MARTIN MACKEY

• Mrs. BOXER. Mr. President, I rise to share with my colleagues the memory of a very special man, Martin Mackey of Marin County, CA, who died on March 25, 2005. He was 87 years old. Martin Mackey was born in San Francisco. He earned his engineering degree from Stanford and entered the Navy Midshipman Reserve Training Program. He served in the Navy during World War II and was trained in anti-submarine warfare.

Martin met his wife Mary while on leave in Seattle during World War II. They were engaged 5 days later. Martin and Mary just celebrated their 61st wedding anniversary last December.

After the war and after 22 years of steel and concrete sales with a multinational company, Martin retired with a desire to change the world. The year was 1968, and he was deeply disturbed by social injustice and the assassinations of Martin Luther King, Jr., and Robert Kennedy. He went on a weekend retreat with his wife Mary to figure out what he should contribute to make our world a better place.

Martin played a key role in bringing affordable housing to Marin County. President Lyndon Johnson had just signed the Housing Act into law. Martin's good friend, Larry Livingston, who was a city and regional planner, told Martin that Marin County badly needed low and moderate-income housing. Martin was convinced. As chairman of the Social Concerns Committee at Marin County Unitarian Church, he called upon ministers throughout the county to form a social action group to respond to the community's housing needs. They met in a rent-free office in the attic of a convent. Then he called upon other leaders and friends in the community to join their efforts. This social action group of faith and community leaders began to raise money and became the Ecumenical Association for Housing, EAH, still in existence today.

EAH began with 24 organizations, each pledging $200. Martin selflessly accepted a salary of $1 to serve as executive director. EAH quickly took off and began lending money to architects and regional groups to build affordable housing projects throughout Marin. Their first project was Pilgrim Park, a 61 unit, low-income housing development in San Rafael.

For more than 22 years, Martin devoted himself to EAH and affordable housing. Martin worked to persuade citizens and elected officials to accept low and moderate-income housing in their wealthy communities. To develop his knowledge and save EAH outside consultant fees, Martin went to Catholic University in Washington, DC, to take a 2-month course in how to be a housing consultant. He eventually expanded his services and consulted for affordable housing projects in other parts of the Bay Area as well as Arizona.

From its origins as the fledgling group Martin founded in 1968 to a 325-person staff and $6 million budget, EAH has completed 62 projects and 4,556 housing units in the Bay area and beyond.

Martin was a dynamic figure in Marin County. My staff and I always knew we could call on him for invaluable information and sound advice. He was a passionate and effective advocate for affordable housing. He led EAH with a sense of humor and a deep appreciation for the dedicated individuals who worked with him. His accomplishments in creating affordable housing for Marin residents is legendary. He was also a respected member of the Marin community and a wonderful, inspiring man who will be deeply missed. We take comfort in knowing that countless future generations will benefit from his courage, his vision and his leadership.•

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1596. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Air Quality Designations for the Fine Particles (PM2.5) National Ambient Air Quality Standards—Supplemental Notice" (FRL No. 7896–8) received on April 7, 2005; to the Committee on Environment and Public Works.

EC–1597. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Texas; Low-Emission Diesel Fuel Compliance Date" (FRL No. 7895–9) received on April 7, 2005; to the Committee on Environment and Public Works.

EC–1598. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Locally Enforced Idling Prohibition Rule" (FRL No. 7896–7) received on April 7, 2005; to the Committee on Environment and Public Works.

EC–1599. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Coke Oven Batteries" (FRL No. 7895–8) received on April 7, 2005; to the Committee on Environment and Public Works.

EC–1600. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Astragalus jaegerainus (Lane Mountain milk-vetch)" (RIN1018–AI78) received on April 7, 2005; to the Committee on Environment and Public Works.

EC–1601. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population for Two Fishes (Boulder Darter and Spotfin Chub) in Shoal Creek, Tennessee and Alabama " (RIN1018–AH44) received on April 7, 2005; to the Committee on Environment and Public Works.

EC–1602. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Division of Management Authority, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Revisions to General Permit Procedures" (RIN1018–AC57) received on April 7, 2005; to the Committee on Environment and Public Works.

EC–1603. A communication from the Acting Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 1728, Specifications and Drawings for 12.47/7.2 kV Line Construction" received on April 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1604. A communication from the Acting Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 1738, Rural Broadband Access Loans and Loan Guarantee" (RIN0572–AB81) received on April 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1605. A communication from the Chairman and CEO, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation" (RIN3052–AC28) received on April 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1606. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Triflumizole; Pesticide Tolerances for Emergency Exemptions" (FRL No. 7701-6) received on April 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1607. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Paecilomyces lilacinus strain 251; Exemption from the Requirement of a Tolerance" (FRL No. 7708–4) received on April 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1608. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Buprofezin; Pesticide Tolerance" (FRL No. 7691–8) received on April 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1609. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acetamiprid; Pesticide Tolerance" (FRL No. 7705–7) received on April 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1610. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report of the Corporation's intent to submit its annual Legislative and Grant Request for fiscal year 2006; to the Committee on Commerce, Science, and Transportation.

EC–1611. A communication from the Secretary of Commerce, transmitting, pursuant to law, the 2004 Annual Report of the Visiting Committee on Advanced Technology of the National Institute of Standards and Technology (NIST); to the Committee on Commerce, Science, and Transportation.

EC–1612. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB SF340A and 340B Series Airplanes;" ((RIN2120–AA64) (2005–0126)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1613. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330, A340–200, and A340–300 Series Airplanes" ((RIN2120–AA64) (2005–0131)) received on April 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–1614. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller, Inc. Model HC B3TN 5 T10282 Propellers" ((RIN2120–AA64) (2005–0125)) received on April 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–1615. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–400, 400D, and 400F Series Airplanes" ((RIN2120–AA64) (2005–0118)) received on April 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–1616. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB SF340A and SAAB 340B Series Airplanes" ((RIN2120–AA64) (2005–0117)) received on April 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–1617. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 10 Series Airplanes" ((RIN2120–AA64) (2005–0116)) received on April 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–1618. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters" ((RIN2120–AA64) (2005–0115)) received on April 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–1619. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and 145 Series Airplanes" ((RIN2120–AA64) (2005–0122)) received on April 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–1620. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 707–100, 100B, 300B, and E3A Series Airplanes; Model 720 and 720B Series Airplanes; Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes; and Model 747 Airplanes" ((RIN2120–AA64) (2005–0121)) received on April 4, 2004; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. CHAMBILSS for the Committee on Agriculture, Nutrition, and Forestry.

Charles F. Conner, of Indiana, to be Deputy Secretary of Agriculture.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAIG (for himself and Mr. Crapo):

S. 761. A bill to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself, Mr. Levin, Mr. DeWine, Ms. Stabenow, Mr. Cornyn, Mr. Alexander, Mr. DeMint, Mrs. Dole, Mr. Vitter, Mr. Martinez, Mr. Isakson, Mr. Nelson of Florida, Mr. Lugar, Mr. Burr, Mr. Cochran, Mr. Lott, Mrs. Hutchison, Mr. Chambliss, Mr. Bayh, Mr. Allen, and Ms. Landrieu):

S. 762. A bill to amend title 23, United States Code, to increase the minimum allocation provided to states for use in carrying out certain highway programs; to the Committee on Environment and Public Works.

By Mr. DORGAN (for himself and Mrs. Hutchison):

S. 763. A bill to direct the Federal Railroad Administration to make welded rail and tank car improvements; to the Committee on Commerce, Science, and Transportation.

By Mr. CORZINE (for himself and Mr. Lautenberg):

S. 764. A bill to amend title XVIII of the Social Security Act to improve the coordination of prescription drug coverage provided under State pharmaceutical assistance programs with the prescription drug benefit provided under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. Durbin):

S. 765. A bill to preserve mathe matics- and science-based industries in the United States; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM:

S. 766. A bill to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies; to the Committee on the Judiciary.

By Mr. BOND (for himself, Ms. Mikulski, Mr. Talent, Mr. Harkin, Mr. Roberts, and Mr. Coleman):

S. 767. A bill to establish a Division of Food and Agricultural Science within the National Science Foundation and to authorize funding for the support of fundamental agricultural research of the highest quality, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SCHUMER (for himself and Mr. Nelson of Florida):

S. 768. A bill to provide for comprehensive identity theft prevention; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself and Mr. Hagel):

S. Res. 104. A resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities; to the Committee on Foreign Relations.

By Ms. MURKOWSKI (for herself, Mr. Akaka, Mr. Allen, Mr. Bayh, Mr. Bingaman, Mrs. Boxer, Mrs. Clinton, Mr. Cochran, Mr. Coleman, Ms. Collins, Mr. Conrad, Mr. Cornyn, Mr. Craig, Mr. DeWine, Mr. Dodd, Mr.

DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GREGG, Mr. HAGEL, Mr. ISAKSON, Mr. JOHNSON, Mr. KERRY, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. LEVIN, Mr. LOTT, Mr. MARTINEZ, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REED, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, Mr. SESSIONS, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. THUNE, and Mr. BUNNING):

S. Res. 105. A resolution designating April 15, 2005, as National Youth Service Day, and for other purposes; considered and agreed to.

By Mr. CONRAD (for himself, Mr. SANTORUM, Mr. ALLARD, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. CORZINE, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mrs. FEINSTEIN, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEAHY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Mr. SPECTER, and Mr. STEVENS):

S. Con. Res. 26. A concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 21

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 35

At the request of Mr. CONRAD, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 35, a bill to amend the Internal Revenue Code of 1986 to extend the credit for production of electricity from wind.

S. 77

At the request of Mr. SESSIONS, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 77, a bill to amend titles 10 and 38, United States Code, to improve death benefits for the families of deceased members of the Armed Forces, and for other purposes.

S. 103

At the request of Mr. TALENT, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 241

At the request of Ms. SNOWE, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 352

At the request of Ms. MIKULSKI, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 352, a bill to revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants, and for other purposes.

S. 359

At the request of Mr. CRAIG, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 370

At the request of Mr. LOTT, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 370, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 397

At the request of Mr. CRAIG, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 398

At the request of Mr. SANTORUM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 398, a bill to amend the Internal Revenue Code of 1986 to expand the expensing of environmental remediation costs.

S. 432

At the request of Mr. ALLEN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 432, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 477

At the request of Mr. DORGAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 477, a bill to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security, and for other purposes.

S. 484

At the request of Mr. WARNER, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Vermont (Mr. LEAHY) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 487

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 487, a bill to amend title 10, United States Code, to provide leave for members of the Armed Forces in connection with adoptions of children, and for other purposes.

S. 494

At the request of Mr. AKAKA, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 494, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 495

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 506

At the request of Mr. HAGEL, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 506, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies.

S. 512

At the request of Mr. SANTORUM, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 512, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 555

At the request of Mr. DEWINE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 555, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 582

At the request of Mr. PRYOR, the names of the Senator from Montana (Mr. BURNS), the Senator from Michigan (Ms. STABENOW), the Senator from Minnesota (Mr. COLEMAN), the Senator from Montana (Mr. BAUCUS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. WYDEN), the Senator from Kansas (Mr. BROWNBACK), the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. GRASSLEY), the Senator from New York (Mr. SCHUMER), the Senator from Kansas (Mr. ROBERTS), the Senator from California (Mrs. BOXER), the Senator from Nevada (Mr. REID), the Senator from Connecticut (Mr. DODD) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

S. 586

At the request of Mr. BOND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 586, a bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

S. 595

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 611

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 611, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 626

At the request of Mr. NELSON of Nebraska, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 626, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self management training by designating certified diabetes educators who are recognized by a nationally recognized certifying body and who meet the same quality standards set forth for other providers of diabetes self management training, as certified providers for purposes of outpatient diabetes self-management training services under part B of the medicare program.

S. 627

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 642

At the request of Mr. FRIST, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 656

At the request of Mr. REED, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 658

At the request of Mr. BROWNBACK, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 658, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 662

At the request of Ms. COLLINS, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 662, a bill to reform the postal laws of the United States.

S. 675

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 675, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

S. 722

At the request of Mr. SANTORUM, the names of the Senator from Colorado (Mr. ALLARD), the Senator from North Dakota (Mr. CONRAD) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 722, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 725

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 725, a bill to improve the Child Care Access Means Parents in School Program.

S. 756

At the request of Mr. BENNETT, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 758

At the request of Mr. ALLEN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to ensure that the federal excise tax on communication services does not apply to internet access service.

S. RES. 40

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 40, a resolution supporting the goals and ideas of National Time Out Day to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room.

S. RES. 82

At the request of Mr. ALLEN, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. Res. 82, a resolution urging the European Union to add Hezbollah to the Eurpoean Union's wide-ranging list of terrorist organizations.

S. RES. 85

At the request of Mr. THOMAS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. Res. 85, a resolution designating July 23, 2005, and July 22, 2006, as "National Day of the American Cowboy."

AMENDMENT NO. 204

At the request of Mr. SMITH, the name of the Senator from Illinois (Mr.

Durbin) was added as a cosponsor of amendment No. 204 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 316

At the request of Mr. Nelson of Florida, the names of the Senator from Massachusetts (Mr. Kennedy), the Senator from Arkansas (Mrs. Lincoln) and the Senator from New Mexico (Mr. Bingaman) were added as cosponsors of amendment No. 316 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 333

At the request of Mr. Kerry, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of amendment No. 333 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 334

At the request of Mr. Kerry, the names of the Senator from Illinois (Mr. Obama), the Senator from New Jersey (Mr. Corzine) and the Senator from Michigan (Mr. Levin) were added as cosponsors of amendment No. 334 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself and Mr. Crapo):

S. 761. A bill to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce, along with my colleague, Mr. Crapo, a bill to rename a National Conservation Area in the State of Idaho after the late Morley Nelson. This bill renames it the Morley Nelson Snake River Birds of Prey National Conservation Area.

After returning home as a decorated veteran of World War II, having served with the famed 10th Mountain Division in Italy, Morley Nelson recognized the unique importance of the Snake River area for birds of prey. He worked for its protection and various designations, culminating in its establishment by Congress as a National Conservation Area.

Starting in the 1950s, Morley Nelson spent decades convincing ranchers and farmers not to shoot raptors, but rather to accept them as an integral part of the ecosystem.

Morley Nelson raised public awareness about birds of prey through scores of speeches with an eagle on his fist, and through dozens of movies and TV specials starring his eagle or hawks, including seven films for Disney.

Morley Nelson recognized the longstanding problem with raptor electrocution from power lines and the associated power outages and even resulting wildfires. In cooperation with Idaho Power, and later with other utilities, he helped develop guards and redesigned power transmission lines to reduce raptor electrocution. This technology has since spread throughout the world.

Morley Nelson once said, "This is where the wind and the cliffs and the birds are. This is where I'll always be." It seems only fitting that the Snake River Birds of Prey National Conservation Area should bear his name.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morley Nelson Snake River Birds of Prey National Conservation Area Act".

SEC. 2. RENAMING OF SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA.

(a) Renaming.—Public Law 103-64 is amended—

(1) in section 2(2) (16 U.S.C. 460iii-1(2)), by inserting "Morley Nelson" before "Snake River Birds of Prey National Conservation Area"; and

(2) in section 3(a)(1) (16 U.S.C. 460iii-2(a)(1)), by inserting "Morley Nelson" before "Snake River Birds of Prey National Conservation Area".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Snake River Birds of Prey National Conservation Area shall be deemed to be a reference to the Morley Nelson Snake River Birds of Prey National Conservation Area.

(c) Technical Corrections.—Public Law 103–64 is further amended—

(1) in section 3(a)(1) (16 U.S.C. 460iii-2(a)(1)), by striking "(hereafter referred to as the 'conservation area')"; and

(2) in section 4 (16 U.S.C. 460iii–3)—

(A) in subsection (a)(2), by striking "Conservation Area" and inserting "conservation area"; and

(B) in subsection (d), by striking "Visitors Center" and inserting "visitors center".

By Mr. VOINOVICH (for himself, Mr. Levin, Mr. DeWine, Ms. Stabenow, Mr. Cornyn, Mr. Alexander, Mr. DeMint, Mrs. Dole, Mr. Vitter, Mr. Martinez, Mr. Isakson, Mr. Nelson of Florida, Mr. Lugar, Mr. Burr, Mr. Cochran, Mr. Lott, Mrs. Hutchison, Mr. Chambliss, Mr. Bayh, Mr. Allen, and Ms. Landrieu):

S. 762. A bill to amend title 23, United States Code, to increase the minimum allocation provided to states for use in carrying out certain highway programs; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I rise today to introduce the Highway Funding Equity Act of 2005. I am joined on a bipartisan basis by Senators Levin, DeWine, Stabenow, Cornyn, Alexander, DeMint, Dole, Vitter, Martinez, Isakson, Nelson of Florida, Lugar, Burr, Cochran, Lott, Hutchison, Chambliss, Bayh, Allen, and Landrieu.

The Transportation Equity Act for the 21st Century, TEA-21 authorized more than $218 billion for transportation programs and expired in September 2003, but has been extended through May 2005. TEA-21 requires certain States, known as donor States, to transfer to other States a percentage of the revenue from federal highway user fees. Several of these donor States transfer more than 10 percent of every federal highway user fee dollar to other States. As a result, donor States receive a significantly lower rate-of-return on their transportation tax dollars being sent to Washington. Currently, over 25 States, including my State of Ohio, contribute more money to the Highway Trust Fund than they receive back.

My State of Ohio has the Nation's 10th largest highway network, the 5th highest volume of traffic, the 4th largest interstate highway network, and the 2nd largest inventory of bridges in the country. Ohio is a major manufacturing State and is within 600 miles of

50 percent of the population of North America. The interstate highways throughout Ohio and all the donor States provide a vital link to suppliers, manufacturers, distributors, and—consumers.

Maintaining our Nation's highway infrastructure is essential to a robust economy and increasing Ohio's share of federal highway dollars has been a longtime battle of mine. One of my goals when I became Governor 14 years ago was to increase our rate-of-return from 79 percent to 87 percent in the Intermodal Surface Transportation Efficiency Act of 1991, ISTEA. Then, in 1998, as chairman of the National Governors Association, I lobbied Congress to increase the minimum rate-of-return to 90.5 percent. The goal of the Highway Funding Equity Act of 2005 is to increase the minimum guaranteed rate-of-return to 95 percent.

The Highway Funding Equity Act of 2005 has two components. First, the bill would increase the minimum guaranteed rate-of-return in TEA-21 from 90.5 percent of a State's share of contributions to the Highway Trust Fund to 95 percent. The Minimum Guarantee under TEA-21 includes all major Core highway programs: Interstate Maintenance, National Highway System, Bridge, Surface Transportation Program, Congestion Mitigation and Air Quality, Metropolitan Planning, Recreational Trails, and any funds provided by the Minimum Guarantee itself.

Second, the bill uses the table of percentages now in Section 105 of Title 23 to guarantee States with a population density of less the 50 people per square mile a minimum rate-of-return that may exceed 95 percent of that State's share of Highway Account contributions. This provision is intended to ensure that every State is able to provide the quality of road systems needed for national mobility, economic prosperity, and national defense. Under the 2000 Census, this provision would benefit 15 States: Alaska, Arizona, Colorado, Idaho, Kansas, Maine, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, and Wyoming.

Increasing donor States' rate of return to 95 percent will send more than $60 million back to Ohio for road improvements we sorely need. The interstate system was built in the 1950s to serve the demands and traffic of the 1980s. Today, Ohio's infrastructure is functionally obsolete. Nearly every central urban interstate in Ohio is over capacity and plagued with accidents and congestion. Ohio's critical roadways are unable to meet today's traffic demands, much less future traffic which is expected to grow nearly 70 percent in the next 20 years. Like all the donor states, we need these funds in Ohio.

States can no longer afford to support others that are already self-sufficient. Each State has its own needs that far outweigh total available funding, especially in light of the so called "mega projects" coming due in the next decade. For example, the Brent Spence Bridge that carries Interstates 71 and 75 across the Ohio River into Kentucky is in need of replacement within the next 10 years at a cost of about $500 million. With the inclusion of the approach work, the total project could cost close to $1 billion.

The goal of this legislation is to improve the rate-of-return on donor States' dollars to guarantee that Federal highway program funding is more equitable for all States. Donor States seek only their fair share, and I look forward to working with my colleagues to improve highway funding equity during the upcoming surface transportation reauthorization process. I am pleased with the strong bipartisan support this legislation has received. In addition, I am hopeful that the highway bill will be brought to the Senate floor quickly, so that we can move to a conference. It is vital that our Nation's highway infrastructure needs be properly addressed to ensure continued economic growth.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Highway Funding Equity Act of 2005".

SEC. 2. MINIMUM GUARANTEE.

Section 105 of title 23, United States Code, is amended—

(1) by striking subsection (a) and subsections (c) through (f);

(2) by redesignating subsection (b) as subsection (e);

(3) by inserting after the section heading the following:

"(a) GUARANTEE.—

"(1) IN GENERAL.—For each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that the percentage for each State of the total apportionments for the fiscal year for the National Highway System under section 103(b), the high priority projects program under section 117, the Interstate maintenance program under section 119, the surface transportation program under section 133, metropolitan planning under section 134, the highway bridge replacement and rehabilitation program under section 144, the congestion mitigation and air quality improvement program under section 149, the recreational trails program under section 206, the Appalachian development highway system under subtitle IV of title 40, and the minimum guarantee under this paragraph, equals or exceeds the percentage determined for the State under paragraph (2).

"(2) STATE PERCENTAGES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the percentage for each State referred to in paragraph (1) is the percentage that is equal to 95 percent of the ratio that—

"(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; bears to

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(B) EXCEPTION.—In the case of a State having a population density of less than 50 individuals per square mile according to the 2000 decennial census, the percentage referred to in paragraph (1) shall be the greater of—

"(i) the percentage determined under subparagraph (A); or

"(ii) the percentage specified in subsection (e).

"(b) TREATMENT OF FUNDS.—

"(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion the amounts made available under this section that exceed $2,800,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subsection (a)(1) (other than the high priority projects program, metropolitan planning, the recreational trails program, the Appalachian development highway system, and the minimum guarantee under subsection (a)) is equal to the product obtained by multiplying—

"(A) the amount to be apportioned under this paragraph; and

"(B) the ratio that—

"(i) the amount of funds apportioned to the State for each program referred to in subsection (a)(1) (other than the high priority projects program, metropolitan planning, the recreational trails program, the Appalachian development highway system, and the minimum guarantee under subsection (a)) for a fiscal year; bears to

"(ii) the total amount of funds apportioned to the State for that program for the fiscal year.

"(2) REMAINING DISTRIBUTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall apportion the remainder of funds made available under this section to the States, and administer those funds, in accordance with section 104(b)(3).

"(B) INAPPLICABLE REQUIREMENTS.—Paragraphs (1), (2), and (3) of section 133(d) shall not apply to amounts apportioned in accordance with this paragraph.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.

"(d) GUARANTEE OF 95 PERCENT RETURN.—

"(1) IN GENERAL.—For each of fiscal years 2005 through 2009, before making any apportionment under this title, the Secretary shall—

"(A) determine whether the sum of the percentages determined under subsection (a)(2) for the fiscal year exceeds 100 percent; and

"(B) if the sum of the percentages exceeds 100 percent, proportionately adjust the percentages specified in the table contained in subsection (e) to ensure that the sum of the percentages determined under subsection (a)(1)(B) for the fiscal year equals 100 percent.

"(2) ELIGIBILITY THRESHOLD FOR ADJUSTMENT.—The Secretary may make an adjustment under paragraph (1) for a State for a fiscal year only if the percentage for the State in the table contained in subsection (e) is equal to or exceeds 95 percent of the ratio determined for the State under subsection (a)(1)(B)(i) for the fiscal year.

"(3) LIMITATION ON ADJUSTMENTS.—Adjustments of the percentages in the table contained in subsection (e) in accordance with this subsection shall not result in a total of the percentages determined under subsection (a)(2) that exceeds 100 percent."; and

(4) in subsection (e) (as redesignated by paragraph (2)), by striking "subsection (a)" and inserting "subsections (a)(2)(B)(ii) and (d)".

Mr. LEVIN. Mr. President, today I join Senator VOINOVICH in introducing the Highway Funding Equity Act of 2005.

Our bill will allow States to get back a fairer share of what they contribute in gas taxes to the highway trust fund. We do this by increasing the Federal minimum guaranteed funding level for highways to 95 percent from the current 90.5 percent of a State's share of contributions made to the Federal Highway Trust Fund in gas tax payments.

Increasing this minimum guarantee to 95 percent will bring us one step closer to achieving fairness in the distribution of Federal highway funds to States.

Historically about 20 States, including Michigan, known as "donor" States, have sent more gas tax dollars to the Highway Trust Fund in Washington than were returned in transportation infrastructure spending. The remaining 30 States, known as "donee" States, have received more transportation funding than they paid into the Highway Trust Fund.

This came about in 1956 when a number of small States and large Western States banded together to develop a formula to distribute Federal highway dollars that advantaged themselves over the remaining States. They formed a coalition of about 30 States that would benefit from the formula and, once that formula was in place, have tenaciously defended it.

At the beginning there was some legitimacy to the large low-population predominately Western States getting more funds than they contributed to the system in order to build a national interstate highway system. Some arguments remain for providing additional funds to those States to maintain the national system and our bill will do that. However, there is no justification for any State getting more than its fair share.

Each time the highway bill is reauthorized the donor States that have traditionally subsidized other States' road and bridge projects have fought to correct this inequity in highway funding. It has been a long struggle to change these outdated formulas. Through these battles, some progress has been made. For instance, in 1978, Michigan was getting around 75 cents on our gas tax dollar. The 1991 bill brought us up to approximately 80 cents per dollar and the 1998 bill guaranteed a 90.5 cent minimum return for each State.

We still have a long way to go to achieve fairness for Michigan and other States on the return on our Highway Trust Fund contributions. At stake are tens of millions of dollars a year in additional funding to pay for badly needed transportation improvements in Michigan alone and the jobs that go with it. Based on FHWA data, we calculate that Michigan would have received over $55 million in additional funds in FY 2004 under the Voinovich-Levin 95 percent minimum guarantee bill. That's a critically important difference for Michigan each year. The same is true for other donor States that stand to get back millions more of their gas tax dollars currently being sent to other States. There's no logical reason for some States to be forced to continue to send that money to other states to subsidize their road and bridge projects and to perpetuate this imbalance is simply unfair and unjustifiable.

With the national interstate system completed, the formulas used to determine how much a State will receive from the Highway Trust Fund are antiquated and do not relate to what a State's real needs or contributions are.

The Voinovich-Levin bill is a consensus bill developed with the help of donor State Department of Transportation agencies and their coalition working group. This legislation would increase the minimum guarantee from 90.5 percent to 95 percent for all States. With this legislation, we intend to send a strong message to our colleagues and the authorizing Committee about the need to address the equity issue in the highway reauthorization bill. We are determined to make progress in this bill to distribute the highway funds in a more equitable manner so that every State gets its fair share.

This is simply an issue of fairness and we will not be satisfied until we achieve it.

By Mr. DORGAN (for himself and Mrs. HUTCHISON):

S. 763. A bill to direct the Federal Railroad Administration to make welded rail and tank car improvements; to the Committee on Commerce, Science, and Transportation.

Mr. DORGAN. Mr. President, today I am introducing bipartisan legislation to address improvements that need to be made to the Nation's rail tracks and tank cars. I am very pleased to be joined on this bill by Senator KAY BAILEY HUTCHISON.

It is vital that we address this issue of track and tank car safety. Rail accidents occur in our Nation too frequently, and can cause devastating harm, ranging from economic loss, environmental or health hazards, or the worst tragedy, the loss of human life.

In my own State of North Dakota a terrible derailment took place in Minot, ND in January of 2002. At approximately 1:37 a.m. on January 18, 2002, an eastbound Canadian Pacific Railway freight train, derailed 31 of its 112 cars about ½ mile west of the city limits of Minot, ND.

Five tank cars carrying anhydrous ammonia, a liquefied compressed gas, catastrophically ruptured, and a vapor plume covered the derailment site and surrounding area. About 146,700 gallons of anhydrous ammonia were released from the five cars, and a cloud of hydrolyzed ammonia formed almost immediately. This plume rose an estimated 300 feet and gradually expanded 5 miles downwind of the accident site and over a population of about 11,600 people. One resident was fatally injured, and 60 to 65 residents of the neighborhood nearest the derailment site had to be rescued. Over the next 5 days, another 74,000 gallons of anhydrous ammonia were released from six other anhydrous ammonia tank cars.

As a result of the accident, 11 people sustained serious injuries, and 322 people, including the 2 train crewmembers, sustained minor injuries. Damages exceeded $2 million, and more than $8 million was been spent for environmental remediation. Imagine the devastation that could have occurred if this accident had happened in a more populated area.

The National Transportation Safety Board (NTSB) investigated this terrible derailment, and in its report issued important safety recommendations on track inspections and tank car crashworthiness. The findings by the NTSB raised great concern. NTSB estimated that the pre-1989 tank cars were insufficiently crashworthy. The cars were estimated to make up approximately 60 percent of the pressure tank cars in the rail system, and with a 50-year lifespan, could continue operating until 2039. The risks posed by these cars are significant, and the NTSB set forth recommendations on addressing these safety issues.

Of further concern is the fact that statistics show that there were more than 1.23 million tank car shipments of hazardous materials in 2000, the last year for which the study had data available, in the United States and Canada. Of the top 10 hazardous materials transported by tank car, 5 were class 2 liquefied compressed gases, LPG, anhydrous ammonia, chlorine, propane, and vinyl chloride, that together accounted for more than 246,600 tank car shipments, or about 20 percent of all hazardous materials shipments by tank car.

Consequently, the NTSB specifically stated concerns about continued transportation of class 2 hazardous materials in pre-1989 tank cars. Because of the high volume of liquefied gases transported in these tank cars and the cars' lengthy service lives, the NTSB concluded that using these cars to transport DOT class 2 hazardous materials under current operating practices poses an unquantified but real risk to the public. The NTSB also concluded that research was needed on improving the crashworthiness of all tank cars.

With regards to track safety, the NTSB also found that improved track inspection, such as visual inspections, and additional oversight by the FRA was necessary. The accident was caused in part because of undetected cracks in the rail tracks, and NTSB concluded that track inspections to identify and remove cracked rail components before the cracks grow to critical size are the primary preventive measure to ensure safety.

The findings from the NTSB's report are extremely troubling, and require immediate action by the Federal Railroad Administration (FRA) to implement the safety recommendations. Our legislation incorporates these recommendations and others on track safety, and sets forth time frames for the FRA to act so that we ensure that these critical and potentially life-saving recommendations will move forward.

It is important to note that the terrible tragedy that took place in Madrid last year demonstrates that tank and track safety are vital to prevent not only against rail accidents, but also against terrorist attacks against our rail system. We cannot delay on investigating improvements to tank cars that travel every day across this country, often carrying dangerous loads of hazardous material. This is a necessary step in improving rail security.

We will now work with the Senate Commerce Committee and the Senate leadership to speed enactment of this important legislation. Last year similar provisions were included in a larger rail security bill that passed the Senate, and I am hopeful that we can proceed along the same route this year, as both measures are vital to protect our rail system. I invite my colleagues to join me in cosponsoring this bill.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Welded Rail and Tank Car Safety Improvement Act".

SEC. 2. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) Whenever the Administration determines that it is necessary or appropriate the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this Act; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this Act.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 1 year after the date of enactment of this Act the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall—

(1) establish a program to rank those cars according to their risk of catastrophic fracture and separation;

(2) implement measures to eliminate or mitigate this risk; and

(3) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the measures implemented.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Railroad Administration $1,000,000 for fiscal year 2006 to carry out this section, such sums to remain available until expended.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 764. A bill to amend title XVIII of the Social Security Act to improve the coordination of prescription drug coverage provided under State pharmaceutical assistance programs with the prescription drug benefit provided under the medicare program, and for other purposes; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today along with my colleague, Senator LAUTENBERG, to introduce legislation, the Preserving Access to Affordable Drugs (PAAD) Act. This legislation is essential to ensuring that our most vulnerable seniors who have existing prescription drug coverage do not see a reduction or disruption in their coverage once the Medicare prescription drug program goes into effect.

Hundreds of thousands of seniors, including 190,000 in my State, currently enrolled in state pharmacy assistance programs (SPAPs) will be forced out of those programs and into a private drug plan under the Medicare prescription drug benefit. Additionally, approximately six million seniors, including 140,000 in New Jersey, who are dually eligible for Medicare and Medicaid will lose access to their Medicaid prescription drug benefits, which are more generous and provide greater access to a variety of drugs than the Medicare benefit will.

No senior should be made worse off by the new Medicare law. The law should expand benefits—not reduce them. The PAAD Act will make critical changes to the Medicare law to ensure that the above-mentioned benefits are safeguarded.

The PAAD Act will allow States to automatically enroll SPAP and dually eligible Medicaid beneficiaries into one or more preferred prescription drug plans to ensure that these beneficiaries are enrolled in a Medicare drug plan that maximizes both their Federal and State prescription drug coverage and ensures for a seamless transition to the new Medicare Part D drug benefit.

The PAAD Act will ensure that New Jersey seniors who currently receive prescription drug benefits under PAAD or through the State's Medicaid program are not made worse off by the new Medicare law.

The PAAD Act will allow New Jersey to provide supplemental Medicaid prescription drug benefits to low-income seniors and disabled who currently receive generous prescription drug benefits under the Medicaid program and who will now receive their prescription drug benefits through Medicare.

One of the goals of medicine is to do no harm. The manner in which the Bush Administration has chosen to implement the Medicare law violates that tenet. The Medicare legislation signed by the President created the State Pharmaceutical Assistance Transition Commission specifically to address the coordination of benefits between SPAPS, State Medicaid drug programs, and the new Medicare drug plan. The Commission was explicit in its recommendation to CMS that states be permitted to automatically enroll these beneficiaries in preferred prescription drug plans to "enhance benefits to enrollees, encourage enrollment, and promote coordination between Medicare Part D and [states]." Members of the Commission recognized that many blind, disabled, and aged beneficiaries, those who most need coverage, would not be able to navigate the plan selection process and could face gaps in coverage. Yet, CMS recently denied New Jersey's request to automatically enroll those Medicare beneficiaries currently enrolled in New Jersey's PAAD and Medicaid programs into a preferred Medicare prescription drug plan. This ruling effectively blocks New Jersey's efforts to preserve the generous prescription drug coverage the state currently provides to the 190,000 seniors enrolled in New Jersey's PAAD program and the 140,000 seniors and disabled enrolled in the state's Medicaid program when the new Medicare prescription drug benefit goes into effect on January 1, 2006.

Yesterday, I was joined by Senator LAUTENBERG in writing to the President to express our sincere dismay over the recent CMS ruling. It is clear that permitting states to automatically enroll these beneficiaries would guarantee that these seniors continue to receive the same level of prescription drug coverage, which is more generous than the coverage that will be available under the new Medicare benefit. Furthermore, auto enrollment would relieve beneficiaries from the anxiety of selecting the appropriate plan to ensure that their drug coverage is maximized. Certainly, beneficiaries who prefer to select their own prescription drug plan should have that choice, but those who want the state to act on their behalf to ensure that they receive the most comprehensive and seamless coverage should be afforded that option.

This legislation is critical to preserving and protecting existing prescription drug coverage while expanding it to those who currently lack such coverage. States like New Jersey, Pennsylvania, and New York, States that have well-established, generous prescription drug plans for seniors and the disabled, should not be prevented from continuing to provide the same level of coverage under the new Medicare law. I look forward to working with my colleagues to pass this legislation and preserve prescription drug benefits for all seniors.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preserving Access to Affordable Drugs Act of 2005".

SEC. 2. STATE AS AUTHORIZED REPRESENTATIVE.

(a) IN GENERAL.—Section 1860D-1(b)(1) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)) is amended by adding at the end the following new subparagraph:

"(D) STATE AS AUTHORIZED REPRESENTATIVE.—A State Pharmaceutical Assistance Program (as defined in section 1860D–23(b)) may, at the option of the State operating the Program, act as the authorized representative for any part D eligible individual residing in the State who is enrolled in the Program or described in section 1935(c)(6)(A)(ii) in order to select one or more preferred prescription drug plans to enroll such an individual, so long as the individual is afforded the authority to decline such enrollment. A Program that acts as an authorized representative for an individual pursuant to the preceding sentence shall not be considered to have violated section 1860D-23(b)(2) solely because of the enrollment of such individual in a preferred prescription drug plan.".

(b) CONFORMING AMENDMENT TO ANTI-DISCRIMINATION PROVISION.—Section 1860D-23(b)(2) of the Social Security Act (42 U.S.C. 1395w-133(b)(2)) is amended by inserting "subject to 1860D–1(b)(1)(D)," after "which,".

SEC. 3. FACILITATION OF COORDINATION.

Section 1860D-24(c)(1) of the Social Security Act (42 U.S.C. 1395w–134(c)(1)) is amended by striking "all methods of operation" and inserting "its own methods of operation, except that a PDP sponsor or MA organization may not require a State Pharmaceutical Assistance Program or an RX plan described in subsection (b) to apply such tools when coordinating benefits".

SEC. 4. ALLOWING MEDICAID WRAP.

Section 1935 of the Social Security Act (42 U.S.C. 1396u-5) is amended by striking subsection (d).

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2066).

By Mr. WARNER (for himself and Mr. DURBIN):

S. 765. A bill to preserve mathematics- and science-based industries in the United States; to the Committee on Health, Education, Labor, and Pensions.

Mr. WARNER. Mr. President, I rise today to introduce, along with Senator DURBIN, an important bipartisan bill related to education and our national, homeland, and economic security. My good friend and colleague in the U.S. House of Representatives, Congressman FRANK WOLF, is introducing the same legislation today in the House.

Without a doubt, our ability to remain ahead of the curve in scientific and technological advancements is a key component to ensuring America's national, homeland and economic security in the post 9/11 world of global terrorism.

Yet alarmingly, the bottom line is that America faces a huge shortage of home-grown, highly trained scientific minds.

The situation America faces today is not unlike almost 50 years ago. On October 4, 1957, the Soviet Union successfully launched the first man-made satellite into space, Sputnik. The launch shocked America, as many of us had assumed that we were preeminent in the scientific fields. While prior to that unforgettable day America enjoyed an air of post World War II invincibility; afterwards our Nation recognized that there was a cost to its complacency. We had fallen behind.

In the months and years to follow, we would respond with massive investments in science, technology and engineering. In 1958, Congress passed legislation creating the National Defense Education Act, which was designed to stimulate advancement in science and mathematics. In addition, President Eisenhower signed into law legislation that established the National Aeronautics and Space Administration (NASA). And a few years later, in 1961, President Kennedy set the Nation's goal of landing a man on the moon within the decade.

These investments paid off. In the years following the Sputnik launch, America not only closed the scientific and technological gap with the Soviet Union, we surpassed them. Our renewed commitment to science and technology not only enabled us to safely land a man on the moon in 1969, it spurred research and development which helped ensure that our modern military has always had the best equipment and technology in the world. These post-Sputnik investments also laid the foundation for the creation of some of the most significant technologies of modern life, including personal computers and the Internet.

Why is any of this important to us today? Because, as the old saying goes—he or she who fails to remember history is bound to repeat it.

The truth of the matter is that today America's education system is coming up short in training the highly technical American minds that we now need and will continue to need far into the future.

The 2003 Program for International Student Assessment found that the math, problem solving, and science skills of fifteen year old students in the United States were below average when compared to their international counterparts in industrialized countries. While a little bit better news was presented by the recently released 2003 Trends in International Mathematics and Science Study (TIMSS), it is still nothing we should cheer about. TIMSS showed that eighth grade students in the U.S. had lower average math scores than fifteen other participating countries. U.S. science scores weren't much better.

Our colleges and universities are not immune to the waning achievement in math and science education. The National Science Foundation reports the percentage of bachelor degrees in science and engineering have been declining in the U.S. for nearly two decades. In fact, the proportion of college-age students earning degrees in math, science, and engineering was substantially higher in 16 countries in Asia and Europe than it was in the United States.

In the past, this country has been able to compensate for its shortfall in homegrown, highly trained, technical and scientific talent by importing the necessary brain power from foreign countries. However, with increased global competition, this is becoming harder and harder. More and more of our imported brain power is returning home to their native countries. And regrettably, as they return home, many American high tech jobs are being outsourced with them.

Moreover, in the post 9/11 era, it is more important than ever from a security perspective to have American citizens performing certain tasks. We cannot run the risk of having to outsource the security of this country simply because we don't have enough highly trained U.S. citizens to meet our America's needs.

The legislation we are introducing today is a targeted measure that will help America meet its needs by providing strong incentives to students and graduates to pursue studies and careers in these important scientific and technical fields.

Our bill simply allows the Federal Government to pay the interest on undergraduate student loans for certain graduates of math, science, or engineering programs who agree to work in the United States in these fields for 5 consecutive years. Priority will be given to those students with degrees in majors that are key to protecting our national, homeland and economic security as a nation.

Almost 50 years ago our Nation learned a lesson about the cost of complacency in science and technology. While we responded with immediate vigor and ultimately prevailed, today, new dangers are upon us.

Once again, America must rise to meet a new challenge. In my view, this initiative is an important step forward that will encourage Americans to enter important fields of study that are crucial to the national, homeland, and economic security of this country.

By Mr. SANTORUM:

S. 766. A bill to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies; to the Committee on the Judiciary.

Mr. SANTORUM. Mr. President, I am introducing the "Good Samaritan Volunteer Firefighter Assistance Act of 2005." Amazingly, every year quality firefighting equipment worth millions of dollars is wasted. In order to avoid civil liability lawsuits, heavy industry and wealthier fire departments destroy surplus equipment, including hoses, fire trucks, protective gear and breathing apparatus, instead of donating it to volunteer fire departments.

The basic purpose of this legislation is to induce donations of surplus firefighting equipment by reducing the threat of civil liability for organizations, most commonly heavy industry, and individuals who wish to make these donations. The bill eliminates civil liability barriers to donations of surplus firefighting equipment by raising the liability standard for donors from "negligence" to "gross negligence." By doing this, the legislation saves taxpayer dollars by encouraging donations, thereby reducing the taxpayers' burden of purchasing expensive equipment for volunteer fire departments.

The Good Samaritan Volunteer Firefighter Assistance Act of 2005 is modeled after a bill passed by the Texas state legislature in 1997 and signed into law by then-Governor George W. Bush which has resulted in more than $10 million in additional equipment donations from companies and other fire departments for volunteer departments which may not be as well equipped. Now companies in Texas can donate surplus equipment to the Texas Forest Service, which then certifies the equipment and passes it on to volunteer fire departments that are in need. The donated equipment must meet all original specifications before it can be sent to volunteer departments. Alabama, Arizona, Arkansas, California, Florida, Illinois, Indiana, Missouri, Nevada, South Carolina, and Pennsylvania have passed similar legislation at the State level.

In the 108th Congress, Representative CASTLE introduced the Good Samaritan Volunteer Firefighter Assistance Act, which had 64 bipartisan cosponsors in the House of Representatives. It is also supported by the National Volunteer Fire Council, the Firemen's Association of the State of New York, and a former director of the Federal Emergency Management Agency, FEMA, James Lee Witt. The legislation passed overwhelmingly in the House by a vote of 397–3. The bill has been reintroduced as H.R. 1088 in the 109th Congress and already has garnered 64 cosponsors. I introduced the Good Samaritan Volunteer Firefighter Assistance Act of 2004 in the 108th Congress that also enjoyed support from the National Volunteer Fire Council.

Federally, precedent for similar measures includes the Bill Emerson Good Samaritan Food Act, Public Law 104-210, named for the late Representative Bill Emerson, which encourages restaurants, hotels and businesses to donate millions of dollars worth of food. The Volunteer Protection Act of 1997, Public Law 105-101, also immunizes individuals who do volunteer work for non-profit organizations or governmental entities from liability for ordinary negligence in the course of their volunteer work. I have also previously introduced three Good Samaritan measures in the 106th Congress, S. 843, S. 844 and S. 845. These provisions were also included in a broader charitable package in S. 997, the Charity Empowerment Act, to provide additional incentives for corporate in-kind charitable contributions for motor vehicle, aircraft, and facility use. The same provision passed the House of Representatives in the 107th Congress as part of H.R. 7, the Community Solutions Act, in July of 2001, but was not signed into law.

Volunteers comprise approximately 73 percent of firefighters in the United States. Of the total estimated 1,078,300 firefighters across the country, 784,700 are volunteers. Of the more than 30,000 fire departments in the country, approximately 22,600 are all volunteer; 4,800 are mostly volunteer; 1,600 are mostly career; and 2,000 are all career. In 2000, 58 of the 103 firefighters who died in the line of duty were volunteers.

This legislation provides a commonsense incentive for additional contributions to volunteer fire departments around the country and would make it more attractive for corporations to give equipment to fire departments in other States. All of America has witnessed the heroic acts of selflessness and sacrifice of firefighters in New York City, Northern Virginia, and Pennsylvania. I urge my colleagues to join me in supporting this incentive for the provision of additional safety equipment for volunteer firefighters who put their lives on the line every day throughout this great Nation.

By Mr. BOND (for himself, Ms. MIKULSKI, Mr. TALENT, Mr. HARKIN, Mr. ROBERTS, and Mr. COLEMAN):

S. 767. A bill to establish a Division of Food and Agricultural Science within the National Science Foundation and to authorize funding for the support of fundamental agricultural research of the highest quality, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BOND. I rise today to introduce legislation with Senators MIKULSKI, TALENT, HARKIN, ROBERTS and COLEMAN to establish a division of food and agricultural science within the National Science Foundation to support fundamental agricultural research of the highest quality. I present this to begin a critical discussion that I believe we must have over the next several months about how we are going to ensure we capitalize on the technology to maximize the benefits and minimize the costs of our agricultural production.

We remain the world leader in food and fiber production. We do it safely and through technology and the hard work of the American farmer. In the past half century, the number of people fed by a single U.S. farm has grown from 19 to 129. We have a tremendously innovative agricultural research program. Our farmers, our farm leaders are on the cutting edge of developing new technology. And we have seen the innovations continue to come down the pike. This has made it possible for one farmer to feed 129 people.

In addition, we export $60 billion worth of agricultural products, and we do so at less cost and at less harm to the environment than any of our competitors around the world, again, because of new practices, diligence on the part of farmers, and new technology.

In a world that has a decreasing amount of soil available for cultivation, we have a growing population and we still have 800 million children who are hungry or malnourished throughout the world. As some have said: A person who is well fed can have many problems. A person who is hungry has but one problem. Unless we maximize technology and new practices, production will continue to overtax the world's natural resources.

Many people legitimately have raised concerns regarding new diseases and pests and related food safety issues. And they are growing. The leading competitiveness of our U.S. producers is only as solid as our willingness to invest in forward-looking investments and build upon our historic successes.

Now, we also know from past experience that with new technology the doors are being opened to novel new uses of renewable agricultural products in the fields of energy, medicine, and industrial products. In the future, we can make our farm fields and farm animals factories for everyday products, fuels, and medicines in a way that is efficient and better preserves our natural resources. Advances in the life sciences have come about, such as genetics, proteomics, and cell and molecular biology. They are providing the base for new and continuing agricultural innovations.

It was only about a dozen years ago that farmers in Missouri came to me to tell me about the potential that genetic engineering and plant biotechnology had for improving the production of food, and doing so with less impact on the environment, providing more nutritious food. Since that time, I have had a wonderful, continuing education, not in how it works but what it can do.

We know now, for example, that in hungry areas of the world as many as half a million children go blind from vitamin A deficiency, and maybe a million die from vitamin A deficiency. Well, through plant biotechnology, the International Rice Research Institute in the Philippines and others have developed Golden Rice, taking a gene from the sunflower, a beta-carotene gene, and they enrich the rice. The Golden Rice now has that vitamin A, and that is going to make a significant difference in dealing with malnutrition.

We also know that in many areas of the world, where agricultural production has overtaxed the land, where drought has cut the production, where virus has plagued production, the way we can make farmers self-sufficient, where we can restore the farm economy in many of these countries, is through plant biotechnology.

But this is just the beginning. This legislation I am introducing today seeks to lay the foundation for tremendous advances in the future.

This legislation stems from findings and recommendations produced by a distinguished group of scientists working on the Agricultural Research, Economics and Education Task Force, which I was honored to be able to include in the 2002 farm bill. The distinguished task force was led by Dr. William H. Danforth, of St. Louis, the brother of our former distinguished colleague, Senator Jack Danforth. Dr. Bill Danforth has a tremendous reputation in science and in education, with a commitment to human welfare and is known worldwide. He was joined by Dr. Nancy Betts, the University of Nebraska; Mr. Michael Bryan, president of BBI International; Dr. Richard Coombe, the Watershed Agricultural Council; Dr. Victor Lechtenbert, Purdue University; Dr. Luis Sequeira, the University of Wisconsin; Dr. Robert Wideman, the University of Arkansas; and Dr. H. Alan Wood, Mississippi State University.

I extend my congratulations and my sincere gratitude to Dr. Danforth and his team for providing the basis and the roadmap to ensure we have the mechanisms in place to solve the problems and capitalize on the opportunities in agricultural research. The full report of the task force can be found at www.ars.usda.gov/research.htm.

In summary, that study concludes that it is absolutely necessary we reinvigorate and forward focus our technology to meet the responsibilities of our time. New investment is critical for the world's consumers, the protection of our natural resources, the standard of living for Americans who labor in rural America, and for the well-being of the hungry people and the needy people throughout the world.

This legislation is supported by the some 22 Member and Associate Member Societies of the Federation of American Societies for Experimental Biology, as well as the Institute of Food Technologists, American Society of Agronomy, Crop Science Society of America, Soil Science Society of America, the Council for Agricultural Research, the National Coalition for Food and Agricultural Research, the American Soybean Association, National Cattlemen's Beef Association, National Chicken Council, National Corn Growers Association, National Farmers Union, National Milk Producers Federation, National Pork Producers Council, National Turkey Federation, Association of American Veterinary Medical Colleges and the United Fresh Fruit and Vegetable Association.

I look forward to pursuing this vision in the 109th Congress. I invite my colleagues who are interested in science and research to review this report, to look at this measure, to join with me and my cosponsors in the next session of Congress to talk about moving forward on what I think will be a tremendous opportunity to improve agriculture and its benefits to all our populations.

Madam President, this, I hope, will be the start of something really big. Today, Congressman GUTKNECHT is offering companion legislation in the House. I congratulate him on his leadership in promoting science and I am pleased to be working on this with him.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Food and Agricultural Science Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term "Council" means the Standing Council of Advisors established under section 4(c).

(2) DIRECTOR.—Except as otherwise provided in this Act, the term "Director" means the Director of Food and Agricultural Science.

(3) DIVISION.—The term "Division" means the Division of Food and Agricultural Science established under section 4(a).

(4) FOUNDATION.—The term "Foundation" means the National Science Foundation.

(5) FUNDAMENTAL AGRICULTURAL RESEARCH; FUNDAMENTAL SCIENCE.—The terms "fundamental agricultural research" and "fundamental science" mean fundamental research or science that—

(A) advances the frontiers of knowledge so as to lead to practical results or to further scientific discovery; and

(B) has an effect on agriculture, food, nutrition, human health, or another purpose of this Act, as described in section 3(b).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(7) UNITED STATES.—The term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Agricultural Research, Economics, and Education Task Force established under section 7404 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3101 note) conducted an exhaustive review of agricultural research in the United States and evaluated the merits of establishing 1 or more national institutes focused on disciplines important to the progress of food and agricultural science. Consistent with the findings and recommendations of the Agricultural Research, Economics, and Education Task Force, Congress finds the following:

(1) Agriculture in the United States faces critical challenges, including an impending crisis in the food, agricultural, and natural resource systems of the United States. Exotic diseases and pests threaten crops and livestock, obesity has reached epidemic proportions, agriculturally-related environmental degradation is a serious problem for

the United States and other parts of the world, certain animal diseases threaten human health, and United States producers of some major crops are no longer the world's lowest cost producers.

(2) In order to meet these critical challenges, it is essential that the Nation ensure that the agricultural innovation that has been so successful in the past continues in the future. Agricultural innovation has resulted in hybrid and higher yielding varieties of basic crops and enhanced the world's food supply by increasing yields on existing acres. Since 1960, the world's population has tripled with no net increase in the amount of land under cultivation. Currently, only 1.5 percent of the population of the United States provides the food and fiber to supply the Nation's needs. Agriculture and agriculture sciences play a major role in maintaining the health and welfare of all people of the United States and in husbanding our land and water, and that role must be expanded.

(3) Fundamental scientific research that leads to understandings of how cells and organisms work is critical to continued innovation in agriculture in the United States. Such future innovations are dependent on fundamental scientific research, and will be enhanced by ideas and technologies from other fields of science and research.

(4) Opportunities to advance fundamental knowledge of benefit to agriculture in the United States have never been greater. Many of these new opportunities are the result of amazing progress in the life sciences over recent decades, attributable in large part to the provision made by the Federal Government through the National Institutes of Health and the National Science Foundation. New technologies and new concepts have speeded advances in the fields of genetics, cell and molecular biology, and proteomics. Much of this scientific knowledge is ready to be mined for agriculture and food sciences, through a sustained, disciplined research effort at an institute dedicated to this research.

(5) Publicly sponsored research is essential to continued agricultural innovation to mitigate or harmonize the long-term effects of agriculture on the environment, to enhance the long-term sustainability of agriculture, and to improve the public health and welfare.

(6) Competitive, peer-reviewed fundamental agricultural research is best suited to promoting the fundamental research from which breakthrough innovations that agriculture and society require will come.

(7) It is in the national interest to dedicate additional funds on a long-term, ongoing basis to an institute dedicated to funding competitive peer-reviewed grant programs that support and promote the highest caliber of fundamental agricultural research.

(8) The Nation's capacity to be competitive internationally in agriculture is threatened by inadequate investment in research.

(9) To be successful over the long term, grant-receiving institutions must be adequately reimbursed for their costs if they are to pursue the necessary agricultural research.

(10) To meet these challenges, address these needs, and provide for vitally needed agricultural innovation, it is in the national interest to provide sufficient Federal funds over the long term to fund a significant program of fundamental agricultural research through an independent institute.

(b) PURPOSES.—The purposes of the Division established under section 4(a) shall be to ensure that the technological superiority of agriculture in the United States effectively serve the people of the United States in the coming decades, and to support and promote fundamental agricultural research of the highest caliber in order to achieve goals, including the following goals:

(1) Increase the international competitiveness of United States agriculture.

(2) Develop knowledge leading to new foods and practices that improve nutrition and health and reduce obesity.

(3) Create new and more useful food, fiber, health, medicinal, energy, environmental, and industrial products from plants and animals.

(4) Improve food safety and food security by protecting plants and animals in the United States from insects, diseases, and the threat of bioterrorism.

(5) Enhance agricultural sustainability and improve the environment.

(6) Strengthen the economies of the Nation's rural communities.

(7) Decrease United States dependence on foreign sources of petroleum by developing bio-based fuels and materials from plants.

(8) Strengthen national security by improving the agricultural productivity of subsistence farmers in developing countries to combat hunger and the political instability that it produces.

(9) Assist in modernizing and revitalizing the Nation's agricultural research facilities at institutions of higher education, independent non-profit research institutions, and consortia of such institutions, through capital investment.

(10) Achieve such other goals and meet such other needs as determined appropriate by the Foundation, the Director, or the Secretary.

SEC. 4. ESTABLISHMENT OF DIVISION.

(a) ESTABLISHMENT.—There is established within the National Science Foundation a Division of Food and Agricultural Science. The Division shall consist of the Council and be administered by a Director of Food and Agricultural Science.

(b) REPORTING AND CONSULTATION.—The Director shall coordinate the research agenda of the Division after consultation with the Secretary.

(c) STANDING COUNCIL OF ADVISORS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established in the Division a Standing Council of Advisors composed of 12 highly qualified scientists who are not employed by the Federal Government and 12 stakeholders.

(B) SCIENTISTS.—

(i) APPOINTMENT.—The 12 scientist members of the Council shall be appointed to 4-year staggered terms by the Director of the National Science Foundation, with the consent of the Director of Food and Agricultural Science.

(ii) QUALIFICATIONS.—The persons nominated for appointment as scientist members of the Council shall be—

(I) eminent in the fields of agricultural research, nutrition, science, or related appropriate fields; and

(II) selected for appointment solely on the basis of established records of distinguished service and to provide representation of the views of agricultural research and scientific leaders in all areas of the Nation.

(C) STAKEHOLDERS.—

(i) APPOINTMENT.—The 12 stakeholder members of the Council shall be appointed to 4-year staggered terms by the Secretary, with the consent of the Director.

(ii) QUALIFICATIONS.—The persons nominated for appointment as stakeholder members of the Council shall—

(I) include distinguished members of the public of the United States, including representatives of farm organizations and industry, and persons knowledgeable about the environment, subsistence agriculture, energy, and human health and disease; and

(II) be selected for appointment so as to provide representation of the views of stakeholder leaders in all areas of the Nation.

(2) DUTIES.—The Council shall assist the Director in establishing the Division's research priorities, and in reviewing, judging, and maintaining the relevance of the programs funded by the Division. The Council shall review all proposals approved by the scientific committees of the Division to ensure that the purposes of this Act and the needs of the Nation are being met.

(3) MEETINGS.—

(A) IN GENERAL.—The Council shall hold periodic meetings in order to—

(i) provide an interface between scientists and stakeholders; and

(ii) ensure that the Division is linking national goals with realistic scientific opportunities.

(B) TIMING.—The meetings shall be held at the call of the Director, or at the call of the Secretary, but not less frequently than annually.

SEC. 5. FUNCTIONS OF DIVISION.

(a) COMPETITIVE RESEARCH.—

(1) IN GENERAL.—The Director shall carry out the purposes of this Act by awarding competitive peer-reviewed grants to support and promote the very highest quality of fundamental agricultural research.

(2) GRANT RECIPIENTS.—The Director shall make grants to fund research proposals submitted by—

(A) individual scientists;

(B) single and multi-institutional research centers; and

(C) entities from the private and public sectors, including researchers in the Department of Agriculture, the Foundation, or other Federal agencies.

(b) COMPLEMENTARY RESEARCH.—The research funded by the Division shall—

(1) supplement and enhance, not supplant, the existing research programs of, or funded by, the Department of Agriculture, the Foundation, and the National Institutes of Health; and

(2) seek to make existing research programs more relevant to the United States food and agriculture system, consistent with the purposes of this Act.

(c) GRANT-AWARDING ONLY.—The Division's sole duty shall be to award grants. The Division may not conduct fundamental agricultural research or fundamental science, or operate any laboratories or pilot plants.

(d) PROCEDURES.—The Director shall establish procedures for the peer review, awarding, and administration of grants under this Act, consistent with sound management and the findings and purposes described in section 3.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 104—EXPRESSING THE SENSE OF THE SENATE ENCOURAGING THE ACTIVE ENGAGEMENT OF AMERICANS IN WORLD AFFAIRS AND URGING THE SECRETARY OF STATE TO TAKE THE LEAD AND COORDINATE WITH OTHER GOVERNMENTAL AGENCIES AND NON-GOVERNMENTAL ORGANIZATIONS IN CREATING AN ONLINE DATABASE OF INTERNATIONAL EXCHANGE PROGRAMS AND RELATED OPPORTUNITIES

Mr. FEINGOLD (for himself and Mr. HAGEL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 104

Whereas the United States needs to do a better job of building personal and institutional relationships with peoples and Nations around the world in order to combat the rise in anti-American sentiment that many polls and studies have reported;

Whereas a broad bipartisan consensus in favor of strengthening United States public diplomacy emerged during 2003 in Congress and was expressed in various reports, including reports of the Council on Foreign Relations, the General Accounting Office, the Advisory Commission on Public Diplomacy, the Heritage Foundation, and the Advisory Group on Public Diplomacy for the Arab and Muslim World;

Whereas, in July 2004, the National Commission on Terrorist Attacks Upon the United States released its final report on United States intelligence, which determined that "[j]ust as we did in the Cold War, we need to defend our ideals abroad vigorously. America does stand up for its values . . . If the United States does not act aggressively to define itself in the Islamic World, the extremists will gladly do the job for us.";

Whereas the National Intelligence Reform Act of 2004 declares the sense of Congress that the United States should commit to a long-term and significant investment in promoting people-to-people engagement with all levels of society in other countries;

Whereas international exchange programs, which have assisted in extending American influence around the world by educating the world's leaders, have suffered from a decline in funding and policy priority;

Whereas, when students are instructed in their civic and community responsibilities during secondary education, the importance of their participation in global affairs should be underscored as well;

Whereas the number of United States university-level students studying abroad in 2002-2003 was 174,629, representing just over 1 percent of United States students;

Whereas ⅔ of United States students studying abroad study in Western Europe (18.2 percent in the United Kingdom alone), although 95 percent of the world population growth in the next 50 years is expected to occur outside of Western Europe;

Whereas there are 29,953,000 retired workers in the United States as of December 2004, meaning that there are many older Americans who have the talent, maturity, and time to volunteer their services abroad;

Whereas the average United States college graduate who has studied 1 of the less commonly taught languages reaches no more than an intermediate level of proficiency in the language, which is insufficient to meet national security requirements; and

Whereas there are hundreds of well-established organizations in the United States that implement educational and professional exchanges, international volunteering, and related programs, and the efforts of those organizations could readily be expanded to reach out to more Americans: Now, therefore, be it

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "People-to-People Engagement in World Affairs Resolution".

SEC. 2. SENSE OF SENATE.

It is the sense of the Senate that—

(1) the Secretary of State should coordinate with implementing partners in creating an online database that provides information on how Americans can take advantage of—

(A) international exchange programs of the Department of State, the Department of Education, and other Federal Government and non-government entities;

(B) volunteer opportunities with organizations that assist refugees and immigrants in the United States;

(C) opportunities to host international students and professionals in the United States;

(D) sister-city organizations in the United States;

(E) international fairs and cultural events in the United States; and

(F) foreign language learning opportunities;

(2) Americans should strive to become more engaged in international affairs and more aware of peoples and developments outside the United States;

(3) Americans should seize 1 or more opportunities toward this end, by such means as—

(A) participating in a professional or cultural exchange;

(B) studying abroad;

(C) volunteering abroad;

(D) working with an immigrant or refugee group;

(E) hosting a foreign student or professional;

(F) participating in a sister-city program; and

(G) learning a foreign language; and

(4) Members of Congress should raise the importance of international engagement in the districts and States the Members represent.

Mr. FEINGOLD. Mr. President, I am pleased to submit the People-to-People Engagement in World Affairs resolution with my colleague from Nebraska, Senator HAGEL.

In July 2004, the National Commission on Terrorist Attacks Upon the United States released its final report, which determined that "just as we did in the Cold War, we need to defend our ideals abroad vigorously. . . . If the United States does not act aggressively to define itself in the Islamic world, the extremists will gladly do the job for us." The 9/11 Commission report clearly states that in the interests of national security, the U.S. must commit to a long-term, global strategy, which includes, among other things, effective public diplomacy.

Public diplomacy is an essential component of our efforts to define and defend America's interests and ideals abroad. But a successful, long-term approach to building solid relationships with the rest of the world is not just the mission of the State Department. It also requires the engagement of the American people.

This People-to-People Engagement in World Affairs resolution is a call to Americans to reach beyond our borders to engage with the world at an individual level. It encourages Americans to seize opportunities to engage in the global arena—through participating in a professional or cultural exchange; studying or volunteering abroad; working with an immigrant or refugee group in the United States; hosting a foreign student or professional; participating in a sister-city program; or learning a foreign language. This resolution also urges the State Department to coordinate between government agencies and non-governmental organizations to create a database where Americans can learn of opportunities to become involved in world affairs. Furthermore, it encourages all Members of Congress to work to raise the importance of citizen diplomacy in their states and districts.

Americans must make a serious investment in reaching across borders and reversing the tide of increasing anti-American sentiments abroad. According to a 2003 Pew Research Center survey, during 1999–2000, more than 50 percent of the people in surveyed countries held a favorable view of the U.S., and in at least one country, favorable views of the U.S. were held by over 80 percent of those surveyed. More recent surveys reveal a stark contrast with those figures and growing anti-American sentiment. Pew found that, by 2003, favorable views of the United States in these countries plummeted. Additionally, whereas negative public opinion of the U.S. among Muslims was once limited to the Middle East, now it has spread to populations in places like Nigeria and Indonesia. Pew found that "the bottom has fallen out of Arab and Muslim support for the United States."

While these sentiments are most notable in the Muslim world, they extend even farther, coloring the views of many others.

Growing anti-American sentiment abroad is dangerous and breeds misperceptions in future generations. Our ability to work with allies to foster democratic societies and tackle global problems relates directly to our image abroad. Building an international coalition with our allies requires their trust that our efforts are genuine. Success in combating terrorism, the greatest global threat, is contingent upon a unified, global participation. Members of the international community must collaborate to eliminate loopholes that terrorist networks manipulate when intelligence and communication break down between borders.

Anti-Americanism can feed a steady supply of recruits and supporters for terrorist networks, intent on our destruction. Terrorist networks capitalize on misperceptions about the U.S. to advance their own agenda and scapegoat the U.S. as the reason for the poverty, weak and corrupt states, and powerlessness that many experience on a daily basis.

International cooperation is also essential for effective progress in other important, trans-border issues, such as the proliferation of WMD, human trafficking, poverty, environmental degradation, and diseases from HIV/AIDS to polio. We cannot solve these problems alone—we need allies to help find and achieve meaningful solutions.

Combating anti-American sentiments requires that we engage in a conversation with people in all levels of society beyond our borders. And as Secretary Rice has noted, our dialogue cannot be a monologue. Talking at people about what the U.S. image abroad should be is not sustainable or effective. Talking with people, and listening to them, however, can be the start of real understanding and even trust. That conversation needs to happen at a governmental level, through public and private diplomacy, but it also needs to happen at an individual person-to-person level, through citizen diplomacy.

I have met with a number of groups from my State of Wisconsin that tell me they are concerned about misperceptions of America abroad, which they believe discourage people from coming to the U.S. to visit, study, learn about our wonderful country, and share their knowledge. I am so proud of the work people back in Wisconsin have done to overcome barriers to engaging outside our borders, whether by continuing Wisconsin's strong history of support for the Peace Corps, or by taking part in farmer to farmer initiatives and education exchange programs, building sister communities, or tirelessly working to ensure that Wisconsin maintains its success in attracting foreign visitors to our remarkable state. In 2004, Wisconsin was awarded the Goldman Sachs Foundation Prizes for Excellence in International Education in honor of its work to bring international education and skills into its curriculum. In fact, earlier this year, Wisconsin welcomed a group of teachers from Azerbaijan to study the workings of our education system to create a model for a new curriculum in their country.

Wisconsin also works to improve communities abroad. A non-profit organization based in Wisconsin helps abused children in Latvia and is working to create the first family shelter there for these children and their mothers. Another Wisconsinite who is an expert in dairy prices participated in a farmer to farmer program to assist in building a pricing system in Armenia's dairy industry. He was able to share his experiences from this program with myself and people back in the state.

Citizen diplomacy not only helps the rest of the world to understand us, it strengthens this country internally as well. Americans with insight into and understanding of the world beyond our borders become energized constituents who demand wise foreign policy and help all of us to understand global events.

President Kennedy acknowledged the importance of public diplomacy in 1960 and challenged Americans to serve their country through building stronger communities abroad. His vision is even more relevant today. It is our responsibility to connect with people outside our borders. This duty can be fulfilled by teachers, students, retirees, and anyone who can share the best of the American people. We are a generous nation. Many of our fellow Americans have dedicated their lives to bringing about change for a better world. It is in our hands to carry this mission forward.

SENATE RESOLUTION 105—DESIGNATING APRIL 15, 2005, AS NATIONAL YOUTH SERVICE DAY, AND FOR OTHER PURPOSES

Ms. MURKOWSKI (for herself, Mr. AKAKA, Mr. ALLEN, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CRAIG, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GREGG, Mr. HAGEL, Mr. ISAKSON, Mr. JOHNSON, Mr. KERRY, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. LEVIN, Mr. LOTT, Mr. MARTINEZ, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REED, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, Mr. SESSIONS, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. THUNE, and Mr. BUNNING) submitted the following resolution; which was considered and agreed to:

S. RES. 105

Whereas National Youth Service Day is an annual public awareness and education campaign that highlights the valuable contributions that young people make to their communities throughout the year;

Whereas the goals of National Youth Service Day are to mobilize youth as leaders in identifying and addressing the needs of their communities through service and service-learning, to support youth on a lifelong path of service and civic engagement, and to educate the public, the media, and policymakers about the year-round contributions of young people as community leaders;

Whereas young people in the United States, and in many other countries, are volunteering more than in any generation in history;

Whereas young people should be viewed as the hope not only of the future, but also of today, and should be valued for the idealism, energy, creativity, and commitment they bring to the challenges found in their communities;

Whereas there is a fundamental and conclusive correlation between youth service and lifelong adult volunteering and philanthropy;

Whereas through community service, young people build character and learn valuable skills, including time management, teamwork, needs-assessment, and leadership, that are sought by employers;

Whereas service-learning, an innovative teaching method combining service to the community with curriculum-based learning, is a proven strategy to increase academic achievement and strengthens civic engagement and civic responsibility;

Whereas several private foundations and corporations in the United States support service-learning because they understand that strong communities begin with strong schools and a community investment in the lives and futures of youth;

Whereas a sustained investment by the Federal Government, business partners, schools, and communities fuels the positive, long-term cultural change that will make service and service-learning the common expectation and the common experience of all young people;

Whereas National Youth Service Day, a program of Youth Service America, is the largest service event in the world and is being observed for the 17th consecutive year in 2005;

Whereas National Youth Service Day, with the support of 50 lead agencies, hundreds of grant winners, and thousands of local partners, engages millions of young people nationwide;

Whereas National Youth Service Day will involve 114 national partners, including 8 Federal agencies and 10 organizations that are offering grants to support National Youth Service Day;

Whereas National Youth Service Day has inspired Global Youth Service Day, which occurs concurrently in over 120 countries and is now in its sixth year; and

Whereas young people will benefit greatly from expanded opportunities to engage in meaningful volunteer service and service-learning: Now, therefore, be it

Resolved,

SECTION 1. RECOGNITION AND ENCOURAGEMENT OF YOUTH COMMUNITY SERVICE.

The Senate recognizes and commends the significant contributions of American youth and encourages the cultivation of a common civic bond among young people dedicated to serving their neighbors, their communities, and the Nation.

SEC. 2. NATIONAL YOUTH SERVICE DAY.

The Senate—

(1) designates April 15, 2005, as "National Youth Service Day"; and

(2) calls on the people of the United States to—

(A) observe the day by encouraging and engaging youth to participate in civic and community service projects;

(B) recognize the volunteer efforts of our Nation's young people throughout the year; and

(C) support these efforts and engage youth in meaningful decision making opportunities today as an investment in the future of our Nation.

SENATE CONCURRENT RESOLUTION 26—HONORING AND MEMORIALIZING THE PASSENGERS AND CREW OF UNITED AIRLINES FLIGHT 93

Mr. CONRAD (for himself, Mr. SANTORUM, Mr. ALLARD, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. CORZINE, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mrs. FEINSTEIN, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEAHY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Mr. SPECTER, and Mr. STEVENS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 26

Whereas on September 11, 2001, acts of war involving the hijacking of commercial airplanes were committed against the United States, killing and injuring thousands of innocent people;

Whereas 1 of the hijacked planes, United Airlines Flight 93, crashed in a field in Pennsylvania;

Whereas while Flight 93 was still in the air, the passengers and crew, through cellular phone conversations with loved ones on the ground, learned that other hijacked airplanes had been used to attack the United States;

Whereas during those phone conversations, several of the passengers indicated that there was an agreement among the passengers and crew to try to overpower the hijackers who had taken over Flight 93;

Whereas Congress established the National Commission on Terrorist Attacks Upon the United States (commonly referred to as "the 9–11 Commission") to study the September 11, 2001, attacks and how they occurred;

Whereas the 9–11 Commission concluded that "the nation owes a debt to the passengers of Flight 93. Their actions saved the lives of countless others, and may have saved either the U.S. Capitol or the White House from destruction."; and

Whereas the crash of Flight 93 resulted in the death of everyone on board: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the United States owes the passengers and crew of United Airlines Flight 93 deep respect and gratitude for their decisive actions and efforts of bravery;

(2) the United States extends its condolences to the families and friends of the passengers and crew of Flight 93;

(3) not later than October 1, 2006, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall select an appropriate memorial that shall be located in the United States Capitol and that shall honor the passengers and crew of Flight 93, who saved the United States Capitol from destruction; and

(4) the memorial shall state the purpose of the honor and the names of the passengers and crew of Flight 93 on whom the honor is bestowed.

Mr. CONRAD. Mr. President, I rise today to submit a concurrent resolution to honor the memory of the passengers on flight 93. As we reflect on the events of 9/11 and mourn the great loss we suffered, we remember the innocent who perished and we are reminded of the valiant efforts of those who saved lives, including the passengers and crew of United Airlines flight 93. Those brave people gave up their lives in order to save others that fateful day.

Last fall, the 9/11 Commission released its report about the series of events that took place on September 11, 2001. The Senate has subsequently undertaken an evaluation of the Commission's findings through a series of hearings. As the story continues to unfold, it becomes clearer how important the actions of the passengers and crew of flight 93 were. We now know that flight 93 was almost certainly headed to the U.S. Capitol or the White House. We also know the passengers of flight 93 learned through a series of phone calls to loved ones that hijackers on three other flights had turned airplanes into flying bombs that morning, crashing them into the World Trade Center and the Pentagon.

Armed only with that knowledge and their own courage and resolve, those brave passengers attacked the hijackers and forced them to crash flight 93 into rural Pennsylvania far short of its intended target. The 9/11 Commission concluded that the Nation owes a debt to the passengers of flight 93. Their actions saved the lives of countless others and may have saved either the U.S. Capitol or the White House from destruction. Those of us who work here in the Capitol owe a special debt of gratitude to those heroes. Their actions saved one of the greatest symbols of our democracy.

Today I am resubmitting a resolution honoring and memorializing the passengers and crew of United Airlines flight 93. This legislation expresses our deepest respect and gratitude to them, as well as condolences to their families and friends. This bill also calls for an appropriate memorial to be placed in the Capitol by the bicameral, bipartisan leaders of Congress.

Today I bow my head in memory of those who died at the World Trade Center and the Pentagon. I also pay respect to our first responders, volunteers, and average citizens who risked their lives to save others on that day.

Finally, I pay homage to the passengers and crew of flight 93 for taking on those who wished to harm our country and Nation's Capitol. I believe it is appropriate at this time to acknowledge the actions of the passengers of flight 93 for showing such remarkable heroism and to commemorate them in the very walls that might have crumbled had they not made that ultimate sacrifice. We are forever indebted to them and should never forget their bravery or sacrifice or that of their loved ones.

The Senate unanimously passed an identical resolution last October 11, within a month of its introduction, but it did not pass the House of Representatives before the adjournment of the 108th Congress. The bipartisan legislation I am reintroducing today has the support of 25 of my colleagues, including Senator SANTORUM from Pennsylvania, who has joined me in leading this effort. I am also happy to report that Congressman SHUSTER of Pennsylvania will also be introducing companion legislation today.

I hope all my colleagues will join me in sponsoring this resolution. I hope on a broad bipartisan basis we are able to recognize those brave passengers and crew of flight 93 for what they did on that remarkable day.

Mr. SANTORUM. Mr. President, I rise today with Senator CONRAD as a proud cosponsor of a resolution which recognizes the immense bravery of the crew and passengers on flight 93. Over 3½ years have passed since September 11, 2001, but we, the American people, have not forgotten the bravery and selflessness that was shown by our fellow citizens on that day.

During the 108th Congress, the 9/11 Commission investigated the events that took place on September 11, 2001, including flight 93's crash in Somerset County, PA. As a result of a series of Senate hearings held to evaluate and gain a clearer understanding of the 9/11 Commission's findings, the actions of flight 93's passengers and crew have become increasingly evident. We know with near certainty now that the terrorists had plans of causing severe destruction to either the White House or the Capitol Building.

Having realized through phone calls to loved ones that three other planes had already been crashed that morning by terrorists, the passengers on flight 93 acted quickly and collaboratively to overtake the hijackers and force them to crash the plane into a rural part of Pennsylvania, keeping the plane's intended target safe from harm.

As a result of the 9/11 Commission's findings, we conclude that America is indebted to the heroic actions of those on flight 93, who showed great bravery so that many other lives could be spared from ruin.

We who work here in the Capitol are particularly indebted to those on board flight 93. In addition to saving the lives of thousands, the passengers on flight 93 ensured the preservation of one of the greatest symbols of America's freedom and democracy.

In an effort to recognize and honor the heroes on flight 93, I am proud to submit this resolution with Senator CONRAD. This resolution is an expression of our deep gratitude for what those on flight 93 did for each of us here in our Nation's Capital, as well as an expression of sorrow and condolence to their families and friends. Additionally, this resolution provides for a place in the Capitol Building to be memorialized in the name of the crew and passengers of flight 93, with a remembrance plaque placed at the location.

This day presents an opportunity to remember all of those who died on September 11, 2001. Additionally, our volunteers, first responders, and the American people deserve a heartfelt "thank you" for the strength and strong resolve they showed in the face of destructive, cowardly acts.

I hope that all of my colleagues will join with Senator CONRAD and me in this bipartisan effort to honor the crew and passengers on flight 93 for what they did on that infamous day in America's history. May their selfless actions, taken for us and the American people, never be forgotten.

AMENDMENTS SUBMITTED AND PROPOSED

SA 338. Ms. SNOWE (for herself, Mr. KERRY, Mr. LIEBERMAN, Ms. CANTWELL, Mr. BAYH, and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 339. Mr. DEWINE (for himself, Mr. DURBIN, Mr. ALLEN, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 340. Mr. DEWINE (for himself, Mr. DURBIN, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 341. Mr. DEWINE (for himself, Mr. DURBIN, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 342. Mr. DEWINE (for himself, Mr. BINGAMAN, Mr. COLEMAN, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. CORZINE, Mrs. DOLE, Mr. DODD, and Mr. CHAFEE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 343. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 344. Mrs. MURRAY (for herself, Mr. AKAKA, Mr. BYRD, Mrs. BOXER, Mr. BINGAMAN, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. JEFFORDS, Mr. SALAZAR, Mr. DAYTON, Mr. SCHUMER, Mr. JOHNSON, Mr. CORZINE, Mrs. LINCOLN, Ms. LANDRIEU, Mr. DORGAN, and Mr. BIDEN) proposed an amendment to the bill H.R. 1268, supra.

SA 345. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 346. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 347. Mr. CORZINE (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 348. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 349. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 350. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 351. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 352. Mr. SALAZAR (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 353. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 354. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 355. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 356. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. ALLEN, and Mr. CORZINE) proposed an amendment to the bill H.R. 1268, supra.

TEXT OF AMENDMENTS

SA 338. Ms. SNOWE (for herself, Mr. KERRY, Mr. LIEBERMAN, Ms. CANTWELL, Mr. BAYH, and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, strike lines 5 through 19.

SA 339. Mr. DEWINE (for himself, Mr. DURBIN, Mr. ALLEN, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, strike line 6 and all that follows through page 160, line 22, and insert the following:

SEC. 1112. (a) INCREASE IN DEATH GRATUITY.—

(1) AMOUNT.—Section 1478(a) of title 10, United States Code, is amended by striking "$12,000" and inserting "$100,000".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

(3) NO ADJUSTMENT FOR INCREASES IN BASIC PAY BEFORE DATE OF ENACTMENT.—No adjustment shall be made under subsection (c) of section 1478 of title 10, United States Code, with respect to the amount in force under subsection (a) of that section, as amended by paragraph (1), for any period before the date of the enactment of this Act.

(4) PAYMENT FOR DEATHS BEFORE DATE OF ENACTMENT.—Any additional amount payable as a death gratuity under this subsection for the death of a member of the Armed Forces before the date of the enactment of this Act shall be paid to the eligible survivor of the member previously paid a death gratuity under section 1478 of title 10, United States Code, for the death of the member. If payment cannot be made to such survivor, payment of such amount shall be made to living survivor of the member otherwise highest on the list under 1477(a) of title 10, United States Code.

On page 161, line 23, strike "$238,000" and insert "$150,000".

SA 340. Mr. DEWINE (for himself, Mr. DURBIN, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PERIOD OF CONTINUED TRICARE COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) PERIOD OF ELIGIBILITY.—Section 1079(g) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by striking the second sentence and inserting the following:

"(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent who is a child of the deceased, the period of continued eligibility shall be the longer of the following periods beginning on such date:

"(A) Three years.

"(B) The period ending on the date on which the child attains 21 years of age.

"(C) In the case of a child of the deceased who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of the child's support, the period ending on the earlier of the following dates:

"(i) The date on which the child ceases to pursue such a course of study, as determined by the administering Secretary.

"(ii) The date on which the child attains 23 years of age.

"(3) For the purposes of paragraph (2)(C), a child shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the child's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

"(4) No charge may be imposed for any benefits coverage under this chapter that is provided for a child for a period of continued eligibility under paragraph (2), or for any benefits provided to such child during such period under that coverage.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 2001, and shall apply with respect to deaths occurring on or after such date.

SA 341. Mr. DEWINE (for himself, Mr. DURBIN, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . EXPANSION OF AUTHORIZED USES OF EDUCATIONAL ASSISTANCE UNDER THE SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.

Section 3531(a) of title 38, United States Code, is amended by inserting "room, board," after "equipment,".

SA 342. Mr. DEWINE (for himself, Mr. BINGAMAN, Mr. COLEMAN, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. CORZINE, Mrs. DOLE, Mr. DODD, and Mr. CHAFEE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, add the following:

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For necessary expenses to provide assistance to Haiti under chapter 1 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $10,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ASSISTANCE TO HAITI

SEC. 2105. (a)(1) The total amount appropriated by this chapter under the heading "ECONOMIC SUPPORT FUND" is increased by $21,000,000. Of the total amount appropriated under that heading, $21,000,000 shall be available for necessary expenses to provide assistance to Haiti.

(2) Of the funds made available under paragraph (1), up to $10,000,000 may be made available for election assistance in Haiti.

(3) Of the funds made available under paragraph (1), up to $10,000,000 may be made available for public works programs in Haiti.

(4) Of the funds made available under paragraph (1), up to $1,000,000 may be made available for administration of justice programs in Haiti.

(5) The amount made available under paragraph (1) is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b)(1) The total amount appropriated by this chapter under the heading "INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT" is increased by $10,000,000. Of the total amount appropriated under that heading, $10,000,000 shall be available for necessary expenses to provide assistance to Haiti.

(2) Of the funds made available under paragraph (1), up to $5,000,000 may be made available for training and equipping the Haitian National Police.

(3) Of the funds made available under paragraph (1), up to $5,000,000 may be made available to provide additional United States civilian police in support of the United Nations Stabilization Mission in Haiti.

(4) The amount made available under paragraph (1) is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 343. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. The United States releases to the State of Arkansas the reversionary interest described in sections 2 and 3 of the Act entitled "An Act authorizing the transfer of part of Camp Joseph T. Robinson to the State of Arkansas", approved June 30, 1950 (64 Stat. 311, chapter 429), in and to the surface estate of the land constituting Camp Joseph T. Robinson, Arkansas, which lies east of the Batesville Pike county road, in sections 24, 25, and 36, township 3 north, range 12 west, Pulaski County, Arkansas.

SA 344. Mrs MURRAY (for herself, Mr. AKAKA, Mr. BYRD, Mrs. BOXER, Mr. BINGAMAN, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. JEFFORDS, Mr. SALAZAR, Mr. DAYTON, Mr. SCHUMER, Mr. JOHNSON, Mr. CORZINE, Mrs. LINCOLN, Ms. LANDRIEU, Mr. DORGAN, and Mr. BIDEN) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 188, after line 20, add the following:

CHAPTER 5

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For necessary expenses for furnishing, as authorized by law, outpatient and inpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans as described in paragraphs (1) through (8) of section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the department and including medical supplies and equipment and salaries and expenses of health-care employees hired under title 38, United States Code, and to aid State homes as authorized under section 1741 of title 38, United States Code; $1,975,183,000 plus reimbursements: *Provided*, That of the amount under this heading, $610,183,000 shall be available to address the needs of servicemembers deployed for Operation Iraqi Freedom and Operation Enduring Freedom; *Provided further*, That of the amount under this heading, $840,000,000 shall be available, in equal amounts of $40,000,000, for each Veterans Integrated Service Network (VISN) to meet current and pending care and treatment requirements: *Provided further*, That of the amount under this heading, $525,000,000 shall be available for mental health care and treatment, including increased funding for centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code (commonly referred to as "Vet Centers"), increased funding for post traumatic stress disorder (PTSD) programs, funding for the provision of primary care consultations for mental health, funding for the provision of mental health counseling in Community Based Outreach Centers (CBOCs), and funding to facilitate the provision of mental health services by Department of Veterans Affairs facilities that do not currently provide such services: *Provided further*, That the amount under this heading shall remain available until expended.

SA 345. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005. to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal. to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . The Secretary of Labor shall convey to the State of Michigan, for no consideration, all right, title, and interest of the United States in and to the real property known as the "Detroit Labor Building" and located at 7310 Woodward Avenue, Detroit, Michigan, to the extent the right, title, or interest was acquired through a grant to the State of Michigan under title III of the Social Security Act (42 U.S.C. 501 et seq.) or the Wagner-Peyser Act (29 U.S.C. 49 et seq.) or using funds distributed to the State of Michigan under section 903 of the Social Security Act (42 U.S.C. 1103).

SA 346. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table: as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—ACCOUNTABILITY IN DARFUR

SECTION 7001. SHORT TITLE.

This title may be cited as the "Darfur Accountability Act of 2005".

SEC. 7002. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) GOVERNMENT OF SUDAN.—The term "Government of Sudan" means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this title.

(3) MEMBER STATES.—The term "member states" means the member states of the United Nations.

(4) SUDAN NORTH-SOUTH PEACE AGREEMENT.—The term "Sudan North-South Peace Agreement" means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People's Liberation Army/Movement on January 9, 2005.

(5) THOSE NAMED BY THE UN COMMISSION OF INQUIRY.—The term "those named by the UN Commission of Inquiry" means those individuals whose names appear in the sealed file delivered to the Secretary-General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Security Council.

(6) UN COMMITTEE.—The term "UN Committee" means the Committee of the Security Council established in United Nations Security Council Resolution 1591 (29 March 2005); paragraph 3.

SEC. 7003. FINDINGS.

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that the atrocities occurring in Darfur, Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, "[w]hen we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring".

(3) President George W. Bush, in an address before the United Nations General Assembly on September 21, 2004, stated, "[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide".

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law and carried out other atrocities in the Darfur region.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry into violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564.

(6) United Nations Security Council Resolution 1564 declares that if the Government of Sudan "fails to comply fully" with Security Council Resolutions 1556 and 1564, the Security Council shall consider taking "additional measures" against the Government of Sudan "as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector or individual members of the Government of Sudan, in order to take effective action to obtain such full compliance and cooperation".

(7) United Nations Security Council Resolution 1564 also "welcomes and supports the intention of the African Union to enhance and augment its monitoring mission in Darfur" and "urges member states to support the African Union in these efforts, including by providing all equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union Mission".

(8) On February 1, 2005, the United Nations released the Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, dated January 25, 2005, which stated that, "[g]overnment forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur", that such "acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity", and that the "magnitude and large-scale nature of some crimes against humanity as well as their consistency over a long period of time, necessarily imply that these crimes result from a central planning operation".

(9) The Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General notes that, pursuant to its mandate and in the course of its work, the UN Commission collected information relating to individual perpetrators of acts constituting "violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes" and that the UN Commission has delivered to the Secretary-General of the United Nations a sealed file of those named by the UN Commission with the recommendation that the "file be handed over to a competent Prosecutor".

(10) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590, establishing the United Nations Mission in Sudan (UNMIS) consisting of 10,000 military personnel and 715 civilian police personnel. The mandate of UNMIS includes to "closely and continuously liaise and coordinate at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur, especially with regard to the Abuja peace process and the African Union Mission in Sudan". Security Council Resolution 1590 also urged the Secretary-General and United Nations High Commissioner for Human Rights to increase the number and deployment rate of human rights monitors to Darfur.

(11) On March 29, 2005, the United Security Council passed Security Council Resolution 1591, establishing a Committee of the Security Council and a Panel of Experts to identify individuals who have impeded the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, or who are responsible for offensive overflights, and calling on member states to prevent those individuals identified from entry into or transit of their territories and to freeze those individuals non-exempted assets.

(12) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593, referring the situation in Darfur since July 1, 2002, to the Prosecutor of the International Criminal Court (ICC) with the proviso that personnel from a state outside Sudan not a party to the Rome Statute of the ICC shall not be subject to the ICC in this instance.

SEC. 7004. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that—

(A) extends the freezing of property and assets and denial of visas and entry, pursuant to United Nations Security Council Resolution 1591, to include—

(i) those named by the UN Commission of Inquiry;

(ii) family members of those named by the UN Commission of Inquiry and those designated by the UN Committee; and

(iii) any associates of those named by the UN Commission of Inquiry and those designated by the UN Committee to whom assets or property of those named by the UN Commission of Inquiry or those designated by the UN Committee were transferred on or after July 1, 2002;

(B) urges member states to submit to the Security Council the name of any individual that the government of any such member state believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, or crimes against humanity in Darfur, along with evidence supporting such belief so that the Security Council may consider imposing sanctions pursuant to United Nations Security Council Resolution 1591;

(C) imposes additional sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as—

(i) humanitarian organizations are granted full, unimpeded access to Darfur;

(ii) the Government of Sudan cooperates with humanitarian relief efforts, carries out activities to demobilize and disarm Janjaweed militias and any other militias supported or created by the Government of Sudan, and cooperates fully with efforts to bring to justice the individuals responsible for genocide, war crimes, or crimes against humanity in Darfur;

(iii) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(iv) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(v) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(D) establishes a military no-fly zone in Darfur;

(E) supports the expansion of the African Union force in Darfur so that such force achieves the size and strength needed to prevent ongoing fighting and violence in Darfur;

(F) urges member states to accelerate assistance to the African Union force in Darfur;

(G) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force in the region, UNMIS, international humanitarian organizations, and United Nations monitors;

(H) extends the embargo of military equipment established by paragraphs 7 through 9 of Security Council Resolution 1556 and expanded by Security Council Resolution 1591 to include a total prohibition of sale or supply to the Government of Sudan;

(I) supports African Union and other international efforts to negotiate peace talks between the Government of Sudan and rebels in Darfur, calls on the Government of Sudan and rebels in Darfur to abide by their obligations under the N'Djamena Ceasefire Agreement of April 8, 2004, and subsequent agreements, and urges parties to engage in peace talks without preconditions and seek to resolve the conflict; and

(J) expands the mandate of UNMIS to include the protection of civilians throughout Sudan, including Dafur;

(3) the United States should work with other nations to ensure effective efforts to freeze the property and assets of and deny visas and entry to—

(A) those named by the UN Commission of Inquiry and those designated by the UN Committee;

(B) any individuals the United States believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, and crimes against humanity in Darfur;

(C) family members of any person described in subparagraphs (A) or (B); and

(D) any associates of any such person to whom assets or property of such person were transferred on or after July 1, 2002;

(4) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that—

(A) humanitarian organizations are being granted full, unimpeded access to Darfur and the Government of Sudan is providing full cooperation with humanitarian efforts;

(B) concrete, sustained steps are being taken toward demobilizing and disarming Janjaweed militias and any other militias supported or created by the Government of Sudan;

(C) the Government of Sudan is cooperating fully with international efforts to bring to justice those responsible for genocide, war crimes, or crimes against humanity in Darfur;

(D) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(E) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(F) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(5) the President should work with international organizations, including the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union to establish mechanisms for the enforcement of a no-fly zone in Darfur;

(6) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence, and member states should support fully this extension;

(7) the President should accelerate assistance to the African Union force in Darfur and discussions with the African Union and the European Union and other supporters of the African Union force on the needs of such force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and command and control assistance, and intelligence;

(8) the President should appoint a Presidential Envoy for Sudan—

(A) to support the implementation of the Sudan North-South Peace Agreement;

(B) to seek ways to bring stability and peace to Darfur;

(C) to address instability elsewhere in Sudan; and

(D) to seek a comprehensive peace throughout Sudan;

(9) United States officials, including the President, the Secretary of State, and the Secretary of Defense, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur;

(10) the Secretary of State should immediately engage in a concerted, sustained campaign with other members of the United Nations Security Council and relevant countries with the aim of achieving the goals described in paragraph (9);

(11) the United States fully supports the Sudan North-South Peace Agreement and urges the rapid implementation of its terms;

(12) the United States condemns attacks on humanitarian workers and calls on all forces in Darfur, including forces of the Government of Sudan, all militia, and forces of the Sudan Liberation Army/Movement and the Justice and Equality Movement, to refrain from such attacks; and

(13) The United States should actively participate in the UN Committee and the Panel of Experts established pursuant to Security Council Resolution 1591, and work to support the Secretary-General and the United Nations High Commissioner for Human Rights in their efforts to increase the number and deployment rate of human rights monitors to Darfur.

SEC. 7005. IMPOSITION OF SANCTIONS.

(a) FREEZING ASSETS.—At such time as the United States has access to the names of those named by the UN Commission of Inquiry and those designated by the UN Committee, the President shall, except as described under subsection (c), take such action as may be necessary to immediately freeze the funds and other assets belonging to anyone so named, their family members, and any associates of those so named to whom assets or property of those so named were transferred on or after July 1, 2002, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control.

(b) VISA BAN.—Beginning at such times as the United States has access to the names of those named by the UN Commission of Inquiry and those designated by the UN Committee, the President shall, except as described under subsection (c), deny visas and entry to—

(1) those named by the UN Commission of Inquiry and those designated by the UN Committee;

(2) the family members of those named by the UN Commission of Inquiry and those designated by the UN Committee; and

(3) anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(c) WAIVER AUTHORITY.—The President may elect not to take an action otherwise required to be taken with respect to an individual under subsection (a) or (b) after submitting to Congress a report—

(1) naming the individual with respect to whom the President has made such election;

(2) describing the reasons for such election; and

(3) including the determination of the President as to whether such individual has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(d) ASSET REPORTING REQUIREMENT.—Not later than 14 days after a decision to freeze the property or assets of, or deny a visa or entry to, any person under this section, the President shall report the name of such person to the appropriate congressional committees.

(e) NOTIFICATION OF WAIVERS OF SANCTIONS.—Not later than 30 days before waiving the provisions of any sanctions currently in force with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons therefor.

SEC. 7006. REPORTS TO CONGRESS.

(a) REPORTS ON STABILIZATION IN SUDAN.—

(1) INITIAL REPORT.—Not later than 30 days after the date of enactment of this title, the Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to succeed at such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, current status of United States and other assistance to the African Union force, and additional United States assistance needed.

(2) SUBSEQUENT REPORTS.—

(A) UPDATES REQUIRED.—The Secretary of State, in conjunction with the Secretary of Defense, shall submit an update of the report submitted under paragraph (1) until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(B) DURATION OF REPORTING REQUIREMENT.—The Secretary of State shall submit any updated reports required under subparagraph (A)—

(i) every 60 days during the 2-year period following the date of the enactment of this Act; and

(ii) after such 2-year period, as part of the report required under section 8(b) of the Sudan Peace Act (50 U.S.C. 1701 note), as amended by section 5(b) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108-497; 118 Stat. 4018).

(b) REPORT ON THOSE NAMED BY THE UN COMMISSION OF INQUIRY.—At such time as the United States has access to the names of those named by the UN Commission of Inquiry, the President shall submit to the appropriate congressional committees a report listing such names.

SA 347. Mr. CORZINE (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, add the following:

REQUIREMENT FOR TRANSFER OF FUNDS

SEC. 2105. Not later than 15 days after the date of the enactment of this Act, the authority contained under the heading "INTERNATIONAL DISASTER AND FAMINE ASSISTANCE" in chapter 2 of title II of Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106; 117 Stat. 1227) to transfer funds made available under such chapter, shall be fully exercised and the funds transferred as follows:

(1) $53,000,000 shall be transferred to and consolidated with funds appropriated under the heading "PEACEKEEPING OPERATIONS" in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (as enacted in division D of Public Law 108-447; 118 Stat. 2988) and used for the support of the efforts of the African Union to halt genocide and other atrocities in Darfur, Sudan; and

(2) $40,500,000 shall be transferred to and consolidated with funds appropriated under the heading "INTERNATIONAL DISASTER AND FAMINE ASSISTANCE" in such Act and used for assistance for Darfur, Sudan.

SA 348. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

PROCUREMENT OF COMMERCIAL SATELLITE BANDWIDTH SERVICES

SEC. 1122. The Secretary of Defense may not implement the action plan for the procurement of commercial satellite bandwidth services proposed by the Assistant Secretary of Defense for Networks and Information Integration on December 14, 2004, or enter into any new contract for commercial satellite communications services (other than through existing contract vehicles), until 30 days after the date on which the Comptroller General of the United States submits to the congressional defense committees a report setting forth the comprehensive assessment and recommendations of the Comptroller General regarding the Defense Information Systems Network Satellite Transmission Services-Global (DSTS-G) program, as previously requested by Congress.

SA 349. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

ACQUISITION OF VITAL LEARNING RECRUITMENT/RETENTION SCREENING TEST PROGRAM

SEC. 1122. (a) IN GENERAL.—In determining the person or entity to supply the Vital Learning Recruitment/Retention Screening Test Program to the Navy for purposes of the acquisition of that program, the Secretary of the Navy shall utilize a strategy that emphasizes past performance on technical capabilities (commonly referred to as a "best value" strategy) applicable to that program.

(b) VITAL LEARNING RECRUITMENT/RETENTION SCREENING TEST PROGRAM DEFINED.—In this section, the term "Vital Learning Recruitment/Retention Screening Test Program" means the recruitment and retention screening test program of the Navy for which $1,000,000 is available under the heading "OPERATION AND MAINTENANCE, NAVY" in each of the Department of Defense Appropriations Act, 2004 (Public Law 108-87; 117 Stat. 1057) and the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 954).

SA 350. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMPLEMENTATION OF MISSION CHANGES AT SPECIFIC VETERANS HEALTH ADMINISTRATION FACILITIES.

Section 414(c)(1) of the Veterans Health Programs Improvement Act of 2004, is amended by inserting ", and all outpatient clinics in the VA Boston Healthcare System" before the period at the end.

SA 351. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE ON THE EARNED INCOME TAX CREDIT.

(a) FINDINGS.—The Senate makes the following findings:

(1) In an effort to provide support to military families, this Act includes an important increase in the maximum payable benefit under Servicemembers' Group Life Insurance from $150,000 to $400,000.

(2) In an effort to provide support to military families, this Act includes an important increase in the death gratuity from $12,000 to $100,000.

(3) In an effort to provide support to military families, this Act includes an important increase in the maximum Reserve Affiliation bonus to $10,000.

(4) The Federal earned income tax credit (EITC) under section 32 of the Internal Revenue Code of 1986 provides critical tax relief and support to military as well as civilian families. In 2003, approximately 21,000,000 families benefitted from the EITC.

(5) Nearly 160,000 active duty members of the armed forces, 11 percent of all active duty members, currently are eligible for the EITC, based on analyses of data from the Department of Defense and the Government Accountability Office.

(6) Congress acted in 2001 and 2004 to expand EITC eligibility to more military personnel, recognizing that military families and their finances are intensely affected by war.

(7) With over 300,000 National Guard and reservists called to active duty since September 11, 2001, the need for tax assistance is greater than ever.

(8) Census data shows that the EITC lifted 4,900,000 people out of poverty in 2002, including 2,700,000 children. The EITC lifts more children out of poverty than any other single program or category of programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should take steps necessary to support our troops and their families;

(2) it is not in the interests of our troops and their families to reduce the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

(3) the conference committee for H. Con. Res. 96, the concurrent resolution on the budget for fiscal year 2006, should not assume any reduction in the earned income tax credit in the budget process this year, as provided in such resolution as passed by the House of Representatives.

SA 352. Mr. SALAZAR (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, between lines 22 and 23, insert the following:

SEC. 1113. RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES AS FALLEN HERO COMPENSATION.

(a) IN GENERAL.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking "have a death gratuity paid" and inserting "have fallen hero compensation paid".

(2) In section 1476(a)—

(A) in paragraph (1), by striking "a death gratuity" and inserting "fallen hero compensation"; and

(B) in paragraph (2), by striking "A death gratuity" and inserting "Fallen hero compensation".

(3) In section 1477(a), by striking "A death gratuity" and inserting "Fallen hero compensation".

(4) In section 1478(a), by striking "The death gratuity" and inserting "The amount of fallen hero compensation".

(5) In section 1479(1), by striking "the death gratuity" and inserting "fallen hero compensation".

(6) In section 1489—

(A) in subsection (a), by striking "a gratuity" in the matter preceding paragraph (1) and inserting "fallen hero compensation"; and

(B) in subsection (b)(2), by inserting "or other assistance" after "lesser death gratuity".

(b) CLERICAL AMENDMENTS.—(1) Such subchapter is further amended by striking "**Death gratuity:**" each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting "**Fallen hero compensation:**".

(2) The table of sections at the beginning of such subchapter is amended by striking "Death gratuity:" in the items relating to sections 1474 through 1480 and 1489 and inserting "Fallen hero compensation:".

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

SA 353. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

OPERATIONS AND MAINTENANCE, GENERAL

The Secretary of the Army, acting through the Chief of Engineers, shall use any funds appropriated to the Secretary pursuant to this Act to repair, restore, and maintain projects and facilities of the Corps of Engineers, including by dredging navigation channels, cleaning area streams, providing emergency streambank protection, restoring such public infrastructure as the Secretary determines to be necessary (including sewer and water facilities), conducting studies of the impacts of floods, and providing such flood relief as the Secretary determines to be appropriate: *Provided*, That of those funds, $32,000,000 shall be used by the Secretary for the Upper Peninsula, Michigan.

SA 354. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON IMPLEMENTATION OF CERTAIN ORDERS AND GUIDANCE ON FUNCTIONS AND DUTIES OF GENERAL COUNSEL AND JUDGE ADVOCATE GENERAL OF THE AIR FORCE

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to implement or enforce either of the following:

(1) The order of the Secretary of the Air Force dated May 15, 2003, and entitled "Functions and Duties of the General Counsel and the Judge Advocate General".

(2) Any internal operating instruction or memorandum issued by the General Counsel of the Air Force in reliance upon the order referred to in paragraph (1).

SA 355. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for

the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CONSTRUCTION, GENERAL

The Secretary of the Army, acting through the Chief of Engineers, shall carry out construction at the Jacksonville Harbor, Florida, in accordance with the report of the Chief of Engineers dated July 22, 2003, using the funds appropriated for that purpose under title I of division C of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2935).

SA 356. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. ALLEN, and Mr. CORZINE) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 153, between lines 15 and 16, insert the following:

SEC. 1110. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the "Reservists Pay Security Act of 2005".

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

"(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(3) the term 'basic pay' includes any amount payable under section 5304.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, April 19, at 10 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony concerning offshore hydrocarbon production and the future of alternate energy resources on the outer Continental Shelf. Issues to be discussed include: recent technological advancements made in the offshore exploration and production of traditional forms of energy, and the future of deep shelf and deepwater production; enhancements in worker safety, and steps taken by the offshore oil and gas industry to meet environmental challenges. Participants in the hearing will also address ways that the Federal Government can facilitate increased exploration and production offshore while protecting the environment. New approaches to help diversify the offshore energy mix will also be discussed.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact: Shane Perkins at 202-224-7555.

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, April 19, 2005 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 166, to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy, and for other purposes; S. 251, to authorize the Secretary of the Interior to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon; S. 310, to direct the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District in the State of Nevada; S. 519, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes; and S. 592, to extend the contract for the Glendo Unit of the Missouri Basin Project in the State of Wyoming.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Kellie Donnelly 202–224–9360 or Shane Perkins at 202–224–7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 12, 2005, at 9:30 a.m., in closed session to receive testimony on the assessment of Iraqi security forces.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on the nominations of Dr. Michael Griffin to be Administrator of the National Aeronautics and Space Administration. Mr. Joseph Boardman to be Administrator of the Federal Railroad Administration, Ms. Nancy Nord to be Commissioner of the Consumer Product Safety Commission, and The Honorable William W. Cobey, Jr. to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority, on Tuesday, April 12, 2005, at 10:15 a.m., in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 12, at 10 a.m. in room SD–366.

The purpose of the hearing is to discuss opportunities to advance technology that will facilitate environmentally friendly development of oil shale and oil sands resources. The hearing will address legislative and administrative actions necessary to provide incentives for industry investment, as well as explore concerns and experiences of other governments and organizations and the interests of industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 12, 2005, at 9:30 a.m., to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet in a closed briefing on Tuesday, April 12, 2005, at 11:30 a.m., in S–407, the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 12, 2005, at 10 a.m. and 2:30 p.m., to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, April 12, 2005, from 2:30 p.m. to 5 p.m., in Dirksen 106, for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate on Tuesday, April 12 at 2:30 p.m. to review management and planning issues for the National Mall, including the history of development, security projects and other planned constructions, and future development plans.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet during the session of the Senate on April 12 at 2:30 p.m. to receive testimony on Navy shipbuilding and industrial base status in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CARPER. Mr. President, I ask unanimous consent that Richard Litsey, a fellow on the Finance Committee staff of Senator BAUCUS, be granted the privilege of the floor during consideration of H.R. 1268, the emergency Iraq/Afghanistan supplemental appropriations, and all rollcall votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator JOHN MCCAIN's legislative fellow, Navy CDR Shawn Grenier, be granted floor privileges during the consideration of H.R. 1268, the Emergency Supplemental Appropriations Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, on behalf of Senator BAUCUS, I ask unanimous consent that Cuong Huynh, a fellow on his staff at the Finance Committee, be accorded floor privileges during the consideration of H.R. 1268, the emergency Iraq-Afghanistan supplemental appropriation bill, and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL YOUTH SERVICE DAY

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to consideration of S. Res. 105, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 105) designating April 15, 2005, as National Youth Service Day, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, I rise in support of S. Res. 105, a resolution designating April 15, 2005, as National Youth Service Day. S. Res. 105 acknowledges the remarkable community service efforts that our Nation's youth are making in communities across the country on April 15 and every day, and encourages all people to recognize and support the significance of these contributions.

National Youth Service Day is a public awareness and education campaign that highlights the extraordinary contributions that young people make to their communities throughout the year. On this day, youth from across the United states and the world will carry out community service projects in areas ranging from hunger to literacy to the environment. National Youth Service Day is the largest service event in the world that brings millions of youth and over 50 local, regional, and national partners together to support and promote youth service.

In Alaska, the following groups will engage youth in community service activities on April 15:

(1) Anchorage's Promise, along with 70 other youth/family organizations from Anchorage and the Mat-Su Valley, will mobilize all sectors of the community to build the character and competence of Anchorage's children

and youth by fulfilling the Five Promises: caring adults, safe places, a healthy start, marketable skills, and opportunities to serve. This year's National Youth Service Day celebration in anchorage hopes to engage at least 7,000 youth in service-learning projects throughout the city.

(2) Cook Inlet Tribal Council Youth Center will prepare and serve traditional Alaska Native dishes to 75–100 homeless people in downtown Anchorage.

(3) As part of the Anchorage Youth Make It Better Project, the mountain View Boys and Girls Club, Alaska Division of Juvenile Justice, members of the Boy Scouts of America Venturing Program, interested AmeriCorps/VISTA volunteers, and the Alaska Points of Light Youth Leadership Institute Student Alumni association will organize and conduct a Youth Make A Better Community essay contest involving 50 Anchorage fifth and sixth grade students. The students will write about how they would improve the community. In addition, 25 middle and high school students will design and paint an outdoor mural in Mountain View highlighting important social issues and traits of good character.

(4) In Koyukuk, young people will be helping elders with household chores they cannot do for themselves.

(5) In the Matanuska-Susitna Valley, Communities In Schools Mat-Su has organized 25 students from the Mat-Su Youth Facility School and students from the Chickaloon Tribal School to work on building a Chicken Coop for the tribal sustainability project.

Many similar and wonderful activities will be taking place all across the Nation.

I thank my colleagues—Senators AKAKA, ALLEN, BAYH, BINGAMAN, BOXER, BUNNING, CLINTON, COCHRAN, COLEMAN, COLLINS, CONRAD, CORNYN, CRAIG, DEWINE, DODD, DOMENICI, DORGAN, DURBIN, FEINGOLD, FEINSTEIN, GREGG, HAGEL, ISAKSON, JOHNSON, KERRY, LANDRIEU, LIEBERMAN, LEVIN, LOTT, MARTINEZ, MIKULSKI, MURRAY, NELSON, REED, SALAZAR, SANTORUM, SCHUMER, SESSIONS, SNOWE, SPECTER, STABENOW, STEVENS, BUNNING and THUNE—for co-sponsoring this worthwhile legislation, which will ensure that youth across the country and the world know that all of their hard work is greatly appreciated.

Mr. MCCONNELL. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 105) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 105

Whereas National Youth Service Day is an annual public awareness and education campaign that highlights the valuable contributions that young people make to their communities throughout the year;

Whereas the goals of National Youth Service Day are to mobilize youth as leaders in identifying and addressing the needs of their communities through service and service-learning, to support youth on a lifelong path of service and civic engagement, and to educate the public, the media, and policymakers about the year-round contributions of young people as community leaders;

Whereas young people in the United States, and in many other countries, are volunteering more than in any generation in history;

Whereas young people should be viewed as the hope not only of the future, but also of today, and should be valued for the idealism, energy, creativity, and commitment they bring to the challenges found in their communities;

Whereas there is a fundamental and conclusive correlation between youth service and lifelong adult volunteering and philanthropy;

Whereas through community service, young people build character and learn valuable skills, including time management, teamwork, needs-assessment, and leadership, that are sought by employers;

Whereas service-learning, an innovative teaching method combining service to the community with curriculum-based learning, is a proven strategy to increase academic achievement and strengthens civic engagement and civic responsibility;

Whereas several private foundations and corporations in the United States support service-learning because they understand that strong communities begin with strong schools and a community investment in the lives and futures of youth;

Whereas a sustained investment by the Federal Government, business partners, schools, and communities fuels the positive, long-term cultural change that will make service and service-learning the common expectation and the common experience of all young people;

Whereas National Youth Service Day, a program of Youth Service America, is the largest service event in the world and is being observed for the 17th consecutive year in 2005;

Whereas National Youth Service Day, with the support of 50 lead agencies, hundreds of grant winners, and thousands of local partners, engages millions of young people nationwide;

Whereas National Youth Service Day will involve 114 national partners, including 8 Federal agencies and 10 organizations that are offering grants to support National Youth Service Day;

Whereas National Youth Service Day has inspired Global Youth Service Day, which occurs concurrently in over 120 countries and is now in its sixth year; and

Whereas young people will benefit greatly from expanded opportunities to engage in meaningful volunteer service and service-learning: Now, therefore, be it

Resolved,

SECTION 1. RECOGNITION AND ENCOURAGEMENT OF YOUTH COMMUNITY SERVICE.

The Senate recognizes and commends the significant contributions of American youth and encourages the cultivation of a common civic bond among young people dedicated to serving their neighbors, their communities, and the Nation.

SEC. 2. NATIONAL YOUTH SERVICE DAY.

The Senate—

(1) designates April 15, 2005, as "National Youth Service Day"; and

(2) calls on the people of the United States to—

(A) observe the day by encouraging and engaging youth to participate in civic and community service projects;

(B) recognize the volunteer efforts of our Nation's young people throughout the year; and

(C) support these efforts and engage youth in meaningful decision making opportunities today as an investment in the future of our Nation.

APPOINTMENT

The PRESIDING OFFICER. The Chair announces, on behalf of the Democratic Leader, pursuant to Public Law 101–509, the appointment of Guy Rocha, of Nevada, to the Advisory Committee on the Records of Congress, vice Stephen Van Buren of South Dakota.

ORDERS FOR WEDNESDAY, APRIL 13, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Wednesday, April 13. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the second 30 minutes under the control of the Democratic leader or his designee; provided that following morning business the Senate resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill; provided further that there be 40 minutes equally divided in relation to Durbin amendment No. 356 prior to the vote in relation to the amendment, with no second degrees in order to the amendment prior to that vote.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, I will not object. I say to my friend, the Republican whip, it is my intention to try to reduce the length of that debate depending on morning business. I understand many of our colleagues have a meeting at the White House. If we can expedite this debate time and bring the vote up before the Senator leaves, that is my intention.

Mr. MCCONNELL. That would be very good. We would either finish it before that meeting or do it after. I think we can get the vote in before that meeting. It would be very good.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the Iraq-Afghanistan supplemental. We had a good start today and will continue to make progress tomorrow. Currently there are three amendments pending to the bill. We will try to have, as Senator DURBIN and I were discussing, the first vote at 10:50, or before if all debate is used on the Durbin amendment. As I indicated, if we are unable to vote by that point we will have to delay the vote until sometime shortly after noon. For the remainder of the day we will continue working through amendments to the bill. The chairman and ranking member will be here to receive any amendments. I certainly encourage our colleagues who wish to offer amendments to contact them as soon as possible.

Obviously rollcall votes are expected throughout the day tomorrow as the Senate continues consideration of this important appropriations bill.

Again, we are going to have a busy week as we work toward completion of the Iraq-Afghanistan appropriations measure.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:53 p.m., adjourned until Wednesday, April 13, 2005, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, April 12, 2005*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BARRETT of South Carolina).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES
Washington, DC, April 12, 2005.

I hereby appoint the Honorable J. GRESHAM BARRETT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MCGOVERN) for 5 minutes.

EXPRESSING DEEP SADNESS AT THE TRAGIC DEATH OF MEGHAN AGNES BECK AND THANKING THE BECK FAMILY FOR THEIR EFFORTS ON BEHALF OF CHILDREN'S SAFETY

Mr. MCGOVERN. Mr. Speaker, I rise today with deep sadness at the tragic death of Meghan Agnes Beck of Sterling, Massachusetts. Meghan died on December 18, 2004, at the young age of 3 years old. She died from injuries sustained as a result of her dresser falling on top of her in the early morning while the rest of her family was sleeping.

Meghan was a beautiful young girl full of confidence and life. She leaves behind her twin brother Ryan, older brother Kyle, and her parents Ralph and Kimberly. Despite their sadness and pain, Meghan's parents are moving forward, spreading a message to other parents around the country. They are raising awareness about the importance of preventing furniture tip-overs that can result in injury or death to children.

Sadly, Meghan is not the first child to die from falling furniture, but the Becks hope that they can help prevent this tragedy from happening to another child. The Consumer Product Safety Commission estimates that 8,000 to 10,000 children are injured each year from furniture that falls or tips or from items on top of furniture or shelves that fall off onto the child. An average of six children tragically die each year, as Meghan did.

Through a Web site titled Meghan's Hope, her parents are bringing together fellow American families who have suffered pain from the loss or injury of a child to spread the word about furniture safety. The mission of Meghan's Hope is to make available resources and information regarding furniture safety.

Via the Web site, parents from around the country have a place to share stories, thoughts and ideas with one another. Thanks to Ralph and Kimberly Beck's efforts, awareness is rising; and more parents are taking note of the importance of securing furniture around the house.

The Web site offers several helpful suggestions for families. These include:

Securing furniture to the walls to prevent tip-overs. This includes dressers, bookcases, entertainment cabinets, TVs, toy boxes, large appliances, or any piece of furniture with shelves or drawers that can be climbed on;

Purchasing furniture ties or brackets. These should be screwed into both the wall, into a beam, and the furniture itself. If a wood beam is not accessible, use mollies or toggle bolts to give added strength;

Placing TVs on low, stable units with large bases and as far back as possible in the shelf. Secure all TV sets to the wall. Devices are sold for this purpose;

Anchoring freestanding bookcases, no matter how large or small, to the walls;

Not placing heavy or other items of interest to a child on top of the furniture or higher than a comfortable reach for the smallest child so as not to entice them to climb for it;

Putting heavy items on the lowest shelf or drawer;

And sharing this information with everyone you know.

In addition, there are things the furniture and retail industries can do, and the Becks have developed some excellent ideas. They include:

Encouraging all stores that sell furniture to also provide literature on furniture safety and to sell the safety straps;

Encouraging all furniture manufacturers to voluntarily include warning labels on furniture and information on the dangers of furniture tip-overs, recommending that the buyer secure the piece to the wall with the proper restraining devices. Ideally, the manufacturer would provide this information with the furniture until safety standard legislation is developed;

Encouraging stores that sell child safety products to also sell furniture safety straps. Many do not carry them, including large department stores and home improvement stores;

And encouraging physicians and child safety instructors to discuss furniture safety with parents.

Mr. Speaker, through this terrible loss, the Beck family has shown great strength and determination to spread their message. As parents we have an awesome responsibility to protect our children, and we must not take this responsibility lightly. While I am deeply saddened by the loss of Meghan Beck, I commend the entire family for their efforts in spreading their message.

I urge my colleagues to visit the Becks' Web site at www.meghanshope.org. There they can learn more about the important issue of furniture safety and what can be done to prevent more tragedies from occurring.

I know that our colleague, the gentlewoman from Pennsylvania (Ms. SCHWARTZ), is also concerned about this issue; and I look forward to working with her closely to see what Congress can do to help.

I am certain that the entire House of Representatives joins me in sending their deepest condolences to the Beck family and in thanking them for their effort on behalf of our children's safety.

FIGHTING CARGO THEFT

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, I rise today to tell my colleagues and the country about a problem that has plagued our country for some 30 years, but continues unabated today. It is a problem that travels our highways and threatens our interstate commerce. It is a problem that affects our entire country and demands a Federal response. The problem is the crime of cargo theft.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Every year, tens of billions of dollars are lost due to cargo theft, by one estimate, up to $60 billion a year in losses. But there are indirect costs as well. This huge amount of business and profit translates into the loss of at least 300,000 mid-level manufacturing jobs. Prices are increasing due to higher insurance premiums. People are losing their jobs and consumers are paying higher prices because of cargo theft. Making matters worse, law enforcement officials estimate 60 percent of cargo theft incidents go unreported, so these costs could be even greater.

Typical targets for cargo theft often include shipments of clothing, prescription drugs, computers, and jewelry. A truckload of computer microprocessors can be worth millions of dollars. A truckload of cigarettes, just another common target, can be worth up to $2 million.

Cargo thieves employ creative and highly efficient means to prey on cargo carriers and have managed to stay one step ahead of our authorities. Thieves know what they want, where they can find it, and how they can get it.

And let us not forget that cargo theft is a national security issue. We know that terrorists can make a lot of money stealing and selling cargo, not to mention the fact that terrorists have a proven record of using trucks to either smuggle weapons of mass destruction or as an instrument of delivery.

Make no mistake about it, cargo theft is a big business, and business is booming.

But despite the incredible costs and high stakes involved, we still have not been able to come up with an effective way to fight cargo theft. The trouble is, cargo theft is not well-known or a high-profile issue. And one of the reasons that cargo theft does not receive the attention it deserves is because very little information exists concerning the problem. For example, there currently is no all-inclusive database that collects, contains, or processes distinct information and data regarding cargo theft.

In order to combat the growing problem of cargo theft, I have introduced legislation, the Cargo Theft Prevention Act, which proposes commonsense solutions to this widespread crime. My legislation would require the creation of just such a database, providing a valuable source of information that would allow State and local law enforcement officials to coordinate reports of cargo theft. This information could then be used to help fight this theft in everyday law enforcement and estimating, and very importantly, estimating the exact cost of this crime.

My act, the Cargo Theft Prevention Act, proposes that cargo theft reports be reflected as a separate category in the Uniform Crime Reporting System, or the UCR, the data collection system that is used by the FBI today. Currently, no such category exists in the UCR, resulting in ambiguous data and the inability to track and monitor trends.

The last thing my bill does is have the United States Sentencing Commission take a look at whether criminals who commit cargo theft deserve stiffer penalties. This needs to be done because the high value-to-volume ratio of hi-tech and high-profit goods cargo theft has encouraged criminals previously involved in drug dealing to move into this area of activity, where they run less risk of detection and suffer less penalties if they are caught.

As it now stands, Mr. Speaker, punishment for cargo theft is a relative slap on the wrist. Throw in the fact that cargo thieves are tough to catch, and what we have here is a low-risk, high-reward crime that easily entices potential criminals. We need to determine what sentencing enhancements and increases must be made, if at all.

Members in this Chamber need to be made aware of this problem, a problem not only specific to the large port cities of this country, but a problem specific to all of our congressional districts. Billions of dollars are being sapped from our economy and this body is doing little to stop it. It is time that we get aggressive and make our highways again safe for commerce.

The Cargo Theft Prevention Act proposes to finally give law enforcement officials and lawmakers the commonsense tools they need to combat the costly and growing crime of cargo theft. I urge my colleagues to support this legislation.

THE WASHINGTON LOBBYISTS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, it is springtime, and Major League Baseball is coming to Washington. The thing is, though, I am not sure they got the name right. They are calling the team the Washington Nationals. Not a bad name, but I always thought the name should reflect the true character of a city. The right choice is obvious: the new team's name should be the Washington Lobbyists.

The Washington Lobbyists and their Republican allies would play under new rules of the game.

Rule number one: pay to play. You cannot step on the field unless you ante up. But in the land where cash is king, that is just the start. For a modest added contribution, a batter can shrink the strike zone, replace the traditional hardball with a more responsive tennis ball, or move the pitcher back 10 feet.

Rule number two: no errors. Missed the ball, say, by $800 billion on your Medicare cost estimate? No worries. With enough money, enough spin and enough citizen education, the Lobbyists can make those errors vanish overnight, or at least until election day.

Rule number three: it ain't over until it's over, unless we are losing. Soccer ends after a set period of time. But do you know who plays soccer? Old Europe, that is who. Well, none of that in "reformed" baseball. At home games, the Lobbyists can hold the game open, adding extra innings if they are losing at the end of an arbitrary nine innings.

And the Washington Lobbyists would create a whole new fan experience too. Instead of the oh-so-boring Ball Day Or Bat Day, the Lobbyists and their corporate partners could offer U.S. Chamber of Commerce Blanket Day: Fans get blanket product-liability waivers.

Or the Washington Lobbyists baseball team could offer Golf Junket Getaway Giveaways: one lucky fan gets an all-expense sweet golf trip to Scotland, all expenses paid by the Indian gaming industry.

Or the Washington Lobbyists could give away at the ball park Timber Industry Bat Night: every bat is made from 100 percent old-growth forest.

Or Pressroom Sweepstakes: the winning fan gets White House press credentials for a day, but only if he is affiliated with an on-line escort service.

Or maybe Burger Night: free burgers for the first 5,000 fans, made with 100 percent caribou from the Arctic National Wildlife Refuge.

Maybe they could have Wal-Mart Kids Day, where kids would not get to actually watch the game, because somebody has got to work the concessions.

Or Mug Night: the lucky fan gets to keep his swank Republican leadership job, even if his mugshot is taped to his grand jury's dart board.

Or we could even have at the Washington Nationals baseball game starting Thursday night, we could have Halliburton Gasoline Night: a tank of gas for the first 1,000 fans at the patriotic Halliburton price of $8.95 a gallon.

Or the Enron Doubleheader: Fans get in early with promises of a big win, but then the team kicks you out and takes your pension away.

In the spirit of Republican Washington, the Washington Lobbyists will not care much about public opinion, making decisions in secret and ignoring criticism from the fans. And to avoid unpatriotic dissent, games will be played in the middle of the night, after sports writers have gone to bed.

☐ 1245

If we want to change things and change how things really work in Washington, Mr. Speaker, we are going to have to change pitchers. Until we do, the Washington lobbyists and their friends here in Congress will always win.

MILITARY READINESS NEEDS

The SPEAKER pro tempore (Mr. BARRETT of South Carolina). Pursuant to the order of the House of January 4, 2005, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized during morning hour debates for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, I join my friend and colleague, the gentleman from North Carolina (Mr. BUTTERFIELD), this afternoon to address matters of importance to Democrats on the House Committee on Armed Services.

I was fortunate enough to visit our men and women overseas in Iraq about a year-and-a-half ago, and I appreciate the amazing job that they are doing. Despite the complexity of their mission, our troops have performed ably and professionally; and they are, without doubt, the strongest and best-trained fighting force in the world.

However, we must ensure that they have the appropriate equipment to continue their record of success. We often overlook the impact that the high operations tempo in Iraq and Afghanistan have had on our equipment. Though the military has accomplished a great deal with what they have, we have clear indications that we are wearing down our equipment perhaps faster than we can replace it. The frequent use of Humvees, trucks, and aircraft, coupled with the harsh climate conditions, has caused them to wear down faster than expected.

The Army estimates that trucks are being degraded at three to five times the normal peacetime rate, with the Congressional Budget Office suggesting that it could be as much as 10 times the recent average. We see similar trends in our aircraft and tanks, with wear rates ranging from two to five times the normal. Meanwhile, National Guard and Reserve units that deploy with their own equipment have left it in theater when they return, creating shortages in the United States for training and other purposes.

Mr. Speaker, we simply cannot ignore the potential impact of this trend on the long-term readiness of our military. Our worldwide prepositioned stocks, which are intended to give our troops rapid access to equipment when needed, are severely depleted, with the Army estimating that we would need 3 years to fully restore them. Also, the Department of Defense estimates that it has $12.8 billion in unfunded maintenance costs, with the CBO projecting the numbers could be as high as $13 billion to $18 billion. At the current rate of operations, it will take years to reset the force to where it needs to be.

Now, we make these points, Mr. Speaker, not to be alarmists but to raise awareness of the state of our military and to emphasize that Congress must remain committed to our troops, both in theater now and in the future. We must pledge not to send our men and women into harm's way with substandard equipment, while actively seeking to rebuild our forces to meet future needs.

Mr. Speaker, furthermore, our commitment to our troops does not end when they return home. There is growing evidence that the combat stresses on our troops may contribute to higher rates of post-traumatic stress disorder. We must improve our PTSD counseling programs as well as our veterans' health care system.

I was disappointed that, during consideration of the emergency supplemental appropriations bill, the House voted down the Democratic motion to recommit, which would have provided more funding for veterans' health programs. Mr. Speaker, our veterans' health system is strained as it is, and I can think of no greater disservice to those men and women serving now than having them return to a nation that refuses to provide appropriate support for their needs.

I know many members of our committee have fought to meet our obligations to our service members and our veterans, and I would particularly like to thank and recognize the efforts of our Ranking Member, the gentleman from Missouri (Mr. SKELTON), as well as the leadership of the gentleman from Illinois (Mr. EVANS). Again, Mr. Speaker, I thank the gentleman from North Carolina (Mr. BUTTERFIELD) for his dedication, and I urge all of my colleagues to remain committed to guaranteeing sufficient military readiness and veterans' services.

SOLEMN DUTY OF CONGRESS TO PROVIDE FOR MILITARY NEEDS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from North Carolina (Mr. BUTTERFIELD) is recognized during morning hour debates for 5 minutes.

Mr. BUTTERFIELD. Mr. Speaker, I rise today to join my colleague, the gentleman from Rhode Island (Mr. LANGEVIN), to talk about the position of House Democrats, particularly those of us on the Committee on Armed Services, regarding an issue of importance to our national defense.

As a new member of the Subcommittee on Readiness, I have been privy to briefings from our combatant commanders and from the Department of Defense. The testimonies provided by these great Americans have led me to the conclusion that our military equipment located in Iraq and Afghanistan has become severely worn and damaged.

The Congress of the United States has a solemn constitutional duty to provide for our military, and the Democratic Members of the Congress take this responsibility very seriously. A sufficient part of our duty is to make sure that our troops have the equipment they need to be successful when they are engaged in war. Whether it is MREs or canteens or desert uniforms or personal protective vests or up-armored Humvees, our troops deserve to have enough equipment in good working condition to get the job done. Mr. Speaker, I am concerned that our troops are on the verge of not having the equipment they need to win these wars, and that is not good.

Many of our briefings, Mr. Speaker, are top secret, and I would not dare to breach that confidence. But, Mr. Speaker, it is not classified that the pace of military operations in Iraq and Afghanistan is taking its toll on our equipment. We are simply wearing out the equipment at a fast pace.

By the Army's own estimates, trucks are wearing out at three to five times the rate as they would during peacetime operations. The Congressional Budget Office estimates that the truck usage is as much as 10 times higher than average during the last 7 years. Our aircraft are aging and wearing out at twice the rate as in peacetime. The Marine Corps reports its CH-46 helicopters are being used at 230 percent of the peacetime rate.

It is not just that our equipment is wearing out, Mr. Speaker; it is that so much of our equipment is wearing out.

Forty percent of the Army's equipment has been deployed since the start of Iraqi Freedom and Enduring Freedom. Thirty percent of the Marine Corps' equipment is deployed, and 2,300 items require depot maintenance. Twelve percent of the wheeled vehicles in Iraq are so broken down that they will have to be replaced.

We have also depleted a high percentage of our prepositioned equipment. The Army says that our stocks will not be reset for at least 3 years after the end of the conflicts.

Equipment casualties are significant. During the war in Iraq, the Army has lost 503 pieces of major equipment, including 51 helicopters, 76 heavy trucks, 217 Humvees, and 97 combat vehicle-like tanks, Bradley fighting vehicles and Strykers.

The Marine Corps reports that 1,800 pieces of equipment valued at over $94 million have been destroyed.

Why do I mention all of these statistics? I want my colleagues and the American people to understand that we are coming dangerously close to weakening our military, and we must understand the enormity of the problem. And it must be known that it is going to take a lot of money to fix the problem.

The 2005 supplemental appropriation passed by the House earlier this year includes $554 million to replace 800 worn out or damaged pieces of equipment. The CBO estimates that the Department of Defense already needs between $13 billion and $18 billion to fund maintenance costs not covered in the budget. And the Army will require at least 2 years of supplemental appropriations after the end of the conflict in order to reset the force. I regret that the President's 2006 budget request does not include the money we need to replace and modernize our worn and lost equipment.

Mr. Speaker, the Democratic Members of the Committee on Armed Services deeply care about our troops and about our military. We must fulfill our constitutional duty to ensure that our troops have what they need to succeed wherever they are deployed. They can only succeed and we can only carry out our duty if we provide them sufficient equipment to complete their mission. That is going to be a long and expensive process.

Congress, therefore, needs to take prompt action, and I call on all of my colleagues to provide the needed support to make that happen.

REPUBLICAN BANKRUPTCY BILL MEANS FALSE HOPE AND ENDLESS DEBT BURDEN FOR AMERICANS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Washington (Mr. McDERMOTT) is recognized during morning hour debates for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, the Republican majority today or tomorrow will put before this House and the American people a WMD, a Weapon of Mass Debt. They call it the Bankruptcy Abuse and Consumer Prevention Act of 2005. This legislation is as far away from protecting consumers as a snake oil salesman pitching an elixir to cure all of your ills.

This legislation should be called the Credit Card Company Enslavement Act of 2005. It does not help the American people. It was conceived by the credit card people for the credit card people and packaged by their Republican surrogates for one reason and one reason only: to entrap low- and middle-income Americans.

As always with this Republican majority, if you are rich, do not worry, they have your back covered. But for every other American, you are the payoff for special interests and corporate greed. Disguise legislation with a phony name and let them clean your clock over and over and over again.

Debt, and pain and suffering associated with economic enslavement, has been a major concern throughout recorded history. The Bible speaks about debt in the books of Exodus, Micah, Amos, Nehemiah, Romans, Kings, and Deuteronomy, among others. I could go on all day long with that. That is a lot of spiritual guidance.

So what is this all about? Economic justice is what the Bible preached, knowing full well that debt bound a person tighter than any chain, enslaving hope as it extracted money. For thousands of years, spiritual leaders, including John Paul, have preached a gospel of economic justice for people throughout the world. Instead, today we are expected to pander to corporate greed while we deny social responsibility.

I personally am not going to go for it. The legislation before us is about grinding people into the dirt. It is not a fresh start, but false hope and an endless debt burden.

The Republican majority today would like us to condone stripping people of all of their worldly possessions and then denying them the right to hope to make a new life for themselves and their loved ones.

Here are some facts behind the fraud the Republican majority has in front of us: Ninety percent of those filing for bankruptcy protection are doing so because of losing a job, a medical emergency, or the breakup of a family. Half the personal bankruptcies in America today are because of illness or unpaid medical bills.

What are the President and Republican majority doing about health care? Nothing, nada, zippo. They have not touched it for the last 4 years, and they will pander to the special interests over the next 4 years. After all, people without health care do not go to those fancy Republican fund-raisers. They go to the emergency room when they cannot avoid illness any longer.

Mr. Speaker, 45 million Americans have no health care and no hope from this administration, and 1.6 million American households filed for bankruptcy last year. That is one measure of the President's economic program he is not talking much about. The rich get richer and the poor get outed.

Divorced women are 300 percent more likely than a single or married woman to file for bankruptcy because of the consequences of divorce, from lower wages to the financial strain of raising children alone. So much for Republican family values.

African American and Hispanics are 500 percent more likely than white homeowners to end up in bankruptcy court because of discrimination in everything from mortgage costs, to hiring, to wages. It is real, and the Republican majority would like us to look the other way.

More older Americans are filing for bankruptcy because they are being forced out of their jobs, cannot find new ones that pay when they were earning, and they are victims of runaway health costs.

□ 1300

But wait, there is even more. Credit card companies are an equal-opportunity scourge. This environment inundates students, the working poor and middle America with dozen of offers for more credit cards and more debt every week. How many offers have you received in the mail or on the phone this week, 3, 4, 5? The marketing is not aggressive. It is predatory. They tempt you with offers that promise anything and everything. Pre-approved, pre-authorized, platinum, gold, silver. The truth is, the credit cards are not made of plastic. They are made out of lead, and they are hung around your neck like a yoke.

Does this so-called consumer protection action do anything to address predatory credit card marketing? Nothing, nada, zippo.

So what exactly are the Republicans proposing? This bill allows millionaires to shelter their assets in bankruptcy by protecting an unlimited amount of value in their residences.

What about child support?

Well, the Republicans have a real deal for you. This bill, their bill, would force women and children who are owed child support to fight with the credit card companies in court for the money. Given the Republican knack for words, they will probably call this a social safety net. And on and on it goes. Vote "no" on this bankruptcy bill. It is bankrupt.

RECESS

The SPEAKER pro tempore (Mr. BARRETT of South Carolina). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 1 minute p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, author of truth and creator of beauty, cherry blossoms in Washington usher in spring to the Nation.

May new life be made manifest in Congress this term, bringing glory to Your holy name and peace and prosperity to the cities and fields of the land.

Lord, as You inspire creativity in artists, engineers and scientists, also stir aspirations of hopeful negotiations in troublesome areas of the world and in the corridors of government.

May the seeds of peace and the beginnings of deeper understanding grow in the hearts and minds of Your people.

This we ask, now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 25. Concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid.

RIDICULOUS, WASTEFUL SPENDING AT THE FEDERAL LEVEL

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the Scripps-Howard News Service recently ran a story about what it describes as "Capitol Hill's extravagant new visitors center."

The story said: "Another year and another $37 million in unforeseen cost increases" in what is becoming an annual sad joke.

There have been so many examples of ridiculous, wasteful spending at the Federal level over the last 30 or 40 years that it seems the Federal Government cannot do anything in an economical, efficient manner.

The Scripps-Howard story said: "Originally estimated to cost $40 million, the project has grown into a 5-story Taj Mahal that so far has cost taxpayers $454 million."

The current final cost is estimated to be $559 million, and Citizens Against Government Waste describes it as "monumental waste."

Apparently, if we want something to cost about 10 times more than it should, just let the Federal Government do it.

Those who are in charge of managing this project should be ashamed and embarrassed, but all they will probably do is laugh at these comments, since the money is not coming out of their pockets.

LATINOS AND SOCIAL SECURITY

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Madam Speaker, today I rise to voice my concerns regarding Social Security privatization and how it is going to affect hardworking Hispanics and Latino families and especially the women Latinas.

About 46 percent of older Latinas depend entirely on Social Security in retirement. In fact, 60 percent of Latinas over the age of 65 would live in poverty if they did not receive Social Security.

If President Bush privatizes Social Security, young Latinas in their 20s and 30s will see their benefits cut by at least 30 percent.

Latina moms rely on Social Security also if their husbands become injured or die. The work injury rate for Hispanics in the year 2000 was 16 percent compared to 11 percent of the overall population. Therefore, Social Security disability benefits are particularly important for Latinas and their families.

The President's plan will not help Latinos or our families. Let us start talking about real solutions, helping our families that work very hard day in and day out.

SOCIAL SECURITY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Madam Speaker, we have heard all about the problems with Social Security many times here on the House floor: looming deficits, benefit cuts, payroll tax hikes. These problems are very real, and they are just around the corner if we do not act.

With that being said, my colleagues across the aisle continue to criticize, continue to say to the American people that there is no problem when, in fact, the 2005 Trustees Report showed the problem to be crystal clear. Social Security will begin paying out more than it collects in 2017. By 2041, the Social Security system as we know it will be insolvent with not enough money to pay 100 percent of the promised benefits.

Raising payroll taxes is not a solution. Just look at our history. Payroll taxes have been increased over 20 times since Social Security began.

Madam Speaker, across the aisle we hear the same old rhetoric of why things will not work. The question I have for them is what are their proposals to fix Social Security?

The challenges with Social Security are not Republican, and they are not Democrat. This is a challenge for all Americans, and I call upon those across the aisle to help us find a solution. Let us put people above politics.

IT IS TIME TO END THE DEATH TAX NOW

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Madam Speaker, the gibberish my colleagues just heard about is the President says everything's on the table. We can reform Social Security.

Madam Speaker, this week the United States House will vote to eliminate the unfair death tax.

Believe it or not, the government gives you a certificate at birth, a license when you marry and a tax bill when you die. Is that not a shame?

Taxing people when they die smacks of all the things that are wrong with the government and Washington.

The death tax was created to target people like the Vanderbilts and the Rockefellers, with the original intent of paying and winning World War I. This bill hits hardworking Americans. The death tax hurts the mom-and-pop shops on Main Street, and that is just not fair.

Sadly, now if a person saved for the future, put some money away, built a business, ran a farm or achieved the American Dream in other ways, the death tax punishes them.

That is just wrong, and it is time to end the death tax now.

ANNOUNCING 527 FAIRNESS ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Madam Speaker, the summer of 2004 will be remembered for many years in American politics.

Groups organized on the left and the right under what was known as section 527 of the Internal Revenue Code and spent more than $300 million to support candidates, while the two major political parties and the Nation's most respected labor unions, associations, businesses, and constitutional groups watched in silence from the sidelines.

In response to this summer of 527s, some in Washington will bring measures to rein in the 527 groups with greater government control and regulation, and that is certainly their right.

The gentleman from Maryland (Mr. WYNN), a Democratic Congressman, and I have taken a different approach in introducing the 527 Fairness Act in the 109th Congress.

The 527 Fairness Act seeks to restore basic fairness to the political process for political parties and 501(c) organizations instead of attempting further regulation on political speech. More freedom is always the answer of the difficulties and challenges and the politics of a free society.

While this liberty may be a bit more chaotic and inconvenient for some in the political class, as Thomas Jefferson said, "I would rather be exposed to the inconveniences attending too much liberty than those attending too small a degree of it."

I join the gentleman from Maryland (Mr. WYNN), my colleague, in urging cosponsorship and swift passage of the 527 Fairness Act.

WINE INDUSTRY IN NORTH CAROLINA

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Madam Speaker, I rise today to recognize the flourishing viticulture industry located in North Carolina's 5th District.

The Yadkin Valley is North Carolina's first federally recognized American viticultural area. Located in northwestern North Carolina, it includes all of Surry, Wilkes and Yadkin counties, as well as portions of Stokes, Davie, and Forsyth counties. There are currently 14 wineries and more than 400 acres devoted to vineyards in the Yadkin Valley.

These vineyards and wineries create jobs and attract tourist dollars to rural communities, while generating revenue for the State. They also offer an opportunity for farm diversification and farmland preservation.

Vineyards in North Carolina produce an average of nearly 3 tons per acre, valued at $1,180 per ton. That is an average gross income of $3,481 per acre. The average price per ton is among the highest in America.

The North Carolina Grape Council estimates that North Carolina vineyards and wineries bring in $100 million in revenue per year.

Congratulations to the Yadkin Valley vineyards and wineries, and I thank them for everything they contribute to our State and region.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

TWENTY-FIRST CENTURY WATER COMMISSION ACT OF 2005

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 135) to establish the "Twenty-First Century Water Commission" to study and develop recommendations for a comprehensive water strategy to address future water needs.

The Clerk read as follows:

H.R. 135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Twenty-First Century Water Commission Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Nation's water resources will be under increasing stress and pressure in the coming decades;

(2) a thorough assessment of technological and economic advances that can be employed to increase water supplies or otherwise meet water needs in every region of the country is important and long overdue; and

(3) a comprehensive strategy to increase water availability and ensure safe, adequate, reliable, and sustainable water supplies is vital to the economic and environmental future of the Nation.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the "Twenty-First Century Water Commission" (in this Act referred to as the "Commission").

SEC. 4. DUTIES.

The duties of the Commission shall be to—

(1) use existing water assessments and conduct such additional assessments as may be necessary to project future water supply and demand;

(2) study current water management programs of Federal, Interstate, State, and local agencies, and private sector entities directed at increasing water supplies and improving the availability, reliability, and quality of freshwater resources; and

(3) consult with representatives of such agencies and entities to develop recommendations consistent with laws, treaties, decrees, and interstate compacts for a comprehensive water strategy which—

(A) respects the primary role of States in adjudicating, administering, and regulating water rights and water uses;

(B) identifies incentives intended to ensure an adequate and dependable supply of water to meet the needs of the United States for the next 50 years;

(C) suggests strategies that avoid increased mandates on State and local governments;

(D) eliminates duplication and conflict among Federal governmental programs;

(E) considers all available technologies and other methods to optimize water supply reliability, availability, and quality, while safeguarding the environment;

(F) recommends means of capturing excess water and flood water for conservation and use in the event of a drought;

(G) suggests financing options for comprehensive water management projects and for appropriate public works projects;

(H) suggests strategies to conserve existing water supplies, including recommendations for repairing aging infrastructure; and

(I) includes other objectives related to the effective management of the water supply to ensure reliability, availability, and quality, which the Commission shall consider appropriate.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members who shall be appointed not later than 90 days after the date of enactment of this Act. Member shall be appointed as follows:

(1) 5 members appointed by the President;

(2) 2 members appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives; and

(3) 2 members appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate.

(b) QUALIFICATIONS.—Members shall be appointed to the Commission from among individuals who—

(1) are of recognized standing and distinction in water policy issues; and

(2) while serving on the Commission, do not hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the United States.

(c) OTHER CONSIDERATIONS.—In appointing members of the Commission, every effort shall be made to ensure that the members represent a broad cross section of regional and geographical perspectives in the United States.

(d) CHAIRPERSON.—The Chairperson of the Commission shall be designated by the President.

(e) TERMS.—Members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act and shall serve for the life of the Commission.

(f) VACANCIES.—A vacancy on the Commission shall not affect its operation, and shall be filled in the same manner as the original appointment provided under subsection (a).

(g) COMPENSATION AND TRAVEL EXPENSES.—Members of the Commission shall serve without compensation, except members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57, United States Code.

SEC. 6. MEETINGS AND QUORUM.

(a) MEETINGS.—The Commission shall hold its first meeting not later than 60 days after the date on which all members have been appointed under section 5, and shall hold additional meetings at the call of the Chairperson or a majority of its members.

(b) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

SEC. 7. DIRECTOR AND STAFF.

A Director shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate, in consultation with the Minority Leader and chairmen of the Resources and Transportation and Infrastructure Committees of the House of Representatives, and the Minority Leader and chairmen of the Energy and Natural Resources and Environment and Public Works Committees of the Senate. The Director and any staff reporting to the Director shall be paid a rate of pay not to exceed the maximum rate of basic pay for GS-15 of the General Schedule.

SEC. 8. POWERS AND PROCEEDINGS OF THE COMMISSION.

(a) HEARINGS.—The Commission shall hold no fewer than 10 hearings during the life of the Commission. Hearings may be held in conjunction with meetings of the Commission. The Commission may take such testimony and receive such evidence as the Commission considers appropriate to carry out this Act. At least 1 hearing shall be held in Washington, D.C., for the purpose of taking testimony of representatives of Federal agencies, national organizations, and Members of Congress. Other hearings shall be scheduled in distinct geographical regions of the United States and should seek to ensure testimony from individuals with a diversity of experiences, including those who work on water issues at all levels of government and in the private sector.

(b) INFORMATION AND SUPPORT FROM FEDERAL AGENCIES.—Upon request of the Commission, any Federal agency shall—

(1) provide to the Commission, within 30 days of its request, such information as the Commission considers necessary to carry out the provisions of this Act; and

(2) detail to temporary duty with the Commission on a reimbursable basis such personnel as the Commission considers necessary to carry out the provisions of this Act, in accordance with section 5(b)(5), Appendix, title 5, United States Code.

SEC. 9. REPORTS.

(a) INTERIM REPORTS.—Not later than 6 months after the date of the first meeting of the Commission, and every 6 months thereafter, the Commission shall transmit an interim report containing a detailed summary of its progress, including meetings and hearings conducted in the interim period, to—

(1) the President;

(2) the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives; and

(3) the Committee on Energy and Natural Resources and the Committee on the Environment and Public Works of the Senate.

(b) FINAL REPORT.—As soon as practicable, but not later than 3 years after the date of the first meeting of the Commission, the Commission shall transmit a final report containing a detailed statement of the findings and conclusions of the Commission, and recommendations for legislation and other policies to implement such findings and conclusions, to—

(1) the President;

(2) the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives; and

(3) the Committee on Energy and Natural Resources and the Committee on the Environment and Public Works of the Senate.

SEC. 10. TERMINATION.

The Commission shall terminate not later than 30 days after the date on which the Commission transmits a final report under section 9(b).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $9,000,000 to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentlewoman from California (Mrs. NAPOLITANO) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 135, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

H.R. 135, introduced be my good friend, the distinguished gentleman from Georgia (Mr. LINDER), and cosponsored by a wide range of Members from both parties, creates the 21st Century Water Commission to find ways to increase and conserve water supplies. The gentleman from Georgia and his colleagues have properly recognized that water shortages are a common problem throughout the United States.

The goal of this legislation is for a broad-based commission to recommend a comprehensive water strategy that recognizes and upholds the primary role of the States in administering our water laws. The commissioners, appointed by the President and the Congress, would look at ways to improve interagency coordination, eliminate government duplication, create new financing opportunities and improve our Nation's water infrastructure, among other things, all very important goals.

The commission is directed to hold no less than 10 public hearings around the Nation and submit a final report no later than 3 years after its first meeting so that this commission will not drag on forever. The legislation sunsets the commission within 30 days of the final report's submission.

Madam Speaker, there is, and should be, a limited Federal role in these matters since States and localities primarily administer water rights and know the most about them. This bill does not add Federal regulation to the books. It simply creates a mechanism for further dialogue and potential solutions for all levels of government.

This idea has come a long way since it was originally introduced over two Congresses ago. It has been subject to hearings and comprehensively vetted through both the Committee on Resources and the Committee on Transportation and Infrastructure, both of which I have the privilege to serve on.

In fact, last Congress I held a series of hearings on water supply issues, including a hearing on this legislation. The witnesses who testified before my Subcommittee on Water Resources and Environment strongly supported greater planning to meet future water needs, involving all levels of government, and supported the 21st Century Water Commission Act as a means to help start that process.

It, like the identical bill passed by the House in the 108th Congress, is the right solution for the right time. It respects the primary role that States play in addressing water resources issues.

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I urge my colleagues to adopt this bipartisan bill.

Madam Speaker, I reserve the balance of my time.

Mrs. NAPOLITANO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 135. This legislation, as explained by my colleague, would establish the 21st Century Water Policy Commission to study Federal, State, local and private water management programs in order to develop recommendations for a comprehensive national water strategy.

The objectives of H.R. 135 are not only worthwhile but a necessity for the country, and we appreciation the cooperation we have received from the sponsor of the bill. I urge my colleagues to support the legislation.

Madam Speaker, I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER), probably the Member of this body who was the first to recognize the grave importance of water issues in this Nation, the distinguished primary sponsor of this bill. I commend the gentleman for his steadfast and yeoman's work on this legislation, and it should be noted that one of our leading national newspapers just a few years ago wrote a series of articles saying that water would be the oil of the 21st century.

Mr. LINDER. Madam Speaker, as the bill's sponsor, I rise to support H.R. 135, the 21st Century Water Commission Act. H.R. 135 will bring together our Nation's premier water experts to recommend strategies for meeting our water challenges in the 21st century.

I would like to thank several Members who have worked with me to bring this proposal to the floor today. First, the gentleman from California (Mr. POMBO), chairman of the Committee on Resources; the gentleman from California (Mr. RADANOVICH), chairman of the Subcommittee on Water and Power; the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure; and the gentleman from Tennessee (Mr. DUNCAN), chairman of the Subcommittee on Water Resources and Environment.

I thank the gentleman from Florida (Mr. KELLER), the former chairman of the subcommittee and the ranking member, and the gentlewoman from California (Mrs. NAPOLITANO), who worked so hard in getting this bill to the floor in the past Congress.

H.R. 135 was approved in the 108th Congress by a voice vote on November 21, 2003. Unfortunately, the Senate failed to act on the legislation before the Congress adjourned. Creating a comprehensive water policy to meet the needs of the 21st century is a matter of human survival and quality of life for the United States. I am excited about continuing to move this bill through the legislative process early in this Congress.

Water-related issues have been of interest to me for many years. I wrote an article in 1978 that predicted that one of the two major challenges for our country during the next century would be providing enough fresh water for a growing population.

Since that time, about 25 years ago, America still does not have an integrated or comprehensive water policy, even with the hundreds of thousands of Federal, State, local and private sector employees working to solve water problems. The difficulty is that there is little communication and coordination among these experts. If we wait another 10 or 20 years to get serious about meeting the demand for clean water, it will be too late. We must act now to meet these challenges.

As my colleagues are aware, many States across the Nation are currently facing a water crisis or have in the last few years. Once thought to be a problem only in the arid West, severe droughts a few years ago caused water shortages up and down the East Coast. States once accustomed to unlimited access to water realized they were not immune to the problems that the West has experienced for decades.

In addition to drought, aquifers are being challenged by salt water intrusion, crops are being threatened, and our aging water pipes leak billions of gallons of freshwater in cities all over the Nation. For example, New York City loses 36 million gallons per day, Philadelphia loses 85 million gallons per day through leaky pipes.

Let me be clear about one thing. My bill does not give the Federal Government more direct authority or control over water. Rather, this Commission will make recommendations about how we can both coordinate water management issues on all levels so that localities, States, and the Federal Government can work together to enact a comprehensive water policy to avoid future shortages.

The 21st Century Water Commission would be an advisory body, and its recommendations would be nonbinding.

Some of the highlights are these: The Commission will look for ways to ensure fresh water for the next 50 years. The Commission will be composed of nine members appointed by the President and key leaders in the House and Senate. The Commission will look for ways to eliminate duplication and conflict among Federal agencies and will consider new and all available technologies to optimize water supply reliability. The Commission will hold hearings in distinct geographical regions of the United States and in Washington, DC, to seek a diversity of views, comments and inputs. Not later than 6 months after the first meeting and every 6 months thereafter, the Commission will transmit an interim report to the Congress and to the President.

A final report will be due within 3 years of the Commission's inception. The report will include a detailed statement of findings and conclusions of the Commission, as well as recommendations for legislation and other policies.

The United States cannot afford to reevaluate its water policies every time a crisis hits. Now is the time to get ahead of the issue, and I believe the Commission can serve as a channel for sharing the successful strategies and ideas that will allow us to do so. I ask my colleagues to join me in voting for H.R. 135.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Mrs. NAPOLITANO. Madam Speaker, will the gentleman yield?

Mr. DUNCAN. I yield to the gentlewoman from California.

Mrs. NAPOLITANO. Madam Speaker, I could not agree more with the intent of the bill. I certainly hope it takes less than the 12 years it took to do the Southern California Water Study. We do have a time frame for this to happen. It is critical for us to recognize that all areas of our country have water needs, and we need to consolidate how we address them and be together with the suppliers so we can move ahead with a comprehensive plan.

Mr. DUNCAN. Madam Speaker, let me just close by saying that although this bill is not controversial and has not received a lot of publicity, that should not denigrate its significance. Because of our aging clean water infrastructure, because of water supply problems in many parts of this Nation, and for all of the other reasons that our colleague, the gentleman from Georgia (Mr. LINDER), just mentioned, this is a very important bill. I urge all of my colleagues to support it.

Madam Speaker, I submit the following exchange of letters on H.R. 135 for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, April 5, 2005.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR MR. CHAIRMAN: I request your assistance in scheduling H.R. 135, the Twenty-First Century Water Commission Act of 2005, for consideration by the House of Representatives. This bill was referred primarily to the Committee on resources and additionally to your committee.

As the text of this bill is identical to what passed the House of Representatives under suspension of the rules last Congress, I ask that you allow your committee to be discharged from further consideration of the bill to allow us to pass it again. Perhaps with more time, the Senate will be able to give it due consideration.

By allowing the Transportation and Infrastructure Committee to be discharged, you are not waiving any jurisdiction you may have over the bill. I also agree that in the unlikely event that this bill becomes the focus of a conference committee that I will support your request to be represented on that conference. Finally, I agree that this discharge will not serve as precedent for future referrals.

Thank you for your consideration of my request. I look forward to another Congress of extraordinary cooperation between our committees on matters of mutual interest.

Sincerely,

RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, April 5, 2005.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 135, the Twenty-First Century Water Commission Act of 2005. As you know, this legislation was also referred to the Transportation Committee.

Our Committee recognizes the importance of H.R. 135 and the need for the legislation to move expeditiously to the House floor. Therefore, I am willing to have the Transportation Committee discharged from consideration of the bill. I would appreciate it if you would include a copy of this letter and your response in the Congressional Record.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
Chairman.

Mr. OBERSTAR. Madam Speaker, I rise today in support of H.R. 135, a bill to establish a commission to examine the issue of clean, safe, and reliable water supplies for this generation and for generations to come.

Madam Speaker, water may well be the most precious resource on Earth. The existence of water set the stage for the evolution of life and is an essential ingredient of all life today.

Recognizing the importance of this vital resource, the United Nations designated 2003 as the "International Year of Freshwater." According to the U.N., throughout the world roughly one person in six lives without regular access to safe drinking water, and over twice that number—or 2.4 billion—lack access to adequate sanitation. In addition, water-related diseases kill a child every eight seconds.

In the United States, we have avoided many of these concerns through careful planning and decades of investment in our water infrastructure. Nationally, a combination of Federal, state, and local funds have built 16,024 wastewater treatment facilities that provide service to 190 million people, or 73 percent of the total population.

In addition, 268 million people in the United States—or 92 percent of the total population—are currently served by public drinking water systems, which provide a safe and reliable source of drinking water for much of the nation.

As I noted earlier, clean, safe, and reliable sources of water are critical to this nation's health and livelihood. However, in the past few decades, a series of natural events, as well as, human-induced events have demonstrated that our nation remains vulnerable to shortages of water.

In my own State, we have experienced shortages of snowfall and rain which have had an adverse impact on local water supplies, agriculture, and recreation and tourism, and have contributed to historically low water levels in the Great Lakes. One thing is certain: no area of this country is immune to the threat of diminished water supplies. We must be vigilant in preparing for such occurrences.

This bill is a part of the debate on the very important issue of water resource planning in this country. The gentleman from Georgia, Mr. LINDER, has taken an important step in encouraging this debate, calling for the creation of a Federal commission to examine issues related to national water resource planning, and to report its findings on potential ways to insure against large-scale water shortages in the future.

While I believe that the legislation introduced by our colleague is a good starting point, we must be sure to examine fully all of the relevant issues for ensuring adequate supplies of clean and safe water to meet current and future needs.

For example, water resource planning should work toward increasing the efficiency of water consumption as well as increasing the supply of water. Simply increasing the supply of water can be a more costly approach to meeting future water needs, and in any case, merely postpones any potential water resource crisis.

In addition, it is important to remember that issues of water supply are closely related to water quality. Contaminated sources of freshwater are of little use to the Nation's health or livelihood; removing contaminants drives up the overall cost of providing safe and reliable water resources to our people.

In addition, human activities, whether through the pollution of waterbodies from point or non-point sources, the elimination of natural filtration abilities of wetlands, or through the destruction and elimination of aquifer recharge points, can have a significant impact on available supplies of usable water.

We cannot base our future water resource planning needs on the possibility of finding "new" sources of freshwater while, at the same time, tolerating practices that destroy or contaminate existing sources. All the water there ever was or ever will be on this planet is with us now; we must spare no effort to be vigilant and careful stewards of that water.

I urge my colleagues to support the bill.

Mr. DUNCAN. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 135.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DUNCAN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PINE SPRINGS LAND EXCHANGE ACT

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 482) to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes.

The Clerk read as follows:

H.R. 482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pine Springs Land Exchange Act".

SEC. 2. LAND EXCHANGE, LINCOLN NATIONAL FOREST, NEW MEXICO.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term "Federal land" means the three parcels of land, and any improvements thereon, comprising approximately 80 acres in the Lincoln National Forest, New Mexico, as depicted on the map entitled "Pine Springs Land Exchange" and dated May 25, 2004, and more particularly described as S1/2SE1/4NW1/4, SW1/4SW1/4, W1/2E1/2NW1/4SW1/4, and E1/2W1/2NW1/4SW1/4 of section 32 of township 17 south, range 13 east, New Mexico Principal Meridian.

(2) NON-FEDERAL LAND.—The term "non-Federal land" means the parcel of land owned by Lubbock Christian University comprising approximately 80 acres, as depicted on the map referred to in paragraph (1) and more particularly described as N1/2NW1/4 of section 24 of township 17 south, range 12 east, New Mexico Principal Meridian.

(b) LAND EXCHANGE REQUIRED.—

(1) EXCHANGE.—In exchange for the conveyance of the non-Federal land by Lubbock Christian University, the Secretary of Agriculture shall convey to Lubbock Christian University, by quit-claim deed, all right, title, and interest of the United States in and to the Federal land. The conveyance of the Federal land shall be subject to valid existing rights and such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(2) ACCEPTABLE TITLE.—Title to the non-Federal land shall conform with the title approval standards of the Attorney General applicable to Federal land acquisitions and shall otherwise be acceptable to the Secretary.

(3) COSTS OF IMPLEMENTING THE EXCHANGE.—The costs of implementing the land exchange shall be shared equally by the Secretary and Lubbock Christian University.

(4) COMPLETION.—Subject to paragraph (2), the Secretary shall complete, to the extent practicable, the land exchange not later than 180 days after the date of the enactment of this Act.

(c) TREATMENT OF MAP AND LEGAL DESCRIPTIONS.—The Secretary and Lubbock Christian University may correct any minor error in the map referred to in subsection (a)(1) or the legal descriptions of the Federal land and non-Federal land. In the event of a discrepancy between the map and legal descriptions, the map shall prevail unless the Secretary and Lubbock Christian University otherwise agree. The map shall be on file and available for inspection in the Office of the Chief of the Forest Service and the Office of the Supervisor of Lincoln National Forest.

(d) EQUAL VALUE EXCHANGES.—The fair market values of the Federal land and non-Federal land exchanged under subsection (b) shall be equal or, if they are not equal, shall be equalized in the manner provided in section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716). The fair market value of the land shall be determined by appraisals acceptable to the Secretary and Lubbock Christian University. The appraisals shall be performed in conformance with subsection (d) of such section and the Uniform Appraisal Standards for Federal Land Acquisitions.

(e) REVOCATION AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(2) WITHDRAWAL OF FEDERAL LAND.—Subject to valid existing rights, pending the completion of the land exchange, the Federal land is withdrawn from all forms of location, entry and patent under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(f) ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.—

(1) BOUNDARY ADJUSTMENT.—Upon acceptance of title by the Secretary of the non-Federal land, the acquired land shall become part of the Lincoln National Forest, and the boundaries of the Lincoln National Forest shall be adjusted to include the land. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Lincoln National Forest, as adjusted pursuant to this paragraph, shall be considered to be boundaries of the Lincoln National Forest as of January 1, 1965.

(2) MANAGEMENT.—The Secretary shall manage the acquired land in accordance with the Act of March 1, 1911 (commonly known as the Weeks Act; 16 U.S.C. 480, 500, 513–519, 521, 552, 563), and in accordance with the other laws and regulations applicable to National Forest System lands.

(g) RELATION TO OTHER LAWS.—Subchapters II and III of chapter 5 of title 40, United States Code, and the Agriculture Property Management Regulations shall not apply to any action taken pursuant to this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentlewoman from California (Mrs. NAPOLITANO) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

H.R. 482 would authorize a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico. This legislation would exchange 80 acres between the Lincoln National Forest and Lubbock Christian University for a much-needed expansion of the University's Pine Springs Camp. The camp is used in the summer for week-long camp sessions and utilized in the winter by college groups, youth groups, and churches for retreats.

In recent years, the camp has seen an increase in visitors and will soon run out of room, forcing the camp to turn visitors away. Both the camp and Lubbock Christian University are nonprofit. I urge all of my colleagues to support this important measure.

Madam Speaker, I reserve the balance of my time.

Mrs. NAPOLITANO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the Lincoln National Forest land exchanges takes approximately 80 acres of forest land in the Lincoln National Forest and exchanges that for private land currently owned by Lubbock Christian University. I would hope that this is in perpetuity rather than to be put up for sale at some time in the future. This has been a very grave area for me.

Our committee worked hard in the 108th Congress to refine the language that would make this exchange fair to the American taxpayer. The bill we are considering today requires that the exchange be of equal value. If the land appraisers determine the parcels are not of equal value, the bill provides for equalization of values through cash payment.

We are aware that land exchanges can often be controversial and contrary to the public interest. However, in this case we have worked to ensure a fair deal which both improves the National Forest by consolidating land ownership and enables Lubbock Christian University to extend its summer camp.

Madam Speaker, I reserve the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. NEUGEBAUER), the author of this legislation.

Mr. NEUGEBAUER. Madam Speaker, H.R. 482 provides for a small land exchange between Lincoln National Forest in New Mexico and Lubbock Christian University in my district. This land exchange is a fair exchange and provides benefits for both parties.

One of the good things about this exchange is that we are exchanging 80 acres of pristine land that LCU currently controls that has National Forest all of the way around it, giving that 80 acres back so we do not have a doughnut in the middle of a National Forest, in consideration for 80 acres adjacent to a camp that is already up and going and has many facilities already on it and is serving many young people in the summertime. And in the fall and the winter, adult groups are able to utilize this facility.

I thank the gentleman from New Mexico (Mr. PEARCE). This land is in his district. The gentleman from New Mexico (Mr. PEARCE) has been very cooperative, and we appreciate that. I also thank the gentleman from California (Mr. POMBO) and the Committee on Resources for their work and thank them for getting this to the floor for a vote so that LCU can begin putting improvements on this land, and hopefully some of those improvements may be available for this summer.

This is a like-kind exchange between two pieces of property. This bill provides for if there is perceived to be some difference in compensation. This bill gets this off center. This request has been pending for a couple of years, and we are able to expedite this issue and get it in place. I think that is good public policy. I urge my colleagues to support and pass H.R. 482.

Mrs. NAPOLITANO. Madam Speaker, I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I simply want to close by commending the gentleman from Texas (Mr. NEUGEBAUER) for his very fine work on this legislation. This is a very worthwhile land exchange. I urge all of my colleagues to support it.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 482.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DIRECTING CONVEYANCE OF CERTAIN LAND TO LANDER COUNTY, NEVADA, AND TO EUREKA COUNTY, NEVADA, FOR CONTINUED USE AS CEMETERIES

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 541) to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

The Clerk read as follows:

H.R. 541

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO LANDER COUNTY, NEVADA.

(a) FINDINGS.—Congress finds that the following:

(1) The historical use by settlers and travelers since the late 1800's of the cemetery known as "Kingston Cemetery" in Kingston, Nevada, predates incorporation of the land within the jurisdiction of the Forest Service on which the cemetery is situated.

(2) It is appropriate that that use be continued through local public ownership of the parcel rather than through the permitting process of the Federal agency.

(3) In accordance with Public Law 85–569 (commonly known as the "Townsite Act"; 16 U.S.C. 478a), the Forest Service has conveyed to the Town of Kingston 1.25 acres of the land on which historic gravesites have been identified.

(4) To ensure that all areas that may have unmarked gravesites are included, and to ensure the availability of adequate gravesite space in future years, an additional parcel consisting of approximately 8.75 acres should be conveyed to the county so as to include the total amount of the acreage included in the original permit issued by the Forest Service for the cemetery.

(b) CONVEYANCE ON CONDITION SUBSEQUENT.—Subject to valid existing rights and the condition stated in subsection (e), the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the "Secretary"), not later than 90 days after the date of enactment of this Act, shall convey to Lander County, Nevada (referred to in this section as the "county"), for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (c).

(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of National Forest System land (including any improvements on the land) known as "Kingston Cemetery", consisting of approximately 10 acres and more particularly described as SW1/4SE1/4SE1/4 of section 36, T. 16N., R. 43E., Mount Diablo Meridian.

(d) EASEMENT.—At the time of the conveyance under subsection (b), subject to subsection (e)(2), the Secretary shall grant the county an easement allowing access for persons desiring to visit the cemetery and other cemetery purposes over Forest Development Road #20307B, notwithstanding any future closing of the road for other use.

(e) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—The county (including its successors) shall continue the use of the parcel conveyed under subsection (b) as a cemetery.

(2) REVERSION.—If the Secretary, after notice to the county and an opportunity for a hearing, makes a finding that the county has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the county fails to discontinue that use—

(A) title to the parcel shall revert to the United States to be administered by the Secretary; and

(B) the easement granted to the county under subsection (d) shall be revoked.

(3) WAIVER.—The Secretary may waive the application of paragraph (2)(A) or (2)(B) if the Secretary determines that such a waiver would be in the best interests of the United States.

SEC. 2. CONVEYANCE TO EUREKA COUNTY, NEVADA.

(a) FINDINGS.—Congress finds the following:

(1) The historical use by settlers and travelers since the late 1800s of the cemetery known as "Maiden's Grave Cemetery" in Beowawe, Nevada, predates incorporation of the land within the jurisdiction of the Bureau of Land Management on which the cemetery is situated.

(2) It is appropriate that such use be continued through local public ownership of the parcel rather than through the permitting process of the Federal agency.

(b) CONVEYANCE ON CONDITION SUBSEQUENT.—Subject to valid existing rights and the condition stated in subsection (e), the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the "Secretary"), not later than 90 days after the date of enactment of this Act, shall convey to Eureka County, Nevada (referred to in this section as the "county"), for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (c).

(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of public land (including any improvements on the land) known as "Maiden's Grave Cemetery", consisting of approximately 10 acres and more particularly described as S1/2NE1/4SW1/4SW1/4, N1/2SE1/4SW1/4SW1/4 of section 10, T.31N., R.49E., Mount Diablo Meridian.

(d) EASEMENT.—At the time of the conveyance under subsection (b), subject to subsection (e)(2), the Secretary shall grant the county an easement allowing access for persons desiring to visit the cemetery and other cemetery purposes over an appropriate access route consistent with current access.

(e) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—The county (including its successors) shall continue the use of the parcel conveyed under subsection (b) as a cemetery.

(2) REVERSION.—If the Secretary, after notice to the county and an opportunity for a hearing, makes a finding that the county has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the county fails to discontinue that use—

(A) title to the parcel shall revert to the United States to be administered by the Secretary; and

(B) the easement granted to the county under subsection (d) shall be revoked.

(3) WAIVER.—The Secretary may waive the application of paragraph (2)(A) or (2)(B) if the Secretary determines that such a waiver would be in the best interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentlewoman from California (Mrs. NAPOLITANO) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

□ 1430

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

H.R. 541 directs the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as public cemeteries. Specifically, the town of Kingston, Nevada, requires an additional 8.75 acres of Forest Service land to supplement the 1.25 acres of Forest Service land conveyed to it in 2000 for the town's cemetery. The additional acreage would ensure that areas of unmarked graves are included in the town's cemetery and that space is available for future graves in Kingston Cemetery. In addition, H.R. 541 would authorize the Bureau of Land Management to convey 10 acres of disposable land to Eureka County, Nevada, for continued use at Maiden's Grave Cemetery.

H.R. 541 is supported by the majority and the minority of the Committee on Resources and is identical to legislation that passed the House of Representatives by voice vote during the 108th Congress. I urge adoption of the bill.

Madam Speaker, I reserve the balance of my time.

Mrs. NAPOLITANO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as a general rule, when Congress transfers Federal lands into other hands, the United States taxpayers should be compensated for the fair market value of the lands being transferred. In this instance, however, the locations of these parcels as well as the fact that they are currently in use as local cemeteries, and I have no idea how long it has been used as cemeteries but I am assuming it has been a while, justify the making of these transfers free of charge. As a result, we will not oppose H.R. 541.

Madam Speaker, I reserve the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield such time as he may consume to the very distinguished gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Madam Speaker, I thank my good friend and colleague from Tennessee (Mr. DUNCAN) for allowing me time to speak on this bill, and I would also like to thank my good friend from California (Mrs. NAPOLITANO) for her support of this bill as well.

Madam Speaker, I rise in strong support of H.R. 541, a bill I introduced in the 108th Congress. The purpose of H.R. 541 is to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use, as was said by my friend, for public cemeteries. This same legislation passed under suspension of the rules in the House in the 108th Congress. Unfortunately, the legislation was not acted upon in a timely manner by the other body; and I am pleased, Madam Speaker, to have the opportunity to revisit this issue now in the 109th Congress.

With over 90 percent of our State's land being owned by the Federal Government, Nevada has the highest percentage of public-land ownership of all the States in the Union. There are many challenges that come with such a high share of public lands. One that may surprise my colleagues is that even the burial of our loved ones and the preservation of the grave sites of our ancestors are impacted by Federal land ownership.

H.R. 541 authorizes the conveyance of public land to the respective control of Lander and Eureka counties for continued use as public cemeteries. My bill is designed to return these cemeteries to the local communities and eliminate the red tape and uncertainty associated with the Federal permitting process the cemeteries are currently required to go through in order to operate today.

Specifically, the town of Kingston, Nevada, needs an additional 8.75 acres to be added to the town's cemetery in order to protect unmarked graves and make space available for future grave sites. The bill also authorizes the conveyance of 10 acres of disposable land to Eureka County, Nevada, for continued use as the Maiden's Grave Cemetery.

Both of these parcels, Madam Speaker, have been historically used as cemeteries since the 1800s, well before either the Forest Service or the BLM was ever created. However, the land the cemeteries reside on is owned by the Federal Government today. Ninety percent of the land mass in both Eureka and Lander counties is owned by the Federal Government; 90 percent. To give my colleagues an idea of the scale of this conveyance, the acres requested by Lander County represent a mere two-thousandths of a percent of the total land owned by the Federal Government in just that county. In Eureka County, the size of the conveyance is four-thousandths of a percent of the Federal Government's holdings in that county.

As my colleagues can see, the size of the impact on the communities and those who have loved ones buried in these cemeteries is large. Relying on the Federal permitting process to ensure that these cemeteries remain used as cemeteries has been a source of uncertainty to the residents of these communities for many years. It is our intention through this bill to convey a small amount of Federal land to provide for the preservation and access to the residents of these communities with respect to the graves of their ancestors. These land conveyances to the local governments will preserve these historic sites that are not only a part of America's and Nevada's history but part of Nevada's families.

I urge my colleagues to unanimously support this legislation that means so much to these two communities. I want to again thank you, Madam Speaker, for the opportunity to speak in support of this important legislation, and I urge an "aye" vote on it.

Mrs. NAPOLITANO. Madam Speaker, I yield myself such time as I may consume.

I certainly want to add my support of the bill. My understanding is there were 1.2 acres allocated to the same group back in 2000 and now this additional land. I realize it is minuscule, but certainly be it far from us to be in denial of a proper respect of those who are buried there in the unmarked graves. I concur and urge support.

Madam Speaker, I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

The land involved here is approximately 20 acres. Many of us believe that the Federal Government owns far too much land in the State of Nevada already. Frankly, as our colleague from Nevada pointed out, this makes two one-thousandths of 1 percent, which is a minuscule part of the State of Nevada, and so I think this is very worthwhile legislation. I commend the gentleman from Nevada for bringing this to the attention of the House, and I urge the passage of this legislation.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 541.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DUNCAN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SOUTHERN CALIFORNIA GROUNDWATER REMEDIATION ACT

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 18) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southern California Groundwater Remediation Act".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) Groundwater remediation.—The term "groundwater remediation" means actions that are necessary to prevent, minimize, clean up, or mitigate damage to groundwater.

(2) Local water authority.—The term "local water authority" means a currently existing (on the date of the enactment of this Act) public water district, public water utility, public water planning agency, municipality, or Indian Tribe located within the natural watershed of the Santa Ana River in the State of California.

(3) Remediation fund.—The term "Remediation Fund" means the Southern California Groundwater Remediation Fund established pursuant to section 3(a).

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. SOUTHERN CALIFORNIA GROUNDWATER REMEDIATION.

(a) Southern California Groundwater Remediation.—

(1) Establishment of remediation fund.—There shall be established within the Treasury of the United States an interest bearing account to be known as the "Southern California Groundwater Remediation Fund".

(2) Administration of remediation fund.—The Remediation Fund shall be administered by the Secretary, acting through the Bureau of Reclamation. The Secretary shall administer the Remediation Fund in cooperation with the local water authority.

(3) Purposes of remediation fund.—

(A) In general.—Subject to subparagraph (B), the amounts in the Remediation Fund, including interest accrued, shall be used by the Secretary to provide grants to the local water authority to reimburse the local water authority for the Federal share of the costs associated with designing and constructing groundwater remediation projects to be administered by the local water authority.

(B) Cost-sharing limitation.—

(i) In general.—The Secretary may not obligate any funds appropriated to the Remediation Fund in a fiscal year until the Secretary has deposited into the Remediation Fund an amount provided by non-Federal interests sufficient to ensure that at least 35 percent of any funds obligated by the Secretary for a groundwater remediation project are from funds provided to the Secretary for that project by the non-Federal interests.

(ii) Non-federal responsibility.—Each local water authority shall be responsible for providing the non-Federal amount required by clause (i) for projects under that local water authority. The State of California, local government agencies, and private entities may provide all or any portion of the non-Federal amount.

(iii) Credits toward non-federal share.—For purposes of clause (ii), the Secretary shall credit the appropriate local water authority with the value of all prior expenditures by non-Federal interests made after January 1, 2000, that are compatible with the purposes of this section, including—

(I) all expenditures made by non-Federal interests to design and construct groundwater remediation projects, including expenditures associated with environmental analyses, and public involvement activities that were required to implement the groundwater remediation projects in compliance with applicable Federal and State laws; and

(II) all expenditures made by non-Federal interests to acquire lands, easements, rights-of-way, relocations, disposal areas, and water rights that were required to implement a groundwater remediation project.

(b) Compliance With Applicable Law.—In carrying out the activities described in this section, the Secretary shall comply with any applicable Federal and State laws.

(c) Relationship to Other Activities.—Nothing in this section shall be construed to affect other Federal or State authorities that are being used or may be used to facilitate remediation and protection of the groundwater the natural watershed of the Santa Ana River in the State of California. In carrying out the activities described in this section, the Secretary shall integrate such activities with ongoing Federal and State projects and activities. None of the funds made available for such activities pursuant to this section shall be counted against any Federal authorization ceiling established for any previously authorized Federal projects or activities.

(d) Financial Statements and Audits.—The Secretary shall ensure that all funds obligated and disbursed under this Act and expended by a local water authority, are accounted for in accordance with generally accepted accounting principles and are subjected to regular audits in accordance with applicable procedures, manuals, and circulars of the Department of the Interior and the Office of Management and Budget.

(e) Authorization of Appropriations.—There is authorized to be appropriated to the Remediation Fund $50,000,000. Such funds shall remain available until expended. Subject to the limitations in section 4, such funds shall remain available until expended.

SEC. 4. SUNSET OF AUTHORITY.

This Act—

(1) shall take effect on the date of the enactment of this Act; and

(2) is repealed effective as of the date that is 10 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentlewoman from California (Mrs. NAPOLITANO) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 18, authored by the gentleman from California (Mr. BACA), authorizes the Secretary of the Interior to participate in the funding and implementation of a balanced, long-term groundwater remediation program. This bill establishes a limited Federal fund to resolve groundwater problems in the Santa Ana, California, watershed. This area has approximately 30 major water wells that are currently shut down or are out of production due to groundwater contamination from man-made and naturally-occurring chemicals. For example, a local perchlorate plume has impacted 250,000 residents in Rialto, California.

This bill is just one small, but very important, part of a comprehensive solution to resolve a water emergency. The House passed identical legislation in the 108th Congress. I urge my colleagues to once again adopt this measure.

Madam Speaker, I reserve the balance of my time.

Mrs. NAPOLITANO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we strongly support passage of H.R. 18 which will provide financial assistance for cleaning up contaminated drinking water supplies in the Santa Ana River watershed in Southern California. There have been many problems in Southern California as well as in other parts of the Nation that deal with perchlorate, and this is just but one of them. We hope that we will be able to shed some light on how we can do a better job of assisting our communities in being able to put that water back to good use, and that is by working with the municipalities.

I commend the principal sponsor of H.R. 18, the gentleman from California (Mr. BACA), for his determination and hard work to get this legislation enacted. I also greatly appreciate the support and leadership demonstrated by the gentleman from California (Mr. POMBO) on this very critical and important matter.

Madam Speaker, I yield 5 minutes to my friend and colleague from Southern California (Mr. BACA) who has been very, very adamant about getting this addressed.

Mr. BACA. First of all, Madam Speaker, I would like to thank the gentleman from Tennessee (Mr. DUNCAN) for his support and his eloquent presentation of the legislation before us and as well the gentlewoman from California (Mrs. NAPOLITANO) in support of this legislation that impacts the State of California, especially Southern California, as it pertains to perchlorate.

Madam Speaker, I rise in support of H.R. 18, the Southern California Groundwater Remediation Act. This legislation passed the House in September 2004, and it was H.R. 4606. Today, I fight to protect Southern Californians from the growing crisis of perchlorate groundwater contamination. I reintroduced this legislation as a long-term solution to help cities in Southern California remove perchlorate from their drinking water and create safe drinking water.

This bill will authorize $50 million for groundwater remediation, including perchlorate cleanup, for most of San Bernardino, Riverside, and Orange counties in Southern California. The funds will be managed by the Department of the Interior through the Bureau of Reclamation. Perchlorate is a main ingredient in rocket fuel that has been found in drinking water supplies, lettuce, and even in the milk we drink.

Perchlorate in water supplies is left over from former military sites, defense contractors, and other industries. It has been found in 43 States, including California. Perchlorate has been linked to thyroid damage and may be harmful to infants, developing fetuses, and the elderly. There are 1.2 million women of childbearing age in San Bernardino, Riverside, and Orange counties who could be at risk from perchlorate, and we do not want them to be at risk. We want to make sure that there is good-quality drinking water. Perchlorate has been detected in 186 sources in the counties served by the Santa Ana River watershed and has jeopardized the water supplies of over 500,000 residents.

As indicated before, there are 30 wells that have been contaminated in the area. There is a perchlorate plume in the Inland Empire in California that is 10 miles long and is growing every day, and that includes my hometown, which I am a resident of, in Rialto. Perchlorate has impacted the daily lives of all of us, and we want to make sure that there is safe drinking water in the area. We have a legal and moral obligation to provide safe and healthy water to the families and children who drink this water every day.

But perchlorate contamination is more than just a health concern. The economic cost in providing safe drinking water is becoming more and more of a burden on our communities. Ninety percent of perchlorate in water comes from a Federal source. This includes DOD, NASA, and other Federal agencies. Innocent, hardworking families should not have to pay for federally created problems or problems for which no one will take the responsibility.

I urge my colleagues to support H.R. 18, which is a small price to pay for the crisis that has been forced on Southern Californians. I would like to thank the gentleman from California (Mr. POMBO) for his leadership and carrying legislation in the northern portion of California to deal with the problems that we have. I would like to thank the gentlewoman from California (Mrs. NAPOLITANO), the gentleman from California (Mr. CALVERT), the gentleman from California (Mr. GARY G. MILLER), and the gentleman from California (Mr. ROHRABACHER) for their support of this critical bill for the health of Southern California.

☐ 1445

Mr. DUNCAN. Madam Speaker, I urge passage of this bill.

Madam Speaker, I yield back the balance of my time.

Mrs. NAPOLITANO. Madam Speaker, I yield myself such time as I may consume.

We have heard my colleague indicate how important the cleanup of water is, and I would urge my colleague from Georgia (Mr. LINDER), sponsor of H.R. 135, the Twenty-First Century Water Commission Act of 2005, to consider that as an issue because that is something that affects, like the gentleman stated, 40-some odd States that are beginning to understand the harshness of reality and that is that we have contaminated aquifers and water resources.

So, with that, I thank the gentleman from California (Mr. BACA) for bringing that to our attention. I do support the bill and hope my colleagues will do likewise.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 18, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COLORADO RIVER INDIAN RESERVATION BOUNDARY CORRECTION ACT

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 794) to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

The Clerk read as follows:

H.R. 794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, FINDINGS, PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Colorado River Indian Reservation Boundary Correction Act".

(b) FINDINGS.—Congress finds the following:

(1) The Act of March 3, 1865, created the Colorado River Indian Reservation (hereinafter "Reservation") along the Colorado River in Arizona and California for the "Indians of said river and its tributaries".

(2) In 1873 and 1874, President Grant issued Executive Orders to expand the Reservation

southward and to secure its southern boundary at a clearly recognizable geographic location in order to forestall non-Indian encroachment and conflicts with the Indians of the Reservation.

(3) In 1875, Mr. Chandler Robbins surveyed the Reservation (hereinafter "the Robbins Survey") and delineated its new southern boundary, which included approximately 16,000 additional acres (hereinafter "the La Paz lands"), as part of the Reservation.

(4) On May 15, 1876, President Grant issued an Executive Order that established the Reservation's boundaries as those delineated by the Robbins Survey.

(5) In 1907, as a result of increasingly frequent trespasses by miners and cattle and at the request of the Bureau of Indian Affairs, the General Land Office of the United States provided for a resurvey of the southern and southeastern areas of the Reservation.

(6) In 1914, the General Land Office accepted and approved a resurvey of the Reservation conducted by Mr. Guy Harrington in 1912 (hereinafter the "Harrington Resurvey") which confirmed the boundaries that were delineated by the Robbins Survey and established by Executive Order in 1876.

(7) On November 19, 1915, the Secretary of the Interior reversed the decision of the General Land Office to accept the Harrington Resurvey, and upon his recommendation on November 22, 1915, President Wilson issued Executive Order No. 2273 ". . . to correct the error in location said southern boundary line . . ."—and thus effectively excluded the La Paz lands from the Reservation.

(8) Historical evidence compiled by the Department of the Interior supports the conclusion that the reason given by the Secretary in recommending that the President issue the 1915 Executive Order—"to correct an error in locating the southern boundary"—was itself in error and that the La Paz lands should not have been excluded from the Reservation.

(9) The La Paz lands continue to hold cultural and historical significance, as well as economic development potential, for the Colorado River Indian tribes, who have consistently sought to have such lands restored to their Reservation.

(c) PURPOSES.—The purposes of this Act are:

(1) To correct the south boundary of the Reservation by reestablishing such boundary as it was delineated by the Robbins Survey and affirmed by the Harrington Resurvey.

(2) To restore the La Paz lands to the Reservation, subject to valid existing rights under Federal law and to provide for continued reasonable public access for recreational purposes.

(3) To provide for the Secretary of the Interior to review and ensure that the corrected Reservation boundary is resurveyed and marked in conformance with the public system of surveys extended over such lands.

SEC. 2. BOUNDARY CORRECTION, RESTORATION, DESCRIPTION.

(a) BOUNDARY.—The boundaries of the Colorado River Indian Reservation are hereby declared to include those boundaries as were delineated by the Robbins Survey, affirmed by the Harrington Survey, and described as follows: The approximately 15,375 acres of Federal land described as "Lands Identified for Transfer to Colorado River Indian Tribes" on the map prepared by the Bureau of Land Management entitled "Colorado River Indian Reservation Boundary Correction Act, and dated January 4, 2005", (hereinafter referred to as the "Map").

(b) MAP.—The Map shall be available for review at the Bureau of Land Management.

(c) RESTORATION.—Subject to valid existing rights under Federal law, all right, title, and interest of the United States to those lands within the boundaries declared in subsection (a) that were excluded from the Colorado River Indian Reservation pursuant to Executive Order No. 2273 (November 22, 1915) are hereby restored to the Reservation and shall be held in trust by the United States on behalf of the Colorado River Indian Tribes.

(d) EXCLUSION.—Excluded from the lands restored to trust status on behalf of the Colorado River Indian Tribes that are described in subsection (a) are 2 parcels of Arizona State Lands identified on the Map as "State Lands" and totaling 320 acres and 520 acres.

SEC. 3. RESURVEY AND MARKING.

The Secretary of the Interior shall ensure that the boundary for the restored lands described in section 2(a) is surveyed and clearly marked in conformance with the public system of surveys extended over such lands.

SEC. 4. WATER RIGHTS.

The restored lands described in section 2(a) and shown on the Map shall have no Federal reserve water rights to surface water or ground water from any source.

SEC. 5. PUBLIC ACCESS.

Continued access to the restored lands described in section (2)(a) for hunting and other existing recreational purposes shall remain available to the public under reasonable rules and regulations promulgated by the Colorado River Indian Tribes.

SEC. 6. ECONOMIC ACTIVITY.

(a) IN GENERAL.—The restored lands described in section (2)(a) shall be subject to all rights-of-way, easements, leases, and mining claims existing on the date of the enactment of this Act. The United States reserves the right to continue all Reclamation projects, including the right to access and remove mineral materials for Colorado River maintenance on the restored lands described in section (2)(a).

(b) ADDITIONAL RIGHTS-OF-WAY.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way, expansions, or renewals of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners or existing right-of-way holders, or their successors and assigns, if—

(1) the proposed right-of-way is necessary to the needs of the applicant;

(2) the proposed right-of-way acquisition will not cause significant and substantial harm to the Colorado River Indian Tribes; and

(3) the proposed right-of-way complies with the procedures in part 169 of title 25, Code of Federal Regulations consistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests on trust lands, except that section 169.3 of those regulations shall not be applicable to expansions or renewals of existing rights-of-way for roads and utilities.

(c) FEES.—The fees charged for the renewal of any valid lease, easement, or right-of-way subject to this section shall not be greater than the current Federal rate for such a lease, easement, or right-of-way at the time of renewal if the holder has been in substantial compliance with all terms of the lease, easement, or right-of-way.

SEC. 7. GAMING.

Land taken into trust under this Act shall neither be considered to have been taken into trust for gaming nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

H.R. 794, which is sponsored by the gentleman from Arizona (Mr. GRIJALVA), corrects an historic injustice to the Colorado River Indian Tribes. It is substantially identical to H.R. 2941, legislation that was passed in the House last year but was not considered in the Senate.

Passage of this measure is long overdue. It restores 16,000 acres of public lands in Arizona to the Colorado River Indian Reservation wrongfully excluded from the reservation over 90 years ago.

Created by an Act of Congress in 1865, the reservation was expanded by President Grant in order to prevent encroachment by non-Indians. The expansion included a 16,000-acre area called the La Paz lands.

The La Paz expansion did not hold up for very long. The original surveys to affix the boundary of the La Paz addition were rescinded by President Wilson. A survey of dubious merit, apparently at the behest of people who coveted the Tribes' lands, was substituted for the valid surveys. As a result, the La Paz lands were excluded from the reservation.

All credible evidence indicates that the La Paz lands were wrongly deleted from the Tribes' reservation. Subsequent attempts to restore them a few times during the 1900s did not meet with success.

H.R. 794 finally restores the La Paz lands to its rightful owner, subject to valid. existing rights and interests and excluding certain parcels owned by the State of Arizona. The bill requires the boundary line of the reservation to reflect the addition of these lands.

As I explained. with one minor exception, this bill is exactly the same as H.R. 2941 that was passed by the House last year but went no further. The only difference is the title of the map has been changed to correct a typographical error.

Because this measure is unchanged from what the House approved last year, I urge my colleagues today to pass H.R. 794. With Congress' help, the

Colorado River Indian Tribes can finally put this justice behind them. I urge adoption of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Tennessee (Mr. DUNCAN) for his comments and his leadership on this very important issue to native peoples in my district.

The Colorado River Indian Reservation Boundary Correction Act, H.R. 794, will correct a long-standing injustice. In the early part of the 20th century, nearly 16,000 acres of land known as the La Paz lands were stripped from the Colorado River Indian Tribes' reservation by executive order in response to heavy lobbying from a private mining company that wanted to mine for silver on the land. The Tribes were never provided with an opportunity to challenge the decision, nor were they ever compensated for the loss of their land.

Subsequent reviews by the Department of Interior concluded the lands were inappropriately removed from the reservation and should be returned to the Tribes. Senator Barry Goldwater recognized this fact when he introduced similar legislation to restore those lands years ago. He stated during the hearing before the Senate Indian Affairs Committee that his grandfather, who had settled in the Ehrenberg area, had long recognized that the La Paz lands were Indian lands.

Madam Speaker, the lands that will be returned to the Tribes under this legislation were part of their reservation for almost 40 years prior to the 1915 executive order. This is not an expansion of the Tribes' reservation. It is a restoration of the original reservation based on accepted Department of Interior surveys.

H.R. 794 will return 15,375 acres of land to the Tribes. These lands hold cultural and spiritual value for the Tribes, as well as potential for economic development.

During the almost 90 years that the land has been under the jurisdiction of the Bureau of Land Management, certain activities have taken place there. The legislation ensures that existing uses may continue. The Tribes have agreed to honor existing mining claims, right of way, utility corridors, hunting, and public access.

In addition, several provisions have been added related to water rights and prohibition of gaming on the lands. While I feel that these restrictions may impose upon tribal sovereignty, the Tribe itself has indicated its willingness to accept these provisions in order to achieve passage of the legislation, and I defer to them on that matter.

Madam Speaker, this bill honors our agreements and our commitments to the Native peoples of my district by returning what rightfully belongs to them. I am pleased to be joined by my colleagues from Arizona and California on both sides of the aisle in promoting this long-overdue legislation, and I particularly want to thank the leadership within the Committee on Resources for making this bill a priority for passage again in this Congress. It is my joy to see this important piece of legislation move to the House floor and come one step closer to resolution. The Colorado River Indian people have been waiting 90 years for return of their lands, and it is my hope that they will not wait much longer.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I urge passage of this bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 794.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 2 o'clock and 53 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. KLINE) at 6 o'clock and 31 minutes p.m.

PRIVILEGED REPORT ON HOUSE RESOLUTION 134, REQUESTING THE PRESIDENT TO TRANSMIT CERTAIN INFORMATION RELATING TO PLAN ASSETS AND LIABILITIES OF SINGLE-EMPLOYER PENSION PLANS

Mr. BOEHNER, from the Committee on Education and the Workforce, submitted a privileged report (Rept. No. 109-34) on the resolution (H. Res. 134) requesting the President to transmit to the House of Representatives certain information relating to plan assets and liabilities of single-employer pension plans, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 135, by the yeas and nays.

H.R. 541, by the yeas and nays.

These will both be 15-minute votes.

TWENTY-FIRST CENTURY WATER COMMISSION ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 135.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 135, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 22, not voting 10, as follows:

[Roll No. 96]

YEAS—402

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra

Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—22

Blackburn
Coble
Cubin
Culberson
Davis, Jo Ann
Emerson
Flake
Foxx
Goode
Gutknecht
Hensarling
Istook
Johnson, Sam
Jones (NC)
LaHood
Manzullo
Miller (FL)
Miller (MI)
Myrick
Otter
Paul
Pence

NOT VOTING—10

Carter
Edwards
Fattah
Ford
Gillmor
Inglis (SC)
Jenkins
Lewis (KY)
Smith (WA)
Stark

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1900

Messrs. MANZULLO, PENCE, LAHOOD, ISTOOK, and Mrs. EMERSON changed their vote from "yea" to "nay."

Mr. LATHAM changed his vote from "nay" to "yea."

So (two thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LANDER COUNTY AND EUREKA COUNTY, NEVADA, LAND CONVEYANCE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 541.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 541, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 11, as follows:

[Roll No. 97]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney

Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Carter
Edwards
Ford
Gillmor
Inglis (SC)
Jenkins
Lewis (KY)
Miller, George
Smith (WA)
Stark
Thornberry

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KLINE) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1917

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CARTER. Mr. Speaker, on April 12, 2005, during voting on H.R. 135, the Twenty-First Century Water Commission Act and H.R. 541, the Lander County and Eureka County, Nevada land conveyance, I was unavoidably detained due to matters in my Congressional District. If I had been present, I would have voted yea on both votes.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX REPEAL PERMANENCY ACT OF 2005

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 109-35) on the resolution (H. Res. 202) providing for consideration of the bill (H.R. 8) to make the repeal of the estate tax permanent, which was referred to the House Calendar and ordered to be printed.

PAYING TRIBUTE AND HONORING THE MEMORY OF TRAVIS BRUCE

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, I rise to pay tribute and to honor the memory of Travis Bruce.

Mr. Speaker, it is perhaps ironic that, as the family of Specialist Travis Bruce was learning the tragic news, I was at the military hospital in Landstuhl, Germany.

We all ask ourselves the questions that have haunted leaders from Washington to Grant to this very day: Are we doing the right thing? Is it worth the sacrifice?

I can think of no better place to ask those questions than at that hospital. So I asked those young heroes, and I can honestly report that they answered "yes." A few said "absolutely."

For Specialist Bruce, the battle is now over. He now rests in the loving arms of the God of our fathers. He takes his place in that long line of patriots who have made the ultimate sacrifice, that long line that has never failed us. It is now left for us to carry on.

There are no words adequate to express our condolences. It is enough for us to say that on behalf of a grateful Nation, we will never forget. We will always be proud, so that we will always be free.

RESTORING DEDUCTIBILITY OF SALES TAX FOR TENNESSEE PROVES WORTHWHILE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I was coming back to D.C. reading the Nashville Tennessean, the local news section, and my attention was drawn to a headline here: "State's March Sales Tax Revenue up $14.8 Million Over Estimates."

Mr. Speaker, there is a reason that the State sales tax revenues are up so much in the State of Tennessee, and it has to do with actions that this body took last year. Last year, we voted to restore the deductibility of sales tax to those of us from nonState income tax States. Tennessee, Texas, Washington State, several States are affected by this provision. It proves the point, you want more of something, you lower the taxes. Things that are taxed less are going to flourish.

I would like to say thank you to our Speaker, the gentleman from Illinois (Mr. HASTERT); to our leader, the gentleman from Texas (Mr. DELAY); and to our whip, the gentleman from Missouri (Mr. BLUNT), for their leadership and their support in restoring the deductibility of sales tax for my State. Tennessee, and the other States that fund their State governments by State sales tax.

VOTE TO REPEAL DEATH TAX ONCE AND FOR ALL

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Mr. Speaker, the death tax kills small family-owned businesses, it makes financial planning nearly impossible, and it is an unfair form of double taxation.

The death tax is itself the leading cause of death for over one-third of all small, family-owned businesses who cannot afford to pay a death tax rate of up to 55 percent in order to keep the family business alive. Under current law, there will be no death tax owed in the year 2010, but, in 2011, death taxes go up to 55 percent. Unfortunately, the only family-owned business in America who knows whether someone will die in the year 2010 is the Sopranos. The rest of us have to spend thousands of dollars each year on accountants, lawyers, and financial planners to make sure our family-owned business survives.

Mr. Speaker, I urge my colleagues to vote yes to completely repeal the death tax once and for all.

PROMOTING GOOD LEADERSHIP

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, under the leadership of the gentleman from Texas (Mr. DELAY), the House has provided tax relief, creating 3 million jobs, prescription drug coverage for needy citizens, and welfare reform, promoting independence, along with a strengthened military to protect American families.

Additionally, Majority Leader DELAY and his wife Christine play a valuable role in their home community. As foster parents, they have devoted themselves to improving the lives of abused and neglected children and are now focusing their efforts on creating homes for foster children who need them. Their work is a true sign of compassion that is rarely recognized.

The gentleman from Texas (Mr. DELAY) has been called one of the most effective leaders in the history of the House of Representatives, and it is his effectiveness that motivates his critics. Radical liberals, financed by a billionaire, are leading a desperate smear campaign against a decent man who has delivered remarkable results. His critics are inspired by bitterness, hatred, and partisanship, and their smears will fail as they failed against DICK CHENEY, Donald Rumsfeld, Condoleezza Rice, and John Ashcroft.

The gentleman from Texas (Mr. DELAY) will continue his success of effectiveness for the American people.

In conclusion, God bless our troops, and we will never forget September 11.

HOLDING FEMA TO HIGH STANDARDS

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to share my concern regarding continued abuses by the Federal Emergency Management Agency, or FEMA as we know it. As my colleagues know, Florida suffered devastating blows when an unprecedented four hurricanes struck down in our State last year.

My colleagues and I in the Florida delegation have been fighting with FEMA on its hurricane policies for the past few months. We have battled them about paying for debris removal in front of properties on a private road. These people pay taxes, too.

Now a new abuse has come to light. FEMA apparently paid funeral expenses for an estimated 315 deaths in Florida, although only 123 fatalities were actually recorded. Once again, it has a disregard for accuracy, efficiency, and its responsibility, I believe, to the citizens of Florida and the United States' taxpayers.

Mr. Speaker, I encourage my colleagues to join me in holding FEMA to the high standards that our citizens require.

THE PRESIDENT'S SOCIAL SECURITY PLAN

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the President says he is going to change his tack; he is no longer going to scare the people. He is going to give them a solution.

This weekend, Gary Trudeau's renowned "Doonesbury" performed an important public service. It codified the recent words of the President describing his Social Security plan. Here it is. To ensure that every American has equal access to his remarks, let me enter "Doonesbury" into the RECORD and read some of the President's remarks.

This is a direct quote from the President of the United States. He is explaining the plan he has: "There's a series of parts of the formula that are being considered. And when you couple that, those different cost drivers, affecting those, changing those with personal accounts, the idea is to get what has been promised more likely to be or closer delivered to what has been promised."

Does anybody know what he is talking about? This President is halfway through his 60-day barnstorming tour to gain support for his Social Security plan. I personally hope he stays out for another 90 days.

I think when the American people get through with listening to this gibberish, they will recognize that it has all been a way to deflect our eyes from all the problems of this society. We are to get a bankruptcy bill out here tomorrow. We have done nothing about Social Security. We have done nothing about Medicare. Come on, Mr. President.

SEE . . . LOOK . . . COST DRIVERS! HELPS ON THE RED!

MAKE ANY SENSE?

THIS MUST BE SHARED!

HEY, FOLKS—CONFUSED ABOUT THE BUSH PLAN FOR SOCIAL SECURITY?

WELL, HELP IS ON THE WAY! HERE—IN HIS OWN WORDS*—THE PRESIDENT EXPLAINS!

*TAMPA, FL 2/04/05.

BECAUSE THE—ALL WHICH IS ON THE TABLE BEGINS TO ADDRESS THE BIG COST DRIVERS. FOR EXAMPLE, HOW BENEFITS ARE CALCULATE, FOR EXAMPLE, IS ON THE TABLE; WHETHER OR NOT BENEFITS RISE BASED UPON WAGE INCREASES OR PRICE INCREASES . . .

THERE'S A SERIES OF PARTS OF THE FORMULA THAT ARE BEING CONSIDERED. AND WHEN YOU COUPLE THAT, THOSE DIFFERENT COST DRIVERS, AFFECTING THOSE—CHANGING THOSE WITH PERSONAL ACCOUNTS, THE IDEA IS TO GET WHAT HAS BEEN PROMISED MORE LIKELY TO BE—OR CLOSER DELIVERED TO WHAT HAS BEEN PROMISED.

DOES THAT MAKE ANY SENSE TO YOU? IT'S KIND OF MUDDLED.

LOOK, THERE'S A SERIES OF THINGS THAT CAUSE THE—LIKE, FOR EXAMPLE, BENEFITS ARE CALCULATED BASED UPON THE INCREASE OF WAGES, AS OPPOSED TO THE INCREASE OF PRICES. SOME HAVE SUGGESTED THAT WE CALCULATE—THE BENEFITS WILL RISE BASED UPON INFLATION, AS OPPOSED TO WAGE INCREASES . . .

THERE IS A REFORM THAT WOULD HELP SOLVE THE RED IF THAT WERE PUT INTO EFFECT. IN OTHER WORDS, HOW FAST BENEFITS GROW, HOW FAST THE PROMISED BENEFITS GROW, IF THOSE—IF THAT GROWTH IS AFFECTED . . .

. . . IT WILL HELP ON THE RED.

'NUFF SAID!

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE NO FLY NO BUY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. McCARTHY) is recognized for 5 minutes.

Mrs. McCARTHY. Mr. Speaker, last month, the front pages of our Nation's newspapers contained chilling headlines: "Terror Suspects Buying Firearms."

At least 44 times in a 4-month period, people whom the FBI suspected of being members of terrorist groups tried to buy guns. In all but nine instances, the purchases were allowed to go through.

A background check of the would-be buyer found no automatic disqualification such as being a felon, an illegal immigrant, or deemed mentally defective. There certainly have been many more instances of suspected members of terrorist groups trying to buy these guns, but since the Justice Department destroys background check records after only 24 hours, we will never know.

So not only are we allowing suspected terrorists to arm themselves, we are destroying the records indicating how many guns they actually have bought. We are destroying critical intelligence in the war on terror, and suspected terrorists are exploiting our pre-9/11 gun laws.

The question many of my constituents ask me is, "Why are these people allowed to be able to buy guns in the first place?"

It defies common sense. We are at war. We saw what these terrorists are capable of armed with only box cutters purchased at a hardware store. Then why do we make it so easy for our enemies to buy firearms and ammunition within our own borders?

Since 9/11, we have adopted a multitude of new laws in the wake of the war on terror. Just try to fly out of Reagan National Airport. No one is spared from the reach of these new laws. Senior citizens, children, and Members of the House have been subjected to routine inspection before boarding a commercial flight. It is an inconvenience perhaps for some, but if it prevents one terrorist from boarding a plane, it is a good law.

But our gun laws are dangerously out of step with the war on terror. The same people who are prevented from boarding a flight can walk into a gun store and purchase a hand-held weapon of mass destruction. This is absolutely ridiculous.

Let me set the record straight. I am not out to take away the right of any law-abiding citizen from being able to buy a gun.

We need common-sense gun safety regulations that protect law-abiding gun owners, while making it tougher for criminals and terrorists to obtain guns. That is why I have introduced a bill that would deny those on the Transportation Security Administration's No Fly List from purchasing firearms.

Why the No Fly List? Granted, the No Fly List includes some law-abiding citizens who are on the list in error. But it is the only Federal terrorist watch list with a procedure to get innocent people off the list, and the No Fly List is the only watch list to have public scrutiny. Other lists without practical application may be just as inaccurate but afford no due process to those wrongly listed.

My bill will ensure that these people incorrectly listed on the No Fly will be able to get their names off the list as quickly as possible. They would then be able to complete their gun purchase, no questions asked. Again, an inconvenience for some but necessary steps to ensure terrorists are not buying guns in our country.

The Federal Government charged with protecting us from terrorists should put at least as much effort into making sure terrorists and criminals are buying guns as what senior citizens and children might bring aboard a plane. We are at war, and the Federal Government has made it easier for our enemies to arm themselves.

I have written Attorney General Gonzales and asked him to endorse my bill. And if he cannot endorse it, I want to know why. I understand the Second Amendment concerns of law-abiding citizens and gun owners. But these laws can coexist with responsible people's rights to hunt and protect their families.

Responsible gun ownership is a right of all law-abiding Americans, but we also have to take the responsibility to protect law-abiding Americans from acts of terror and crime.

Mr. Speaker, we have seen, unfortunately, many, many acts of crime and gun violence in the last few weeks. Each week for the next several weeks now, I am going to bring this subject up. I know a lot of the American people think Democrats have given up on this issue. I promise the American people, I will continue with this issue. I will fight for good gun safety laws to make this country safer.

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IN SUPPORT OF LIEUTENANT PANTANO

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, last Wednesday I spoke about Marine 2nd Lieutenant Ilario Pantano and his struggle to defend his actions in battle.

April of 2004 was a time of widespread violence from Iraqi insurgents. It was the deadliest month of the war.

On April 15, 2004, Lieutenant Pantano was faced with a very difficult decision. Just 3 days after he had witnessed a deadly ambush, his unit received a tip about a weapons stockpile. Leery of the tip, he led a unit of 40 men to the area and immediately noticed two Iraqis in a vehicle who appeared to be escaping the area.

After stopping the vehicle, he ordered the two Iraqis to search the vehicle themselves so as to avoid a booby trap for himself or the others under his command. Suddenly, he said, the two insurgents pivoted towards him after disobeying his command to stop, and in a split-second decision Lieutenant Pantano decided he had to fire his weapon to protect himself and his men.

It was not until 2½ months later that his radio operator mentioned the incident to another Marine, who then accused Lieutenant Pantano of murder. He now is facing charges of two counts of murder.

Mr. Speaker, I have met Lieutenant Pantano and his family. I have watched again and again the "Dateline" interview Stone Phillips conducted with Lieutenant Pantano, and I have researched this situation at length. I believe Lieutenant Pantano is truthful in his recounts of the events of April of 2004 and he was justified in his action while having to make a split-second battlefield decision.

I question why the radio operator would wait 2½ months to tell his report of the events if he really believed murder had taken place. Furthermore, as is noted in the "Dateline" video, the sergeant was never even present for the actual shooting. How can he make a judgment call on something he did not see?

Mr. Speaker, I have put in a resolution, H. Res. 167, to support Lieutenant Pantano as he faces yet another difficult fight for his life. I hope that my colleagues in the House will take some time to read my resolution and look into this situation for themselves. I believe a great unfairness has occurred here; and as the United States House of Representatives, we stand by our brave men and women in uniform as they protect and serve our Nation.

Mr. Speaker, before closing, I would like to say that there is a Web site that his mother has established. It is called defendthedefenders.org, and may God continue to bless our men and women in uniform and bless America.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Oregon (Mr. DEFAZIO).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, a bowling ball weighs about 170 times the weight of a slice of sandwich bread. It does not take a physicist to see the mismatch between a bowling ball and a slice of bread. And it does not take a trade expert to see the economic mismatch between the United States and the nations that make up the Central American Free Trade Agreement: Honduras, Costa Rica, Nicaragua, Guatemala, and El Salvador.

The way that CAFTA, the Central American Free Trade Agreement, proponents talk, you would think Central America was one of the biggest economies in the Western Hemisphere. CAFTA nations are not only among the world's poorest countries, they are among its smallest economies.

Think about this: this big trade agreement that President Bush wants, CAFTA, the combined purchasing power of the CAFTA nations is almost identical to the purchasing power of Columbus, Ohio.

Tomorrow, the Senate will hold the first congressional hearing on CAFTA. Congress typically has voted within 55 days of President Bush signing a trade agreement. May 28 will mark the 1-year anniversary of when the President signed CAFTA.

The other trade agreements were all done within only about 2 months. Because CAFTA is so unpopular and trade policy in this country is so wrongheaded, the President still has not sent CAFTA here for a vote. Clearly, there is dissension in the ranks, and for good reason.

CAFTA is the dysfunctional cousin of NAFTA, the North American Free Trade Agreement, continuing a legacy of failed trade policies.

Look at NAFTA's record: one million United States manufacturing jobs lost to the North American Free Trade Agreement. One million. NAFTA did nothing. NAFTA: Mexico, Canada, the U.S. NAFTA did nothing for Mexican workers as promised. They continue to earn just about a dollar a day, while living in abject poverty. Not exactly a great market for U.S. products.

And yet the U.S. continues to push for more of the same, more of the same job hemorrhaging, income-lowering trade agreements, more trade agreements that ship U.S. jobs overseas, more trade agreements that neglect essential environmental standards, more trade agreements that keep foreign workers in poverty.

The only difference between CAFTA and NAFTA is the first letter. Madness is repeating the same action over and over and over and expecting a different result. We hear the same promises on every trade agreement. This Congress, somehow barely, in the middle of the night, passes them. We see the same bad results.

But do not just take my word for it. Look at the numbers. Numbers do not lie. The U.S. economy, with a $10 trillion GDP in 2002, is 170 times bigger than the economies of the CAFTA nations, at about $62 billion combined. It is like pairing a bowling ball with a slice of bread.

CAFTA is not about robust markets for the export of American goods. It is about outsourcing. It is about access to cheap labor. We send our jobs overseas. The workers overseas get paid almost nothing, not able to raise their living standard. U.S. corporations make more money. American workers lose their jobs. It is the same old story.

Again, the combined purchasing power of the CAFTA nations is about that of Orlando, Florida. Trade pacts like NAFTA and CAFTA enable companies to exploit cheap labor in other countries, then import their products back to the U.S. under favorable terms.

American companies outsource their jobs to Guatemala, outsource their jobs to China, outsource their jobs to Mexico. It costs American workers their jobs. It does almost nothing for the workers in those countries, yet profits at Wal-Mart and GM and those companies continue to rise.

CAFTA will do nothing to stop the bleeding of manufacturing jobs, except make it worse, will do nothing to stop the bleeding of manufacturing jobs in the U.S., and will do even less to create a strong Central American consumer market for American goods.

Throughout the developing world, workers do not share in the wealth they create. If you work at GM in the United States, if you work at a hardware store in the United States, you create wealth for your employer and you share some of that wealth. That is how you get a middle-class existence.

But in the developing world, workers do not share in the wealth they create. Nike workers in Vietnam cannot afford to buy the shoes they make. Disney workers in Costa Rica cannot afford to buy the toys for their children. Ford workers in Mexico cannot afford to buy the cars that they make. Motorola workers in Malaysia cannot afford to buy the cell phones they make.

The United States, with its unrivaled purchasing power and its enormous economic clout, we, in our country, are in a unique position to empower workers in the developing world while promoting prosperity at home.

When the world's poorest people can buy American products, rather than just make them, then we will know our trade policies finally are working. Vote "no" on the Central American Free Trade Agreement.

SUPPORTING THE GOALS AND IDEALS OF FINANCIAL LITERACY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, I would like to take a few minutes to talk about an issue that is very important to me as a Member of Congress and as a consumer: financial literacy.

Last week we passed a resolution I cosponsored with overwhelming bipartisan support, H. Res. 148. This resolution supports the goals and ideals of Financial Literacy Month.

Tonight, on the eve of the debate of our Nation's bankruptcy laws, I believe it is only fitting to support Financial Literacy Month and speak on the benefits of personal financial literacy.

In our Nation today, half of all Americans are living from paycheck to paycheck. The average college senior has approximately $7,000 in consumer debt, and only four out of every 10 workers is saving for retirement.

As individuals incur debt, they are less likely to be prepared for retirement and more likely to become dependent solely on the Social Security system to support them into retirement.

By encouraging informed choices and wise financial decisions, our Nation's consumers will have positive credit ratings, money management skills, and be on the road to a stable and prosperous life. They will be able to build homes, buy cars, finance educations, and start businesses. It is our goal to educate the public about financial literacy.

In today's world, we must continue to expand access to financial institutions and provide all Americans with the tools they need to become productive members of society. These principles and goals are important to all of us.

The programs and seminars supported by the resolution will provide the guidance that is needed for so many Americans. I encourage those who supported this amendment and agree with these goals to work alongside us to educate Americans about finance and economics.

EXCHANGE OF SPECIAL ORDER TIME

Ms. KAPTUR. Mr. Speaker, I ask unanimous consent to assume the time of the gentleman from Washington (Mr. MCDERMOTT).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

THE UNITED STATES TRADE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I would like to agree with the gentleman from Ohio (Mr. BROWN). The Commerce Department just announced another record trade deficit for our country. As an avalanche of imports comes in here and a whimper of our exports go out, we do not have free trade. We have a free fall in trade.

This month the Commerce Department sent out a press release saying this past month had a record-breaking trade deficit. The U.S. trade deficit soared to an all time monthly high of $61 billion negative. The Commerce Department said that, in fact, the February imbalance was up 4.3 percent from the record gap in January of $58.5 billion.

It looks like the executive branch's promises are faltering again. When it was proposed, free trade for China was promoted as a boon to America's exporters. But if we look at what is happening here, every single year the trade deficit gets deeper and deeper and deeper. And this year it is going through the bottom of the chart.

Once again, month after month, we see our manufacturers taking a hit. America truly is losing its economic prowess and our economic independence. In fact, under President Bush's watch, America has lost another three million manufacturing jobs.

One of the hardest hit sectors is textiles. For February, imports of textiles and clothing from China rose by nearly 10 percent. One can honestly ask. Is anything made in America anymore, other than debt?

The Bush administration's so-called free trade agenda is on course to bankrupt our economy. For the first 2 months of this year, just the first 2 months, the annualized trade deficit is 3 quarters of a trillion dollars, a full 100 billion more than last year. And we are watching oil prices going up over $50 a barrel, and that is adding to this growing deficit.

Combined with our faltering dollar, soaring fuel costs and an expanding Federal deficit, America is anything but independent. We are in hock to foreign countries that hold nearly half of our public debt, and we are paying them hundreds of billions of dollars annually now in interest.

The President talks about his risky plans to try to overhaul Social Security by borrowing trillions more dollars. Have they got a printing machine for money over there at the back room of the White House?

This is not the American Dream. It is the American Nightmare. Tonight Congress should be taking a stand against this irresponsible fiscal policy. The golden rule of trade should be trade balances, not trade deficits; and we should operate by the golden rule, free trade among free people.

We should reject CAFTA and any other trade bills that keep pushing American jobs offshore and pushing the trade deficit further into red ink. We should only support trade that is responsible and creates a level playing field and, at a minimum, trade balances and hopefully trade surpluses like we used to have.

Until this President can give us a plan for a healthy economy based on security and economic independence, we should say no thank you. No more NAFTAs, no CAFTAs, no more trade agreements that do not produce a balance and a surplus.

In fact, for every agreement that is currently on the books that is in the red, we ought to go back and require renegotiation if it has been in the red for 3 years or more, because it is not operating in America's interest. It might be operating in some global corporation's interest; but we should be worried about the American people and jobs here at home, both in manufacturing and agriculture, in resource and mining, in the real muscle of this country.

We should be here to fight for America's future. It is time the President and the entire Congress did the same.

HONORING POPE JOHN PAUL II

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, last week I was blessed to travel with a group of my colleagues to Rome to attend the funeral mass of his Holiness, Pope John Paul II, one of the greatest defenders of human life the world has ever known.

☐ 1945

Pope John Paul II was a man of profound holiness, profound peace, and profound love. He not only served the Catholic Church as the Vicar of Christ on Earth, but also reached out and touched people of all faiths as he fought valiantly to liberate the oppressed, especially in his native Eastern Europe where he contributed significantly to the fall of communism.

Of all of his accomplishments, I am most appreciative of his unwavering commitments to the defense and protection of all human life, especially the most defenseless, the unborn.

The Pope came to Miami in September of 1987. I had just given birth to my youngest daughter, Patricia Marie, and so I wanted to be present to hear and see him at Tropical Park, which is located in my old State senate district, but the doctors told me I could not attend. However, as I watched on TV, I remember thinking how fitting it was that I would be holding my newborn baby in my arms while watching the staunchest defender of human life praying and saying mass in my hometown. It was a feeling I have never and I shall never forget.

The Holy Father can never imagine how he touched, in a most profound way, all those who heard and saw him wherever he traveled with his goodness and fierce protection for the sanctity of life.

In his letter, The Gospel of Life, John Paul II vigorously reaffirmed the value of human life and at the same time presents a pressing appeal addressed to each and every person to respect, protect, love and serve life, every human life.

He writes, "Even in the midst of difficulties and uncertainties, every person sincerely open to truth and goodness can, by the light of reason and the hidden action of grace, come to recognize in the natural law the sacred value of human life from its very beginning until its end and can affirm the right of every human being to have this primary good respected to the highest degree.

"Upon the recognition of this right," he continued, "every human community and the political community itself are founded."

And as a wife and as a mother of two teenage daughters, I also seek to defend and protect the sanctity of an innocent human life; and to that end I have introduced the bill, House Resolution 748, the Child Interstate Abortion Notification Act, CIANA, which currently has 127 cosponsors and which will be marked up in the House Committee on the Judiciary tomorrow.

This legislation makes it a Federal offense to knowingly transport a minor across a State line with the intent that she obtain an abortion in circumvention of a State's parental consent or parental notification law. CIANA also requires that a parent or, if necessary, a legal guardian be notified pursuant to a default Federal parental notification rule when a minor crosses State lines to obtain an abortion unless one of several carefully drawn exceptions are met.

A minor who is forbidden to drink alcohol, to stay out past a certain hour or to get her ears pierced without a parental consent is certainly not prepared to make a life-altering, hazardous and potentially fatal decision such as an abortion without the consultation or consent of at least one parent.

My legislation will close a loophole that allows adults not only help minors break States' laws by obtaining an abortion without parental consent but also contributes to ending the life of an innocent child.

I am hopeful that in this 109th session of Congress we will be successful in securing the rights of parents. As an ardent advocate for human rights for all, especially those suffering political and religious persecution, I join our Holy Father in his desire to see a world where all may live and work together in a spirit of peace, mutual respect and solidarity and where the sanctity of human life is preserved at each and every level.

EXCHANGE OF SPECIAL ORDER TIME

Mrs. BLACKBURN. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Minnesota (Mr. GUTKNECHT).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

IMMIGRATION REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, you know it should be no secret to anyone in this body that immigration reform is a top priority for millions of Americans, and I doubt that most of us have had a single town hall meeting during this past recess when we have not been asked by our constituents to address the concerns of illegal immigration. I can tell you, I have heard time and again from my constituents who want to know why it is so incredibly difficult and it seems so difficult for the Federal Government to enforce these immigration laws that are currently on the books. They absolutely cannot understand why some politicians in Washington seem to fail to understand that illegal immigrants are in fact breaking our laws and if they do indeed actually cause a security risk.

As our constituents are preparing to pay Federal income tax, as millions of Americans are preparing to pay their Federal income tax this week, I was asked time and again in town hall meetings this weekend if we did not consider the costs, the extra cost to the American taxpayer of illegal immigration. And I can tell you, Mr. Speaker, I certainly sympathize with my constituents and I empathize with their concerns and their consternation, and I truly share their frustration when I read some of the things I read about illegal immigration.

We have an obvious flouting of the laws, and yet there are some who think that we should actually ignore this problem. Thankfully, we have made some progress this year, and we should credit the gentleman from Wisconsin (Mr. SENSENBRENNER) for much of his hard work and the Committee on the Judiciary for much of their hard work when they worked on the Real ID Act. This body passed that, and certainly it will beef up the identification security measures, many dealing with our driver's license provisions. It will speed up the construction of border barriers, and it will make it tough for those with terrorist ties to gain asylum in the United States. But, Mr. Speaker, I think we all know that that is absolutely not enough.

Just yesterday morning, the Washington Post ran a story with the headline "Probe Faults System For Monitoring U.S. Border."

Now I have been working with my colleagues here in the House to target waste, fraud and abuse in government spending; and I have also been a proponent of tackling our enormous illegal immigration problem. The Washington Post story contains just an astounding level of waste, fraud, and abuse in spending; and it should be a wake-up call for those who do not think immigration reform is a priority. Clearly, the system we have got is not working.

According to a General Service Administration investigation, American taxpayers footed the bill for $239 million surveillance system across our borders. And what do we have to show for that, sir? A lot of broken equipment and lax border security. This is absolutely incredible.

You have got a bunch of concerned citizens who got tired of all the excuses so they have gone down to the Arizona border to observe illegal immigration and report to the border agents, and apparently they have been pretty effective. Meanwhile, the Federal government has a $239 million pile of useless equipment.

This is waste, fraud, and abuse; and this is lack of attention to border security. This is an issue that has my constituents talking at length in town halls, talking about how we are spending the tax money that they are writing the check for this very week.

This article is further confirmation of our belief that the borders are too open, our system is too easily abused and our government is not doing enough. I hope that my colleagues will join me in my effort to eliminate the seemingly endless examples of waste, fraud, and abuse of taxpayer dollars.

Mr. Speaker, to those who have been opposing immigration reform for years now, the time has come for America to address the growing problem of illegal immigration. Our constituents and our national security demand it.

SMART SECURITY AND NUCLEAR WEAPONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last year the Subcommittee on Energy and Water Development of the Committee on Appropriations bravely stood up to the White House by rejecting the administration's request for new nuclear weapons funding.

The White House had requested over $70 million for research on the robust nuclear earth penetrator, also known as the "bunker buster" and other nuclear weapons initiatives.

The Subcommittee on Energy and Water Development of the Committee on Appropriations zeroed out the President's nuclear weapons initiative: and, just as importantly, they have boldly rejected all funding for the supremely misguided bunker buster nuclear bomb, labelling it provocative and unnecessary.

I credit the subcommittee's chairman, the gentleman from Ohio (Mr. HOBSON). He courageously stood up to the White House on this issue. But President Bush did not let that stop him from once again requesting funding for the bunker buster bomb in this year's 2006 budget proposal.

This year the President has requested $4 million to study the feasibility of constructing the bunker buster and another $4.5 billion for bunker buster testing in the Air Force budget. The President's budget also notes that he may request another $14 million for the bunker buster in fiscal year 2007.

What could the Bush administration possibly be thinking? The United States already possesses the most sophisticated and modern military ever created, yet sometimes it seems like President Bush and his allies still think we are fighting the Cold War. Fortunately, there are still many, many in Congress who live with the rest of us in the 21st century.

The bunker buster's proponents claim that it is an important device needed in the post-9/11 world to enable our military to attack cave and hideouts with supreme precision, but we do not need a nuclear weapon to accomplish this. The U.S. already possesses the capability to target terrorists wherever they are hiding.

The Bush administration's repeated attempts to develop new nuclear weapons like the bunker buster epitomizes the hypocrisy that underscores President Bush's foreign policy. At the same time that he seeks to prevent countries like Iran and North Korea from developing nuclear weapons, the White House has demonstrated its own nuclear weapons ambitions with a vigorous intensity.

We must remember that the creation of the bunker buster would violate the nuclear non-proliferation treaty which the United States ratified in 1972. That is why later this week I will introduce a resolution calling on the United States to uphold its binding commitment to this vital international treaty.

But these nuclear ambitions should not come as a surprise. In fact, it is just the latest in a long line of instances that demonstrate the Bush administration's petulant double standard when it comes to interacting with the rest of the world.

Before the bunker buster came along, they rejected the Kyoto Protocol on global warming, claiming that it would hurt the United States economy. Before that, it was the rejection of the International Criminal Court which President Bush opposed because it would allow Americans who violated international laws to be tried for war crimes just like war criminals from other countries.

The policy of rejecting international treaties is bad for the United States. Instead of thumbing our nose in the face of international law, America, the world's largest democracy, needs to serve as the gold standard for global consensus and agreement. That is why I have worked to develop a SMART Security platform for the 21st century.

SMART Security is a Sensible Multilateral American Response to Terrorism. Instead of creating new nuclear weapons, SMART Security would work to control the spread of such weapons through aggressive diplomacy, global weapons inspections, and comprehensive non-proliferation efforts.

We need to lead the world's nations to end the era of nuclear weapons. We need to demonstrate that nuclear weapons will not protect the people of the world because if these weapons are actually used there will be nothing left to protect.

Think about the price we have paid to eliminate weapons of mass destruction in Iraq, weapons that actually do not exist. Over 1,500 American lives lost, more than 12,000 severely wounded American soldiers, tens of thousands of Iraqi civilians killed, and more than $200 billion spent.

Should we not invest our resources in addressing genuine nuclear threats?

Mr. Speaker, if we do not start working with the other nations in the world, there may come a time when other nations no longer want to work with us.

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INTERNATIONAL VILLAINS AND INTERNATIONAL OUTLAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, tonight I rise to speak about international villains, international outlaws. We need to know who they are and who they are not because these terrorists are not ministers of good, but they are ministers of evil.

The terrorists are not freedom fighters as some say, for they oppose all freedoms. Terrorists are not moral because they preach, praise, and practice immoral acts. Terrorists are not for children because they murder children. They murder their neighbor's children, and they murder their own. Terrorists are not for any peace, but are for any chaos. Terrorists are not for democracies, but proclaim the value of totalitarian dictatorships.

Terrorists are not for justice so we must bring them to justice. As related in Proverbs, when justice is done, it brings joy to the righteous and it brings terror to the evil doers. So I say let us bring terror to these evil doers.

I have dealt with local terrorists, street terrorists, all my life, first as a prosecutor and a judge in a criminal court in Texas for 22 years. These people are mean, they are violent, and you can deal with them one way. You do not ask them to try to do better. You do not blame their culture or their lack of culture for their conduct. You do not reason with them. You do not negotiate. You hold them accountable for their choices.

They live for crimes of violence, so you punish them. You make the price high, too high for them to pay so they stop it, so they leave us alone, for it is a right of all of us to be left alone. If they choose not to leave us alone, they must face quick, sudden, and decisive action.

We must continue to deal with international terrorists the same way we deal with local street terrorists. We seek them out and we hold them accountable for their choices. It is not rational to stop once we have them on the run.

In Iraq, for example, we must finish the job. The phrase "cut and run" may be in the vocabulary of the French Government, but it is not in our vocabulary.

I have been to Iraq. I was there on election day January 30; and the people I talked to, those Iraqis were afraid that we would leave before the job was done. The terrorists want to wait us out because of the comments that they hear on this very House floor, that we should leave the job before it is through. Well, they will not wait us out because we will finish the job. So we will stay the course. We will finish the job before us. For it is far better to fight terrorists on their soil than on American soil, and we will know of no retreat or defeat.

We must train the Iraqi security forces so that they can protect their own borders against the insurgents. We must continue to seek out the terrorists in Afghanistan as well, but we must also deal with the cocaine and heroin traffic that is there because it funds those terrorists.

We must also allow our local law enforcement to fight that same secondary terror, that is, the terror of drugs, that is here in the United States that affects many American families, because those drugs that the terrorist cartels market in our land, they fund their evil ways. We must protect our homeland and support our first responders. For as our troops in lands across the seas battle these evil villains, our first responders are the ones who battle them here on the homeland, and they are always counted faithful.

On September 11, we all remember what we were doing. I was driving my Jeep to the courthouse, and I heard on the radio about the first plane that hit the World Trade Center; second plane, World Trade Center; third plane, crashes in Pennsylvania because of some heroes; fourth plane, hits the Pentagon.

Later that day, as many Americans like myself were watching television, I noticed the phenomena. I noticed thousands and thousands of Americans in New York City when those terrorists hit those buildings. They were running as hard as they could to get away from that terror. But there was another group of people, not very many, but they were there. When that terror hit the World Trade Center, they were running as hard as they could to get to that terror. Who were they? They were emergency medical technicians, they were firefighters, and they were cops. Because these people responded, and these are the people who we count on first, the people responsible for the deaths of the 3,000 on that day will be held accountable.

So we will not waiver in our battle against these international villains. There is no substitute for victory. For we are a people committed to remaining and continuing for centuries to be the land of the free and the home of the brave.

THE RULES THAT GOVERN THE ETHICS PROCESS IN THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 60 minutes as the designee of the minority leader.

Mr. MOLLOHAN. Mr. Speaker, I am joined here tonight by three distinguished colleagues.

The gentleman from Maryland (Mr. CARDIN) was a member of the Committee on Standards of Official Conduct in the 101st, 103rd, and 104th Congresses. The gentleman from Maryland (Mr. CARDIN) cochaired with Congressman Bob Livingston at the time the 1997 ethics bipartisan task force created to review and propose changes to the Committee on Standards of Official Conduct rules and procedures and was the ranking minority member of the subcommittee that investigated the complaint against then-Speaker Newt Gingrich.

Second, I am joined by the gentleman from California (Mr. BERMAN), who was ranking minority member on the Committee on Standards of Official Conduct in the 105th, the 106th, and the 107th Congresses and for the first 2 months of the 108th Congress until my appointment as ranking member. Additionally, the gentleman from California (Mr. BERMAN) was the ex officio member of the 1997 bipartisan task force created to review and propose changes to the Committee on Standards of Official Conduct's rules and procedures.

Finally, Mr. Speaker, I am joined by the gentleman from Massachusetts (Mr. DELAHUNT), who prior to coming to Congress served as the Norfolk County District Attorney for a considerable period of time, from 1975 to 1996. In the 108th Congress, he was a member of the ethics pool appointed by the minority leader and was a member of the investigative subcommittee formed to look into the allegations made by then-Representative Nick Smith arising out of the events occurring during the Medicare vote taken on November 2, 2003.

Collectively, these gentlemen have a tremendous amount of experience serving the House of Representatives on the Committee on Standards of Official Conduct over a long period of time. Not surprisingly, Mr. Speaker, that is the topic of our Special Order tonight.

The subject that we will be discussing this evening under the Special Order concerns the rules that govern the ethics process in the House of Representatives. This discussion, I think, will highlight the clear need to repeal the changes in those rules that were included in the rules package that was adopted when the House convened in January of this year, a rules package that was adopted on a strict party line vote with all Republicans voting for and all Democrats voting against.

While a discussion of the rules of this nature necessarily involves a number of technical points, Mr. Speaker, there should be no mistaking the overriding importance of what we are talking about. Because of the ethics rules changes that were included in the rules package I mentioned, the House of Representatives is now at a crossroads in its ethics process.

The issue now before the House is, in fact, whether the House will continue to have a credible ethics process that can be effective in protecting the reputation and the integrity of this institution.

Mr. Speaker, this is my 9th year as a member of the Committee on Standards of Official Conduct and my third year as ranking minority member of that committee, and I have studied the ethics process carefully during that time. My firm conclusion is that the House will not and cannot have a credible ethics process unless the rules changes that were made earlier this year are repealed.

There are at least two reasons why this is so, Mr. Speaker. First, there cannot be a credible ethics process in the House of Representatives unless changes in the ethics rules are made, as they have always been made in the House, Mr. Speaker, in the past years, in an open, thoughtful and, most importantly, in a genuinely bipartisan manner. But these rules changes were the result of a closed, secret process in which no one from this side of the aisle was ever consulted; and the votes of the rules package were, as always, strictly party line votes.

Second, the fact is that, at a minimum, these rules changes, the specific changes that are attempting to be imposed by the Committee on Rules, will seriously undermine the ability of the Committee on Standards of Official Conduct to perform its key responsibilities of investigating and making decisions on allegations of wrongdoing.

It is for these reasons that I have introduced House Resolution 131, which would entirely repeal two of the three rules changes made earlier this year and would repeal as well the objectionable provisions of the third rules change.

Mr. Speaker, let me take a moment to elaborate on each of the reasons for the resolution that I have introduced, turning first to the closed, partisan manner in which these rules changes were adopted this past January.

Mr. Speaker, the ethics process in the House of Representatives dates back to the late 1960s, nearly 40 years ago. It was recognized at the very outset that there could not be a meaningful ethics process in this body unless it is a genuinely bipartisan one. This makes perfect sense because an ethics process that is dominated by the majority party in the House will become simply another tool of partisan warfare and will have no credibility whatsoever.

So both when the committee was created and the ethics rules were established in 1968, as well as when the rules changes were made in the rules in 1989 and again in 1997, those actions, those creation of the rules, fashioning of the rules, recommending the rules to the House, that whole process was the result of a thoughtful, deliberative process that was, in fact, genuinely bipartisan in nature.

The task force, created with an equal number of Democrats, an equal number of Republicans, whether the Republicans were in control of the House at the time or whether the Democrats were in control of the House at the time, all of the rules changes and their adoption and their recommendation to the House of Representatives came out of a genuinely bipartisan process.

The process that was used earlier this year stands in stark contrast to those earlier efforts. Those rules changes were drafted in secret, and their text was publicly released literally only hours before they were to be voted on on the House floor. At no time was anyone on this side, on the minority side, of the aisle ever consulted about those changes. Likewise, the Committee on Standards of Official Conduct itself was not consulted about those rules changes; and, indeed, it is not at all clear who was consulted about them or whether their proponents really fully understood the meaning and the implications of the changes which they wrought.

It will come as no surprise to anyone that the rules changes resulting from such a closed, summary process, it will come as no surprise that they are seriously flawed; and that leads me, Mr. Speaker, to the second reason why these changes must be repealed.

As I have mentioned, the rules changes were passed by the majority earlier this year. They fall into three categories. The first rules change relates to the automatic dismissal of complaints that are filed with the committee, automatic dismissal of complaints the first rule allows; the second rule granting certain so-called due process rights to Members, a cynical characterization of due process I might add; and the third so-called right to counsel provisions are contained in the last rules change.

Mr. Speaker, let me begin with the automatic dismissal rule. The automatic dismissal rule of the complaint, it constitutes a radical and particularly destructive change in the rules. Up until now, a complaint filed with the Committee on Standards of Official Conduct, and keep in mind that under the rules no one other than a Member of the House may file a complaint before the Committee on Standards of Official Conduct, but under the old rules a complaint could be dismissed only by a majority vote of the committee.

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Under the automatic dismissal rule which the majority is trying to impose upon the Committee on Standards of Official Conduct in its rules passed earlier this year, a complaint can be dismissed just by the passage of time. A period as brief as 45 days from the date of the complaint is deemed to satisfy the procedural requirements of the rule; and if it is not disposed of any other way, the passage of that 45 days will result in automatic dismissal of the complaint. Members of the committee could have during that period sat on their hands, or they may have been engaged in the August recess because it is not legislative days, it is calendar days.

One wonders if the drafters of this rule were even aware that in 1997, the House strongly rejected an automatic dismissal rule that was far less restrictive than this one. The proposal considered at that time applied where a motion before the committee to refer a complaint to an investigative committee did not pass, and it provided in that instance for automatic dismissal of the complaint after 180 days from the date of the vote, a lot longer than 45 days under this automatic dismissal rule. But even with the 180-day automatic dismissal, this House of Representatives in the only recorded vote in the full House on a bipartisan basis rejected the idea of a complaint being automatically dismissed that is pending before the Committee on Standards of Official Conduct simply by the passage of time.

Even that proposal was defeated on a bipartisan vote because it was recognized that any automatic dismissal rule simply promotes deadlock and partisanship on the committee. It promotes inaction. It encourages members not to fulfill their responsibility. This is especially so in those controversial, high-profile complaints that come before the committee, and it is in the handling of complaints of that kind that the committee's credibility is most at stake.

Mr. Speaker, if the Committee on Standards of Official Conduct is to be worthy of its name, its members must give thoughtful, reasoned consideration to every complaint that comes before it; and any rule that would truncate that responsibility, that would provide for an automatic dismissal of the complaint based on the inaction of the members cannot be allowed to stand if our credibility is going to remain intact.

The rules changes that grant certain so-called due process rights to Members apply whether the committee or an investigative subcommittee proposes to conclude a matter by issuing a letter or other statement that references the conduct of a particular Member. While statements of that kind do not constitute and are not characterized as a sanction, the committee has been very cautious about issuing them; and, of course, like any other committee action, such a statement cannot be issued without the bipartisan support of committee members.

It is also important that statements of this kind are issued only where the conduct involved has not been the subject of a formal investigation, and a determination has been made that the issuance of such a statement in an appropriate way to resolve a complaint or other allegation of misconduct is an appropriate disposition.

Where a Member is going to be the subject of such a letter or similar statement, it is not, I agree, unreasonable to grant that Member certain rights, such as prior notice and a meaningful opportunity to respond, but the rules changes go well beyond this for they also grant such a Member the right to demand that the committee create an adjudicatory, a trial, if you will, subcommittee that is to conduct an immediate hearing, an immediate trial, on the conduct in question. Where the committee proposes to resolve the complaint by issuance of a letter, this trial would take place without any formal investigation of the matter ever having been conducted, without a single subpoena ever having been issued or a single deposition ever been taken. It gives the Member the right to jump immediately to the trial stage.

No committee that is at all serious about conducting its business would allow itself to be put in such a situation. It emasculates that part of the committee's power and ability to, in proper due process order, develop the factual basis for a disposition perhaps involving a trial.

It may well be that this immediate trial provision was included in the rules in order to force the committee, whenever a complaint is filed, to decide between two alternatives: either dismiss the complaint without having any comment whatsoever on the conduct of the respondent, or refer the complaint to an investigative subcommittee for formal investigation. But there is no valid reason to hamstring the committee in this manner.

The resolution I have proposed would repeal the right to demand an immediate trial but would substitute instead the far more reasonable right to demand that the committee commission a formal investigation of the conduct in question.

Mr. Speaker, the third rules change, the so-called right to counsel provision, is particularly mischievous, and it might be better characterized as the "right to orchestrate testimony provision."

This rules change prohibits the Committee on Standards of Official Conduct from requiring in any circumstances that a respondent or witness in a case retain an attorney who does not represent someone else in the case. This change is particularly egregious in that two separate investigative subcommittees of the Committee on Standards of Official Conduct had raised the concern that an attorney's representation of multiple clients in a case may impair the fact-finding process, and those investigative subcommittees recommended to the full committee the adoption of a rule or policy under which multiple representation could be barred. In short, the ethics process in the House has been seriously damaged by both the substance of these rules changes and the summary partisan manner in which these changes were adopted.

In the case of the latter rule, imagine the lawyer that is representing the accused having the absolute right to represent all of the witnesses that are going to be interviewed in the case, certainly undermining the ability of the committee to do its job.

But we are still in the early months of this Congress, and it is not too late to undo the damage that has been done. We can once again have an ethics process in the House that commands the confidence and respect of both the Members of this body and the public.

The first step, Mr. Speaker, is to repeal those rules changes and to affirm that any changes in either the substantive ethics rules or the rules governing committee procedure will be made as they have always been made in the past, only in a deliberative, open and genuinely bipartisan manner.

Mr. Speaker, at this time I yield to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank the gentleman from West Virginia (Mr. MOLLOHAN) for yielding me this time.

I had the opportunity to serve on the House Committee on Standards of Official Conduct for a little over 6 years during some very difficult times for this institution. I remember Speaker Foley calling me and asking me to serve on the Committee on Standards of Official Conduct. It was not a request. I was being drafted to carry out a very important responsibility that we all have. Under the Constitution, we must judge the conduct of our own Members. It is a solemn responsibility. How we go about doing that will reflect on the integrity of this institution, and that is why it is so important that we do it in the right manner and in a bipartisan manner.

Mr. Speaker, we are all human and we do make mistakes, and that is why we need a Committee on Standards of Official Conduct, to give guidance to Members as well as monitor the conduct so the public has confidence that in fact we are carrying out our Constitutional responsibility to judge the conduct of our Members.

For that reason, I thank the gentleman from West Virginia (Mr. MOLLOHAN) for his service on the Committee on Standards of Official Conduct, very distinguished service on behalf of this institution. And I also thank the gentleman from California (Mr. BERMAN), who has devoted much of his time to the ethics work, as has the gentleman from Massachusetts (Mr. DELAHUNT). I thank him for his work on ethics issues. We do not issue many press releases for this work. This is not something Members do because they want to do, it is something Members do because they have to.

Mr. Speaker, I was on the Committee on Standards of Official Conduct when we had the charges brought against Speaker Gingrich and the so-called banking scandal. Both of those issues were highly publicized, received a lot of attention and were extremely difficult matters. I was one of the four members of this body that served on the investigative subcommittee on Speaker Gingrich. We spent hundreds of hours in deliberations and in preparations. We spent months in work, but we reached a conclusion. We reached a conclusion not because it was easy. We reached a conclusion because we were able to listen to each other. We worked not as Democrats or Republicans. We worked as Members of this body to do what we are required to do, and that is to judge the conduct of one of our own Members, and we reached a unanimous conclusion.

As a result of that particular case, this body thought that we should review the rules under which the Committee on Standards of Official Conduct operates. We thought it was appropriate to review the process that we use. So what did we do after the Gingrich investigation? The majority leader and the minority leader sat down and worked out a process that would maintain the bipartisan reputation of the ethics process and allow a fair, transparent, open process for looking at changes in our ethics rules.

I was named the co-chair of that task force along with Bob Livingston, a Republican, who was named the other cochair, and we had an equal number of Democrats and Republicans on that task force. We held hearings, and we had witnesses who came before us. Members came before us, and we looked at the concerns that were expressed during the Gingrich investigation about trying to move in a more timely manner to give due process to each Member and looked at ways to streamline the process but still maintain the integrity of the ethics process. That was our charge. We came up with changes, and we did that in a bipartisan vote of our commission.

The only way the ethics process works is if it is bipartisan. We cannot do it just because one side has the votes in the majority. We must maintain the bipartisan manner of the ethics process, including the way we change the rules, if we are going to be able to maintain the integrity of the process and be able to look the public in the eye and say, yes, we are carrying out our constitutional responsibilities to judge conduct of our own Members.

The gentleman from West Virginia (Mr. MOLLOHAN) has gone through the three rules changes passed at the beginning of this Congress on a partisan vote. I want to talk about one, the automatic dismissal.

It was interesting, in 1997, a Member of this body offered an amendment to our rules package and suggested after 180 days there be an automatic dismissal of a complaint, a much more modest proposal than the one ultimately brought forward by the Republican leadership and passed by the membership on the first day of this session by this Congress. That 180-day automatic dismissal was rejected by a bipartisan vote in this body in 1997. The reason was quite simple: We thought it would just add or just bring us to partisan gridlock.

Unfortunately, I think that is exactly what is happening. The first day of this session we passed a rules change that says after 45 days there is an automatic dismissal of a complaint that is brought. So inaction becomes action. There have been many serious issues that have confronted this Nation that have taken us terms of Congress to deal with. For instance, in working on the welfare reauthorization bill, we have been working on that for three Congresses, and we have not been able to pass it. It has taken time. Inaction here becomes action. That is not what it should be and obviously will not have credibility with the public.

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Partisanship is rewarded with a deadlock being dismissal. Each of us belongs to a political party. The pressure on us would be immense just to do nothing for 45 days. I think that is quite obvious. And that gets rewarded.

The ethics process must be bipartisan. We should not have a basic rule that rewards partisanship. And then delay is rewarded. Inaction is rewarded, as I indicated. And the complexity of the issues that you have to deal with on the Ethics Committee would give you a practical reason to say, Well, I'm sorry, we couldn't complete it in time and now there's an automatic dismissal.

I think about the Gingrich case that I had to investigate, and I think about the complexities and the documents and the depositions and all the work that we did in that case. You could not possibly have done that in 45 days and do justice to the Member who is accused or the institution that is being challenged as to whether we can, in fact, investigate a case fairly. Yet this rule change will say, if you cannot complete it in 45 days, there can be an automatic dismissal.

So, Mr. Speaker, for all the reasons that the gentleman from West Virginia has pointed out on substance, these rules changes were wrong; but I think the underlining point, the most important point here is the process must be bipartisan. It was violated in these rules changes that were passed at the beginning of this Congress. I urge my colleagues to listen to the gentleman from West Virginia. Let us repeal those three rules changes and go back to a process that has served this institution well over many, many Congresses, a bipartisan process, a true bipartisan process to look at rules of the committee and, if changes are needed, to do that in a bipartisan manner rather than by the strict votes of the majority. I would urge us to do that for the sake of the integrity of this institution.

Mr. MOLLOHAN. I thank my friend from Maryland.

I would like to invite our colleague from California (Mr. BERMAN) to join this discussion.

Mr. BERMAN. Mr. Speaker, I appreciate the gentleman yielding and to the ranking member of the committee, I thank him for involving me in what I think is a very important effort. I think both he and I are not prone to come to the floor on Special Orders, and I think our presence here tonight indicates just how strongly we feel about what is being done to a process that everyone participating in this Special Order has spent a great deal of time on.

If there is a member of the majority or a staff member of the majority watching this, I would hope they might sit back, get past the irritation over any particular action the committee has taken that they may not have liked and think what they have done and realize that what they have done in making these rules changes unilaterally and breaching the fundamental commitment to a bipartisan process, what that ultimately will do and how that will play out in terms of destroying the concept of an effective and meaningful bipartisan Ethics Committee process.

And that notwithstanding the constitutional mandate, we will be left with a situation where the rules of the House and the standards of conduct that we have promulgated and expect Members to adhere to will become essentially unenforceable because of the breach in the commitment to a bipartisan approach to these issues.

For me, that approach means the members of the committee throw aside the question of how the partisan implications of a particular action play out and search for the facts and apply the rules of official conduct and the appropriate standards that have been adopted by this body and apply those to those facts in a fair, objective, and independent way without focusing primarily on the political or partisan ramifications of that.

Both of the previous speakers have spent a great deal of time both talking about the process and developing the rule. When I was asked to become the ranking member of the Ethics Committee, Minority Leader Gephardt told me about this and after a little bit of depression at the thought that I would have to spend a serious amount of time doing this because, as the gentleman from Maryland mentioned, none of us relish this particular job, it is a great deal of time, its direct impact on our own constituents or on the substantive issues we care about is relatively minor. We are here and we have taken this position in the past because of our own commitment to the institution, a very important institution, the House of Representatives, and how the work of that House is going to be conducted.

But when Mr. Gephardt asked me to do it, I said, Dick, I don't want to fight the political battles and the partisan battles in the Ethics Committee. He says, The reason I am asking you to take this position is because I want to end the Ethics Committee as a place where partisan battles will be carried out. It is my commitment to that process that causes me to ask you to take this position.

With that understanding, I did. And I had the great pleasure of working with three separate Republican chairmen, members of the majority, our former colleague Jim Hansen for the first 2 years, my friend and colleague LAMAR SMITH for the next 2 years, and in the last 2 years of the Congress for the recent chairman of the committee, JOEL HEFLEY. In those 6 years with three different chairmen and a number of different members of the committee, particularly on the majority side, if I can think of two votes, two times where in a disciplinary matter there was a division of the vote, that we did not reach a consensus that was accepted initially by the chair and the ranking member and then by the entire committee, I cannot think of more than two votes.

And on the two times when I remember there being some divided votes, they were not done on partisan grounds; they were done on individual members' interpretations of the facts applying the rules of conduct to those facts.

What has happened here would have been unthinkable during those 6 years, that the majority party would decide to embed fundamental changes in the rules inside the larger House rules package, thereby forcing those rules to be addressed in a partisan fashion and then, without consultation with the minority, without showing the minority what those rules changes were for there to be any possible give-and-take or effort to achieve a consensus, ramming through those changes in the Ethics Committee rules in a way that I will try to establish, as I think both of the colleagues preceding me have, hurt the process and hurt it very fundamentally.

So apart from anything else and even the substantive provisions of these rules changes, the fact that it would be done on a partisan basis, without consultation, without an effort to reach a consensus, without coming from the bipartisan Ethics Committee was a terrible, terrible mistake and shakes all of our confidence in whether this process is even a process we want to participate in.

I say all of that preliminarily just to say that I hope calmer minds and people who put their concern for the institution above their irritation with a particular case will think again about what they have done and convene some process by which we can bring back the comity that has existed, I think, during the gentleman from West Virginia's tenure as ranking member and certainly for the 6 years preceding that when I was ranking member, because I think we will all be better served by that.

I do want to make one other point. This is the only committee in the House that is equally divided between Democrats and Republicans. It was the intention of this committee at the creation of this committee and the formation of this committee that things be done on a bipartisan basis, staff hired on a bipartisan basis, disciplinary matters dealt with on a bipartisan basis, advise and consent. When people want to know interpretations, we approach it without regard to the political and partisan implications of the Member who is requesting or the individual who is the object of the disciplinary investigation.

Going to the rules changes, when former Congressman Tauzin offered an amendment to the ethics task force report which provided automatic dismissal for 180 days, as both my colleagues who preceded me have mentioned, a far more lenient provision than the one adopted at this particular time, our friend and colleague HENRY HYDE said, Why not adopt it? When juries deadlock, the case is dismissed.

But in saying so, he made our point. The judge does not tell the jury, if you don't decide in 2 days or 3 days or any number of days, if you are deadlocked at that point, the case is dismissed. You do not create incentives for people not to decide. With a rule like this in place, the respondent, the object of the complaint, knows that stonewalling ultimately leads to dismissal, that Members of the respondent's political party, be they Democrat or Republican, are now incentivized not to move ahead with the investigation because a certain result is predetermined after a certain number of days, and the kind of collaboration and coordination that takes place between the chair and the ranking member as they come to a determination of whether or not they should seek to create an investigative subcommittee or to ask the full committee to create an investigative subcommittee is over.

There can be many issues in these complaints. Some of them maybe should go forward. Some of them should not. There is a whole process by which staff and the Chair and the ranking member work together to investigate and try to come to a collaborative determination. Either one of them under the rules that have existed have a right to put the item on the agenda if they think there is no further chance at consensus. But the one thing I know is that when you set a time limit, especially a time limit as short as this one, for the automatic dismissal, you are incentivizing those who do not want the process to go forward without regard to what the facts are.

You are incentivizing them to make sure that nothing happens, because the result, the conclusion of dismissal is preordained. It is a terrible mistake. It is an assault on the collaborative process that this committee should operate under and just has to be changed if we are going to really move forward in a positive way.

The second rule that allows the demand of an immediate adjudication is also defective, because by doing so, the respondent can obviate the investigative process and it can be motivated by the same intent, to cut short the investigation, to take away the give-and-take between the parties so that they can come to an agreed-upon statement which should be sent by the full committee to the investigative subcommittee to pursue, weeding out the false complaints or the minor issues, the ones that do not raise substantial questions that the rules were violated, including the ones that do. It is just another way of undermining that process, because you cut short the whole investigation. That preliminary investigation is very important in making this whole process work.

Finally, my last comment is on the collusion rule, where you explicitly allow attorneys to represent more than one party in a matter. Not leaving it to the discretion of the committee, but saying that an attorney has a right to represent a number of the different people being investigated, you are essentially telling the Member of Congress who is the object of a complaint, Go out, hire the lawyer, pay for him to represent anybody on your staff or any of your friends who might be the subject of this investigation as well and approach a common defense which precludes the ability to really effectively ascertain the facts. It is truly a collusion rule. There may be times when it is appropriate for the attorney to represent more than one person involved in the matter, but to give it as a matter of right to the respondent in this kind of a case sets up a dynamic, again, that destroys the ability of the Ethics Committee to function effectively and efficiently.

With all of those comments, they all go to the overarching point: substantively, these rules are a mistake. The way they were done is intolerable. I do not know how one could continue to be part of a process when we have abandoned that kind of comity and bipartisanship that has been a hallmark of this process. The same leadership that decided to do this, I think, in a fit of anger and perhaps in a moment of unbridled passion has over and over again prior to this time reaffirmed their desire to have a bipartisan process as evidenced by the people they appointed and by the way those people proceeded and by the efforts to do everything on a collaborative basis.

And it worked. And it worked well. We did not go crazy going after Members on pointless grounds. We were not a runaway committee. We also, conversely, did not throw evidence of real violations into the trash can and ignore them. Why we would want to alter that fundamental process at this particular point to the damage of this institution, I do not know.

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Mr. MOLLOHAN. Mr. Speaker, I want to thank the gentleman from California and the gentleman from Maryland alike, who, based upon years of commitment to the Committee on Standards of Official Conduct process in the House and lots of experience with different cases and the fashioning of different rules, for their very insightful comments.

I now yield to the gentleman from Massachusetts (Mr. DELAHUNT), a Member who has a very long history, a distinguished career in law enforcement as a District Attorney in his home State of Massachusetts, who in the last Congress served extremely admirably the Committee on Standards of Official Conduct as he was called off the investigative subcommittee pool to review one of the most unusual cases that the Committee on Standards of Official Conduct has looked at. I thank the gentleman for joining us tonight.

Mr. DELAHUNT. Mr. Speaker, I thank the ranking member for yielding to me.

I have to say they have all served this institution well. They provided me with a real history lesson here this evening. I am probably, maybe with one exception, their senior in terms of age, but they carry a wealth of insight and experience in this issue.

What I found particularly interesting was that single experience I had serving on that subpanel in many ways reflected what they each individually came to a conclusion. What I discovered was that it worked. We worked hard, much harder than I anticipated. It was long hours. We brought before that subcommittee a significant number of Members of this House. They fully cooperated, each and every single one of them; and we worked in a bipartisan fashion.

The two Republicans that served on that particular panel, I knew one before and I happened to be a classmate, and the other one I never really had any contact or communication with. And I have to tell my colleagues I was extremely impressed with their concern about this institution, with their professionalism, with their standards and their willingness to work in an extremely collaborative way. It truly was a lesson that bipartisanship exists in this institution, and particularly in the rubric in the format of an ethics investigation is absolutely essential.

We talked about the House today, and we all obviously go back to our home districts, and we hear our own constituents decry what they perceive to be the strident level of partisanship that, unfortunately, does exist today within this institution. But my experience on that subpanel was really informative, that those who love the institution, those who understand that if there is a lack of confidence in the integrity of this institution by the American people that we erode the health, if you will, the viability of our democracy.

It really is a sad comment that, without consultation, in a unilateral move, these rules changes came to the floor and were adopted. Because I think the real issue here will be not just the erosion of the respect of the institution over time, but there will be demands from the outside. There will be a legitimate question posed by the American people as to whether this House can, in fact, police itself, whether we have the capacity to maintain high standards.

If we abrogate that responsibility, not only do we do damage, in my opinion, to this institution, but we chip away at the health of American democracy. People will begin to believe the worst. What is happening in that institution? Are there backroom deals going on? Or is the partisanship so absolutely venomous at this point in time that they cannot work together and there should be some sort of independent group or independent commission that polices those Members of Congress? That would indeed be unfortunate, in my judgment.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I appreciate the gentleman from Massachusetts' comments, and I agree completely with his point. The point that all of us who have served on the Committee on Standards of Official Conduct and have gone through investigations understand that when we meet in that investigative setting when we have a specific matter before us and when we start looking at the rules of the House and the precedence of the House, we do not get into a disagreement along party lines as to what the rules are and what the expected conduct is. We then look at the facts, and once again the facts become the facts, and we do not divide along party lines as to what the facts are and how we apply them to the rules, and generally, as the gentleman from California (Mr. BERMAN) pointed out, in an overwhelming number of cases we reach consensus, unanimous judgment, as to what the rules of the House applied to the facts require us to do.

And even when we reach disagreement, it is not along party lines. Sometimes there is disagreement on the interpretation of the rules or the facts, but they are not along party lines.

In every case that I can ever recall in the Committee on Standards of Official Conduct, that is exactly how we proceeded and reached judgment, because of the point that the gentleman said, the seriousness of our work and the credibility of this institution and the confidence of this institution is very much affected by it.

I think what is extremely disappointing is that we now have rules changes that were dictated in a very partisan manner that make it impossible for the committee to function. This is one of the few bastions of nonpartisan activity within the Congress. Now that is unable to operate because of the way the rules changes were made, and I just thank the gentleman for underscoring how important this matter is.

Mr. DELAHUNT. Mr. Speaker, if the gentleman will continue to yield, if I may just pose a question, again there is a wealth of history that I am looking at right here in terms of the issue of ethical standards in this particular institution. Has there ever been before a moment in terms of ethical standards where a unilateral initiative has been imposed on the body without a collaborative effort, without consultation?

Mr. MOLLOHAN. Mr. Speaker, reclaiming my time, I think that is exactly where we are today. There, in fact, has not been such a moment, and we have this process that is offensive in and of itself, that is a serious break with all tradition with the Committee on Standards of Official Conduct when its formation was conducted in a bipartisan manner. The subsequent rules changes, as both the gentleman from Maryland (Mr. CARDIN) and the gentleman from California (Mr. BERMAN) have described in considerable detail because they were involved, all those processes were bipartisan. They brought us bipartisan rules, and they brought us rules that were voted on by the full House of Representatives as a bipartisan package. The process was not offensive. Neither were the rules offensive.

In this case, the process breaks with that tradition. It is patently partisan. The most partisan vote we have in the House of Representative is a party-line vote, and that is a vote that attempts to impose these rules upon the Committee on Standards of Official Conduct, a party-line vote. All the Republicans voting for them; all the Democrats voting against them. So the process is tainted.

So it is no surprise that these three rules are extremely offensive. If they had been fashioned in a bipartisan process, they would have been vetted. They would have been challenged. They have would have been compromised in that task force format, and they would not have come to the body flawed as they were.

When we undertake a partisan process, we cannot create a bipartisan entity. It is definitionally impossible to do.

So now we have three rules. We have had to suffer under a partisan process established to affect a bipartisan committee. But we also have three rules that are terribly flawed.

And the bottom line here is tonight and the message that we want to get across to our colleagues and to the whole Nation is that if we are going to have a bipartisan Committee on Standards of Official Conduct, we have to have a bipartisan process to fashion the rules and to constitute the committee, and we also have to challenge these three rules that are brought to us in a partisan process.

Automatic dismissal of a complaint after 45 days is extremely mischievous to the process. As all of my colleagues have pointed out, rules should exist to help people do the right thing. An automatic dismissal rule in 45 days incentivizes Members in a highly charged partisan institution to sit on their hands for 45 days and let this responsibility pass to have an automatic. The same sort of undermining is taking place with regard to a rule that will automatically allow an accused to get their lawyer to represent all of the witnesses that the committee is trying to investigate.

The gentleman from Massachusetts was a prosecutor for 25 years or however long it was, and the gentleman, I know, understands how mischievous that would be to an investigative process.

Mr. DELAHUNT. Mr. Speaker, if the gentleman will continue to yield, to be perfectly candid, I think a lawyer who would take on the assignment of multiple representation could very well find him or herself in an ethical dilemma. Because, clearly, not all witnesses have the same interests. So for an attorney to do that really has ethical overtones as well. It just does not make any sense.

In fact, one of the recommendations that came out of the subpanel that I served on was for the House to consider the sequestration of witnesses so that the fact-finding process itself would not be colored by conversations among staff and Members. And, as the gentleman knows, it was a unanimous report, and it was adopted unanimously by the House.

I hear sometimes comments about lack of due process. That is a whole other issue, but I am very proud of that product, as I know my three colleagues were on the subpanel, and not once did an individual's name ever appear in print. Not once. There was not a leak because each of us understood the significance and the importance of taking this unpleasant task on in a role that reflected well on the House and reflected the integrity of this institution.

Mr. MOLLOHAN. Mr. Speaker, the gentleman makes the point that in the case that he worked on, and it is unnecessary to mention it by name, but that his investigative subcommittee, he and his colleagues, did an excellent job. And one of the reasons they did is because they were able to keep that information between the witnesses apart. They were not able to have coordination. Their testimony was not contaminated in that way. And that is why they came up with such a clean, hard decision, which was adopted unanimously by the investigative subcommittee and was adopted unanimously by the full committee.

Mr. DELAHUNT. And we never could have done it, Mr. Speaker, in 45 days. Never.

Mr. MOLLOHAN. Mr. Speaker, I ask the gentleman, how long did it take them to come with that investigation?

Mr. DELAHUNT. I think it was in the neighborhood of 6 months, and there were multiple, multiple meetings.

□ 2100

Mr. CARDIN. I cannot think of any case that we ever had that could have been handled in 45 days. I am just trying to think about the time period for answer, the time period for staff review, the time period just to verify basic simple facts. Even in the simplest case, I do not know of any case that we could have handled in a professional manner within a 45-day period.

Mr. MOLLOHAN. Mr. Speaker, reclaiming my time, exactly. Under the new rules, to be perfectly clear about it, the 45-day period would toll once an investigative subcommittee were appointed. But the point here is that the effort of any of those who did not want to have to fulfill their responsibilities and actually consider the merits of the case, anyone, any party, any five members who had that attitude could simply avoid the question of creating an investigative subcommittee and easily do it. There are two clocks that run when a complaint is filed, a 45-day clock and a 30-day clock to answer it; and then you would have 15 days to actually dispose of the matter

Mr. BERMAN. If the gentleman would yield further, a tremendous amount goes on before it ever gets to a recommendation by the Chair and the ranking member to the full committee to create the investigative subcommittee.

I think of cases where staff had to go to county courthouses to review deeds and a whole series of public records to decide if there was any basis for moving forward. It is true that the staff at that point does not have the power of subpoena and does not have the power to get records that are not in the public domain, but they do have the power to informally talk to people who would have information about this, to look at public records.

You cannot do this in 45 days. You cannot come to a serious recommendation that you are going to make to the full committee, that both the Chair and the ranking member can feel comfortable that they can go to the full committee and say we think now is the time to create the investigative subcommittee, unless you have that preliminary work. Otherwise, you just might as well send everything to an investigative subcommittee.

The flip side of an automatic dismissal is every charge gets investigated, with subpoenas and depositions and seizing of records through warrants, which would be a terrible thing for the due process rights of Members. So we are messing with something we should not be messing with here, and it is going to hurt the institution.

By the way, if this were not part of the larger rules package on an opening day, a very small part in terms of the substantive works, I believe there are Members on the other side of the aisle who would have supported the position we are now taking on the substance of these rules; and I know there were members of the committee that would have fully, both present and former, understood how dangerous these rule changes were.

Mr. MOLLOHAN. Mr. Speaker, reclaiming my time, that opportunity exists with H. Res. 131, the resolution that I introduced on March 1, that is now pending before the Committee on Rules. Last week I wrote the distinguished chairman of the Committee on Rules and respectfully requested an opportunity to testify before the Committee on Rules in support of H. Res. 131, to raise some of the questions that have been so eloquently and capably discussed here tonight.

I think the gentleman's point is very well taken: the rules package was an omnibus rules package. These are three ethics rules embedded in the rules package, so it did not get the kind of visibility, the kind of attention that it would get if H. Res. 131 were brought to the floor of the House. Then we would have an opportunity to fully debate all of these issues and, more importantly, our colleagues, both Democrat and Republican, would have a chance to vote on these discrete rules, understanding how important they are to ensuring a credible ethics process and restoring it to a bipartisan basis.

Mr. CARDIN. Mr. Speaker, if the gentleman will yield further, just as a final comment in answer to the gentleman from Massachusetts (Mr. DELAHUNT), I do not know of it ever being done the way these rules changes were made. We have always had a deliberative process for the reasons the gentleman from California (Mr. BERMAN) and the gentleman from West Virginia (Mr. MOLLOHAN) pointed out, so we have a chance to understand the ramifications of these changes. We have never had significant changes to the ethics rules done on the opening day by the majority without working with the minority.

Mr. BERMAN. If the gentleman would yield on that, the irony was at the time of the greatest anger about committee action, which was the case the gentleman participated in dealing with a sitting Speaker of the House, the response was not then to change every rule that bothered him. It was to create a bipartisan task force to look at the rules, to look at it in the context of that case, to see if anything should be changed. That is the appropriate response if you are upset with the way some particular rule seems to be working at the present time.

Mr. DELAHUNT. Mr. Speaker, if the gentleman will continue to yield, I would say to the gentleman from Maryland (Mr. CARDIN), maybe it is time for you again and the gentleman from West Virginia (Mr. MOLLOHAN) and the gentleman from California (Mr. BERMAN) to serve on a bipartisan task force with that in mind.

Mr. MOLLOHAN. Mr. Speaker, reclaiming my time, let me thank you tonight for overseeing our Special Order. I express special appreciation to these three distinguished Members of the House, my colleagues, for their participation.

I think this has been an extremely reasoned, hopefully informative and persuasive prayer to the Republican leadership to look at this issue, to take a second look at it, be impressed by the fact that we are not operating in a bipartisan process, and we must if we are going to have a credible Committee on Standards of Official Conduct, and then to look substantively at these three rules, how they undermine, create mischief, make it impossible, really, to conduct the oversight, the ethical oversight of the House of Representatives in a way that will make the institution proud and make us credible to the American people.

SOLVING THE CHALLENGE OF SOCIAL SECURITY

The SPEAKER pro tempore (Mr. DAVIS of Kentucky). Under the Speaker's announced policy of January 4, 2005, the gentleman from Georgia (Mr. PRICE) is recognized for 60 minutes as the designee of the majority leader.

Mr. PRICE of Georgia. Mr. Speaker, I appreciate the opportunity to address the House this evening on an issue that is really of utmost importance and urgency. It is something that has been in the news an awful lot over the past number of weeks and months; and hopefully tonight we will be able, along with some of my colleagues, to bring some greater clarity to the importance of this issue, as well as the importance of solving the challenge of this issue, and that issue is Social Security.

As a freshman here in Congress, when I go home I get asked, What are your impressions of Congress? What is going on up there?

I am struck by two things. The first is that we live in challenging times, incredibly challenging times, and there are issues that demand attention and that demand the honest, hard work of the people in Congress on behalf of the citizens of our Nation, and it is imperative that we act. Our constituents demand that we act, and it is appropriate that they should do so.

The second impression that I have is that I could not be more proud to serve with a President who is not afraid to tackle big issues. We have got some incredible issues before us. Social Security being one of them, and this President has put it on the table and said, Ladies and gentlemen, let's work together honestly and sincerely and let's solve this problem.

We had a break at home recently; we were all home for 2 weeks talking to our constituents and our neighbors and friends, and I had the privilege of being with Secretary of Health and Human Services Mike Levitt, who was speaking to a group about Social Security, and he kind of crystallized it, I thought, really very, very well.

He said, There comes a time in history when a problem is large enough to see, yet still small enough to fix.

There comes a time in history when a problem is large enough to see, yet still small enough to fix, and I believe that Social Security is exactly at that stage. The problem is large enough to see, but still small enough to fix.

Let me begin very briefly, and then have some of my colleagues join me. I would like to talk about some principles. I think it is important when we have discussions about public policy, especially on something as important as Social Security, that we stick to principles. I can outline four or five principles that I find to be incredibly important in this discussion about Social Security.

The first one is that it is a promise. I believe and I suspect that the majority of Americans believe that Social Security is not just a government program; it is not just a program that was instituted 70 years ago willy-nilly. It is more than a safety net. It is a promise. It is a covenant with the American people by all of us to the generations of hard-working Americans, and it says that Washington took money from your paycheck, your paycheck, your entire life, and they made a promise to you to return that money upon your retirement. So it is a promise.

The second principle that I think is important to keep in mind is that of generational fairness. It is imperative that we save and that we secure Social Security so that our children and our grandchildren will receive the same benefits that we when we retire will have enjoyed. So generational fairness. It only works when it is fair for all Americans.

The third principle, and this is a tough one in this institution, and I was listening to my colleagues on the other side of the aisle a little bit earlier and sometimes with amusement, but the third, which I am serious about and I believe that all of us should be, is that this issue should not be partisan. It ought not be partisan.

When it comes to the retirement of tens of millions of Americans, there are not Democrats or Republicans. We are all Americans, and those Americans are counting on us to work together and to do what is right for the current generation and for future generations and those just entering the workforce. So it ought not be partisan.

Fourth is that concept of a nest egg. All working Americans deserve the peace of mind that if they live by the rules and they work hard and they live up to their responsibilities, that there ought to be a nest egg available to them, taken from that money that they have so generously put into the Social Security system.

Finally, and we oftentimes find that Washington forgets this, but to all Americans, this is your money. This is your money. It is not the government's money; it is your money. It is your future, and it is your life.

I think if we keep in mind those principles, that it is a promise, that there ought to be generational fairness, that it ought not be partisan, that we ought to concentrate on preserving that nest egg, and, finally, it is your money, that it is Americans' money, we will go a long way towards ending up with the right solution.

I am privileged to be joined tonight by a number of my colleagues who will touch on some issues as they relate to Social Security and their perspective. First is the gentleman from South Carolina (Mr. WILSON). The gentleman from South Carolina (Mr. WILSON) recently returned from that 2-week period conducting over 20 town meetings with constituents regarding Social Security.

When I think of those Members of the House who have the highest level of honor and integrity, the gentleman from South Carolina (Mr. WILSON) is right at the top of that list. In my very short period of time here in Congress, I have come to appreciate him greatly. He is the grandfather of two young boys, and he clearly understands the demographic challenges that are facing Social Security and the need to strengthen the system now.

With that, I yield to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentleman from Georgia (Mr. PRICE) for his leadership tonight. It is just a great honor to be here on this very important issue of Social Security and strengthening Social Security, and I appreciate again what the gentleman is doing to bring to the attention, Mr. Speaker, of our colleagues, additionally to the American people, the importance of how we can and why we need to strengthen Social Security.

The gentleman from Georgia (Mr. PRICE) himself is an indication of the leadership in our Congress, and I am so proud. Even though he is just a freshman, he is making such a difference.

I had the extraordinary opportunity in 2001 to be part of the first Republican majority in the State Senate of South Carolina in 124 years, but the gentleman from Georgia (Mr. PRICE) had in 2002 the opportunity to be the first participant in the Republican majority in the State Senate of Georgia in 125 years. Then, as an indication of his leadership, he was elected leader of the State Senate of Georgia, again the first Republican in 125 years. Then he, of course, ran for Congress last year, and is making such a difference.

The reason that we are here indeed to discuss the issue of why we need to strengthen Social Security I believe is very simple: it is demographics. This is not criticism of a political party; it is not criticism of individuals. What we are doing is recognizing something actually very good, and that is that the American people are living longer.

In 1935, when the Social Security system was implemented, the average longevity, the age of what a person in the United States would live, was 59 years old. Today, it is 77.3. I think that is great. It is a testimonial to our health care, to the health care delivery system, to the physicians of our country, to the living standards of the American people.

□ 2115

I had the opportunity to bring this to the attention, as the gentleman from Georgia (Mr. PRICE) has indicated, to 20 town hall meetings recently: the Residence Hall Association of the University of South Carolina, to the Latin American Council of Beaufort County, to the Aiken County Chamber of Commerce, to the employees of Palmetto Electric Coop. Everywhere I went, and I spoke at Estill High School, Hampton High School, everywhere I went I was able to bring to the attention of people of all ages that, due to demographics, we need to make changes and address the concerns that we have with people living longer.

Then, of course, we had the circumstance back in 1935, there were 40 workers who paid into the system, and then there was one beneficiary. Back in 1950, that changed, of course, and there were 16 workers to a beneficiary. Currently, there are 3.3 workers to a beneficiary; and soon there will be just 2 workers to a beneficiary. That clearly indicates we need to strengthen and reform the system.

As I look at what we are doing, it is very frustrating to me that many people seem to indicate that, because the crisis is not going to come about until the year 2041, that it really does not impact people and maybe we do not need to address and make the changes that are necessary. But I need to tell my colleagues, I understand perfectly that in fact it affects everyone in this room, it affects our families.

I appreciate the gentleman from Georgia (Mr. PRICE) pointing out my grandchildren, but even before the grandchildren are impacted, it really affects persons such as me, the baby boomers of America.

Beginning in 2008, there will be 78 million people retiring; and what is going to occur is that, beginning in 2008, the number of retirees is going to dramatically impact and affect the Social Security system. In fact, it will go bankrupt in the year 2041.

The year 2041, that seems so far away. I am very hopeful. I would be 93 years old. So I have to tell my colleagues that that is maybe highly unlikely that I could be around. But a dear friend of mine, Austin Cunningham, who introduced me as I made a presentation like this one to the Orangeburg County Rotary Club, is 92 years old. So I really hope that I am there.

But that would be catastrophic for those of us as baby boomers if Social

Security goes bankrupt. At the age of 93, we cannot begin second careers. There will not be other jobs. We need to address it.

Then I need to tell my colleagues that I am really proud that our oldest son, Alan, just returned from Iraq. He is 31 years old. That is significant, 31 years old, because 36 years from today, he will be 67. He would be retiring. The moment he begins to retire, July 16, 2041, the Social Security system would go bankrupt. That is outrageous.

I am very proud of Alan. This is a picture of where he returned to Fort Stewart from a year serving in Iraq.

So our veterans of Iraq in the war on terrorism, protecting the American people, they are working to protect our country. We need to look out for young people like Alan, 31 years old, who would be catastrophically affected.

Then, of course, my grandchildren. I am very proud, because this week I was with my 2-year-old at the South Congaree Rodeo Festival, and here he is in his little cowboy hat. Little Addison would be 37, 38 years old when our system will go bankrupt. Our newest born grandchild, born just this January, will be 35 years old when the system goes bankrupt. That would be catastrophic.

My grandchildren, our grandchildren, these young people would be affected with an enormous tax increase that would be totally debilitating to their best years of earning, so debilitating to their ability to truly fulfill what we want as part of the American dream.

So I want to thank my colleagues who are here tonight. I want to thank the gentleman from Georgia (Mr. PRICE) for his leadership, and I want to thank President Bush for his courage to point out that this is an issue that needs to be addressed now. It needs to be addressed for the baby boomers, it needs to be addressed for the young people who are in their 30s, high school students, college students, infants who were just born. We need to address this, and I know my colleagues tonight will be presenting to the American people how important this is.

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman from South Carolina (Mr. WILSON). He is absolutely right about the President, with his courage and leadership. The easy thing in this issue is to do nothing.

Mr. WILSON of South Carolina. That is right.

Mr. PRICE of Georgia. That is the easy thing to do. Because there are a few years where people are not going to feel it, they are not going to feel that pain, but the gentleman from South Carolina so vividly brings a face to that by presenting his son and his grandchildren, and I appreciate that very, very much.

I would like now to yield to the gentleman from Texas (Mr. CONAWAY), another fellow freshman who is the father of four grown children and a grandfather to six. He has demonstrated remarkable leadership in his 3 short months in Congress with me, and over the break he conducted 15 Social Security town hall meetings in his district. He brings excellent expertise to this issue, because he is a CPA and a small business owner and former chief financial officer. He truly understands the financial impact that a failing Social Security system will have on his children and his grandchildren and all of us.

So I thank the gentleman, and I yield to him to discuss this issue.

Mr. CONAWAY. Mr. Speaker, I appreciate that.

I, too, want to add my thanks to the gentleman from Georgia for hosting this hour tonight and for going to the lengths that he has gone to gather us together to talk about this very important issue. Had I realized that we could use grandchildren as props as the gentleman from South Carolina (Mr. WILSON) did, I would have brought pictures of mine, because I want to make reference to my six wonderful grandchildren in a few minutes. So the gentleman from South Carolina, as always, has set a very high standard for discussion in this Chamber.

Over the last several weeks at least, I have on occasion caught glimpses of a television commercial that I have found very troubling as we try to discuss and talk about this very important issue of Social Security reform. There is an organization out there that has a commercial running that talks about a clogged drain, a household drain, and they use that as a comparison to the problems and challenges that we face with Social Security.

On its face, it is ludicrous to compare a normal, everyday occurrence of a clogged drain, one that you fix out of your normal operating budget and one that just happens all the time, to the very difficult-to-solve problems that we face with Social Security. We cannot fix those out of our normal operating budget, the normal budgetary process, the problems that we have where in 2017 we will begin to run a cash flow deficit. That means that the payroll taxes that we collect each year will be less than the benefits that we pay out. So at that point in time, we will begin to have to use the surpluses that have accumulated in Social Security. That means that we have to borrow the money in the open market to redeem those IOUs, or we have to cut spending, Federal spending in other areas to make up for that cash flow.

So a very significant problem is coming in 2017.

Then, in 2041, we will have paid back, paid out in benefits all of the accumulated surpluses that are in the Social Security trust; and, at that point in time, current law, as it currently exists, says that the beneficiaries in that date, in 2041, will experience an immediate 27 percent haircut in their benefits. So a clogged drain and a cash flow deficit in 2017, a system that is bankrupt in 2041, a 27 percent haircut in benefits, that is a misplaced analogy if I have ever heard one.

Then this commercial goes on to say that the solutions are like tearing down the house, and they have a bulldozer that runs through this house and destroys it totally. Well, as I look at the reforms that are being talked about, every time any of us talk about it, whether it is the President in his crossing this country back and forth, trying to convince the American people that Social Security reform is something that we ought to be about today, the first thing out of his mouth, the first thing out of yours I suspect at our town hall meetings, the first out of mine, is that current beneficiaries, my mom and dad, this is not about you. We have made you promises. You are getting your Social Security benefits. You will continue to get your benefits no matter what happens. No matter what we do, we have made those promises and we are going to keep those.

Near-term beneficiaries, folks in the 55 and up bracket, if that is where we decide to draw the line, it is not about you either. Your benefits will not be affected.

And reforms that affect our grandchildren, my six and the grandchildren of the gentleman from South Carolina (Mr. WILSON), to say, look, if we think Social Security is good for my mom and dad, it is good for me, then we believe it is good for you as well. So we are going to put reforms in place for our grandchildren.

So those are the reforms that this organization equates with tearing down the house and, in effect, destroying Social Security. Again, a misplaced analogy. I do not think it is helpful to the discussion. I do not think it is helpful or adds to the effort that the gentleman from Georgia (Mr. PRICE) talked about. The gentleman is right. This is not a partisan issue.

The solutions that fit Social Security do not wear jerseys. They do not wear a Democrat jersey. They do not wear a Republican jersey. So to simply fill up the airwaves with conversations and discussions that are not productive, that are not about fixing the system; I am from west Texas. We leave off the "G" on the word "fixing" often. So, to the stenographer, there is no "G" in the word "fixin'," is counterproductive to this entire process.

So I want to add my voice to trying to bring this organization to the table.

Part of our frustration is that we cannot get folks who are opposing Social Security reform to actually begin to sit down and have conversations with us in our inside voices to talk about what these solutions ought to be.

So I am going to send a letter out tomorrow to the leadership of AARP, the

American Association of Retired Persons, and it reads like this:

"Dear leadership: I write today not only as a Member of Congress, but also as a member of your organization and a grandfather. We all know that the debate over Social Security has become very political. However, I strongly believe that this program deserves to be considered above the fray of partisan politics. I am calling on you today to help craft a solution to the problem we are facing.

"I am a CPA with experience in banking, health care, and the oil and gas industry. I was a small business owner and have lived in west Texas nearly all my life. Since arriving in Washington, I have been disappointed by the political partisanship that has inhibited a substantive and honest debate on Social Security reform.

"It is time to set aside partisan differences and come to the table to seriously address Social Security reform. We must have an open debate that is free of political rhetoric and emotion and, with your cooperation, we can at least begin that discussion.

"The best way to address this problem is first to agree about the facts:

"Social Security is safe for today's seniors, but is in serious danger for our children and grandchildren.

"Social Security is a pay-as-you-go system with today's workers paying to support today's retirees. In just over a decade, the government will begin to pay out more in Social Security benefits than it collects in payroll taxes, and shortfalls then grow larger with each passing year.

"Without changes, Social Security will be able to pay 100 percent of its current benefits until 2041 when Social Security will be forced to cut benefits by at least 27 percent.

"This is an issue of generational fairness and the preservation of a promise made in 1935 to future generations of retirees. This vital program shouldn't just be safe for those who are over the age of 55, it should be an equitable and viable program for our children and our grandchildren.

"After reviewing the facts, it is clear that the current system cannot be sustained. When looking towards a solution, we all agree on two major points: benefits for individuals ages 55 and older should not change, and that Social Security needs to remain solvent for all future generations. Let's use this as a starting point for discussion that moves us closer to crafting a common sense solution that fixes the problem and does not simply place another Band-Aid over it.

"The Federal Government has collected hard-earned tax dollars from American workers and used them in a system that is on the path to bankruptcy and yields little return. We cannot idly stand by and allow such a looming financial problem to become a crisis. Every year that we wait and do nothing, it will cost the American taxpayer approximately $600 billion.

"I have six wonderful grandchildren. What kind of a grandfather would I be if I asked them to mortgage their future retirement security on a system that cannot sustain itself? I think the millions of grandparents who make up the membership of AARP would agree with me on this. We must act now.

□ 2130

"Social Security is a contract with ourselves. And that is a contract that we cannot and will not breach. Please, let us not make a partisan issue out of retirement security for our seniors and future generations of retirees.

"I would like to extend an invitation to the four of you that are addressed to discuss all of our options, including permanent solvency and some form of personal retirement accounts in dealing with the future of Social Security. I call on you today to set up a meeting with several of my colleagues to begin discussing these issues. I look forward to working with you."

I would say to my colleague from Georgia (Mr. PRICE), this letter will go out tomorrow to the leadership of AARP. I suspect there are other letters similar to this that have gone to this very influential organization that has millions of members, most of whom we look straight in the eye when we talk about Social Security reform and we tell them in as clear and convincing a voice as we can, fixing Social Security is not about your benefits.

Those promises have been made. We are collectively going to keep those promises. The solutions that we are talking about are about my grandchildren and your grandchildren and making sure that Social Security is in place, that lifetime benefit, that lifetime annuity that protects all of us in our retirement years.

So I thank the gentleman for his leadership tonight and bringing this issue to the table.

Mr. PRICE of Georgia. I thank the gentleman from Texas (Mr. CONAWAY) for his comments. I appreciate that. And that letter really just gets to the heart of the matter. I hope to see that letter in their newsletter. They ought to be sending that kind of information out to their members because, as he said, it really is a disservice when the level of discussion about something so incredibly important sinks to these little games that are played that are not productive and that frankly do a disservice to our Nation and to its citizens. So I thank the gentleman for his participation this evening.

Now I would like to ask the gentlewoman from Virginia (Mrs. DRAKE), another stellar member of the freshman class who is going to join us. She is a Realtor and former State delegate from Virginia. As a former small business owner herself, she is extremely familiar with the positive impact protecting Social Security will have on millions of American families and small businesses. And I yield time to the gentlewoman from Virginia as she consumes.

Mrs. DRAKE. Mr. Speaker, I appreciate the opportunity to be here this evening and to speak to Americans about such an important issue as Social Security.

Mr. Speaker, protecting Social Security for future generations is an investment today's generation can no longer wait to make. My colleagues who I have joined here tonight to speak with on this important issue have very effectively made the case for protecting Social Security. Rather than to repeat their arguments in favor of reform, I would like to address a common argument against what we propose.

One argument about taking on the huge task of saving the Social Security system is what opponents to reform call the "transition cost" associated with the undertaking. They say our program will not make Social Security more solvent. They say it will cost more to reform Social Security than to just leave it alone.

Opponents of reform are right to be concerned about the cost of action. As stewards of the tax dollar, Congress must be fiscally responsible and spend wisely on programs that work. But that is exactly why we need to act now, because the cost of inaction is even greater.

Think about it this way: more Americans own their homes today than ever before in our history. We have all heard this a number of times, and many economists like to use homeownership as a gauge of our society's well-being.

But why? Why is homeownership such a badge of honor? What does it symbolize? Why is such a huge investment and financial liability as a mortgage considered a hallmark of success in this Nation?

It is because ownership brings a sense of fulfillment, a sense of identity and accomplishment. Providing for and protecting your family under a roof you call your own is part of the American Dream because family is at the very heart of our culture.

But buying a home requires an initial, even painful, investment, down payments, closing costs, loans, research, contracts signed, contracts lost, and even more. It requires sacrifice to buy a home. But it is universally recognized as a wise, sound decision to make because of what it yields over time.

As a former Realtor, I know firsthand the benefits and joy of homeownership. And I know what it takes to achieve it, because I have helped thousands of people to do it. I am aware of the cost of buying a home, but the long-run advantages of paying such a high price at the beginning far outweigh the disadvantages.

And, Mr. Speaker, not once in my entire real estate career, which spanned 2 decades, did I ever hear it advised that the transition costs of homeownership outweigh the benefits of buying. And that is how we should think of the transition costs of protecting Social Security, just as we do the down payment on a new home. While the down payment may be high and more expensive than continuing to rent an apartment, the long-term pay-off of owning your own home is monumental.

Mr. Speaker, we can no longer afford to rent the Social Security program from future generations of workers who will either lose massively in benefit cuts or pay dearly through tax hikes if we do nothing. We must make the down payment now or face the consequences of our inaction.

The Social Security trustees, as the gentleman from Texas (Mr. CONAWAY) has pointed out, estimated each year that we do nothing we add $600 billion to the cost of reform, reform that everyone agrees is inevitable. Call it what you want. Call it a crisis, a problem, an issue, a concern. Whatever language you use to describe the Social Security situation that America faces, we cannot afford in this time of war and budgetary constraint to add $600 billion each year. Something must be done, and it must be done today.

But if we do not act, the current Social Security payroll tax of 12.4 percent will have to skyrocket to 18 percent in order to meet the needs of the baby boomer retirees.

As a former small business owner, I can tell you, based on my experience, and at times it was tough, that paying 12.4 percent into a system that will return me 1.6 percent on the dollar was very, very difficult. I cannot imagine trying to own a small business in the future and having to pay an even higher payroll tax. Yet this is what will happen if we do nothing.

If we leave the system alone, small businesses, the Nation's number one job creator, will pay the price. If we do not act, today's average 30-year-old will see a 27 percent decrease in Social Security benefits by the time that she retires.

Can your children get by on almost a third less of what retirees are receiving today?

Do they think it is fair to them to fund the retirement of today's retirees through their payroll taxes, only to be left high and dry when their golden years approach because their leaders did not act?

Would they not prefer to build their own nest egg and pay into a system that gives them real returns on the money for which they work so hard?

And finally, for the very first time, there will be such a thing as a Social Security trust fund. As of now, it does not exist. It never did. Every cent that is paid into Social Security goes straight to Washington, and what is not paid to the current retirees gets spent by Washington. That is the end of the story.

Make no mistake. Today there is no such thing as a Social Security trust fund. But now, for the first time ever, this Republican Congress wants to create one. We seek to implement a savings program that finally ties the taxes paid by an individual to that individual's future benefits.

For the first time, money that you pay into Social Security will belong to you and not to the politicians and bureaucrats in Washington. This is truly an American program. It promises real returns on the money hard-working Americans pay into the system; and it says, the money you have paid is yours to keep and yours to spend on your family.

For the first time, Americans will have some control over their own Social Security. And if today's workers who choose to sign up for personal accounts die prematurely, the money they divert into their personal accounts does not go away like it does today. It will remain with their family. It will be a true nest egg, an asset that is owned by that worker.

We must add to the retirement security of future generations by allowing them control over their own investment. By permitting people to voluntarily establish personal accounts, we strengthen the control they have over their own financial future.

By reforming Social Security now, we stop the $600 billion yearly cost of inaction and allow current workers to own their own nest egg.

Mr. Speaker, it is time to act. It is time to put aside partisanship. It is time to work together to solve the problem that Social Security soon will be if we do not act. Let us put aside our differences and vote on a plan that will save Social Security for future generations.

Mr. Speaker and my colleague from Georgia (Mr. PRICE), I think it is very exciting for Americans to have a choice to have an option to have a voluntary personal account, and I am only sorry that I do not personally qualify for that.

Mr. PRICE of Georgia. I thank my colleague from Virginia (Mrs. DRAKE). My goodness, she brought such clarity to this issue in her explanation there, and I really appreciate that. I also have used the analogy of refinancing a home, a home mortgage to kind of bring clarity and focus on what it is that we must do, we must do as a Nation. And so I appreciate her bringing that perspective to us.

I also just was struck as she was talking. You know, the other side seems to think that if we do not do anything, it costs nothing. Well, that could not be further from the truth. So I really appreciate her participation, and I thank her ever so much.

Mr. Speaker, I think what you have seen this evening initially with the discussions of the gentleman from South Carolina (Mr. WILSON) and the gentleman from Texas (Mr. CONAWAY) and the gentlewoman from Virginia (Mrs. DRAKE) on the issue of demographics and on the demand or the need for honesty in this discussion and the concern and the clarity with which the gentlewoman from Virginia (Mrs. DRAKE) talked about these transition costs as they are described, that they are bringing about those principles that I talked about: that it is a promise; that it is important that we make certain that generations are treated fairly; that this ought not be partisan; that there is a nest egg there; and that it is your money. It is America's money. It is not the government's money.

As I was, over the past couple of months, looking into this issue regarding Social Security, I always try to figure out where it all began, where is the fundamental problem, but also what are other folks saying on this. And I came across some interesting quotes I would like to share with you. The first one, I think, gives a great perspective on the issue of Social Security. I am a child of the 60s; and so when I grew up, President John F. Kennedy, I remember clearly the manner in which he was able to convey his passion to our Nation and to focus our energy. And he recognized back in June 1961, regarding the issue of Social Security, he said, a Nation's strength lies in the well-being of its people. And the Social Security program, remember, this is 1961. The Social Security program plays an important part in providing for families, children, and older persons in time of stress. But it cannot remain static. It cannot remain static. Changes in our population, in our working habits, and in our standard of living require constant revision. Constant revision. It cannot remain static.

Well, what has happened to our program? It has remained static. There have been no fundamental changes to our situation as it relates to Social Security. So I am fond of telling folks that our current situation is a result of demographics, the aging of our society, but also to inertia. There is an inherent inertia in government at all levels to do nothing, that it is easier to ignore a problem than it is to fix a problem. That is not only true at the city council level, where it is easier to keep the collection for garbage on the same days, even though it might work better to do it in a different manner.

But it certainly is true here in Washington where we have big issues like Social Security. It is easier to do nothing. And that is why I am so proud again to serve with a President who understands the importance of tackling this issue head on.

□ 2145

When we think about Social Security, remember the program that President Kennedy said cannot remain static. I had my staff look up what kind of things were going on 70 years ago when the program began. Social Security is 70 years old, 70 years old. There has been a little tinkering but no fundamental changes, and the world has changed significantly.

Seventy years ago we were in the midst of the Great Depression. Seventy years ago FDR was our President. Babe Ruth hit his last three home runs in one game, setting the record at 714 career home runs. Seventy years ago, Elvis Presley was born. A 1935 sedan cost $495 brand spanking new, and a modern six-room house sold for $2,800. Seventy years ago, Parker Brothers released the board game Monopoly, nylon was discovered, and the construction of the Hoover Dam was completed. Seventy years ago was a long time ago, and the world has changed, and our population has changed.

I think it is clear that when Social Security began it was a wonderful program. It was first designed for a different generation and for a different America. There are really at least four specific facts that convinced me when I began looking at this issue that the old system, the current system, is no longer workable for our society and it is no longer secure.

The first is, as the gentleman from South Carolina (Mr. WILSON) mentioned, is that our Nation has matured from the time that men were the majority of the workforce and the life expectancy was about 60 years old. Today, in the majority of households, both men and women are working; and our life expectancy is significantly over 70 years of age. We are living longer and healthier lives, and that trend is only going to increase, and that is very good for all of us. But it is not good for our Social Security system.

We have seen this demographic before. This gets to the issue of the second thing that convinced me that we have got to modify and reform the system, and that is the issue of the workers. We are in a pay-as-you-go system, which means that today's workers pay for today's retirees. And when the system began in 1935 or 1937, there were 41 workers for every retiree. In 1950, there were 16 workers paying in for every beneficiary, every retiree. Today, there are 3.3 workers for every beneficiary or retiree; and in a very short period of time there will be two workers for every retiree. That is the system that cannot sustain itself. We are on an unsustainable course.

The third issue that led me to believe and understand and appreciate that we have got to reform the system is what I call the 2008 phenomenon. 2008, what happens in 2008? Well, this graph you may have seen. In the year 2008, these are the surpluses. This is the amount of money coming into the Social Security system. In 2008, the surpluses peak, the surpluses peak and begin to decrease. And at the same time the baby boomers begin to retire. That large group of individuals in our population, me being one of them, in 2008 they begin to retire.

The baby boomers started in 1946. The average age of retirement is 62. You take 1946, you add 62 to it, 2008 and they begin to retire. 2008 is not a long way off. It is right around the corner.

Finally, fourth, if you think about the system that we have had in place for Social Security, again it is a pay-as-you-go system, so the current workers pay for the current retirees. When there were lots of workers, there was more money in the pool for retirees. But what has happened? What has happened when we get down to that area where we have got 3.3 workers and then soon 2 workers for every retiree, the amount of money that is being returned is, frankly, an embarrassment.

When the system started, people got much more money than they put into the system. Now it takes years and years for individuals to get the amount of money back that they just put into the system. In fact, most individuals are getting less than 2 percent return on the money that they put into Social Security. Less than 2 percent. That is not a nest egg. That is not secure. That is not enough to retire with security.

There was an article that came out today that I think brings clarity to that, and it is by Stuart Butler, who is a renowned and noted economist, Vice President for Domestic and Economic Policies at the Heritage Foundation. And let me just share with you a couple of paragraphs from this article. It was entitled, "The Social Security Crisis Gets Personal."

In this article dated today, April 12, 2005, he stated that, "As the Social Security system itself has aged, payroll taxes have grown relentlessly and the return on those taxes has fallen dramatically. When Social Security began the payroll tax was just 2 percent of income. Now it is 12.4 percent. Today, the average male worker about to retire will typically get just 1.27 percent return on his lifetime of taxes, less than he would get from a savings account. That is bad enough, but the younger you are the worse it will get. A 25-year-old worker can expect a return of minus .647 percent." He loses money.

Here is the kicker right here. "Imagine what Congress would say if a private company was taking in billions of dollars from millions of hard working Americans and then giving them back less money in retirement." Well, you can imagine what Congress would say.

So we have got more retirees, fewer workers, and less money. All of these facts, and facts are the same regardless of whether you are a Republican or a Democrat, all of these facts do not paint a pretty picture.

It is incumbent upon us here in Congress to put the security back in Social Security. There was a time when our friends on the other side of the aisle agreed, and we did a little work and came up with some quotes from individuals. These are actual quotes, actual statements from some very prominent individuals on the other side of the aisle when they appreciated or they admitted that they have appreciated that there was indeed a problem in Social Security.

This is a quote from President Clinton in February of 1997, 8 years ago, February of 1997. "For the long-term health of our society, we must agree to a bipartisan process to preserve Social Security and reform Medicare for the long run so that these fundamental programs will be as strong for our children as they are for our parents." Clearly identifying one of the principles I spoke about.

Here is a quote from President Clinton in February of 1998. "So that all of these achievements, the economic achievements, our increasing social coherence and cohesion, our increasing efforts to reduce poverty among our youngest children, all of them, all of them are threatened by the looming fiscal crisis in Social Security."

Now there has been some discussion about whether or not we have a crisis or a problem or it is a challenge. This is 1998, 1998, President Clinton saying, "threatened by the looming fiscal crisis in Social Security." Clearly, President Clinton understood the issue at that time.

Here is a quote from the late Senator Daniel Patrick Moynihan in March of 1998, talking about the issue of Social Security and investment, these personal retirement accounts, voluntary personal retirement accounts. "Young people, especially, have lost faith." He is talking about the Social Security system. "They wonder why they cannot take care of their own retirements with stock and bond investments, rather than trusting a system that either is headed for bankruptcy or will provide paltry or negative returns on their contributions." Another august individual from the other side of the aisle who certainly appreciated the problem.

And then Senator HARRY REID. He is now the Minority Leader in the United States Senate. In February of 1999, he said, "Most of us have no problem with taking a small amount of the Social Security proceeds and putting it into the private sector," these voluntary personal retirement accounts that we have been talking about.

They recognized the issue. If they recognized the issue in 1997 and 1998 and 1999, what is the solution? What is the solution that they have put on the table? What are they offering to this remarkable challenge that we have as a Nation?

Well, a little earlier I talked about the initial impressions that I have had in my freshman term here in Congress, and one of the things that may not surprise anyone is the remarkable level of partisanship. Remember I talked about the need for this to be a nonpartisan issue, but the incredible level of partisanship and nowhere is it more clear than on the issue of Social Security. The Social Security problem is clearly defined, and there is a clear recognition by both Democrats and Republicans as demonstrated here that we need to fix the system. Yet where is the plan from the other side of the aisle? What is the plan that they have on the table?

Well, we searched and we searched and we searched and we searched. And this is the plan that we have come up with. This is the plan that the other side of the aisle in this incredibly important issue, in an issue that will impact every single American, this is the plan that they have on the table.

Just say no. Just criticize. It is politics as usual. It does such a huge disservice to us as a Nation and to every one of their citizens. So we should act now. There is no doubt about it. We should act now.

The Social Security trustees, the Comptroller General of the United States, Chairman of the Federal Reserve Board all agree that the sooner we address the problem, the smaller and less abrupt the changes will be for individuals and their families.

One of the individuals who works in my office just this past week got her Social Security statement, her Social Security statement that each of us get each year, and I was reading through the text of what everybody receives from the Social Security administration about their Social Security. And it clearly says and I urge every American to read the fine print when this comes to your home. It says from the Social Security Administration, "Unless action is taken soon to strengthen Social Security, in just 14 years we will begin paying more in benefits than we collect in taxes. Without changes, by 2042 the Social Security trust fund will be exhausted. By then the number of Americans 65 or older is expected to have doubled. There will not be enough younger people working to pay all of the benefits owed to those who are retiring."

This is not an opinion by anybody on my side of the aisle or the other side of the aisle. This is the Social Security administration who is looking at the numbers, seeing what kind of revenue is coming in and what is going to happen and warning each and every one of us, further, that there will be enough money to pay only about 73 cents for each dollar of scheduled benefits.

So I had the plan from the other side of the aisle. This is their plan. If you wanted to put a face on it, if you wanted to draw it on a graph, that plan is this graph. What this says is that we go along and go along and go along just as we are doing now until we get to that date, 2041, when the bottom falls out of the system and individuals are only able to receive 73 or 74 percent, which is a 26 or 27 percent cut in benefits.

I promise you that that is not acceptable. It certainly is not acceptable to me. It is not acceptable to our side of the aisle, and I do not believe it is acceptable to the American people. So it is a promise. This issue ought to be nonpartisan. We ought to get together, and I urge my colleagues to do so. There needs to be generational fairness so that younger individuals have faith that some of the money certainly that they have put into the system will be able to grow and be able to provide for their nest egg.

Finally, it is your money. It is Americans' money. It is not the government's money. It is your money. These ought to be our principles, and we should focus on the facts, study the issue and alternatives that are available to us, vigorously debate, both sides of the aisle vigorously debate and then act. It is imperative that we move forward with this because, as we have heard, every year we delay costs this Nation, costs the American public, costs you $600 billion.

Social Security is a system that has worked for decades and for generations, but the current system is outdated and does not meet the needs of the American people. It is not secure.

We have a wonderful opportunity right now. Right now, imagine the peace of mind that you would have knowing that the contributions that you make each month into Social Security will result in a nest egg for your retirement that you own and that no one can take away. That is my vision and that is my dream and I hope that you share that.

□ 2200

In closing, Mr. Speaker, I urge my colleagues and I ask my colleagues to take the time now, take this time now and let us get to work. We all look forward to the discussion that is coming about on this issue, but I am hopeful that we will remember those principles, that it is a promise and ought not to be partisan and to keep in mind every single generation and be fair to them. Remember that nest egg that must be maintained for security and that it is American's money, it is not the government's money. If we do not act now, that would be the height of irresponsibility, as with saying that there is no problem or that little needs to be done.

So I urge this House, I urge the Senate and I urge the President to work together and I congratulate the President for bringing this issue forward to find a responsible and a secure solution.

HONORING THE LIFE OF FORMER CONGRESSMAN WILLIAM LEHMAN

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, I would like to thank the Members of the House and also the Democratic leader for allowing me to have this time tonight.

GENERAL LEAVE

Mr. MEEK of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the life of Congressman Bill Lehman, the subject of my Special Order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MEEK of Florida. Mr. Speaker, a few weeks ago, a great man who served in this House for 20 years went on to glory. On March 16, 2005, former U.S. Congressman Bill Lehman passed away peacefully in the presence of his family and a few close friends in Miami, Florida. He was ninety-one years old, and for 20 of those years he served in this great institution, the U.S. House of Representatives.

We are here this evening to pay tribute to Congressman Bill Lehman who served with great dignity and integrity, who the Miami Herald described as a "legendary figure in south Florida politics considered a visionary on racial issues and public transit."

Only three people have ever served in the 17th Congressional District of Florida, former Congressman Bill Lehman, former Congresswoman Carrie Meek and myself, Mr. Speaker. For this reason, it is a great honor for me to honor him today.

By any measure, Mr. Lehman was an extraordinary man. He was a successful businessman who went back to college, got his teaching degree and taught in the Miami Dade County schools. He also was a school board member and a chairman of the school board, and he led his school system through a very difficult time, the end of segregation in schools.

Congressman Lehman was a Member of Congress universally known for fairness, kindness and compassion. He had strong relationships on both sides of the aisle and guided national transportation policy through the 1980's.

Congressman Lehman started out as a used car dealer in Miami, and his nickname was "Alabama Bill" because Congressman Lehman was born in Selma, Alabama, and I think that it was very appropriate at that time for him to be in leadership, but he was a special kind of businessman even then. He developed a reputation as a used car dealer that you could trust, and that is something that is very uncommon these days, Mr. Speaker.

My constituents still tell stories about "Alabama Bill." One person said that he bought a car from Mr. Lehman but the battery died a few days later after he drove it home, and for Mr. Lehman, the solution was very easy, give him a new battery, something very common.

Another person told the story of how she wanted to go to the prom with her boyfriend, but because they did not have a car, Mr. Lehman thought that it was fit for him to lend them a car for the evening. This was a very common man, but a man who walked softly and was a giant in this Nation.

Mr. Lehman's customers were loyal and he never forgot them. Once at a town hall meeting as a Congressman, a constituent showed up and said that he bought a car from Mr. Lehman 35 years ago. He asked Mr. Lehman, "Do you remember me?" Silence fell over the crowd as the two men looked at each other, and Mr. Lehman said, "Your name is Willie," and the man said, "No, that was my brother." Mr. Lehman remembered them both, and he had a great memory and that is something we do not see common in public service.

Mr. Lehman had a restless mind and could not be confined to business. His IQ was high enough to qualify him for membership in Mensa, a society formed in 1946 to promote intelligent exchange between very bright people. Mr. Lehman said later that he went to a few meetings of Mensa but soon stopped because he found the people there very boring.

So, after he got his business started, he went back to college and earned his teaching certificate and became an English literature teacher in the Miami Dade public schools. He would often quote Shakespeare and other English writers in his talks.

His foray into education led him into an interest in school politics. He ran for the school board and won, the first of an unbroken string of electoral victories at all levels of government.

Later, he would become the school board chairman, just as the Federal courts ordered busing to end racial segregation in the Miami Dade County schools.

Mr. Lehman described attending meetings of parents so angry that he had to have police guards escort him in and out, but his personal courage and his uncanny skill at easing tensions helped him win the day and the schools were integrated.

In 1972, the rapid growth in south Florida led to a new congressional district which was Congressional District 17. Mr. Lehman ran for it. Seven Democrats ran for that seat, and nobody ever gave Mr. Lehman much of a chance because he insisted on supporting busing to end racial discrimination in schools. But he came in a surprising second in that election against a well-known front runner and came in a surprising first in the run-off election that followed.

Bill Lehman started out as a member of the House Education and Labor Committee, but his work in Congress is most closely associated with his service on the House Appropriations Committee, his chairmanship of the Transportation Appropriations Subcommittee and his membership on the Foreign Operations Appropriations Subcommittee.

As a member of the Foreign Operations Appropriations Committee, Mr. Lehman used his position to help improve the lives and relieve human suffering throughout the world.

An example is his work in 1980, when the flood of hundreds of thousands of Cuban refugees, known as the Mariel Boat Lift threatened to overwhelm all of south Florida. Financially, Mr. Lehman managed to get $100 million in Cuban refugee resettlement aid included in a foreign aid bill, only to see it later stripped from the legislation. Mr. Lehman did not give up then. He tried for the refugee money again and again until finally it got included in another bill.

Today, a whole generation of Cuban Americans who came to seek freedom in this country owe Bill Lehman for looking out for their needs when they first arrived in this country.

In 1988, Mr. Lehman used his congressional contacts to work with the Castro regime in Cuba to obtain the release of three Cuban political prisoners who had spent more than 20 years in jail for opposing the Cuban government. Lehman bargained behind the scenes through informal diplomatic back channels. He eventually traveled to Cuba and met secretly with Castro himself to win their freedom. It was a victory that only a person like Bill Lehman could achieve.

Bill Lehman only tried to use the power of government to help people who had no other recourse and often no hope. Just a few examples, Mr. Speaker: In 1991, Lehman engineered the release of a 16-year-old girl who was arrested and imprisoned by the repressive government of Argentina at the time. Lehman's personal diplomacy, along with a promise to the Argentine government that he would not publicize the case in a way that would embarrass the regime, led to her release which she is grateful for today and attended his funeral.

When a constituent who was a single woman wanted to adopt a foreign-born baby but found that the Federal Government prohibited her from doing so, Mr. Lehman introduced legislation to change it. The legislation became law, and now such adoptions are common.

On a visit to a Federal agency in 1986, Mr. Lehman was told about two employees, a husband and a wife, who both worked in the same agency. The wife had inoperable cancer and a few months to live. They had young children, and she had only a couple of months to live. They had used all of their sick and vacation time on the treatments and care. Their fellow employees wanted to donate their unused time to the couple but found that the Federal law prohibited that from happening. Mr. Lehman introduced legislation to make it legal and started what is known as leave sharing, which is today an established Federal policy.

When he learned in 1987 that the Communist government in East Germany would not allow Jews in East Berlin to have a permanent rabbi, Mr. Lehman made contacts with the U.S. ambassador to East Germany and the East German government and won approval for the first resident rabbi since World War II.

Congressman Lehman learned through hearings about "golden Hour" for accident victims. If an injured person gets proper care within an hour of an accident, he has a much better chance of living or of recovery. That is called trauma care. Mr. Lehman was one of the major champions here in this institution for that and could be given credit for trauma care throughout the Nation and definitely in south Florida.

He enlisted the help of then-Transportation Secretary Elizabeth Dole, now Senator DOLE, and pushed through the establishment of the Miami Dade trauma center, which is known as the Ryder Center that is working today. The Bill Lehman Trauma Research Center in Miami is a testimonial to his work.

These are just a few stories of the kind of man that Bill Lehman was and how he tried to use the power of government not for personal or political advantage but to help the lives of others. Perhaps one of the reasons Congressman Lehman was so effective is that he knew what others were going through through his own tragedy and trials in his own life.

His beloved daughter Kathy died of a brain tumor. He was diagnosed with cancer and underwent surgery and rehabilitation therapy. Because of the surgery that cut some of the nerves that can allow him to speak, he had to take speech lessons to learn how to talk again. He used to joke he was the only politician that could only talk out of one side of his mouth.

He also suffered a stroke that effectively ended his active lifestyle, which included tennis and various other activities that he maintained well into his seventies.

Yet through it all, he was an example of grace, endurance and perseverance.

His mind remained as sharp and as quick as ever, and he always had a sense of humor.

The many lives that Congressman Lehman touched, he touched deeply.

Our hearts go out to his wife of 66 years, Joan Lehman; his sons, Bill Lehman, Junior, and Tom; and their families and grandchildren and his grandchildren.

Mr. Speaker, I just would like to say that Congressman Lehman, they only walk this way once or twice in our lifetime, someone that was willing to lead at the appropriate time in the history of this country and definitely within the 17th District of Florida.

☐ 2215

Mr. Speaker, the entire Florida delegation sends their heartfelt thoughts not only to the family but also to his friends who had a great appreciation for his existence. We are forever grateful as a humble country of having his family share his life with us.

I personally feel the key to public service is helping those who cannot help themselves, and Mr. Lehman was an example of that.

Mr. Speaker, there are many Members of the Florida delegation and Members of this Congress that will be adding their comments and memories.

Finally, I want to end this Special Order with this quote from a book of poetry that Congressman Lehman wrote in his spare time. He was a well-read, well-written man. This book of poetry was called "Hear Today," and the poem is called "Recognition."

"We all have our problems,
But my acquiring wealth
Was not the cure.
Though I knew, sure as hell,
I didn't want to be poor.
Recognition was the thing
I knew I needed,
And before it's all over,
I may have succeeded."

Mr. Speaker, I speak for my colleagues in the House of Representatives and for the people of South Florida and around the world whose lives were touched in recognizing Congressman Lehman this evening.

Mr. Speaker, I submit the following articles for the RECORD at this time:

[From the Miami Herald, Mar. 17, 2005]

WILLIAM LEHMAN, 1913–2005

(By Amy Driscoll)

Former U.S. Rep. William Lehman, a legendary figure of South Florida politics considered a visionary on racial issues and public transit, died Wednesday at Mount Sinai Medical Center in Miami Beach.

He was 91. He died of heart failure, his family said.

A used-car salesman, teacher, school board chairman and powerful congressman who exercised broad authority over transportation spending in the United States, Lehman was remembered by friends and former staffers as a compassionate soul and a progressive voice who helped shape South Florida.

He was an Alabama-born Jew who opened a business in a black neighborhood in Miami and once traveled to Cuba to rescue political prisoners. Known at home as the father of the Metrorail and Metromover systems, he was part of a renowned generation of Democratic politicians, including U.S. Reps. Dante Fascell and Claude Pepper, who delivered uncommon clout to Florida.

"A person like this can only come along in a community once in a century, twice in a century if you're lucky," said John Schelble, once Lehman's press spokesman and now chief of staff to Miami Democratic U.S. Rep. Kendrick Meek. "He was truly colorblind."

At the news of his passing, condolences poured forth, from Miami to Washington.

A REAL 'FOLK HERO'

Former U.S. Rep. Carrie Meek called him a "real humanitarian and folk hero" in Miami's poor communities. She recalled his car dealership, set in the heart of black Miami, and his fight as a school board member in support of mandatory busing to integrate schools.

"He felt very strongly about the people in the black community, and that wasn't just pious platitudes. He showed it in all the things he did. He showed it when he built his dealership. He showed it when he was on the school board," she said.

Mike Abrams, lobbyist and former state representative who had known Lehman since the 1970s, said the former congressman was guided by an unshakable sense of right and wrong.

"He was the most moral man I ever knew in politics—and I've known a lot of men in politics. He was clearly guided by his personal principles," Abrams said. "But that didn't mean he didn't know how to use his knuckles in the process. If he didn't think you had character, forget it. He was a character man all the way."

Lehman's ability to reach people wasn't ruled by politics. U.S. Reps. Clay Shaw and Ileana Ros-Lehtinen, both Republicans, counted Lehman as a friend.

"He was a Democrat through and through, and I'm a Republican, but that never interfered with our friendship," Shaw said.

Ros-Lehtinen characterized him as "a gentleman to his last breath."

Lehman was born Oct. 5, 1913, in Selma, Ala., the son of candy factory owners. He graduated from the University of Alabama, and married the former Joan Feibelman in 1939. They became the parents of three children—two sons and a daughter, Kathryn, who died of a brain tumor in 1979. She had been a high school English teacher like her father.

'ALABAMA BILL'

He spent 30 years as a used car dealer, calling himself "Alabama Bill" in advertisements, before he got into politics. Lehman was elected to the Dade County School Board in 1966 and became chairman in 1971. His first election to Congress to represent a Northeast Dade district came in 1972.

The Biscayne Park Democrat was known for his low-key manner, for the Southern drawl he never lost—and for his political power.

"The fact that he was so demonstrably Southern probably gave him an ability to play a conciliatory and constructive role in some of Florida's toughest times," said former U.S. Sen. Bob Graham.

In the years when the Democrats held sway in Congress, he rose to a position of great influence, a member of the so-called "college of cardinals" in the House. With an unpolished speaking style and quiet strength, he controlled billions of dollars for transportation as chairman for 10 years of the House Appropriations Committee's subcommittee overseeing highways, seaports and mass-transit systems.

MILLIONS FOR TRANSIT

He brought a significant portion of that money home to South Florida, with some $800 million going to the construction of the Metrorail transit system. Millions secured by Lehman also went to build bridges and improve the region's seaports and airports.

"Anyone who rides a bus or takes a train in this area, they owe it to Mr. Lehman," Carrie Meek said. "That's the way poor people get around and he chose to make that his priority."

Other favorite causes included support for Israel and the resettlement of Soviet Jews.

Sergio Bendixen, a Miami-based pollster who worked in Lehman's Washington office as press secretary and executive assistant from 1979 to 1982, said the congressman didn't need the trappings of success to boost his ego.

SMALL OFFICE

"He chose the smallest office—a cubbyhole, really," Bendixen recalled. "He was a congressman. He knew he was powerful. He didn't need all the plaques on the wall and the symbols that seemed to make other members of Congress happy. He was secure."

Lehman was an unabashed liberal who voted against a constitutional amendment banning flag-burning, against military aid to the rebels fighting to topple Nicaragua's leftist Sandinista government and against sending troops to the Persian Gulf during the first Gulf War.

PRISONER RELEASE

But he won respect among conservative Cuban exiles in 1988 when he went to Cuba and negotiated the release of three political prisoners.

It wasn't his first effort for victims of political repression: In 1981, he won release of a political prisoner in Argentina, and in 1984, he smuggled a synthetic heart valve to a young patient in a hospital in the Soviet Union. He was also a strong advocate for Haitian refugees.

"I'm a congressman," he told an aide inquiring about the danger of venturing into the Soviet Union. "If they catch me, what are they going to do?"

DOWN-TO-EARTH

Despite his power, Lehman retained his down-to-earth sensibilities. He was a breakfast regular for years at Jimmy's restaurant on Northeast 125th Street in North Miami.

His two sons remembered him Wednesday as someone who never raised his voice but taught them the value of working for others.

"He'd get involved in things and he wouldn't skim the surface—he'd get down to the very bottom," said Bill Lehman Jr.

"He just took great pleasure in being a friend to anyone."

Their father always listened to his internal compass, financing cars for black customers in the '40s and '50s, when few other white car dealers would, they said.

"He would look at a man's arms and if they had salt on them, from sweating, he would know that was a working man," said Thomas Lehman. "That was his credit check."

Surgery for jaw cancer in 1983 left Lehman's speech slurred. But he stayed in Congress for another decade, until his surprise decision in 1992 not to seek reelection when his influence was at its height.

Friends say that even as he struggled with his speech and other health problems, Lehman maintained a sense of humor.

"I'm the only politician who can only speak out of one side of his mouth," he once joked, referring to treatment that left part of his mouth paralyzed.

But Lehman said he made up his mind to retire in 1992 for health reasons: He said he had "a sudden realization" that a 1991 stroke had made him a less effective legislator.

END OF ERA

His passing marks the end of a political era, said lobbyist Ron Book.

"They don't make 'em like that anymore—him, Claude Pepper and Dante Fascell—they're all gone now."

Lehman is survived by his wife of 66 years, Joan; sons Bill Jr. and Thomas, and six grandchildren.

The funeral will be at Temple Israel at 1 p.m. Sunday. In lieu of flowers, the family requests donations to the William Lehman Injury Research Center, University of Miami Miller School of Medicine, P.O. Box 016960 (D-55), Miami, FL 33101.

A MAN OF THE PEOPLE

It is customary to bestow praise on the newly departed, some of it well deserved, but in the case of former U.S. Rep. Bill Lehman there is no need to depart from the unembellished truth. He was a man of the people, and he had a gift for politics. To those who knew him well and, indeed, to anyone who encountered him even briefly, Mr. Lehman's humanity and decency radiated like sunshine.

This wonderful man who did so much for the people of South Florida died Wednesday at Mount Sinai Medical Center in Miami Beach. He was 91.

Mr. Lehman will be remembered for the power he wielded as a congressman. He was chairman of the House Appropriations subcommittee that oversaw spending for mass-transit, highways and seaports. He developed an expertise on transportation issues that few could rival, and he used his legislative clout to bring transportation dollars to the state, especially to South Florida.

Mr. Lehman often used his power to help ordinary people. He negotiated the release of a political prisoner in Argentina in 1981 and did the same thing for three political refugees in Cuba in 1988. And once, he brazenly smuggled a synthetic heart valve to a patient in the Soviet Union.

For all his political achievements—and they were legendary—Mr. Lehman will be remembered best for his genuine warmth and generous spirit. Born in Selma, Ala., Mr. Lehman embraced liberal values. He voted against a proposed constitutional amendment to ban flag-burning; he opposed sending military aid to the contras in Nicaragua; and he did not favor sending troops to the Persian Gulf in the first Gulf War.

Mr. Lehman used his power to build community and promote fellowship. Our community is richer for having had him among us.

A LIFETIME OF SERVICE

Highlights of William Lehman's life in politics:

1966: Elected to the Dade County School Board, where he helped desegregate public schools in the late 1960s and early '70s.

1971: Elected chairman of the School Board.

1972: Elected to the U.S. House of Representatives, where he later became chairman of the transportation subcommittee of the House Appropriations Committee.

1980s: Won about $800 million for construction of the Metrorail system.

1981: Negotiated the release of a political prisoner in Argentina.

1984: Smuggled into the Soviet Union a life-saving heart valve for a teenager.

1986: Despite opposition of the Department of Transportation, won full funding for two extensions to the downtown Miami Metromover system.

1987: Thanks to Lehman's work, a rabbi was able to celebrate Passover in what was then communist East Germany.

1988: Flew to Cuba and picked up three Cuban political prisoners whose freedom he had secured from Fidel Castro.

1992: Retired from Congress.

[From the Sun Sentinel, Mar. 17, 2005]

WILLIAM LEHMAN, DEAD AT 91, LEAVES LEGACY IN S. FLORIDA

(By Buddy Nevins)

South Floridians can see former U.S. Rep. William Lehman's legacy through their car windshields or out the windows of their trains: Tri-Rail, Metrorail, the downtown Miami Metromover, Interstate 595 and I-95 and dozens of other bridges and roads.

Rep. Lehman, once one of the most powerful congressmen to hold a firm grip on the nation's transportation spending, died Wednesday at Mount Sinai Medical Center in Miami Beach. He was 91.

Although the hospital did not announce the cause of death, Rep. Lehman had suffered from a number of illnesses including cancer and a disabling stroke in his senior years, according to his family.

During his 20 years representing north and central Miami-Dade County, Rep. Lehman's passion was moving people, whether he was selling them cars from one of his auto dealerships, or building them a modern road and transit system.

Rep. Lehman was the last living member of the trio of liberal Democrats who wielded enormous clout in Washington and brought attention and billions of dollars in federal aid to South Florida. In the 1970s and 1980s Rep. Lehman, along with U.S. Reps. Dante Fascell and Claude Pepper of Miami, made the Florida delegation one of the most influential in the House.

"Public transit was always important to Bill Lehman, as he knew it was a lifeline to employment, grocery shopping, doctor visits and other necessary services for poor and working-class citizens," said U.S. Rep. Alcee Hastings, D-Miramar. "Bill Lehman was known as an 'unbending liberal.' This is one of many characteristics that endeared him to me."

As Florida Speaker of the House in the late 1980s, Tom Gustafson worked with the congressman to kick-start I-595 and the Tri-Rail transit system, which carries passengers from Miami to West Palm Beach.

"He was the go-to guy for any money for transportation. If you needed federal money, you went to Bill Lehman," Gustafson recalled.

From his perch as chairman of the subcommittee on transportation appropriations, Rep. Lehman threw money at South Florida projects.

"I-595 was Bill Lehman. The Clay Shaw Bridge [on the 17th Street Causeway in Fort Lauderdale] was Bill Lehman. Tri-Rail was Bill Lehman. This is a guy who has more monuments to him than anyone I know," said U.S. Rep. Clay Shaw, R-Fort Lauderdale.

Some of the facilities in Miami-Dade named for Rep. Lehman illustrate the breadth of his impact: an elementary school, a causeway, a transit maintenance building, a research center at the Ryder Trauma Center at Jackson Memorial Hospital.

As news of his death reached the community, tributes poured in.

"He didn't just make government work, he brought people together," said U.S. Rep. Kendrick Meek, the Miami Democrat who occupies Rep. Lehman's seat.

"Mr. Lehman clearly left his mark on the South Florida community," said Mayor Carlos Alvarez of Miami-Dade. "His pioneering works will be a fixture in Miami-Dade County for many years to come. My thoughts and prayers are with his family during this difficult time."

Rep. Lehman's liberal voting record included opposing a constitutional amendment banning flag-burning, voting against military aid to Nicaragua's contra rebels, and voting against sending troops to the Persian Gulf in the first Iraq war. He went to Cuba in 1988 to negotiate the release of three political prisoners and was an advocate for Haitian refugees.

Born on Oct. 5, 1913 in Selma, Ala., Rep. Lehman's roots were far from the underprivileged he would champion in Congress.

His father was a wealthy candy manufacturer. His mother was a housewife and the young Bill Lehman would ride in the family's chauffeur-driven Cadillac, family members said Wednesday.

Rep. Lehman's liberal philosophy sprang from the realization early in life that his small Southern town was filled with the less fortunate who could make it in life only with the help of the government, said Tom Lehman, his son and a Miami-Dade lawyer.

"He saw that, especially during the Depression, all that the federal government could do," Tom Lehman said. "He was a big believer in the role of government in peoples' lives."

Moving to Miami in the 1930s, Rep. Lehman sold used cars, billing himself as "Alabama Bill" He developed the unusual reputation for a car dealer as a gentleman who respected his customers and he carried that into politics.

"He was admired, respected and loved, and you can't say that about a lot of members of Congress," said U.S. Rep. Ileana Ros-Lehtinen, R-Miami.

Bill Lehman Jr. recalled that his father never lost the common touch.

"He was as comfortable talking to Ted Kennedy as he was talking to a car porter at the dealership."

After a stint as a public school teacher, Rep. Lehman entered politics in 1966, winning a seat on the Dade County School Board. Six years later he went to Congress. Rep. Lehman left Washington in 1992 after suffering a stroke, but also as he faced the possibility of being thrown into the same congressional district as Fascell when boundaries were redrawn.

Services for Rep. Lehman are at 1 p.m. Sunday at Temple Israel of Greater Miami. He is survived by Joan, his wife of 66 years, two sons and six grandchildren.

[From the Washington Post, Mar. 17, 2005]

WILLIAM LEHMAN, FLA. CONGRESSMAN AND CAR DEALER, 91

(By Adam Bernstein)

William Lehman, 91, a used-car dealer who later served 20 years in the U.S. House of Representatives and became a force on transportation legislation, died March 16 at a hospital in Miami Beach. His heart was weakened from a recent bout with pneumonia.

Mr. Lehman, known as "Alabama Bill" when he was in business, owed his nickname to his birthplace. But he spent most of his car-sales career in Miami, a district he served as a Democrat in the House from 1973 to 1993.

He was a member of the Appropriations Committee and chaired its transportation subcommittee, which controlled billions of dollars in federal projects.

Soft-spoken and adroit, as a politician he was not at all the caricature of the flamboyant, hard-sell salesman. Long gone were the days when he appeared in advertisements sitting on cotton bales and "making deals as solid as a bale of Alabama cotton."

He was much more subtle in the House. As a member of the so-called "college of cardinals," so named for their seniority, he worked quietly to pass bills with the least resistance.

His attentiveness to his constituents, in the form of authorizing public works projects for South Florida, occasionally caused turf disputes with the House Public Works Committee. When the committee's then-chairman, Rep. James J. Howard (D–N.J.), called "egregious" Mr. Lehman's efforts to approve a large mass-transit funding bill, the Floridian backed down.

That is to say, he found another way to get his projects approved—through an omnibus spending package.

William Marx Lehman was born Oct. 5, 1913, in Selma, Ala., where his father owned the American Candy Co. A 1934 graduate of the University of Alabama, he focused on business at his father's behest.

Early in his career, he worked for CIT Corp., an industrial finance company, in New York. He went to Miami on a job to finance auto dealerships and soon decided he would take some family money to finance a car-sales venture himself.

During World War II, he learned airplane mechanics and went to Brazil to help train others aiding the Allied effort.

Mr. Lehman was a member of Mensa International. For years, he wanted to teach English. After studying at Oxford University in the early 1960s, he became a high school English teacher in Miami.

He also won election to the Dade County School Board and became its chairman. He ran for the U.S. House when a new district was created.

In Congress, he championed public transportation, especially light-rail systems in his district. He also helped shepherd legislation to allow federal workers to donate their paid leave time to co-workers.

He made several publicized mercy trips.

In 1984, he flew to Moscow and smuggled an artificial heart valve to an ailing young woman who was related to one of his constituents.

Describing his part with cloak-and-dagger mystique, he told Roll Call that he sneaked the device past customs and immigration authorities.

He then went to a pay phone as arranged, where a voice told him to be at a certain address and to watch for "a woman in red standing next to a short man." The woman eventually got her heart valve.

In 1988, he traveled to Cuba and successfully appealed to Fidel Castro to release three longtime political prisoners.

Mr. Lehman had a massive stroke in 1991 that hastened his retirement.

A daughter, Kathryn Weiner, died in 1979.

Survivors include his wife of 66 years, Joan Feibelman Lehman of Miami; two sons, Bill Lehman Jr. and Thomas Lehman, both of Miami; six grandchildren; and two great-grandsons.

[From Roll Call, Mar. 17, 2005]

EX-FLORIDA REP. BILL LEHMAN PASSES AWAY

(By Jennifer Lash)

Former Rep. Bill Lehman (D-Fla.), considered a strong advocate on both race and transportation issues, died Wednesday at Mount Sinai Medical Center in Miami. He was 91.

Throughout his tenure in Congress, which began in 1972, Lehman voted against such issues as a constitutional amendment banning flag burning and sending troops to the Persian Gulf. He also fought to aid victims of political repression in areas such as Cuba, Argentina and the Soviet Union.

Lehman remained in Congress for a decade following a jaw cancer surgery that left his speech slurred in 1983. Eight years later, the Florida Democrat suffered a stroke, and in 1992 he announced his decision to retire, citing health reasons.

Lehman, the son of candy factory owners, was born Oct. 5, 1913, in Selma, Ala. He received his bachelor's from the University of Alabama in 1934. Three years later, he married Joan Feibelman. The couple had three children—a daughter, who died of a brain tumor 1979, and two sons.

Before entering the political arena, Lehman sold used cars for 30 years, referring to himself as "Alabama Bill" in his advertisements. He also spent time as a teacher and school board chairman prior to his election to Congress.

Lehman never allowed his Congressional duties to cause him to lose touch with his Florida district. He regularly ate breakfast at a restaurant in North Miami, and he resided in Biscayne Park, Fla., through his final days.

Although Rep. Kendrick Meek (D-Fla.) came to Congress 10 years after Lehman had retired, Meek said he was "struck" by the friends Lehman had made on both sides of the aisle.

"Only three people have ever represented Florida's 17th District in Congress: Bill Lehman in the 80's; Carrie Meek in the 90's and now me," Meek said in a statement. "I will always cherish the photo of the three of us together, because Bill Lehman was my Congressman when I was just a teenager and it is such a privilege to continue his service here."

[From the Hill, Mar. 17, 2005]

FORMER REP. LEHMAN DIES

(By Mark H. Rodeffer)

Former Rep. Bill Lehman (D-Fla.) died yesterday morning at a Miami Beach hospital. He was 91.

Lehman, who chaired the Appropriations Transportation Subcommittee until he retired from Congress in 1992, was known for running the subcommittee by consensus and for a willingness to earmark money for district projects.

Before his 1972 election to Congress, Lehman was a used-car salesman for 30 years. "Even though I came to Congress 10 years after Representative Lehman left it, I was struck by how many good friends he made, in both the House and the Senate and among both Democrats and Republicans," said Rep. Kendrick Meek (D-Fla.), who today holds the seat Lehman held. "He didn't just make government work; he brought people together."

Carrie Meek (D) was elected in 1992 to Lehman's north Miami district. She served until 2002, when she was succeeded by her son, Kendrick.

"I will always cherish the photo of the three of us together because Bill Lehman was my congressman when I was just a teenager, and it is such a privilege to continue his service here," Kendrick Meek said.

Mr. SHAW. Mr. Speaker, my wife, Emilie, and I are deeply saddened to learn of the passing of Congressman Bill Lehman. I will always remember his good sense of humor, his leadership and his unrivaled sense of duty. He had a reputation of having the courage and conviction to do what was right for his constituents, and his country.

Bill was a good friend, and was a political mentor when I first came to Washington. He led a remarkable life; from his service to his community to his strong leadership in Congress. Bill was the Chairman of the Transportation Subcommittee of the House Appropriations Committee. Many of the transportation facilities in South Florida are a direct result of his tireless efforts as Subcommittee Chairman.

Bill will be missed by so many, but has left an extraordinary legacy. His family will remain in our thoughts and prayers.

Mr. TOWNS. Mr. Speaker, I rise to pay tribute to our former colleague, the late William "Bill" Lehman, who recently passed away in his home state of Florida.

Bill represented the 17th Congressional District of Florida from 1973 to 1992. While he was a great advocate for transportation, foreign affairs issues, and racial equality in education, he has received very little or no recognition for his work on behalf of Haitian refugees. In 1979, Haitian refugees faced significant due process violations by the Federal government. At the time, he represented almost all of the fledgling Haitian community in South Florida. Bill felt very strongly that he could not successfully oppose the onerous civil rights violations faced by Haitians, because of their national origin, without additional political support. It was at his urging that the Congressional Black Caucus formed the CBC Task Force on Haitian refugees. The Task Force eventually succeeded, accompanied by various legal victories, in establishing an immigration designation, "Cuban-Haitian entrant status", that permitted Haitians seeking political asylum to remain in the country while they pursued their asylum claims.

Without his personal intervention and commitment on their behalf, the Haitian community in South Florida may have never received some form of equitable treatment under our immigration laws. With his passing, our colleague, Bill Lehman's contributions to improved immigration laws in this country should not be forgotten. I am proud to have served with him during his last 10 years in Congress.

Mr. STARK. Mr. Speaker, I rise to remember and honor my friend and distinguished former colleague Bill Lehman.

Bill Lehman represented South Florida in the House of Representatives for twenty years beginning in 1972. Bill and I came to Congress together that year. It is with sadness that I stand to pay tribute to him today as one of the last remaining members of the class of '72.

Though Bill left Congress in 1993, he and I kept in touch. It was less than a month ago when we last corresponded. He noted my name in an article in the Miami Herald and wrote to encourage me to keep up the fight. I'm going to miss those notes and his many years of friendship.

Bill was unique. He was special among those who've served in this institution. He was an individual of great principle and compassion beloved by the community he represented. As his hometown paper the Miami Herald eulogized him, Bill Lehman was a "legendary figure of South Florida politics considered a visionary on racial issues and public transit."

Bill Lehman was legendary in this House where he served ten years as Chairman of the powerful Appropriations Subcommittee on Transportation. He was a tireless advocate of progressive causes at home and abroad, known for taking principled stands on international and constitutional issues.

Bill Lehman had another distinction, too. He's the only politician I ever met that, when compared to a used car salesman, he was proud to be a used car salesman.

Born in Selma, Alabama in 1913, he took the moniker "Alabama Bill" when he moved to South Florida and opened a used auto dealership in Miami in 1936. Playing country music in his advertising, "Alabama Bill" earned a modest reputation as a country western singer. That original business has grown into one of South Florida's largest auto dealerships carried on today by his son Bill Lehman, Jr.

After nearly 30 years in the used car business, Bill Lehman went off to Oxford University. In the early 1960s, he returned to Miami and began a second career teaching high school English. In 1966, he began yet a third career running for and winning a seat on the Dade County School Board and went on to serve as Board Chairman in 1971. A year later he was elected to Congress.

I was greatly saddened to hear of Bill Lehman's passing on March 16 of this year and commend my colleagues for dedicating this evening in his honor.

My thoughts are with Bill's wife Joan, to whom he was married for 66 years, their two sons Bill Jr. and Tom, and their 6 grand children and 2 great-grandsons.

Bill's years of dedicated public service in this House will never be forgotten. His spirit and the principle and compassion he brought to the job will continue to be greatly admired by those of us who knew him.

Mr. RANGEL. Mr. Speaker, I rise today to honor a great man, Congressman William Lehman of Florida. In his passing, I have lost a dear friend, Congress has lost a role model, and the Nation has lost a brave leader and national hero.

Congressman Lehman was, above all, a true liberal, dedicated to equality among races and classes. He opened his used car dealership in a black neighborhood, and was one of the few dealers in the 1940's and 1950's—white or otherwise—who would finance cars for black customers. He supported issues that were important to poor communities, fighting against highways that divided and ruined communities, and bringing home more than $800 million for a Metrorail system in Miami, providing multiple ways for the poor to get to and from work.

He was also a gifted politician, inspiring loyalty in his committee members and his party. He neither dictated policy, nor ran his subcommittee overseeing highways, seaports and mass-transit systems with an iron fist, but by striking a perfect balance between offering incentives to cooperate and promising consequences to those who didn't. He knew all the legislative routes, and successfully steered bills he believed would benefit his constituents and the country around the road blocks and land mines in the House. If he was defeated on the House floor, he would work tirelessly in the conference committee to ensure the soundest legislative policies were written into law.

Bill was respected on both sides of the aisle, and had friends in both parties and all over Capitol Hill. He conducted himself with dignity, and he showed others that he believed in the issues he fought for, and wasn't merely supporting them for political purposes. When you hear people describe him, they almost always include the words "honest" and "moral", attributes that are rarely connected with politicians in this day and age, but which truly fit Bill.

Even after becoming one of the more influential members of Congress, he never lost touch, with his roots. He maintained his southern accent and his unpolished yet powerful manner of speaking throughout his career, and continued to dine and spend time in his old neighborhood.

One would be hard pressed to find a Congressman who took more risks, and for more noble reasons, while in office. In 1988 he chartered a plane to Cuba and successfully negotiated the release of three political prisoners, endearing him to the conservative Cuban community in his district. Seven years earlier he had negotiated the release of a political prisoner in Argentina, and he smuggled an artificial heart valve into the Soviet Union for an ailing 22 year old woman.

In my mind, Bill was more than a gifted colleague and a good person; he was a very close friend. I can attest that this is one of the rare cases where the statements being made about a person after his death are absolutely true. He was as good of a person in life as he is being described in death—a smart, moral, genuinely decent human being, one whose company it was a pleasure to keep.

Over the years I had the pleasure of working with Congressman Lehman a number of times. We served on the House Judiciary committee together, and in 1982 we traveled to several Latin American countries, including Nicaragua to investigate illegal arms sales. He was as much of a gentleman in the professional world as he was in the personal one.

Our country has experienced a great loss. Congressman Lehman was the kind of man who does not come around often, and we were blessed to have him in Congress. He was a role model to politicians everywhere and an inspiration to citizens all across the Nation. He will be sorely missed wherever he was known.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GILLMOR (at the request of Mr. DELAY) for today and the balance of the week on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MCCARTHY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. DENT, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, today and April 13.

Mr. JONES of North Carolina, for 5 minutes, April 13 and 14.

Mr. GUTKNECHT, for 5 minutes, April 13 and 14.

Mrs. BLACKBURN, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and April 13 and 14.

Mr. BURGESS, for 5 minutes, April 13.

Mr. POE, for 5 minutes, today.

Mr. BOUSTANY, for 5 minutes, April 13.

ADJOURNMENT

Mr. MEEK of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 18 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 13, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1455. A letter from the Secretary, Department of Defense, transmitting notification that the Department anticipates it will be prepared to commence chemical agent destruction operations at the Newport Chemical Agent Disposal Facility in Newport, Indiana, pursuant to 50 U.S.C. 1512(4); to the Committee on Armed Services.

1456. A letter from the Acting Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the Department's report on the amount of purchases from foreign entities for Fiscal Year 2004, pursuant to Public Law 104-201, section 827 (110 Stat. 2611) Public Law 105-261, section 812; to the Committee on Armed Services.

1457. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the Selected Acquisition Reports (SARs) for the quarter ending December 31, 2004, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

1458. A letter from the Director, Defense Finance and Accounting Service, transmitting pursuant to the Office of Management and Budget Circular A-76, the Service has implemented the government's Most Efficient Organization (MEO) to perform Security Assistance Accounting operations, pursuant to 10 U.S.C. 2461(c); to the Committee on Armed Services.

1459. A letter from the Senior Paralegal, Office of Thrift Supervision, Department of the Treasury, transmitting the Department's final rule — Community Reinvestment Act — Assigned Ratings [No. 2005-09] (RIN: 1550-AB48) received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1460. A letter from the Senior Paralegal, Office of Thrift Supervision, Department of the Treasury, transmitting the Department's final rule — Special Rules for Adjudicatory Proceedings for Certain Holding Companies [No. 2005-08] (RIN: 1550-AB96) received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1461. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Defense Priorities and Allocations System (DPAS): Electronic Transmission of Reasons for Rejecting Rated Orders [Docket Number: 041026293-5031-02] (RIN: 0694-AD35) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1462. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1463. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7861] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1464. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Detemrinations — received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1465. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1466. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7865] received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1467. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7867] received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1468. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Prescreen Opt-Out Disclosure (RIN: 3084-AA94) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1469. A letter from the Associate General Counsel, National Credit Union Administration, transmitting the Administration's final rule — Loans to Members and Lines of Credit to Members — received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1470. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2004 annual performance report to Congress required by the Prescription Drug User Fee Act of 1992 (PDUFA), as amended, pursuant to 21 U.S.C. 379g note; to the Committee on Energy and Commerce.

1471. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled, "West Nile Virus Prevention and Control: Ensuring the Safety of the Blood Supply and Assessing Spraying Pesticides," in compliance with Pub. L. 108-75; to the Committee on Energy and Commerce.

1472. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Part 80 of the Commission's Rules Concerning Use of Frequency 156.575 MHz for Port Operations Communications in Puget Sound — received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1473. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Walla Walla and Burbank, Washington) [MB Docket No. 02-63; RM-10398] New Northwest Broadcasters, LLC Station KUJ-FM, Walla Walla, Washington [File No. BPH-20041008ACV] For Construction Permit to Modify Licensed Facilities (One-Step Upgrade) — received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1474. A letter from the Acting Under Secretary for Industry and Security, Department of Commerce, transmitting a report of intention to impose new foreign policy-based export controls on exports of items for chemical and biological weapon end-uses, under the authority of Section 6 of the Export Administration Act of 1979, as amended and Executive Order 13222 of August 17, 2001, and extended by the Notice of August 6, 2004; to the Committee on International Relations.

1475. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a semi-annual report on progress toward nuclear non-proliferation in South Asia, pursuant to Section 620F(c) of the Foreign Assistance Act of 1961, as amended, covering the period April 1, 2004 to March 31, 2005; to the Committee on International Relations.

1476. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1477. A letter from the Assistant Director for Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1478. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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1490. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1491. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1492. A letter from the Director, Office of Human Capital Management, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1493. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1494. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1495. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1496. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's FY 2004 Performance and Accountability Report, prepared in conformance with the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103-62) and OMB Circular A-11; to the Committee on Government Reform.

1497. A letter from the Chairman, Federal Maritime Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for calendar year 2004, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

1498. A letter from the Acting Director, Office of Government Ethics, transmitting notice of an error and correction of the error, originally included in a report evaluating the financial disclosure process for employees of the executive branch (dated March 17, 2005 and pursuant to Pub. L. 108-458); to the Committee on Government Reform.

1499. A letter from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting the Department's final rule — Offering of United States Savings Bonds, Series EE. — received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1500. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule — Regulations Governing Treasury Securities, New Treasury Direct System. — received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A), to the Committee on Ways and Means.

1501. A letter from the Chief, Regulations Branch, Department of Homeland Security, transmitting the Department's final rule — United States — Chile Free Trade Agreement (RIN: 1505-AB47) received March 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1502. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Modification of Check The Box [TD 9183] (RIN: 1545-BA59) received March 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1503. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Frivolous Arguements regarding Opposition to Government Policies and Programs Used to Avoid Tax (Rev. Rul. 2005-20) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1504. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Frivolous Constitutional Arguments Used to Avoid Tax (Rev. Rul. 2005-19) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1505. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Frivolous "Straw Man" Claim Used to Avoid Tax (Rev. Rul. 2005-21) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1506. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Charitable Remainder Trusts; Application of Ordering Rule [TD 9190] (RIN: 1545-AW35) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1507. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — State and Local General Sales Tax Deduction [Notice 2005-31] received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1508. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, first-out inventories. (Rev. Rul. 2005-22) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1509. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Qualified Amended Returns [TD 9186] (RIN: 1545-BD42) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1510. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Deposits Made to Suspend the Running of Interest on Potential Underpayments (Rev. Proc. 2005-18) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1511. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Coordinated Issue: Losses Reported From Inflated Basis Assets From Lease Stripping Transactions — received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1512. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Altering the Jurat to Avoid Tax (Rev. Rul. 2005-18) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1513. A letter from the Internal Revenue Service, Internal Revenue Service, transmitting the Service's final rule — Frivolous Arguments regarding Waiver of Social Security Benefits Used to Avoid Tax (Rev. Rul. 2005-17) received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1514. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rates Update [Notice 2005-26] received March 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1515. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Loss Limitation Rules [TD 9187] (RIN: 1545-BA52) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1516. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Announcement and Report Concerning Advance Pricing Agreements — received April 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1517. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code [TD 9195] (RIN: 1545-BA89) received April 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1518. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Rules and Regulations (Rev. Proc. 2005-22) received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1519. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Imposition of tax on heavy trucks and trailers sold at retail. (Rev. Proc. 2005-19) received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1520. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration's final rule — Wage Credits for Veterans and Members of the Uniformed Services (RIN: 0960-AF90) received March 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee on Energy and Commerce. H.R. 29. A bill to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes; with an amendment (Rept. 109–32). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. S. 167. An act to provide for the protection of intellectual property rights, and for other purposes (Rept. 109–33 Pt. 1).

Mr. BOEHNER: Committee on Education and the Workforce. House Resolution 134. Resolution requesting the President to transmit to the House of Representatives certain information relating to plan assets and liabilities of single-employer pension plans; adversely (Rept. 109–34). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 202. Resolution providing for consideration of the bill (H.R. 8) to make the repeal of the estate tax permanent (Rept. 109–35). Referred to the House Calendar.

Mr. BOEHLERT: Committee on Science. H.R. 28. A bill to amend the High-Performance Computing Act of 1991, with an amendment (Rept. 109–36). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 1023. A bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories (Rept. 109–37). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 749. A bill to amend the Federal

Credit Union Act to provide expanded access for persons in the field of membership of a Federal credit union to money order, check cashing, and money transfer services' with an amendment (Rept. 109–38). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on House Adminstration discharged from further consideration. S. 167 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. THOMAS:

H.R. 1541. A bill to amend the Internal Revenue Code of 1986 to enhance energy infrastructure properties in the United States and to encourage the use of certain energy technologies, and for other purposes; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts (for himself, Mr. MARKEY, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. MEEHAN, Mr. DELAHUNT, Mr. MCGOVERN, Mr. TIERNEY, Mr. CAPUANO, and Mr. LYNCH):

H.R. 1542. A bill to designate the facility of the United States Postal Service located at 695 Pleasant Street in New Bedford, Massachusetts, as the "Honorable Judge George N. Leighton Post Office Building"; to the Committee on Government Reform.

By Mr. MCGOVERN:

H.R. 1543. A bill to enhance and improve benefits for members of the National Guard and Reserves who serve extended periods on active duty, and for other purposes; to the Committee on Armed Services, and in addition to the Committees on House Administration, Education and the Workforce, Government Reform, Veterans' Affairs, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX (for himself, Mr. THOMPSON of Mississippi, Mr. YOUNG of Alaska, Mr. PASCRELL, Mr. SMITH of Texas, Ms. LORETTA SANCHEZ of California, Mr. WELDON of Pennsylvania, Mr. MARKEY, Mr. SHAYS, Mr. DICKS, Mr. KING of New York, Ms. HARMAN, Mr. LINDER, Mrs. LOWEY, Mr. SOUDER, Ms. NORTON, Mr. TOM DAVIS of Virginia, Ms. ZOE LOFGREN of California, Mr. DANIEL E. LUNGREN of California, Ms. JACKSON-LEE of Texas, Mr. GIBBONS, Mrs. CHRISTENSEN, Mr. SIMMONS, Mr. ETHERIDGE, Mr. ROGERS of Alabama, Mr. LANGEVIN, Mr. PEARCE, Mr. MEEK of Florida, Ms. HARRIS, Mr. JINDAL, Mr. REICHERT, Mr. MCCAUL of Texas, Mr. DENT, and Mr. DEFAZIO):

H.R. 1544. A bill to provide faster and smarter funding for first responders, and for other purposes; to the Committee on Homeland Security.

By Mr. CANNON:

H.R. 1545. A bill to amend the Internal Revenue Code of 1986 to treat expenses for certain meal replacement and dietary supplement products that qualify for FDA-approved health claims as expenses for medical care; to the Committee on Ways and Means.

By Mr. THORNBERRY:

H.R. 1546. A bill to provide grants to States for health care tribunals, and for other purposes; to the Committee on the Judiciary.

By Mr. WOLF (for himself, Mr. EHLERS, and Mr. BOEHLERT):

H.R. 1547. A bill to preserve mathematics- and science-based industries in the United States; to the Committee on Education and the Workforce.

By Mr. RYAN of Wisconsin (for himself and Mr. CARDIN):

H.R. 1548. A bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants; to the Committee on Ways and Means.

By Mr. REYNOLDS (for himself, Mr. CARDIN, Mr. PORTMAN, Ms. PRYCE of Ohio, Mr. ENGLISH of Pennsylvania, Mrs. JOHNSON of Connecticut, Mr. HERGER, Mr. RAMSTAD, Mr. HAYWORTH, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. BRADY of Texas, Mr. CANTOR, Ms. HART, Mr. CHOCOLA, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. MCNULTY, Mr. JEFFERSON, Mr. POMEROY, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. EMANUEL, Mr. BOEHNER, Mr. FOSSELLA, Mr. BOUSTANY, Mr. KIRK, Mr. OTTER, Mr. YOUNG of Alaska, Mr. GARY G. MILLER of California, Mr. SHAYS, Mr. CUMMINGS, Mr. FORTUÑO, Mr. TOWNS, Mr. SIMPSON, Mr. LYNCH, and Mr. SKELTON):

H.R. 1549. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Ways and Means.

By Mr. HYDE (for himself, Mr. LANTOS, and Mr. MENENDEZ):

H.R. 1550. A bill to authorize assistance for the relief of victims of the Indian Ocean tsunami and for the recovery and reconstruction of tsunami-affected countries; to the Committee on International Relations.

By Mr. JINDAL (for himself, Mr. BOUSTANY, Mr. MCCRERY, Mr. BAKER, Mr. MELANCON, Mr. JEFFERSON, and Mr. ALEXANDER):

H.R. 1551. A bill to amend the Outer Continental Shelf Lands Act to provide a domestic offshore energy reinvestment program, and for other purposes; to the Committee on Resources.

By Mr. JINDAL (for himself and Mr. SOUDER):

H.R. 1552. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that the religious status of a private nonprofit facility does not preclude the facility from receiving assistance under the Act; to the Committee on Transportation and Infrastructure.

By Mr. ACKERMAN (for himself, Ms. ROS-LEHTINEN, Mr. PALLONE, Mr. CROWLEY, Ms. WATSON, and Mr. MENENDEZ):

H.R. 1553. A bill to prohibit the provision of United States military assistance and the sale, transfer, or licensing of United States military equipment or technology to Pakistan; to the Committee on International Relations.

By Mr. BILIRAKIS (for himself, Mr. BROWN of Ohio, Mrs. BONO, Mr. CASE, Mr. FOSSELLA, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. LANGEVIN, Ms. LEE, Ms. SCHAKOWSKY, Mr. SMITH of Washington, Mr. TOWNS, and Mr. WAXMAN):

H.R. 1554. A bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BORDALLO (for herself and Mrs. CHRISTENSEN):

H.R. 1555. A bill to amend the Internal Revenue Code of 1986 to provide for the cover over of the refundable portion of the earned income and child tax credits to Guam and the Virgin Islands; to the Committee on Ways and Means.

By Mr. CLAY:

H.R. 1556. A bill to designate a parcel of land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, as the "Clyde S. Cahill Memorial Park"; to the Committee on Transportation and Infrastructure.

By Mrs. CUBIN:

H.R. 1557. A bill to amend the Internal Revenue Code of 1986 to provide an election for a special tax treatment of certain S corporation conversions; to the Committee on Ways and Means.

By Mr. TOM DAVIS of Virginia:

H.R. 1558. A bill to amend title 18, United States Code, to prohibit certain computer-assisted remote hunting, and for other purposes; to the Committee on the Judiciary.

By Mr. FORD:

H.R. 1559. A bill to increase the level of funding for the Partnerships in Character Education Program, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FORD:

H.R. 1560. A bill to amend the Internal Revenue Code of 1986 to increase the exclusion equivalent of the unified credit allowed against the estate tax to $7,500,000 and to establish a flat estate tax rate; to the Committee on Ways and Means.

By Mr. FORD:

H.R. 1561. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for adoption and to amend part E of title IV of the Social Security Act to increase adoptive incentive payments; to the Committee on Ways and Means.

By Mr. FOSSELLA:

H.R. 1562. A bill to protect human health and the environment from the release of hazardous substances by acts of terrorism; to the Committee on Homeland Security, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTKNECHT (for himself, Mr. SCHWARZ of Michigan, and Mr. KENNEDY of Minnesota):

H.R. 1563. A bill to establish a Division of Food and Agricultural Science within the National Science Foundation and to authorize funding for the support of fundamental agricultural research of the highest quality, and for other purposes; to the Committee on Science, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Washington:

H.R. 1564. A bill to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District; to the Committee on Resources.

By Ms. HOOLEY (for herself, Mr. McGovern, Mr. Bishop of New York, Mr. Pallone, Mr. DeFazio, Mr. Owens, Mr. Olver, Mr. Towns, Mr. Kind, Mr. Scott of Georgia, Mr. Grijalva, Mrs. Davis of California, Mr. Blumenauer, Mr. Cardoza, Mr. Kildee, Ms. Kilpatrick of Michigan, Mr. Ross, Mr. Payne, Mr. Holden, Mr. Smith of Washington, Mr. Stupak, Mr. Lantos, Mr. Ruppersberger, Mr. Brown of Ohio, Mr. Pastor, Mr. Larsen of Washington, Mrs. Capps, Mr. Oberstar, Mr. Jackson of Illinois, Mr. Chandler, Mrs. Jones of Ohio, and Mr. Case):

H.R. 1565. A bill to enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extended active duty, and for other purposes; to the Committee on Armed Services, and in addition to the Committees on Energy and Commerce, Education and the Workforce, Ways and Means, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA:

H.R. 1566. A bill to provide a technical correction to the Federal preemption of State or local laws concerning the markings and identification of imitation or toy firearms entering into interstate commerce; to the Committee on Energy and Commerce.

By Mr. LaTOURETTE:

H.R. 1567. A bill to require the Secretary of Housing and Urban Development to provide tenant-based rental housing vouchers for certain residents of federally assisted housing; to the Committee on Financial Services.

By Mr. LEACH (for himself, Mr. Tanner, and Mr. Abercrombie):

H.R. 1568. A bill to amend the Internal Revenue Code of 1986 to permanently reduce estate and gift tax rates to 30 percent, to increase the exclusion equivalent of the unified credit to $10,000,000, and to increase the annual gift tax exclusion to $50,000; to the Committee on Ways and Means.

By Mr. LINDER (for himself, Mr. Kingston, and Mr. Waxman):

H.R. 1569. A bill to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention; to the Committee on Energy and Commerce.

By Mr. LINDER:

H.R. 1570. A bill to amend the Public Health Service Act to provide for the continuation of the program for revitalizing the Centers for Disease Control and Prevention; to the Committee on Energy and Commerce.

By Mr. LoBIONDO (for himself, Mr. Saxton, Mr. Frelinghuysen, Mr. Ferguson, and Mr. Smith of New Jersey):

H.R. 1571. A bill to prohibit the Secretary of the Interior from issuing oil and gas leases on portions of the Outer Continental Shelf located off the coast of New Jersey; to the Committee on Resources.

By Mr. MENENDEZ (for himself, Mr. Pallone, Mr. Holt, Mr. Andrews, Mr. Payne, Mr. Rothman, and Mr. Pascrell):

H.R. 1572. A bill to amend title XVIII of the Social Security Act to improve the coordination of prescription drug coverage provided under State pharmaceutical assistance programs with the prescription drug benefit provided under the Medicare Program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICHAUD (for himself, Mr. Evans, Ms. Berkley, Mr. Ryan of Ohio, Mr. Strickland, and Mr. Udall of New Mexico):

H.R. 1573. A bill to amend title 38, United States Code, to provide that the increase of $250 per month in the rate of monthly dependency and indemnity compensation (DIC) payable to a surviving spouse of a member of the Armed Forces who dies on active duty or as a result of a service-connected disability shall be paid for so long as there are minor children, rather than only for two years; to the Committee on Veterans' Affairs.

By Mr. MOORE of Kansas (for himself and Mr. Case):

H.R. 1574. A bill to amend the Internal Revenue Code of 1986 and the Economic Growth and Tax Relief Reconciliation Act of 2001 to restore the estate tax and repeal the carryover basis rule and to increase the estate tax unified credit to an exclusion equivalent of $3,500,000; to the Committee on Ways and Means.

By Mrs. MYRICK (for herself and Mr. Spratt):

H.R. 1575. A bill to authorize appropriate action if the negotiations with the People's Republic of China regarding China's undervalued currency and currency manipulation are not successful; to the Committee on Ways and Means.

By Mr. OTTER (for himself and Mr. Simpson):

H.R. 1576. A bill to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes; to the Committee on Resources.

By Mr. POMEROY (for himself, Mr. Allen, Mr. Brown of Ohio, Mr. Cardin, Mr. Holden, Mr. Gonzalez, Mr. Lipinski, and Mr. Obey):

H.R. 1577. A bill to amend the Internal Revenue Code of 1986 to retain the estate tax with an immediate increase in the exemption, to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal, and for other purposes; to the Committee on Ways and Means.

By Mr. PORTER (for himself, Mr. Van Hollen, Mr. Tom Davis of Virginia, Mr. Foley, Mr. Neal of Massachusetts, Mr. Hoyer, Ms. Pryce of Ohio, Mr. Cantor, Mr. LaTourette, Mr. Wolf, and Mr. McHenry):

H.R. 1578. A bill to amend title 5, United States Code, to provide for a real estate stock index investment option under the Thrift Savings Plan; to the Committee on Government Reform.

By Mr. PRICE of North Carolina:

H.R. 1579. A bill to amend title 3, United States Code, to extend the date provided for the meeting of electors of the President and Vice President in the States and the date provided for the joint session of Congress held for the counting of electoral votes, and for other purposes; to the Committee on House Administration.

By Mr. PRICE of North Carolina (for himself, Mr. Castle, Mr. Holt, Mr. Simmons, Mr. Lewis of Georgia, Mr. Bass, Mrs. Maloney, and Mr. Allen):

H.R. 1580. A bill to amend the Federal Election Campaign Act of 1971 to clarify the requirements for the disclosure of identifying information within authorized campaign communications which are printed, to apply certain requirements regarding the disclosure of identifying information within communications made through the Internet, to apply certain disclosure requirements to prerecorded telephone calls, and for other purposes; to the Committee on House Administration.

By Mr. SIMMONS (for himself, Mr. Foley, Mr. Burgess, Mr. Burton of Indiana, Mr. Kuhl of New York, Mr. Saxton, Mr. Boehlert, Mr. Brown of Ohio, Ms. Ginny Brown-Waite of Florida, Mr. Cox, Mr. Bass, Mr. Boustany, Ms. Carson, Mr. Fitzpatrick of Pennsylvania, Ms. Millender-McDonald, Mr. Lincoln Diaz-Balart of Florida, Mr. Bartlett of Maryland, and Mr. Reynolds):

H.R. 1581. A bill to allow seniors to file their Federal income tax on a new Form 1040S; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Ms. Eshoo, Mr. Terry, Mr. Wu, Mr. Becerra, and Mr. Bonner):

H.R. 1582. A bill to amend title XVIII of the Social Security Act to authorize expansion of Medicare coverage of medical nutrition therapy services; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VAN HOLLEN:

H.R. 1583. A bill to amend the Internal Revenue Code of 1986 to repeal provisions relating to qualified tax collection contracts, and for other purposes; to the Committee on Ways and Means.

By Mr. WELDON of Pennsylvania (for himself, Mr. Allen, Mr. Saxton, Mr. Inslee, Mrs. Drake, Mr. Farr, Mr. Fitzpatrick of Pennsylvania, Mr. Moran of Virginia, Mr. Smith of New Jersey, Mr. Menendez, Mr. Rohrabacher, Ms. Eshoo, Mr. Hunter, Mr. Case, Mr. McIntyre, Mr. McDermott, Mr. Fortuño, Mr. Butterfield, Mr. Kildee, and Ms. Lee):

H.R. 1584. A bill to develop and maintain an integrated system of coastal and ocean observations for the Nation's coasts, oceans, and Great Lakes, to improve warnings of tsunamis and other natural hazards, to enhance homeland security, to support maritime operations, and for other purposes; to the Committee on Resources, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WICKER:

H.R. 1585. A bill to amend title 38, United States Code, to require Department of Veterans Affairs pharmacies to dispense medications to veterans for prescriptions written by private practitioners, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. NORTON (for herself, Mr. Tom Davis of Virginia, Mr. Wolf, Mr.

Hoyer, Mr. Moran of Virginia, Mr. Wynn, Mr. Cummings, and Mr. Van Hollen):

H.R. 1586. A bill to establish an annual Federal infrastructure support contribution for the District of Columbia, and for other purposes; to the Committee on Government Reform.

By Mr. ROYCE (for himself, Mr. Lantos, Mr. Wolf, Mrs. Kelly, and Mr. Snyder):

H. Con. Res. 127. Concurrent resolution calling on the Government of the Federal Republic of Nigeria to transfer Charles Ghankay Taylor, former President of the Republic of Liberia, to the Special Court for Sierra Leone to be tried for war crimes, crimes against humanity, and other serious violations of international humanitarian law; to the Committee on International Relations.

By Mr. SHIMKUS (for himself, Mr. McGovern, Mr. McCotter, Mr. Dreier, Mr. Doggett, Mr. Kucinich, Mr. Cox, Mr. Rogers of Michigan, and Mr. Kingston):

H. Con. Res. 128. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania; to the Committee on International Relations.

By Mr. SHUSTER (for himself and Mr. Murtha):

H. Con. Res. 129. Concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93; to the Committee on Transportation and Infrastructure.

By Mr. WYNN (for himself, Mr. Upton, Mr. Snyder, Mr. Abercrombie, Mr. Payne, Mr. Waxman, Mr. Rangel, Mrs. Christensen, Mrs. Jones of Ohio, Mr. Ford, Mr. Schiff, and Mr. Gutierrez):

H. Con. Res. 130. Concurrent resolution expressing the sense of the Congress with respect to the awareness, prevention, early detection, and effective treatment of viral hepatitis, and for other purposes; to the Committee on Energy and Commerce.

By Mr. COBLE (for himself, Mr. Butterfield, Mr. Etheridge, Ms. Foxx, Mr. Hayes, Mr. Jones of North Carolina, Mr. McHenry, Mr. McIntyre, Mr. Miller of North Carolina, Mrs. Myrick, Mr. Price of North Carolina, Mr. Taylor of North Carolina, and Mr. Watt):

H. Res. 203. A resolution expressing support for the International Home Furnishings Market in High Point, North Carolina; to the Committee on Energy and Commerce.

By Ms. DEGETTE (for herself, Mr. Cummings, Mr. Watt, and Mr. Udall of Colorado):

H. Res. 204. A resolution expressing the sense of the House of Representatives that Pasqualine J. Gibbons of Denver, Colorado, an African American woman who valiantly served her country in the Army Air Corps during World War II, was unfairly passed over for promotion and should have held the grade of technical sergeant, rather than private first class, upon her discharge from the service on January 2, 1946; to the Committee on Armed Services.

By Mr. EDWARDS (for himself and Mr. Istook):

H. Res. 205. A resolution congratulating the Baylor University Lady Bear Women's Basketball team on winning the 2005 NCAA Championship for basketball; to the Committee on Education and the Workforce.

By Mr. ETHERIDGE (for himself, Mr. Miller of North Carolina, Mr. Price of North Carolina, Mr. Coble, Mr. Watt, Mr. McIntyre, Mr. Jones of North Carolina, Mr. Butterfield, and Mr. McHenry):

H. Res. 206. A resolution recognizing the 100th anniversary of Garner, North Carolina; to the Committee on Government Reform.

By Mr. HULSHOF:

H. Res. 207. A resolution recognizing the 100th anniversary of FarmHouse Fraternity, Inc; to the Committee on Education and the Workforce.

By Mr. MURPHY (for himself, Mr. Doyle, Mr. McNulty, Mr. Payne, Mr. Hinchey, Ms. Hart, Ms. Bordallo, Mr. Platts, Mr. English of Pennsylvania, Mr. Fitzpatrick of Pennsylvania, Mr. Peterson of Pennsylvania, Mr. Gerlach, Ms. Schwartz of Pennsylvania, Mr. Holden, Mr. Weldon of Pennsylvania, Mr. Case, Mr. Dent, Mr. Shuster, Mr. Towns, Mr. Fattah, Mr. Brady of Pennsylvania, Mr. Skelton, Mr. Smith of New Jersey, Mr. Neugebauer, Mr. Sullivan, Mr. Boehner, Ms. Ros-Lehtinen, Mr. Chocola, Mr. Pitts, Mr. Weldon of Florida, Mr. King of Iowa, Mr. Sherwood, Mr. Royce, Mr. Cantor, Mr. Ryun of Kansas, Mr. Ney, Mr. Turner, Ms. Harris, Mr. Bonner, Mr. Bachus, Mr. Burgess, Mrs. Bono, Mr. Kanjorski, Mr. Shimkus, and Mrs. Blackburn):

H. Res. 208. A resolution recognizing the University of Pittsburgh and Dr. Jonas Salk on the fiftieth anniversary of the milestone discovery of the Salk polio vaccine, which has virtually eliminated the disease and its harmful effects; to the Committee on Energy and Commerce.

By Mr. SESSIONS (for himself and Mr. Feeney):

H. Res. 209. A resolution expressing the sense of the House of Representatives that any Social Security reform legislation should include a "Community Bank Option"; to the Committee on Ways and Means.

By Mr. WEXLER (for himself, Mr. Smith of Texas, Mr. Berman, Mr. Feeney, Mr. Smith of Washington, and Mrs. Bono):

H. Res. 210. A resolution supporting the goals of World Intellectual Property Day, and recognizing the importance of intellectual property in the United States and worldwide; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. Marchant, Mr. Barrett of South Carolina, Mr. Ruppersberger, Mr. Inglis of South Carolina, Mr. Dent, Mr. Price of Georgia, Mr. Frelinghuysen, Mr. Flake, Mr. Sweeney, Mr. Gibbons, Mr. Davis of Kentucky, Ms. Berkley, Mr. Porter, Mr. Shadegg, Mr. Franks of Arizona, Mr. Calvert, and Mr. Latham.

H.R. 11: Miss McMorris, Mr. Holden, Mr. DeFazio, and Mr. Hayes.

H.R. 18: Mr. Rohrabacher.

H.R. 19: Mr. Tancredo and Mr. Deal of Georgia.

H.R. 22: Mr. LaHood, Mr. Kuhl of New York, Ms. Baldwin, Mr. Hinchey, Mr. Peterson of Minnesota, Mr. Spratt, Mr. Lincoln Diaz-Balart of Florida, Mr. Pascrell, Mr. Moore of Kansas, Ms. Herseth, Mr. Meek of Florida, Mr. Porter, Mrs. Drake, Mr. Simmons, Mr. Conyers, Ms. Ginny Brown-Waite of Florida, Mr. Andrews, Mr. Menendez, Ms. Linda T. Sánchez of California, Mr. Murtha, and Mr. Reyes.

H.R. 23: Mr. Udall of Colorado, Mr. Chandler, Ms. Jackson-Lee of Texas, Mr. Murphy, Mr. Davis of Illinois, Mr. George Miller of California, Ms. DeLauro, Mr. Ramstad, Mr. Smith of Washington, Mrs. Wilson of New Mexico, Mr. Lucas, Mr. Weller, Mr. Boyd, Mr. Wolf, and Mr. Lewis of Georgia.

H.R. 25: Mrs. Myrick.

H.R. 28: Mr. Inglis of South Carolina, Ms. Hooley, and Mr. Johnson of Illinois.

H.R. 30: Mr. Miller of Florida and Mr. Foley.

H.R. 32: Mr. Gordon.

H.R. 37: Mr. Porter.

H.R. 64: Mr. English of Pennsylvania, Mr. Davis of Kentucky, Mr. Dent, Mr. Deal of Georgia, and Mr. Shadegg.

H.R. 98: Ms. Ginny Brown-Waite of Florida, Mr. Deal of Georgia, and Mr. Rohrabacher.

H.R. 111: Mr. Scott of Georgia, Mr. Taylor of North Carolina, Mrs. Capito, Mr. Chocola, Mr. Davis of Alabama, and Mr. Wilson of South Carolina.

H.R. 135: Mr. Engel.

H.R. 149: Mr. Gutierrez, Mr. Owens, Mr. Grijalva, Mr. Towns, Mr. Conyers, Mr. Lincoln Diaz-Balart of Florida, Mr. McGovern, Mr. Rangel, Ms. Schakowsky, and Mr. Gonzalez.

H.R. 179: Mr. Fossella.

H.R. 181: Mr. Herger and Mr. Chabot.

H.R. 206: Ms. Millender-McDonald and Mr. Michaud.

H.R. 216: Mrs. Myrick.

H.R. 269: Mrs. Capito, Mr. Paul, and Mr. Kolbe.

H.R. 278: Mr. Akin and Mr. Sessions.

H.R. 302: Mr. Hastings of Florida.

H.R. 303: Mr. Peterson of Minnesota, Mr. Boucher, Mr. Berry, Mr. Taylor of Mississippi, Ms. Hooley, Mr. Dicks, Mr. Bradley of New Hampshire, Mr. Moran of Kansas, Mr. Gene Green of Texas, Mr. Grijalva, and Mr. Salazar.

H.R. 314: Mr. Carnahan.

H.R. 328: Mr. Al Green of Texas and Mr. Kennedy of Rhode Island.

H.R. 333: Mr. Foley and Mr. Grijalva.

H.R. 339: Mr. Hall, Mr. Miller of Florida, and Mr. Deal of Georgia.

H.R. 369: Mr. Spratt and Mr. Salazar.

H.R. 371: Ms. Lee, Mr. Gingrey, Mr. Scott of Georgia, Mr. Brown of Ohio, and Mr. Cummings.

H.R. 378: Ms. Schakowsky.

H.R. 401: Mr. McCotter.

H.R. 402: Mr. Fortuño.

H.R. 404: Mr. Fortuño.

H.R. 406: Mr. Garrett of New Jersey.

H.R. 408: Mr. Michaud.

H.R. 421: Mr. Wexler.

H.R. 448: Ms. Corrine Brown of Florida.

H.R. 504: Mr. Baca, Mr. Becerra, Mr. Berman, Mrs. Bono, Mr. Calvert, Mrs. Capps, Mr. Cardoza, Mr. Cox, Mr. Costa, Mr. Cunningham, Mrs. Davis of California, Mr. Doolittle, Mr. Dreier, Ms. Eshoo, Mr. Farr, Mr. Filner, Mr. Gallegly, Mr. Hayworth, Ms. Harman, Mr. Herger, Mr. Honda, Mr. Hunter, Mr. Issa, Mr. Jenkins, Mr. Lantos, Ms. Lee, Mr. Lewis of California, Ms. Zoe Lofgren of California, Mr. McKeon, Ms. Matsui, Ms. Millender-McDonald, Mr. Gary G. Miller of California, Mr. George Miller of California, Mrs. Napolitano, Mr. Nunes, Mr. Daniel E. Lungren of California, Mr. Pascrell, Ms. Pelosi, Mr. Pombo, Mr. Radanovich, Mr. Rohrabacher, Ms. Roybal-Allard, Mr. Royce, Ms. Linda T. Sánchez of California, Ms. Loretta Sanchez of California, Mr. Schiff, Mr. Sherman, Ms. Solis, Mr. Stark, Mrs. Tauscher, Mr. Thomas, Mr. Thompson of California, Ms. Waters, Mr. Waxman, and Ms. Woolsey.

H.R. 509: Mr. Burton of Indiana, Mr. Norwood, Mr. Fortuño, and Mr. Saxton.

H.R. 510: Mr. Fortuño.

H.R. 515: Mr. Ortiz.

H.R. 525: Mr. Towns, Mr. Shimkus, Mr. Calvert, and Mr. Gutknecht.

H.R. 551: Ms. Slaughter and Mr. George Miller of California.

H.R. 558: Mr. Reyes, Mr. Bishop of Georgia, Mr. Bradley of New Hampshire, and Mr. Smith of New Jersey.

H.R. 562: Mr. Boehlert.

H.R. 580: Mr. Brown of South Carolina.

H.R. 583: Mrs. McCarthy.

H.R. 586: Mr. Otter.

H.R. 591: Mr. Frank of Massachusetts.

H.R. 592: Mr. McNulty, Mr. Platts, Mr. Fossella, and Mr. McHugh.

H.R. 594: Mr. Tierney.

H.R. 615: Mr. Bonner, Mr. Stupak, Ms. Berkley, and Ms. Linda T. Sánchez of California.

H.R. 623: Mrs. Drake and Mr. Hensarling.

H.R. 626: Mr. Kirk.

H.R. 634: Ms. Berkley.

H.R. 652: Mr. Goodlatte, Ms. Hart, and Mr. Ryan of Wisconsin.

H.R. 657: Mr. Andrews, Mr. Barrow, Mr. Becerra, Mr. Bishop of New York, Ms. Bordallo, Mr. Brady of Pennsylvania, Ms. Corrine Brown of Florida, Mr. Brown of Ohio, Mr. Butterfield, Mrs. Capps, Mr. Capuano, Mr. Cardoza, Ms. Carson, Mrs. Christensen, Mr. Clay, Mr. Cleaver, Mr. Conyers, Mr. Cuellar, Mr. Cummings, Mr. Davis of Alabama, Mr. Davis of Illinois, Ms. DeLauro, Mr. Etheridge, Mr. Faleomavaega, Mr. Ford, Mr. Gonzalez, Mr. Al Green of Texas, Mr. Grijalva, Mr. Hastings of Florida, Mr. Jackson of Illinois, Ms. Jackson-Lee of Texas, Mr. Jefferson, Mr. Kanjorski, Mr. Kildee, Ms. Kilpatrick of Michigan, Mr. Kucinich, Mr. Lantos, Ms. Lee, Mr. Levin, Ms. Zoe Lofgren of California, Mrs. McCarthy, Mr. McDermott, Mr. McGovern, Mrs. Maloney, Mr. Marshall, Mr. Meeks of New York, Mr. Melancon, Ms. Millender-McDonald, Mr. George Miller of California, Mr. Moore of Kansas, Ms. Moore of Wisconsin, Mr. Moran of Virginia, Mr. Nadler, Mr. Neal of Massachusetts, Ms. Norton, Mr. Owens, Mr. Pallone, Mr. Pascrell, Mr. Price of North Carolina, Mr. Rangel, Mr. Reyes, Mr. Ross, Mr. Ruppersberger, Mr. Ryan of Ohio, Ms. Linda T. Sánchez of California, Mr. Sanders, Mr. Serrano, Mr. Skelton, Ms. Slaughter, Mr. Stupak, Mr. Thompson of Mississippi, Mr. Towns, Mr. Van Hollen, Ms. Waters, Ms. Watson, Mr. Watt, Mr. Weiner, Mr. Wynn, Mr. Fattah, Mr. Wu, Mr. Evans, Mr. Filner, Ms. Kaptur, Mr. Doyle, Mr. Frank of Massachusetts, Mrs. Jones of Ohio, Ms. Woolsey, Mr. Case, Mr. Holt, and Mr. Menendez.

H.R. 659: Mr. Udall of Colorado.

H.R. 669: Mr. Kildee, Mr. Alexander, Mr. Rogers of Michigan, Mr. Miller of Florida, and Mr. Jindal.

H.R. 670: Mrs. Capito and Mr. Graves.

H.R. 687: Mrs. Jo Ann Davis of Virginia.

H.R. 691: Mr. Boehlert and Mr. Deal of Georgia.

H.R. 698: Mr. Bilirakis and Mr. Westmoreland.

H.R. 712: Mr. Herger.

H.R. 731: Mr. Porter.

H.R. 745: Mr. Inglis of South Carolina and Ms. Herseth.

H.R. 748: Mr. Shadegg and Mr. Wolf.

H.R. 750: Mr. Bartlett of Maryland.

H.R. 762: Mr. Fossella.

H.R. 763: Mr. Fossella.

H.R. 764: Mr. Kuhl of New York.

H.R. 768: Mr. McNulty.

H.R. 771: Mr. Salazar, Mr. Filner, and Mr. Schiff.

H.R. 776: Mr. Miller of Florida and Mr. Norwood.

H.R. 777: Mr. Miller of Florida.

H.R. 783: Mr. Reyes, Mr. Bradley of New Hampshire, and Mrs. Capito.

H.R. 787: Mr. Skelton, Mr. Hunter, Ms. Pelosi, Mr. Waxman, Ms. Loretta Sanchez of California, Ms. Woolsey, Mr. Lantos, Ms. Millender-McDonald, Ms. Roybal-Allard, Mr. Berman, Mrs. Capps, Mrs. Tauscher, Ms. Watson, Ms. Zoe Lofgren of California, Mr. Thomas, Mrs. Napolitano, Mr. George Miller of California, Mr. Cardoza, Mr. Stark, Mr. Honda, Ms. Lee, Mr. Issa, Mr. Herger, Mr. Farr, Mr. Becerra, Ms. Waters, Mr. Sherman, Ms. Linda T. Sánchez of California, Ms. Eshoo, Mrs. Davis of California, Mr. Levin, Ms. Solis, Mr. Calvert, and Mrs. Bono.

H.R. 793: Ms. Baldwin, Mr. Olver, and Mr. Larson of Connecticut.

H.R. 798: Mr. Michaud.

H.R. 800: Mr. Bilirakis, Mr. Barton of Texas, Mr. Ortiz, Mr. Latham, Mr. Hulshof, Mr. Inglis of South Carolina, Mr. Fortenberry, Mr. LoBiondo, Mr. Goodlatte, and Mr. Edwards.

H.R. 810: Mr. Delahunt and Mr. Gonzalez.

H.R. 858: Mr. Miller of Florida and Ms. Ginny Brown-Waite of Florida.

H.R. 865: Mr. McHugh and Mr. McIntyre.

H.R. 867: Mr. Udall of Colorado and Mr. Berman.

H.R. 871: Mr. Menendez.

H.R. 874: Mr. McCaul of Texas.

H.R. 880: Mr. Gordon.

H.R. 881: Mr. Barrow, Mr. Hayworth, Mr. Ackerman, Mr. Peterson of Minnesota, Mr. Latham, and Mr. Ehlers.

H.R. 884: Mr. McHugh, Mr. Price of North Carolina, Mr. Foley, Mr. Hastings of Florida, Mr. Kind, Mr. Boehlert, Mr. Simmons, and Ms. Ros-Lehtinen.

H.R. 885: Ms. Kaptur, Mr. Burton of Indiana, Ms. Slaughter, Mr. Rohrabacher, Mr. Leach, Mr. Pence, Mr. Crowley, Mr. Engel, Mr. Royce, Mr. Schiff, Ms. Watson, Mr. Wexler, Mr. McCotter, Mr. Flake, and Mr. Issa.

H.R. 896: Mr. Price of North Carolina and Mr. Boswell.

H.R. 897: Mr. McNulty and Mr. Becerra.

H.R. 916: Mr. Moran of Kansas, Mr. Israel, Ms. Hart, Mr. Terry, Mr. Leach, Mr. Kennedy of Minnesota, Mr. Sabo, Mr. Davis of Alabama, Mr. LaHood, and Mr. Waxman.

H.R. 923: Mr. Gonzalez.

H.R. 924: Mr. Emanuel.

H.R. 935: Mr. Leach.

H.R. 936: Ms. Eshoo.

H.R. 939: Ms. Kilpatrick of Michigan, Mr. Gutierrez, Mr. Pallone, Ms. Eddie Bernice Johnson of Texas, Mr. George Miller of California, Ms. Watson, Mr. Honda, and Mr. Rangel.

H.R. 968: Ms. Kaptur, Mr. Green of Wisconsin, Mr. Smith of Washington, Mr. Evans, Mr. Boyd, Mr. Neal of Massachusetts, Ms. Hooley, Mr. Bishop of Utah, Mr. Ryan of Ohio, Mr. Holden, Mr. Chandler, Mr. Fortuño, Ms. Herseth, Mr. Cummings, Ms. Woolsey, Mrs. Capito, Mr. Jones of North Carolina, Mr. Kind, Mr. Bishop of Georgia, Mr. Michaud, Mr. Conaway, and Mr. LaTourette.

H.R. 975: Mr. Matheson.

H.R. 985: Mr. Green of Wisconsin, Mr. Forbes, Ms. Hooley, Mr. Moran of Virginia, Mr. Boren, Mr. Gillmor, Ms. Ginny Brown-Waite of Florida, Mr. McDermott, Mr. Sweeney, Mr. Matheson, Mr. Doggett, Mr. Dicks, Mr. Reyes, Mr. Brown of South Carolina, and Mr. Doyle.

H.R. 986: Mr. Price of North Carolina.

H.R. 988: Mr. Udall of Colorado and Mr. Michaud.

H.R. 997: Mr. Royce.

H.R. 998: Mr. Young of Alaska, Mr. Alexander, Mr. Cole of Oklahoma, Mr. Davis of Kentucky, Mr. Rahall, Mr. King of Iowa, Ms. DeLauro, and Mr. Spratt.

H.R. 1002: Mr. Reyes, Mr. Frank of Massachusetts, Mr. Hefley, Mrs. Jo Ann Davis of Virginia, Mr. Peterson of Minnesota, Mr. Van Hollen, Mr. Davis of Illinois, Ms. Eshoo, Mr. Udall of Colorado, Mr. Shays, Mr. Baird, Mr. Menendez, Mr. Engel, Ms. Solis, Mr. Olver, Mr. Sanders, Mr. Bishop of New York, Mr. Meehan, Mr. Higgins, Mr. Gordon, Mr. Blumenauer, Mrs. McCarthy, Mr. Lynch, Mr. Farr, and Mr. Gene Green of Texas.

H.R. 1029: Mr. Peterson of Minnesota, Ms. Moore of Wisconsin, Mr. Jackson of Illinois, Mr. Allen, and Ms. Jackson-Lee of Texas.

H.R. 1056: Mr. Blumenauer.

H.R. 1059: Mr. Larson of Connecticut and Mr. Payne.

H.R. 1088: Mr. Ramstad, Mr. Hayes, Mr. LaTourette, and Mr. Boehlert.

H.R. 1091: Mr. Simmons.

H.R. 1095: Mr. Reynolds and Mr. McCaul of Texas.

H.R. 1099: Mrs. McCarthy.

H.R. 1105: Mr. Cleaver and Mr. Hinojosa.

H.R. 1114: Mr. Baker.

H.R. 1126: Mr. DeFazio, Mr. Brown of Ohio, Mr. Filner, Mr. Clay, and Ms. DeLauro.

H.R. 1130: Mr. Stark, Mr. Meeks of New York, Mr. Filner, and Ms. Kilpatrick of Michigan.

H.R. 1131: Mr. Bishop of New York, Mr. Udall of Colorado, Ms. Woolsey, Mr. Foley, Mr. Ramstad, Mr. Bachus, and Mr. Andrews.

H.R. 1155: Mr. Stark and Ms. Woolsey.

H.R. 1157: Mr. Bartlett of Maryland.

H.R. 1166: Mr. McGovern.

H.R. 1172: Ms. Ros-Lehtinen, Ms. Linda T. Sánchez of California, and Mr. Filner.

H.R. 1176: Mr. Ramstad, Mr. Wynn, Mr. Chabot, Mr. Wamp, Mrs. Musgrave, Mr. Osborne, and Mr. Hastings of Washington.

H.R. 1185: Mr. Price of Georgia.

H.R. 1201: Mr. Miller of Florida.

H.R. 1204: Mr. Pastor, Mr. Ortiz, Mr. Evans, Mr. Hinchey, Mr. Serrano, and Mr. Johnson of Illinois.

H.R. 1206: Mr. Foley.

H.R. 1217: Ms. Hooley.

H.R. 1241: Mr. Keller, Mrs. Emerson, and Mr. Boehner.

H.R. 1246: Ms. Eddie Bernice Johnson of Texas, Mr. Berman, Mr. McGovern, Mr. Wexler, Mrs. Davis of California, Mrs. Drake, Mr. Turner, Ms. Carson, Mr. Akin, Mr. Boucher, and Mr. Ney.

H.R. 1258: Mr. Gene Green of Texas, Mr. McGovern, Mr. McNulty, Mr. Mollohan, Mr. Rangel, Ms. Norton, Ms. Baldwin, and Mr. Davis of Illinois.

H.R. 1265: Ms. DeGette.

H.R. 1266: Ms. DeGette.

H.R. 1277: Mr. Olver.

H.R. 1278: Mr. Dingell.

H.R. 1287: Mr. Rush, Mr. Johnson of Illinois, and Mr. Emanuel.

H.R. 1288: Mr. ORTIZ, Mr. EDWARDS, Mr. BARRETT of South Carolina, Mr. PRICE of Georgia, Mr. EVERETT, Mr. HULSHOF, Mr. BRADLEY of New Hampshire, Mr. MCCAUL of Texas, Mr. NORWOOD, Mr. GARRETT of New Jersey, Mr. BOEHLERT, Mr. SWEENEY, and Mr. YOUNG of Alaska.

H.R. 1290: Mr. RANGEL.

H.R. 1298: Mr. BEAUPREZ, Mr. DICKS, and Mr. SMITH of Washington.

H.R. 1306: Mr. KOLBE, Mr. MCDERMOTT, Mr. CALVERT, Mr. FOLEY, Mr. LAHOOD, Mr. PUTNAM, Mr. PAUL, Mrs. DRAKE, Mr. CULBERSON, Mr. UPTON, Mr. KILDEE, Mr. KIND, Mr. SIMMONS, Mr. YOUNG of Alaska, Ms. HARRIS, and Mrs. MILLER of Michigan.

H.R. 1308: Mr. PITTS and Mr. GINGREY.

H.R. 1322: Mr. STARK and Ms. HOOLEY.

H.R. 1335: Mr. TOWNS.

H.R. 1352: Mr. KUHL of New York and Mr. BUTTERFIELD.

H.R. 1357: Mr. KING of New York, Mr. MANZULLO, and Mr. LAHOOD.

H.R. 1366: Mr. FOLEY, Mr. TANCREDO, Ms. HOOLEY, and Mr. BRADLEY of New Hampshire.

H.R. 1371: Ms. HERSETH.

H.R. 1389: Mr. CONYERS.

H.R. 1393: Mr. CONYERS.

H.R. 1400: Mr. PLATTS and Mr. KUHL of New York.

H.R. 1405: Mr. MENENDEZ, Mr. MCNULTY, and Mr. ANDREWS.

H.R. 1406: Mr. REYES and Mr. BAKER.

H.R. 1417: Mr. RYAN of Wisconsin and Mr. CAMP.

H.R. 1424: Mr. MCDERMOTT, Mr. CROWLEY, Mr. ISRAEL, Ms. WATSON, Mr. MICHAUD, Mr. GRIJALVA, Mr. HONDA, Mr. BROWN of Ohio, Ms. MCCOLLUM of Minnesota, Mr. MCCOTTER, Mr. PALLONE, Mr. MCGOVERN, Mrs. JONES of Ohio, Mr. OLVER, Ms. NORTON, Mr. WYNN, Ms. KILPATRICK of Michigan, Mr. BERMAN, Mr. GERLACH, Mr. FILNER, Mr. GEORGE MILLER of California, Mr. BISHOP of Georgia, Mr. HOLT, Mr. CLAY, Mr. PASCRELL, Ms. WOOLSEY, Ms. HOOLEY, Mr. FRANKS of Arizona, Mr. WAXMAN, Mr. ABERCROMBIE, Mr. MORAN of Virginia, Mrs. MCCARTHY, and Mr. ALLEN.

H.R. 1426: Mr. PRICE of North Carolina, Mr. WAMP, Mr. JACKSON of Illinois, Mr. LAHOOD, Mr. GUTIERREZ, Mr. FRANK of Massachusetts, Mr. VAN HOLLEN, Mr. ROGERS of Michigan, Mrs. BONO, Mr. PASTOR, Mr. OSBORNE, Ms. BALDWIN, Mr. GRIJALVA, and Mr. TIERNEY.

H.R. 1474: Ms. LINDA T. SÁNCHEZ of California, Mr. MATHESON, Mr. BERRY, Mr. ROGERS of Michigan, Mr. STUPAK, Mr. BOSWELL, Mr. TANNER, Mr. MCNULTY, Mr. LATHAM, Mr. POMEROY, and Mr. THOMPSON of Mississippi.

H.R. 1478: Mr. ANDREWS.

H.R. 1491: Mr. UPTON.

H.R. 1498: Mr. SENSENBRENNER, Mr. MANZULLO, Mr. PETERSON of Minnesota, Mr. DEFAZIO, Mr. PALLONE, Mr. LATOURETTE, Mr. BROWN of Ohio, Mrs. MYRICK, Mr. BERRY, Mr. TANCREDO, Mrs. JO ANN DAVIS of Virginia, Mr. GERLACH, Mr. MICHAUD, Mr. INGLIS of South Carolina, Mr. SPRATT, Mr. DUNCAN, Mr. STARK, Mr. PASCRELL, Mr. SANDERS, Mr. STRICKLAND, Mr. SIMMONS, Mr. VISCLOSKY, Mr. HAYES, Mr. ISSA, and Mr. ROHRABACHER.

H.R. 1500: Mr. SESSIONS and Mr. SAXTON.

H.R. 1508: Mr. MOORE of Kansas.

H.R. 1521: Mr. BERMAN and Mr. MCGOVERN.

H.J. Res. 10: Mr. BOUSTANY, Mr. HAYWORTH, and Mr. FORTENBERRY.

H.J. Res. 16: Mr. FEENEY, Mr. HOSTETTLER, and Mr. HENSARLING.

H.J. Res. 27: Mr. TANCREDO, Mr. STUPAK, Mr. HOSTETTLER, and Mr. DUNCAN.

H. Con. Res. 11: Mr. BARTLETT of Maryland, Mr. WESTMORELAND, and Mr. NORWOOD.

H. Con. Res. 12: Mr. BARTLETT of Maryland, Mr. WESTMORELAND, and Mr. NORWOOD.

H. Con. Res. 38: Mrs. DRAKE.

H. Con. Res. 41: Ms. WOOLSEY, Mr. BECERRA, Mr. WAXMAN, and Ms. LORETTA SANCHEZ of California.

H. Con. Res. 69: Mr. BURTON of Indiana.

H. Con. Res. 81: Mr. WILSON of South Carolina.

H. Con. Res. 85: Mr. PRICE of North Carolina, Mr. ALLEN, Mr. AL GREEN of Texas, Ms. MCCOLLUM of Minnesota, Mrs. DRAKE, and Mr. BOOZMAN.

H. Con. Res. 99: Ms. BALDWIN.

H. Con. Res. 102: Mr. PALLONE and Mr. BERMAN.

H. Con. Res. 107: Mr. DAVIS of Alabama, and Mr. GARY G. MILLER of California.

H. Con. Res. 108: Mr. FRANK of Massachusetts, Mrs. LOWEY, Mr. BISHOP of Georgia, Mr. BERMAN, Mr. HIGGINS, Mr. DAVIS of Alabama, Mr. BAIRD, Ms. SCHAKOWSKY, and Mrs. CAPPS.

H. Con. Res. 123: Mr. NADLER and Mr. MCNULTY.

H. Res. 22: Mr. TURNER.

H. Res. 61: Mr. LEVIN.

H. Res. 78: Mr. HIGGINS.

H. Res. 84: Mr. CHOCOLA.

H. Res. 85: Mr. BARROW, Mr. MARSHALL, Mr. HASTINGS of Florida, Mr. BOYD, and Mr. PRICE of Georgia.

H. Res. 128: Mr. HOLDEN, Mr. BOREN, Mr. SKELTON, and Mr. SAM JOHNSON of Texas.

H. Res. 131: Ms. BORDALLO.

H. Res. 142: Mr. HOLT.

H. Res. 150: Mr. SANDERS.

H. Res. 169: Mr. GENE GREEN of Texas.

H. Res. 172: Ms. ZOE LOFGREN of California.

H. Res. 184: Mr. SMITH of New Jersey, Ms. KILPATRICK of Michigan, Mr. WOLF, Mr. HOEKSTRA, Mr. SOUDER, Mr. EHLERS, Mr. TERRY, Mr. FRANKS of Arizona, Mr. BOYD, Mr. KNOLLENBERG, Mr. LEWIS of California, Mr. SIMMONS, Mr. FOLEY, Mr. TIAHRT, Mr. TURNER, and Mr. HINCHEY.

H. Res. 185: Mr. AL GREEN of Texas.

H. Res. 186: Mr. FALEOMAVAEGA, Mr. MCHUGH, and Mr. RANGEL.

H. Res. 189: Mr. SIMMONS and Mr. MEEKS of New York.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

13. The SPEAKER presented a petition of the City Council of Seattle, Washington, relative to Resolution No. 30749, opposing the elimination of the Community Development Block Grant (CDBG) Program, and petitioning the Congress and President of the United States to provide full funding for housing, economic development and human services programs in the Department of Housing and Urban Development; to the Committee on Financial Services.

14. Also, a petition of the Board of Supervisors of Essex County, New York, relative to Resolution No. 314 petitioning the State Legislature to increase the HEAP allotments for this season due to the rising fuel costs; to the Committee on Energy and Commerce.

15. Also, a petition of the Lithuanian-American Council Branch of Lake County, Indiana, relative to a Resolution commending the United States Government for monitoring election fairness to preserve individual freedoms; to the Committee on International Relations.

16. Also, a petition of the Board of Supervisors of Essex County, New York, relative to Resolution No. 28 petitioning the New York State Department of Transportation and Vermont Department of Transportation to work together to provide for continued maintenance and repair at the Lake Champlain Bridge in Crown Point, New York; to the Committee on Transportation and Infrastructure.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

S. 256

OFFERED BY: MR. EMANUEL

AMENDMENT NO. 1: Page 507, line 6, strike the close quotation marks and the period at the end.

Page 507, after line 6, insert the following:

"(f)(1) The trustee may avoid a transfer of an interest of the debtor in property made by an individual debtor within 10 years before the date of the filing of the petition to an asset protection trust if the amount of the transfer or the aggregate amount of all transfers to the asset protection trust within such 10-year period exceeds $125,000, to the extent that the debtor's beneficial interest in the trust does not become property of the estate by reason of section 541(c)(2).

"(2) An asset protection trust is a trust settled by the debtor, in which the debtor has a direct or indirect beneficial interest or under which the trustee may distribute property to or for the benefit of the debtor, and as to which a restriction on the voluntary or involuntary transfer of the debtor's beneficial interest in the trust is enforceable under applicable nonbankruptcy law. For purposes of this subsection, the following are not asset protection trusts:

"(A) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.

"(B) Charitable trusts.

"(C) Qualified trusts under section 529 of the Internal Revenue Code of 1986, and other educational trusts, funds, or accounts.".

EXTENSIONS OF REMARKS

IN HONOR OF CUYAHOGA COUNTY TREASURER JIM ROKAKIS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of Cuyahoga County Treasurer Mr. Jim Rokakis, as he is recognized by the Cuyahoga County Democratic Party for his service to our community.

A life-long Clevelander, Mr. Rokakis continues to focus on the well-being of Clevelanders, and beyond. After graduating from the Cleveland-Marshall School of Law, Mr. Rokakis set out to promote positive change within our community. In 1978, he was elected to serve as the Ward 15 representative to the Cleveland City Council. For nearly twenty years, he served the residents of the Old Brooklyn neighborhood with integrity and dedication. For the last seven years of his tenure as Councilperson, Mr. Rokakis served as the Chair of the Finance Committee.

In March of 1997, Mr. Rokakis was elected to the office of Treasurer of Cuyahoga County. In this capacity, Mr. Rokakis has consistently demonstrated a vision and focus on improving the tax collection process. His complete renovation of the system has resulted in greater efficiency regarding the County's tax collection and disbursement processes. Under his leadership, the office of the Treasurer has been awarded with many honors, especially regarding his inner-city housing initiatives.

Mr. Speaker, please join me in honor and recognition of Mr. Jim Rokakis. His dedicated service, focused on the well-being of the residents of Cleveland and Cuyahoga County, has served to strengthen our entire community.

A TRIBUTE TO ANTONIO BONILLA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. TOWNS. Mr. Speaker, I rise in honor of Antonio Bonilla who is being honored at the Brooklyn Caribe Lions Club dinner dance as "Businessman of The Year."

Antonio is a successful businessman who was born in Isabela, Puerto Rico. He came to New York in 1953 and has worked in various jobs, including carpentry, cooking, and marketing.

One of his first employers was Emerson Radio Corporation, where he worked for over 10 years. Then in the 1960's his wife, Leonor, exposed him to Mexico's culture, including its people, food, and music. By 1971, his dream to open a Mexican restaurant had become a reality. Together with his family, they found and renovated the space on the corner of Second Ave and 26th Street in Manhattan and named it Mexico Lindo Restaurant.

Today the restaurant has become a popular nightspot for the entertainment and political communities. Antonio is a distinguished businessman whose cooperation with many religious and political organizations has established him as a philanthropist. He is very proud of the fact that he has always held a job, and that all his accomplishments have been the product of hard work.

Antonio and Leonor have three daughters Adriana, Claudia and Lara. Together as a family, they have strived to stay one step ahead of the competition. This award should serve to inspire and encourage him in continuing the important work he has already begun.

Mr. Speaker, Antonio Bonilla has been a leader in his community and has been a wonderful example of how dedication and perseverance can lead to success. As such, he is more than worthy of receiving our recognition today and the award of Businessman of the Year. Thus, I urge my colleagues to join me in honoring this truly remarkable person.

HONORING THE 2005 GLADNEY CUP GOLF TOURNAMENT AT THE CONGRESSIONAL COUNTRY CLUB IN BETHESDA, MD

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. GRANGER. Mr. Speaker, I rise today to recognize an outstanding event that is conducted for the benefit of one of the best organizations in my district, the Gladney Center for Adoption.

On Monday, May 2, 2005, the Gladney Cup Golf Tournament will occur at the Congressional Country Club in Bethesda, MD, to benefit the Gladney Center for Adoption. The Gladney Adoption Center was founded more than 100 years ago in Fort Worth, TX, to find "loving homes for orphaned children" and today is one of this Nation's leading adoption services, which specializes in international and domestic adoptions. The center has placed more than 26,000 children in loving homes and has assisted more than 36,000 women experiencing crisis pregnancies. The Gladney Cup Golf Tournament is a premier event which raises much needed funds for the center's international and domestic adoption programs. The first Gladney Cup Golf Tournament was held at the famed Colonial Country Club, which is located in my district. The caliber of the inaugural tournament attracted more than 200 players and raised more than $1 million for the Gladney Center. The 2005 Gladney Cup Golf Tournament is the third event and the reputation of the tournament, coupled with the beautiful and prestigious greens of the Congressional Country Club, again is attracting players and corporations from around the country who not only derive satisfaction from playing on a challenging golf course, but also who are committed to helping the Gladney Adoption Center.

Mr. Speaker, it is my honor to recognize the Gladney Cup Golf Tournament, the organizations and individuals who are participating in the event so that more children may have happy homes in which to live and so that women who are experiencing a crisis pregnancy have a loving and supportive place to which to turn to for help.

NORTH RIDGE MIDDLE SCHOOL BAND WINNER OF JOHN PHILIP SOUSA FOUNDATION "SUDLER SILVER CUP"

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. BURGESS. Mr. Speaker, I rise today to commend the North Ridge Middle School Band of North Richland Hills, located in the 26th Congressional District of Texas, on winning the 2004 "Sudler Silver Cup."

This award was given by the John Philip Sousa Foundation to only two middle school bands in Canada and the United States in order to promote better international understanding. The John Philip Sousa Foundation is a non-profit foundation dedicated to the promotion of international understanding through the medium of band music. Through the administration of band related projects, the foundation seeks to uphold the standards and ideals of that icon of the American spirit, John Philip Sousa.

The North Ridge Middle School Band won this prestigious honor for demonstrating excellence at the international level under the leadership of director Cynthia Lansford. Not only do bands competing for this award have to show superiority in their musical skills but they must also do so under the same director for a period of several years.

I am proud of this fine band from North Richland Hills Middle School, and I applaud the students, band director and parents who made this achievement possible. I am honored to represent you in Congress.

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING CATHERINE SANTEE, WINNER OF THE 2005 LEGRAND SMITH SCHOLARSHIP

HON. JOHN J.H. "JOE" SCHWARZ

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. SCHWARZ of Michigan. Mr. Speaker, let it be known, that it is with great respect for the outstanding record of excellence she has compiled in academics, leadership, and community service, that I am proud to salute Catherine Roselyn Santee, winner of the 2005 LeGrand Smith Scholarship. This award is given to young adults who have demonstrated their true commitment to playing an important role in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Catherine is being honored for demonstrating the same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Catherine is an exceptional student at Addison High School. Aside from being one of the highest in her class academically, Catherine possesses an outstanding record of achievement. She has been very active in the National Honor Society, Choir, Drama, Yearbook, and her church, serving as youth group president and church secretary. She has also devoted a great deal of her time volunteering to help others.

On behalf of the United States Congress, I am proud to join her many admirers in offering our highest praise and congratulations to Catherine Santee for her selection as winner of the 2005 LeGrand Smith Scholarship. This honor not only recognizes her efforts, but also is a testament to her parents, teachers, and other individuals whose personal interest, steadfast support, and active participation contributed to her success. To this remarkable young woman, we extend our most heartfelt good wishes for all her future endeavors.

IN HONOR AND REMEMBRANCE OF TOM BRAZAITIS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mr. Tom Brazaitis, dedicated husband, father, author, and friend, whose brilliant legacy as a journalist and humanitarian has served to elevate the lives of all who knew him well, including my own.

For more than thirty-two years, Mr. Brazaitis' poignant commentary and piercing assessment of our nation's political and social scene graced the pages of Ohio's largest newspaper, the Cleveland Plain Dealer. His compassion, deep intellect and consistent ability to glean the heart of a story and have it ready under deadline amazed his colleagues. He was known for his quick wit, compassionate heart, progressive mindset and his seemingly effortless ability to stay calm and cool amidst the fiery pressure of the busy newsroom. Mr. Brazaitis' compelling editorials consistently garnered strong responses from his readers, both pro and con. Yet his integrity was unwavering and he never compromised his personal convictions or viewpoints, regardless of popular opinion. Mr. Brazaitis was highly trusted, respected and admired by his colleagues and those of us in the political arena. Whether interviewing a small town council member or having dinner with a powerful publisher, Mr. Brazaitis treated everyone with the same respect, dignity and kindness. He built strong bonds with the public, strengthened by integrity and trust, and gave Greater Clevelanders an insightful and balanced perspective into the local and national political scene.

Mr. Brazaitis' courage and grace was reflected throughout his battle with cancer, a battle that he openly shared with his readers. From his initial diagnosis, through every standard and experimental treatment, Mr. Brazaitis' straightforward descriptions of his cancer experience deeply connected with his readers, offering us a sense of peace, clarity and even humor throughout his heroic struggle.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Mr. Tom Brazaitis, whose life and legacy served to bring critical issues into the rational light of day, and whose deep sense of humanity served to elevate our own humanity. I offer my deepest condolences to his wife, Eleanor; his daughter, Sarah; son, Mark; stepsons, Edward, Woodbury and Robert; and his five grandchildren. Tom Brazaitis lived his life with energy and joy, and the memories of his affable nature and kind heart will forever light the hearts of all who knew and loved him well.

A TRIBUTE TO EARL L. WILLIAMS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. TOWNS. Mr. Speaker, I rise in honor of Earl L. Williams who is being honored at the Brooklyn Caribe Lions Club dinner dance as "Civic Humanitarian of the Year."

Earl, who was born in Panama City, Republic of Panama, has been a community activist and civic leader for more than 40 years. Currently, he is the New York State Democratic Committeeman (District Leader) for the 40th Assembly District; Chairman of Community Planning Board #5, in East New York, Director of Spring Creek Towers Community Center, and a Certified Meeting Planner.

Earl graduated from San Mateo College in California with a BA degree, specializing in public affairs. A graduate of the National Housing Center Institute in Washington DC, he also attended NYU Real Estate Institute. He is a member of the Starrett City Spring Creek Lions Club, Brooklyn Borough President's Board, East Brooklyn Empire Zone, Black Meeting Planners of America, and East New York Hispanic Coalition. He has also chaired many Lions' activities within the district, region, New York State, and internationally. Earl has received many citations and awards from Lions Clubs International including a Presidential Medal; three Presidential Leadership Medals; nine International Extension awards; a Melvin Jones Fellow; Leadership Citations from New York City Mayors Ed Koch and David Dinkins, and Community Service Awards from New York City Council, New York State Senate and Assembly.

Earl Williams and his wife Ruth, who have been married for more than 40 years, are the parents of two children, Jacqueline Denise, an attorney, and Mark (deceased) and the grandparents of Marrissa. Earl is a communicant of St. Lawrence Roman Catholic Church and serves in the ministry of hospitality.

Mr. Speaker, Earl Williams has been a leader in his community and has taken on numerous roles and responsibilities to serve others. As such, he is more than worthy of receiving our recognition today and the award of Civic Humanitarian of the Year. Thus, I urge my colleagues to join me in honoring this truly remarkable person.

IN MEMORY OF ARMY SPC. CLINTON GERTSON

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. GRANGER. Mr. Speaker, I rise today to honor the courage of a young hero from my district. On February 19, 2005, the Department of Defense declared that Specialist Clinton Gertson (United States Army, 24th Infantry Division) was killed in the line of duty after being hit by a sniper in Mosul, Iraq. Gertson's unit was scanning a Mosul neighborhood when he was shot around 2 p.m. Gertson was deployed to Iraq last October along with 4,000 other soldiers in the Fort-Stryker Brigade. His unit had been assigned to be one of the leaders in the fight against insurgents in Mosul.

Gertson, or "Big Country," was described by fellow soldiers as well-respected, someone who would always come to the aid of a fellow soldier and who remained even-keeled, even in the face of extreme danger.

Gertson demonstrated these qualities when 60 insurgents attacked his unit on November 11. Despite being injured himself, Gertson helped other soldiers who were more seriously injured to safety. Gertson again demonstrated this same heroism when a suicide bomber blew himself up inside the Forward Operating Base Marez mess hall in December. After the explosion went off, Gertson rushed to the aid of his wounded Company Commander, taking him to a nearby field hospital. Gertson's courage and leadership were qualities his fellow soldiers drew strength from and admired.

Gertson told his father he hoped everyone knew the sacrifices that he and the other soldiers were making and asked his father to remind people that freedom is not free.

The American people know the sacrifices Gertson, like many other soldiers, made to his country and his memory will not be in vain. I am proud to honor Specialist Gertson's service to the state of Texas where he entered the service, and to the United States of America. He will not be forgotten.

KELLER HIGH SCHOOL WINS STATE ACADEMIC DECATHLON

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. BURGESS. Mr. Speaker, It is my great honor to recognize the outstanding achievements of the Keller High School Academic Decathlon team from Keller, Texas located in the 26th Congressional District of Texas.

Keller High School won the state level Academic Decathlon competition out of a field of 40 teams. The Keller High School HS team brought home 22 team medals and 28 individual event medals from the large school division. In addition, Keller senior Xiaochu "Chu" Song earned the highest overall score at the competition.

Having won the Texas State Academic Decathlon, team members Alex Dang-Tran, Tyler Gibson, Van Hoang, Jeff Marthers, Spencer Scherer, Brandon Simmons, Chu Song, Jennifer Swegler and Joey Wilkinson will represent the State of Texas at the National Academic Decathlon in Chicago.

The team has been strongly competitive for the past 10 years, but this is the first time in its 20 years of existence that the Keller High School Academic Decathlon team has advanced to the national arena. These bright young students are coached by Vicki Whitaker and Kaye Blevins.

I wish them the best of luck at they compete April 14–16 at the national level. I am proud to represent such gifted students and dedicated teachers.

STATEMENT HONORING HEATHER MEYER, WINNER OF THE 2005 LEGRAND SMITH SCHOLARSHIP

HON. JOHN J.H. "JOE" SCHWARZ

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. SCHWARZ of Michigan. Mr. Speaker, let it be known, that it is with great respect for the outstanding record of excellence she has compiled in academics, leadership, and community service, that I am proud to salute Heather Meyer, winner of the 2005 LeGrand Smith Scholarship. This award is given to young adults who have demonstrated their true commitment to playing an important role in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Catherine is being honored for demonstrating the same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Heather is an exceptional student at Addison High School. Aside from being one of the highest in her class academically, Catherine possesses an outstanding record of achievement. She has been very active in the National Honors Society, Girls State, FFA and 4-H, as well as other community and school activities. She has also devoted a great deal of her time volunteering to help others.

On behalf of the United States Congress, I am proud to join her many admirers in offering our highest praise and congratulations to Heather Meyer for her selection as winner of the 2005 LeGrand Smith Scholarship. This honor not only recognizes her efforts, but also is a testament to her parents, teachers, and other individuals whose personal interest, steadfast support, and active participation contributed to her success. To this remarkable young woman, we extend our most heartfelt good wishes for all her future endeavors.

IN HONOR OF DR. ELIZABETH K. BALRAJ

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of Cuyahoga County Coroner, Dr. Elizabeth K. Balraj, as she is recognized by the Cuyahoga County Democratic Party for her outstanding service to our community.

In 1966, following her studies to become a physician and surgeon, Dr. Balraj left her homeland of India to immigrate to the United States. She practiced medicine at Akron General Hospital and St. Luke's Hospital in Cleveland. Dr. Balraj began her work in the Cuyahoga County Coroner's Office as Deputy Coroner and Pathologist. In 1987, following the retirement of Coroner Dr. Samuel R. Gerber, she was appointed Coroner of Cuyahoga County. Dr. Balraj was elected Coroner in November of 1988, and has been re-elected ever since.

Dr. Balraj's unwavering focus and energy is reflected every day throughout this office. Beyond supervising a multi-million dollar budget and a workforce of 87, she often leads cross-agency teams in uncovering answers for law enforcement officials, and most significantly, for families who grieve the death of their loved one. Dr. Balraj's integrity, combined with her sense of calm and precision, has elevated the work and mission throughout the Coroner's Office. She broke the glass ceiling for women by successfully carving a path into an area of science and medicine where women were virtually non-existent before.

Mr. Speaker, please join me in honor and recognition of Dr. Elizabeth K. Balraj. Her intellect, wisdom, leadership, quiet determination, and above all, her compassion and heart, all serve to offer answers to members of law enforcement, and most importantly, closure, solace and peace within the minds and hearts of families and individuals within Cuyahoga County.

A TRIBUTE TO CARLOS CASTILLO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. TOWNS. Mr. Speaker, I rise in honor of Carlos Castillo who is being honored at the Brooklyn Caribe Lions Club dinner dance as "Lion of the Year."

Carlos Castillo, an outstanding Lion member, was born in Myaguez, Puerto Rico. Upon graduating high school in 1959, he originally came to New York for just two weeks. However, those two weeks ended lasting a lifetime. He got into the supermarket business and continued that venture for 40 years.

Through his work, he has become a highly recognized and distinguished individual in his industry. In 1989, his efforts were recognized with the Businessman of the Year Award. Also, in 1991 he received the Outstanding Puerto Rican Professionals Award from the Office of the New York City Council President, the Honorable Andrew Stein.

In addition to his accomplishments as a businessman, he is also a noted humanitarian. Carlos joined the Brooklyn Caribe Lions Club in 1984 and has always had an eye on helping those in need. Throughout his tenure with the Lions, he has received the Lion of the Year Award, the 100% President Award, the Melvin Jones Award, and the prestigious Uplinger Award.

He is also a devoted father and an all around exceptional family man. He has been married to his wife Astrid, for 40 years, and together they have raised three successful children: Charles Jr., Sandra, and Nelson. He is the proud grandfather of Michael, Taylor, Ivan, and Carlos Luis.

Mr. Speaker, Carlos Castillo has been a leader in his community and has been a wonderful example of how dedication and perseverance can lead to success. As such, he is more than worthy of receiving our recognition today and the award of Lion of the Year Award. Thus, I urge my colleagues to join me in honoring this truly remarkable person.

IN MEMORY OF ARMY SGT. DANIEL TORRES

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. GRANGER. Mr. Speaker, I rise today to honor the courage of a young hero from my district. On February 4, 2005, the Department of Defense declared that Sergeant Daniel Torres (United States Army, 3rd Infantry Division) was killed in the line of duty when a roadside bomb exploded near his vehicle 140 miles north of Baghdad. Torres enlisted in the army following 9–11 and was planning to save up for college. He wanted to study marketing and international business and also had dreams of becoming a police officer.

His friends describe Torres as spiritual, someone who encouraged his friends to stay strong when they were down, and who was a role model to his peers.

He was also devoted to his family. He played catch with his younger sister Christina to help her improve her softball skills, which she says played a part in her recently receiving an athletic scholarship to a community college in Louisiana. He also had just found out that he was about to become a father and was ecstatic at the prospect.

Torres had been deployed to Iraq at the beginning of the war and remained there for seven months before his unit was sent back home. Torres' unit was deployed again to Iraq this January for another tour. Torres' father said his son had a gut instinct that he might not return home this time and told his family at Christmas that if he didn't return home, he would die doing what he was called to do. He told his parents that he was fighting for the children or Iraq, so that they and other Iraqis his age could have a better life and a better future. He also told them to be strong and have faith in God.

It is qualities of incredible courage, strength and pride in serving his country that we see in young heroes like Daniel Torres that makes us appreciate the freedoms we have here at home. I am proud to honor Sergeant Torres' service to the state of Texas where he entered the service, and to the United States of America. He will not be forgotten.

INTRODUCTION OF THE INSULAR AREAS TAX CREDIT ACT

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. BORDALLO. Mr. Speaker, today I am introducing legislation that would resolve an issue of tax compliance between the United States Department of the Treasury and the governments of Guam and the United States Virgin Islands. This legislation addresses concerns regarding the coordination of the payment of the Earned Income Credit, EIC, and Child Tax Credit, CTC, to qualifying taxpayers within these jurisdictions.

The tax codes of Guam and the Virgin Islands mirror that of the Internal Revenue Code, IRC, and taxpayers in these jurisdictions file their annual returns with their respective local departments of revenue and taxation in lieu of filing with the Internal Revenue Service. The revenue and taxation departments of Guam and the Virgin Islands must incorporate all provisions of the IRC related to individual and business taxes for their respective taxpayers, including provisions authorizing tax credits such as the EIC and the CTC. Revenues are retained by local treasuries, which they may use to cover the costs of operating local government agencies and providing for public services.

The coordination of the EIC and CTC is problematic because it requires the treasuries of Guam and the Virgin Islands to pay "refundable" portions of these credits, or those amounts that exceed an individual taxpayer's total tax liability. While I support the EIC and CTC and believe that low-income taxpayers in my district should be able to receive this form of tax relief, requiring the treasuries of Guam and the Virgin Islands to cover all "refundable" portions of these credits constitutes an unfunded federal mandate. In theory, the amount of such credit that exceeds an individual taxpayers total tax liability is meant to offset the impact of FICA taxes on low-income individuals. While residents of Guam and Virgin Islands pay their FICA taxes to the U.S. Treasury, the territorial treasuries are tasked with covering the cost of the "refundable" portion of this credit out of local revenues. Our cashstrapped treasuries are simply incapable of covering the amount of claimed credit, which constitutes between 6 to 8 percent of all tax revenues in Guam.

Congresswoman CHRISTENSEN and I have been working on a fair resolution to this matter over the past 2 years. We have worked with the Department of the Treasury and the chairmen and ranking members of the House Ways and Means and Senate Finance Committees. The legislation I am introducing today is similar to a bill I introduced last year, H.R. 2186, but with several revisions aimed at facilitating implementation. This legislation proposes a fair federal-territorial cost sharing arrangement which will allow low income citizens in the territories who pay FICA taxes to realize the same tax benefits as their counterparts in the 50 States and the District of Columbia without bankrupting the local treasuries of Guam and the Virgin Islands.

I look forward to working with House Ways and Means Committee Chairman THOMAS and Ranking Member RANGEL on this legislation.

IN HONOR OF THEODORE REKLINSKI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Theodore "Ted" Reklinski, upon the occasion of his retirement after more than 30 years of dedicated service with the Social Security Administration, where he worked diligently on behalf of the citizens of our community.

Mr. Reklinski began working as a Claims Representative for the SSA in 1973. He quickly ascended through the ranks, and by 1980, he was promoted to the position of Operations Supervisor at the Painseville office. In 1987, he returned to the Cleveland office as Operations Supervisor, and moved to the west side office in 1994. Mr. Reklinski's expertise, diligence and keen understanding of the complexities of our Social Security system, enabled him to provide solutions for countless individuals, children and families in critical need of assistance.

Beyond his outstanding service to his constituents, Mr. Reklinski forged solid bonds with community leaders and agencies. He served as an invaluable contact for my Congressional Staff, and his work reflected diligence and heart, enabling my Congressional Staff to assist our constituents and their families when needed.

Mr. Speaker and Colleagues, please join me in honor, gratitude and recognition of Mr. Ted Reklinski, for his exceptional work and advocacy on behalf of the citizens of our Cleveland community. His integrity and expertise, and more importantly, his sincere concern for others has uplifted the lives of countless citizens throughout our District.

A TRIBUTE TO THE UNITED JEWISH ORGANIZATIONS OF WILLIAMSBURG

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. TOWNS. Mr. Speaker, I rise today in recognition of a distinguished organization, the United Jewish Organizations of Williamsburg. It is an honor to represent The United Jewish Organizations of Williamsburg in the House of Representatives and it behooves us to pay tribute to such a selfless organization.

Mr. Speaker, The United Jewish Organizations of Williamsburg was founded in 1966 to help families in need in South Williamsburg. Over the course of its Thirty-Nine years of service to the Brooklyn community The United Jewish Organizations of Williamsburg has thrived marvelously where today it represents more than 50,000 community residents and 148 not-for-profits, religious, educational, charitable organizations and civic associations in the Jewish community of Williamsburg, Clinton Hill and Bedford-Stuyvesant.

Under the tutelage of their President, Rabbi David Niederman, The United Jewish Organizations of Williamsburg has established itself as a direct provider of social and housing services and is the address for urban planning, public health and community development services for the Jewish community of Greater Williamsburg.

The United Jewish Organizations of Williamsburg, has been a leader in providing low-income housing to the Williamsburg community. Their most recent project includes the development of a waterfront property at the site of the former Schaeffer Brewery, which has 149 housing units reserved for low-income people. Additionally, they are the central address for the New York State and New York City Departments of Health and the Center for Disease Control in researching and conducting pilot projects on Cancer and Shigellosis in the culturally rich Hasidic Jewish community. They also have been instrumental in providing treatment to those suffering from the adverse effects of tobacco as well as being involved in collaborative efforts with other not-for-profits to providing for the overall betterment of the Williamsburg community.

Mr. Speaker, I believe that it is incumbent on this body to recognize the achievements of the United Jewish Organizations of Williamsburg. After the destruction and decimation of many Hasidic dynasties in Europe during the Holocaust, it is truly an inspiration to see the Hasidic sects of Satmar, Pupa, Vishnitz, Vien, Tzelem, Skver, Klausenberg and Spinka join together under the umbrella of The United Jewish Organizations of Williamsburg and call Brooklyn their home.

Mr. Speaker, may our country continue to benefit from the civic actions of The United Jewish Organizations of Williamsburg and community groups similar to them.

HONORING THE 2005 ALICE PAUL EQUALITY AWARD RECIPIENTS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. ANDREWS. Mr. Speaker, I rise today to honor the recipients of the 2005 Alice Paul Equality Award: Vivian Sanks King, Esquire; Jennifer S. Macleod, Ph.D.; Ruth B. Mandel, Ph.D.; and the Honorable Sylvia B. Pressler. These remarkable individuals have helped to build a more just reality for women in New Jersey and beyond.

For 20 years, the Alice Paul Institute has worked to empower women and girls to become leaders in their communities, careers, and daily lives. Born in Mt. Laurel, NJ, Alice Paul was a lifelong advocate for equal rights for women, and led the final campaign for women's right to vote. She authored and lobbied for the Equal Rights Amendment, a much needed piece of legislation that would guarantee the equality of rights under the law for all persons regardless of gender.

The recipients of the 2005 Alice Paul Equality Award have all demonstrated a strong commitment to advancing women's equality throughout their lives. Vivian Sanks King, Esquire, currently serving as Vice President of Legal Management and General Counsel of the University of Medicine and Dentistry of New Jersey, is a community leader in the health law field, and is one of the first African-American attorneys appointed to head the legal department of a major academic medical center and university. Dr. Jennifer Macleod is an outspoken advocate for women's equality: she is a leader in the fight for the passage of the Equal Rights Amendment, and was a co-founder and first president of the first NOW chapter in New Jersey. Dr. Ruth Mandel, currently the Director of the Eagleton Institute of Politics at Rutgers University, teaches and writes about U.S. women's political leadership, and has received numerous distinctions for her extraordinary public service. The Honorable Sylvia Pressler, recently retired, served as the presiding judge for administration of the Appellate Division of the Superior Court of New Jersey. She was the first female appellate law clerk and the second woman ever to serve on the appellate court. These four remarkable women deserve our thanks for their outstanding work on behalf of women in New Jersey and everywhere.

Mr. Speaker, there remains today an equality gap between women and men that contradicts the basic principles of our great Nation. With the tireless efforts of the Alice Paul Institute and the 2005 Alice Paul Equality Award honorees, this gap is being closed. I thank all those who have sought a more just America through the advancement of equality for women, and encourage my colleagues to support this cause in the U.S. Congress. Together we can continue to create better opportunities for all women.

IN HONOR OF THE GOLDEN JUBILEE OF SISTER MARY HELEN JACZKOWSKI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Sister Mary Helen Jaczkowski, upon the joyous occasion of her 50th Jubilee Year. As she has for half a century, Sister Mary Helen continues to serve in dedicated and holy ministry, a ministry of faith that focuses on the children, seniors and families of our community. She teaches by example, and her words and deeds, reflecting kindness, compassion and love, radiate strength and hope within the hearts of many, including my own.

Inspired by a true calling of spiritual and humanitarian duty, Sister Mary Helen began her ministry with a strong foundation in education. She started her life-long career in education by teaching third, fourth and fifth grade students at St. John Cantius School. Sister Mary Helen taught at various parochial schools throughout Cleveland and Northeastern Ohio, and also held leadership roles as assistant principal and principal. To fortify her knowledge and educational expertise, Sister Mary Helen earned a Master's degree in Education along the way. Today, she continues her educational ministry and leadership as assistant principal at Immaculate Conception School in Cleveland's Slavic Village neighborhood.

As a long-time social activist, Sister Mary Helens' unwavering dedication, focused on improving the lives of those around her, is clearly reflected throughout our Cleveland neighborhoods, from Tremont to Slavic Village and beyond. In Slavic Village, Sister Mary Helen led the restoration effort to transform the long-since abandoned Harvard School into an affordable, warm and secure place to call home for senior citizens, now known as the Harvard Village Senior Apartments.

Mr. Speaker and Colleagues, please join me in honor and celebration of the Golden Jubilee of Sister Mary Helen Jaczkowski. Her commitment, kindness and caring for the people of our community, from our children to our elderly, has served to lift the spirits of countless individuals, and continues to radiate faith, hope and light throughout our entire community.

HONORING THE BERKELEY POLICE DEPARTMENT

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the Berkeley Police Department of Berkeley, California on the occasion of its 100th year of service.

At the time of its founding over a century ago, the Berkeley Police Department was a pioneering institution. Led by August Vollmer, who was elected Town Marshall in 1905 and appointed as Berkeley's first Chief of Police in 1909, the Berkeley Police Department become known for its innovative management and law enforcement methods, and its practices were adopted by other departments nationwide.

Chief Vollmer is considered by many to be the father of modem law enforcement. He was one of the first officials to institute the use of a basic records system, scientific investigation, and motorcycle patrols as law enforcement methods. He sought police officers with good educations, worked with U.C. Berkeley to establish a police school, and also established the department's Law Enforcement Code of Ethics, which prohibited officers from receiving gratuities and from smoking on duty, and also required them to use as little force as possible in making arrests.

In addition to these innovations, Chief Vollmer was also one of the most progressive figures in law enforcement during his time. He recruited the first female and African American officers to the force in Berkeley, and also became a prominent opponent of the death penalty.

In the years since its remarkable founding, the Berkeley Police Department has continued to serve the public with courage and compassion, working to protect the residents of Berkeley and also to become involved in the community. In addition to its establishment of the charitable Christmas in April program in 1991 and other community service projects, the Department has also made a sustained effort to establish an effective model for community-involved policing.

Furthermore, the Berkeley Police Department has devoted considerable resources to the development of other programs of dire importance, such as the Domestic Violence Unit, Youth-Police Workshops with Beat Officers, the Citizens' Academy and Toys 4 Tots with Marines. In recent years, the department has received grants from the Department of Justice, the Office of Traffic Safety and others to institute innovative public safety reforms, and in 2003 reported the city's lowest violent crime rates since 1974.

On April 7, 2005, the Berkeley Police Department will be holding its centennial celebration. I would like to take this opportunity to commend and thank those who have given of themselves to serve the public through their work with the police force. I congratulate the Berkeley Police Department for 100 years of invaluable service, and salute its officers for their tireless efforts to make our community a safer, better place.

A TRIBUTE TO SOUTHERN CALIFORNIA PRESBYTERIAN HOMES

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate Southern California Presbyterian Homes for 50 years of providing outstanding housing and health care services to older adults throughout Southern California.

Southern California Presbyterian Homes, a nonprofit corporation, was founded in 1955, as a mission outreach of the Presbyterian

Church, to provide quality housing, health, and support services for senior citizens regardless of faith, race, income, or ethnicity. The organization is dedicated to serving the needs of seniors that enrich the physical, social, and spiritual dimensions of their lives.

Southern California Presbyterian Homes has grown from its humble beginnings of one continuing care retirement community in La Jolla in 1955 to 38 facilities in 2005 and serving over 3,300 senior citizens. There are continuing care retirement communities, like Royal Oaks Manor in Bradbury and Windsor Manor in Glendale, that provide multi-level care from independent living through skilled nursing. Kirkwood of Glendale is an assisted living facility that provides a residential alternative to older adults who currently reside in a nursing home or their own homes, and need assistance with activities of daily living and specialized dementia care. Affordable housing facilities such as Rosewood Court in Pasadena, Casa de la Paloma, The Gardens, Otto Gruber House, Palmer House, and Park Paseo in Glendale provide excellent living opportunities and support services for senior with limited incomes. Southern California Presbyterian Homes also provides home and community-based services through its adult day health care center and through Southern California Presbyterian Homes Home Care.

I am proud to recognize Southern California Presbyterian Homes for its 50 years of compassionate care to senior citizens in Southern California and I ask all Members to join me in congratulating Southern California Presbyterian Homes for their remarkable achievements.

TRIBUTE TO CAPTAIN SEAN GRIMES

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KNOLLENBERG. Mr. Speaker, today I join the people of the 9th Congressional District and the State of Michigan in honoring the passing of an American hero and patriot, Captain Sean Grimes, who lost his life in the line of duty in Iraq on March 4th. Captain Grimes was assigned to the U.S. Army's 1st Infantry Battalion, 9th Infantry Regiment, 2nd Brigade Combat Team where he served with distinction as a Combat Medic. At the time of his passing, Sean Grimes was 31.

A Bloomfield Hills native, Captain Grimes graduated from Lahser High School in Bloomfield Hills in 1991. Shortly after graduating from high school Sean enlisted in the Army Reserve serving as an enlisted man for four years. His love of the Army prompted him to enroll in the Reserve Officers Training Corps (ROTC) while pursuing a Bachelor of Science degree in Nursing at Michigan State University. In 1997 he graduated from MSU and was commissioned as a Distinguished Military Graduate. His efforts and desire to provide the best medical care to soldiers led him to the Brooke Army Hospital at Fort Sam Houston in Texas in 2003, whereupon he graduated from the Army's Physician Assistant Course.

Until the day of his death, Captain Grimes displayed a sense of service not only to his fellow soldiers, but to his fellow man, helping civilian Iraqis in need of medical care. We may never really know the full impact his selfless acts may have had on the lives of his fellow soldiers and civilians he came into contact with. But the manner and character in which he fulfilled his duties tells us that he indeed made a difference in the lives of others and that that difference was for the better. These efforts have been recognized by the Army through a variety of medals Captain Grimes received during his career, culminating in being awarded the Bronze Star and Purple Heart posthumously.

Captain Sean Grimes exemplified what is best about the American soldier, devotion to duty above self, tireless dedication to his fellow soldiers and most importantly a driving desire to protect the freedoms we cherish so dearly. While he will certainly be missed most by his family, his sacrifice will not be forgotten. Captain Grimes paid the ultimate price both to protect the freedoms we exercise daily and to, bring those same freedoms to people who have never experienced true liberty. Today we honor his memory and may we never forget his sacrifice.

IN HONOR OF CLEVELAND DETECTIVE MAURICE HAMILTON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Detective Maurice Hamilton, Badge #758, in celebration of his recent retirement from the Cleveland Police Department, after twenty-five years of dedicated and honorable service to the force and to the citizens of Cleveland.

Prior to joining the Cleveland Police Department in 1980, Detective Hamilton worked for the Cuyahoga County Sheriff's Department. He began basic patrol in Cleveland's Sixth District on May 29, 1980. In 1986, Detective Hamilton was needed on basic patrol in the First District. By 1989, he was promoted to Detective, working within the First District Strike Force, then the First District Detective Bureau in 1992.

Throughout his committed public service as protector and guardian of the residents of our community, Detective Hamilton maintained the highest level of integrity, grace and skill. He developed strong and trusted bonds with colleagues, neighborhood leaders, members of Cleveland's court system and members of the FBI. His expertise, unwavering focus, and compassion for others reflected in his outstanding work in solving cases and helping individuals and families who needed assistance. Over the years, Detective Hamilton has been duly recognized with numerous awards and commendations for his exceptional police work, yet these honors held little personal significance to him. His family, friends, fellow officers and the people of our community have always been, and continue to be, his motivating force. A true believer in giving back to the community, Detective Hamilton continues to volunteer his time as a member of the Cleveland Police Patrolman's Association and as an elder with his church, Grace Lutheran in Lakewood, where he is actively involved in community children's programs.

Mr. Speaker and Colleagues, please join me in honor and celebration of Cleveland Police Detective Maurice Hamilton, as we reflect upon twenty-five years of his significant service to the citizens of Cleveland. Detective Hamilton's compassion for others, integrity, expertise, and focus on protecting his constituents in Cleveland have all served to elevate the lives of countless families and individuals within our community. We wish Detective Hamilton, his wife, Joyce Hamilton, and their entire family many blessings of peace, health and happiness as they journey from this day onward.

30TH ANNIVERSARY OF THE ASIAN PACIFIC STATE EMPLOYEES ASSOCIATION

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. MATSUI. Mr. Speaker, I rise in tribute to an organization with a great record of service to the Sacramento Region. For the past three decades, the Asian Pacific State Employees Association has worked tirelessly to protect and advance the interests of Asian American state employees. As the Asian Pacific State Employees Association hosts its 30th Anniversary celebration on April 28, 2005, I ask all my colleagues to join me in saluting the Asian Pacific State Employees Association, one of the Asian Pacific Islander community's most important service organizations.

The Asian Pacific State Employees Association, formerly known as the Asian State Employees Association, was founded in 1975 for the purpose of working toward achieving equal opportunity within the state work force through professional development and community empowerment. The Association's vision is one of Asian Pacific state employees serving, enhancing, and leading state government and their community.

Objectives adopted by the Association include advocating for Asian Pacific Islander state employee interests; providing an Asian Pacific network for its members and employers; advancing personal and professional development of its membership; consulting with members facing adverse action or other employment problems; working with the community to promote career opportunities, professionalism, cultural pride, self-esteem, and citizenship; and providing services and interchange with community, academic, and business groups.

Benefits and services offered by the Association include employee development, networking, scholarship opportunities, communications, and celebration of Asian Pacific contributions. At the present time, the Asian Pacific State Employees Association has over 1,000 members statewide, which includes the

Southern, Central Valley, and Bay Area chapters, and officers frequently serve on legislative fact-finding committees, and provide testimony before the legislative committees regarding advocacy and affirmative action policies.

I would like to acknowledge and congratulate the evening's special honoree, Assemblywoman Judy Chu. Judy's distinguished career and her commitment to advocate for the interests of Asian American state employees make her a most deserving recipient of special praise and recognition

Mr. Speaker, the Asian Pacific State Employees Association has evolved into a leading organization within the state, a dynamic force striving to improve the quality of life of its members and the general community. I am confident that the Asian Pacific State Employees Association will continue to do great work and yield tremendous benefits to the Asian Pacific Islander state workers of California. I ask all my colleagues to join me in wishing the Asian Pacific State Employees Association continued success in the future.

SERGEANT FIRST CLASS PAUL RAY SMITH'S MEDAL OF HONOR

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. BILIRAKIS. Mr. Speaker, it is my privilege to rise today to honor one of our nation's bravest servicemembers, Sergeant First Class Paul Ray Smith. Tragically, Sgt. Smith lost his life two years ago while serving in Operation Iraqi Freedom. For his valor, Sgt. Smith on Monday was awarded the Congressional Medal of Honor.

The Medal of Honor is this nation's highest military honor and is awarded in the name of Congress by the President of the United States. Before Sgt. Smith, only 3,459 men and women, who have distinguished themselves, at the risk of life, above and beyond the call of duty, have received the Medal of Honor since its inception in 1861.

Sgt. Paul Smith is the first recipient of the Medal of Honor for service in Operation Iraqi Freedom. He also is the first to receive this great distinction since it was awarded posthumously in 1993 to two soldiers who died fighting in Somalia.

Mr. Speaker, on July 12, 2004, this body approved legislation, signed by the President, to name a post office in Holiday, Florida, the "Sergeant First Class Paul Ray Smith Post Office." On that date, I first spoke about Sgt. Smith's heroic actions. On April 4, 2003, outside of Saddam International Airport in Baghdad, Sgt. Smith's unit, the Bravo Company of the 11th Engineer Battalion of the 3rd Infantry, was tasked with securing a prison for Iraqi prisoners of war at the Baghdad airport.

While Sgt. Smith and his men were working in the POW prison, they spotted members of the Republican Guard nearby. Sgt. Smith called for a Bradley fighting vehicle, which was at a nearby roadblock, and he prepared his men for engagement. Sgt. Smith took charge and led the effort while they waited for the Bradley, which would bring an intimidating fire force.

Even though Sgt. Smith and his men were outnumbered by more than two to one, they continued to fight back. Without concern for his own life, Sgt. Smith jumped on an Army vehicle and began firing a .50 caliber machine gun. He fired and reloaded and continued to fire, killing 50 enemy soldiers until he was shot and killed.

Sgt. Smith's efforts saved the lives of all of his men and the more than a hundred American soldiers in the surrounding area. For Sgt. Smith, this was his job. In a letter he wrote to his family, which he never mailed, he said, "It doesn't matter how I come home, because I am prepared to give all that I am, to ensure that all my boys make it home."

Mr. Speaker, the Medal of Honor will never bring Sgt. Smith back to his family. He will not be able to play baseball with his son David. He will not be able to walk his daughter Jessica down the aisle when she gets married. He will no longer be able to kiss his wife Birgit goodnight. But because of his unyielding courage, his "boys" will have that chance with their families.

Since Sgt. Smith's death, Iraq has been liberated from a brutal dictator, had democratic elections, and is now a beacon for freedom and hope for all Middle East countries. The United States is safer today than we were before the fall of Saddam. I know that without the actions of Sgt. Smith and others like him, this goal could not have been achieved so promptly. Sgt. Smith's life was not lost in vain.

We are truly honored to have had a man such as Sgt. First Class Paul Ray Smith serve in our nation's military. He has become an inspiration to all men and women of the Armed Forces. His story will forever resonate in the history of this great nation and his name and legacy will never be forgotten. May God bless the Smith family and continue to watch over the country Sgt. Smith so loved.

IN HONOR AND REMEMBRANCE OF YOLANDA CRACIUN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Yolanda Craciun, loving mother, grandmother, community activist, and dear friend and mentor to many. Her passing marks a great loss for her family and friends, and also for the people of Cleveland's west side neighborhood, whom she supported, promoted and faithfully served.

Mrs. Craciun's family, including her late husband, John Craciun, were central to her life. The great care and love that she showered on them extended throughout Cleveland's west side neighborhood, where Mrs. Craciun led many efforts to uplift her neighborhood. The well-being of her community, anchored by her parish, Our Lady of Mt. Carmel Church, was her lifelong focus. Her advice and support was continually sought by neighbors and neighborhood leaders. Greatly loved, respected and admired by all, Mrs. Craciun was godmother to twenty-eight children.

Equipped with a compassionate heart, sharp mind and even sharper focus on the neighborhood she loved, Mrs. Craciun's efforts fostered hope and possibility throughout the Dentroit-Shoreway neighborhood, where she lived her whole life. She was a founding member and trustee of the Detroit-Shoreway Community Development Coalition, leading the charge to restore the neighborhood with housing, economic and social initiatives. Her efforts to help others spanned every barrier, and touched the lives of countless people and family. Mrs. Craciun raised over $100,000 for the Snowflake Program, used to decorate the neighborhood during holidays. She volunteered her time as a literacy tutor, was president of the PTA at St. Edward's High School, and served on many boards, including St. Augustine Manor and the Westside Substance Abuse Task Force Project.

Her humble nature precluded her from reveling in awards and accolades. However, her outstanding service was recognized by others. She was the recipient of many awards that highlighted her humanitarian efforts, including the 2004 Father Marino Frascati Neighborhood Champion Award, and the Giuseppe T. Fiocca Award, presented to her in 1998.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Yolanda Craciun. She lived her life with joy, energy and in unwavering service to others. I extend my deepest condolences to her many friends and family members, especially her children: Jean, Mary, John, Joseph and James; and her grandchildren and sister. Her eternal faith in humanity and in the notion that together, we can make a positive difference, will continue to serve as an unending force of light, hope and possibility, throughout the Detroit-Shoreway neighborhood and beyond.

TRIBUTE TO DORIT AND SHAWN EVENHAIM

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Dorit and Shawn Evenhaim for their dedicated efforts to improve the quality of life in our community. Throughout their lives Dorit and Shawn have contributed countless hours of community service by supporting various organizations and effectively leading several groups. Their ongoing service to the San Fernando Valley is truly immeasurable.

Dorit and Shawn's strong desire to serve the community dates back to their native Israel. They both grew up in Southern Israel in working class neighborhoods. Although they came from modest backgrounds, the principles and obligations of the Tzedakah were instilled at an early age. This is the Jewish ideal of aiding those who are less fortunate. This common bond that Dorit and Shawn shared growing up together eventually flourished into a romance as they served their military responsibilities in Israel.

Shortly following their military service they ventured to the United States with hopes of new opportunities. Shawn quickly immersed himself in his brother's painting business. Although he had only been in the United States for a short time, by 1992 Shawn became president of a large in-fill development company in the San Fernando Valley. Soon after, Dorit encouraged Shawn to open his own development firm called California Homes in 1994. California Homes has become one of the largest in-fill home builders in the Los Angeles basin.

One of the most important construction projects that Dorit and Shawn have undertaken was the creation of a new home for the Kadima Hebrew Academy in the San Fernando Valley. A member of Kadima's Board of Directors, Dorit was instrumental in convincing Shawn to take on this project. Dorit and Shawn quickly began searching for new investors who had the resources and desire to establish a new campus. Not finding the support needed, Dorit and Shawn took the search into their own hands. Shawn became aware of a private land auction in West Hills. Shawn, despite going up against several real estate investors, was the successful bidder, securing the facility and the surrounding land.

Dorit and Shawn's efforts not only encompassed the purchase and acquisition of land. They were also deeply involved in all aspects of the project, using their contacts to acquire all necessary permits to expedite the process. As a result of Dorit and Shawn's efforts, San Fernando Valley residents can now take part in a unique educational experience at the newly developed campus.

Mr. Speaker, please join me in recognizing Dorit and Shawn Evenhaim, amazing individuals who have dedicated their lives to the betterment of the San Fernando Valley.

IN HONOR OF CUYAHOGA COUNTY ENGINEER ROBERT KLAIBER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of Cuyahoga County Engineer Robert Klaiber, as he is recognized by the Cuyahoga County Democratic Party for his service to our community.

In 1999, Mr. Klaiber was appointed to the office of County Engineer. In 2000, he was elected to the office. Mr. Klaiber began his career in engineering as a land surveyor and engineer consultant. Prior to his acceptance of the office of County Engineer, he worked as the City Engineer for the City of Strongsville. Mr. Klaiber's work, focused on improving our community's roadways and bridges, has served to enhance all aspects of our county's system of transportation.

Mr. Klaiber has been instrumental in assisting my office with infrastructure improvements, especially with the railway merger, a project that affected the entire southwest region of the 10th Congressional District. He has consistently demonstrated a high level of energy, focus and willingness to assist us in improving transportation safety and access for all residents within our community.

Mr. Speaker, please join me in honor and recognition of Mr. Robert Klaiber, Cuyahoga County Engineer. His dedicated service and expertise, focused on the well-being of the residents of Cuyahoga County, has served to uplift our entire community.

HONORING LINDA WOOD FOR EXEMPLARY SERVICE AS ALAMEDA COUNTY LIBRARIAN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. STARK. Mr. Speaker, I rise today to recognize Linda Wood, upon her retirement as Alameda County, California's top librarian. After 14 years at the helm of the county library system, with 10 branches and an annual budget of $21 million, Ms. Wood is stepping down from an extraordinary career.

She has been working in the library field for almost 40 years and states, "I'm proud of my accomplishments, but I'm ready to move on to the next phase of my life."

Ms. Wood began her library career reshelving books. After earning her degree in library science from the University of Washington, she graduated to reference librarian and went up the ladder from there. She has taken on many duties, from serving as branch manager to administrator in libraries from Oregon State to the cities of Riverside and Los Angeles.

Ms. Wood leaves the Alameda County library system a lot bigger than she found it. Since being hired as county librarian in 1991, she has helped open two new branch libraries—in Albany, California in 1994 and Dublin, California in 2003 and has obtained seed funding and a patch of land for a new branch in Castro Valley, California.

The county library system, with over 200 full-time employees, also includes branches in Fremont, Newark, Union City and unincorporated San Lorenzo, a bookmobile and services for jail and juvenile facility inmates and literacy and senior outreach programs.

Ms. Wood has overseen a full-scale modernization of library services and fought to maintain services through ups and downs in funding. She fought for library services not only in Alameda County but also throughout the State of California.

Today's collections have expanded from books and periodicals to include movies, CDs, DVDs and books on tape. Old card catalogues have given way to databases and now vast Internet services where patrons can research library holdings day and night.

Throughout her illustrious career, Ms. Wood has demonstrated her longtime advocacy for libraries. Her advocacy has made a positive difference in strengthening many library systems for the public's education and enjoyment.

I join Linda Wood's colleagues, friends and admirers in expressing good wishes as she retires and thank her for her contributions to our communities through libraries.

IN HONOR OF CHUCK WEPNER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Chuck Wepner for his outstanding boxing career.

A Bayonne native, Mr. Wepner received no formal training, practicing at the gym part-time while working as a salesman during the day. In his prime, he was ranked in the top ten among some of greatest names in boxing, including George Foreman, Joe Frazier, and Muhamad Ali.

Mr. Wepner boasts a feat that few have matched: 30 years ago he boxed with Muhamad Ali and was able to knock him to the mat. Though 36 years old and ranked seventh at the time, he went a full 15 rounds with "the Greatest." While Ali eventually won the March 24, 1975 fight, Mr. Wepner is one of only three men to have ever knocked him down. Adding to his achievement is the fact that Sylvester Stallone used Mr. Wepner's personal story of an underdog taking on a prize fighter as the basis for his "Rocky" movies. Mr. Stallone acknowledges he used many aspects of Mr. Wepner's life in the boxing films.

Though retired from the ring, Mr. Wepner remains in contact with legends such as Joe Frazier, Mike Tyson, and even Sylvester Stallone. Thirty years after his formidable fight, he is busy working as a motivational speaker at schools and various organizations across the country. Additionally, he is developing a movie project and considering writing a book.

Today, I ask my colleagues to join me in honoring Chuck Wepner for his career achievements as a boxer. He has proven to be a strong, inspirational force both in and out of the ring, and I wish him the best in his future endeavors.

SMALL BUSINESS TAX FLEXIBILITY ACT OF 2005

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mrs. CUBIN. Mr. Speaker, one of the most important decisions for the founder of a business is "choice-of-entity," or the decision to operate as a corporation, partnership, limited liability company (LLC), or other form of business.

The law regarding choice-of-entity has changed enormously in the last 15 years, particularly with the widespread adoption of laws authorizing the creation of the LLC. As a result, many small business owners have more "choice of entity" flexibility than ever before.

First authorized in Wyoming in 1977, LLCs are organized under State law, and are now recognized in all 50 states. In essence, LLCs are allowed corporate treatment for local law purposes and partnership treatment for Federal income tax purpose. LLCs also provide for more than one class of ownership, allowing for increased flexibility to allocate income or losses to different investors. The flexibility and protections of the LLC has led to a rapid expansion in the number of small businesses electing to operate in this manner.

In 1995, the Internal Revenue Service (IRS) adopted the position that general partnerships could be converted into LLCs with little or no tax effects. Unfortunately, as incorporated entities, this does not hold true for small businesses operated as subchapter S corporations (S Corps).

Created in 1958, the S Corp structure allows for no more than 75 shareholders, can issue only one class of stock, and cannot have partnerships or corporations as shareholders. Yet, until the rise of the LLC, the S Corp structure provided, for all practical purposes, the only way that a small business could enjoy the corporate protections of limited liability without being burdened with corporate taxation. Taxed much the same way as partnerships, many older, family-owned, small businesses operate as S corps.

Clearly, the original intent for creating the S Corp structure was the same reasoning that led to the creation of LLCs—to provide a simple and flexible tax category for small and family-owned businesses. However, despite the similarities to LLCs, S Corps are not granted the same conversion flexibility as other partnership-like entities and are instead grouped with larger companies under a cumbersome corporate structure. My bill would modernize the tax treatment of S Corps, allowing them the same choice-of-entity flexibility offered to other small businesses operating as LLCs. This is a common sense change that is overdue.

CETS: A NEW TOOL TO COMBAT CHILD EXPLOITATION

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. POMEROY. Mr. Speaker, the exploitation of children online is a grave and growing threat, both here in the United States and worldwide. By 2005, more than 77 million of our children and teenagers will use the Internet, entering chat rooms and other public online areas, at times instant messaging with strangers ready to prey on our Nation's young people.

Simply put, millions of children and teens are now at risk of abduction or worse. Here's more startling data:

55 percent of children have given their personal information (name, sex, age, etc) over the Internet.

One in ten children has met someone face to face they previously met online.

37 percent of children say their parents would disapprove if they knew what they did, where they went, or with whom they chatted on the Internet.

40 percent of children do not discuss Internet safety with their parents.

In short, the borderless nature of the Internet has allowed sexual predators to stalk innocent children and traffic in child pornography with near impunity.

Fortunately, new technology may provide powerful new weapons in law enforcement's arsenal to combat child exploitation: The Child Exploitation Tracking System, also known as "CETS." CETS is a computer application developed by Microsoft in partnership with Canadian and international law enforcement agencies to help law enforcement tackle the growing problem of online exploitation of children. This application, which will be provided free of charge to law enforcement agencies, can help efforts to collaboratively investigate these crimes and bring criminals to justice.

CETS has been deployed by the Royal Canadian Mounted Police in Canada and can be used by all major law enforcement agencies in Canada involved in child exploitation policing. Discussions between Canadian law enforcement and US law enforcement agencies have already taken place, with the hope of deploying CETS in the United States. This new technology is also supported by the National Center for Missing and Exploited Children.

This technology, combined with our efforts to educate children about risks online, can help reduce the incidence of online child exploitation.

OAKLAND COUNTY COMMUNITY COLLEGE'S 40TH ANNIVERSARY

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. McCOTTER. Mr. Speaker, I rise today to join the administrators, faculty, staff and students of Oakland Community College as they celebrate OCC's 40th anniversary this month.

The Oakland Community College District was established by the electorate of Oakland County, Michigan, on June 8, 1964. The college opened in September 1965, with a record community college initial enrollment of 3,860 students on two campuses—Highland Lakes, a renovated hospital in Union Lake, and Auburn Hills, a former Army Nike missile site in Auburn Heights. In September 1967, the award-winning Orchard Ridge Campus opened.

Mr. Speaker, during its 40 years, OCC has grown in stature and importance, and has earned its pre-eminent position in the vanguard of training and educating Americans. For example, Oakland Community College's fire academy has opened the only facility in the Midwest which provides emergency services personnel with training in a unique simulated city, complete with roads and buildings. The Combined Regional Emergency Services Training Center (CREST) is comparable to the FBI's "Hogan's Alley" in Quantico, VA. Police and fire departments throughout the region send personnel to the center for extensive training. OCC is also proud to have among its many successful graduates, Drew Feustel, a NASA astronaut who began his college studies at the Auburn Hills Campus, and eventually received his Ph.D. in geologic sciences before being chosen by NASA as a mission specialist.

I ask my colleagues to join with me today in congratulating Oakland Community College on 40 years of success in educating students and helping them become an important part of our society and our country, and in wishing OCC 40 more years of outstanding achievement.

HONORING THE LIFE OF ULYSSES BRADSHAW KINSEY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to honor the life of Mr. Ulysses Bradshaw Kinsey, who died on April 2, 2005. Mr. Kinsey, known as U.B. to all who loved and respected him, was born on June 27, 1918 in Fort White, Florida, one of ten children of Henry and Cora Kinsey. The family moved to Palm Beach County when Mr. Kinsey was just eight years old. Throughout his life, he was proud of the fact that, although he grew up in segregated times, he never drank from "Colored" water fountains.

Barred by law from attending the University of Florida, he could not pursue his dream of becoming an attorney. Instead, he attended Florida A&M and became a teacher. After graduation, he returned to Palm Beach County and was hired by his alma mater, Industrial High School, where he taught nearly every subject. At that time, starting white teachers were paid $50 more per month than their black counterparts. One month after starting, U.B. Kinsey and others challenged the school board over this policy. Future U.S. Supreme Court Justice Thurgood Marshall argued their case, and they won.

After their own victory, Mr. Kinsey and his fellow teachers began battling for the rights of black students. During World War II, black children were schooled only seven months a year, so they could provide cheap labor the rest of the time harvesting crops for local farmers. U.B. Kinsey and his colleagues won that battle, too, and black children were returned to a nine-month schedule. He went on to become assistant principal at Industrial High and, later, the first principal of Palmview Elementary. Along the way, Mr. Kinsey established a scholarship fund that annually provides three promising students from low-income families $1,000 each to attend college.

Over the next half-century, about 30,000 children passed through the doors of Palmview Elementary. The school was later re-named U.B. Kinsey/Palmview in his honor. At one point in his career, U.B. Kinsey was offered the opportunity to become an assistant superintendent of schools in charge of busing. He turned down the offer because he refused to take part in the busing of black children to white schools far from their neighborhoods. In the 1980s, as drug dealing became a problem near his school, Mr. Kinsey confronted many of the dealers and, out of respect for their former teacher, they stayed away from U.B. Kinsey Elementary.

After retiring in 1989, he co-founded a nonprofit development company that secured funding to build a low-income housing development near his school. These are just a few of the remarkable accomplishments of Ulysses

Bradshaw Kinsey. Generations of African-American children have benefited from the battles he fought and won to ensure that they got a proper education. His efforts are directly responsible for the graduation and ascension to higher education of countless black young people. His many victories that advanced the cause of civil rights in general earned him the gratitude of African-American citizens throughout Palm Beach County.

U.B. Kinsey was a beloved friend of mine. His stature in the education of Palm Beach County's children may be matched, but it will never be exceeded. This very fine gentleman, a truly great American, will be greatly missed by all who knew him.

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HONORING THE BEDFORD GIRLS VOLLEYBALL TEAM FOR WINNING THE MICHIGAN CLASS A STATE CHAMPIONSHIP

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to the Bedford High School girls' volleyball team in honor of its 2005 Class A State Championship.

This remarkable group of Kicking Mules culminated a year of fantastic play by toppling top-ranked Grand Rapids Forrest Hills Northern in the first ever five-game final to capture the championship. These young ladies have persevered beyond injury and daunting adversaries to become the best in the State of Michigan. This is Bedford's third title in eight years, and it continues their amazing streak of 16 straight trips to the state's Final Four.

Coach Jodi Manore, a graduate of Bedford High School, has been at the helm of Bedford's girls' volleyball team for 21 years. Her sage leadership has built one of the most rigorous and successful programs in the state. The success of the Bedford volleyball program is a true credit to her vision and ability as a coach.

The intangible synergy necessary to win the State Championship cannot easily be replicated. These young ladies have reached the pinnacle of their sport through outstanding athleticism and teamwork. Team members Kali Kuhl, Petra Whitcraft, Veronica Rood, Emily Fahrer, Tara Breske, Lexi Leonhard, Amy Zuccarell, Kelsey Cousino, Stephanie Champine, Jamie Swick, Michelle Obert, Hanna O'Connor, Jackie Blaida and Courtney Riehle all deserve recognition for their phenomenal achievement.

Mr. Speaker, I ask that all of my colleagues join me in commending the Bedford High School girls' volleyball team on its exceptional season and 2005 Class A State Championship.

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TRIBUTE TO THE HONORABLE JOHN YATES

HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. WESTMORELAND. Mr. Speaker, I rise to pay tribute to one of the members of the greatest generation our nation has known. The Honorable John Yates, a member of the Georgia House of Representatives exemplifies a life of service to causes greater than himself, and his example should be known and followed across this nation.

During his youth in rural Spalding County, Georgia, Representative Yates grew up on a family farm, working in the cotton fields to help pay for his family's food.

Representative Yates' served in the military during one of the greatest struggles for human freedom our nation has known—World War II. He flew his plane, providing air cover for vulnerable ground troops, and destroying German targets. He was involved in key aspects of the Battle of the Bulge, and participated as a military observer during the liberation of the Dachau death camp.

After his service to our country, Representative Yates went on to work for the Ford Motor Company for many years, while raising his family. In that same Spalding County where he grew up, Representative Yates continued his service to the community.

In 1989, the citizens of his home county recognized his past service and committed to him yet another great trust—a seat in the Georgia House of Representatives. When he took his position there, the Democratic Party was still the majority, and Republicans were very few. But Representative Yates did not give up. He stuck with it, and is today a member of the majority party, as Republicans took control of the House of Representatives in Georgia during the 2004 election cycle.

As a result of his commitment and dedication through the years, the new House leadership gave Representative Yates even more responsibility—the chairmanship of the Defense and Veterans' Affairs Committee in the Georgia House. Representative Yates has continued his valiant service to his nation and state in that capacity during the course of this 2005 regular legislative session.

But there is more to Representative Yates, and this is revealed by his deep personal commitment to his wife, Annie. Although she has been afflicted with some health problems, Representative Yates has continued his valiant service by serving and caring for his wife, demonstrating his deep affection and the character that is the foundation of every area of his life.

Representative Yates has spent his life in service to his nation, his state, and his family, and is an example to all of us.

Mr. Speaker, I lay before you the life and work of Representative John Yates—a man that deserves the highest praise of our nation, a dear friend of mine, and a man that embodies the values that make America great. I am grateful to call Representative Yates my friend, and am grateful for this opportunity to bring the valiant service of John Yates to his country, his state, and his family to the attention of the American people.

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HONORING THE CONTRIBUTIONS OF CHARLOTTE MAYOR MARK T. WILSON

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize Mark T. Wilson, Mayor of Charlotte, Texas, for his dedicated service to his community.

Mayor Wilson is one of Charlotte's proudest native sons. Born and raised in Charlotte, he graduated from Charlotte High School and attended TSTI in Waco, TX. While in school, he studied farming and ranching in preparation for a career as a rancher.

Mr. Wilson's family has been in the ranching business for many years, and he has established himself in the business community as well, owning and operating heavy equipment and providing road construction and land clearing for local ranchers. In addition, he has given back to the community through his work as a public servant for the City of Charlotte. He began his service as an Alderman, and rose through the rank of Mayor Pro-Tem to become Mayor, a post he has held with distinction for the past 8 and 1/2 years.

He has left his mark on the community in other ways, as well. He and his wife, Jenci, are the parents of four children of their own, and have selflessly given their time to the foster parents' program. Mayor Wilson continues to give his time to his local church, the 4-H, and the Future Farmers of America.

Mayor Mark Wilson is a tremendous asset for the City of Charlotte, Texas. His work as a public servant, a successful businessman, and a dedicated father serve as an example to the rest of us. I am proud to have the opportunity to thank him here for all he has done.

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HONORING THE DEDICATION OF THE OLIVIA HERMAN TRACK AND FIELD COMPLEX

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to my good friend Olivia Herman, whose life will be commemorated in Lehighton, Pennsylvania, as the school district dedicates its new athletic complex as the Olivia Herman Track and Field Complex.

Olivia served on the Lehighton Area School Board for 13 years, from 1991 through 2003. She succumbed to cancer in March 2004 after a short battle with the disease.

Olivia was elected as president of the school board from 2001 through 2003. When she attended her very last school board meeting in December 2003, the board voted to dedicate to her the new athletic complex that was being built. Olivia had worked diligently to obtain funding for the new facilities, and the school district wanted to show its appreciation.

For eight years—from 1996 through 2003—Olivia served on the board of directors for the Carbon-Lehigh Intermediate Unit. Prior to that, she was the Director of Literacy for Carbon County, and was a volunteer reading teacher. Olivia Herman was a tremendous asset to the field of education. She was a lifelong advocate of reading and always stressed the importance of literacy.

Olivia received her college degree later in life after working professionally as a social worker for many years. She went to the University of Delaware, graduating in 1971. Olivia's husband, William, was sick at the time and the two stayed in Delaware for a few years before returning to Northeastern Pennsylvania.

Olivia, herself a 1942 graduate of Lehighton Area High School, was by many accounts one of the most gifted athletes to ever graduate from the school. She was especially active in gymnastics, but she also participated in basketball, cheerleading, and track. She remained active in the school district throughout her life, organizing reunions for her former classmates every few years. When she retired, she decided she still had more to give of herself. Olivia ran for school board and soon made that her full-time job.

Olivia and her husband had four children: Judy Herman Hunsicker, twins Darryl and Derryl, and Rudy, who passed away at the age of 40.

Mr. Speaker, please join me in celebrating the life of an extraordinary woman who helped so many children and adults throughout her life as the Olivia Herman Track and Field Complex is dedicated in Lehighton.

RED LAKE SCHOOL TRAGEDY

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise today to express my deepest condolences to the Red Lake Nation of northern Minnesota for the profound tragedy that took place on March 21, 2005. On that day a young man killed nine people on the Red Lake Reservation and then he killed himself. This extreme violence shatters our own sense of security because we all know it can happen anywhere at any time. All Americans and all Minnesotans extend our prayers, condolences, and support for the families of the Red Lake Nation as they heal and rebuild their community.

Violence, untreated mental illness, the epidemic of alcohol and drug abuse, and the ubiquitous availability to guns are all scourges. They are potentially contributing factors to an environment throughout our nation in which rational problem solving is all too often replaced with irrational destruction and death. We will never know why this young man was driven to enter his own school and embark on a campaign of murder. We only know the outcome; the painful consequences and the bewildering agony of families and a community torn apart.

As adults we have a responsibility to our children. We must listen to them, talk to them, and look for the warning signs. We must work together as a community to ensure their basic needs are met because even parents who are doing all they can still need assistance. In this country, violence surrounds our children, our families, and our communities. Violence is a plague which is promoted, glorified, and condoned in popular culture through movies, music, video games, and the endless television news cycle. It is a disease that is killing our children in our streets and in our schools and it must be stopped.

The shooting at Red Lake is another tragic episode that is no longer rare or abnormal. It is now all too commonplace and we are not nearly as shocked by such tragedy as we once were. Sadly, Red Lake is another example of this very tragic trend. And as Red Lake knows all too well, our nation's children are at risk and America needs to be hearing their voices, investing in their future, and supporting their very real needs.

HONORING HIS HOLINESS, POPE JOHN PAUL II

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. EMANUEL. Mr. Speaker, I rise today in remembrance of His Holiness, Pope John Paul II. With his passing on April 2nd, the world lost one of the most influential and inspirational leaders of our time. He was a great leader, a man of peace, and a source of hope to millions across the globe.

Pope John Paul II was born Karol Josef Wojtyla in Wadowice, Poland on May 18, 1920. He made history by becoming the first Slavic Pope and the first non-Italian Pope in more than 400 years. He traveled more than any other Pope in history, visiting over 130 countries and 900 Heads of State.

The Pope's strong will and vision were instrumental in delivering hope and inspiration to people around the world. As a young man in an oppressed country, he courageously protected all people from oppression and tyranny. Under his reign, Pope John Paul II served as an important symbol that helped bring about the fall of communism throughout Europe.

Particularly important for Poland, he was an outspoken advocate for human rights. His peaceful message of human rights and religious freedom resonated among Polish Catholics, ushering in Poland's peaceful revolution in their fight against communist rule.

Pope John Paul II ministered to all people through his personal example of sacrifice and collaboration. He worked tirelessly to spread the message of compassion, courage, and sacrifice that inspired millions. Pope John Paul II brought together and forged dialogue between people of different faiths, promoting cooperation and peace. He was the first Pope to visit synagogues and mosques as well as areas of conflict, including the Holy Land.

When the world most needed his eloquent voice, he inspired us. When the world needed his prayers, he prayed for us. When the world needed his guidance, he showed us the way. Mr. Speaker, he will forever be remembered as a tireless promoter of peace for all people and regions of the world.

SALUTING SNOWSHOE RESORT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. RAHALL. Mr. Speaker, I rise today to salute Snowshoe Resort and its adaptive skiing program's extensive commitment to enabling disabled persons to enjoy the recreation of alpine sports.

The Snowshoe Resort adaptive skiing program, under the direction of Dave Begg, has been very active in providing opportunities for a wide range of disabled persons and has seen continued growth over the past decade. The program uses certified Professional Ski Instructors of America, trained in adaptive skiing, to teach many disabled persons to ski, including those with spinal cord injuries, amputations, cerebral palsy, sight and hearing impairments, traumatic brain injury, and development disorders.

Snowshoe has worked in cooperation with the Challenged Athletes of West Virginia organization to improve the quality of life for persons with disabilities through outdoor sports and recreation. This organization has sponsored training events at Snowshoe for the adaptive skiing program and is actively involved in creating other outdoor recreational opportunities for disabled persons for not only their enjoyment, but also as part of a rehabilitation process.

The program also works extensively with veterans of past wars and those returning from our current conflicts abroad, for which this program should be commended for providing our soldiers with ample opportunity to continue a healthy lifestyle through outdoor recreation.

Each student who enters into the program is worked with on a one-on-one basis by a professional instructor as well as with help from one of the many volunteers who come to assist the program. There is a multitude of equipment for the adaptive skiers to choose from when they hit the slopes, so that they may find what they feel is the most comfortable to use while skiing.

The adaptive skiing program at Snowshoe has continually provided a venue for disabled persons to maintain an active and healthy lifestyle, and I wish to honor them for this. I implore my fellow members to join me in honoring Snowshoe Mountain Resort and also to encourage all ski resorts to follow the example of Snowshoe Mountain in promoting the equal opportunity for all disabled persons to participate in sports.

MATH AND SCIENCE INCENTIVE ACT OF 2005 (H.R. 1547)

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. EHLERS. Mr. Speaker, I rise in support of the Math and Science Incentive Act of 2005, which today was introduced by Rep. WOLF. I thank him and his staff for their work on this important legislation. I am very pleased to join him as the lead cosponsor, and pledge that I will work with Rep. WOLF to move this legislation through the House.

A number of developments in recent years have fueled concerns that world technology leadership could shift from the United States to other countries. In today's global economy, American manufacturers and other businesses rely on innovation to stay competitive. For the United States to remain a prosperous country, we must maintain our technological leadership in the world.

Our knowledge-based economy is driven by constant innovation. The foundation of innovation lies in a dynamic, motivated, and well-educated workforce equipped with math and science skills. An understanding of scientific and mathematical principles, a working knowledge of computer hardware and software, and the problem-solving skills developed by courses in science, technology, engineering and math are now basic requirements for many entry-level positions or for admission to college. In fact, I fully expect that all of the jobs of the future will require a basic understanding of the concepts and principles of math and science.

Unfortunately, we are continuing to see disturbing trends in American student performance on basic math and science tests. The recent Program for International Student Assessment (PISA) and Trends in International Math and Science Study (TIMSS) highlight the shortcomings of current K–12 science and math students in the United States when compared to other developed countries.

We have also seen that fewer students are pursuing degrees in math and science. This should be of particular concern when we consider the large educational and workforce development investments made by emerging economies with huge populations, such as China, India and Russia.

We must encourage girls in grades K–12 to become interested in math and science and urge young women to pursue degrees in math and science. While the percentages of women holding baccalaureate degrees in biological and physical sciences closely mirrors that of their male counterparts, recent statistics from the National Center for Education Statistics show that women are underrepresented in engineering and computer science baccalaureate degrees.

The Math and Science Incentive Act of 2005 is a direct response to the needs I have outlined. The bill will help recruit and retain direly needed science, technology, engineering and math (STEM) teachers and workforce professionals. It allows the Secretary of Education to pay up to $10,000 in interest on undergraduate loans for those who qualify and agree to enter into a five-year service agreement with the Secretary.

Clearly, we must recommit ourselves to leadership in science, technology, mathematics and engineering. This legislation puts us on the path toward ensuring that we will have STEM teachers and workforce professionals in place.

CONGRATULATIONS TO MRS. BELVA TEAFORD

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. BOEHNER. Mr. Speaker, I rise today to congratulate, thank, and recognize my constituent Mrs. Belva Teaford. Belva is a testament to the innate goodness of human nature and the overwhelming positive effect one individual may have on the community.

As a wife, mother, and tireless volunteer in Ohio's Eighth Congressional District Mrs. Teaford has quietly given much more than she has taken. Her work, throughout Darke County over so many decades is a constant source of pride and unconditional praise. As a volunteer for the Darke County Republican Party Belva's friendship and reassuring demeanor have helped guide countless candidates, myself included, to success. Yet, Belva's efforts stretch far beyond politics. She is, in the truest sense of the word, a humanitarian whose unyielding belief in the goodness of her neighbors has helped make Darke County a truly remarkable community.

Belva's attitude, fierce determination, and community spirit are a constant source of energy for all those around her. So much of Belva's work is done quietly and without reward and it is my honor to take this moment and say thank you and it is with a great deal of personal joy that I congratulate Belva and wish her a very happy 90th birthday.

HONORING THE CONTRIBUTIONS OF JUDGE DANNY VALDEZ

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contribution of Judge Danny Valdez of Laredo, TX.

In May 1982, Danny Valdez was elected as Justice of the Peace, and is currently serving his sixth four-year term.

Judge Valdez has also received numerous awards. Some include: the 2000 Martin High School Tiger Legend, the Liberty Bell Award from the Laredo Bar Association, and the Community Service Award from Lulac Council #12.

Aside from presiding over one of the state's busiest courts, he makes time for many community activities. He has worked with at-risk students for the past 23 years, addressing issues such as truancy, gang violence, drug abuse, teen pregnancy and juvenile delinquency. He has been working with the Texas Department of Criminal Justice Education Program to bring male and female inmates to our local middle and high schools to tell their life stories in an effort to educate, warn, and inform students about the dangers and consequences involved in making the wrong choices.

Judge Valdez has worked with the Lamar Bruni Vergara Trust in the development of the Lamar Bruni Vergara Boy Scout Camp Huisahche and was also instrumental in the development of the Lamar Bruni Vergara Inner City Recreation Center.

Judge Valdez chairs the Annual Toys for Tejanitos Drive and the Angel Wish Program that benefits needy families in our community. He also chairs the Annual Fishing Derby for physically challenged students. This event has received Texas state wide recognition. He has also awarded over $60,000.00 in scholarships to deserving students from L.I.S.D. in Laredo, TX.

Judge Valdez is married to Isabel Valdez and has a son, Danny, Jr. and daughter, Maribel.

Mr. Speaker, I am proud to have had this opportunity to recognize the contributions of Judge Danny Valdez.

CONGRATULATING MARTIN FLAHERTY ON THE OCCASION OF HIS RETIREMENT FROM THE WILKES-BARRE VETERANS AFFAIRS MEDICAL CENTER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to congratulate Martin Flaherty on the occasion of his retirement from the Department of Veterans Affairs Medical Center in Wilkes-Barre, Pennsylvania after more than 30 years of dedicated service. Martin, or "Marty," as he is known by friends, co-workers, veterans, and volunteers at the VA, will be greatly missed and I wish him luck in the next phase of his life.

Martin's service to the government began on April 4, 1966 when he joined the Army. He spent two years on a tour of duty in Germany and was honorably discharged on March 17, 1968 at the rank of Spec 5. After the Army, Marty worked for the Domestic Intelligence Division in Washington, D.C., and in September of 1970 he joined the Metropolitan Police Force in Washington.

In the evenings, he attended Georgetown University. Marty was off to a promising start in life. His career in Washington was cut short when he left in 1973 to move back home to the Wyoming Valley to care of his father, who had taken ill.

In that same year, Marty started to work for the VA Medical Center as a housekeeping aide. Marty worked his way up through the ranks with hard work and landed a job in the warehouse. From there, Marty's career took off.

Now Marty is the supervisor of the Inventory Management Department, where he oversees the warehouse, inventory personnel, and SPD. He possesses great motivational skills to rally staff to accomplish tasks where others would say: "it can't be done." And at the start of each day, you'll hear Marty coming down the hallway, thanking his employees for coming to work that day. In return, he receives a "thank you" back.

Marty has received superior performance awards over his career at the VA and possesses the respect of managers above him. G. Michael Miller, the VISN 4 Chief Logistics Officer, states that: "Marty is one of the people that makes the VA Wilkes-Barre a special place to work." Jackie Malhoyt, the former Facilities Management Director, stated that: "Marty looks at change as a challenge and opportunity, never as a threat or bother. He is an example of the heart of this medical center."

But this is not the whole story of Marty. Walk around the VA and you will hear other stories of Marty's selflessness and dedication, whether it's assisting patients to their next appointment or being a sounding board for a coworker in need. You may find him purchasing the balance of chances for a drawing from veteran volunteers in order to help them meet their goal. Still, what you will probably hear most about Marty is how people were moved by his singing voice.

You see, Marty has been blessed with a beautiful voice and has been singing since he was nine years old, when he received his first lessons from Mrs. Helen Schivell of Wilkes-Barre. Over and over again, Marty is asked to share his singing voice at various hospital events, whether it's a Veterans Day ceremony or an employee awards program. You may also find him belting out songs in patient rooms or in the VA's nursing home on other occasions.

George Bath, the VA's Network Contracting Manager and Marty's former supervisor, notes one instance where there was an unusually large turnout at an employees' recognition program. George recalls: "I walked into Liberty Hall and nearly every seat was taken. I turned and there at the head of the room, with a mike in hand, was Marty, getting ready to open the program. Then I heard someone whisper, 'I hope he sings Wind Beneath My Wings.' Folks were there to hear Marty!"

Beyond the walls of the VAMC, you will hear Marty's voice as a soloist at his church, at local nursing homes, or at other community-based activities. And he takes nothing in return except the cheer of the crowd.

In addition to singing, you will find Marty creating floral arrangements that he donates to his church to help raise money. Roland E. Moore, the Wilkes-Barre VA's Medical Center Director, sums it up: "Marty's work ethic and dedication to serving veterans and VA staff is second-to-none. Whether it's being ranked as a well-respected supervisor in our medical center/network or boosting the spirits of veterans with a song, he has truly served this institution with professionalism and gusto."

Marty will be missed for his dedication and compassion to the veterans he has served over the years and also by the employees who have had the opportunity to work alongside him. I am pleased to join my friends at the VA in congratulating Marty on this milestone. I wish him a fruitful and enjoyable retirement and, Marty, thank you for coming to work for the Wilkes-Barre VA.

RECOGNITION AND REMEMBRANCE OF THE LIFE AND CAREER OF POPE JOHN PAUL II

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, I thank you for the opportunity to recognize and remember the life of Pope John Paul II.

The world mourns the passing of Pope John Paul II and the great void he leaves behind as a force for good in the world. Pope John Paul inspired peoples of all faiths in every corner of the globe by his living example of faith, justice, peace and love. His twenty-six years as the Holy Father transformed the Roman Catholic Church and revitalized the more than one billion Roman Catholics around the world.

Pope John Paul worked tirelessly to advance human dignity, social justice and peace. His powerful presence helped to defeat communism in his home country of Poland and contributed to the fall of the Soviet Union. The Pope urged his fellow Catholics in Poland to support Lech Walesa and the Solidarity movement in a peaceful and non-violent campaign that eventually led to Solidarity's successful victory in Poland's first post-communist election.

Pope John Paul was a great champion and advocate for the poor, the sick and the forgotten, particularly in the developing world. He loved children, and often appeared to take great joy from speaking to and meeting with young people. Pope John Paul traveled the globe inviting and mobilizing young people to a life of faith and to stand in support of the rights of those less fortunate than themselves.

The life of Pope John Paul II has been a blessing for Catholics and people of all faiths. His moral and spiritual leadership of the Roman Catholic Church and for all mankind make his life an example for all of us. Let us honor the life of John Paul and express our humble gratitude for the service, sacrifice and prayers he shared with all of us until the hour of his death.

HONORING PRESIDENT VIKTOR YUSHCHENKO

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. EMANUEL. Mr. Speaker, I am proud to rise today on behalf of the more than 4,000 of my constituents of Ukrainian descent in the Fifth Congressional District of Illinois on Chicago's northwest side. I am also pleased to join with my colleagues in the House to receive the recently inaugurated President of the Republic of Ukraine, His Excellency Viktor Yushchenko during his first official visit to the United States, in a joint session of Congress.

I applaud President Yushchenko for his courage and vision and for his leadership in the "Orange Revolution" that peacefully brought freedom and democratic reforms to Ukraine late last year. The people of the Ukraine, and indeed all across the globe, were relieved when the President survived an assassination attempt that nearly claimed his life and subsequently persevered among tremendous resistance to the dramatic reforms he championed.

My hometown of Chicago is home to more than 100,000 Ukrainian Americans who have been instrumental in helping advance the increasingly important alliance between our nations. The Ukraine's prosperity, independence and openness to the West are of vital economic, cultural and strategic importance to the global community.

Mr. Speaker, I join with my colleagues and all Americans in congratulating President Yushchenko for his triumph. I wish him and the Ukraine continued prosperity and success in advancing the ideals of democracy and freedom in that nation.

HONORING ROTARY INTERNATIONAL'S 100TH ANNIVERSARY

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. RAHALL. Mr. Speaker, I rise today to honor Rotary International for reaching its' 100th Anniversary, and for the monumental amount of achievements it has accomplished within its' time.

Rotary Club was first founded in 1905 by Paul Harris, an attorney, in Chicago Illinois with the interest of organizing a booster club, which then expanded to Rotary International in 1922, and has grown to include over 1.2 million members in more than 31,000 clubs that span the globe in 166 countries. The Rotary District in my own Congressional District has 32 clubs within it that include some 1509 members.

In my home district, Anthony K. Blankenship, the District Governor Elect of District 7550, has set a superb example for all business leaders in the area by serving on his local chamber of commerce and as the Ohio Valley Automotive Aftermarket Association's vice chair. He has also served in many capacities for the Matewan Rotary Club, including President.

Each year the local Rotary District sponsors a Group Study Exchange to foster peace and understanding between nations that sends four Non-Rotarian business people and one Rotarian to a paired foreign nation to experience a different culture and way of life. This past year the 7550 District sent a member and four business professionals to Great Britain and has plans to send another entourage to Australia this year.

Rotary International has encouraged and fostered the ideal of service as a basis of worthy enterprise, and thus adopted the 4-Way Test, formulated by its' own Herbert Taylor, who developed a standard code of ethics for businesses.

The Rotary Foundation has been instrumental in funding many worthwhile service projects that have improved the lives of people across the globe by promoting world understanding and peace through humanitarian, educational, and cultural programs. The Rotary clubs in my district, led by the Beckley Rotary club, recently secured a $300,000 grant to build a clinic in India.

Rotary International has enacted the PolioPlus program that has collected over $500 million, contributed tens of thousands of volunteer man-hours, inoculated over 2 billion children since 1985 with the polio vaccine, and is slated to eradicate polio globally by December, 2005.

Rotary has been actively involved in creating a peaceful world by fostering peace initiatives that have created Rotary Centers for International Studies at world-renowned universities in an effort to educate and train Rotary World Peace Scholars in conflict resolution, peace studies, and international relations. In fact, a West Virginia native of St. Albans was one of the first graduates of this program.

Many students have excelled and benefited under the Rotary Youth Exchange, which funded by the Ambassadorial Scholarships, has become the international community's largest privately funded international scholarships program. The Matewan Rotary Club ensures each year that two local high school students will receive a scholarship to further their higher education goals.

I wish to honor today and hope that my colleagues will join me in honoring Rotary International for continually striving to promote the ideal of service as an integral part of enterprise, and a sustained effort to maintain high ethical standards while promoting peaceful initiatives around the globe.

HONORING DR. EDWARD L. KELLY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Dr. Edward L. Kelly for his exceptional work and service to the Prince William County School system.

Since July of 1987 Dr. Kelly has been the Superintendent of Schools for Prince William County, Virginia. During his tenure he has been responsible for the supervision of over 66,000 students at 80 different schools.

Dr. Kelly graduated from Northeast Missouri State University in 1964 with a B.S. in Zoology and Chemistry. He received an M.A. in Secondary School Administration from the same institution in 1968. During this time he interacted with adolescents on a daily basis as a Science Teacher and Coach in Missouri. Dr. Kelly then served as an assistant principal, vice principal and principal in both Missouri and Illinois. After having worked for a number of years, Dr. Kelly returned to school and received his Ph.D. from St. Louis University in 1973.

Dr. Kelly served as Superintendent of schools in Rockford, Illinois and Little Rock, Arkansas. prior to moving to Prince William County in 1987. As a school administrator, Dr. Kelly strived to bring out the best in his students, employees and community. His oversight on educational practices allowed him to implement nationally recognized School-Based Management Programs, design alternative programs for students with special circumstances, and supervise curriculum restructuring and benchmark examinations. Dr. Kelly's positive actions and open door policy stabilized relations within the school system, and established trust among parents, teachers, the School Board and the community at large.

Dr. Kelly's dedication to his work has been recognized through numerous awards and commendations. In 1987 he was named by a panel of educators to The Executive Educator 100, a selection of 100 outstanding educational leaders. Dr. Kelly also received the Virginia Elementary School Principals "Educator of the Year" Award and was elected Chairman of the Washington Area School Study Council.

In addition to his educational pursuits, Dr. Kelly stays involved in many charitable and community activities. He is a member of the board for the United Way, the National Conference of Christians and Jews, as well as the Boy Scouts of America.

Mr. Speaker, in closing, I would like to extend my best wishes to Dr. Edward L. Kelly on his retirement as the Prince William County Superintendent. Through his long and distinguished career Dr. Kelly has touched the lives of countless students. While I know that he will be greatly missed, his retirement is well deserved. I call upon my colleagues to join me in honoring Dr. Kelly, and I wish him the best of luck in all future endeavors.

CONGRATULATING RABBI JEHIEL ORENSTEIN

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. PASCRELL. Mr. Speaker, I rise today to honor the career and accomplishments of Rabbi Jehiel Orenstein. Rabbi Orenstein is a beloved figure not only among the 575 families at Congregation Beth El, but throughout the community at-large.

In 1961, Jehiel Orenstein received his master's degree in Judaica and was ordained as a Rabbi at the Jewish Theological Seminary of America. While he was a student there, he received the Lawrence Prager Award for outstanding scholarship in medieval Hebrew Literature. In 1986, Rabbi Orenstein received his PhD from New York University in linguistics. In that same year, he was awarded the degree of Doctor of Divinity from the Jewish Theological Seminary of America.

Rabbi Orenstein served as Chaplain of the United States Air Force on Lackland Air Force Base in San Antonio, Texas. After three years on Lackland Air Force Base, Rabbi Orenstein moved to Lynbrook, New York, where he was Rabbi of Congregation Beth David. After his stay at Temple Beth David he became Rabbi at Temple Israel in Great Neck, New York. For the past 35 years, Rabbi Orenstein has served as the spiritual leader of Congregation Beth El in South Orange, New Jersey. During his distinguished tenure at Beth El, Rabbi Orenstein has overseen a vibrant and growing Conservative Jewish congregation.

He has written several publications, including a book about Hebrew Literature. Some of his other works include articles published in Conservative Judaism, the New York Times, and Bai'nanu, a working publication for American Conservative Rabbis.

Rabbi Orenstein is the past president of the Maplewood-South Orange Clergy Association, Chaplain of the State Police of New Jersey, and Chaplain of the Maplewood Police and Fire Departments. He is also the past president of the Rabbinical Assembly of New Jersey. I know that he is particularly proud of founding the South Orange-Maplewood Interfaith Holocaust Service, a 27-year tradition.

Rabbi Orenstein is married to Sylvia Mowshowitz Orenstein, a very accomplished attorney in her own right. They are the parents of three very successful children, and are the proud grandparents of five.

Mr. Speaker, I would like to wish Rabbi Jehiel Orenstein a hearty "Mazel Tov!" on giving the opening prayer today on the Senate floor.

Rabbi Orenstein built a strong synagogue during his 35 years at Beth El, and has been a pillar for the South Orange-Maplewood region. I would also like to thank him for his years of service dedicated not only to his congregants, but our community and the State of New Jersey. May he enjoy a very well-deserved retirement

HONORING THE CONTRIBUTIONS OF THE MAYOR PRO-TEM JAMES D. ROBERTS

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Mayor Pro-Tem James D. Roberts for his public service to the city of Charlotte, Texas.

A patriotic and dedicated American, Mr. Roberts is no stranger to service and sacrifice for his town and country. A veteran of Vietnam, he served in the U.S. Navy from 1968 through 1972.

James Roberts is a dedicated public servant, and a lifelong patron of the State of Texas. He has served the City of Charlotte for eleven years, having worked previously as Alderman for 9½ years.

Working closely with numerous community organizations, Mr. Roberts is active in the Atascosa Finance Committee, the Charlotte FFA, the 4–H Club, and the San Antonio Livestock Show Auction Committee. He also serves his community as a volunteer for the fire department, often working as the acting Fire Marshal.

Having lived in the community for over 28 years, James Roberts and his wife Marilyn are the owners of a local feed store. They live in Charlotte, Texas with their three children Cody, Jerrold, and Cherlyn.

Mr. Speaker, I am deeply proud to have been given this opportunity to recognize the Mayor Pro-Tem of Charlotte, James D. Roberts, for his dedicated public service.

CONGRATULATING GERALD T. LANGAN UPON 35 YEARS OF COMMUNITY SERVICE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Gerald T. Langan for 35 years of community service and 25 years as president and CEO of Goodwill Industries as he is honored Friday night at a celebration at The Radisson Hotel in Scranton, Pennsylvania.

Mr. Langan is a 1966 graduate of Central High School in Scranton. After high school, he went on to Lackawanna Junior College and Bethel College.

In 1970, he took a job as the education coordinator for Head Start. Mr. Langan then became the project director for Head Start in 1973. Since 1985, he has been president and CEO of Goodwill Industries of Northeastern Pennsylvania.

Mr. Langan has twice served as president of the Pennsylvania Goodwill Director's Association. He was appointed to the State Office of Vocational Rehabilitation Board by Governor Robert Casey. Mr. Langan is a member of the Pennsylvania Association of Rehabilitation, the zoning board for the City of Scranton, and the housing board of Lackawanna County. He was awarded "Health Care Professional of the Year" by the State of Pennsylvania. Mr. Langan was a past member of the Lackawanna College Board of Directors, and served as board chairman for two years.

Mr. Langan and his lovely wife Fran have one daughter, Kristen.

Mr. Speaker, please join me in congratulating Gerald Langan as he is honored for his selfless devotion to the community and dedication to making the world a better place.

HONORING THRESHOLDS PSYCHIATRIC REHABILITATION CENTERS

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. EMANUEL. Mr. Speaker, I rise today to honor Thresholds Psychiatric Rehabilitation Centers on the occasion of their 20th Annual Golf and Tennis Benefit. I am proud to represent this distinguished organization and I hope that the Congress will join me in recognizing their outstanding contributions to the field of mental health rehabilitation.

As one of the nation's largest non-profit providers of mental health and recovery services, Thresholds provides a critical service to members of the community that struggle with mental illness, as well as their families. Over 5,000 Chicago residents benefit yearly from the services provided by this impressive organization.

Thresholds provides a comprehensive program of therapeutic support, case management, education, job training and placement, and housing. With 30 service locations and more than 75 housing developments in the Chicagoland area, Thresholds helps restore independence, dignity and respect to people with mental illness.

Offering outreach programs, residential services, youth and adult education, and services for homeless, deaf and jailed patients, this valuable organization has established itself as one of the nations most successful and respected psychiatric recovery centers.

I am also pleased to recognize Thresholds as an innovator and model in the field of mental health. Experts from Thresholds carry out research and regularly publish valuable research papers, and several mental heath centers around the world have replicated Thresholds' success.

Thresholds and its extraordinary doctors and staff are regular recipients of awards in the mental health field. The 2004 Celebration Recovery Award was bestowed upon CEO Dr. Anthony Zipple's, and Dr. Jerry Dincin was awarded Honorable Mention for Lifetime Achievement by Eli Lilly's 2004 Reintegration Awards. These represent only a tiny fraction of the awards presented to Thresholds.

Mr. Speaker, I am honored to have Thresholds Psychiatric Rehabilitation Centers in the Fifth District. I wish them the best at their 20th Annual Golf and Tennis Benefit, and I hope they continue their 45-year history of serving mentally ill patients and their families in the Chicago area for decades to come.

COMMENDING BOB ANADELL AND TIMOTHY SANDERS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to commend two of Northwest Indiana's most distinguished citizens, Mr. Bob Anadell and Mr. Timothy Sanders. On Saturday, April 23, 2005, they will be honored for their exemplary and dedicated service to the community. Their praiseworthy efforts will be recognized at the TradeWinds Gala 2005 banquet at the Radisson Hotel at Star Plaza in Merrillville, Indiana.

Bob Anadell has had many positive accomplishments throughout his career. He actively contributed to his community through participation in various programs aimed at improving opportunities for the people of Northwest Indiana. He has been a powerful member of the Northwest Indiana Building Trades, Secretary Treasurer of the IBEW State Conference, Vice-President of the Indiana State AFL–CIO, Trustee of the Lake Area United Way, Board of Directors of TradeWinds, Member of the Lake County Integrated Services Delivery Board, Chairman of the Board of Directors, Investment Committee, and Executive Committee of the Legacy Foundation, as well as Co-Chairman of the Heroes Committee of the American Red Cross.

Tim Sanders enjoyed serving the public for several years as Director of Senator RICHARD G. LUGAR's regional office. In addition to serving Senator LUGAR, Tim has also worked with Senators Dan Quayle and Dan Coats. Through skillful networking within the state and federal legislative agencies, he established solid relationships benefiting Northwest Indiana's businesses and constituents. Tim implemented public relations initiatives through television, radio, and print to provide information, gather support, and raise visibility on key issues. He has also extended his commitment to the community by serving on a number of Boards and Associations such as the St. Jude House, Lake Area United Way, American Heart Association, and the TradeWinds Rehabilitation Center. Although Tim has dedicated his time serving the community, he has never neglected to provide support and love to his family. Tim and his wife, Tania, have two children and three grandchildren.

Both of these men have spent years as dedicated members of the TradeWinds Board of Directors; each adding their individual business acumen and combined strength that has enabled TradeWinds to continue providing quality services for children and adults with disabilities.

Mr. Speaker, I ask that you and my distinguished colleagues join me in congratulating Bob Anadell and Timothy Sanders. Without their enduring love and compassion for the community and children of all ages and abilities, TradeWinds would not be what it is today.

ANTONIO COSTA WAS AN OUTSTANDING COMMUNITY LEADER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. FRANK of Massachusetts. Mr. Speaker, people in Southeastern Massachusetts, and Portuguese-Americans in particular, received very sad news on Sunday of this week of the death of Antonio A. Costa. As the New Bedford Standard Times noted in its obituary of this outstanding man, "Mr. Costa was an esteemed leader, establishing many firsts within the New Bedford, Mass., Portuguese community." Mr. Costa was a leader in establishing Portuguese language media, and he went on to be the Broadcasting Director for Voice of America in the Portuguese language section. He then returned to our area and again provided significant cultural, intellectual and economic leadership to the Portuguese-American community in particular, and the broader community in general. After retirement, he continued his leadership role and produced the only radio program in Portuguese in South Florida.

Mr. Speaker, Mr. Costa was exactly the kind of community leader that contributes to the strength of America and I ask that his extraordinary life and his contributions to others be noted here. Mr. Costa's life reminds us of the great benefit America derives from immigrants such as himself and the attached editorial from the New Bedford Standard Times makes that clear.

ANTONIO A. COSTA, LEADER IN PORTUGUESE COMMUNITY

POMPANO BEACH, FLA.—Antonio Alberto Costa, formerly of Southeastern Massachusetts, died Sunday, April 10, 2005, unexpectedly at Imperial Point Medical Center. He was the husband of Guida (Goncalves) Costa.

Born in Lisbon, Portugal, he was the son of the late Jose M. and Maria A. (Correia) Costa. He immigrated to America as a young man.

Mr. Costa was an esteemed leader, establishing many firsts within the New Bedford, Mass., Portuguese community. He was a founder and past president of the Luso-American Soccer Association as well as the Portuguese American Athletic Club in New Bedford.

An entrepreneur, he began by purchasing Phillips Press and continued with the founding of Costa Imports. He founded the first Portuguese-language radio station in the United States, WGCY, now broadcasting as WJFD–FM in New Bedford, and produced the first Portuguese variety television program, "Passport to Portugal" on WTEV–TV. He initiated a daily TV cable program "Panorama of Portugal," currently known as The Portuguese Channel, and purchased and published what is known as "The Portuguese Times" newspaper, also in Southeastern Massachusetts.

Mr. Costa relocated to Washington, D.C., to represent Portugal as the Portuguese language broadcasting director for "Voice of America." He returned to New England as co-owner and director of Radio Club Portugal, "WRCP."

In recognition of his services to the Portuguese community, the government of Portugal conferred upon him the rank of comendador da ordem do infante dom henrique. Various civic organizations recognized his achievements as well. The Seven Castles Club named him Man of the Year, as he received the Merit Award from the United Way as well as the Portuguese-American Federation.

He received official citations from the Massachusetts and Rhode Island houses of representatives, the Medal of Prestige from the Portuguese Continental Union and the Annual Achievement Award from the Prince Henry Club.

In retirement, he produced the only Portuguese-language radio program in South Florida on WHSR–AM, where the transmission continues via his Web site, radioportugal.net. He also wrote periodic chronicles published in O Journal entitled "Desabafos."

Survivors include his widow; two sons, Carlos Alberto Costa and his wife, Susan, of Westport, Mass., and Luis Manuel Costa and his wife, Nancy, of New Bedford; a daughter, Ana Maria Costa of New Bedford; five grandchildren; three great-grandchildren; and a nephew.

His funeral will be at 9 a.m., Friday from the Dartmouth Funeral Home, 230 Russells Mills Road, Dartmouth, Mass., followed by a Mass of Christian Burial at 11 in Immaculate Conception Church, New Bedford. Interment will be private.

Arrangements are by Porter Funeral Service, Westport.

HONORING THE CONTRIBUTIONS OF DR. RUBEN OLIVAREZ, SUPERINTENDENT OF THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the Superintendent of the San Antonio Independent School District, Dr. Ruben Olivarez, for his contributions to the local community.

Dr. Ruben Olivarez has dedicated his career to educating our youth. In 1970, Dr. Olivarez started his career in education. Having taught at J.T. Brackenridge Elementary School, he is no stranger to the educational needs of our community. He has held a number of important educational posts over the years, including a professorship at the University of Texas at Austin, the title of Principal in the Fort Worth Independent School District, the post of Deputy Commissioner of the Texas Education Agency, and many others.

On January 11, 2000, Dr. Ruben Olivarez was named Superintendent of the San Antonio Independent School District, which has a student population of approximately 57,000. He is currently responsible for the "Vision 2005 and Beyond" plan for educational improvement. Dr. Olivarez has helped to provide the guidance our schools need, keeping the needs of our students an important priority.

Mr. Speaker, I am honored to recognize the Superintendent of the San Antonio Independent School District, Dr. Ruben Olivarez, for his dedicated service to our local schools.

CONGRATULATING PATTY LAWLER ON BEING NAMED WOMAN OF THE YEAR BY THE LACKAWANNA COUNTY FEDERATION OF DEMOCRATIC WOMEN

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Patty Lawler as the Lackawanna County Federation of Democratic Women names her Woman of the Year.

Patty is the daughter of James and Dolores Lawler. She was born and raised in the MidValley area, and currently lives in Clarks Summit, Pennsylvania.

Patty is a graduate of St. Patrick's High School in Olyphant. She graduated from Marywood University with a bachelor of arts degree in education and theater. Patty was active in many clubs and organizations on campus and was president of the class of 1971. She was a member of the Student Pennsylvania State Education Association and the Marywood Players. She held leading roles in many productions on campus and chaired several committees including Sophomore Parents' Weekend and the Junior Prom. Patty is listed in the 1971 edition of Who's Who Among Students in American Colleges and Universities.

Patty completed her graduate work at Catholic University of America in Washington, D.C. in theater and directing. She participated in Shakespearean productions and represented the university at a meeting with Ed McMahon in New York City.

Patty currently works as a second grade teacher in the Lakeland School District, where she is in her 27th year in the education field. She has served as director of the Lakeland Curtain Club and also teaches theater courses for Northeastern Educational Intermediate Unit. She has also worked at a summer camp for the Association for Retarded Citizens of Wyoming County where she trained campers in the basics of acting for a performance on the last day of camp.

Patty is a past president of the Lackawanna County Federation of Democratic Women. She ran as a delegate for John Kerry to the 2004 Democratic National Convention and received the highest number of votes in each of the counties in her district. She attended the convention in Boston in July 2004 not only as a delegate, but also as a member of the Pennsylvania State Education Association Caucus.

Patty is currently a member of the Pennsylvania State Education Association, the Lakeland Education Association, the Laurel Garden Club, and the Rock and Mineral Club of Northeastern Pennsylvania. She is a very active member of the Lackawanna County Humane Society, of which she is a former board member. She can still be seen walking dogs in the St. Patrick's Day parade or serving refreshments at fund raising events. Patty is a member of the Marywood Alumni Club of Northeastern Pennsylvania and belongs to Holy Rosary Parish in Scranton, where she is a member of the choir. Patty was recently appointed to the Saint Joseph's Auxiliary Board and is working diligently on this year's summer festival.

Patty received the Volunteer of the Year Award from the Association for Retarded Citizens of Wyoming County for organizing the adoption of a ward program at Clarks Summit State Hospital.

Quality education and honest politics are Patty's passions. She was exposed to politics at a very early age when she and her sister accompanied her parents to political functions. The family attended functions such as the National Association of Postmasters Convention at the Waldorf Astoria. Patty's father was the postmaster of Olyphant and first cousin to County Commissioner Mike Lawler and Assistant Postmaster General Jo Jo Lawler. The families were very close, and Patty recalls that, as little girls, she and her sister would accompany their dad to the corner in Jessup where the men met to talk about politics.

Patty Lawler has a devotion to the community and expresses that through her willingness to volunteer her talents helping others. The Lackawanna County Federation of Democratic Women is awarding this honor to her this year because she works so hard to make a difference in Lackawanna County.

Mr. Speaker, please join me in congratulating Ms. Lawler on the prestigious honor of being named Woman of the Year by the Lackawanna County Federation of Democratic Women.

50TH ANNIVERSARY OF THE SUCCESSFUL SALK POLIO VACCINE TRIALS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. DINGELL. Mr. Speaker, I rise to mark a historic day in the history of public health. Fifty years ago today, Dr. Thomas Francis, Jr. announced from the University of Michigan's Rackham Auditorium words that people around the globe were waiting to hear: the Salk polio vaccine works. With those simple words, eradication efforts began in earnest to rid the world of this terrible disease.

For generations in the United States, the polio disease struck fear in the hearts of millions of American parents and children. Late every summer, hot weather brought with it a rash of new cases of paralytic polio. No one knew how to I prevent polio, nor was there a cure. Epidemics of polio could devastate whole communities. For example, an epidemic struck the state of New York in 1916 killing 9,000 people and leaving 27,000 disabled. In the 1940s and 50s, the number of cases reported in the United States ranged from 40,000 to 60,000 each year. This was the state of our nation affected by polio pre-1955.

Mr. Speaker, all that began to change in the early 1950s. At that time, Dr. Jonas Salk, a postdoctoral student of Dr. Francis's at the University of Michigan, developed a promising vaccine against poliomyelitis in his laboratory at the University of Pittsburgh. In what has been called the largest cooperative effort undertaken in peacetime, the Salk vaccine was tested in the most comprehensive field trials ever conducted. Overseeing those trials was Dr. Francis, Director of the Poliomyelitis Vaccine Evaluation Center and founding chair of the Department of Epidemiology at the University of Michigan School of Public Health.

Mr. Speaker, the polio field trials were unprecedented in scope and magnitude. Dr. Francis and his team of more than 100 statisticians and epidemiologists tabulated data received from hundreds of public health officials and doctors who participated in the study. The trials involved 1,830,000 children in 217 areas of the United States, Canada and Finland. No field trial of this scale has been conducted since.

This historic event is a source of pride for the University of Michigan and the state of Michigan as a whole. Since that day fifty years ago, polio has been nearly eradicated. In August 2002, there were no confirmed cases reported in the United States, and only 483 confirmed cases of acute poliomyelitis reported to authorities worldwide. These successes all began with the announcement from Rackham Auditorium fifty years ago today.

HONORING THE CONTRIBUTIONS OF BEXAR COUNTY JUDGE MARCIA S. WEINER

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the accomplishments and initiatives of Judge Marcia S. Weiner, Justice of the Peace Precinct 2 of San Antonio, TX.

Judge Marcia Weiner first became a resident of San Antonio in 1956 when her husband, Dr. Bernard K. Weiner, was transferred to Lackland Air Force Base. Since then, Judge Weiner has become an attorney, teacher, active community leader, mother of three daughters, and a grandmother.

Judge Weiner earned a BA degree and lifetime teacher's certificate with honors in 1965, followed by a Doctor of Jurisprudence in 1970 from St. Mary's University. In 1971, Judge Weiner began her legal career with the U.S. Department of Housing and Urban Development (HUD). Judge Weiner continued to work for HUD for over 26 years and retired as Chief Counsel. While a Chief Counsel, Judge Weiner was responsible for all HUD program legal issues throughout a 57 county jurisdiction and was named the most outstanding HUD Chief Counsel in the country.

In January of 2001, Judge Weiner became a Justice of Peace for Precinct 2 of San Antonio, TX. As Justice of Peace, she has continued to improve the Precinct 2, which oversees evictions, small claims, juvenile disorderly conduct cases, misdemeanors and truancy. Judge Weiner strongly believes that juveniles can be redirected through early intervention with the right kind of counseling.

As an active volunteer and leader in the community, Judge Weiner continues to make significant contributions to the advancement of equal opportunity, the elevation of federal women's careers, and to the legal awareness of aging seniors and retired federal employees. Among her many honors and awards, Judge Weiner was recognized as "Texas Women to Watch" from 2002 to 2004 by the Business and Professional Women Foundation.

Mr. Speaker, it is my honor today to recognize Judge Marcia Weiner for her dedication, commitment, and service to the betterment of society.

CONGRATULATING THE LADIES ANCIENT ORDER OF HIBERNIANS, ST. JOHN NEUMANN DIVISION 1, ON THE 25TH ANNIVERSARY OF ITS CHARTER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to the Ladies Ancient Order of Hibernians, St. John Neumann Division 1, of Wilkes-Barre, Pennsylvania, on the occasion of the 25th anniversary of their charter that occurred in January of 1980.

The primary purpose of the LAOH, which was first organized as the "Daughters of Erin" in 1894 in Omaha, Nebraska, was to protect young immigrant Irish girls coming to the United States. The LAOH offered support and encouragement and assisted the young women to secure employment. The LAOH also assisted the AOH in its efforts to aid the sick and needy and to defend priests, church and country.

In keeping with the original spirit of the LAOH, St. John Neumann Division 1 continues to assist young women of Irish descent by providing an annual scholarship to Bishop Hoban High School in Wilkes-Barre. They assist the sick and needy by adopting a family each year and contributing time and resources to the local soup kitchens and nursing homes. They also volunteer their time and resources to assist the American Red Cross, the Salvation Army, the American Diabetes Association and other worthy community programs.

The group continues to promote Catholic Irish heritage and culture through support of seminarians, their annual St. Brigid Mass, annual St. Patrick Mass, participation in Irish cultural history and dance programs, the Irish teachers program and parades in honor of St. Patrick.

St. John Neumann Division 1 produced two past LAOH state presidents, Claire McNelis Karpowich and Kate Brennan Angerson, and is currently represented on the State board of directors by Maureen Lavelle, who serves as State historian.

Mary Ann Amesbury is the current president of St. John Neumann Division 1. Division officers include: Kellie Knesis, vice president; Maureen Lavelle, recording secretary; Suzanne Cosgrove, treasurer; Margaret Tudgay, financial secretary; Mary Ellen Dooley, historian; Ann Marie O'Hara, missions and charities; Eileen Potsko, Catholic action; Donna Mangan, sentinel and Mary Kathleen Williams, mistress at arms.

Mr. Speaker, please join me in congratulating the Ladies Ancient Order of Hibernians, St. John Neumann Division 1, on this notable occasion. The Wilkes-Barre area community is fortunate to have the benefit of the selfless community service that members of the LAOH provide.

BANKRUPTCY REFORM

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. DELAY. Mr. Speaker, every year, loopholes in America's bankruptcy laws are abused, to the tune of tens of billions of dollars—costs that get passed on to consumers in higher prices and higher interest rates.

Our bankruptcy protections, which have always been available to debtors as a last resort, have become just another part of financial planning for too many Americans.

Over the last 15 years, bankruptcy filings have increased 150 percent.

In that time, our economy has grown, tens of millions of jobs have been created, and inflation has been held in check.

There are always families and businesses in need of bankruptcy protection, but not 1.7 million of them a year, Mr. Speaker.

Nor should drug traffickers and violent criminals be eligible for protection. Nor should debtors be able to use bankruptcy laws to avoid paying spousal and child support, which should—as this bill ensures—be the highest priority debts. Nor should small businesses, family farmers, and fishermen be thrown to the wolves every time their market takes a temporary downturn.

That is why the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 has been a critical item on the Republican economic agenda for so long.

And that is why the House this week will finally pass a finished bill—already passed by the Senate—and send it on to the President for his signature.

These loopholes need closing, and at the same time, honest American debtors will always need protection.

That is why the bill we will take up—the product of years of development and negotiation—will include debtor protections such as credit counseling, financial management courses, and greater clarity in credit card billing statements.

It isn't enough to punish the abusers and protect the victims; we must develop a credit system that helps consumers manage their debt before they get in too deep.

The bankruptcy bill is another example of the far-sighted and fair-minded reform agenda the House has been passing for a decade.

It has been a long time coming, Mr. Speaker, but this week we will get the job done.

GOVERNOR GRANHOLM, SBC COMMUNICATIONS, THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION AND THE COMMUNICATIONS WORKERS OF AMERICA

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CONYERS. Mr. Speaker, I rise today to commend SBC Communications, Inc.; its Michigan president Gail Torreano; the Governor of my home State of Michigan, Jennifer Granholm; and representatives from the Michigan Economic Development Corporation and the Communications Workers of America.

Earlier this month they came together to unveil a ten-year economic development project, which will keep 930 metropolitan jobs in Detroit and invest over $3.6 million to upgrade seven network facilities in Southfield and Detroit. This incredible news comes only four months after SBC had initially announced plans to layoff workers.

Over the past five years, Michigan has lost nearly 300,000 jobs, and has had little prospect for significant job growth in sight. My State's unemployment rate was nearly two percent above the nation's average. That number increasingly looked gloomier with news last week that General Motors expects to lose money in this year's first quarter. As a result, their stock dropped 14 percent. My distinguished colleagues, there is no question about it—jobs in Michigan are in jeopardy.

But now, the future appears brighter with SBC Communications and others leading by example in recognizing that corporations play an integral role in their communities, and corporate decisions have consequences that reach much further than their own bottom line.

Such an agreement could not have been reached without strong leadership and a shared vision for the future from all parties involved. This agreement to keep SBC Communications' business in Michigan not only exhibits the great benefits that partnerships between the private and public sectors can reap for our nation's metropolitan communities, but more specifically, it demonstrates the success of Michigan's economic development programs and their capability of serving as a prime example for the rest of America's cities and states.

In agreeing not to move nearly 1,000 jobs out of Michigan, SBC Communications will receive a single business tax credit worth approximately $18 million from the Michigan Economic Development Corporation, in addition to an Economic Development Job Training grant of up to $930,000. The proposed cuts had been part of a planned companywide reduction of 10,000 workers by the end of this year. And other companies are also staying, too, rather than moving to neighboring states as they had once considered. Assay Designs, Inc. will be adding 86 new jobs and investing an additional $18 million to a new site in Washtenaw County's Pittsfield Township. Faurecia, a Michigan auto supplier, will be creating nearly 450 more jobs in Sterling Heights as part of a $40 million expansion. Emerald Graphics Corp. will be producing an additional 347 new jobs near Grand Rapids, rather than in Texas. And with these Michigan fixtures staying, who knows what the future holds for our great State.

The significance of this private-public partnership cannot be overstated. In addition to the immediate consequence of job retention, the University of Michigan projects that the State's agreement with these companies will create an additional 1,210 jobs and generate over $97 million in revenue for Michigan over the next ten years, with another 1,000 jobs indirectly generated at other area companies. Rather than facing the prospect of helplessly watching hundreds of families potentially flee the metropolitan area—or even the state—in search of new jobs, Michigan's economic future looks brighter with a commitment that these hard workers will remain at home and continue to contribute to the State's economy. Instead of disrupting their children's lives with moves to new schools, SBC employees will continue to root themselves in their respective local communities.

I see no reason why other States cannot create similar incentive programs to keep private sector jobs within their borders as well. The tax credits that Michigan has extended to SBC Communications, Assay Designs, Faurecia, and Emerald Graphics Corp. are just the start. My home state recognizes that corporations naturally desire to expand. And it also recognizes that the State has too many brownfields that require developing. These two are not mutually exclusive. So Michigan has decided to invest in its own future. And what will be the reward? An anticipated $558 million in private investment! Michigan has proven that it is committed to working with labor and management. Our State has shown that it truly has an open door policy, and will meet and work with all those interested in doing business within its borders, whether your company resides there already and is looking to expand, or is looking to relocate to a local economy that suddenly has a more optimistic forecast.

I encourage my colleagues in Congress to take a close look at what Governor Granholm, SBC Communications, the Michigan Economic Development Corporation and the Communications Workers of America have accomplished. I see no reason why such a success story cannot be replicated in other States as well. In closing, I commend all those parties involved; am grateful for their willingness to work together for our State's future; and hope that this is just the beginning of many success stories to come out of Michigan and America's other 49 States.

HONORING THE CONTRIBUTIONS OF PRECINCT 1 JUDGE SAUL ACEVEDO

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contributions of Judge Saul Acevedo, of my Congressional District.

Saul Acevedo was born and raised in San Antonio and has been actively involved in the community. He is a product of San Antonio Independent School District and graduated from Jefferson High School in 1981. He earned his Bachelors Degree in Political Science in 1986 from the University of Texas at San Antonio. He then enrolled at Texas Southern University, and in 1989 earned his Law Degree.

Judge Acevedo was elected as Precinct 1 Justice of the Peace in 1998; he works constantly to ensure that the people of his community receive the services they need from local government. He is a credit to his community and a tremendous resource for his county.

During his time in office he has dedicated himself to the youth of the community. He is extremely active in District 19 little league baseball, and is a past league president. There is one role that Judge Saul Acevedo plays in the community that trumps everything; he is married to Marietta and has two beautiful children.

Mr. Speaker, I am proud to have this opportunity to recognize Judge Saul Acevedo for his dedication and contributions to the community.

INTRODUCTION OF ESTATE TAX RELIEF LEGISLATION

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. MOORE of Kansas. Mr. Speaker, I rise today to introduce legislation that would repeal the estate tax for 99.7% of all estates in our country.

During my time in Congress, I have strongly supported estate tax relief for American families, farmers, and small businesses, and continue to support the ability of one generation to transfer a business and assets to the next generation. During my first term in Congress I voted to override then-President Clinton's veto of a measure that repealed the estate tax, and later voted for President Bush's 2001 tax cut package, which included a phase-out and temporary repeal of the estate tax.

Unfortunately, however, our country's fiscal situation has changed dramatically over the last several years, and while I continue to support estate tax relief, I also continue to support fiscally responsible policies that will not transfer trillions of dollars in debt to future generations. On February 17, 2004, the national debt of the United States exceeded $7 trillion for the first time in our country's history. One year later, our national debt is $7.8 trillion. In the past year alone, our country has added $800 billion to our national debt. The "debt tax" that we are imposing on our children and grandchildren cannot be repealed, and can only be reduced if we take responsible steps now to improve our fiscal situation.

This week the House is scheduled to consider a full repeal of the estate tax. Repeal of the estate tax will cost approximately $290 billion over just the next ten years, and although I support full repeal in theory, the sad truth is that our country cannot afford the luxury of an estate tax repeal at this time.

My legislation would provide immediate relief by raising the amount of an estate exempt from any estate tax liability from $1.5 million to $3.5 million. Additionally, the exemption for married couples would rise to $7 million under my bill. I believe this measure strikes an appropriate balance between the enormous cost of full repeal and the unacceptable cost of doing nothing. 99.7 percent of the estates in our country would face no estate tax liability at all under this legislation.

Further, H.R. 8, the estate tax repeal bill that the House will consider in the near future, would preserve the reinstitution of carryover basis rules that are contained in the 2001 tax law. Replacing the step-up in basis that currently exists with the carryover basis rules that used to exist in our tax code, and will temporarily reappear in 2010, would impose a very real, very significant compliance burden, and capital gains tax increase, on approximately 71,000 estates every year. By repealing the step-up in cost basis, which allows heirs to value an inherited asset at the market value of that asset on the date of a benefactor's death, H.R. 8 would force individuals and families to determine the price of a transferred asset at the date at which the asset was originally purchased. This means that a piece of property originally purchased several decades ago for $25,000 and sold for $325,000 today would be subject to a taxable capital gain of $300,000. Taxable gains on transferred property are particularly burdensome in light of the unprecedented real estate boom our country has experienced over the last several years. My legislation would preserve the step-up in basis and thereby provide substantial capital gains tax relief to thousands of American families.

Full repeal of the estate tax may still be an option for future Congresses to consider, but until we are able to improve the fiscal situation of our country, Congress should attempt to strike a balance between total repeal and the status quo, which will significantly increase the estate tax burden in 2011. We need to ensure that the federal government is preparing adequately for the unprecedented demographic shift that will strain Social Security and Medicare in the decades to come. Spending nearly $300 billion over the next ten years on full repeal of the estate tax poses a genuine threat to Social Security and Medicare and will impose an unnecessary burden on our children and grandchildren, who will be forced to pay back with interest the debt we are accumulating today.

BACK OUR VETERANS' HEALTH ACT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. FILNER. Mr. Speaker, and colleagues, since the creation of the Department of Veterans Affairs health care system, the Nation's doctors of chiropractic have been kept outside and all but prevented from providing proven, cost-effective and much-needed care to veterans, including those among the most vulnerable and in need of the range of the health care services that doctors of chiropractic are licensed to provide. In 2002, 4.5 million patients received care in VA health facilities, including 75 percent of all disabled and low-income veterans. Although the VA health care budget was roughly $26 billion in 2002, less than $370,000 went toward chiropractic services for veterans. This, in a country with more than 25 million chiropractic patients and more than 60,000 Doctors of Chiropractic.

I am proud to introduce legislation—H.R. 917, The Better Access to Chiropractors to Keep Our Veterans Healthy Act (BACK Our Veterans Health Act)—that is designed to provide veterans with direct access to a Doctor of Chiropractic, if that is their choice, through the veterans health care system. In developing this bill, I have worked closely with chiropractic patients, particularly our veterans, who know the benefits of chiropractic care and bear witness to the positive outcomes and preventative health benefits of chiropractic care.

Specifically, my bill seeks to amend Title 38 of the United States Code to permit eligible veterans to have direct access to chiropractic care at VA hospitals and clinics. Section 3 of the measure states that "The Secretary [of Veterans Affairs] shall permit eligible veterans to receive needed [health care] services, rehabilitative services, and preventative health services from a licensed doctor of chiropractic on a direct access basis at the election of the eligible veteran, if such services are within the State scope of practice of such doctor of chiropractic." The measure goes on to directly prohibit discrimination among licensed health care providers by the VA when determining which services a patient needs.

Over the years, Mr. Speaker, representatives of the Department of Veterans Affairs have come before the House Veterans Affairs Committee, a panel on which I serve, and have insisted that chiropractic benefits are available to veterans and that no bias exists within the VA against the chiropractic profession. But the facts I cited above speak otherwise. For all practical purposes, access to chiropractic care has been non-existent within the VA system. Chiropractic care has so seldom been offered to veterans that it can be fairly said to be a phantom benefit—and for years, Mr. Speaker, the VA has done nothing to correct this deficiency. There is simply no evidence that the VA has ever acted proactively in any meaningful and substantive way to ensure that chiropractic care is made available to veterans—and because of that track record of neglect, the U.S. Congress felt compelled to take action.

As a result, Congress in recent years has enacted three separate statutes seeking to ensure veterans access to chiropractic care (Public Law 106–117, Public Law 107–135 and Public Law 108–170). The last of those statutes gives explicit authority to the VA to hire doctors of chiropractic as full time employees. I'm proud to have worked with colleagues on both sides of the aisle to help advance those initiatives—and I am hopeful that a reluctant VA has finally seen the light.

I understand that, last year, former VA Secretary Principi released new policy directives regarding chiropractic care and that we may be on our way to seeing the true and full integration of chiropractic care into the VA. But Mr. Speaker, if the past is any guide to the future, then I must remain concerned until I see these new polices firmly in place and working well in all VA treatment facilities. To help ensure that, in the future, barriers to veterans who want and need chiropractic care are fully removed, I am pleased to introduce legislation that would require the VA to make chiropractic care available on a direct access basis to our veterans.

Perhaps my legislation will prove not to be necessary—because referrals to doctors of chiropractic will actually take place with the encouragement and support of the leadership of the VA. But as insurance, the enactment of the legislation I propose would guarantee the right of a veteran to obtain this important service without the cost and stumbling blocks of going through potentially hostile gatekeepers.

Accordingly, I urge my colleagues to join me in supporting unimpeded access to chiropractic care throughout the veterans health care system and help enact this measure, H.R. 917.

HONORING THE CONTRIBUTIONS OF PASTOR TERRENCE K. HAYES

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize Pastor Terrence K. Hayes of St. Paul United Methodist Church for his exceptional career in public service.

Terrence K. Hayes has served our community for over thirty years. He has provided spiritual guidance and community leadership for those who need it the most.

Pastor Hayes has served as the senior pastor of St. Paul United Methodist Church since 1996. He is a man who believes in the importance of reaching out and helping those in need. An active and passionate advocate of the people, he has held a number of leadership and community service positions.

Pastor Hayes is the recipient of numerous awards including the Outstanding Young Men of America, the National Fellowship Fund, the Earl L. Harrison Fellowship, the Henry C. Maynard Award of Outstanding Pastoral Potential, and the Who's Who in America College Students from Hampton Institute. He has written numerous publications including Collaborating in Ministry, Fundraising Resources of the United Methodist Church, and a number of short stories and newspaper articles.

Mr. Speaker, I am honored to have the opportunity to recognize the hard work and important community achievements of Pastor Terrence K. Hayes.

PERSONAL EXPLANATION

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. RYUN of Kansas. Mr. Speaker, on March 17, 2005, I was unable to vote on rollcall 87, the Spratt Amendment to H. Con. Res. 95. Had I been present, I would have voted "no."

ESSEX MARINA 50-YEAR ANNIVERSARY

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. SIMMONS. Mr. Speaker, on April 2005, a milestone was reached by one of eastern Connecticut's finest waterfront establishments when Essex Island Marina celebrated its 50th anniversary.

A half century ago Louis Schieferdecker, the son of a German immigrant, made a small investment that would end up becoming an eastern Connecticut institution. Mr. Schieferdecker bought Essex Island in 1955 and created a tradition of service and a successful business that his family owns and operates today. Essex Island Marina began as a boat yard with several slips; today it is one of southeastern Connecticut's most picturesque places. Lou Schieferdecker had a dream and he pursued it with a positive attitude and a determination to make it work.

During the first 10 years of operation the marina added to its services and amenities and also increased the number of docks. The family installed a swimming pool, built the deck and added game rooms, a snack bar and a convenience store.

But for the Schieferdecker family the most important part of the marina is not the dock or any of the amenities or services they provide; it's the people who come and enjoy the experience. In the words of the family, "Today we see it when the grown children of past guests bring their children to share the experience. In the last 49 years a 13 acre island has been transformed from a place to 'dock your boat' to a place where memories are made."

Boaters have responded to the beautiful facility. In 2004 the readers of "Offshore Magazine" named Essex Island Marina the second "Most Welcoming Destination" in the entire northeast and voted it number one in the northeast in the "Favorite Marina For A Weekend" category.

Building a successful business and generating the kind of loyalty and appreciation expressed by the readers of "Offshore Magazine" are not the result of being lucky. It's the result of working long hours to achieve a dream and always maintaining a commitment to do nothing less than your best. For 50 years the Schieferdecker family has been devoted to the boating public and the boating public has returned that dedication to the Schieferdeckers and Essex Island Marina. I congratulate this hard working family and Essex Island Marina for the first 50 years and I am delighted that they are part of our eastern Connecticut family.

HONORING PASTOR JERRY DAILEY

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Speaker, I rise today to recognize Dr. Jerry Dailey for his dedication and service as a Pastor and community leader in San Antonio, Texas.

Dr. Dailey was born in Anderson, Indiana. He attended the public schools of Duval County Florida, and later graduated from Andrew Jackson Senior High School. After high school, Dr. Dailey received a basketball scholarship to study at Bethune-Cookman College. In college, Dr. Dailey was elected Senior Class President and was also a recipient of the Crown Zellerbach Foundation Scholarship to study one year at the University of California, Berkeley. In 1975, he graduated cum laude with a B.S. in Psychology. Dr. Dailey went on to obtain a Masters of Divinity degree in 1979 from Philadelphia's Eastern Baptist Theological Seminary and a Doctor of Theology degree in 1991 from San Antonio's Guadalupe College. Dr. Dailey also holds many other honorary degrees for his work in divinity.

For the past 28 years, Dr. Dailey has served many communities as a pastor and community leader. Since 1985, Dr. Dailey has been the Pastor of Macedonia Missionary Baptist Church in San Antonio, Texas. He continues to lead the church today and has led many initiatives in Macedonia's major expansion and renovation efforts. Other community projects of Dr. Dailey's have been establishing the Good Samaritan Food Ministry and Youth Scholarship Fund.

Among his many accolades, Dr. Dailey received the 2000 MLK Distinguished Achievement Award Nomination from the City of San Antonio MLK Commission and was the first African American appointed to the Administrative Executive Board of the Baptist General Convention of Texas (BGCT). He is now the newly elected President of the African American Fellowship of the BGCT. His many awards and recognitions attest to the breadth of his service through the years.

Dr. Dailey is married to the former Janice M. Pullen and they are the parents of three daughters named Joy Marie, Jasmine Noelle, and Jeri Nicole. He constantly serves as a role model and inspiration for his congregation and the local community. It honors me today to have the chance to recognize and thank Dr. Dailey for his many years of service and contribution.

INTRODUCTION OF THE MEDICARE MEDICAL NUTRITION THERAPY ACT OF 2005

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. UPTON. Mr. Speaker, I am pleased to join with Representatives ANNA ESHOO, LEE TERRY, DAVID WU, XAVIER BECERRA, and JO BONNER in introducing the bipartisan Medicare Medical Nutrition Therapy Act of 2005. Under current law, Medicare provides coverage for medical nutrition therapy services provided by registered dietitians and nutrition professionals to Medicare beneficiaries with diabetes and renal diseases. Recognizing that many other beneficiaries with diseases and conditions such as cardiovascular disease and obesity could benefit from medical nutrition therapy services, the legislation we are introducing today gives the Secretary of Health and Human Services, acting through the Centers for Medicare and Medicaid Services, the authority to use the National Coverage Determination Process to expand coverage for other disease and conditions for which these services would be both beneficial and cost-effective.

Providing Medicare coverage for medical nutrition therapy services is sound health care policy. It can prevent unnecessary pain and suffering and save millions of dollars in health care costs by lessening the risk of chronic disease, slowing disease progression, and reducing symptoms. In response to a request in the 1997 Balanced Budget Act, the Institute of Medicine of the National Academy of Sciences studied the value of adding medical nutrition therapy coverage to the Medicare program and concluded that this coverage would "improve the quality of care and is likely to be a valuable and efficient use of Medicare resources, because of the comparatively low treatment costs and ancillary benefits associated with nutrition therapy."

I urge my colleagues who have not yet cosponsored this legislation to join us in this effort.

INTRODUCTION OF THE FAIR FEDERAL COMPENSATION ACT OF 2005

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Ms. NORTON. Mr. Speaker, the entire bipartisan regional House delegation of the national capital region introduces today the Fair Federal Compensation Act of 2005 to address the District of Columbia's structural imbalance. The original co-sponsors are: Government Reform Committee Chair TOM DAVIS, Appropriations Subcommittee Chair FRANK WOLF, Democratic Whip STENY HOYER, Former Congressional Black Caucus Chair ELIJAH CUMMINGS and Representatives JIM MORAN, CHRIS VAN HOLLEN, and ALBERT WYNN. Montgomery County Executive Doug Duncan has authorized me to say that he suports this bill as well.

D.C. residents and businesses are proud of eight straight years of balanced budgets that pay for the operations of our government. Yet, residents and Congress probably know little about the city's structural imbalance, which according to the GAO, is entirely from federal sources. However, D.C. taxpayers and Congress are paying for this imbalance in millions of dollars in taxes and interest. Residents and businesses pay to cover a structural imbalance caused by federal mandates and requirements with higher local taxes and the highest debt load in the nation. Our bill will help the Congress and city residents understand what the structural imbalance is and how it affects taxpayers and the D.C. government.

The goal of the bipartisan bill we introduce today is to prevent another fiscal crisis for our city and to relieve some of the unsustainable load on the D.C. government and on residents and businesses. The structural imbalance is the difference between the cost of D.C. government services and operations and the add-on cost to local taxpayers that otherwise would be carried by the federal government or commuters. According to the GAO, (confirming two other major studies; McKinsey, March 2002 and Brookings, October 2002) the resulting imbalance is exclusively federal and has three sources: federal use of the city's most valuable land; the city's continuing responsibility for many costly state functions; and the commuter tax ban, despite services the District must provide to 200,000 federal employees. The GAO concluded that the only options to relieve the structural imbalance are: to "change Federal procedures and expand the District's tax base or provide additional financial support and a greater role by the Federal government to help the District maintain fiscal balance." The Fair Federal Compensation Act of 2005 we introduce today responds specifically to these GAO findings.

Our bill offsets part, though not all, of the annual structural imbalance—found by the GAO to be between $470 million and up to more than $1.1 billion—by providing for an annual federal contribution of $800 million. Unlike the old federal payment, which remained constant and therefore lost much of its value through inflation, the federal contribution would increase annually. The federal contribution funds would go to a dedicated D.C. infrastructure support fund. The District does not have an operating deficit or imbalance and these federal funds could not be used for operating expenses. The bill provides specific uses only for the non-operating and urgent capital needs that are delayed each year in favor of keeping the D.C. government operating. The federal contribution would be available only for stated infrastructure purposes, such as roads and school construction and repairs, and for reducing the District's debt—the highest in the country. High debt and the interest that results, of course, produce excessive taxes. The bill also would improve the District's investment bond rating and thus reduce our present high interest payments, all charged to taxpayers.

In 1995 Congress came to grips with the reality that this city's responsibilities assume it is a state, although it lacks a broad state tax base and that the District could no longer be expected to shoulder the full set of state costs. Congress relieved the District of the costs of some but not all state functions and left the unique federal structural impediments described in the GAO report. Nevertheless, the District has made remarkable progress, maintaining balanced budgets and surpluses every year despite adverse national economic conditions and improving city services. The CFO has ominously warned, however, that looking to the out years, the structural imbalance endangers the city's financial future and cannot continue to be carried by the District alone. It would be tragic for Congress to allow the progress that has been made to be retracted because of dangerous and escalating uncompensated federal burdens. The Fair Federal Compensation Act of 2005 would allow the District to avoid great risks, to continue to build fiscal strength, and to relieve D.C. taxpayers ofthis federal structural financial burden.

HONORING THE CONTRIBUTIONS OF SAN MARCOS CITY COUNCILMAN BILL TAYLOR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the distinguished public service of San Marcos City Council member Bill Taylor.

In 1971, Bill Taylor earned his Bachelor's Degree in Government, graduating with honors from San Marcos Baptist Academy. He served for 6 years in the Texas Army National Guard, and has been a member of the National Society of Certified Insurance Counselors. Currently, he is a Commercial Marketing Manager for Bill Taylor & Associates, Inc.

Mr. Taylor was elected to the San Marcos City Council in 2002. He has had a tremendously productive career in public service, working on the City's Airport Commission and on the Small Business Development Council. Bill has spent his spare time volunteering for the San Marcos CISD Bond Committee, the Chilympiad Board of Directors, and has been honored with the title of El Jefe.

Bill Taylor has lived a life of enormous service to his community. Since arriving in San Marcos 39 years ago, he has been at the center of volunteer project after volunteer project. Along with his many accomplishments for the people of San Marcos, Bill has 6 children with his wife Debbie.

Mr. Speaker, City Council member Bill Taylor is an exemplary public servant. His work has made San Marcos safer, healthier, more efficient and more prosperous. I am proud to have the chance to thank him here today for all he has done for his fellow Texans.

INTRODUCTION OF THE TAXPAYER ABUSE PREVENTION ACT: CONGRESS SHOULD NOT ALLOW BOUNTY HUNTERS TO ABUSE TAXPAYERS

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise to announce that today I introduced the Taxpayer Abuse Prevention Act of 2005. If enacted into law, this bill would repeal the provision tacked onto the FY2005 Omnibus Appropriations bill that hands over the tax returns of millions of American taxpayers to private contractors to collect delinquent taxes, and to keep 25 percent of their take as a commission for services rendered.

This provision opens the door to taxpayer intimidation and abuse, practices that have been outlawed by Congress. This practice amounts to bounty-hunting—at taxpayer expense—by allowing collection agencies to harass those same American taxpayers, many of whom are guilty of nothing, with the incentive of collecting their commission as their primary motivation. Giving unaccountable outside bounty hunters unfettered access to Americans' personal financial data poses a risk that we just cannot afford, and that is why these organizations oppose the IRS proposal: Citizens for Tax Justice, Consumer Federation of America, Consumers Union, National Consumer Law Center, National Consumers League.

Late last year, Congress enacted H.R. 4520, the corporate tax bill, which included a provision that will give the IRS the authority to use private collection agencies to collect tax debt. This means that up to 2.6 million tax returns—which until then were only scrutinized by federal government employees—will now be open to private collection agencies and an untold number of private debt collection staff.

What's more worrisome is the IRS' inability to oversee the work of these private debt collectors. A 1996 pilot program for private collection was so unsuccessful that a similar pilot program planned for 1997 was cancelled outright. The contractors used in the pilot programs regularly broke the Fair Debt Collection Practices Act, did not protect the security of personal taxpayer information, and even then failed to bring in a net increase in revenue.

The IRS has said that it has learned from the 1996 project and is better equipped to address the problems raised. However, even recent evidence is to the contrary. An eye-opening report by the Treasury Inspector General for Tax Administration (TIGTA Audit #200320010) shows how IRS contractors put taxpayers' data at risk. The TIGTA audit found that the "lack of oversight of contractors resulted in serious security vulnerabilities." The report found that "contractors blatantly circumvented IRS policies and procedures even when security personnel identified inappropriate practices." In fact, the report found that contractors made hundreds of calls to taxpayers during times prohibited by the FDCPA, and that calls were even placed as early as 4:19 a.m.

The objective of the review was "to determine whether the Internal Revenue Service (IRS) has adequately protected Federal Government equipment and data from misuse by contractors." The review found: "The involvement of non-IRS employees in critical IRS functions increases the risk of misuse or unauthorized disclosure of taxpayer data, and could lead to loss of equipment or sensitive taxpayer data through theft or sabotage."

While IRS employees are explicitly forbidden from being evaluated on the basis of revenue collected, the private collection scheme would actually link contractor pay to the amount of revenue collection. This policy encourages contractors to use aggressive collection techniques to boost their remuneration. Furthermore, the IRS is currently liable for damages to a taxpayer resulting from the misuse of confidential information by an IRS employee, but taxpayers will not be able to recover damages from the federal government where contractors are guilty of malfeasance.

The House had already expressed its will that this provision *not* become law when it approved by voice vote an amendment to the FY2005 Treasury Appropriations bill that prevented the expenditure of any federal funds for private collection of federal taxes. Unfortunately, the Treasury Appropriations bill never became law, and the House-passed amendment was stripped out of the omnibus spending bill by the Republican leadership in the conference—behind closed doors, in the dead of night.

We must repeal this onerous provision. We must protect American taxpayers from intimidation and abuse. We must ensure that personal financial records are protected and remain private. Two decades ago this Congress passed the Fair Debt Collection Practices Act specifically to protect Americans from intimidation and abuse, but last year this Congress perpetrated an injustice by allowing these very abuses to go forward.

I urge my colleagues to join me in working with the IRS to find a more effective means of collecting delinquent tax debt collection and avoid this risky scheme altogether. Let's pass the Taxpayer Abuse Prevention Act.

RECOGNIZING SALEM HOUSING COMMUNITY DEVELOPMENT CORPORATION

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. KILDEE. Mr. Speaker, today I rise to congratulate Salem Housing Community Development Corporation, located in my hometown of Flint, Michigan. On April 14, civic and community leaders will gather to honor Salem Housing at a Celebration and Awards Banquet entitled, "20 Years of Building Community."

Salem Housing was created in 1984 by 5 neighborhood organizations and a church on Flint's north side. These 6 groups were brought together by common concerns about the deteriorating housing stock in their shared neighborhood: vacant and deteriorating houses, a declining homeownership base, and low-quality rental housing with high rents. They also shared concerns for those families who had to live in these deteriorated housing structures due to lack of financial resources, or unavailability of other housing options. As a result, they formed the Salem Housing Task Force, with a mission to "improve family living conditions by providing safe, decent, and affordable housing for families of limited income, and to act as a catalyst to restore the neighborhoods within its service area." This area encompassed a 132-block region, bounded by Pasadena Avenue on the north, Saginaw Street on the east, Wood/Begole on the south, and Dupont on the west.

In 2001, the Salem Housing Task Force officially became the Salem Housing Community Development Corporation. They retained their goals of affordable homeownership, and the results have included the restoration of long vacant and blighted homes, helping homeowners renovate their existing homes, and they continue to work with local neighborhood organizations to improve and beautify their streets. In addition, they have provided training and information for skills including home repair and money management.

Mr. Speaker, for 20 years, the Salem Housing Community Development Corporation has helped many Flint residents gain the satisfaction that comes with owning their own home, and they have helped cultivate civic pride as well. I am appreciative for all they have done to make our community a better place in which to live. I ask my colleagues in the 109th Congress to please join me in commending them for their efforts over the past 20 years, and wish them much success in the future.

CITY COUNCIL OF MOUNT VERNON SUPPORTS THE FAMILY OF AMADOU DIALLO

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. RANGEL. Mr. Speaker, I rise today to bring to the attention of this chamber a resolution adopted March 9, 2005 by the City Council of Mount Vernon, New York, supporting relief for the family of Amadou Diallo. The resolution calls on Congress to grant permanent resident status to the family of the young African immigrant who was shot 41 times by four plainclothes New York policemen.

The full text of the resolution of the Mount Vernon City Council follows:

Whereas, Amadou Diallo, a 24 year old immigrant from Guinea, was tragically gunned down in a hail of 41 bullets on February 4, 1999, by officers of the New York City Police Department as he attempted to enter his residence in the Bronx; and

Whereas, Amadou Diallo, an innocent man, was found to be unarmed at the time of his shooting; and

Whereas, the tragic story of Amadou Diallo garnered international attention, and an unprecedented outcry and weeks of demonstrations by New Yorkers who sympathized with his family;

Whereas, the Diallo family currently resides in the United States under "deferred action status" and are vulnerable to deportation in the upcoming months; and

Whereas, the Diallo family wishes to remain in the United States; and

Whereas, the Honorable United States Congressman Charles Rangel has proposed legislation, namely H.R. 677, which would grant permanent resident status to Amadou Diallo's family members: Kadiatou Diallo, Laouratou Diallo, Ibrahima Diallo, Abdoul Diallo, Mamadou Bobo Diallo, Mamadou Pathe Diallo, Fatoumata Traore Diallo, Sankarela Diallo and Marliatou Bah; and

Whereas, granting permanent resident status to the Diallo family would be a proper and just recognition of the tragedy they have suffered, and it will allow the Diallo family to pursue the opportunities promised by the American Dream; and

Whereas, the City Council of the City of Mount Vernon fully supports Congressman Rangel's proposed legislation and commends his efforts to keep the Diallo family in the United States; Now, Therefore, be it resolved that the City Council of the City of Mount Vernon, New York:

Hereby, fully supports Congressman Rangel's proposed legislation, H.R. 677, which would grant permanent resident status to Amadou Diallo's family members: Kadiatou Diallo, Laouratou Diallo, Ibrahima Diallo, Abdoul Diallo, Mamadou Bobo Diallo, Mamadou Pathe Diallo, Fatoumata Traore Diallo, Sankarela Diallo and Marliatou Bah.

Resolved, that the City Council of the City of Mount Vernon, New York, calls upon the United States Congress to support Congressman Charles Rangel's proposed legislation, H.R. 677, which would grant permanent resident status to Amadou Diallo's family members: Kadiatou Diallo, Laouratou Diallo, Ibrahima Diallo, Abdoul Diallo, Mamadou Bobo Diallo, Mamadou Pathe Diallo, Fatoumata Traore Diallo, Sankarela Diallo and Marliatou Bah.

I extend my personal thanks to Mayor Ernest D. Davis, City Council President Karen Watts, City Councilman William R. Randolph, and the rest of the Mount Vernon City Council for this resolution.

Surely, this Congress can heed the advice of the City Council and truly embrace the Diallo family for the loss of their son and brother.

HONORING THE CONTRIBUTIONS OF SAN MARCOS CITY COUNCILMAN ED MIHALKANIN

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Ed Mihalkanin for his nine years of service to the people of San Marcos, Texas.

In addition to serving the City of San Marcos on the Council, Mr. Mihalkanin works at Texas State University as an Associate Professor of Political Science. He has been teaching at Texas State since 1990, and previously taught at Gettysburg College in Gettysburg, PA.

He received a Master's Degree in 1985 and a Ph.D in 1991 from American University in Washington, DC. Mr. Mihalkanin is originally from Hanover Park, Illinois, and he received his undergraduate degree at Bradley University in Peoria, Illinois.

Mr. Mihalkanin was first elected to the Council in 1996, and currently represents the City Council on the Economic Development Council. He has served as Mayor Pro Tempore in 1999 and Deputy Mayor Pro Tem in 2003–2004.

Mr. Mihalkanin is a member of the Downtown Association, the Greater San Marcos Area Chamber of Commerce, and many other organizations that help to better the San Marcos community as a whole.

Mr. Mihalkanin is a model of hard work and dedication to the city and to his students. By working as project director for the "Civitas Project," Mr. Mihalkanin helped to revive civic life in the communities of Lockhart, San Marcos, and Wimberley, Texas.

Mr. Speaker, I am honored to have had this opportunity to recognize the many achievements of San Marcos City Councilman Ed Mihalkanin.

DR. WILLIAM SCHWARTZ HONORED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. LANTOS. Mr. Speaker, I rise today to honor Dr. William Schwartz as the co-founder of the Samaritan House Free Medical Clinic, as well as his dedication to the clinic since its inception in 1992. Dr. Schwartz was awarded the Jefferson Award for his work at the clinic that is located in San Mateo, California, in my district. His friends and colleagues have praised him for his selfless acts and hard work in trying to make our community a better place, and I hope the acknowledgment that comes from this award will inspire others to devote more of their time to helping those in need.

Thirteen years ago, Dr. Schwartz and Dr. Walter Gains started a free clinic for those who could not afford health care. They treated patients in the conference room at Samaritan House one or two nights a week after spending the day at their own offices. The clinic provided free care through the generous contributions of lab work and x-rays by Mills Peninsula Hospital. Now open 6 days a week in two separate locations in San Mateo and Redwood City, the clinic serves 8,000 patients a year through donations that range from $25 and $50.

Mr. Speaker, small contributions and volunteers have kept this free clinic thriving. Ninety percent of the staff members donate their time after they leave their own jobs or after retirement. Dr. Schwartz worked as an internist in San Mateo for the 32 years in private practice and was preparing to retire when he got the idea to start the clinic. Now most of the doctors, nurses and translators running the clinic are retired. They include specialists in dentistry, gynecology, oncology, optometry, psychology, and orthopedics.

Dr. Schwartz has seen many free clinics disappear over time with people turning to more mainstream medical facilities, yet the number of needy people has risen. Most of the patients have extremely low incomes of less than thirty percent of median income. The Jefferson Award is bestowed by the American Institute of Public Service for making a difference in one's community. Dr. Schwartz has done just that. His clinic even has been able to relieve some of the stress on overcrowded emergency rooms that many poor people have come to rely on for many non-emergency situations.

Mr. Speaker, I invite my colleagues to join me in thanking Dr. William Schwartz for his contributions to my community. He has devoted his time to making a difference, beginning as a clinical professor at the University of California at San Francisco and now giving to the people of San Mateo and Redwood City medical attention. I rise today to congratulate him on winning the "Nobel Prize of Community Service." He and his wife, Florette, deserve a long vacation and the nation's thanks.

CONGRATULATING THE FALCONS ROBOTICS TEAM OF CARL HAYDEN HIGH SCHOOL ON ITS ACHIEVEMENTS

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. PASTOR. Mr. Speaker, I rise before you today to proudly draw your attention to the Falcons Robotics Team of Carl Hayden High School in my district. This talented group of students has succeeded in winning numerous robotics competitions, even beating the MIT team last year in a contest sponsored by NASA and the Office of Naval Research.

Teachers Allan Cameron, Fredi Lajvardi and Sam Alexander, with the help of other Carl Hayden faculty, wanted to create a club where students could engage in science, engineering, and math related activities that were educational as well as fun. Through the club, the students also had opportunities to meet professionals from science-oriented fields. The robotics team is small, made up of four students: Cristian Arcega, Lorenzo Santillan, Oscar Vazquez and Luis Aranda. The Falcons Robotics Team provides these students from low income neighborhoods a positive option for after school activities. One of the team members was failing most of his classes before joining the robotics club and credits the club from keeping him off of West Phoenix streets and avoiding trouble.

The Falcons Robotics Team's first mission was to put together a robot to compete in the Marine Advanced Technology Remotely Operated Vehicle Competition, the underwater robotics contest sponsored by NASA and the Office of Naval Research. They needed a remote-controlled robot that could explore a sunken mock-up of a submarine. Thus, Stinky was born. Constructed of plastic tubing, propellers, lights, cameras, a laser, depth detectors, pumps, and other equipment, Stinky was capable of recording sonar pings and retrieving objects 50 feet under water. Stinky got its unflattering moniker from the foul-smelling glue that kept it together. The team went into the competition feeling intimidated, but they won the grand prize, beating out MIT and other college teams with slicker robots and corporate sponsors.

Since their competition victory last year, the team has gone on to compete in the For Inspiration and Recognition of Science and Technology (FIRST) Robotics Competition, where it won the highest award, the Chairman's Award, at the Arizona Regionals in March. Dean Kamen, inventor and founder of FIRST, a multinational non-profit organization that aspires to make science, math, engineering, and technology cool for kids, presented the award. As Mr. Kamen explained, the FIRST Robotics Competition is about much more than the mechanics of building a robot or winning a competitive event. The FIRST mission is to change the way America's young people regard science and technology and to inspire an appreciation for the real-life rewards and career opportunities in these fields.

In his remarks, Mr. Kamen echoed the sentiments of many in Arizona who are following the progress of this team of innovators. The impact from the team's victory is priceless. Participation in the Falcons Robotics Team, and its competition successes, has changed the students' appreciation of engineering and science, and their attitude towards education. These students are now hoping to pursue higher education and are inspiring other students to strive for similar goals. The team's accomplishments are countering stereotypes of innercity students from Hispanic neighborhoods, and demonstrating that innercity "tough kids" can be just as talented and capable as the best from MIT. The Falcons team has become the subject of articles in Wired Magazine and the Washington Post, primetime stories on shows such as NPR's Here and Now and ABC's Nightline, and Warner Brothers is even planning a movie.

As the team now prepares to compete in the FIRST Championship from April 21 to 23 at the Georgia Dome in Atlanta, I wish to honor the Falcons Robotics Team and the students, teachers, and community of Carl Hayden High School. The successes of Cristian, Lorenzo, Oscar and Luis demonstrate the accomplishments students can achieve, given a little inspiration from devoted teachers. I ask my colleagues to join me today in congratulating the Falcons Robotics Team, and wishing the students and teachers at Carl Hayden High School much continued success in their future endeavors.

PRESERVING ACCESS TO AFFORDABLE DRUGS ACT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. MENENDEZ. Mr. Speaker, today I am proud to be introducing a revised version of the Preserving Access to Affordable Drugs (PAAD) Act. Unfortunately, the misguided Medicare Prescription Drug, Improvement, and Modernization Act of 2003 threatens to reduce or eliminate the prescription drug benefits that millions of seniors across the country already have. And if the law isn't bad enough as is, the Administration has ignored the recommendations of the President's State Pharmaceutical Assistance Transition Commission and denied New Jersey's request to automatically enroll those Medicare beneficiaries currently enrolled in New Jersey's PAAD and Medicaid programs into a preferred Medicare prescription drug plan.

This ruling effectively blocks New Jersey's efforts to preserve the generous prescription drug coverage the state currently provides to the 190,000 seniors enrolled in New Jersey's PAAD program and the 140,000 seniors and disabled enrolled in the state's Medicaid program when the new Medicare prescription drug benefit goes into effect on January 1, 2006.

In an effort to right this wrong, the bill I'm introducing today will ensure that our seniors have a seamless transition to the new Medicare Part D drug benefit, without a reduction or disruption in their coverage.

The PAAD Act will allow states to automatically enroll PAAD and dually eligible Medicaid beneficiaries in one or more preferred prescription drug plans to ensure that these beneficiaries are enrolled in a Medicare drug plan that maximizes both their federal and state prescription drug coverage. This will ensure that New Jersey seniors who currently receive prescription drug benefits under PAAD or through the state's Medicaid program are not made worse off by the new Medicare law.

In addition, the PAAD Act will allow New Jersey to provide supplemental Medicaid prescription drug benefits to low-income seniors and disabled who currently receive generous prescription drug benefits under the Medicaid program and who will now receive their prescription drug benefits through Medicare.

With approximately six million seniors nationwide, including 140,000 in New Jersey, who are dually eligible for Medicare and Medicaid, it is absolutely critical that they do not lose access to their Medicaid prescription drug benefits, which are more generous than the new Medicare benefit will be. Not to mention, hundreds of thousands of seniors across the country, and 200,000 seniors in New Jersey, currently are enrolled in state pharmacy assistance programs, and will be forced into a private Medicare drug plan. We need to make sure the new Medicare Modernization Act transition happens with the least amount of confusion and loss of coverage possible. With this bill, we will solve these outstanding problems.

PERSONAL EXPLANATION

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 2005

Mr. ISSA. Mr. Speaker, on March 21st, 2005, I was traveling overseas with Minority Leader PELOSI on officially authorized travel. Had I been present during roll call vote 90, a motion to suspend the rules and pass Senate bill 686, for the relief of the parents of Mrs. Theresa Marie Schiavo, I would have voted "aye" in favor of passage.

HOUSE OF REPRESENTATIVES—*Wednesday, April 13, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. CAPITO).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 13, 2005.

I hereby appoint the Honorable SHELLY MOORE CAPITO to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Dr. Curt Dodd, Senior Pastor, Westside Church, Omaha, Nebraska, offered the following prayer:

Dear Heavenly Father, I ask You this day to empower these representatives, wherever they may be, both in this House and in committee meetings, with true spiritual sensitivity. Give them wisdom to know the difference between loud, hollow requests and opportunities to positively impact an entire nation.

Protect them, O Father, from the temptation to be politically correct for the sake of a few while the audience of heaven watches and millions in posterity wait to weigh their influence.

Help them this day to engage with purpose, using this platform for Your glory and their personal growth. Protect their families, regardless of where they may be this day. Surround them with Your presence, giving confidence that You have met their every need. In turn, may they meet the needs of others through their actions this day.

Help them enjoy the privilege of representing millions of Americans this day. May their decisions this day change our country for the better tomorrow. Give them great joy in what they do in this place.

Father, may they experience what it really means to be in peace because of a relationship with You through Your Son Jesus, for it is in Jesus' name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. STEARNS) come forward and lead the House in the Pledge of Allegiance.

Mr. STEARNS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNIZING PASTOR CURT DODD'S MINISTRY FOR CHRIST

(Mr. TERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TERRY. Madam Speaker, I have the distinct honor to recognize Pastor Curt Dodd, our guest chaplain in the House of Representatives today, and I also want to thank him for his thoughtful and inspiring prayer.

Dr. Dodd began his ministry as an intern at the First Baptist Church in Houston, Texas, in 1973. He was called to serve as associate pastor and then senior pastor at several Texas churches before shepherding the Metropolitan Baptist Church in Houston. Under Dr. Dodd's pastoral leadership, "the Met" received recognition as one of the fastest growing churches in Texas and the Southern Baptist Convention.

From 1995 to 1999, Dr. Dodd was called by God to leave his successful ministry at the church to start a church in Pueblo, Colorado, one of that State's most under-reached areas. With his trademark enthusiasm and commitment to the Lord, he initiated several other church plants, including Fellowship of the Rockies in Colorado Springs. He then went to Florida to Merit Island, and now serves as the senior pastor of Westside Church in Omaha, Nebraska, where my family and I attend.

Dr. Dodd is also an accomplished author of three books: Add One to Grow On; Hearts on Fire—the Keys to Dynamic Church Growth; and Running on Empty in the Fast Lane.

With a heart for the local church and kingdom expansion, he has served on various national and international denominational boards, but his greatest accomplishments are seen in the eyes of the men and women who have heard and accepted the message he brings, that Jesus is our Lord and Saviour who died for our sins.

Madam Speaker, I know that I speak for my colleagues when I say we are proud and honored to have Dr. Dodd with us today.

IT IS TIME TO LEAD AMERICA TO ENERGY INDEPENDENCE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, as summer approaches, I am concerned about the effect that rising gas prices are having on family budgets and small businesses. In the past 3 weeks, gas prices have skyrocketed by 19 cents because of growing demand, high crude oil prices, and higher refining costs.

Congress can help reduce gas prices by finally implementing a comprehensive national energy policy. For the past 4 years, the House has passed sound energy legislation that will reduce our reliance on foreign sources of energy, increase conservation and increase the use of clean, modern and reliable sources of energy. But Democrats are playing politics, smearing TOM DELAY, DICK CHENEY and Condoleezza Rice, and the United States still does not have a comprehensive national energy policy.

South Carolina families need relief from record high energy costs, and Congress can now act to lead America to greater energy independence. This is a matter of economic and national security and we cannot afford to wait another year.

In conclusion, God bless our troops, and we will never forget September 11.

PROTECTING THE NATION FROM AVIAN FLU

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Madam Speaker, this country is dangerously close to a real biological crisis. Yesterday we learned an American company mailed a deadly avian flu strain to 37,000 laboratories in the United States and around the world as part of a routine test kit. The potential error is a reminder of the real danger of a flu pandemic and the millions of deaths it could cause. It also reminds us of the responsibility as a Congress and as a Nation to improve our ability to produce and distribute flu vaccine and to prepare for the pandemic.

The Flu Protection Act, which Senator BAYH and I introduced, would help

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ensure that enough vaccine is produced each year, fund research to combat avian flu, and require the development of contingency plans in the case of a pandemic.

The impending crisis must encourage this administration to take action now. Earlier this month, President Bush took an important step when he authorized a quarantine to stem the spread of avian flu.

In a letter that Senator BAYH and I will send today to the White House, there are other steps the President can take without legislation. He can increase our vaccine stockpiles, help States and cities prepare for the crisis of a pandemic, and provide the incentives for vaccine manufacturers to increase their production.

Madam Speaker, yesterday's announcement reminds us that the next flu pandemic is just around the corner, and the time to act is now. Congress and the President should not wait for this disaster to reach our shores before acting to protect this Nation.

SUPPORT THE CHILD INTERSTATE ABORTION NOTIFICATION ACT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, in most schools an underage child is prohibited from attending a school field trip without first obtaining parental authorization, yet nothing forbids this child from being taken across State lines in disregard of State laws for the purpose of undergoing a life-altering procedure, an abortion.

Please note these documents from a local school district in which it is required to have extensive information and parental authorization for a simple field trip or for a release for disbursement of medication, a total of eight pages for a field trip or for giving an aspirin, even brought from the child's home. But for an abortion, nothing is required.

My legislation, the Child Interstate Abortion Notification Act, CIANA, would make it a Federal offense to transport an underage child across State lines in circumvention of State and local parental notification laws for the purpose of having an abortion. It will also require that, in a State without a parental notification requirement, abortion providers be required to notify a parent.

Today, CIANA will be marked up by the House Committee on the Judiciary. I hope we can pass the bill in the House quickly to protect our underage girls.

THE CHARADE OF GOP LEADERSHIP REGARDING THE ESTATE TAX

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Madam Speaker, I was moved by the words of Dr. Dodd from Omaha and thought about today's continuation of the charade our friends in the Republican leadership play, a very cynical game that they have done every Congress since I have been here that is both unnecessary and unjustified.

Instead of allowing the legislative process to work here to deal with the consensus that exists to raise estate tax limits and solve problems of family businesses and farms, instead they are going to go through an empty effort to repeal it altogether, which ultimately they know will not happen.

In the meantime, this week, 2.9 million families are caught in the snare of the Alternative Minimum Tax, not the fabulously wealthy who are dodging taxes but hundreds of thousands of hard-working, non-rich Americans, whose only sin is, they pay their taxes, they are raising their family and they are saving for the future.

Rather than the fixing the Alternative Minimum Tax, today's charade is a shameful dereliction of duty for American taxpayers.

LET THE DEATH TAX DIE FOR GOOD

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Madam Speaker, it is time that we bury the death tax today, once and for all. For too long the American dream has turned into the American nightmare and for too many citizens and countless small businesses.

Many Americans with dreams take risks, invest their savings, work long hours, and the government keeps over half of their assets when they die. 55 percent. That is the amount Washington takes with the death tax. 55 percent, and that is not fair to anyone.

The death tax undermines our economy, and I know that we can do better. It costs our economy over 250,000 jobs a year. That is a quarter of a million people who should be collecting paychecks rather than unemployment checks.

Madam Speaker, the death tax is hurting families, and it is killing our small businesses. Freedom and liberty demand that hard-working Americans be able to leave their children the results of their success, not have Washington get a windfall. Let us act today and let the death tax die for good.

ETHICAL SYSTEM OF U.S. HOUSE OF REPRESENTATIVES

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Madam Speaker, I rise today to urge my Republican colleagues to join me in restoring the ethical system to this Chamber.

Currently, a member of the Republican leadership is at the center of a troubling array of investigations into corruption, abuse of power and ethics violations. Instead of being forthright and open to these allegations, the Republican leadership has stripped the ethical rules of this institution to cater and protect one of their own. By doing so, Republican leadership has abandoned a tradition of trust and transparency in this body.

As Members of Congress, we are responsible to adhering to the ethical guidelines set forth by this Congress. As public servants, we must answer to the American public, and while we craft the law, we are not above the law.

I urge my colleagues to answer the concerns of the American public and remove the question of any possible ethics violations that tarnish the reputation of this Chamber. Democrats want to restore strong, bipartisan ethics rules. It is time Republicans join us in passing the Mollohan resolution and restore the ethical system and the integrity it upholds in the U.S. House of Representatives.

DEMOCRACY IN THE MIDDLE EAST

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, it has been 2 years since the United States troops entered Iraq, and it has become clear that the democratic elections that have been provided to the people of Iraq through this campaign have begun to spread throughout the region.

In Beirut on Monday, hundreds of thousands of Lebanese protesters gathered in Martyr Square, which some are now calling Freedom Square, to demonstrate for the removal of Syrian troops to withdraw from Lebanon. They chanted, "Sovereignty, Freedom, and Independence."

When their prime minister was assassinated 4 weeks ago and replaced with a pro-Syrian prime minister, the Lebanese people took to the streets and called for freedom. Their protests sparked the resignation of the pro-Syrian prime minister.

Because of U.S. efforts in the Middle East, freedom is no longer something inconceivable to the people of this region. Instead, they have witnessed the spread of freedom to their neighbors and have been empowered by it.

We must continue to support policies which promote freedom in the Middle East.

MEMORIALIZING THE NATIONAL DAY OF SILENCE

(Mr. FARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR. Madam Speaker, I rise today to provide a voice for those too often silenced, the gay, lesbian, bisexual and transgendered students who face verbal, nonverbal and physical harassment in our schools.

□ 1015

Today is the National Day of Silence; and across the country, students have taken a vow of silence to protest the discrimination and intolerance that gay, lesbian, bisexual, and transgender people face on a daily basis. We must continue to promote the diversity that makes our country so rich, while denouncing stereotypes that make it harder for youths to accept themselves. Stereotypes also contribute to the harassment, prejudice, and discrimination that silence GLBT youth.

For that reason, I am proud to sponsor H.R. 123, which memorializes the National Day of Silence.

I would also like to highlight the new campaign from the Gay Lesbian Straight Education Network called TeachRespect.org.

I would also like to thank Mat Friday and Bruce Carlsen, community members in my district who are working hard to make K–12 schools safe, and especially Stewart Rosenstein, who is a tireless advocate for the GLBT youth in Santa Cruz, California.

I commend my colleague, the gentleman from New York (Mr. ENGEL), for introducing such important legislation. I urge my colleagues to be cosponsors.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

(Mr. KENNEDY of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Madam Speaker, this week is the 25th anniversary of National Crime Victims' Rights Week. When President Reagan first announced National Crime Victims' Rights Week, he said, "For too long, the victims of crime have been the forgotten persons of our criminal justice system. Each new victim personally represents an instance in which the system has failed, and lack of concern for victims compounds that failure."

The Crime Victims' Rights constitutional amendment is an important step forward that will empower crime victims by allowing them to confront their assailants in court and alerting them of prisoner releases and allowing victims to seek restitution from their attackers.

Last Congress, we passed the PROTECT Act, also known as the Amber Alert bill. The PROTECT Act stiffens penalties for sex offenders, eliminated the statute of limitations for these crimes, and created a national Amber Alert system. We passed the Debbie Smith Act, which funds expanding and improving the quality of crime labs to conduct DNA analyses to catch sex offenders and other criminals, ensuring that the right person is going to jail.

But there is more we can do. Last year, Minnesota suffered a great tragedy with Dru Sjodin being abducted. We need to pass Dru's Law this year.

ARROGANT MAJORITY DISMANTLES ETHICS PROCESS

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Madam Speaker, a dark cloud and a suspicion of corruption hangs over this House of Representatives. It is the talk of the Nation. With no Committee on Standards of Official Conduct or reasonable ethical standards to speak of, there is no hope that the dark cloud will recede and that daylight will be let in.

By systematically dismantling the House ethics process, the majority has denied this House the right to investigate its own Members and thus betrayed our core American values. Honesty, integrity, and accountability, the values, which should be the hallmark of this government, have instead been thrown under the bus by an arrogant majority, casualties in a misguided campaign to shield from accountability those who abuse this House.

This House cannot function without an open, accountable, and independent ethics process; and the molestation of that process by the majority is an abuse of power that cannot stand.

It is for these reasons I have repeatedly asked the Chair of the Committee on Rules to hold a bipartisan ethics hearing. As guardians of the democratic process, our Committee on Rules has the unique responsibility to protect the integrity of this hallowed institution.

What are we waiting for? This dark cloud must be lifted, the air must be cleansed, and the ethics rules must be fully restored, because the very credibility of the government and its ability to lead the American people hang in the balance.

DEATH TAX REPEAL PERMANENCY ACT KEEPS FAMILY FARMS THRIVING

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Madam Speaker, I rise today to urge my colleagues to vote to permanently repeal the death tax. The death tax hurts average Americans who have worked hard to build a family business and want to pass it on to their children.

Arguments from my colleagues on the other side of the aisle ignore those who the death tax hurts the most. I am particularly concerned about one group of people impacted by the death tax, and that is the family farm.

There are approximately 2 million family farms in America, many of which are in my district, the second district of Kansas. These farms produce 94 percent of the American agricultural products that are sold. More importantly, however, they pay death taxes as high as 47 percent when they deed the farm to their children. Furthermore, there are twice as many farm estates paying death taxes than any other type of estates combined. This troubles me because family farms cannot afford to pay high taxes that could be pushing them out of business.

Unless we act, the death tax will be reinstated in 2011. If that happens, countless family farms will be forced to sell land, buildings, and equipment, putting them out of business.

For this reason, I urge my colleagues to vote in favor of the family farm and vote for the Death Tax Repeal Permanency Act.

REPUBLICAN-LEANING "PLAIN DEALER" EDITORIAL SEEKS BREATH OF INTEGRITY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Madam Speaker, from April 8, a Plain Dealer editorial from a Cleveland Republican-leaning newspapers writes: "Tom DeLay, the House Majority Leader, can fashion what to him is a reasonable explanation for each of the ethics questions increasingly being raised against him.

"'It's a witch hunt by a Democrat out to destroy him,' DeLay responds." This is the Plain Dealer writing.

"To each of these and far too many more defensive responses, his faithful defenders, especially those who have bathed regularly under the campaign money spigot he controls, shout a loud 'amen' and accuse the Times and Post of mounting a liberal smear campaign.

"But the ranks of DeLay's defenders shrink almost daily, as they should."

The Republican-leaning Plain Dealer then asks: "Is the Sugarland sugar daddy the best their party has to offer the Nation in this key leadership post? Can they not find a fellow Republican wise enough to avoid, in terms he might understand, the very appearance of evil? Can't someone open a window and let in a breath of integrity to blow the growing stench out of the people's Chamber?"

Words from a newspaper that endorsed George Bush in 2000, the Cleveland Plain Dealer, April 8.

SANDY BERGER'S DEAL IS SHADY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, last year, former Clinton National Security Adviser Sandy Berger stole classified documents from the National Archives, five copies of an "after-action" memo on the 2000 millennium terror plot, to be precise. He later destroyed, he cut up, three of the copies that contained handwritten notes from administration officials. Then, he lied about it to Federal investigators. The memo was severely critical of the Clinton administration's handling of the incident.

Recently, we learned that Mr. Berger made a deal with Federal officials, and the deal was not 5 years in prison instead of 10. No, he gets a slap on the wrist in exchange for admitting he lied.

So let us just make sure we have the score right here. Martha Stewart tells a lie about a stock sale; she goes to prison. Sandy Berger lies about stealing and destroying national security documents; he gets a slap on the wrist. So send the person who lied about money to jail, but go easy on the person who lied about stolen and destroyed classified documents who tried to cover up the public record on an issue of life and death and national security.

Justice? Sorry to say, not this time.

TRIBUTE TO THE HONORABLE DAN PEARL

(Ms. WASSERMAN SCHULTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise today to pay tribute to the honorable Dan Pearl.

Mayor Pearl retired in 1972 to the town of Sunrise, Florida, in Broward County after having served 30 years as a parole officer with the New York Division of Parole.

In 1979, he was first elected to the Sunrise City Council and later served as mayor and deputy mayor. It was during his tenure as mayor that Sunrise made the transition from a strong-mayor system to a professionalized city government administered by a city manager.

In appreciation of his tireless service to his community, county officials took the unprecedented step of naming the Oakland Park Boulevard Library after Mayor Pearl in 1993.

Those of us who had the pleasure of working with Mayor Pearl will always remember his contributions and insights as a public servant. He was a member of numerous boards and organizations, including the Florida League of Cities, the Gold Coast League of Cities, the Broward Planning Council, the South Florida Regional Planning Council, and the American Cancer Society.

His death in 1996 was a tremendous loss to his family, colleagues, and the citizens of south Florida; but we will always remember the warmth, sincerity, and friendliness of Dan Pearl that he shared with everyone.

On behalf of the people of south Florida, it is my honor to salute the life and legacy of Mayor Dan Pearl.

END THE TYRANNY OF ANXIETY OF APRIL 15

(Mr. PENCE asked and was given permission to address the House for 1 minute.)

Mr. PENCE. Madam Speaker, it is April 13; and to my fellow American procrastinators I say, 2 days and counting, until tax day, April 15.

In 2003 alone, Americans spent $203 billion just preparing our taxes, let alone paying for them. Madam Speaker, 1 billion hours in annual paperwork has been added to tax preparation in just the last 10 years.

Think of these comparisons: in 2003, your 1040 form is 73 lines long. In 1935 it was 34 lines long. In 2003, your 1040 booklet was 131 pages. When it was created in 1935, it was 2 pages.

Are we having fun yet? I say no.

Today we will scrap the death tax, and well we should. But while we are at it, let this majority rededicate itself to scrap the code, to create a new flatter and fairer and simpler system that ends the tyranny of April 15 on the American people, a tyranny of anxiety.

ETHICS ISSUES SHOULD BE ADDRESSED IN THE HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Madam Speaker, the ethics of this House, the people's House, and this leadership have been questioned.

Madam Speaker, the leadership of the majority is being investigated by no more than 15 newspaper investigative reporters. And while all this happens, the Committee on Standards of Official Conduct, our Committee on Standards of Official Conduct, stands silent, locked tighter than a drum, deadlocked. This time, the majority cannot blame anyone but themselves. They cannot blame the Democratic Party.

The majority threw out the rules and House ethics. They removed the former Chair because of his independence and changed the rules to make delay and denial easier and facts harder to find.

The ethics issues that are being investigated need to be addressed, and where they should be addressed is in the House Committee on Standards of Official Conduct.

The Republicans need to break this logjam and make the Committee on Standards of Official Conduct the most respected committee in the Congress, instead of the partisan political tool that it has become.

MAJORITY AGENDA UNFAIR AND UNAMERICAN

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute.)

Mr. MORAN of Virginia. Madam Speaker, the House majority today is about to increase our deficit by $290 billion. We are going to offer an alternative; but they will reject that alternative so that they can take care of three-tenths of 1 percent of the very wealthiest people in this country. For the difference in cost, you could restore food stamps to 300,000 families; you could restore medical care to the 7 million poor elderly people in the nursing homes that you just cut from the Medicaid program; you could restore 300,000 day care slots for poor children.

These are people who suffer from the accident of birth and, in many cases, only because of the accident of birth; in order to reward a handful of families who are advantaged by the accident of birth, who have the very best education, the very best contacts, the very best prospects for economic success, and yet we will take billions, tens of billions, hundreds of billions of dollars out of Federal revenue to reward that three-tenths of 1 percent. That is unfair, and it is un-American. This was envisioned as a Nation of equal opportunity, not one of inherited aristocracy.

BRING BACK INTEGRITY TO THE HOUSE OF REPRESENTATIVES

(Mr. McGOVERN asked and was given permission to address the House for 1 minute.)

Mr. McGOVERN. Madam Speaker, I rise today to discuss the Republican majority's ongoing disregard for the democratic process in the United States House of Representatives.

In the last Congress, the arrogance of power coming from the other side of the aisle was breathtaking. This Congress, it is only getting worse.

The majority has consistently used closed and highly-restrictive rules to stop Members of both parties from offering amendments to important legislation. They have rushed major bills to the floor without even giving Members a chance to read them. They have given special interests and their lobbyists unprecedented access and influence. Votes were kept open for hours in an attempt to threaten Members into voting a certain way, and they have completely gutted the ethics process here in the House.

This blatant disregard for democracy shows disrespect, not just for Members of Congress but, more importantly, for the people we all represent; and it has to stop. We can start by reestablishing a real bipartisan Committee on Standards of Official Conduct and restoring the meaningful ethics rules that the Republican leadership threw away in January.

Madam Speaker, I urge my colleagues to bring back the integrity of this House.

☐ 1030

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. CAPITO). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later in the day.

JUSTIN W. WILLIAMS UNITED STATES ATTORNEY'S BUILDING

Mr. SHUSTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1463) to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building".

The Clerk read as follows:

H.R. 1463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

(a) IN GENERAL.—The building and structure described in subsection (b) shall be known and designated as the "Justin W. Williams United States Attorney's Building".

(b) DESCRIPTION.—The building and structure to be designated under subsection (a) is that portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, that is attached to the Federal building's main tower structure, described as A-Wing in the architectural plans, and currently occupied by the Office of the United States Attorney for the Eastern District of Virginia, Alexandria Division.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building and structure described in section 1(b) shall be deemed to be a reference to the "Justin W. Williams United States Attorney's Building".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for appropriate identifying designations to be affixed to the building and structure described in section 1(b) and for an appropriate plaque reflecting the designation and honoring Justin W. Williams and his service to the Nation to be affixed to or displayed in such building and structure.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from California (Mr. HONDA) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Madam Speaker, I yield myself such time as I may consume.

H.R. 1463 introduced by the gentleman from Virginia (Mr. TOM DAVIS) designates a portion of the United States courthouse located at 2100 Jamieson Avenue in Alexandria, Virginia, as the Justin W. Williams United States Attorney's Building. The full courthouse is known as the Albert V. Bryan United States Courthouse.

This is the second time this matter has come before the House, having previously been considered during the 108th Congress when it passed by voice vote. As before, the bill has the bipartisan support of the entire Virginia delegation.

Born in New York City in 1942, Justin Williams earned his bachelor's degree from Columbia University in 1963 and his law degree from the University of Virginia in 1967. After graduation, Justin Williams embarked upon his legal career. From 1967 until 1986, he worked for the Department of Justice Criminal Division, served as Assistant Commonwealth Attorney in Arlington County, and Assistant U.S. attorney for the Eastern District of Virginia based in Alexandria.

In 1986, Justin Williams was appointed chief of the Criminal Division and served in that capacity until his death in 2003.

It is my honor to bring this bill to the floor, which honors a dedicated American who spent his entire career making America safer for everyone. I support this legislation and encourage my colleagues to do the same.

Madam Speaker, I reserve the balance of my time.

Mr. HONDA. Madam Speaker, I yield myself such time as I may consume.

H.R. 1436 is a bill to designate a portion of the Alexandria courthouse located at 2100 Jamieson Avenue as the Justin W. Williams United States Attorney's Building. In the 108th Congress, an identical bill, H.R. 3428, was introduced but did not receive action from the other body.

H.R. 1463 was introduced by my colleague, the gentleman from Virginia (Mr. TOM DAVIS), and enjoys strong bipartisan support.

U.S. Attorney Justin Williams was an extraordinary public servant who served the citizens of Virginia for over 30 years. He received his undergraduate degree from Colombia University and his law degree from the University of Virginia. During his 33 years as a Federal prosecutor he supervised or was directly involved in every major Federal prosecution in the Eastern District of Virginia.

His career is filled with numerous awards and honors, including the Attorney General's Award for Excellence that is awarded for furthering the interests of national security, the Director's award for superior performance in years 1990, 2000, 2002, and Sustained Superior Performance for the years 1990, 1991, 1997, 1998 and 1999.

In addition to being an outstanding lawyer, Justin Williams was a thoughtful mentor, loyal friend, outstanding role model, devoted husband and loving father; and it is most fitting we honor the distinguished career of this dedicated public servant with this designation.

Madam Speaker, I reserve the balance of my time.

Mr. SHUSTER. Madam Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Madam Speaker, I rise today in support of H.R. 1463, which my colleague and good friend, the gentleman from Virginia (Mr. TOM DAVIS), introduced to recognize the important contributions Justin W. Williams made to justice and freedom in our society.

The gentleman from Virginia (Chairman DAVIS) is in a markup in the full committee and asked if I would come over to read this statement to represent him.

Justice Williams was born in New York City in 1942, earned a bachelor's degree, as was said, from Columbia University in 1963 and a law degree from UVA in 1967.

After law school, he worked for the Department of Justice Criminal Division from 1967 through 1968, then served as Assistant Commonwealth's Attorney in Arlington County from 1968 to 1970.

His career as a Federal prosecutor began on May 11, 1970. During the ensuing 33 years he was either directly involved or supervised every major Federal prosecution in the Eastern District of Virginia; and, as Members know, that is one the more difficult districts in the country.

Mr. Williams was appointed Acting United States Attorney on two occasions, June 1979, to November 1981, and January 1986, to June 1986.

He was also at various times First Assistant United States Attorney, Senior Litigation Counsel and, for most of his career, Chief of the Criminal Division of the United States Attorney's Office for the Eastern District of Virginia.

As Chief of the Criminal Division, Justin Williams supervised over 100 prosecutors and oversaw such high-profile trials as U.S. vs. Aldrich Ames, Aldrich Ames, a spy from the CIA who sold out his government; U.S. vs. Robert Hanssen, Robert Hanssen, an FBI agent who sold out his government to the Soviet Union, both of whom were convicted for spying for the Soviet Union.

He also led the prosecution of the Virginia Jihad Network.

His many accomplishments, far too numerous to list, include the Attorney General's Award for Excellence in Furthering the Interest of the United States National Security, Section 2002, as well as three Director's Awards for Superior Performance as an Assistant United States Attorney.

On August 31, 2003, Mr. Williams died tragically at the age of 61 from an apparent heart attack as he jogged along the Potomac River in Old Town, Alexandria, Virginia, leaving his wife, Suzanne, and children Andrew and Caitlin.

His untimely death marked the end of a career of a truly remarkable public servant who was loved and respected by all his colleagues and those who had the pleasure of knowing him.

Mr. Williams was revered as a mentor and role model, and his legacy will serve as a testimonial to courage, conviction, fairness and decency.

Madam Speaker, we owe Justin Williams and his family and all those in the legal field who have chosen a career in public service a debt of gratitude.

I urge my colleagues to forever remember Justin Williams and keep a record in our mind and in our hearts as we pass by the building. And on behalf of the gentleman from Virginia (Mr. TOM DAVIS), Chairman DAVIS, I urge the support of this and will supply the statement for the RECORD.

Madam Speaker, I rise today in support of H.R. 1463, which my colleague and good friend TOM DAVIS introduced to recognize the important contributions Justin W. Williams made to justice and freedom in our society.

Justin W. Williams was born in New York City in 1942. He earned his bachelor's degree from Columbia University in 1963 and his law degree from the University of Virginia in 1967. After law school, he worked for the Department of Justice, Criminal Division from 1967–1968, then served as Assistant Commonwealth's Attorney in Arlington County from 1968–1970.

Mr. Williams' career as a Federal prosecutor began on May 11, 1970. During the ensuing 33 years he was either directly involved in or supervised every major federal prosecution in the Eastern District of Virginia. Mr. Williams was appointed Acting United States Attorney on two occasions, June 1979 to November 1981 and January 1986 to June 1986. He was also at various times First Assistant United States Attorney, Senior Litigation Counsel, and for most of his illustrious career Chief of the Criminal Division of the United States Attorney's Office for the Eastern District of Virginia. As Chief of the Criminal Division, Justin Williams supervised over 100 prosecutors, and oversaw such high profile trials as U.S. v. Aldrich Ames, U.S. v. Robert Hanssen, both of whom were convicted of spying for the Soviet Union. He also led the prosecution of the Virginia Jihad Network.

His many accomplishments and awards, far too numerous to list, included the Attorney General's Award for Excellence in Furthering the Interest of the United States National Security (2002), as well as three Directors' Awards for Superior Performance as an Assistant United States Attorney.

On August 31, 2003, Mr. Williams died tragically at the age of 61 from an apparent heart attack as he jogged along the Potomac River in Old Town, Alexandria, Virginia, leaving his wife Suzanne and children Andrew and Caitlin. His untimely death marked the end of a career of a truly remarkable public servant who was loved and respected by all of his colleagues and those who had the pleasure of knowing him. Mr. Williams was revered as a mentor and role model and his legacy will serve as a testimonial to courage, conviction, fairness, and decency.

Madam Speaker, we owe Justin Williams, and all those in the legal field who have chosen a career in public service a debt of gratitude. I urge all my colleagues to forever remember Justin Williams and to keep a record in our minds, and in our hearts, of the great sacrifices made by all men and women in the legal community who have served and continue to serve our great Nation.

I thank the Virginia delegation for their support of this resolution and I ask all members to support H.R. 1463.

Mr. HONDA. Madam Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Madam Speaker, I thank my friend and colleague from California (Mr. HONDA) for yielding me this time in order to give some much-deserved recognition to Justin Williams.

As our colleague, the gentleman from Virginia (Mr. WOLF) has explained, Chairman DAVIS has to be in a hearing, but I know the chairman is very much disappointed he is not able to speak on this bill that he introduced.

We want to name the Federal building on Jamieson Avenue in Alexandria, Virginia, just by the Federal courthouse, after Justin Williams because he was such an outstanding Federal prosecutor.

He passed away August 31, 2003, while he was running along the Potomac River in Old Town. He had a heart attack. We lost a tremendous asset to the country and to the Department of Justice. Mr. Williams was also a wonderful friend to all who knew and worked with him.

Justin Williams began his career as a lawyer after attending Columbia University. He then went to law school at the University of Virginia, where he graduated in 1967.

He then moved to the Washington, DC, area and worked at the Department of Justice Criminal Division. In 1968, he served as the Commonwealth's attorney for Arlington County before going back to the Federal Government in 1970.

He then became a Federal prosecutor for the U.S. Attorney's Office in Alexandria, was named Chief of the Criminal Division and an Assistant U.S. Attorney for the Eastern District of Virginia.

As a Federal prosecutor, as has been said, he was responsible for the prosecution of several terribly important high-profile cases, including Aldrich Ames, Robert Hanssen, and many cases involving terrorists after September 11. After the Robert Hanssen case, Mr. Williams was honored by Attorney General Ashcroft for his role in that prosecution.

He has received so many awards for his accomplishments as a Federal prosecutor that we can't list them all here. He was named Acting U.S. Attorney on two separate occasions. But he will be most remembered not just for the accolades that he received but for the kindness that he showed toward those he served throughout his tenure.

As a supervisor for more than a hundred other prosecutors, he was a mentor and a role model to the attorneys that were just beginning their careers. He had an incredible ability to remember cases, to put cases in context. He was always willing to share that extensive knowledge with his colleagues.

He had a superb reputation with the judges he worked with and was known for having a very sound legal mind. Everybody remembers him for his sense of humor, his humility and his good judgment.

We want to pass along our condolences to Mr. Williams' wife, Suzanne, his children, Andrew and Caitlin, and the other members of his extended family, his friends and his colleagues who feel his loss so deeply. His memory will not soon fade.

His service not only to our Nation but also to the people of Virginia certainly justifies naming this building by the Federal courthouse in Alexandria the Justin W. Williams United States Attorney's Building. His lasting legacy will be felt by all who work in this Federal building and especially by those who carry the responsibility of working as a Federal prosecutor in the future. May they be inspired by Mr. Williams' commitment to excellence and service to our country.

Mr. OBERSTAR. Madam Speaker, I rise in support of H.R. 1463, a bill to designate the A-Wing portion of the new United States courthouse located at 2100 Jamieson Ave, in Alexandria, Virginia as the "Justin W. Williams United States Attorney's Building."

This designation honors former Assistant U.S. Attorney Justin Williams. Mr. Williams enjoyed a remarkable and distinguished career in public service. After his graduation from the University of Virginia Law School in 1967, he accepted a job as an attorney in the Criminal Division in the U.S. Department of Justice. He also served as an Assistant Commonwealth's Attorney in Arlington County, Virginia, and in 1970, he accepted an appointment as an Assistant U.S. Attorney in the Eastern District of

Virginia where he served for 33 years until his death in August 2003.

At various times in his career, he held the position of Acting U.S. Attorney, First Assistant U.S. Attorney, Senior Litigation Counsel, and Chief of the Criminal Division for the Eastern District of Virginia. As Chief of the Criminal Division, to which he was appointed in 1986, Mr. Williams was involved in virtually all major federal prosecutions in that District and was responsible for many high profile cases, including U.S. v. Aldrich Ames and U.S. v. Robert Hanssen. In each position, he consistently displayed the highest levels of professionalism, serving with distinction and honor.

During his long and distinguished career, Mr. Williams received a number of awards and honors, including the U.S. Attorney General's Award for Excellence in Further in the Interests of U.S. National Security. He was deeply admired by all his colleagues and loved by his family and friends, and he served as a role model and mentor for all worked with him in the U.S. Attorney's office.

H.R. 1463 has strong bipartisan support from many members of the Virginia delegation. I also support the bill and urge its passage.

Mr. SHUSTER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HONDA. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 1463.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HONDA. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REYNALDO G. GARZA AND FILEMON B. VELA UNITED STATES COURTHOUSE

Mr. SHUSTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 483) to designate a United States courthouse in Brownsville, Texas, as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

The Clerk read as follows:

H.R. 483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, shall be designated and known as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from California (Mr. HONDA) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Madam Speaker, I yield myself such time as I may consume.

H.R. 438, introduced by the gentleman from Texas (Mr. ORTIZ), designates the United States courthouse located in Brownsville, Texas, as the Reynaldo G. Garza and Filemon B. Vela United States courthouse.

This is the second time the Congress has considered this matter, having previously passed identical legislation by voice vote during the 108th Congress.

This legislation honors two men for their service to their country, both inside and out of public service.

Reynaldo Guerra Garza was born in Brownsville, Texas, and spent his lifetime serving that community.

President Kennedy appointed then State Judge Garza to the U.S. District Court for the Southern District of Texas in 1961. At that time, Judge Garza became the first Mexican American on any U.S. District Court.

In 1979, when Jimmy Carter appointed him to the Fifth Circuit Court of Appeals, Judge Garza became the first Mexican American to serve in that position.

Filemon Bartolome Vela was born and raised in Harlingen, Texas. Like Judge Garza, he dedicated his life to south Texas, first as a State judge and then as a Federal judge, taking over the District Court seat vacated by Judge Garza upon his appointment to the Circuit Court of Appeals.

Judge Vela is perhaps best known in the community for his work with schools, encouraging youth education and literacy programs.

□ 1045

This naming is fitting tribute to their dedicated service, and I urge my colleagues to support this legislation.

I would also like to recognize my colleague, the gentleman from Texas (Mr. ORTIZ), for his dedication to bringing this legislation to the floor. I thank him for ensuring these men are recognized for their service.

Madam Speaker, I reserve the balance of my time.

Mr. HONDA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I join with the gentleman from Brownsville, Texas (Mr. ORTIZ), in supporting H.R. 483, a bill to name the courthouse in Brownsville, Texas, as the Reynaldo G. Garza-Filemon B. Vela United States Courthouse.

Madam Speaker, this bill honors the life and works of two extraordinary Mexican Americans. The first honoree, Judge Reynaldo Garza, was born in Brownsville in 1915. He graduated from local elementary schools as well as Brownsville High School. After graduating from Brownsville Junior College, he attended the University of Texas where he received the combined degrees of bachelor of arts and bachelor of law.

Judge Garza served his country during World War II in the Air Force. After the war he returned to Brownsville to practice law.

In 1961 President Kennedy appointed Judge Garza to the district court for the Southern District of Texas. In 1979 President Carter appointed him to the United States Court of Appeals for the 5th Circuit. In addition to his judicial duties, Judge Garza has long been interested in education issues.

He served former Governors John Connally and Mark White on commissions to improve the quality of education in Texas. Judge Garza recognized the importance of education in judicial proceedings and his concern for uneducated men at the mercy of unscrupulous people.

Judge Garza was very active in his church and has served the Knights of Columbus in the Brownsville area for many years.

Pope Pius XII twice decorated Judge Garza for his work on behalf of public charities. In 1989 Judge Garza was honored by the University of Texas with a Distinguished Alumnus Award.

His record of public service includes the work with the Rotary Club, the Latin-American Relation Committee in Brownsville, trustee at his law school, advisory council for the Boy Scouts, and he was elected as the city commissioner for the City of Brownsville.

It is fitting and proper to honor Judge Garza's outstanding, rich life, his commitment to excellence and his numerous public contributions.

The second honoree, Madam Speaker, Judge Filemon Vela, was also a native Texan and a veteran of the United States Army. He attended Texas Southmost College and the University of Texas. His law degree is from St. Mary's School of Law in San Antonio.

Judge Vela served as a commissioner of the city of Brownsville. He was a member of the Judges Advisory Committee to the U.S. Sentencing Commission. Judge Vela is a former law instructor and an attorney for the Cameron County Child Welfare Department.

His civic activities including being the charter president for the Esperanza Home for Boys and the co-sponsor of the Spanish Radio Program "Enrich

Your Life, Complete Your Studies." Judge Vela's other civic activities include membership on the Independent School District Task Force and membership in the general assembly of the Texas Catholic Conference. He is also an active member of the Lions Club.

Judge Vela was nominated by President Carter for the Federal bench and was confirmed by the United States Senate in 1980.

Judge Vela's career is filled with successes, commitment to his family, devotion to his religion and his church, love for his work and respect for his colleagues. It is most fitting to honor Judge Vela with this designation.

I join the gentleman from Texas (Mr. ORTIZ) in supporting H.R. 483.

Madam Speaker, I reserve the balance of my time.

Mr. SHUSTER. Madam Speaker, I reserve the balance of my time.

Mr. HONDA. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ), the author of this bill.

Mr. ORTIZ. Madam Speaker, I thank the gentleman for yielding me time. I think the gentleman has done a great job in describing the contributions of two great giants from south Texas. I want to thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from West Virginia (Mr. MOLLOHAN) and the gentleman from Pennsylvania (Mr. SHUSTER) and all those involved who helped expedite this bill.

This is not the first time this bill has been before the House. It has passed two or three times, but it has stalled in the Senate. This bill would rename the Brownsville courthouse for two legislative giants from south Texas. This bill will rename the courthouse the Reynaldo G. Garza and the Filemon B. Vela United States Courthouse.

We have a wealth of riches in south Texas, including these two giants of men. Reynaldo Garza was the first Hispanic appointed to the Federal bench by President John F. Kennedy in 1961 and Judge Filemon Vela was appointed to the Federal bench by President Jimmy Carter back in 1980. Both of these men have become legends in the south Texas area by virtue of their commitment to education and to our community. Both heroes passed away last year.

This legislation is noncontroversial, and I hope the Senate will quickly consider and pass this as well.

I thank the House and my friends for helping expedite this bill again to get to the floor.

Mr. SHUSTER. Madam Speaker, I reserve the balance of my time.

Mr. HONDA. Madam Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Madam Speaker, I rise today in strong support of H.R. 483, the Garza-Vela United States Courthouse Designation Act, offered by my colleague and my good friend, the gentleman from Texas (Mr. ORTIZ).

This bill pays tribute to two great Americans, Federal Judge Reynaldo Garza and Federal Judge Filemon Vela who were judicial legends in the great State of Texas.

Judge Garza was the Nation's first Mexican American Federal district judge appointed to the Federal bench by President Kennedy in 1961. This outstanding man had done advanced study in the field of law and was a great orator.

Judge Garza served our Nation through the turbulent years of the civil rights movement. His decisions contributed to the changes that opened up many opportunities for minorities.

In 1976 President Carter asked him to serve as the Nation's Attorney General, but he declined because he did not want to leave his beloved south Texas and his service on the Federal bench. He did, however, accept an appointment to the 5th Court of Appeals by President Carter and for many years commuted back and forth between south Texas and the circuit court in New Orleans.

In 1982 he obtained senior status; and even after his retirement, he remained active by filling in on the bench whenever he was needed. He was committed to education, particularly in encouraging literacy; and he was known and highly respected by everyone for the even-handed way in which he dispensed justice.

I served 1 year as foreman of a Federal grand jury which he appointed in his district court in Brownsville, Texas. It was a privilege and a pleasure to work with him and meet in his chamber where I witnessed firsthand the honesty, the integrity, and compassion of this gentleman from south Texas.

His last official act took place from his hospital bed when he officiated the swearing in of his protege, Federal Judge Ricardo H. Hinojosa, as the new chairman of the Federal Sentencing Commission.

Judge Vela was nominated to the Federal bench by President Carter in 1980. He became an expert on comparative American and Mexican law. During his tenure, the Federal docket dramatically increased due to the enormous population growth in south Texas. Yet despite the heavy case load, Judge Vela fought to ensure that every person received prompt and fair treatment. He worked tirelessly to design and have built the new courthouse in Brownsville. It is indeed fitting that his name will be on this new Federal courthouse.

Judge Vela, like his good friend Judge Garza, was known for his impeccable integrity and his willingness to mentor young attorneys. He also was passionate about teaching children about the law and the criminal justice system in order to encourage them to make right choices of life. He would bring inmates to school auditorium programs to tell children about the mistakes they had made and the consequences they suffered as a result.

Judge Vela had one of the longest running and most successful radio programs on legal subjects which was broadcast in Spanish to more than 2 million listeners in south Texas and northern Mexico.

He also participated in 220 Spanish radio programs entitled "Enriquezca Su Vida, Termine Sus Estudios," meaning "enrich your life, complete your studies," that focused on encouraging children to stay in school and off drugs.

He was tireless when it came to community involvement and showing compassion for low-income families. I am proud to have called him my second cousin.

He gave countless hours as a mentor and leader to youth programs whether as an attorney for the Cameron County Child Welfare Department, as founder of the Esperanza Home for Boys, or as the Chair of the Board of Rio Grande Marine Institute Home for Youth.

We lost both of these great men last year, but their service to the people of Texas and to this great Nation must not be forgotten.

I urge my colleagues to support this legislation that provides a fitting tribute to these two great Americans.

Mr. OBERSTAR. Madam Speaker, I rise in strong support of H.R. 483, a bill to honor two members of the United States Judiciary. The bill would designate the federal courthouse located in Brownsville, Texas as the Reynaldo G. Garza and the Filemon B. Vela United States Courthouse. I'd like to recognize the Gentleman from Texas, Congressman ORTIZ, for introducing this bill. The Gentleman introduced this same legislation in the 108th Congress, which passed the House last September. Unfortunately, the other body did not act on that bill. I am hopeful that with our passage of the bill today, the Senate will take quick action on it.

These two jurists displayed the very finest in legal scholarship. Judges Garza and Vela have contributed several decades of legal excellence to the judicial system of the United States. In addition, both these gentlemen have made substantial contributions, through extensive volunteer efforts, to the well being of their communities.

Judge Reynaldo Garza was appointed by President Kennedy to the Federal bench and was the first Hispanic Federal Judge. After serving in the federal district court, Judge Garza was appointed to the U.S. Court of Appeals for the Fifth Circuit. He also served on the Brownsville Independent School Board, the Texas Educational Standards Committee, and the Select Committee on Higher Education.

When Judge Garza was appointed to the Fifth Circuit, Judge Filemon Vela succeeded him on the U.S. District Court for the Southern District of Texas in Brownsville. Judge Vela had a history of service to the community of south Texas. He worked closely with The

Esperanza Home for Boys, and headed numerous local activities to encourage young people to stay in school. He was an active member of the Texas Conference of Churches and was former district chairman of the Boy Scouts of America.

Judges Garza and Vela were active members in numerous civic organizations including the Texas Bar Association, and the United States Sentencing Commission, Brownsville Rotary Club, the Latin American Relations Committee, and the Brownsville Chamber of Commerce. They were beloved and revered members of the Mexican-American community, the judicial community, and the city of Brownsville.

Judges Garza and Vela were outstanding jurists and good friends. This designation is a fitting tribute to their distinguished public and civic careers of two remarkable Texans and I urge its adoption.

Mr. REYES. Madam Speaker, it is rate that a man has a chance to known his heros. It is even rarer for a man to be able to stand shoulder to shoulder with his heros as a fellow community leader. While serving as Border Patrol Sector Chief for the McAllen, Texas sector, however, I had that chance. Today, we are remembering the lives and groundgreaking achievements of the late Judges Reynaldo Guerra Garza and Filemon Vela and inscribing the U.S. Courthouse in Brownsvile with their names.

Like me, Judge Garza came from a humble background, from a family whose parents were born in Mexico and came to this country in search of opportunity for their children. He rose to preside over one of the highest courts in the land, in the process becoming the first Mexican-American Federal district judge and rendering some of the most important civil rights decisions in this country's history. Judge Garza ended his career on the prestigious Fifth Circuit of the U.S. Court of Appeals.

Judge Vela, much like Judge Garza, grew up of modest means in south Texas. He is remembered as a hard-working and committed judge whose impact was felt not only in the courtroom, but in the community as well.

Perhaps the essential message for me to convey here, however, is that each of these men spent considerable time and effort emphasizing the incredible power of education. Both Judges Garza and Vela understood how education could transform the lives of young people, because they and their families had benefited greatly from it.

Madam Speaker, I urge all of my colleagues to support this legislation naming the courthouse in Brownsville, Texas, after Reynaldo G. Garza and Filemon B. Vela—two great judges, great role models, and great men.

Mr. GENE GREEN of Texas. Madam Speaker, I rise today in support of H.R. 483, a bill to rename the courthouse in Brownsville, Texas as the Reynaldo Garza and the Filemon B. Vela courthouse.

Filemon Vela was born in Harlingen, Texas, in 1935. He served as State district judge in Texas for Cameron and Willacy Counties in 1975 until he was appointed as a Federal judge by President Jimmy Carter in 1980. He served until 2000 when he retired.

Filemon Vela was a strong advocate of education because of his father's strong belief in education. As one of nine children he believed that he would not finish high school, but when his mother died his father motivated him to continue his education. He graduated from Harlingen High School and then went to University of Texas Austin. After serving in the U.S. Army Filemon Vela went to St. Mary's Law School and doctor of jurisprudence in 1962. Throughout his career he taped more than 200 radio programs urging children to stay in school and promoting literacy programs.

Reynaldo Garza was the first Mexican-American Federal judge in the U.S. when he was appointed by President John F. Kennedy in 1961 to the south Texas bench. In 1979, President Jimmy Carter appointed him to the U.S. Court of Appeals, making him the first Mexican-American appointed to that court. He served his lifetime appointment in Brownsville, Texas.

Reynaldo Garza contributed many things to the Hispanic community, he was the first Mexican American elected to the Brownsville school board, and he worked with the League of United Latin American Citizens to improve the civil rights of Mexican Americans in Texas.

The lifetime accomplishments of both of these men are truly inspirational to us all. By naming the courthouse in Brownsville after them we recognize not only their contribution to the judicial community, but also to the city of Brownsville.

Mr. HONDA. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHUSTER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 483.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ROBERT T. MATSUI UNITED STATES COURTHOUSE

Mr. SHUSTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 787) to designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse".

The Clerk read as follows:

H.R. 787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 501 I Street in Sacramento, California, shall be known and designated as the "Robert T. Matsui United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Robert T. Matsui United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from California (Mr. HONDA) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 787 introduced by the gentleman from California (Mr. THOMPSON), honors the late Bob Matsui, a distinguished and well-liked Member of this body.

A well-respected attorney and former city councilman, Bob Matsui served in this body for 26 years before his passing away on New Year's Day of this year.

Since his passing, much has been said about our late colleague by Members that knew him better than I, many of whom are here today. So I will leave it to them to speak of his many and varied talents and abilities.

This naming is a fitting tribute to an exceptionally fine person, a dedicated public servant, and a respected colleague.

Madam Speaker, I reserve the balance of my time.

Mr. HONDA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 787, a bill to name the courthouse in Sacramento in honor of our former colleague, Robert T. Matsui. This bill has broad bipartisan support from both his California colleagues and all of us who had the distinct privilege of serving with him.

Congressman Matsui's legislative interests and accomplishments are legendary here in the House. Health care, welfare reform, tax issues, the environment, immigrant issues, and of course Social Security are just a few of the issues that Bob made his own.

Bob was only 6 months old when, just months after the attack on Pearl Harbor, he and his family were interned at Tule Lake camp in California. His childhood experience in the internment camp shaped his future actions on behalf of those fighting for fairness. Bob understood the injustice of the internment and sympathized with other loyal Americans who suffered at the hands of the government in which they never lost faith.

He embraced his heritage and channeled his energy into making positive changes for all Americans. From the time he worked as a member of the Sacramento City Council to serving as the vice mayor of Sacramento and finally as a U.S. Representative starting in 1978, Bob Matsui served as a constant reminder of what integrity and dedication can accomplish in public office.

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Bob Matsui should ultimately be remembered for his civility, his dignity and his service to others. He was a selfless role model whose footprint will forever be imprinted on our Nation's history.

Bob Matsui was intelligent and principled. As a skilled, respected politician and willing to reach across the aisle, his voice elevated any debate. His leadership style and his character served as a model for all of us.

It is certainly fitting that the House honor his exceptional life, his public service with this very appropriate courthouse designation. I thank the gentleman from California (Mr. LEWIS) and the gentleman from California (Mr. THOMPSON) for bringing up this measure in such an expeditious manner.

Again, I strongly support H.R. 778 and urge my colleagues to join me in support of this bill.

Madam Speaker, I reserve the balance of my time.

Mr. SHUSTER. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Madam Speaker, I appreciate the gentleman yielding me time.

I just wanted to come and pay tribute to this legislation and speak in favor of this tribute to Bob Matsui, and it is very fitting legislation to designate this courthouse.

I wanted to speak personally as a member of the Committee on Ways and Means, as a younger member of the Committee on Ways and Means, who had the opportunity to serve with Bob Matsui for 4 years. I have not served with Bob for the decades that many have in the past, but the Bob Matsui that I got to know in the Committee on Ways and Means was a very special man and person.

Bob Matsui was intellectually on the top of his game and was one of the best intellectual debaters and sparring partners we had, especially when it came to the issue of Social Security.

My favorite kind of people in the world and in this body are those who are passionate about their beliefs, whether or not we agree on those beliefs, and Bob Matsui had a great lesson for those of us younger Members and it was that you can be as strong and tough in debate when the microphone's on, but when it is turned off, you can be good human beings to one another.

Bob Matsui was a very kind gentleman. I was half his age, about the age of his kids, and I always just felt that he gave me sort of a mentoring-ship kind of relationship and role. Because every time I had a conversation with Bob Matsui, he had this nice glint in his eye, and he was always a person offering a kind word of advice or a kind word of friendship. That is something that I do not think we have enough of in this institution. It is something that I thought was a great lesson on how to conduct yourself among your colleagues, especially across the aisle.

So I am really sad to see Bob leave us here, but I think this is an extremely fitting tribute. I wish that more of us conducted ourselves in the way that he did, and I just want to lend my word of support to this fine legislation for just an outstanding and fine man who taught us a lot on how we can be civil with one another.

Mr. HONDA. Mr. Speaker, I want to thank the gentleman for his kind words.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMPSON), my friend and colleague and the author.

Mr. THOMPSON of California. Mr. Speaker, we are here today to honor a colleague who honorably served in the House for 26 years, our good friend, the late Robert T. Matsui.

This bill to rename the U.S. courthouse in Sacramento after Bob is a small tribute to our friend who always rose above petty, partisan politics to do what was good and what was right for his district and for our country.

Bob provided more than a voice for those who could not speak for themselves. He provided monumental victories and results, not by being the loudest but by always being the smartest and the most informed person in any debate.

Bob's legacy of legislative victories directly improved the lives of millions of Americans spanning several generations. His victories included protection for single mothers with infants, stronger civil rights laws and protection of our Nation's most vulnerable seniors.

He also played a key role in crafting fiscal policy for the past 26 years, and before his very untimely death he was leading the effort to protect Social Security benefits for America's seniors.

Bob left an indelible mark on national policy, but he never forgot the needs of his district. His district and the greater Sacramento region were always his number one priority.

Today, we will vote to rename the U.S. courthouse in Sacramento after Bob Matsui. This courthouse is a symbol of Bob's commitment to his district. Here in Congress, he was able to secure $142 million that was used and needed to build that courthouse.

The courthouse not only created 1,200 new jobs in the Sacramento area, but it was the anchor for redevelopment and revitalization of downtown Sacramento, California.

It is more than fitting that we name this important building in honor of a very important figure in our history and our friend, Bob Matsui. I urge everyone to cast a vote for this bill.

Mr. SHUSTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for the time.

I rise to recognize the life and work of Bob Matsui and to support this legislation which will name the courthouse after him.

Bob was truly a remarkable individual, intellectually very smart but, more importantly, humanly, deeply in touch with the challenges that America has faced over his many years of service here. He focused on the fundamentals. Often they were not sexy, often they did not attract a great deal of attention in the press, but, for example, he spent many years working with me and others on trying to build the R&D tax credit into our Tax Code in a way that would recognize the dependence of American companies on invention to maintain their position in an intensely competitive global economy.

He understood the big issues and he understood the small steps that had to be taken for us to be successful in the macro arenas, whether the macro arena of economics, the macro arena of strengthening and supporting families struggling through difficult matters, the security of our retirees. On so many fronts, Bob Matsui was a thoughtful voice, profoundly in touch with the challenges our society faces today and over the many years of his long service.

I salute him and I thank the gentleman for bringing forward this legislation to name a courthouse after him in his home base.

Mr. HONDA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. STARK), the dean of the delegation.

Mr. STARK. Mr. Speaker, I rise just to comment. My colleagues will hear a lot of people talking about our friend Bob Matsui and his legislative accomplishments. I want to remind everybody that his name on this Federal courthouse will remind people that it was 6099 that interned Japanese Americans in the 1940s in violation of what we then thought were human and civil rights. As we proceed to violate people's human and civil rights under the PATRIOT Act, I think it will be appropriate that the Matsui courthouse will be the place where, hopefully, these rights will be corrected and restored to the American citizens and residents who deserve them.

I think it is most fitting that this building is named for Robert Matsui.

Mr. SHUSTER. Mr. Speaker, we have no speakers at this time, and I continue to reserve the balance of my time.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. RANGEL), my friend.

Mr. RANGEL. Mr. Speaker, I rise in support of this legislation, and I thank the gentleman from California (Mr. THOMPSON) and those others who thought about doing this for our friend Bob Matsui.

So often we read about outstanding Americans who make great contributions to the country, and yet some of us have never heard of them. So I feel indeed so privileged and so honored of having served with one of those people. Notwithstanding how his country treated him, he decided to make his country treat other people so much better.

Here is a person that served on the Committee on Ways and Means, which is a privilege to serve, but he enjoyed each and every minute of it. He was involved in every debate, whether it was fairness in taxes, Medicare, Social Security, providing assistance to those people who have less than most people in this country. His compassion was always mixed with a lot of humor, to make certain that people would take time out to listen to him when he was serious and at the same time to know that he was not a politician but was someone who was a patriot who loved this country.

I really think that he has set an example for so many people who have reasons to be bitter but certainly can make a better contribution to life as Bob Matsui has made to his country, to his Congress and to his family.

I thank God that I had the privilege to know and to be his friend.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I had the privilege of serving with Bob Matsui on the Subcommittee on Social Security, and it was a real privilege.

You always hope that we will send to Congress men and women of just great decency, who love their country, love their community, love their family so dearly and are willing to give back to all that and do it in such a good, positive way. That is what Bob Matsui stood for and still stands for in my mind.

There is a saying that you make a living by what you get; you make a life by what you give. By that measure, Bob Matsui had a very rich life because he gave back so much to this body. He gave back so much in his example to other Members like myself, and he truly gave back to his family and his Nation, and I consider it a privilege to have served with him.

Mr. HONDA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, Bob Matsui was a pillar of his beloved Sacramento. He was a pillar of the congressional community. So it is truly fitting that the courthouse in his beloved city be named after him.

I think today we should pause and ask what would be the best monument to Bob Matsui here in Washington, and I think it is clear and that is that we join together with his wife DORIS, who is now a colleague, to try to carry out his hopes, to fulfill his dream that everybody in this country counts, and when it comes to our work here, everybody should count equally.

So I am pleased to join with my colleagues and this is another moment of emotion. We very much remember Bob.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I had the opportunity in Seattle to help bring about the renaming of a courthouse there for a man who won the Congressional Medal of Honor, a Japanese American. He served in the 422nd and died, and it is very fitting on the West Coast that we find another courthouse, and we put Bob Matsui's name up.

He was also a hero. He was a Congressional Medal of Honor winner in the civilian society because he stood for the principle that we are all in this together, and we are not going to let the past stand in our way of moving forward.

He was one who was reluctant to come forward on the whole issue of repayment to Japanese who suffered losses. He felt that once the war was over it was his job to help the community move forward and be one Nation, where we all stand together and look after everybody.

The monument to Bob Matsui will be what we do with the PATRIOT Act in this House in a few weeks. It will be a statement about whether we learned the message that guys like Bob Matsui tried to teach us.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

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Mr. LEWIS of Georgia. Mr. Speaker, I am pleased to rise in support of H.R. 787, to designate the United States Courthouse located in Sacramento, California, as the Robert T. Matsui United States Courthouse.

It is so fitting and appropriate that we honor Bob Matsui. In spite of what the American Government did to him and his family, this good and decent man never lost faith in America. He loved America. He loved the people of his district. He was a wonderful human being. Every day he tried to do his best to bring America together, to create one America, one family, one House, the American House.

Mr. Speaker, with this legislation I think we are doing the right thing by honoring Bob Matsui.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I say to the gentlewoman from California (Ms. MATSUI), it gives me great pleasure to speak on the floor this morning with regard to Bob Matsui. As a former judge, I do not believe a better name could be placed upon a courthouse for someone who stood for justice and integrity and looking out for the little people.

I am pleased to have an opportunity to be here this morning to support the legislation, and I bring something no other Member has brought to the gentleman from California yet: my sister and her husband are moving to Sacramento and are building a house. I am bringing the gentlewoman two more votes, and I will introduce them to the gentlewoman when I have an opportunity.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in support of this bill to name this courthouse the Robert Matsui Courthouse. I cannot think of anything more fitting, as others have said, the notion of a courthouse where justice is weighed and issued for a person who had injustice done to him and never lost his sense of right and justice. It would have been easy for Bob to be angry, but he always sought fairness both personally and professionally.

I think it is quite fitting and it has a sense of poetic justice that we are naming a courthouse for a gentleman who was not treated fairly at one time by his country, but who always sought fairness and justice and equality throughout his life. It is fitting to remember him this way, someone who will always be part of our family here; and I thank the gentlewoman from California (Ms. MATSUI) for allowing us to be part of his family.

Mr. HONDA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. MATSUI), the wife of Bob Matsui.

Ms. MATSUI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to take this opportunity to thank, first of all, the gentleman from California (Mr. DOOLITTLE) and the gentleman from California (Mr. THOMPSON) for sponsoring this legislation. I know that Bob would have been so proud to know how much effort his two colleagues have put in to bring this bill to the floor to honor him.

This courthouse, which symbolizes equal justice for all, was a major accomplishment for Bob personally, but also for the city of Sacramento. It is such an appropriate way to honor him and his many years in public service, for the city he loved, Sacramento, and the country he absolutely adored.

I would also like to thank his other colleagues here, now my colleagues, for honoring him by speaking here today. I would like to thank all Members very much and on behalf of Brian, Amy, and my granddaughter, Anna, for this wonderful honor.

Mr. HONDA. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I thank the leadership for this opportunity to honor Bob Matsui, who sought to make this country a more perfect place, and urge passage of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it was an honor for me to manage this bill and to serve with Bob Matsui. I know my father and my entire family's thoughts and prayers go out to the Matsui family. As I said, he is a respected colleague, a fine gentleman, and this is a very fitting tribute. I urge my colleagues to support this bill.

Ms. ESHOO. Mr. Speaker, I'm pleased to rise today in support of H.R. 787 and to say a few words for our late colleague, the Honorable Robert T. Matsui. When Bob passed away on January 1, 2005, we lost a friend, his constituents lost their most ardent supporter and America, as a whole, lost a dedicated statesman.

Bob was well respected on both sides of the aisle. A brilliant man and an honest and fair politician, his leadership on the House Ways and Means Committee and his expertise and knowledge of Social Security will be sorely missed in the House for many years to come.

Naming the Federal courthouse in Sacramento is a fitting tribute for a man who did so much for that city. A member of the Sacramento City Council, vice-mayor and eventual Representative of the city in Congress, Bob served the city of Sacramento in every capacity he could. In Congress, Bob's efforts in securing funding for Sacramento were crucial in the revitalization of that city. Among the projects he was responsible for were the expansion of the city's light rail public transit system, and the courthouse that will soon bear his name. Both projects were crucial in creating new jobs and opportunities for the people of Sacramento.

His passing is a great loss for all of us and I thank my colleagues on both sides of the aisle for their work in getting this legislation before the House so quickly, so that we can honor a man we all loved and respected. I urge all my colleagues to support this resolution.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 787, a bill to designate the new United States courthouse located at 501 I Street in Sacramento, California in honor of our friend, my dear and treasured friend and colleague, Congressman Bob Matsui.

Congressman Matsui's death this past January deprived this House of one of its most astute, most admired statesman. The headline in the "Sacramento Bee" newspaper said it well: "A Good and Decent Man." A lifelong Californian, Bob Matsui served the people of California's Fifth District with dedication, commitment and compassion.

I was able to witness Bob Matsui's commitment to his constituents first hand when he and I worked together to address flood control issues for his beloved Sacramento area.

No other major metropolitan area faces as severe a flood risk as Sacramento. Congressman Matsui believed, as do I, that the capital city of the world's fifth largest economy deserved to know that it would not face severe threats from flooding.

Following the high flows of 1986, when the levees almost failed, Congressman Matsui worked tirelessly to improve flood protection. He examined every option. He worked to forge agreement to complete a dam at Auburn, California. It was to be a multipurpose dam, then a dry dam, and then ultimately, no dam, but assurance of adequate water supply for upcountry users represented by Congressman John Doolittle. Because of Bob Matsui's persistence, original thinking, flexibility and collegiality, we were able to develop a comprehensive proposal that strengthens levees, makes use of the existing Folsom Dam, and preserves the beautiful American River Canyon.

As this project comes to completion over the next few years, every spring, when the snows melt and rains come, and the State Capitol in Sacramento stays dry, the people of California and the Nation will owe a debt of gratitude to Bob Matsui for his persistence and wisdom on behalf of flood control.

Flood control is just one example of Bob Matsui's dedication and effectiveness. There are countless other examples.

In his first congressional race in 1978, Congressman Matsui campaigned as an underdog who vowed to bring new statesmanship to public office. His campaign was enriched by literally hundreds of volunteers that helped him achieve victory. Bob Matsui did not disappoint his constituents. He brought not only statesmanship, but also dedication, competence, innovation, and integrity to public service.

Elected to 14 consecutive terms in the House, Bob Matsui rose through the ranks to be a member of the leadership team. Under his quiet demeanor lay a man of keen intellect who was a trusted friend and a formidable competitor.

As a senior member of the Committee on Ways and Means, Congressman Matsui was substantially involved with all the complex policy issues placed before the committee including international trade, health care, welfare reform, and tax issues.

Congressman Matsui helped create the Research and Development Tax Credit in 1981 to fuel innovation in the American economy. In 1986, he spearheaded efforts that resulted in extensive reform of the Tax Code. His work on the Earned Income Tax Credit helped extend the tax credit for working poor families.

Most recently, Congressman Matsui was preparing to lead the discussions regarding the future of social security and his desire to preserve social security for future generations. Bob Matsui truly understood the varied complexities of the Social Security Program, and he was determined that any reform of social security would provide for its long-term solvency without compromising its fundamental purposes.

Bob Matsui was intellectually curious and honest. He was fair minded and even handed. His legacy is one of compassion, commitment to do the right thing, hard work, and wisdom.

Congressman Matsui is ably succeeded by his wife DORIS MATSUI. She has already done an admirable job of representing the people of California's Fifth District and I am confident that she will continue to do so.

It is most fitting and proper that the career of this truly outstanding member be honored with the designation of the new courthouse in his hometown of Sacramento, California, as the "Robert T. Matsui United States Courthouse." I urge the bill's passage.

Mr. THOMAS. Mr. Speaker, I rise today as a cosponsor of this legislation, which will name the Federal courthouse in Sacramento after our former colleague and friend, the late Representative Bob Matsui.

As many of you know, we both arrived in Washington in 1979 as newly elected Congressmen from opposite ends of California's vast Central Valley. For more than 20 years, we worked together on issues of importance to California, such as securing funding to combat drug trafficking and to gain a better understanding of the challenges posed by California's air quality. Through these efforts, as well as through his work on the Committee on Ways and Means, I saw first-hand Bob's commitment to, and strong advocacy of, his principles and how he served his constituents with honor and distinction.

Naming a Federal courthouse, where our Nation's laws and constitution are used to dispense justice, is a fitting way to remember Bob. Notwithstanding his service as a Member of the U.S. Congress, he was one of the more than 120,000 persons of Japanese ancestry who, pursuant to Executive Order 9066, were forcibly removed from their homes by our government and detained during World War II. Undoubtedly, this experience had a profound impact upon his life and career.

Accordingly, I now ask my colleagues to pass this legislation in honor Bob's service to his constituents and Nation.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of this resolution to name the United States courthouse in Sacramento, California, after my dear friend and our beloved former colleague, Bob Matsui, who passed away so suddenly on New Year's night.

Time and time again, Bob's constituents elected him to serve as their Representative in the United States Congress. As all of us know, he rose to national prominence as a senior member of the powerful Ways and Means Committee, a national spokesman for Social Security, and as the first Asian American in leadership of the Congress.

Bob was a living combination of intellect and passion—someone who understood the complexities of the Social Security system, and who never forgot what it meant to the lives of America's seniors. As an architect for a better America, Bob expanded opportunities for our county's children, built a more secure future, and protected precious freedoms for all of us.

In our more than 30 years of friendship, I deeply admired Bob's personal courage. Despite being imprisoned in an internment camp as a very young boy during World War II, Bob always had hope in the promise of America. He loved America enough to want to make it better. In fact, he worked tirelessly to pass legislation that awarded payments and an apology from the government to Japanese

Americans who had been sent to internment camps.

When it came to politics, Bob was a maestro, orchestrating campaigns across the country that addressed the aspirations of the American people, particularly on his signature issues of economic opportunity, civil liberties, and retirement security.

It seems like only yesterday that Bob was among us, doing the people's work here in Congress. Bob's spirit and energy have been greatly missed. We are saddened by the loss of our dear friend and colleague, but we are fortunate to have his wife DORIS here to continue and build on Bob's outstanding work.

President Bush rightly called him a "dedicated public servant and a good and decent man who served with distinction and integrity." I know that our friends on the other side of the aisle miss Bob as well, and join in paying him this tribute.

Bob Matsui was a true patriot who had a dream for a better America. I urge my colleagues to support naming this courthouse in his beloved Sacramento in his honor.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 787.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HONDA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1463, H.R. 483 and H.R. 787, the matters just considered by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX REPEAL PERMANENCY ACT OF 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 202 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 202

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 8) to make the repeal of the estate tax permanent. The bill shall be considered as read. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Pomeroy of North Dakota or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 202 is a structured rule providing for 1 hour of general debate on H.R. 8, a bill to make the repeal of the estate tax permanent, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule provides for consideration of the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution, if offered, by the gentleman from North Dakota (Mr. POMEROY) or his designee, which shall be considered as read and shall be separately debatable for 1 hour equally divided and controlled by the proponent and an opponent.

Finally, Mr. Speaker, the rule waives all points of order against the amendment printed in the report and provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 8, a bill introduced by the gentleman from Missouri (Mr. HULSHOF), permanently repeals the death tax. I commend the gentleman from Missouri (Mr. HULSHOF) for championing an end to the death tax, as my former friend and colleague, Jennifer Dunn, did while serving in Congress. Through Jennifer's tireless efforts, in 2001 Congress acted in a bipartisan fashion to gradually phase out the death tax and fully eliminate it in 2010.

However, if Congress does not extend the death tax repeal beyond 2010, in 2011 small business owners and family farmers will once again be assessed the full death tax at the maximum 2001 rate. The death tax is a form of double taxation and is simply unfair.

The last thing families in central Washington and across the Nation should have to worry about when a loved one dies is losing the family farm or business in order to pay the Internal Revenue Service. But, sadly, that is the situation many hard-working families would face if the death tax is not permanently abolished.

With permanent elimination of this tax, farmers and business owners will have the sense of security they need to plan for the financial future of their businesses, farms, or families. Death taxes are an unfair assault on every American's potential life savings. Today, we have the opportunity to bury the death tax for good.

The Committee on Rules reported House Resolution 202 by a voice vote. Accordingly, I encourage my colleagues to support both the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for years the Republican leadership has misled the American public about the estate tax. Today, because of that deceptive campaign, millions of Americans seem to believe they will be subject to the so-called death tax. They have been lied to.

Facts are stubborn things, and the facts prove that the Republican leadership is once again trying to pass a bill that helps the very wealthy few at the expense of everyone else.

The truth is that the overwhelming majority of American families, 99.7 percent, are not subject to estate taxes. Let me repeat: 99.7 percent of American families are not subject to estate taxes.

The truth is that this is the wrong bill at the wrong time that helps the wrong people, and it should be defeated. This permanent repeal of the estate tax does not help the average American. Instead, it benefits the heirs of the wealthy. Paris Hilton is doing just fine. She does not need another tax cut by the Republicans.

My colleague, the gentleman from Washington (Mr. HASTINGS), will claim that this bill will help family farmers and small business owners pass their assets, their farms and businesses, on to their children. The reality is that most of these family farmers and small business owners are already exempt from the estate tax.

Further, as the Washington Post pointed out today, permanently repealing the estate tax may actually hurt more family farmers and small businesses than it would help because of the cumbersome new reporting requirements and changes in how assets are valued.

Let us look at the facts. Exempting estates up to $1 million, the original level before the 2001 Bush tax cut, leaves only the top 2 percent of the estates in the country. But current law goes well beyond the $1 million exemption; and to hide the real cost of their bad economic policies, the Republican leadership included a provision that sunsets the 2001 tax cut in 2011.

Mr. Speaker, for most of the 20th century, this country operated on a progressive taxation system. Those who could afford it paid their fair share. We looked out for each other. We provided food to the hungry, shelter to the homeless, assistance to the unemployed, and health care to the sick.

But the Republican leadership wants to turn that system upside down. They believe the wealthy should be exempt from paying taxes and the poor should fend for themselves. It is wrong, and we have to stop it.

Let me connect the dots for my Republican friends. They say there is a deficit and we need to tighten our belts to pay down the debt. Of course this debt is of their creation. President Bush came into his first term with a surplus and ended his second term with the largest deficit in the history of the United States of America, and now they bring forward another tax cut that costs $290 billion according to the Joint Committee on Taxation.

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Some private groups estimate that this bill will ultimately cost closer to $1 trillion.

Where is that money going to come from? It is a credit card bill that they are passing on to our children and our grandchildren. That is the actual estate tax. That is the real legacy they are leaving to future generations.

Mr. Speaker, we are at war, but the only people being asked to sacrifice are those who can least afford it. The wealthiest of the wealthy are getting a free ride at this very difficult time in our history.

Look at the budget resolution. The Republican leadership pushed the budget resolution through earlier this month. What do they do? They cut food stamps. They cut Medicaid. They cut education programs. They cut environmental protection. They cut community development block grants. They cut school breakfasts and school lunches. Why? All so a few people can inherit a few more billion dollars tax free from their relatives.

Our colleague from North Dakota (Mr. POMEROY) will offer an amendment that will set the exemption for estates at $3 million for individuals and $7 million for couples. This would cost dramatically less than the Republican bill, $72 billion compared to $290 billion, and it would exempt 99.7 percent of all estates from ever facing the estate tax. This is a commonsense compromise that should receive near unanimous support.

Mr. Speaker, the truth is out there, but the Republican leadership is too stubborn and too arrogant to face it. We are at war. Health care costs are spiraling out of control. Poverty in America is increasing. More Americans go to bed hungry at night. Our children are falling behind in math and science. I, for one, do not believe the answer to these challenges is a permanent repeal of the estate tax.

I urge my colleagues to do the right thing and defeat this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from West Virginia (Mrs. CAPITO), a valuable member of the Committee on Rules.

Mrs. CAPITO. I thank the gentleman from Washington for yielding me this time.

Mr. Speaker, I rise today in strong support of the rule and the underlying legislation. I am proud to be a cosponsor of H.R. 8 and thank the gentleman from Missouri for his leadership in offering this bill.

I was proud to be in this Chamber 4 years ago on the day Congress began phasing out the death tax. As a result, thousands of jobs were saved and second and third generations were able to take charge of their family's business. We knew when we passed that law the phaseout was not a permanent fix. Today we have the opportunity to complete unfinished business. If we do not act now to permanently eliminate the death tax, it will be revived at the stroke of midnight on January 1, 2011. Bringing back the death tax will drive the final nail in the coffin for America's next generation of small business owners.

The Death Tax Repeal Permanency Act represents the changes to our Tax Code called for by our Nation's farmers and small business owners who want to pass their family business on to the next generation. Small business owners and farmers devote their time, energy and money into building a business so it can be passed on to their sons or daughters. In the absence of the death tax, these small businesses become a legacy for one generation to pass on to the next. With the death tax, families face a whopping tax bill on the property and assets even though taxes have already been paid annually by the owners.

The death tax is an overwhelming burden, forcing many families to sell their businesses just to pay the 37 to 55 percent tax. As a result, jobs are lost and generations of family toil are plundered by the government.

Permanently repealing the death tax will help small businesses create new jobs. A 2002 study showed that an extra 100,000 jobs a year would be created if the death tax were permanently repealed. The Wall Street Journal wrote in 1999 that 60 percent of small businesses would add jobs if death taxes were not on the books.

The very threat of a revived death tax has a negative impact on small business. Even with the temporary phaseout, business owners must continue to plan for paying that tax. To help owners hire new workers and continue to invest in their business, they need to know that the death tax is gone for good.

We must not allow this small business killer to rise from the dead. The House today has an opportunity to rid the Nation of this tax that kicks families when they are down, takes away a lifetime of hard work, and stifles job growth. I hope that my colleagues will join me today in supporting the rule and the underlying legislation.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

We hear the phrase "death tax," which really is kind of a misnomer. There is no such thing. When I am dead, I am dead. You cannot collect any taxes from me. The issue is whether or not estates in the billions of dollars should be subject to any taxation. We are not talking about small family farms or small businesses. That is not what this is about. If you read the Washington Post today, it is very clear what this is about. It is about the most extremely wealthy companies, the most extremely wealthy people in this country.

The gentleman from North Dakota has a substitute that would basically exempt 99.7 percent of all estates from any estate tax. So let us be clear about what is going on, and let us also be clear about the cost to our kids. The Joint Committee on Taxation says that this is going to cost up to $290 billion. There seems to be no concern on the other side of the aisle about what this does to our deficit or our debt. This is not paid for. They make no attempt to pay for it.

Let me just remind my colleagues that the debt that we are faced with right now is close to $8 trillion, and the interest on that debt is astonishingly high. That is the legacy that they are passing on to our kids.

Our good colleague from Tennessee (Mr. TANNER) in a presentation, I thought, said it best. He said, so people can understand what the debt means, if you stack up one thousand dollar bills, a million dollars would be about a foot high; a billion dollars would be about the size of the Empire State Building; a trillion dollars would be 1,000 Empire State Buildings. Our debt is close to $8 trillion, and there is no outrage on the other side, there is no concern about what we are doing and what it means to our economy by making these tax cuts permanent.

I think that people need to understand what is going on here. This is not about small family farms. It is not about small businesses. This is about helping the wealthiest of the wealthy.

Mr. Speaker, I yield 6 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentleman for yielding me this time.

Mr. Speaker, this rule brings an important debate to the floor. Let me tell you what is not on the floor. What is not being debated is whether there should be additional estate tax relief. We agree there should be. Much has been accomplished over the last few years in that regard. The estate tax level attached at $600,000 per individual at the beginning of this decade. So that, as my colleague from West Virginia talks about the concern of estate tax on small businesses and farms, that may have been more the case at that time. Certainly it is less the case now. The estate tax level attaches at $1.5 million per individual, $3 million per couple, and obviously the number of estates that would have tax consequences has fallen significantly.

Is it enough? No. Let us do something quite dramatic. The proposal that I am offering as a substitute would double from where we are today and in a very certain and immediate way bring to $6 million the estate tax exclusion for couples. Couples across this country possessing less than $6 million in assets, no estate tax. Nothing. Gone. Immediately and certainly. By the end of the decade, it moves to $7 million. By 2009, there could be $7 million in a couple's estate.

Is this meaningful? You bet it is meaningful. You look at the numbers, and it will tell you that we all but make this problem go away. Looking across this country, 99.7 percent of estates in this country no longer have estate tax issues under the substitute that I am advancing. That is 997 out of 1,000. That is pretty significant.

There are a couple of other differences. It is one-quarter of the cost of the majority proposal, $290 billion, that they are talking about. There are things they are saying that just are not so, that small businesses and family farms have major estate tax issues when the level is $6 million per couple. They do not.

I represent family farms and small businesses all across the State of North Dakota. I am telling you, if we set this level at $6 million per couple, to move to $7 million by the end of the decade, we largely take care of the problem.

But beyond that, going forward, there is yet another very important wrinkle in the majority proposal. This is the capital gains tax that their proposal would add. It is unlike a tax relief bill that I have seen before, because, for everyone it helps, it adds capital gains taxes for many more. Right now in the handling of an estate, there is no capital gains tax. Under their proposal, they establish something called the carryover basis. Not to get technical with you, but what that does is impose capital gains tax exposure on estates. The way the numbers work out, more estates are going to end up with capital gains consequences than get relief from estate taxes. So you help a few; you harm a lot. It does not make much sense to me. Again, at a total budget cost of $290 billion over the first 10 years and more than $800 billion over the second 10 years.

This is a budget buster, my friends. At a time when we are talking about how we address the long-term solvency of Social Security, to just, without a concern, pass a $290 billion bill to help three-tenths of 1 percent of the most affluent in this country seems to be standing priorities directly on their head. The very people that favor privatizing Social Security, which is going to add risk in the Social Security benefit, which is going to reduce benefits sharply because they change the inflation index going forward, that is going to reduce the benefits on our children and grandchildren, want to now run up the debt on our children and grandchildren in order to help that three-tenths of 1 percent, the very wealthiest among us. What kind of sense is that?

So we have proposed something quite different, immediate and certain estate tax relief, $6 million per couple, $3 million per individual, right now, and in 2009, $7 million per couple, $3.5 million per individual. And, once more, a proposal that I think we would want to consider closely, we could take the difference between the majority bill and our bill and dedicate it to the Social Security trust fund.

There is a lot of talk from the other side: Where's your plan? Where's your plan? How about this one? Let us start by addressing the problem and making a good deal of it go away.

If we took the difference, the amount of estate tax revenue over the $7 million figure at the end of the decade, and dedicated it to the Social Security trust fund, we could fill 40 percent of the hole over 75 years, almost make half the problem go away, while preserving benefits, while keeping the inflation adjustment that our grandchildren need.

I think in the consequence of our floor discussions today it is important to talk about both concepts, the immediate and certain estate tax relief alternative that we are advancing and what we could do with the difference. They say this estate tax has to be repealed, that it is the most unfair thing in the world. I can think of something even more unfair, and that is cutting the benefits of Social Security to our children and grandchildren. That is more unfair in my opinion.

We do not have to make that tradeoff. We can make estate tax go away for 99.7 percent of the people in this country, take the balance between the bills, invest it in the Social Security trust fund and deal with almost half of the problem of the underfunding over the next 75 years.

That is what the minority is bringing forward today. It is a thoroughly considered and balanced alternative, I believe a reasonable and responsible alternative, and I urge the Members' consideration.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I rise in support of this rule and the bill authored by the gentleman from Missouri (Mr. HULSHOF) and commend him for his great work on behalf of America's job creators.

I just heard the Democratic Member say that only a tiny fraction of the people who die in America and their families have to pay this death tax. Apparently, the gentleman has never had to go through the dreaded form 706. How many of us right now are trying to deal with form 1040? Even though we deal with it year in and year out, we still cannot figure it out. What we are trying to get rid of is the complexity of the Tax Code and the $20 billion a year that the death tax consumes from the American economy that does not go to the Treasury but, rather, goes to tax lawyers and accountants and life insurance sales and keyman policies and so on, all of this estate planning which is economic waste. It is hurting our economy.

Eighty-eight pages of the Internal Revenue Code, 88 pages of law, are devoted to trying to close the loopholes that have erupted over the 20th century as our experiment with the death tax has shown that it actually costs the government and costs the American people money to maintain it. Much as we would like to be able to tax the super-rich, they get out of the tax with trusts and loopholes and so on, as will the rich after we do what the Democrats want, which is to create some complicated new definitions to try and cabin off this tax so it only affects a few people. The only people who will actually be hurt by the burden of these new complex rules and laws will be people who we do not want to pay the tax in the first place.

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If at the time that one of one's loved ones dies, just to file the return, not pay the tax, they are going to have to plow through all of these helpful instructions that are in such small print that even a high school student might need reading glasses to get through some of these 40 pages. But here is the kind of helpful thing one will find when a loved one dies: "Generally, you may list on Schedule M all property interests that pass from the decedent to the surviving spouse and are included in the gross estate. However, you should not list any 'nondeductible terminable interests,' described below, on Schedule M unless you are making a QTIP election. The property for which you make this election must be included on Schedule M. See 'qualified terminable interest property' on the following page.

"For the rules on common disaster and survival for a limited period, see section 2056(b)(3)."

This is just one little paragraph out of 40 pages of this. They are going to have to hire a lawyer. They are going to have to hire an accountant to go through all this and list everything that their family member has accumulated throughout his or her entire life just to prove that they do not owe this tax. Anybody who is slogging through their form 1040 trying to file their income tax return now knows what I am talking about.

We are trying to eliminate the complexity of this law which hurts every single person who works for a small business in America. When that small business is liquidated in order to pay the death tax because it is a tax on property of small businesses, people lose their jobs, and that is where the burden and the incidence of this tax falls.

Repealing the death tax once and for all is the right thing to do, and I am very pleased that this rule will bring that to the floor.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me again remind people that we are talking about three-tenths of 1 percent who actually pay an estate tax. In that category we are not talking about family farms or small businesses. We are talking about Paris Hilton, and I would say to my colleague from California that I think she has enough accountants and lawyers to be able to fill out form 706.

Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, this is actually one of the more absurd debates that I have ever heard in my life, and I think anybody who turns on the television and wonders what is going on here in Congress will then conclude that the reason that this institution is held in so low regard is because we have debates like this.

Let us look at what is going on in America today. The middle class is shrinking. Study after study shows that real wages for American workers are going down; and in the last 4 years, 4 million more Americans have entered the ranks of poverty. While the middle class shrinks, poverty increases. The richest people in America have never had it so good. CEOs of large corporations now make 500 times what their workers make. In America today we have the most unfair distribution of wealth and income in the history of our country and of any major country on Earth.

So what are we discussing here today? Are we going to raise the minimum wage to a living wage? Are we really going to protect family farmers from low prices? Are we going to stop the hemorrhaging of decent-paying jobs going to China? Do not be silly. We do not talk about that because corporate America does not fund those concerns.

The richest people in America said several years ago, Hey, yes, we are worth billions of dollars. That is not enough. We are going to contribute money to our Republican friends, and do you know what they are going to do? They are going to lower our taxes even more.

Mr. Speaker, we are here debating an issue that has zero impact on 98 percent of the American people. Nobody in the middle class, nobody in the working class, no low-income person pays one penny in the estate tax. All of the estate tax is paid by the wealthiest 2 percent. If their proposal passes, half of the benefits go to the richest one-tenth of 1 percent.

I want to ask my friends a question. This is a question. As my colleagues know, President Bush and the Republican leadership are supporting increased fees on our veterans. They are raising prescription drug fees for our veterans, and they want to charge a $250 co-pay for veterans of wars who enter the VA hospital. I would like to ask my Republican friends do they think it is a good idea to give tax breaks today to billionaires and to charge veterans significantly increased fees for health care. That is my question.

I am listening. I am listening. I do not hear an answer.

That is the answer. They are substantially increasing health care costs for veterans who have put their lives on the line defending this country. They are increasing our deficit, increasing our national debt, all on behalf of the richest people in this country. This bill is bought and paid for by millionaires and billionaires, and anyone who votes for it should be ashamed of themselves.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind persons in the gallery that they are here as guests of the House and that any manifestaton of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. WESTMORELAND).

Mr. WESTMORELAND. Mr. Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me this time.

Mr. Speaker, I rise today in support of this rule and H.R. 8. I applaud the efforts of the leadership and the gentleman from Missouri in bringing forward H.R. 8 to finally bury the death tax once and for all.

One thing I have learned in the short time I have sat here is that the Democrats really look at the person whom this bill would affect, and, by the way, I do not think any of them are watching this on TV right now because they are all probably at work, but they are looking at the person whom this bill would affect as someone who got up early, worked hard all his life, looked after his family, built infrastructure, saved money, put capital back into this system, provided jobs, benefits, health care for people, and the Democrats look at this individual as a gift who keeps on giving.

One of the things our country needs is individuals who are willing to work hard and save their money. It is the basis of our economy and the American Dream. This country is a wonderful land of opportunity. Anyone can work hard and be whatever they want to be in this country. Yet our tax system directly discourages savings by limiting contributions to IRAs and taxing dividends. When one works hard and saves, they should be rewarded, not punished. The current death tax punishes people for saving their own money, for fulfilling the American Dream.

Tax cuts do not cost the U.S. Government money. This is something that I think is misunderstood up here. Cutting taxes does not cost the government money. It allows people who earn that money to keep more of it in their pocket. This Congress must recognize that tax cuts spur economic growth. We have seen this in the Reagan tax cuts that led to the boom of the 1990s and in this President's tax cuts that have brought us out of the recession that this country experienced after 9/11.

As a small business owner, I know firsthand how hard one has to work to build a business. And most times the assets of a family business are not in cash, or easily so. When a family business is hit with an estate tax, it often requires the selling of a large amount of inventory or other assets in order to pay the debt. That is not right. That hurts families who want to continue the legacy of their loved ones who have passed away. Why do we want to harm or punish or exploit those who work their hardest to create an inheritance for their loved ones?

The death tax has made crooks out of honest people because they have to search for all kinds of ways to avoid paying the tax. And the reason they do not want to pay this tax is because they hate to see everything that someone that they loved and deeply cared about who spent their whole life building is taken away by the government.

Small businesses should not be run while looking over one's shoulder to make sure the tax man is not about to get them. Small business owners must be able to focus on their business. More than 70 percent of small family businesses do not last beyond the second generation, and the estate tax plays a large part in that. Having someone pay half of their assets to the government is absolutely wrong no matter what is being paid. We all know that people can manage their own money much better than the government.

One of the things I hate more than anything is a double tax. When the government takes its bite out of the apple, it should not get a second bite. Yet the death tax takes an even bigger bite out of the money that has already been taxed. Economic studies have shown that the cost of trying to comply or avoid the death tax consumes as much out of the economy as is generated by the death tax itself.

The death tax also hits those who cannot afford a lawyer or a CPA to help them. If their assets are not in cash, as in most family businesses they are not, they have to make a huge burden and sacrifice that they are not ready for by having to get somebody else to advise them about how to take care of their families and their children. And in spite of all this, the death tax does not even generate that much revenue or "windfall profit" for the government, yes, a "windfall profit" for the government, while placing this huge burden on the families of this country. It is not right.

The idea of the tax coming back in 2011 is amazing. It just does not make sense, and people cannot make any long-term financial plans. Getting rid of the death tax will simplify our Nation's laws and ease the burden on our country. If it takes a CPA or a lawyer to figure out what one is trying to do and what burdens the government has put on them, then it is too much of a burden. We need to do everything we can to lessen that burden. Repealing the death tax is the right thing to do.

Although I was not in Congress when the phase-out of the death tax began, I am thrilled to be here today to cosponsor and vote for it to be completely eliminated. And I urge all of my colleagues to do the same.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me just make a couple of points here. This is not about protecting small businesses or family farms. I mean, I think that is clear to everybody here. This is about protecting the three-tenths of the 1 percent wealthiest people in this country.

I enter into the RECORD an article that appeared in today's Washington Post that really kind of explains what this debate is all about, about how Mars candy, Gallo wine, and Campbell soup fortunes have been lobbying for the complete repeal of the estate tax for some time so they can end all taxation on their inheritance. That is what this is about. This is not about working families. This is not small family farms or small businesses. This is about protecting the richest of the rich.

[From the Washington Post, Apr. 13, 2005]

EROSION OF ESTATE TAX IS A SESSION IN POLITICS

(By Jonathan Weisman)

In 1992, when heirs to the Mars Inc. fortune joined a few other wealthy families to hire the law firm Patton Boggs LLP to lobby for estate tax repeal, the joke on K Street was that few Washington sightseers had paid so much for a fruitless tour of the Capitol.

Today, the House is expected to vote to permanently repeal the estate tax, moving the Mars candy, Gallo wine and Campbell soup fortunes one step closer to a goal that once seemed quixotic at best: ending all taxation on inheritances.

"I think this train has an awful lot of momentum," said Yale University law professor Michael J. Graetz, a former senior official in the Treasury Department of President George H.W. Bush.

Last month, Graetz and Yale political scientist Ian Shapiro published "Death By A Thousand Cuts," chronicling the estate tax repeal movement as "a mystery about politics and persuasion."

"For almost a century, the estate tax affected only the richest 1 or 2 percent of citizens, encouraged charity, and placed no burden on the vast majority of Americans," they wrote. "A law that constituted the blandest kind of common sense for most of the twentieth century was transformed, in the space of little more than a decade, into the supposed enemy of hardworking citizens all over this country."

The secret of the repeal movement's success has been its appeal to principle over economics. While repeal opponents bellowed that only the richest of the rich would ever pay the estate tax, proponents appealed to Americans' sense of fairness, that individuals have the natural right to pass on their wealth to their children.

The most recent Internal Revenue Service data back opponents' claims. In 2001, out of 2,363,100 total adult deaths, only 49,911—2.1 percent—had estates large enough to be hit by the estate tax. That was down from 2.3 percent in 1999. The value of the taxed estates in 2001 averaged nearly $2.7 million.

Congressional action since 2001 will likely bring down the number of taxable estates still further. President Bush's 10-year, $1.35 trillion tax cut in 2001 began a decade-long phase-out of the estate tax. The portion of an estate exempted from taxation was raised from $675,000 in 2001 to $1.5 million in 2004. Next year, the exemption will rise to $2 million for individuals and $4 million for couples.

The impact has been clear, tax policy analysts say. The number of estates filing tax return is falling sharply, from 123,600 in 2000 to an expected 63,800 this year. And only a small fraction of those will actually be taxed.

Under the 2001 legislation, however, all of the tax cuts, including the estate tax's repeal, would be rescinded in 2011. The vote today is the first to address the sunset provisions.

House Democrats, led by Rep. Earl Pomeroy (D-N.D.), today will propose permanently raising the exclusion to $3.5 million—$7 million for couples. That would be enough to exempt 99.7 percent of all estates. The Pomeroy bill would cost the Treasury $72 billion over 10 years, compared with the $290 billion price tag of a full repeal through 2015, according to the Joint Committee on Taxation.

"The ideological fervor that is admittedly still pretty strong in some quarters is now being tempered by the runaway debt that is weighing down this country," said Pomeroy, who thinks voters are ready for a compromise.

Indeed, Senate Majority Leader Bill Frist (R–Tenn.) has asked Sen. Jon Kyl (R–Ariz.), a repeal proponent, to find a compromise that could win a filibuster-proof 60 votes in the Senate this year, even if it falls short of full repeal.

A compromise that includes any estate tax, no matter how small, may fail if the fervent repeal coalition holds firm, Graetz said. Repeal opponents have been unable to whip up big support, he said, because they never made the emotional case that the American belief in equal opportunity runs counter to the existence of an aristocracy born to inherited riches. Paris Hilton, who inherited her wealth, and now famously enjoys spending it, could have been their counter to the small-business owners and family farmers whom repeal proponents held up as the victims of the tax.

"The public doesn't believe people should be taxed at the time of death, whether they are paupers or billionaires," said Frank Luntz, a Republican pollster who has been working on estate tax repeal for a decade. "Compromise is very difficult because the public doesn't want it to exist."

It is that sentiment that the fledgling repeal forces tapped into when they mobilized more than a decade ago. A little-known Southern California estate planner named Patricia Soldano launched her repeal effort with the backing of about 50 wealthy clients, with the Gallo and Mars families leading the way. Other contributors included the heirs of the Campbell soup and Krystal hamburger fortunes. Frank Blethen, whose family controls the Seattle Times Co., was also pivotal.

The effort caught fire when small-business groups such as the National Federation of Independent Business and agriculture groups led by the National Cattlemen's Beef Association joined in.

By 1994, Newt Gingrich's Republican insurgents had latched onto the estate tax issue, but the Contract With America called for an estate tax reduction, not repeal. In 1995, Luntz poll-tested the term "death tax" and advised the new GOP majority to never use the terms "inheritance" or "estate tax" again.

By then, Soldano's Policy and Taxation Group was spending more than $250,000 a year on lobbying. A parade of small-business owners and family farmers appealed to their congressmen, worried that they could not pass on their enterprises to their children, even though most of them would not be affected by the tax.

"There's been a sustained, determined campaign of misinformation that in the end has left the American people with a very different notion of what the estate tax is and does than actually exists," Pomeroy said.

But ultimately, whether people believe the estate tax will affect them has little bearing on support for repeal. Early this year, with Soldano's money, Luntz again began polling, this time in the face of record budget deficits and lingering economic unease. More than 80 percent called the taxation of inheritances "extreme." About 64 percent said they favored "death tax" repeal. Support fell to a still-strong 56 percent when asked whether they favored repeal, even if it temporarily boosted the budget deficit.

Democrats "still don't get it," Graetz said. "The politics are still very powerful."

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. PUTNAM), a powerful member of the Committee on Rules.

Mr. PUTNAM. Mr. Speaker, I thank the gentleman for yielding me this time.

I am proud to be a part of the Committee on Rules, which reported out a very balanced rule that allows both sides to be heard on this issue.

The interesting thing about this issue is that there is agreement that the death tax should go away. There is disagreement about the numbers and the number of people for whom it should go away, our side believing that it should be totally repealed, the other side believing that there are a certain number of people who should be exempt from paying this. It is good to see that we have finally come together to recognize that the death tax is a killer for small businesses and family farms and ranches. I am glad that that is a bipartisan agreement, and I am glad that this rule reflects that.

A wise man once joked that there is always death and taxes, but death does not get worse every year.

With the death tax in place, that is not true. Each year that passes, many family-owned farms and businesses are subject to this tax. It is fundamentally unfair that death is a taxable event. Taxes have already been paid on the assets subject to the taxation under the death tax during the lifetime of the owners. It amounts to a second bite of the apple for the government.

With the repeal of the tax, more small businesses and farms will stay in the hands of those families. Currently, the death tax is a leading cause of dissolution. And we see this all the time in agriculture, that when the grandparents die they have to sell off a portion of the land so that the government gets their share so that they break up the very asset that made that farm what it was. They eliminate the opportunity for that next generation to participate even though they worked on it themselves, growing up, paying their way through school, helping to support all of the family efforts. That is a great cause of the loss of rural communities and small-time agriculture in this country, and I think that we can all agree that that is a shameful loss to our Nation. They form the backbone of our rural heritage.

The death tax is a virtue tax in the sense that it penalizes work, penalizes savings and thrift in favor of large-scale consumption.

□ 1200

In other words, if those same families had sold off everything and spent it, then they would not be subject to the death tax. But the fact that they made a decision to hold something, to build it, to grow it so that their children and grandchildren might have a farm to continue to cultivate the bread basket for the world in, then they are taxed. Where is the fairness in that?

Mr. Speaker, 87 percent of family businesses do not make it to the third generation. Unquestionably, the death tax plays a tremendous part in that statistic. This is especially true of businesses that are land-rich and cash-poor. That is what we call it in the South, Mr. Speaker, where you have all of your assets tied up in things. You cannot afford a brand-new car, you cannot afford a brand-new tractor, you cannot afford all the nicer things; but yet on paper you are quite wealthy, because you purchased land, you gave value to that land as time passes.

Mr. Speaker, I urge that we adopt the rule and continue forward with the repeal of this scurrilous tax on death.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the words from my colleague on the Committee on Rules, the gentleman from Florida; but quite frankly, I do not know what he is talking about. The small businesses and the family farms, we are all in agreement that they need to be protected. That is not what the debate is about here today.

The debate is about whether three-tenths of 1 percent of higher income-earners in this country deserve additional tax relief at a time when they are cutting Medicaid, veterans benefits, when they are dipping into the Social Security trust fund.

This is not a death tax. What they are talking about is a debt tax, D-E-B-T, adding to the deficits and the debt of this country. Right now, this year, we are paying $177 billion this year in interest on the debt. Next year it will be $213 billion. It is ridiculous. We need to rein in some of these extravagant tax cuts for the wealthy so that we can get our fiscal house in order here in this country, so we can start taking care of Social Security in the long term, so we do not have to cut veterans benefits or educational benefits or environmental protection.

Mr. Speaker, I at this time I will enter into the RECORD an article by E.J. Dionne entitled "The Paris Hilton Tax Cut."

[From the Washington Post, Apr. 12, 2005]

THE PARIS HILTON TAX CUT

(By E.J. Dionne, Jr.)

The same people who insist that critics of Social Security privatization should offer reform proposals of their own are working feverishly to eliminate alternatives that might reduce the need for benefit cuts or payroll tax increases.

I refer to the fact that House Republican leaders have scheduled a vote this week to abolish the estate tax permanently. Under a wacky provision of the 2001 tax cut designed to disguise the law's full cost, Congress voted to make the estate tax go away in 2010, but come back in full force in 2011.

With so many other taxes around, it's hard to understand why this is the one Congress would repeal. It falls, in effect, on the heirs to the wealthiest Americans. Fewer than 1 percent of the people who died in 2004 paid an estate tax, and half the revenue from the tax came from estates valued at $10 million or more.

Yet, because the wealthy have gotten wealthier over the past three decades or so, the estate tax produces a lot of money. Counting both revenue losses and added interest costs, complete repeal of the estate tax would cost the government close to $1 trillion between 2012 and 2021, according to the Center on Budget and Policy Priorities.

And that is where Social Security comes in. You can reject outlandish claims that Social Security faces some sort of "crisis" and still acknowledge that it faces a gap in funding for the long haul. The estate tax should be part of the solution.

In a little-noticed estimate confirmed by his office yesterday, Stephen Goss, the highly respected Social Security actuary, has studied how much of the Social Security financing gap could be filled by a reformed estate tax. What would happen if, instead of repealing the tax, Congress left it in place at a 45 percent rate, and only on fortunes that exceeded $3.5 million—which would be $7 million for couples? That, by the way, is well below where the estate tax stood when President Bush took office and would eliminate more than 99 percent of estates from the tax. It reflects the substantial reduction that would take effect in 2009 under Bush's tax plan.

According to Goss, a tax at that level would cover one-quarter of the 75-year Social Security shortfall. The Congressional Budget Office has a more modest estimate of the shortfall. Applying Goss's numbers means that if CBO is right, the reformed estate tax would cover one-half of the Social Security shortfall.

This is big news for the Social Security debate. Michael J. Graetz and Ian Shapiro, authors of a new book on the estate tax, "Death by a Thousand Cuts," have referred to its repeal as the "Paris Hilton Benefit Act." To pick up on the metaphor, why should Congress be more concerned about protecting Paris Hilton's inheritance than grandma's Social Security check? How can a member of Congress even think about raising payroll taxes while throwing away so much other revenue?

This also means that Democrats now talking about reaching a "compromise" with the Republicans on the estate tax should put the discussions on hold until the Social Security debate plays itself out. Most of the "compromises" being discussed would repeal 80 to 90 percent of the estate tax. At some point, it might be reasonable to agree to make the 2009 estate tax levels permanent. But if they agree to any steps beyond that, Democrats will, once again, be placing the concerns of wealthy donors over the interests of the people who actually vote for them.

The Friends of Paris Hilton realize that as federal deficits mount and rising Medicare costs loom, the case for the total repeal of the estate tax grows steadily weaker. That's why they're hoping they can sucker defenders of estate taxes into a so-called compromise that gives away the store—the store, in this case, going to Neiman-Marcus shoppers, not to those who rely on Target.

This is an instructive moment. What we are having is not a real debate on the future of Social Security but a sham discussion in which the one issue that matters to the governing majority is how to keep cutting taxes on the wealthiest people in our country.

Those who vote to repeal the estate tax this week will be sending a clear message: They see the "crisis" in Social Security as serious enough to justify benefit cuts and private accounts. But it's not serious enough to warrant a minor inconvenience to those who plan to live on their parents' wealth.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I want to rise in support of the rule that will allow us to consider the permanent repeal of the death tax.

Mr. Speaker, I think it is so appropriate, so very appropriate that this week, as millions of American taxpayers are finalizing their Federal income tax filings that we are looking at what is one of the most egregious taxes and most unfair taxes to our small business community. I am one of those that fully believes that the death tax is the triple tax, because Americans pay tax when they earn their income. Then they turn around, they buy an asset, and they spend their money, and they are paying a tax on every bit of that. And then, when an American dies, they have to pay the tax again.

This tax affects every American, especially our small business owners. I have found it very curious that some of my colleagues across the aisle continue to say it only affects the rich. Well, in my district, do my colleagues know that it affects thousands of farmers, thousands of small business owners who are very upset about the death tax?

Families everywhere would benefit from the repeal of this tax. When 70 percent of family businesses do not make it to the second generation, there is a problem; and we know we can fix part of that problem, because it is the death tax. For too long the death tax has been a major factor in the failure of family businesses. The tax not only forces American families to hand over their hard work to the government; family businesses spend millions of dollars every year trying to comply with these regulations. In addition, it discourages savings and investment, and it is costing our economy hundreds of thousands of new jobs.

Mr. Speaker, 89 percent of Americans want death taxes repealed. Small business owners get it, seniors get it, the farmers in my district get it.

Mr. Speaker, I urge my colleagues to join the leadership and to support this rule in favor of H.R. 8.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Again, I am having trouble following this debate here. The gentlewoman from Tennessee talked about the thousands of people in her district that had to pay the estate tax last year. I am reading from a report here that said there were roughly 440 taxable estates, or about 2 percent of all taxable estates were made up of farm and business assets in the year 2004.

What we are talking about here, and again, if we agree to the Pomeroy substitute, is three-tenths of 1 percent of the wealthiest people in this country. That is what we are talking about. We are not talking about family farms. I mean, that is a red herring. We are not talking about small businesses. We are talking about the Campbell Soup fortunes, the Mars candy fortunes. We are talking about the richest of the rich. That is what this is about.

What is unconscionable is that we are moving forward on this at a time when the majority of this House is proposing budgets that slash Medicaid, that cut community development block grants, that cut veterans health benefits, that cut education, that cut things that people rely on every single day. This is absurd that we are having this debate here today.

Again, I would urge my colleagues to look at the facts. Please do not exaggerate the impact of the difference between what the gentleman from North Dakota (Mr. POMEROY) has suggested and what you are proposing here. What you are doing here is trying to extend this to protect the richest of the rich, and that is just wrong.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume to remind my colleagues that the rule that we are debating here to talk about the repeal of the death tax makes in order the substance of the subject that the gentleman from Massachusetts talked about, the Pomeroy substitute. We will have a vigorous debate on that. This is a very fair rule so that we can debate the difference between the two, and the body will work its will.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of the rule and the Death Tax Repeal Permanency Act of 2005. I do so, Mr. Speaker, really to just speak about small business America and about a small businessman who raised me.

It was 17 years ago today at the too-young age of 58 that my father, Ed Pence, passed away. It happens to be an unfortunate anniversary in my family, but on April 13, 1988, we said goodbye to my father. He was a small business owner that many on the floor of the Congress today would classify as a rich American.

Now, the rich American that I saw was a man who started out in a very small business in Columbus, Indiana, and worked tirelessly to raise his four sons and two daughters and build a business that employed several hundred local people in support of their families. It is really, with the memory of my father in mind, that I rise in vigorous support of the permanent repeal of the death tax. Because while my family was reeling from the grief of the loss of my father to a sudden heart attack 17 years ago today, also we were settling into the reality that much of what he had built, all of which he had already paid taxes on, was now subject to as much as a 47 percent estate tax.

My father's death and the business that he built and the resources that he had husbanded, after paying all of his debts and all of his taxes, should not have been subject to another tax. And we come into this well today on behalf of small business owners and family farmers just like my dad to put to an end permanently this truly immoral death tax in America.

It is the reality out there, not the heated rhetoric of rich versus poor, that explains why 89 percent of small business owners favor permanent repeal. In fact, they know that more than 70 percent of family businesses do not survive to a second generation; 87 percent do not make it to a third generation. Much is made of middle America that I am proud to represent and the fact that Main Streets and courthouse squares are largely boarded up. People want to blame the Internet. They want to blame mass retailers. Well, I put the majority of the blame in practical terms at the doorstep of the death tax. It has waged war on small business and family farmers all across America, and we will begin to reverse that in a permanent way today.

So in the tender memory of my father, of his earnest labors, and with it in my mind the men and women who to this day labor to raise their families and build small businesses and family farms all across America that I extol the authors of this bill. I endorse the rule, and I vigorously support the permanent repeal of the death tax.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I want to make it clear, as there is a lot of misinformation being promoted on the other side here: our side supports relief for family farmers and small businesses. That is not what we are talking about here today. The difference between our approach is the three-tenths of 1 percent richest people in this country, the Paris Hiltons of the world, the executives at Campbell Soup, the heirs of Campbell Soup or Mars candy if you read The Washington Post today. That is what this is about. In a climate where the majority is cutting Medicaid, cutting veterans benefits, cutting programs that help feed the most vulnerable in our country, to go out and protect and to try to extend a special tax cut to those richest people in this country, I think, is unconscionable.

Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank my colleague, the gentleman from Massachusetts, for leading the debate on this important rule in this fashion. I will just respond to my friend, the gentleman from Indiana (Mr. PENCE), the preceding speaker.

It is important that we talk about real facts today and, honest to goodness, some of the language does not reflect what reality would be relative to the estate tax if you would pass the Pomeroy substitute and set it at $6 million per couple, taking care of, making estate tax completely go away for 99.7 percent of the people in this country. Language like "waging war on small business" and the majority reason for why small family farms do not pass on, 99.7 percent have no, absolutely no estate tax under the proposal that we are advancing. Clearly, that language does not match the facts of the proposal that we have advanced.

We heard about the immorality of taxing for the wealthiest 3 out of the 1,000 estates in this country. I believe another immorality is on the floor today, and that is the immorality of privatizing Social Security and reducing the benefits of Social Security for our children and grandchildren. An essential part of the Social Security debate is changing the inflation index that would reduce the benefit for our subsequent generations. In my opinion, that is immoral.

What I think we ought to have captured in this debate on estate tax is the trade-off, because they say it is just estate tax; believe me, it is also Social Security. If you take $290 billion out of the budget for the wealthiest three out of 1,000, you impact the ability to fix Social Security for everybody else. And the proposal I would like considered before the House is, let us give immediate and certain estate tax relief, 6 million per couple, and let us capture the amount over that dedicated to Social Security. That would fill 40 percent of the unfunded liabilities.

In context, we are looking at a 75-year solvency figure that the President has found so troublesome he wants to privatize Social Security. Well, by dedicating the sums that we capture with this three-tenths of 1 percent, we could fill 40 percent of the hole on Social Security. We would not have to cut benefits for our children. We would not have to cut benefits for our grandchildren.

So what we have is a very reasonable proposal going forward. Let us make the estate tax go away for 99.7 percent of the estates in this country. Let us not impose new capital gains taxes at the time of estates, and let us dedicate the difference to addressing Social Security. It brings us almost halfway there in terms of keeping all of the guarantees, while meeting the funding challenge over the next 75 years.

That is what is advanced by the minority proposal in this debate, and I hope it will get my colleagues' close consideration.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, we have heard a lot of rhetoric here today, and some of it a bit disingenuous. I think it is a bit disingenuous to say in a loud tone, demanding an answer to some rhetorical question, and then demand, well, I hear none, when all of us here are observing the rules and not interrupting. It is a bit interesting to hear people talk about red herrings, and I like hearing from people across the aisle that they want to talk about real facts. So let me talk about real facts.

This, my friends, is a music box. It plays Amazing Grace. I would wind it up and play it now if the rules allowed that.

□ 1215

It belonged to my Great Aunt Lillie. She was land rich. Over a hundred years their family accumulated land, farm and ranch. I bought this music box at an IRS auction where the IRS forced the sale of everything she owned. They accumulated about 2,500 acres of farm and ranch land. She died in July of 1986, and shortly thereafter land was dumped on the market. Times were rough, and the value of the land that was around $2,000 an acre when she died went to $600 or $700 an acre.

The IRS was actually very gracious. They gave a couple of extensions or so. They allowed another appraisal, but it was around $2,000 an acre when she died.

The IRS required the sale of every acre of land that they owned. They sold every item out of her home. If anybody in the family wanted anything, we had to show up at the auction and buy it. I bought this keepsake to remember my Great Aunt Lillie, who had been so gracious and kind and a great farm woman and a great gentlewoman.

So if you want to talk about the death tax in real facts, here it is. The death tax provides no grace, amazing or otherwise. It is a socialist notion, and it needs to go away.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me again, just for the record, point out that the Pomeroy substitute would provide $3 million in relief for individuals immediately, $3.5 million by 2009, and $7 million per couple. And, again, what we are talking about here is not what the gentleman just spoke of. What we are talking about here is the richest of the rich in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1¾ minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank my friend from Washington for yielding this time.

Mr. Speaker, in the last 2 years, the economy has created over 3 million new jobs. The unemployment rate is down. Our Nation's total output, or Gross Domestic Product, is up. Home ownership is at a record high, and personal income has increased.

Our economy is strong. To ensure that we continue to enjoy prosperity, Congress should support a pro-economic growth agenda that creates jobs and helps small businesses grow. This includes reducing taxes.

Our families and our country are better off when they keep more of what they earn. One way to enable them to do that is to pass H.R. 8, which permanently repeals the punitive death tax.

This tax often prevents parents from passing along their life's work and savings to their children. Family farms, ranches and small businesses are forced to be sold to satisfy the death tax rates which can reach 55 percent.

No one should be taxed throughout their lifetime and then have their property retaxed at the time of their death. It is the wrong tax at the wrong time on the wrong people.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I think this piece of legislation that the majority is clearly going to be able to pass today is one of the most outrageous tax cuts that we have brought to the House floor. The Democrats are going to offer an alternative, and I appreciate the fact that it was allowed by the Rules Committee, but this alternative would exempt 99.7 percent of American families from having to pay inheritance taxes. So all we are really talking about is three-tenths of 1 percent, a relative handful, the people who clearly can most afford to pay taxes.

This excessive, unnecessary cut will pass despite the fact that, within the last few legislative sessions, this Congress has voted to take 300,000 families off food stamps, to take 300,000 children off daycare, to run the risk, by taking $20 billion out of Medicaid, that as many as 7 million very poor elderly people dependent on government help in nursing homes will not get that assistance.

Where are our priorities? Where is our source of fairness?

You know, I think that we would all agree that we believe in equal opportunity. But in this country, unfortunately, when you see the effect of these tax cuts, that equal opportunity is really dependent upon the accident of birth. Millions of people in our country are suffering for the accident of birth, without health insurance, without any real prospect of getting decent schooling. And yet where are we putting our tax cuts? What excuse are we using for burdening the next generation with hundreds of billions of dollars of debt?

We are taking hundreds of billions of dollars, borrowing it from the Social Security trust funds, just to give more help to the very children who, because of the accident of birth, have the very best education that this country can allow, have all the contacts imaginable, are virtually guaranteed economic success unless they choose to turn their backs on it.

What we have done is to turn our backs on the vast majority of the American people, and to close our consciences to our children's generation, who are getting swamped with debt. This bill is going to cost $290 billion added on to a public debt that our children will never be able to recover from. And it is not necessary.

I ask you to consider the fact that it takes away the stepped-up basis at the point of inheritance, insuring that there will be more small businesses, more family farms that are going to get hurt—over 70,000—by this provision, by this legislation than are going to be helped, because they are going to have to pay capital gains at the point when they actually inherit calculated by going back to the original cost to the deceased. So it just does not make any sense, other than to people gripped by this ideological fervor to cut taxes irregardless of the rationale or the consequence. It is terrible legislation. It ought to be defeated.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1¾ minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I rise today as a proud cosponsor of H.R. 8, the Death Tax Repeal Permanency Act of 2005.

First, I would like to take this opportunity to thank the gentleman from Missouri (Mr. HULSHOF) for his leadership on the bill.

Mr. Speaker, I do not believe that there has ever been a more reprehensible tax on the face of the earth than the death tax. The death tax represents not only a tax on the deceased but also on their families. Husbands, wives and children and other relatives bear the burden of this tax while they are still struggling to cope with the loss of their loved one.

Mr. Speaker, it is intolerable and absolutely unacceptable for the Federal Government to exact a tax on death and on the surviving families, causing them to lose their homes, their business, their farms and the lives they have struggled to build.

After all, they have created and established these businesses with after-tax dollars. Taxes have already been paid, and every bit of profit that they might make in a year is taxed as well.

Currently, the repeal of the death tax is set to expire in 2010; and, Mr. Speaker, I cannot understand how anyone would allow the Federal Government to hand a grieving family in 2011 a bill for the death of their loved one. Death's inevitability should not be a taxable event.

Mr. Speaker, let us get the Federal Government off the backs of grieving families and pass this rule and this bill for the sake of fairness and decency.

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, I rise today as a cosponsor of H.R. 8 and in support of this rule. I believe, as most Americans do, that it is unacceptable for a grieving family who has recently lost a loved one to get a visit from the undertaker and the IRS on the very same day. It is unconscionable, and it ought to be illegal.

The death tax is really a tax on the American dream. Americans work hard all their lives building up farms and ranches and small businesses, hoping that maybe one day they can pass this along to their families. But after years of payroll taxes and income taxes and sales taxes and property taxes, many businesses and farms just do not make it. And those that do, the government can step in and take over half of what they worked their entire life to build.

Now, Mr. Speaker, I grew up working on a farm, and I represent a large portion of rural east Texas. East Texas is a great place to live, but sometimes it can be a challenging place to make a good living.

Recently, I spoke to a rancher in my district who has worked hard nearly 30 years building up a cattle ranch operation. His greatest dream is one day to leave that ranch to his family. But with sadness in his voice he told me, you know what, Congressman? By the time the government takes its share, there is just not enough to go around.

It is not fair to take that family's ranch. It is not fair that Americans are being taxed twice on the same income. And it is not fair that the Federal Government can step in and automatically inherit 55 percent of the family farm, a family business or a family nest egg.

Mr. Speaker, let us vote for this rule. Let us support H.R. 8. Let us kill the death tax and breathe new life into the American dream.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, what the majority is doing today is wrong. We need to help family farmers and small businesses. We all agree on that, and the substitute that the gentleman from North Dakota (Mr. POMEROY) puts forth does that, with very generous exemptions.

But what the majority is suggesting is that somehow we need to do something to help the three-tenths of 1 percent of the richest people in this country at a time when they present budgets that cut Medicaid, that cut veterans benefits, that cut educational programs, that cut programs for the poor.

I mean, what are you doing? How can you come here with a straight face and say that we need to help the three-tenths of 1 percent richest people in this country, when so many people who are struggling in the middle class, so many struggling to get in the middle class, are having such a difficult time?

This is wrong what you are doing.

Mr. Speaker, at the end of this debate, I will call for a vote on the previous question; and if the previous question is defeated I will offer an amendment to the rule.

My amendment would take the cost difference between the Republicans' estate tax cut bill, which cost $290 billion, and the Pomeroy estate tax cut bill, which costs $72 billion, and shift that difference to the Social Security trust fund. We are talking about $218 billion that could go right into the Social Security trust fund.

The Republican leadership and President Bush claim that there is a Social Security crisis. If they truly believe that there is a crisis, they should step up to the plate and support this effort to shore up the Social Security trust fund now.

The Pomeroy substitute will exempt 99.7 percent of all estates. 99.7 percent. With this amendment we can restore $218 billion back to the Social Security trust fund and help save Social Security for future generations.

Mr. Speaker, there are a lot of people on the other side of the aisle who go back home and do town hall meetings and tell their constituents that they are for protecting Social Security. Well, this is a vote to show that you want to protect Social Security.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Again, Mr. Speaker, I would urge that the people join with us on this vote.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is not the first time that this body has addressed the issue of repealing or making permanent the death tax. In the 106th Congress, on a bipartisan basis, with 279 votes in favor, this body voted in favor of permanently eliminating the death tax. And the other body, also on a bipartisan basis, they, too, voted to permanently eliminate the death tax, but President Clinton vetoed that bill.

□ 1230

In the 107th Congress, again on a bipartisan basis, the House voted to eliminate the death tax permanently. Unfortunately, in the reconciliation of trying to put the differences between the two Houses together, we put the date of the 2011 when that would expire.

In the last Congress, once again the House addressed this issue and voted to permanently eliminate this death tax.

The bill that we will address when we pass this rule is exactly the same as the bill that we passed on a bipartisan basis in the last Congress.

Mr. Speaker, I urge my colleagues to vote for the rule and the underlying bill.

The material previously referred to by Mr. MCGOVERN is as follows:

AMENDMENT TO H. RES. 202 OFFERED BY REP. MCGOVERN

At the end of the resolution, add the following:

SEC. 2. Notwithstanding any other provision of this resolution, the amendment made in order under the first section of this resolution shall be modified by adding at the end the following new section:

SECTION ___. TRANSFERS TO SOCIAL SECURITY.

(a) FINDINGS.—Congress hereby finds that—

(1) permanent repeal of the estate tax will cost $290 billion over the 10-year budget window,

(2) this $290 billion understates the long-term cost of repeal—in the last year of the budget window repeal of the estate tax will cost $70 billion,

(3) in the next decade, the cost of repealing the estate tax together with the increased interest cost to the United States would be substantially above $1 trillion,

(4) the enormous cost of repealing the estate tax would only benefit the wealthiest 0.3 percent of all families in the United States,

(5) permanent repeal of the estate tax would result in a substantial reduction in income tax receipts, and could result in lower receipts in the Social Security Trust Funds because of that tax avoidance,

(6) the provisions of this Act would prevent the reduction in Social Security receipts that could result from permanent repeal and it would preserve funds necessary to meet commitments made to the Social Security system or other programs,

(7) the provisions of this Act provide immediate and substantial estate tax relief, exempting 99.7 percent of all estates from the estate tax,

(8) the United States is faced with many other fiscal challenges, including the requirement to meet the commitments made through the Social Security system, and

(9) the amounts saved by enacting this Act as compared to permanent repeal—

(A) in the long run on an annual basis would equal the current costs of the operations in Iraq,

(B) could be used for improvements in veterans benefits, and

(C) would close half of the shortfall faced by the Social Security system.

(b) TRANSFERS TO SOCIAL SECURITY.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following new subsection:

"(o) For purposes of ensuring that amounts are available to meet the commitments of the Social Security system, the Secretary of the Treasury shall, from time to time, transfer from the general fund in the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, the savings from the enactment of the Certain and Immediate Estate Tax Relief Act of 2005 as compared to the permanent repeal of the estate tax by the bill H.R. 8 (as introduced in the 109th Congress) as follows:

"(1) For fiscal years 2010–2015, the transfers in each year shall total for each fiscal year specified in the following table, the amount specified in connection with such fiscal year, as follows:

"Fiscal year:	**Amount Transferred:**
2010	$6.1 billion
3011	$35.4 billion
2012	$39.4 billion
2013	$42.7 billion
2014	$47.9 billion
2015	$50.5 billion.

"(2) For fiscal years beginning after September 30, 2015, the transfers in each year shall total the amount the Secretary of the Treasury determines to be the savings from the enactment of such Act as compared to such permanent repeal of the estate tax.".

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 30 minutes p.m.), the House stood in recess, subject to the call of the Chair.

□ 1338

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 1 o'clock and 38 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, proceedings will now resume on questions previously postponed.

Votes will be taken in the following order:

motion to suspend the rules on H.R. 1463, by the yeas and nays;

motion to suspend the rules on H.R. 787, by the yeas and nays;

ordering the previous question on House Resolution 202, by the yeas and nays;

adoption of House Resolution 202, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

JUSTIN W. WILLIAMS UNITED STATES ATTORNEY'S BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1463.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 1463, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 427, nays 0, not voting 7, as follows:

[Roll No. 98]

YEAS—427

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves

Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Baird
Davis (TN)
Doolittle
Frelinghuysen
Gillmor
Hunter
Meeks (NY)

□ 1403

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ROBERT T. MATSUI UNITED STATES COURTHOUSE

The SPEAKER pro tempore (Mr. LaHood.) The pending business is the question of suspending the rules and passing the bill, H.R. 787.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Shuster) that the House suspend the rules and pass the bill, H.R. 787, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

[Roll No. 99]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—8

Baird
Calvert
Chocola
Deal (GA)
Doolittle
Gillmor
Keller
Reyes

☐ 1411

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DOOLITTLE. Mr. Speaker, on rollcalls Nos. 98–99 I was unavoidably detained. Had I been present, I would have voted "yea" on both.

PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX REPEAL PERMANENCY ACT OF 2005

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 202, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 237, nays 195, not voting 2, as follows:

[Roll No. 100]

YEAS—237

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Rush
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
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Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
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Thornberry
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Weldon (FL)
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Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—195

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
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Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—2

Baird
Gillmor

☐ 1418

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 525

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to have the name of the gentleman from New York (Mr. TOWNS) removed as a cosponsor of H.R. 525.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEATH TAX REPEAL PERMANENCY ACT OF 2005

Mr. HULSHOF. Mr. Speaker, pursuant to House Resolution 202, I call up the bill (H.R. 8) to make the repeal of the estate tax permanent, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 202, the bill is considered read.

The text of H.R. 8 is as follows:

H.R. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Death Tax Repeal Permanency Act of 2005".

SEC. 2. ESTATE TAX REPEAL MADE PERMANENT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment in the nature of a substitute printed in House Report 109–35, if offered by the gentleman from North Dakota (Mr. POMEROY) or his designee, which shall be considered read, shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Missouri (Mr. HULSHOF) and the gentleman from California (Mr. STARK) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Missouri (Mr. HULSHOF).

GENERAL LEAVE

Mr. HULSHOF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 8.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HULSHOF. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I appreciate the fact that we are here today poised to pass H.R. 8, the Death Tax Repeal Permanency Act of 2005.

On behalf of the lead Democratic sponsor, my colleague, the gentleman from Alabama (Mr. CRAMER), as well as the over 200 bipartisan Members who have co-sponsored this bill, I am pleased that we are poised to pass in this body this commonsense legislation.

I would like to talk about a couple of constituents, particularly a constituent named Howard Effert who is a resident of Columbia, Missouri, who in 1965 began a lumber yard business there in Columbia. He contributed $100, which was a very modest contribution, as he had three young children to provide for with a modest wage.

He had the idea and a desire for a new venture even though many within the community felt this venture would be unsuccessful, but yet his partners helped him provide the financial assistance and of course some valuable mentoring to help him open the doors to this lumber business.

Fast forward now 40 years. His two sons, Brad and Greg, are running the day-to-day operations of the business. Of course, they want this family business that has been in their family since its modest beginnings in 1965 to be able to be passed on pursuant to the American Dream, that is, to create a legacy, to help your children be better off than you were.

Yet the Effert family today, Mr. Speaker, has to write a check for $1,000 a week, $52,036 to be precise, to purchase a term life insurance policy, the proceeds of which will be to pay the Federal Government on that inevitable day that Howard Effert passes from this world to the next.

In 2001 we passed historic legislation that let all income tax payers keep a little bit more of what they earned, and this historic legislation included a repeal of the Federal death tax which was a top tax priority for a lot of small business and family farm groups. Thus under current law, the death tax is gradually phased out between now and 2010. This is accomplished by increasing the exemption from the tax. Currently it is $1.5 million shielded from this very confiscatory tax, and at the same time we chip away at that top rate, which was as high as 55 percent, and in fact, in a few isolated instances as high as 60 percent tax. We now chip that away, and it is currently 47 percent.

Unfortunately, as we know, the death tax does not stay dead and buried. As things now stand, it will rise from the grave in 2011, and it will revert to its form prior to 2001. Now, this quirk in the law can be directly attributed to the Senate's Byrd Rule, which applies to the consideration of reconciliation bills.

As a matter of basic fairness, we must permanently repeal the death tax. The death of a family member quite simply should not be a taxable event. And if it was good policy when we enacted it in 2001, it remains a good idea today.

Let me touch briefly on some policy rationales for finishing this unfinished work. The death tax is fundamentally unfair. By its very structure, the tax punishes thrift, savings, and hard work. Conversely, the tax forces taxpayers to engage in a host of economically inefficient activities to avoid the very punitive nature of the tax. Not only does this have a very real effect on taxpayers and their behavior but a negative impact on the economy.

With a tax like the death tax, a family business or farm has no choice but to divert these precious resources, as in the case of the Effert family, to plan financially for the financial impact for the tax: money that could be used to expand the business, to purchase a forklift, to bring another person on the payroll, whatever is in the best interest of that business. Instead, this money is diverted in anticipation of this very punitive tax.

Now, supporters of retaining the death tax will claim that perhaps redistribution of income promotes economic fairness and social responsibility. We will get to have that debate. I respectfully disagree. Instead of rewarding savings and investment, this tax actually rewards those who spend lavishly and leave no ongoing business interest or assets to the next generation.

I am mindful of the bumper sticker that I saw recently traveling Missouri's highways on a big recreational vehicle that says "I am spending my children's inheritance."

If you wanted to give some good estate tax advice to someone that has put together some assets to pass along, it would be simply to consume it. Yet as we talk about some sort of tax reform and perhaps a consumption tax, this tax actually focuses on non-consumption and on thrift and savings.

For that and for a variety of reasons, we will have the opportunity, I hope, in a good debate, in a civil discourse. I think we should permanently repeal the death tax. We should enact H.R. 8.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I guess it becomes my job to point out that the Republicans are at it again. Another huge tax cut or break for the less than 1 percent of the richest Americans while they turn their back and cut Medicaid, refuse to recognize that Social Security is not in crisis but needs some adjustment, cut Head Start, cut programs for housing, cut programs for the environment, fail to provide the promised benefits to our 140,000 servicemen in Iraq, turn their back on all that is American to give a few dollars to the very richest of Americans.

Now, not all Republicans are that way. I find that many of the Republicans who have actually worked for a living at some point in their lives, and not just either inherited money or been at the trough of the government, actually oppose this bill. Warren Buffett, the Gates family, people who have done quite well think that as I do it is a stupid bill and will do nothing for our free enterprise system. It will stifle creativity and leave us with a system where merit and ability mean nothing and heredity means everything.

There will be $300 billion over the next 10 years and perhaps another $700 billion over the decade following that are going to be frittered away to a very small number of Americans. With that we could end this talk about privatizing Social Security that President Bush is leading, and we could start shoring up the trust fund. We could get rid of the doughnut hole in the poorly constructed Medicare drug benefit. We could fulfill the promise that the President and the Republicans have ignored for funding No Child Left Behind. We could eliminate the proposed cuts to Medicaid which will hurt the poorest children in this country. And while we may help a few very rich children with an inheritance, we will cut hundreds of thousands of children's Medicaid benefits. That could be prevented.

We could cover a large portion of the 45 million people who are without health insurance, I might add 8 million more than when President Bush took office. But Republicans obviously do not care about Social Security or Medicare or the uninsured or education or the children. They only care about tax cuts for the very richest among us.

Now, if you eliminate this, you are only going to help probably less than a couple thousand people a year, and they will arguably have by 2009 estates of over $7 million. Until now there has not been a family farmer or a small business who has been unable to pass the business on to the next generation.

I might add to my friend from Missouri of his people in the lumber business, if their children cannot get the first $7 million handed to them and then get a 50 percent down payment on the balance of the business and be given 10 years at less than 6 percent to pay off the balance of that, they are probably too dumb and would lose the business in no time at all anyway.

□ 1430

So what the current law allows is so generous, and there have been absolutely no instances, not one, of a family farmer or family business being lost, decimated or put on the auction block because of the estate tax.

In fact, 99.7 percent of all estates would be exempt from the estate tax if we just extend the tax as it applies in 2009. They cannot show that it harms people. They can only show that gives billions, $300 to almost $1 trillion over 20 years, to the very smallest, most select group of rich people in this country.

It is indeed a follow on of the Republican mantra, give money to the rich, give it to them in huge amounts and cut back on education, cut back on health care, do not help the environment, cut back on support for our troops and cut back on improving America's infrastructure, all in the name of helping the few rich who may be contributors to the Republican party.

I urge that my colleagues vote "no" on the final bill. I urge that my colleagues vote for the gentleman from North Dakota's (Mr. POMEROY) who will offer a responsible substitute, which will at least keep the $300 billion from being squandered, and it will prevent this bill, which does nothing to help hardworking Americans or small businesses, and I hope we can bring some sanity back to the financial code and to the economic future of this country by not passing this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HULSHOF. Mr. Speaker, a lot of individuals have worked on H.R. 8, and I yield 2 minutes to the gentleman from California (Mr. HERGER), one of those individuals.

Mr. HERGER. Mr. Speaker, I thank the gentleman very much for the time.

Mr. Speaker, I rise in strong support of legislation to bury the destructive death tax once and for all; and I might mention that my personal experiences, even with my own family and others, has been just the opposite of the gentleman who just spoke before.

Nearly everywhere I go throughout my largely rural, agricultural district in northern California, I hear from businessmen and businesswomen and many farmers and ranchers who have had to liquidate and sell a family business or farm just to pay the Federal estate tax. This is simply wrong.

Four years ago, I joined with President Bush and a majority of Representatives and Senators in an effort to enact into law historic tax relief legislation, including repeal of the death tax. Unfortunately, due to outdated Senate budget rules, the 2001 tax law will sunset on December 31, 2010. This has created an incredibly unfair and arbitrary situation.

Consider that the heirs of those who pass away in 2010 will face no death tax whatsoever, while those whose families are unfortunate enough to pass away in 2011 or thereafter will face tax rates of up to 55 percent on their assets, forcing many of them to have to sell. Certainly no one can reasonably argue that this is rational tax policy.

Furthermore, the death tax extracts a high cost from American taxpayers. Studies have found that family businesses spend up to $125,000 on attorneys, accountants and financial experts to assist in estate planning. These dollars could otherwise be used to modernize equipment, expand their business or farms and create new jobs.

Mr. Speaker, the death tax is, without question, one of the most destructive, counterproductive and unfair provisions of our Tax Code. Let us bury the death tax once and for all. Vote "aye" on this legislation.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, in a few words, this is fiscal madness. It is a death wish on the part of some of my colleagues about fiscal responsibility. What my colleagues are burying is fiscal responsibility.

The national debt is now $4.6 trillion, $6.3 if we add in Social Security funds. As mentioned, this bill would add $290 billion in debt, and who would benefit? The very, very wealthy.

One-third of the estate tax is paid by the wealthiest 1 of 1,000 Americans. I think that is one-tenth of 1 percent. Not farmers or small business people. That is the lamest argument brought to this floor in recent memory.

The Pomeroy amendment would totally take care of this, and what my majority colleagues' bill does, and it is interesting, they do not come here and say so, they would increase the taxes for thousands and thousands of Americans. These citizens would have to pay capital gains tax when they do not now do so. Why do my colleagues not come here and say this is a tax increase for thousands of Americans? They do not say that.

What this is also, everybody should understand, is a further raid on Social Security funds. My colleagues have come here, some of them on the majority side, talking about Social Security and how we need to address the shortfall. For some of these same colleagues, private accounts do not even touch that, and then they come here and increase the shortfall.

This is true fiscal madness. My colleagues will indulge in it again I guess, and I hope, once again, the Senate will come to our rescue.

Mr. HULSHOF. Mr. Speaker, I yield myself 30 seconds.

I am sure the gentleman from Michigan misspoke, and I am certain it was inadvertent. The bill, H.R. 8, actually does allow for a step up in basis of $3 million for a surviving spouse and another $1.3 million for surviving heirs.

If the intent of the legislation, which it is, is to help family businesses be passed from one generation to the next and the surviving heirs choose not to farm or continue the family business, then they are the ones making the taxable decision to dispose of assets that would be subject to a 15 percent capital gains rate but certainly not the 45 percent estate tax.

Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time.

Listening to the debate that we have listened to from the other side, the sole argument seems to be that it only applies to a small amount of our population, the wealthiest among us. We know that, but I have yet to hear anybody to justify, to give us a good reason to say this is a good and fair tax and here is why.

It seems to be that the argument is being centered around the punitive basis. Let us go after the rich guys. Let us go after them and do something.

I am in favor of the Hulshof bill to repeal the death tax simply because it is the right thing to do. The death tax is wrong. To go in and tax almost half of someone's estate because they have accumulated a lot and to make death an incident of taxation is wrong. It is a wrong tax, and I cannot imagine anybody getting up and justifying it, other than the fact it is a revenue stream to the Federal Government, but it is the wrong one.

Mr. STARK. Mr. Speaker, I yield myself enough time to remind the historians here that it was the Republicans in the 1800s who established the original inheritance tax to prevent a nobility class from forming, an idle nobility class, in this country.

Mr. Speaker, I am happy to yield 4 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, my colleague from Florida, I wish he would stay, because we are here today because the Republican majority would like to repeal the estate tax, but they have forgotten history.

I am sure my colleague was not here, but I would like to remind him that it was a Republican, President Roosevelt, Teddy Roosevelt, who strongly supported an estate tax in the first place. Here is what he said. There is no argument for this.

"The man of great wealth," Teddy said, "owes a particular obligation to the State because he derives special advantages from the mere existence of government." Wow, nicely said, and a Republican, too.

That proves two things, that Republicans can sometimes speak eloquently, and sometimes they can even do something that is right.

Though Republicans want to undo all the good for the sake of greed, please, America, do not be phonied up by this rhetoric that we hear on this bill. They will pitch some gibberish about how they are helping Americans. That is nonsense.

We just came from the Committee on Ways and Means. The reason this place was in recess is because we were over there giving out $8 billion to oil companies. Those poor people, whose profits have quadrupled in the last 2 years, that is what we did a little while ago. Now we come over here, and we are going to give more money away. Does that seem like it benefits real people? This is not about real people. This is about very, very, very rich people, and that is about as plainspoken as Teddy Roosevelt would have said it.

Only 2 percent, at the most, pay any estate tax whatsoever. Three-quarters of the money that comes in comes from people with estates over $2.5 million.

If we repeal this, the rich get richer and America's deficit gets deeper and redder. We create an oligarchic class in this country from whom the money can never be taxed. If they can manipulate it around while they are alive, they can never have to pay a penny.

The real losers in this are not only the American people. It is the American universities, the American churches, all those people who get money contributed by rich people because they do not want to pay the inheritance tax.

Now my colleagues have taken away the encouragement. Why should they give anything away? Oh, well, because they have big hearts. They have big hearts we are told. Really? Then why are we out here with a bill like this which gives them the ability to keep every single dime?

Now if you can give your kid $2 million and say, now, Johnny, here is two million bucks, I think that ought to kind of get you a start in the world. Does that not seem like enough? Well, to the Republicans, there is never enough: take as much as you can from everybody and keep it.

Ronald Reagan put the sign of the cross on it. He said, are you better off today than you were 4 years ago? Never does anyone say on my colleagues' side, are we better off.

We are in debt to the world. We borrowed from the Japanese last year our entire deficit, more than $400 billion, and the President wanders around the country saying, well, that is just paper. Those things in the Social Security trust fund, that is just paper. Do not pay any attention to that.

If the Japanese stop buying dollars and they start buying Euros, and the Chinese start buying Euros and the Middle East buys Euros, where do my colleagues think we are going to borrow money and what kind of interest rate are we going to pay? This is a bad bill, it is bad policy, and it is bad ethics.

Mr. HULSHOF. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from the great State of Missouri (Mr. BLUNT) a colleague of mine, the majority whip.

Mr. BLUNT. Mr. Speaker, I thank my good friend, the gentleman from Missouri (Mr. HULSHOF), for yielding to me and for the great work he has done on this issue from the day we came to Congress 8 years ago. I rise in support of the bill that would repeal this tax.

The House and Senate are already both on record for repealing the tax. We just did not repeal it permanently.

□ 1445

By not repealing the tax permanently, we created an incredible situation for those people who would have an estate that was not taxable at all in 2010, but is highly taxable in 2011. The alternatives that the other side of the aisle have discovered during the hard work to achieve the goal of this bill are certainly a long way from where they were a few years ago. In fact, we have all heard about the impact on small businesses and family farms, but it bears repeating as we consider this legislation today.

More than 70 percent of family businesses do not survive the second generation, and 87 percent do not make it to the third generation because of the estate tax. The idea that you give your son $2 million overlooks the vast numbers of family members in this country who actually are working side by side with their son or daughter. It is hard to tell who made the money and who did not, but on the day that the original member of the family passes away, suddenly the side-by-side partner has a big problem.

Family farms and businesses are among the hardest hit. In fact, $2 million is quite a bit below the alternative that the gentleman will vote for and suggests that amount somehow would be okay to give in his vote, but not okay to give in his speech. Add in the value of farm equipment and business inventory, suddenly there is a lot more money than you thought you could accumulate.

When we started this debate a few years ago, I saw some statistics that the highest percentage of estates paying at that time were estates that were only slightly above the estate tax amount, but I am sure none of the principals involved had any idea that they had accumulated over their lifetime an estate that would be taxed as a taxable estate.

On Friday of this week, I am going to visit with Mark and Kim Larson who own a family farm right outside of Joplin in my district. Mark tells me he and his family spend a lot of money, money which would otherwise go into continuing to grow their family business, simply trying to comply with a Tax Code that says if somebody dies in 2010, your family deals with one set of circumstances; but if they die the next year, you are impacted by the return of the death tax.

Medium-to-large farms like the Larsons' produce more than 80 percent of agricultural products in America. Let us put some certainty in the future for those kinds of families. Let us do the right thing and abolish this tax that penalizes savings and hard work.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I hope we will reject this bill. Let me give two reasons why: first, the cost. We talk about being fiscally responsible, we talk about trying to balance the Federal budget and say we have a problem with Social Security as far as long-term solvency of 75 years; but let me point out that the revenue loss of this bill equals the 75-year amount to provide long-term solvency for Social Security.

What we do here is make choices. If we have a choice to provide for the long-term strength of Social Security or the passage of this bill, my vote is for the long-term solvency of Social Security.

The second issue I would like to point out is the predictability of the current estate tax situation. It is not very predictable, and the passage of this bill will do nothing to assure people when they do their estate plans that they can rely upon the schedule Congress has passed.

We have a chance with the Pomeroy substitute to bring certainty to estate taxes with a reasonable exemption of $3.5 million, $7 million per couple, and reducing permanently the tax by 10 percent. That is what people want when they do their estate planning. They want predictability.

So if Members are fiscal conservatives and are concerned about the cost of this bill on our children and seniors and if Members want predictability in the estate tax, this legislation does not give it to us. This legislation should be rejected, and we should pass a bill that provides certainty with the estate tax. We will have that opportunity with the fiscally responsible substitute so we can deal with the budget problems of this country.

We are borrowing way too much money for our children and grandchildren. They deserve better than that. They deserve a Congress that will be fiscally responsible, and the passage of this bill just does not do it. I urge my colleagues to reject this legislation.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, among the many groups that support H.R. 8, including the National Federation of Independent Business, which is the voice of small business, there are many minority owners of small businesses that also support complete repeal.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to recognize the hard-working people of America who play by the rules and have paid their fair share. Decent, law-abiding, tax-paying Americans are the backbone of this country, and they are the salt of the Earth. They are the farmers of southwest Georgia and the family business owners who provide the jobs that keep small rural communities alive and flourishing.

All across this land are Americans who have paid their taxes all their lives, only to face a final taxing event at death. They paid their taxes during their lifetimes and should not be charged again when they die.

The death tax represents all that is unfair and unjust about the tax structure in America because it undermines the life work and the life savings of Americans who want only to pass on to their children and grandchildren the fruits of their labor and the realization of their American Dream.

In my State of Georgia, farmers, many of whom are widow women, are faced with losing their family farms because of this death tax. Employees of family businesses, many of whom are minorities, are at risk of losing their jobs because their employers are forced to pay the unfair and exorbitant death taxes levied on them. Funeral homes, weekly newspaper publishers, radio station owners, local dry cleaners, all are affected all across the demographic spectrum.

Mr. Speaker, although reasonable minds may differ on this issue, I believe that the death tax is politically misguided, morally unjustifiable, and downright un-American. Let us vote today to finally eliminate the death tax and return to the American people and their progeny the hard-earned fruits of their labor.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for yielding me this time.

Mr. Speaker, the gentleman from Florida said I want Members to give me a good reason why we should not repeal the estate tax. Let me give Members two good reasons: Afghanistan and Iraq.

The idea that we would be borrowing the money to pay for Afghanistan and Iraq when by just leaving this tax in place we could pay for those incursions and maybe get the Humvees to those men and women who are defending us every single day, or maybe get bulletproof vests to them on time, borrowing the money.

The slogan of the moderate Republican Party is this: we are rich, and we are not going to take it any more. It is day after day in this institution, borrow money, run up the debt, run up the deficits and then with a straight face say, we are going to repeal a tax that affects 1 percent of the American people, just 1 percent of the American people.

They talk about industriousness and thrift and the work ethic. We see what happens to this money when it gets to the fourth and fifth generation of the same family: thrift is gone, the work ethic is gone. They quarrel about who is going to have enough money so they can enjoy the lavish ways of American life.

When I hear people say, as they have said recently in this debate, well it is going to take care of the family farmer, they cannot find a farmer that is not taken care of in the legislation that is about to be proposed here. This legislation that they are proposing today cuts against the grain of what Thomas Payne reminded us in "Common Sense." He was concerned about hereditary power, the idea that the same people would control the wealth of America with the same families that would get to go to the same schools so the same families would have the same doctors and lawyers and accountants so the rest of America might not have a chance to participate. Whatever happened to the Republican Party in America.

Teddy Roosevelt said this was about thrift and hard work and honesty; they were blessed to be born in this country. That is what patriotism is. When we look at who enjoys the fruits of this money, the smallest number of American people, again the top 1 percent in America. Inherited wealth, that is not what America is based upon. We do not live in an aristocracy. Look what happened to Europe and the way they lag behind as they do. There is no sense in the House of Lords that you can advance yourself. Here in this House, the people's House, every walk of life is represented. Why do we just not establish a House of Lords after we get rid of the estate tax so then when we get rid of hereditary power, we will simply have the permanent state of aristocracy and privilege for the few.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would remind the gentleman from Massachusetts (Mr. NEAL) as he mentions Iraq and Afghanistan that the budgetary impact of H.R. 8 is really not felt until the year 2011 and beyond.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Speaker, I rise in support of H.R. 8, which will finally free America's hard-working farmers and small business owners from the specter of the death tax.

Benjamin Franklin said: "In this world nothing is certain but death and taxes," but I doubt even the inventive Mr. Franklin imagined the taxation of death itself.

Americans get taxed when they earn money. They get taxed again when they spend what is left, and government pursues them beyond the grave, devastating their relatives who must sell the family farm or liquidate the family business just to pay the taxes.

The impact of the death tax extends far beyond the pain it inflicts upon grieving families. The death tax distorts economic decisions on a massive scale. It punishes thrift. It reduces savings and investment, and it diverts capital away from job creation to tax avoidance.

The National Federation of Independent Businesses has estimated that the death tax will compel one-third of small business owners today to sell some or all of their business. The Center For the Study of Taxation found that 70 percent of all family businesses cannot survive the second generation and 87 percent do not make the third.

All of this wasted money, energy and over 100,000 jobs lost per year and for what, a tax that the Joint Economic Committee says costs just as much to collect as it generates in revenue.

Mr. Speaker, the opponents of H.R. 8 cannot provide any justification for the continued existence of this useless relic. It hurts the people it is intended to help, and it reduces stock in our economy by $497 billion a year.

I urge my colleagues to drive the final nail in this coffin so 6 years from now Americans will not wake up to find that, like a vampire, this unfair tax has arisen from the dead to once again suck the blood from a lifetime of hard work and sacrifice.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, in 1997, Jennifer Dunn, a Republican from Washington, and I started this debate on the estate tax. At that time the country was in much different shape financially than it is today.

At that time, we raised the issue for estate tax relief because I thought then it was punitive. It had nothing to do with the theory that the gentleman from Massachusetts (Mr. NEAL) spoke so eloquently about, and that is to keep 3 percent or 1 percent of the people from owning 99 percent of our country.

□ 1500

We did not want to be like England where whoever got control of the land

and money, and 1,450 still had it 26 generations later and people who were hardworking could not break through that ceiling because of the nobility that was enshrined in their tax code. That is why we have an estate tax.

But we raised that issue, and I voted for the bill that is being proposed today, but I can no longer vote for it. Let me tell you why. It is because, as I look in the faces of these young people, you are looking at a House, a Senate and an administration that has embarked since 2001 on the most radical, irresponsible financial riverboat gamble that this country has ever seen. There has been no political American leadership that has ever done what this group of people who currently hold the power of government here in Washington have done to this country.

Since April of 2001, in your name and mine, this government has borrowed $1.2 trillion in hard money. What that means to us is that we have transferred, at only 4 percent interest, $50 billion a year from programs like Social Security, like health care, like armor for our troops, from veterans, to health care, to education, all the things that will give the citizens of this country a chance, an opportunity to be whatever it is their God-given talents give them, we have transferred $50 billion a year from that to interest. And you know what is worse? Eighty-four percent of this $1.2 trillion has been borrowed from overseas. We are now sending more money overseas. Eighty-four percent of this interest check is going overseas.

Let me tell you something scary. A former official of the People's Bank of China, the country's central bank and now an economist in Hong Kong, was recently quoted as saying that the U.S. dollar is now at the mercy of Asian governments. Do you know what we are doing? We are mortgaging our country to foreign interests who do not see the world as we see it. It has got to stop, and it has got to stop sometime, and I for one am saying I want to stop it now.

In your name, we are borrowing at the rate of $13,300 a second. This is staggering, mind numbing. $48 million an hour. Since this debate started, in our names we have borrowed $48 million and given the bill to those little children sitting up there. $1 billion a day.

Do you know how much $1 billion is? If you take thousand-dollar bills and stack them up like that, to get to a million dollars it is a foot high; to get to a billion dollars, it is as high as the Empire State Building; and to get to a trillion dollars, which is what has been borrowed in the last 46 months in your name, it is a thousand times as high as the Empire State Building, one thousand dollar bills like this.

We are facing a financial Armageddon. What we have done has created a financial vulnerability vis-a-vis the rest of world that is every bit as big a security interest as anything else we are going to face in the future. I just hope that someday soon that some sense will come to this place about how we are handling or mishandling your money.

Mr. HULSHOF. Mr. Speaker, I certainly respect my friend from Tennessee and I trust he will bring that passion to the floor when we have our discussion on our spending bills.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. McCAUL), a newly elected Member.

Mr. McCAUL of Texas. Mr. Speaker, today I rise in support of permanently repealing the death tax. I would like to thank the gentleman from Missouri for his leadership on this issue and his good timing, for in 2 days the tax man cometh. As I look at these young people in the gallery today, I say to them, this bill is about you. It is about the youth in this country. For too long, the Federal Government has been taxing working Americans, not once, not twice, but three times, on their hard-earned money. When they earn it, the government takes an income tax. When they spend it, the government takes a sales tax. And finally, even when they die, the government takes a tax from the grave.

In addition to being bad policy, the death tax is morally wrong. It confiscates private property and is an unbearable cost to small businesses, ranchers and farmers, which is precisely why the Farm Bureau supports this bill.

I could tell you many stories about families that were forced to borrow large sums of money or sell off or parcel out their farms or businesses, dividing their families. I could tell you about the Berdolls from Austin, Texas, in my district who, after paying off a 30-year mortgage, spent 20 more years paying this unfair tax burden. They literally paid for their farm twice.

The names may change, but the story is the same. It is time we removed this financial burden from the backs of those pursuing the American dream. We must guarantee that people do not have to suffer the same hardships as the Berdolls.

I urge my colleagues to support this important measure.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Members should not address persons in the gallery, and the Chair would remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I rise in opposition to this latest Republican assault on Social Security and on fiscal sanity. At a time of apparently unending war and the largest budget deficits in American history, our Republican colleagues are intent on solving a crisis that does not exist.

As the President wastes millions of our taxpayer dollars crisscrossing this country to declare that there is no Social Security trust fund and questioning the full faith and credit of the Federal Government, his Republican allies here seem intent on actually making his dire and inaccurate statements a self-fulfilling prophecy. Today, what they propose is to borrow from the Social Security trust fund and to borrow from the Medicare trust fund in order to give more tax breaks to the richest one-tenth of 1 percent of the people in this country.

That is borrowing from Social Security for purposes that have nothing to do with the Social Security system because they think some rich folks in this country do not have wallets that are fat enough. It is taking from the hard-working employees and employers who are paying their Social Security money and transferring that wealth over to the richest one-tenth of 1 percent.

They call it the death tax? I think that is a good name. If they keep pursuing bills like this, it will be the death of Social Security and Medicare, as sure as I am standing here. Like most Democrats, I have voted not once but a number of times to repeal the estate tax for most Americans and to see that it is done right away, now, not postponing it for years as the Republicans propose to do.

There is another Democratic substitute coming out today that is going to exempt 99.7 percent of all estates from this tax, and only cover the richest .3 percent of the wealthiest estates in this country. That means you are not going to have a small business in East Austin or West McAllen or a family farm in Karnes County that is covered if they are even covered now, which the vast majority of them are not.

Why do they keep talking about family farms since it is irrelevant to this debate? They keep talking about the guy in the pickup who is working extra hours to try to make ends meet. They keep talking about the little family business that with good reason wants to be able to pass that enterprise on to the next generation of that hard-working family.

The reason they talk about those folks is that Steve Forbes's family is not quite as sympathetic. The family of Enron's Ken Lay, not quite as sympathetic. They cannot defend transferring money from the Social Security and Medicare trust fund to Ken Lay's family, to Steve Forbes's family, to

Ross Perot's family, because it is totally indefensible. Their goal is to ensure that the richest of the rich are rewarded, as if they have not rewarded them enough for the last few years that they have controlled this Congress.

Social Security is not in crisis today, nor is Medicare, but if you keep passing bills that drain $750 billion from the Treasury at the very time more people are retiring, you will have a crisis. It was back almost a century ago when a Republican, a fellow named Teddy Roosevelt, said that "inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our government." It is still inconsistent. Would that we had even one Teddy Roosevelt Republican today to put a stop to this nonsense.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as he may consume to the gentleman from Alabama (Mr. CRAMER), my cosponsor of H.R. 8.

Mr. CRAMER. I thank my friend from Missouri for yielding me this time.

Mr. Speaker, I think a number of important points have been made today, but I rise today in strong support of this bill and in opposition to the estate tax. Some of the previous speakers on this side of the aisle have made reference to the fact that a number of us on the Democratic side have worked over this issue since actually the early nineties. I know the gentleman's predecessor Jennifer Dunn and I and a number of people from this side of the aisle had worked hard together to look for a commonsense way that we could end this burden which, in my opinion, is an extreme burden on the small business community and on the farm community.

I do not know about the other speakers, but when I go back to my district and I am mixing and mingling with the folks where they eat breakfast or where they have dinner or where they gather, it is my farm families that bring this issue up. In north Alabama where I come from, we have some of the most productive farm families of any district in the country. For generations, they have struggled and used tax lawyers and tax strategies to try to find a way to effectively pass that farm on to the next generation that we want to continue engaging in that farm business. But they are overwhelmed by this issue.

In 2001, we did a good step, not a great step but a good step. We passed some temporary relief. But the reality is that if we do not permanently repeal the death tax, you have almost got to time your death for the benefit of your family. That is outrageous. So let us make sure that we bury this issue once and for all.

According to the Congressional Research Service, estates that included farm or business assets represented 42.5 percent of the 30,000 plus taxable estate tax returns filed in 2003. It is not fair to say that this is just a rich person's issue, that the estate tax only affects the wealthy, because, according to that same Congressional Research Service, estates over $5 million accounted for only 6.8 percent of taxable estates.

In this day and time, assets are accumulated in a different way than they were 20 years ago, 25 years ago, 30 years ago or even more than that. For the benefit of those farmers, for those small manufacturers, for the local car dealers, the independent car dealers, the realtors, the funeral directors, the grocers, the family restaurant owners, the florists, the convenience store owners and many others, let us end this unfair tax burden.

I urge the Members to support this.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I rise to register my opposition to the total repeal of the estate tax. If we want to talk about values, as so many people did in the last couple of months leading up to this, let us talk about the value of supporting one's family and supporting one's community. Let us talk about the values of responsibility and fairness. They dictate that everybody pay his or her or its corporate fair share.

Millionaires and multinational corporations benefit the most from our taxes. We talk about what our taxes go for. There are dues that belong to society. Eighty percent of court cases are commercial in nature. Businesses, mostly large ones. Air traffic controllers, paid for by our taxes, they mostly support business travel back and forth. Our Coast Guard, our Navy protecting our shipping lanes, bridges and highways, making products safe to go back and forth as well as people. The Securities and Exchange Commission is our tax money trying to make large corporations behave and treat each other well instead of cheating each other. Sometimes it actually works.

□ 1515

The fact of the matter is that this bill absolves the top three-tenths of 1 percent from their responsibility to pay their fair share. And I say the top three-tenths of 1 percent because the Democratic alternative would exclude the first $3.5 million, or $7 million for a couple. So much for the argument of small farms and small businesses. They would not pay a dime on the first $7 million and only pay a portion of anything above that.

The fact of the matter is that most of the money that is going to be taxed on that top three-tenths of 1 percent was not earned money. That is money they got from tax-free investments. It is money they got by appreciation, just the value of that property increasing over time. They did not earn it. To compensate for what these members of our society will not be paying as their fair share, small businesses, the people that go out and create payrolls, will have to pay more. The families that go out and work every day for a living, they will have to pay more than their fair share.

And all the while this is going on, we are not even paying America's bills. This tax is going to be $290 billion off the top at a time when our debt is larger than it has ever been. We are running annual deficits that are at historic proportions. No family and no small business would ever operate this way.

Mr. Speaker, let me just close by saying they are robbing us of opportunity and prosperity and community by attacking our education and our health, our clean water, and our clean air. All of this because they want to give America's princes and princesses a little break at the top three-tenths of 1 percent. Let us let everybody pay their fair share.

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, about 50 percent of Americans or so are employed in small businesses, and obviously if something is employing almost half of Americans that are working, that should be a priority. And one can imagine my surprise the other day to find out about a guy who drove up to a bank in an old Ford, about a 15-year-old Ford pickup truck, with rust holes in the floor. He went into that bank and he took out a loan for $2 million. And the head of the bank was inquiring of the guy that is the accountant that handles our books that I have to do as a Congressman. He said, Why in the world did this guy have to take a $2 million loan out? And it particularly seemed out of place with this guy with his old rusty holes in his pickup truck.

He said, His father just died and they have to pay the estate tax on the farm.

I had heard stories like that before, but there it was right in front of me.

So what this bill is seeking to do is to try to make it possible that we do not destroy farms and small businesses that employ close to half the people that have jobs in our country; and that seems to be only reasonable. And yet I am hearing the Democrats saying over here that they are all upset because we have already taxed a dollar the first time the guy earns it; then we are going to tax him again on sales tax and other things he buys, and now it is not fair to tax a dollar the third time it comes around.

It just seems to me we do not want to destroy the businesses and farms. What we want to do is make those jobs available, and we want to get rid of this death tax. Just dying should not be a reason for taxes.

Mr. STARK. Mr. Speaker, I reserve the balance of my time.

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TURNER).

Mr. TURNER. Mr. Speaker, I am cosponsor of the Death Tax Repeal Permanency Act of 2005 because this tax is an unfair burden on American families. The death tax puts many small businesses, those run predominantly by families, at a great financial disadvantage.

According to the Small Business Administration, in 2001 in the Dayton, Ohio, metro area, which is in my district, nearly 62,000 people worked for businesses that employ less than 20 people.

Three of my constituents, Jenell Ross; her mother, Norma; and her brother Rob, run a small business, Ross Motor Cars in Centerville, Ohio. When Jenell's father unexpectedly passed away in 1997, the Ross family received a tax bill for nearly half the value of their family business. I would like to tell their story in Jenell Ross's words. She says, "30 years ago my father took the chance of a lifetime. Determined to achieve the American Dream, he invested everything he had into Ross Motor Cars. Like a lot of people, my father thought he would live forever.

"He didn't.

"When he died unexpectedly in 1997, the overwhelming responsibility of keeping the family business afloat fell squarely" to us. We could never have prepared ourselves for the shock of receiving a tax bill nearly half the value of the dealership, where nearly 90 percent" of the assets were "tied up in nonliquid assets such as inventory, equipment, buildings, and land.

"Does the death tax impact family-run small businesses? Yes. My family is still experiencing its devastating effects firsthand," nearly 8 years later.

It is time to repeal the death tax once and for all, and I urge my fellow constituents and Members to support the bill.

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Speaker, I want to commend the gentleman from Missouri (Mr. HULSHOF), the gentleman from Alabama (Mr. CRAMER), the gentleman from California (Mr. COX), and all those who have worked so hard to get rid of this onerous burden on a number of American citizens. The Federal death tax is a job killer.

I represent the Fifth District of Virginia. We have a number of counties and jurisdictions that focus on manufacturing. Many of our smaller manufacturers have had to sell out to larger manufacturers; and as a result, we have double-digit unemployment in a number of jurisdictions that used to be the home to small manufacturers. A factor in their selling out was the Federal death tax because they would not have the cash to pay when death knocked on the door. If we pass this bill, we will help the job situation in those types of jurisdictions in the United States.

I hear the other side say that this is a bonanza and a budget breaker because we will not be getting the revenue from the Federal death tax. Let me tell the Members under the current law the really rich in this country trust and foundation themselves out of the Federal estate tax. I believe that Mr. Gates, the owner of Microsoft, is a proponent of keeping the Federal death tax. He has got a father that is in charge of his foundation. But many small farmers and average business persons are not able to have the cash to set up the trusts and the foundations that will get themselves out of the Federal estate tax. And I predict that if we pass this bill, the incentive to set up those trusts and foundations that avoid taxes will not be there and in the long run the Treasury of the United States will benefit because we will still get the capital gains tax when the assets are sold.

Mr. HULSHOF. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, this bill shows the courage to boldly go where none have gone before, to levels of public debt and levels of trade deficits that no nation has ever tried, higher than any have dared.

We have a dollar that is dependent upon our fiscal markets, a trade deficit that grows every year; and the result of this bill and its twin cousins and related Siamese twins, the other parts of the Republican tax and spend or borrow and spend policy, will be a declining dollar and a declining economy or a dollar that crashes and an economy that crashes. And this courage is all summoned up on behalf of the one quarter of 1 percent of American families it is designed to help.

We require the men and women in uniform to risk the ultimate sacrifice; and from our richest families, we say zero sacrifice under the estate tax. Shame.

Mr. STARK. Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for his leadership and his recognition on this very important legislation that is before us today. I am very proud of the work of the gentleman from North Dakota (Mr. POMEROY), our Member of Congress, a very distinguished member of the Committee on Ways and Means, for his initiative and leadership in presenting to the Congress today an alternative that makes sense to the American people, that is fair to America's families.

The gentleman from North Dakota (Mr. POMEROY) speaks with authority on the issues that impact rural America, small business, and America's families and certainly America's family farms. He has their interests at heart. He knows firsthand what their challenges are. That is what makes his proposal so wise, and we all appreciate his leadership.

Mr. Speaker, in the 20th century, in the early part of the 20th century, our country made a decision to honor our American value of fairness by moving forward toward a progressive system of taxation. But under 10 years of Republican rule, this Congress has consistently passed legislation that has moved away from a progressive Tax Code. Republican tax policies have rewarded wealth over work. In its analysis of the President's budget, the nonpartisan Congressional Budget Office found that the tax rate on wage income is nearly twice the rate of capital income, unearned income. And now today Republicans have come to the floor with an estate tax bill continuing their harmful approach.

The Republican estate tax bill again rewards extreme wealth. The Republican approach would hurt more people than it helps by increasing taxes and administrative burdens on more than 71,000 estates. And it comes at a staggering cost of nearly $1 trillion over 10 years once it takes full effect.

Democrats want to be fair to all Americans, and we support being able to pass a better life on to our children and our grandchildren. But we cannot support putting the luxuries of the super-rich before the needs of America's families. The difference between the Democratic and Republican bills is that Democrats take a more responsible, indeed, a responsible approach that gives immediate tax relief to small businesses and farmers across the country.

The Pomeroy substitute would provide relief to 99.7 percent of estates in America. 99.7 percent; and .3 percent of estates would not be covered under the bill. That is a small percentage, but a huge amount of money being deprived from the National Treasury. The savings achieved by pursuing the more fair and targeted approach put forth by the gentleman from North Dakota (Mr. POMEROY) would cover about one half of the long-term shortfall facing Social Security.

Think of it: if we pass the gentleman from North Dakota's (Mr. POMEROY) bill, the savings would cover one half of the shortfall in Social Security down the road. It would strengthen Social Security for generations to come. That is the choice we are facing today. Do we want to put the wealthiest .3 percent of estate holders ahead of millions of American workers who have earned their Social Security benefits with a lifetime of work? Do we want to continue reckless Republican tax policies or return to a fair system of taxation?

This is a remarkable choice before us, and I hope that the American people can avail themselves of the information to understand what is at stake here. Basically, it all comes back to our deficit, to our budget, and whether we have fiscal soundness in our budget or not. What the Republicans are proposing is saying to average working families in America every day they go to work, and every paycheck money is taken from their paycheck for Social Security. What the Republicans are doing today is putting their hand into that pot and saying we are taking that money and we are going to subsidize the super-rich in our country, the largest, wealthiest estates in our country, .3 percent.

□ 1530

Mind you, the gentleman from North Dakota (Mr. POMEROY) has covered 99.7 percent, which is most, of course, 99.7 percent of the people in America. So anyone listening to this is not, odds are, affected in any positive way by what the Republicans are proposing. In fact, they will be hurt because of what it does to Social Security and what it does in terms of capital gains for over 71,000 families in America.

So I think the choice should be clear, to choose to reward work. We respect wealth. The creation of wealth is important to our economy. But that does not mean we take money from working families to give more money to the wealthiest families in America. And this at the same time as the tax cuts that the administration has proposed to make permanent, that would give people making over $1 million a year over $125,000 in tax cuts.

Who are we here to represent? This is the reverse Robin Hood. We are taking money from the middle class and we are giving it to the super rich, and not only the super rich but the super, super, super rich.

So let us come down and vote for America's workers, let us come down in favor of America's families, and let us recognize that everybody, the wealthiest as well as those not so wealthy, everyone in America benefits when we have fairness in our Tax Code, where we have balance in our budget in terms of our values and in terms of our fiscal responsibility.

I urge our colleagues to support the very responsible Pomeroy resolution and vote no on the irresponsible and reckless Republican proposal.

Mr. HULSHOF. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I appreciate in large measure the tone of the debate. What I would say to the gentlewoman who just spoke and to others who raised the red herring of Social Security is to remind folks, first of all, the Federal receipts from the Federal death tax represent less than 1.5 percent of all revenues, first of all; and, secondly, that none of the income tax money generated from the estate tax goes to Social Security for the trust funds, and eliminating the tax in no way will affect or impact current Social Security benefits. Not one bit.

Now, I do want to respond. I heard, I think, the gentleman from Massachusetts earlier say that really there has been no policy justification for keeping this tax, other than we need the money. In fact, I think one gentleman said something, from Massachusetts, about we need to pay our fair share.

Well, let me just ask you to consider your day. When you woke up this morning, if you hit the snooze button on your electric alarm clock, you are paying an electric tax. When you jumped into the shower this morning, you paid a water tax. If you saw the gentleman from North Dakota (Mr. POMEROY) and I on C-SPAN debating this issue this morning, you are paying a cable TV tax. When you drove to work this morning, you are paying a gasoline tax. If you stopped for a cup of coffee, you paid a sales tax. If you used the telephone at all today, you are paying a telephone tax. And, of course, when you are at work, your wages are subject to a payroll tax that does go into Social Security, payroll taxes that do pay for Medicare, not to mention your income taxes. If you drive home to your home and you are lucky enough and fortunate enough to own a home, you are probably paying a local property tax.

When you kiss your spouse good night, you think that is free. No, leave it to the Federal Government to continue to have this thing called the marriage tax.

And, yes, if you scrape and invest and save and you build a family business, have the audacity to pursue the American dream, the Federal Government is there with its hand out saying give us 45 percent of the value of your family business.

Now I have heard from my colleagues on the other side who say that family farms are not affected. Well, then let me tell you a very quick personal story, a story of a farm family in Missouri, a young married couple who in 1956 left Portageville, Missouri, in the district of the gentlewoman from Missouri (Mrs. EMERSON), with $1,000 in their pocket, and that was going to be the stake that they had. It happened that the woman was an expectant mother with her first child and, as it turned out, her only child.

That married couple happened to be my parents, and over the last 2½ years I have had the unfortunate reality that obviously death is inevitable, and I have had the unfortunate experience in our family of having both my father pass away in late 2002 and my mother one year ago.

I do not mind sharing with you, a 514 acre farm, a modest life insurance policy, the house that I grew up in, a combine, three tractors and some irrigation equipment, and that is it. And I am sitting across the mahogany desk from our long-time family accountant with the adding machine with a tape on it, and he is plugging in an arbitrary value for these assets that my parents invested their soul into. And I am breaking out into a cold sweat wondering whether or not this business that they built and wanted to pass on is going to fall above an arbitrary line or below an arbitrary line that we in Congress have set.

Now we did not have to pay the tax, but 14 days ago I had the requirement of filling out the form and paying the $2,000 accountant fee; and, again, I do not quarrel with that. But, Mr. Speaker, the death of a family member should not be a taxable event, period.

Mr. Speaker, I urge my colleagues to vote for H.R. 8.

Mr. HASTERT. Mr. Speaker, we come to the floor today to address an issue of tax fairness. You see, no matter what kind of spin our friends on the other side of the aisle try to use—the death tax simply isn't fair. It's an unfair burden that the government has placed on families and small business owners. I've called it a cancer—because it's slowly destroying family farms and businesses across the nation.

Many of our small family businesses are wrapped up in a loved one's estate. And when family members are left with a huge tax bill, it hits them hard. I've heard countless stories from families who have had to sell off a chunk of the family farm just to handle their tax burden. Our friends on the other side of the aisle say that this is too costly and it's bad for the budget. I say it's too costly not to act.

This tax is destroying small businesses. And we all know they're the real job creators in our economy. What kind of nation have we become when a small family farmer can't afford to pass the business on to his children?

Look at the facts: 70 percent of family businesses do not survive the second generation and 87 percent do not make it to the third generation.

Many of these businesses are going belly-up because of the Death Tax.

We all realize that the government must have revenues, and that taxes are a necessary evil. But this tax isn't necessary; it's just evil—because it takes away the American Dream from too many American families.

It's time we give families a real chance at the American Dream.

We need to tell the IRS to stop lurking around a grieving family's pockets. Death is not a taxable event.

It's time we let the Death Tax die.

Mr. REYNOLDS. Mr. Speaker, the issue before us today is certainly not a new on new one. During the past three Congresses, the House has voted repeatedly in a bipartisan fashion to eliminate the death tax. And today, once again, we have the opportunity to bury the death tax once and for all.

The death tax punishes savings, thrift, and hard work among American families. Small businesses and farmers, in particular, are unfairly penalized for their blood, sweat and tears—paying taxes on already-taxed assets. Instead of investing money on productive measures such as creating new jobs or purchasing new equipment, businesses and farms are forced to divert their earnings to tax accountants and lawyers just to prepare their estates. All too often, those families are literally forced to sell the family farm or business just to payoff their death taxes.

Equally disturbing is the fact that the death tax actually raises relatively little revenue for the federal government. In fact, some studies have found that it may actually cost the government and taxpayers more in administrative and compliance costs than it raises in revenue.

Mr. Speaker, my rural and suburban district in western New York is home to countless small businesses and family farms. They're owned by hard-working families who pay their taxes, create jobs and contribute not only to the quality of life in their communities, but to this nation's rich heritage.

Is it so much to ask that they be able to pass on the fruits of their labor—their small business or their family farm—to their children? Must Uncle Sam continue to play the Grim Reaper? The fact is that they paid their taxes in life—on every acre sown, on every product sold, and on every dollar earned. They shouldn't be taxed in death, too.

Mr. Speaker, it's time to bury the death tax once and for all. I commend Congressman HULSHOF for introducing this crucial legislation and Chairman THOMAS for his continued leadership on this issue.

Mr. MACK. Mr. Speaker, I rise today to express my strong support of the Death Tax Repeal Permanency Act of 2005. As a cosponsor of this important legislation, I think it is absurd for the federal government to continue punishing the families through double-taxation. Rather than taxing people when they die, we should be encouraging families to save for the future through hard-work and sound financial planning.

The Death Tax is one of the most burdensome and counterproductive of all taxes. Small businesses create two-thirds of all jobs in the United States, and 40 percent of GDP in the United States is generated by small businesses. When the owner of a small family business passes away, this tax causes families and small business owners severe financial hardship, often to the point that the business must be liquidated.

It is offensive that the government taxes someone all their life then taxes them one last time when they die. Families should never have to visit the IRS and the funeral home on the same day. A permanent repeal is good for small businesses, family farmers, and the next generation of entrepreneurs.

Mr. Speaker, I urge my colleagues to vote for the repeal of the Death Tax.

Mr. BOUSTANY. Mr. Speaker, I strongly support H.R. 8, the Death Tax Repeal Permanency Act of 2005, and encourage my colleagues to pass this important legislation. This vital legislation will permanently repeal the estate tax, a tax that is unjust, inefficient, and harmful to small businesses, the backbone of our economy. Repeal of the Death Tax will create a system that is more equitable and more productive for our economy.

The Death Tax is a burden on our economy that costs the country between 170,000 and 250,000 jobs every year. In Louisiana, our family-owned farms have been faced with decreasing profitability and in many instances the Death Tax is an additional burden that they cannot carry; this tax is a leading cause of the dissolution for thousands of family-run businesses across the country. It also diverts resources from investment in capital, slowing research and development at a time when our country is facing growing competition around the world. We cannot afford to continue discouraging productivity and innovation.

Furthermore, the death tax is inefficient. Since the 1930's, revenue from the tax has fallen steadily as a percentage of total federal revenue. Compliance costs each year can be almost as high as the tax itself, around $22 billion in 2003; thus every dollar raised by the death tax is $2 that could have been invested in capital and new jobs.

The economic damage of the Death Tax is reason enough for its repeal, but it is also fundamentally unjust. The rate of taxation is as high as 47 percent, and this is in addition to the taxes that were already paid on the assets subject to this tax. The Death Tax also discourages hard work and savings and instead encourages large-scale consumption. At a time when we should and need to be encouraging individuals to save for their future, we cannot continue to send this mixed message.

By repealing the Death Tax we will create a tax policy that is more efficient, more equitable and more productive for our economy. I urge Congress to act today to permanently repeal the Death Tax and ensure that our future generations will be able to carry on the heritage of our forefathers.

Mr. CANTOR. Mr. Speaker, I rise today in support of the permanent repeal of the death tax. To put it simply, the death tax is just wrong. It is wrong to encourage people to work hard all their life, only to have the government reap the benefits when they die. It is wrong to levy hefty taxes against families of thriving small business owners just because their parents were successful. It is wrong to stifle economic growth by forcing small businesses to close because of an overbearing tax bill delivered by a greedy Uncle Sam.

Mr. Speaker, our Republican majority stands firmly against double taxation on working families. Taxes have already been paid on the assets subject to additional taxation under the death tax. I am confident that Americans are far better equipped than politicians to decide how to best spend their hard earned money. It is time for Congress to let important fiscal decisions to be made where they should be, at the kitchen table, not at the tax table.

Let's repeal this unjust tax and empower American working families who know best how to make the right decisions for themselves.

Mr. SHAYS. Mr. Speaker, I rise in support of H.R. 8, the Death Tax Repeal Permanency Act, although the base bill does not address the estate tax in the manner I believe to be most prudent.

In 2003, Congressman Doug Bereuter and I introduced the Estate Tax Relief Act, which would increase the estate tax exclusion to $10 million and lower the top rate to the level as the top income tax rate (currently 35 percent). I think this is a much better solution than total repeal.

Because estate and gift taxes have had devastating effects on small businesses—many of which are forced to liquidate assets simply to pay taxes ranging from 35 to 55 percent of the value of the business—I think we need to provide significant relief in this area. My preference, however, is to reduce estate taxes without entirely eliminating them.

In the last Congress, I voted for today's base bill because if it is not enacted the estate tax, which is being phased-out over a period between 2001 and 2010, will return in 2011 with an exemption of just $675,000 and a top rate of 55 percent.

While my first choice would be to significantly increase the exclusion and lower the top rate, I believe full repeal is preferable to the return of this onerous tax.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of H.R. 8, legislation that would permanently repeal the Death Tax, a tax that haunts millions of small business owners and farmers nationwide. The last thing the federal government should be doing is taking more money from small business owners and farmers, and curtailing further economic growth. They are the backbone that drives our economy forward. I commend Mr. HULSHOF for his leadership on this issue and praise his vision to continue lowering the federal tax burden.

Throughout my 22 years in Congress, I have proudly voted for every major tax cut initiative considered by the House. Cutting taxes is one of my highest priorities. I remain convinced that letting Americans keep more of what they earn will help stimulate the economy and create more jobs. People will not hide this much-needed relief under their mattress or store it in their closet; instead they will purchase necessary goods and services. An increased demand for these goods and services will require more employees; therefore, providing incentives for businesses to hire more workers—putting unemployed Americans back on the job and providing a framework for long-term economic growth.

The key to growing our economy is simple—allow Americans to keep more of their own money to spend, save, and invest. My favorite four-letter word—don't worry, it's a four letter word that can be used in polite company—is JOBS. Permanently repealing the death tax will create new jobs across the nation.

Cutting taxes is not unprecedented. Since 2001, Congress has repeatedly passed legislation, which I'm proud to say I voted for, to lower the federal tax burden. For example, we voted to extend relief from the marriage penalty tax, a burdensome tax on married couples for doing nothing more than saying "I do." We also voted to extend the Alternative Minimum Tax reforms (AMT), which is the right step toward making sure the AMT applies only to those people it was designed to cover, not working families just trying to make ends meet. We also supported a measure to extend the 10 percent bracket to lower taxes for hard working, low-income families. Finally, we voted to extend the $1,000 child tax credit.

It only makes sense to take the next step and permanently repeal the Death Tax. I urge my colleagues to join me in supporting H.R. 8, and put an end to this unfair, unjust, and inefficient burden on our economy.

Mr. HONDA. Mr. Speaker, I rise in opposition to H.R. 8, legislation that unwisely imperils our Nation's financial security in order to advance the interests of an elite few.

Since my election to Congress, I have consistently advocated for reasonable estate tax reform. Estate tax reform is extremely important for all the people in the 15th District of California. High real estate values and generous stock option packages have pushed many estates over exemption limits. As a result, too many of my Santa Clara County constituents have been burdened by an estate tax that was originally written to affect only the very wealthiest Americans. The estate tax needs to be modified to protect hardworking Americans and their heirs.

In keeping with this spirit, I intend to support a Democratic alternative to H.R. 8 that will benefit almost all Americans. Offered by Representative EARL POMEROY, the Democratic substitute will increase the estate tax exemption to $3 million for individuals and $6 million for married couples effective January 1, 2006 with a scheduled increase in 2009. Under this plan, 99.7 percent of all estates would have no estate tax liability.

The Republican majority has put forward a more expensive plan to benefit the three-tenths of one percent not covered by the Democratic substitute. Their plan comes at a significant cost. Once fully in effect, H.R. 8 will cost $1 trillion over 10 years. This astronomical price tag will exacerbate record Federal deficits and undermine our Nation's ability to strengthen key Federal priorities, including Social Security, Medicare, education programs and veterans health care.

H.R. 8 may also harm more taxpayers than it would help. Current income tax law provides for a "step-up" in the basis of an inherited asset to its fair market value at the time of decedent's death. When the heir sells the asset, the capital gain for income tax purposes is measured by the difference between the heir's selling price and the stepped-up basis of the asset. H.R. 8 repeals the step-up basis and substitutes carryover basis rules in which the capital gain would be measured by the difference between heir's selling price and the asset's cost at the time when the decedent acquired it. As a result, all estates with gross assets over $1.3 million would face reporting requirements and tax liabilities potentially more burdensome than under current law.

While I am deeply concerned with the problems surrounding the estate tax, and believe that substantial, long-term reform is needed, permanent repeal for all estates is not necessary to resolve these issues. Given our nation's challenges, I cannot support the Republican's fiscally irresponsible approach to this issue. I urge my colleagues to oppose H.R. 8.

Mr. NEUGEBAUER. Mr. Speaker, I rise today as a cosponsor of H.R. 8 to express my strong support for this important legislation to permanently repeal the estate or "Death" tax.

The estate tax is one of the most unpopular, destructive taxes collected by the Federal Government. It forces many small businesses and farms to dissolve, undermines incentives for work, savings, and investment, and leads to unnecessary development of environmentally sensitive land. By permanently repealing the estate tax, we would be eliminating a cruel tax that devalues the hard work and confiscates the savings of some of our most productive citizens.

As we all know, the estate tax is scheduled to be totally repealed on January 1, 2010; unfortunately, this repeal will sunset on December 31, 2010. At that point, unless the Congress acts, the estate tax will revert to the 2001 level. As no one I know can accurately guess which year they might pass on to the hereafter, only 1 year of complete relief of the estate tax is not only cynical—it's bad policy. The uncertainty of not knowing whether or not the death tax will really be repealed, makes it difficult for American taxpayers to make plans for their futures, their spouses' futures, and the futures of their children. Additionally, the tax increase that would result if Congress fails to act would be entirely unfair to many of our constituents.

On the one hand, I am pleased that the House is once again taking action today to rid our Tax Code of this punitive measure. But we've done this several times in the past and each time it has gotten bogged down in the other body. Let's hope we don't have to meet again to do what should have been done years ago. Let's do the right thing today. Let's finally and irrevocably repeal the death tax.

Ms. FOXX. Mr. Speaker, today I voice my strong support for the Death Tax Repeal Permanency Act of 2005.

It is imperative we pass this very important legislation. The Death Tax is an unreasonable and unfair burden on thousands of American families, small businesses, and family farms.

The Death Tax is the largest threat to the vitality of family-owned businesses and farms because most of their owners have the entire value of their business or farm in their estate. The Federal Government currently receives nearly half of an estate when the owner passes. As a result, more than two-thirds of family businesses do not survive the second generation and nearly 90 percent do not make it to the third generation. So much for the American dream. Rather than encouraging people to build their own livelihoods, the Death Tax discourages hard work and savings.

According to the Heritage Foundation, the Death Tax costs our country up to 250,000 jobs each year. By permanently abolishing this tax, we could add more than 100,000 jobs per year.

As my colleague, Representative SAM JOHNSON of Texas, said: Americans receive a birth certificate when they are born, a marriage license when they are wed, and a tax bill when they die. This is a disgrace. I encourage my colleagues to vote "yes" for the Death Tax Repeal Permanency Act of 2005.

Mr. JEFFERSON. Mr. Speaker, Benjamin Franklin noted over 200 years ago that "in this world nothing can be said to be certain, except death and taxes." Unfortunately, the convergence of these two inescapable events, in the form of the Federal estate tax, results in a number of destructive outcomes in terms of slower economic growth, reduced social mobility, and wasted productive activity. Moreover, the costs imposed by the estate tax far outweigh any benefits that the tax might produce. For these reasons, among others, I urge my colleagues to join with me in support of permanent repeal of the Federal estate tax.

The estate tax has been enacted four times in our Nation's history—each time in response to the exigent financial straits deriving from war. In three of those instances (1797–1802, 1862–70, and 1898–1902), the estate tax was repealed shortly thereafter. Most recently, the estate tax was reintroduced during World War I (1916) and has existed ever since. What was meant to bring short-term budgetary relief has become a permanent burden on America's farmers, small business owners and families.

Some observers might believe that the estate tax is free from serious controversy. For example, it is often claimed that the tax only falls on the "rich" and thus serves to reduce income inequality. Other supporters of the estate tax point to the $22 billion in tax revenues for 2003, or to the incentive for charitable bequests. Nonetheless, there are many reasons to question the value of taxing the accumulated savings of productive, entrepreneurial citizens. Not the least of these reasons is the widely-held belief that families who work hard and accumulate savings should not be punished for sound budgeting. Additionally, it is unclear whether the estate tax raises any revenue at all, since most if not all of its receipts are offset by losses under the income tax.

The freedom to attain prosperity and accumulate wealth is the basis of the "American dream." We are taught that through hard work we can achieve that dream and, God willing, pass it on to our children. Unfortunately, for many the estate tax turns that dream into a nightmare. The current tax treatment of a person's life accumulations is so onerous that when one dies, the children are often forced to turn over half of their inheritance to the Federal Government. The estate tax, which is imposed at an alarming 45 to 47 percent rate, is higher than in any other industrialized nation in the world except Japan. Thus, many families must watch their loved one's legacy being snatched away by the Federal Government at an agonizing time. This is tragically wrong and nullifies the hard work of those who have passed on.

In the minority community there are numerous examples of the injurious effects of the estate tax. The Chicago Daily Defender—the oldest African American-owned daily newspaper in the United States—is a good example of the unique problem presented for minority families. It was forced into bankruptcy due to financial burdens imposed by the estate tax. But, beyond that, the questions were—was the Chicago Defender family forced to sell, could a minority owner be found to purchase it, or would it become a white-owned asset, reducing the overall wealth of the African American community?

On a smaller scale, another potential victim, a storeowner named Leonard L. Harris who is a first generation owner of Chatham Food Center on the South Side of Chicago is frightened that all the work and value he has put into his business will be for naught because it will be stripped from his two sons. According to Mr. Harris, "My focus has been putting my earnings back into growing the business. For this reason, cash resources to pay federal estate taxes, based on the way valuation is made, would force my family to sell the store in order to pay the IRS within 9 months of my death. Our yearly earnings would not cover the payment of such a high tax. I should know. I started my career as a CPA." These two stories are not isolated.

According to the Life Insurance Marketing Research Association, less than half of all family-owned businesses survive the death of a founder and only about 5 percent survive to the third generation.

Another recent study found the following:

Eight out of ten minority business owners questioned believe the Federal estate tax is unfair.

Only one minority business owner in three has been able to take any steps whatsoever to prepare for the ramifications of the estate tax.

One in four believes that his or her heirs will be forced to sell off at least part of their businesses to pay the estate tax liability.

Fully half the respondents already know a minority-owned business that has had trouble paying the tax, including some that have been forced to liquidate.

Those few minority-owned businesses that have been able to take steps to reduce their estate tax liability complain that it has detracted from their ability to meet business objectives by channeling time, energy and resources away from productive endeavors.

Many of my colleagues who are proponents of the estate tax contend that the tax adds progressivity to the Tax Code and provides needed tax revenue. They argue that the estate tax falls on wealthier and higher income individuals and increases the total tax paid by this segment of the population relative to their income. This helps offset the regressivity of payroll taxes and excise taxes, which fall more heavily on low-income groups relative to their income. They also argue that increasing the unified credit to $4, $5, $6 or $7 million would remove small family-owned businesses and farms from the harsh impact of the estate tax.

I share my colleagues concerns about protecting the tax base and ensuring that our Tax Code remains progressive. However, I find these arguments in support of the estate tax unconvincing in the face of substantial evidence otherwise.

First, there is no clear evidence that the estate tax is progressive or that larger estates are paying a greater portion of the tax. Wealthier members of our society are able to reduce and or eliminate the impact of the estate tax by stuffing money away here and there at the suggestion of high-priced attorneys and accountants. Similarly, tax planning techniques such as gift tax exclusions or valuation discounts reduce the size of the gross estate but do not appear in the IRS data causing effective tax rates to be overstated for many larger estates. The Institute for Policy Innovation recently revealed evidence of this fact in a study showing that the effective tax rate on the most valuable estates was actually lower than that on medium-sized estates.

Second, the insignificant amount of money the estate tax raises for the Federal Government cannot justify the harmful effects it has on business owners who spend more to avoid the tax than the federal tax revenue raised. According to the President's fiscal year 2005 Budget, the estate and gift tax brought in $22.8 billion in revenues to the Federal Government in 2003. This represents less than 1.1 percent of the total revenues out of a more than $2 trillion Federal budget and less than the amount of money spent complying with, or trying to circumvent, the death tax.

In 2003, Congress' Joint Economic Committee reported that the death tax brought in $22 billion in annual revenue, but cost the private sector another $22 billion in compliance costs. Therefore, the total impact on the economy was a staggering $44 billion. And, when one calculates the amount of money spent on complying with the tax, the number of lost jobs resulting from businesses being sold, or the resources directed away from business expansion and into estate planning, it is clear why this punitive tax must be eliminated.

It is also important to note that many economists believe that overall tax revenues would increase if the estate tax were repealed. According to a study of estate tax repeal proposals, which was prepared by Dr. Allen Sinai for American Council for Capital Formation and Center for Policy Research, Federal tax receipts would rise in response to a stronger economy, feeding back 20 cents of every dollar of estate tax reduction. In fact, over the years 2001 to 2008, estate tax repeal would increase real Gross Domestic Product by $90 billion to $150 billion, and U.S. employment by 80,000 to 165,000.

Finally, it is not clear that increasing the unified credit to $6 or $7 million would remove small family-owned businesses and farms from the threat of the estate tax. The Small Business Administration's definition of a small business is based on industry size standards. For example, a construction company or grocery store with less than $27.5 million in annual receipts is considered a small business. Thus, families who build their businesses past the exemption amount will continue to face estate taxes that range from the aforementioned, alarming rate of 45 to 47 percent. The exemption threshold would not help these small businesses. More significantly, without significant reform or, more appropriately, repeal, these same small businesses face the prospect of estate tax rates as high as 60 percent beginning in 2011.

Permanent repeal of the estate tax will provide American families with fairness in our tax system and remove the perverse incentive that makes it is cheaper for an individual to sell the business prior to death and pay the individual capital gains rate than pass it on to heirs. But for minorities, it provides much more. It will allow wealth created in one generation to be passed on to the next thereby establishing sustainable minority communities through better jobs and education, better healthcare, and safer communities.

Mr. Speaker, I urge my colleagues to support H.R. 8 to permanently repeal the Federal estate tax and to restore fairness to our Nation's Tax Code.

Mr. ETHERIDGE. Mr. Speaker, I rise today to voice my opposition to H.R. 8. As a part-time farmer and former small business owner, I have long supported responsible legislation to provide estate tax relief for family-owned businesses. Unfortunately, this bill will not accomplish that goal.

Throughout my service in the U.S. House, I have been a strong supporter of estate tax relief for family farmers and small business owners. The first bill I introduced as a Member of Congress was a bill to raise the inheritance tax exemption from $600,000 to $1.5 million and for the first time indexed it to inflation. But H.R. 8 is an extremely irresponsible bill that will add billions to our national debt for our children and grandchildren to pay and will harm more taxpayers than it helps.

The unfortunate reality of our situation is that we have witnessed the most dramatic fiscal reversal in our Nation's history. Our budget surpluses have been frittered away, and our Nation is now drowning in red ink with ever-growing budget deficits and increasing Federal debt. The primary culprits for our increasing debt are the risky, irresponsible tax schemes the Republican Congress has enacted the last 4 years.

Instead of adopting a bill that would increase the burden on our children and grandchildren, we need a common-sense solution that would exempt the vast majority of Americans from an estate tax while maintaining a degree of fiscal integrity.

That is why I am supporting the Democratic substitute authored by Representative EARL POMEROY. This substitute provides an estate tax exemption of $3 million for individuals and $6 million for couples beginning in 2006, and the exemption would increase to $3.5 million and $7 million respectively in 2009. Furthermore, this plan would instantly repeal the estate tax on a vast majority of farms and small businesses, as well as shield heirs from dramatic capital gains tax liabilities that are part of the Republican plan. The U.S. Department of Agriculture has estimated that more farm estates would have an increased tax liability from the Republican plan's carry-over basis rules than would ever benefit from the repeal of the estate tax.

I support estate tax relief, but not at the expense of our senior citizens who benefit from Social Security and Medicare. The only way to pay for the Republican bill is by taking more money out of the Social Security an Medicare Trust Funds and replacing it with IOUs. H.R. 8 will compound the fiscal mistakes Congress has made the last 2 years with its policy of tax cuts at any cost, including our children's education and our Nation's future.

The people of North Carolina's Second District elected me to help chart a common-sense, fiscally prudent course for the country. I pledged to represent my constituents by paying down the national debt; saving Social Security and Medicare funds for older Americans, and investing our country's resources into education, health care and other initiatives that enable people to improve their lives. H.R. 8 is inconsistent with these goals; therefore, I oppose the bill.

Mr. WELDON of Florida. Mr. Speaker, I want to express my strong support for H.R. 8, the Death Tax Repeal Permanency Act of 2005. I have supported this measure in the past and have introduced similar legislation to make the death tax repeal permanent. I believe it is important that we accomplish the goal of passing this in the House and the Senate and seeing this bill enacted into law.

The Death Tax needs to die. Along with the marriage penalty, the death tax is perhaps the most disgraceful tax levied by the Federal Government and it should be repealed immediately. The death tax is double taxation. Small business owners and family farmers pay taxes throughout their lifetime, then at the time of death they are assessed another tax on the value of the property on which they have already paid taxes. This is unfair, unjust and an inefficient burden on our economy.

I have spoken in the past about a constituent of mine, Danny Sexton of Kissimmee, FL, and owner of Kissimmee Florist. He, like millions of other Americans, has experienced the sad realities of the Death Tax. He joined me several years ago in Washington to highlight the adverse impact the Death Tax had on his family business.

Mr. Sexton, who comes from a family of florists, inherited his uncle's flower shop and was faced with paying almost $160,000 in estate taxes. This forced him to have to liquidate all of the assets, layoff workers and take out a loan just to pay the death tax. He also had to establish a line of credit just to keep the operation running.

Danny Sexton is the reason we need to appeal the death tax. The death tax isn't a tax on just the rich, it is a tax that hurts family owned businesses—family owned businesses that are the backbone of this great Nation. It also caused several average workers to lose their jobs.

Family owned businesses provide and create millions of jobs for American workers. The people who worked in Mr. Sexton's florist were not rich, but they lost their jobs because of the Death Tax.

In a recent survey conducted by the National Federation of Independent Businesses, 89 percent of small business owners favored permanent repeal of the death tax. Why? Because these small business owners know this tax may mean the death of their business for future generations. According to the Center for the Study of Taxation, more than 70 percent of family businesses do not survive the second generation and 87 percent do not make it to the third generation. Family owned and operated businesses deserve the right to be inherited by the next generation without the blow of the death tax.

In current law, the death tax is phased-out, completely repealed in 2010. But that is not good enough because in 2011, the tax reemerges in full force. That means taxpayers must plan for three different scenarios when passing along their family business—pre-2010 when the exemption levels are gradually increasing and the top rate gradually decreasing; 2010 when the tax is completely repealed; or 2011 when the tax reemerges. This is complicated, confusing and hard to plan for—unless a small business owner knows for certain when his or her death will occur. When we make this tax repeal permanent, taxpayers will have the ability to make long-term financial plans with certainty and will have the opportunity to pass on their hard earned family businesses and farms to future generations. It will also ensure that those who work for these small businesses are able to keep their jobs.

I urge my colleagues to vote for H.R. 8, the Death Tax Repeal Permanency Act of 2005.

Mr. HOLT. Mr. Speaker, I favor cutting unnecessary, ineffective or unfair taxes, but in balanced and fiscally responsible ways. I have been one of the few Democrats in Congress who has been willing to cross party lines to vote for tax cuts. I have voted to eliminate the estate tax in the past. I have been willing to vote for eliminating the marriage penalty, to vote for cutting taxes for small businesses, to vote for cutting taxes to help people pay for education and retirement, and to vote for cutting taxes for senior citizens and to give business tax credit for research work.

With a war in Iraq and looming postwar costs, increased expenses for domestic security and a ballooning budget deficit, Congress must exercise restraint on both revenues and spending to prevent fiscal policy from spiraling out of control. The consensus in favor of balancing the budget over the long term must be re-established.

There are a wide range of pressing national challenges that need action, from rapidly increasing health care costs, to our increasing dependence on ever-more-expensive foreign oil, to a broken and increasingly corrupt political system, and yet today we are passing a bill that will only help a few of the already wealthy.

Today we are debating total elimination of the Federal inheritance tax. Permanently repealing the estate tax would further balloon the Federal budget deficit by an estimated $290 billion through 2015; and by $745 billion through 2021. Add in the interest costs of borrowing the funds to pay for this measure, and the true 10-year cost is nearly $1.3 trillion.

I support the substitute offered by Representative EARL POMEROY which will protect families and small business from the estate tax. The substitute increases the estate tax credit to $3 million, $6 million for married couples, beginning in 2006. Under the substitute, the credit would be increased to $3.5 million, $7 million for couples, in 2009. The Pomeroy substitute would eliminate tax reporting compliance burdens and carryover taxes for over 71,000 estates each year which effects small business and families. According to Representative POMEROY's calculation, his package would exempt 99.68 percent of all estates from the estate tax, yet it would save the Treasury $217 billion compared to total repeal. It is worth noting that the saving of $217 billion is equal to 40 percent of the shortfall of Social Security of the next 75 years.

Mr. Speaker, today the national debt is the largest in history. Americans now collectively owe about $7.8 trillion. Here we have another tax cut that is not being paid for, even as the Bush administration and the leadership of this Congress spend more than the American government has ever spent on homeland security and on all the other expenses of running the Government—especially the huge costs of the war in, and occupation of, Iraq. Government borrowing of this scale places the burden of repaying our debts on our children.

Governing is about making choices. Our constituents all across America sent us to Congress to make the tough decisions. They did not send us here so we can pass those decisions on to our children, and they certainly did not send us here to pass the cost of our decisions on to our children.

I want the people of this country to realize that, right now, we owe collectively, about $4.5 trillion to foreign countries. Japan holds $702 billion of our debt; China, including Hong Kong, $246 billion; the U.K. $163 billion; Taiwan, $59 billion; Germany, $57 billion; OPEC countries, $65 billion; Switzerland, $50 billion; Korea, $68 billion; Mexico, $41 billion; Luxembourg, $29 billion; Canada, $43 billion—the list goes on and on.

More tax cuts of this size will not only jeopardize critical public services now, but they will also hurt Americans well into the future. Massive deficits now create large debt and will create high interest payments that will crowd out spending on public investments for future generations. Moreover, these deep deficits threaten to increase interest rates in the future—making it harder for Americans to buy homes and afford higher education and making it harder for businesses to raise capital.

I urge my colleagues to join me in supporting permanent reform of the estate tax, but not irresponsibly repealing it. Government should follow the principle of helping the present generation and helping future generation as well—not leaving future generations to pay our bill.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. POMEROY

Mr. POMEROY. Mr. Speaker, pursuant to H. Res. 202, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the Nature of a Substitute offered by Mr. POMEROY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Certain and Immediate Estate Tax Relief Act of 2005".

SEC. 2. RETENTION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

SEC. 3. MODIFICATIONS TO ESTATE TAX.

(a) IMMEDIATE INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to applicable credit amount) is amended by striking all that follows "the applicable exclusion amount" and inserting ". For purposes of the preceding sentence, the applicable exclusion amount is $3,500,000 ($3,000,000 in the case of estates of decedents dying before 2009).".

(b) FREEZE MAXIMUM ESTATE TAX RATE AT 47 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—

(1) Paragraph (1) of section 2001(c) of such Code is amended by striking the last 2 items in the table and inserting the following new item:

"Over $2,000,000	$780,800, plus 47 percent of the excess of such amount over $2,000,000.".

(2) Paragraph (2) of section 2001(c) of such Code is amended to read as follows:

"(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds $10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and $159,200.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2005.

SEC. 4. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

"(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

"(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

"(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

"(2) NONBUSINESS ASSETS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

"(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

"(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

"(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

"(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

"(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

"(A) cash or cash equivalents,

"(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

"(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

"(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

"(E) annuity,

"(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

"(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

"(H) commodity,

"(I) collectible (within the meaning of section 401(m)), or

"(J) any other asset specified in regulations prescribed by the Secretary.

"(4) LOOK-THRU RULES.—

"(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

"(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

"(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

"(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

"(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

"(5) COORDINATION WITH SUBSECTION (B).—Subsection (b) shall apply after the application of this subsection.

"(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Amend the title so as to read: "A bill to amend the Internal Revenue Code of 1986 to retain the estate tax with an immediate increase in the exemption, to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal, and for other purposes.".

The SPEAKER pro tempore. Pursuant to H. Res. 202, the gentleman from North Dakota (Mr. POMEROY) and a Member opposed each will control 30 minutes.

Mr. HULSHOF. Mr. Speaker, I claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. HULSHOF) will be recognized for 30 minutes in opposition to the amendment in the nature of a substitute.

The Chair recognizes the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I am pleased to begin the presentation of the amendment in the nature of a substitute by yielding such time as he may consume to the distinguished gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I was very interested in the last presentation. The bottom line was, he did not pay a tax. All that story, all those facts, and he did not pay a tax. He did pay his accountant some money to go through and make sure that he was doing what was right. He did that because the Tax Code is extraordinarily complicated and has been made 25 percent more complicated by the Republican majority over just the last 48 months.

Mr. Speaker, let us be absolutely crystal clear: This Republican proposal is nothing but a tax increase. Hear me, this is a tax increase disguised as a tax cut.

"Who are you, Mr. Hoyer? Lewis Carroll? What is this gibberish that you are talking about?"

It would raise taxes for thousands of families and thousands of family farmers and small businesses. There are no two ways about it.

For years, House Republicans have proclaimed that the elimination of the inheritance tax, a tax, now hear me on this side of the aisle, I know you want to hear this, a tax first proposed by Theodore Roosevelt in 1906. Now for those of you who may not be quite fully cognizant of our history, Theodore Roosevelt, of course, was a Republican President of the United States of America. It was intended to save family farms and small businesses.

But, today, not according to the gentleman from Maryland (Mr. HOYER), not according to the gentleman from North Dakota (Mr. POMEROY), not according to all the Democrats in this House or in the Senate, according to the Republican Department of Agriculture, I tell my friend from Missouri, the Republican Department of Agriculture says more farm estates would have increased tax liability from the carryover basis rules in this bill than would benefit from repeal of the inheritance tax. In other words, if we pass this bill, family farmers and small businesses are going to pay more taxes.

Now, I am for the Pomeroy alternative. First of all, we do not have that complicated look-back to find out what the basis was 10, 20, 30, 40, 50 years ago. We do as we do now, what is the basis now when you get it?

But we exempt under the substitute offered by the gentleman from North Dakota (Mr. POMEROY) $7 million. That means that 99.7 percent of the people in America would never pay an estate tax. I am for that. So this argument, I tell my friend from Missouri, is about the three-tenths of 1 percent of the very largest estates in America. Because if you vote for Pomeroy, 99.7 percent are exempt. So, as we have been doing for the last 4 years, we have been talking about the upper 1 percent. That is who we are talking about.

Now we are pretty well off in Congress. The American people do pretty well by us, very frankly. I am doing well enough. I paid a little bit of Alternative Minimum Tax this year. It shocked me, but my accountant pointed out that I did. So we are doing pretty well.

But there are a whole lot of people that are not doing nearly as well as we are doing, and we are not helping them at all by simply giving away revenue that we could spend on the education of their kids and the defense of their country, which we are borrowing for, of course, so that their kids will pay the debts.

Mr. Speaker, under current law, the Joint Economic Committee estimates that only 7,500 estates, in a nation of 290 million people where some 3 million people die every year, 7,500 estates out of the 3 million people that die would have any estate tax liability in 2009. However, the permanent switch to carryover basis rules, rules that are used to calculate cap gains, would impact an estimated 71,000 additional estates, and many of those estates would face capital gains tax increases.

Now even as this bill increases the capital gains tax on many farm estates and small businesses, I tell my friend, it still adheres to what seems to be the Republican Party's core economic principle: fiscal irresponsibility.

The gentleman says this tax, that tax, and he is right. There are a lot of taxes on all of us, and we have a lot of services in this country. And, frankly, for the most part, as the gentleman knows, particularly if you take the industrialized nations, our tax structure at the Federal level is lower. But, still, they are high, and we would like to see them reduced.

But the fact of the matter is, I have three children, three daughters, they are wonderful people, and they provided me with three grandchildren. And I am buying stuff. I am buying defense against terrorists. I am buying stabilizing Iraq, I am buying education, I am buying health care, I am buying roads. All of us are buying that.

I do not want to have to say to my grandchildren, look, I am going to use it, but you pay for it. That is an immoral policy as well as a fiscally irresponsible one, an unwillingness to pay our bills.

Now, this is $290 billion. Just $29 billion a year over 10 years. No sweat. Shoot, we are borrowing all the Social Security money right now that the Republicans said they were not going to spend a nickel of. They are going to spend $170 billion of Social Security money this year alone. How do we do that? We borrowed $118 billion last February, from foreigners mostly, which we are putting our kids deeply in hock to China, to Japan, to Germany.

At a time of record budget deficits of nearly half a trillion dollars, this Republican bill would cost nearly $1 trillion over the first 10 years of full repeal. It would irresponsibly drive our Nation even further into debt and immorally force our children to continue to be liable for our bills.

In sharp contrast, I tell my friend from Missouri, and I wish there were more people on this floor, but it is only giving away, you know, $250 billion to $1 trillion. What do we care? We have given away trillions of dollars over the last 4 years as we go trillions of dollars into debt. As a matter of fact, $9 trillion into debt.

The substitute offered by the gentleman from North Dakota (Mr. POMEROY) is excellent. It costs less than one-third of this Republican bill. It would permanently increase the current exclusion amounts to $3.5 million per individual and $7 million for couples. Three-tenths of the estates would be left in 2009 and, as a result, exempt 99.7 percent of all estates from estate tax liability.

Mr. Speaker, I congratulate the gentleman from North Dakota (Mr. POMEROY) for this alternative. It solves the problems of small farmers, it solves the problems of small businesses, it solves the problems of pretty significant but nevertheless smaller estates, to make sure that the hard work of mom and dad can be passed along to their daughter and their son and their son's and daughter's families.

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We agree with the gentleman from Missouri (Mr. HULSHOF) that that is a good objective, but we also agree that we ought to have fiscally responsible policies.

Mr. POMEROY. Mr. Speaker, I reserve the balance of my time.

Mr. HULSHOF. Mr. Speaker, just a quick comment for whatever time I may consume before yielding to the gentleman from South Carolina (Mr. BARRETT).

Did I hear the last speaker correctly, that we have given away, whose money is that? It would be the American taxpayers' money, who are probably, even as we speak, trying to grapple with those forms as they have tax day coming, as the income tax payers of America that provide for the comfortable living that he and I enjoy.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HULSHOF. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I ask my friend, whose debt is it?

Mr. HULSHOF. Mr. Speaker, I would say to my friend, and of course, as we have had a lot of unforeseen circumstances that have occurred, as was mentioned earlier, Iraq and Afghanistan. And let us hope and pray that as permanent repeal occurs, if it occurs, in the outyears that we will not be in that war on terrorism. But I would say to my friend, and I appreciate the question, but he also mentioned the Department of Agriculture, and lest, Mr. Speaker, anyone wonder who those agricultural groups are that represent farm families across America, I would place into the RECORD a letter from said groups.

In essence, the letter reads as follows: The groups listed below support permanent estate tax repeal, ask for this body to vote for H.R. 8, and the letter goes on to say, individuals and families own virtually all of the farms and ranches that dot America's rural landscape. Death taxes threaten the transfer of these operations to the next generation of food and fiber producers. Sincerely, Alabama Farmers Federation, American Farm Bureau Federation, American Sheep Industry Association, the American Soybean Association, Farm Credit Council, National Association of Wheat Growers; to my friend from North Dakota, National Cattlemen's Beef Association, National Corn Growers Association, National Cotton Council, National Grain Sorghum Producers, National Milk Producers Federation, National Potato Council, USA Rice Producers Federation, U.S. Rice Producers Association, and the Western Peanut Growers Association.

APRIL 13, 2005.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The groups listed below support permanent estate tax repeal and ask you to vote for H.R. 8, the Death Tax Repeal Permanency Act of 2005.

Individuals and families own virtually all of the farms and ranches that dot America's rural landscape. Death taxes threaten the transfer of these operations to the next generation of food and fiber producers.

In 2001, Congress recognized the harm that death taxes cause family businesses and voted to repeal this onerous tax. Unfortunately, repeal scheduled for 2010 is temporary and sunsets after only one year.

Congress should act now to make death tax repeal permanent. Please show your support for permanent death tax repeal by voting for H.R. 8 when the bill reaches the House floor this week.

Sincerely,

Alabama Farmers Federation, American Farm Bureau Federation, American Sheep Industry Association, American Soybean Association, Farm Credit Council, National Association of Wheat Growers, National Cattlemen's Beef Association, National Corn Growers Association, National Cotton Council, National Grain Sorghum Producers, National Milk Producers Federation, National Potato Council, USA Rice Federation, US Rice Producers Association, Western Peanut Growers Association.

Mr. Speaker, to my friend from South Carolina, I am not sure if any of those groups happen to represent farm families in his district, but I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentleman for yielding me this time. And, yes, I say to the gentleman, they are from South Carolina, and I see them every day.

Mr. Speaker, I rise today against the Pomeroy substitute and in full support of H.R. 8, the Death Tax Repeal Permanency Act of 2005.

The death tax defies common sense and is fundamentally unfair, Mr. Speaker. Prior to 2001, the top death tax rate was 55 percent. Today, the top rate is 47 percent, and these are unbelievably high tax rates, especially when the tax is imposed after a lifetime of hard work.

The death tax is also a job killer, Mr. Speaker. Resources that could be used to expand businesses and hire new employees are instead used inefficiently to plan for the impact of the death tax. The Joint Economic Committee noted that the death tax reduces the stock in the economy, listen to this now, approximately one-half of $1 trillion.

Mr. Speaker, the permanent repeal of the death tax will not only ensure that small businesses and family farms are not subject to these unfair rates of taxation, but also simplify the tax law and facilitate long-term financial planning. The 2010 sunset date for the death tax repeal makes it nearly impossible for taxpayers to make long-term financial decisions as they relate to the tax. Enactment of the Death Tax Repeal Permanency Act promotes fairness and simplification by giving taxpayers the certainty they deserve.

Mr. Speaker, I strongly support H.R. 8, the Death Tax Repeal Permanency Act of 2005, and I urge my colleagues to vote "no" on the Pomeroy substitute amendment.

Mr. POMEROY. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER), the other member of the Earl Caucus of this House.

Mr. BLUMENAUER. Mr. Speaker, I appreciate my namesake's courtesy in permitting me to speak on his substitute. I appreciate his hard work and clarity in dealing with this issue and a step forward to stop a cynical game that I have watched be played here in this Congress since I was first elected 9 years ago.

There is today, and there has been throughout these 9 years, a consensus to make adjustments to the inheritance tax, to make it less steeply graduated, to raise the exemptions, to be able to do fine-tuning, to deal with the legitimate problems of small, closely held businesses and farms. And if the Republican majority would have permitted a fair and honest debate on this floor of the inheritance tax, we would have enacted significant permanent adjustments that would have solved the vast majority of the problems for 99.9 percent, I dare say. But that is not to be.

Instead, we have been involved with a cynical process that we are seeing played out here today. Nobody expects over the long haul that we are, in fact, going to eliminate in its entirety the inheritance tax. Our Republican friends have been involved with a roller coaster of a 10-year phase-out, and then insanely reinstating it in its entirety. As a result nobody has been able to plan thoughtfully for the last 5 years.

My friend from Missouri says, well, on the one hand, it is only 1.5 percent of Federal revenues; but that is half of the problem of Social Security that has driven some people into a frenzy. It is not an insignificant number, in the neighborhood of $1.5 to $2 trillion over the period of time we are talking about.

But my Republican friends do not want to allow the legislative process to work, and have a permanent solution that will stop the ambiguity and that will solve the problem for closely held businesses and yet, not allow vast amounts of wealth, wealth that is so significant that Bill Gates's own father does not think that it should eliminate the inheritance tax and has even written a book about it.

The gentleman from North Dakota has proposed not that we game the system. The gentleman from Missouri (Mr. HULSHOF) found out that his parents, like 99 percent of the people, are not subjected to the inheritance tax.

The Pomeroy amendment would immediately raise that threshold to $6 million, with further adjustments to $7 million in 4 or 5 years from now, I forget the exact period of time; he will correct me, I am sure. This brings it up so that 99.7 percent of the American public are exempt, and it does it today. Not with games, not with promises but by solving the problem. I think this is so important as I think of the millions of Americans today that are struggling with the 1040 form, the 2.9 million Americans subjected to the alternative minimum tax, soon to be 16 million families next year. Not enough money, not enough time to solve that yet we are going to be involved with this cynical game of the inheritance tax.

I strongly urge the adoption of the Pomeroy substitute, which will solve the problem once and for all for the vast majority of the family farms, the small businesses, and, in fact, a number of people of significant wealth; and it will provide resources so that we can solve problems like Social Security and the alternative minimum tax and be about our business.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman just indicated that the Pomeroy substitute solves the problem once and for all, and I have listened to a number of individuals on the other side during the course of this discussion that this is only going to affect the superwealthy and that really there are no family businesses that are affected by the estate tax. It has been interesting, because some of those comments have come from colleagues of mine on the Committee on Ways and Means.

Mr. Speaker, we have had a number of hearings going back to at least, from my memory, 1997. So I will mention some of these folks who have come and testified in front of the Committee on Ways and Means.

Martin Whalen testified about his family-owned and -operated company, Etline Foods Corporation, a distributor of food service products in York, Pennsylvania. When they purchased the business, 48 employees; in 1997, 105 employees. Rhetorically, I would say to my friend from North Dakota, will this solve their problem?

Wayne Nelson, a farmer from Winner, South Dakota. His father farmed until his father's death in 1993. Their estate planning was inadequate. Several parcels of land in South Dakota were liquidated in order to pay the Federal tax. Will the substitute rectify that situation?

What about Roger Hannay of Hannay Reels, Incorporated, a small manufacturer in the foothills of the Catskill Mountains about 25 miles from Albany, New York, a small manufacturer employing 150 employees?

What about Richard Forrestal, Jr., a principal in Cold Spring Construction, a firm specializing in highway and bridge construction?

What about Douglas Stinson, a tree farmer from Toledo, Washington, that runs the Cowlitz Ridge Tree Farm? Each of these testified, Mr. Speaker, that they were impacted negatively by the existence of the death tax.

What about Carol Loop, Jr., president of Luke's Nursery and Greenhouses, a wholesale plant nursery operation in Jacksonville, Florida? He started his business with a $1,500 loan and a borrowed truck. Would the problem be solved with the Pomeroy substitute?

Or Christopher and Kimberly Clements of Golden Eagle Distributors in Tucson, Arizona. They lost their father unexpectedly after a valiant bout with cancer. He lost his life at the age of 58.

Or Jeannine Mizell, a third-generation owner of Mizell Lumber and Hardware Company of Kensington, Maryland.

What about Robert Sakata, a vegetable farmer from Brighton, Colorado, or Jean Stinson, a railroad track manufacturing company in Barto, Florida, running the R. W. Summers Railroad Contractors? Their family had to shut down a facility in North Carolina, laying off two-thirds of the 110 employees to pay the estate tax.

Or Jack Cakebread, founder of Cakebread Cellars in Napa Valley, California. Would each of these individuals be solved or their estate problems solved by the substitute?

It is a rhetorical question, and the gentleman from North Dakota (Mr. POMEROY) knows it, and I do not mean to put him on the spot, but he cannot answer the question because when we draw a line, an arbitrary line, wherever we draw that line, we still are going to have those entrepreneurs that have been willing to invest in their businesses, hire employees, build local communities; and as long as the death tax remains in existence, they are going to have to do some sort of estate planning.

I think it is much the better course to completely and finally permanently repeal the tax.

Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, it is a privilege to carry this debate today on behalf of the minority, and a privilege to participate with the gentleman from Missouri, who is one of my favorite Members of the House. He has presented his side very well.

He asked relative to a number of estates, would they be covered under the Pomeroy substitute? Well, I believe that a number of them would have their estate tax problems completely eliminated, because we take the exemption and we double it. We go from today, a joint estate at $3 million, and we say, if you have a joint estate of $6 million, no estate tax. We, like 2009, take that up to $7 million in a joint estate circumstance.

So as to the question he asked, I do not know the particulars of those cases, but I expect that a number, if not all of them are covered, because 99.7 percent of the estates in this country are under that amount.

But there is a feature of the majority proposal that is not represented in our substitute, and I want to talk about it right now, and this involves the imposition of capital gains liability at the handling of an estate under the majority bill.

I can just imagine Members in the majority, some of them that might have signed that "no new tax" pledge that was going around last Congress, just wringing their hands because they are about to vote for a tax increase, a tax increase in the form of capital gains taxation on estates. Section 541 of the bill that the majority proposal would make permanent reads this way: termination of step-up in basis at death. Tax legalese, but what does it mean? It means new capital gains and capital gains if you have an estate that exceeds that 1.3 gross value. You have a reporting commitment that attaches at 1.3 gross value for estate.

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You know, it is the darndest tax bill I ever saw. Because, while they talk about tax relief, they are hurting more than they are helping.

I direct you to this chart. Number of estates today with capital gains issue, zero; and that is because the taxable basis in the property is established at time of transfer in an estate. No capital gains.

What happens under their proposal? Well, we know that there are 71,000 estates in the year 2011 that are likely to have reportable amounts, in other words, gross valuation over $1.3 million. Some will have a capital gains issue they have to pay. Some will not. But they are all going to have to report with the IRS.

And this report is something else. It means going back in and trying to establish what the value of the property was at the time mom and dad acquired it. It is a nightmare. And that is well-established in the CONGRESSIONAL RECORD. Because I have here the hearing, I have here the Ways and Means record at the time the committee considered testimony to repeal the carryover basis, the very provision they want to re-establish in tax law.

You see, it passed once before, in 1976. It was delayed from implementation and then repealed retroactively because of its consequences.

Here is what some very interesting participants had to bring to the committee. Carryover basis fosters an insidious bias against farmers and ranchers. Carryover basis calculations for land, buildings, machinery, livestock and timber have been described as, at best, potential nightmares. Trying to establish what the taxable basis on this is, which their law would require, is a nightmare. So says the American Farm Bureau in their 1979 testimony.

The Cattlemen's Association, one touted as one of these that want to re-establish capital gains on estates, they say, because of its complexity, carryover base is impossible to comply with. It will increase the tax burden and compound the illiquidity of estates of farmers, ranchers and other family business operators who sell inherited property in the normal course of business, and I quote, and find it in the record from the National Cattlemen's Association.

NFIB also states, I strongly urge you, as an individual and as a taxpayer and as one who professionally and through an association represents small business people, repeal the carryover basis. So says the National Federation of Independent Business, the very group that they have cited as trying to re-establish carryover basis in the Tax Code and put capital gains back on estates.

We have been here before. We do not want to do it again. Do you not understand, voting for the repeal bill brings a new bill, a capital gains bill, and a capital gains bill to thousands that have no estate tax consequence?

So if you want to cast a vote this afternoon for a tax relief proposal, vote the Pomeroy substitute. No capital gains in the Pomeroy substitute.

Mr. Speaker, I reserve the balance of my time.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

As the gentleman from North Dakota recognizes; and, again, I do not think he meant to misspeak, but the underlying bill, H.R. 8, does provide a step up in basis of $3 million for the surviving spouse and a $1.3 million step up in basis for surviving heirs.

Mr. Speaker, many have worked on the death tax repeal and going back even to the, I think, Family Heritage Preservation Act of 1993. The gentleman from California introduced that bill and I think had 29 cosponsors. Now, of course, we are over 200 on permanent repeal.

Mr. Speaker, I yield 4½ minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, the preceding speaker just told us that he does not like the carryover basis. And I will tell you what. If his amendment got rid of any aspect of carryover basis in death tax I would vote for it. But this is a give-with-the-right-hand, take-away-with-the-left-hand operation that he is proposing, because what he is also doing is he is bringing back the 47 percent death tax.

We are trying to repeal the death tax, not bring it back; and you cannot tell us that capital gains at 15 percent is worse than the death tax at 47 percent.

And as the gentleman from North Dakota just mentioned, we do not have a carryover basis in its entirety. We have simply a step up in basis for both the spouse and for the children.

I wish we could get rid of the carryover basis. I would be thrilled with that. But the Pomeroy substitute gives us the death tax back full strength at 47 percent tax rate, and it arbitrarily says that a small business that is worth $3 million is going to have to deal with this.

Now you have to ask yourself, in advance of your death, do you know what the assets and inventory of your business is going to be 10 years, 20 years, 30 years down the road? The answer is no. Of course not. You are going to have to do that tax compliance year in and year out.

Tax compliance, the cost of actual accountants and lawyers and life insurance and all the other things that you have to do to deal with the death tax year in and year out is $20 billion a year.

This tax, the death tax, kills between 170,000 and a quarter million jobs each year, according to the Nonprofit Center For Data Analysis. The death tax is a job killer. It is destroying family farms and businesses. It is a drag on economic growth, and it is the greatest disincentive to invest additional capital in family businesses in America.

But the authors of this amendment still want to pry lots of cash out of the cold dead fingers of America's deceased entrepreneurs. So they rewrite the language of the Tax Code so we can keep all 88 pages of complexity of the death tax and all the thousands of pages of regulation and the hundreds of thousands of pages of case law that go with it. This is the most complex part of one of the most complex tax systems in the world, and it is time to drive a stake through its heart. It is time for the death tax to die.

This is not the time to redefine the death tax or add legislative language so that tax lawyers and accountants can have more to play with. It is time to kill it. And that is why we must vote against this amendment and in favor of the total repeal of the death tax.

Here is the message that this amendment, were it to be adopted, sends to American workers: Do not work for a small- or medium-sized American family business. Do not work for a large family owned business. To be safe, do not work for any small businesses that are growing quickly or picking up new customers or introducing new products. Because the Federal Government has decided that the family businesses can grow without the destructive burden of the death tax but only until some IRS bureaucrat decides that these businesses are worth $3.5 million dollars. Then the businesses will be subject to huge new tax burdens. And guess what? You will not know until it is too late whether you are on one side or the other side of that threshold.

I have to tell you, it sounds like $3 million is a lot of money. And it is if you or I had it in our pocket. But for a business, counting its real estate, its assets, its inventory, its trucks, that is a tiny business indeed. And if you are trying to employ some people, you have 10, 11, 12 people that work for that business, what are you going to say to them when they lose their jobs because the family business has to be liquidated on the death of the entrepreneur in order to come up with the actual cash to pay for it?

The IRS is not going to accept shares of stock in the family business in payment of the death tax. They are going to say, go sell those shares, go liquidate the business, go sell the assets in order to pay off the tax plan.

To the supporters of this amendment I say we agree with you that the death tax destroys family farms and businesses. Obviously, that is your presumption if you are trying to have a threshold below which people will not pay it. We agree with you that the death tax destroys family farms and businesses, that it kills jobs and reduces economic growth. So why do you want to keep this monster alive?

Please join with us and kill the death tax once and for all.

Mr. POMEROY. Mr. Speaker, I yield myself 90 seconds.

You know, anyone in the accountant or tax-planning profession worrying about losing business because of the estate tax is going to be smiling broadly at the end of tonight when we pass this re-creation of capital gains tax and estates.

In fact, the ABA Task Force report devotes almost 70 pages to discussing the problems that exist with the new carryover basis rules in their legislation. The problems identified in the report include unequal treatment of capital losses, difficulty in applying basis adjustments to property sold during the administration of the estate, treatment of property with debt and excessive basis, treatment of installment loans, unequal treatment of pension assets, administrative problems with allocation to spousal property, discrimination in favor of spouses in community property states. Even a cursory examination of that report leads to a conclusion that serious problems exist with the new rules and that their surface simplicity is quite misleading.

Let us just walk through some of the titles, some of the titles of the new capital gains law that they are going to have: Basis increase for certain property; limit increased by unused built-in losses and carryovers; spousal property basis increases; qualified terminable interest property; definitions and special rules for application of subsections (b) and (c); fair market value limitation; coordination with Section 691; information returns, et cetera.

And to think that for every one taxpayer getting relief under their proposal, an additional ten are now going to face this nightmare. It is a funny way to give tax relief.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I thank the gentleman from North Dakota for yielding me this time and perhaps for mentioning what I see as the only good part of this bill. You see, I am a CPA and tax lawyer by training, and this bill is the full employment act for both my CPA friends and my tax lawyer friends.

Republican after Republican has come to that microphone and talked about the electrical tax, the sales tax, the telephone tax, the payroll tax, the income tax, the marriage tax, the cable tax and the fuel tax.

And what is their solution? To eliminate a tax that applies to only one-fourth of 1 percent of America's families. Yes, that is right. They want to keep the electrical tax, the sales tax, telephone tax, payroll tax, the income tax, marriage tax, cable tax and the fuel tax.

They want to vote for a bill that takes $290 billion out of the Treasury in its first 4 plus years and about $70 billion a year thereafter and make it impossible for the Federal Government to ever give any relief for those other taxes. It is a bill to shaft 99 and three-fourths percent of all American families.

But that does not stop there. Republican after Republican has come up here and boasted how the passage of this bill will slash charitable giving. So it is not just a loss to the Federal Treasury, it is a loss to our hospitals and a loss to our universities, who are strangely silent on this bill because they are afraid of angering one-fourth of 1 percent of the families in the United States who happen to be a huge chunk of their donors.

Let us look at the substitute. It is more fiscally responsible, costs about one-fourth as much, but it provides more tax relief for middle-class families.

Let us look at this from the standpoint of a widow, a surviving spouse. Under current law and under the Pomeroy substitute, no estate tax, no capital gains tax and little or no compliance work. Under their bill, more compliance work and sharp restrictions on the step up in basis.

So this bill is an attack on working families, an attack on the middle class, and an attack on widows. They have lost their spouse, and now you want them to lose their step up in basis as well. These are people who pay zero estate tax and get zero benefit from this bill. They have lost a spouse, and that is the folks you go after. $290 billion in the first 4 plus years. It is part of an overall Republican tax package.

I am on the International Relations Committee. We are waging a war on terrorism. We turn to our men and women in uniform and say, stand ready to make the ultimate sacrifice; and we turn to the richest families in America and say, you should make a zero sacrifice.

Now these Republican tax policies have caused the President of the United States to call into question our intent and ability to pay U.S. government bonds.

□ 1615

It calls into question our ability to pay our bonds.

Now, the President will not warn the Chinese investors. He wants them to buy the bonds, but he has warned every Social Security recipient that we may dishonor the U.S. Government bonds held by the Social Security trustees.

This bill is part of an overall plan that keeps in effect the electrical tax, the sales tax, the telephone tax, the income tax, the payroll tax, the marriage tax, the cable tax, and the fuel tax.

And it is part of an overall plan that, well, I ought to write a commercial because there is a lot of public policy commercials out there, and I ought to write them for them.

Allowing corporations to avoid American taxes just by renting a hotel room in the Bahamas, $8 billion. Allowing millionaires to pay virtually nothing on dividend income, $80 billion. Eliminating the estate tax even on the richest estates, $290 billion. Telling our soldiers in the field that it is the billionaire families who are the ones who have sacrificed too much for America, priceless.

And the Republi-card, accepted everywhere. The very wealthy want their taxes released.

And do not forget the Deficit Express Card, now with a new $12 trillion credit limit.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, notwithstanding the gentleman's props, I would commend to him for his reading leisurely "The Economics of the Estate Tax: An Update," a Joint Economic Committee study dated June 2003 which in essence states the estate tax raises very little, if any, net revenue because of distortionary effects of the estate resulting in income tax losses roughly the same size as the revenue collected. Secondly, estate taxes force the development of environmentally sensitive land. Through 2001, 2.6 million acres of forest land were harvested and 1.3 million acres were sold every year to raise funds to pay the estate tax.

Regarding his criticism on philanthropy, the estate tax according to the Joint Economic Committee study, the estate tax may actually be one of the greatest obstacles to charitable giving as estate taxes crowd out charitable bequests.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is fascinating if you would think if there was a proposal in the substitute to eliminate the whole list of taxes that the gentleman referred to, but I have never heard one case where they have talked about eliminating any tax, only increasing taxes. So it is quite an interesting debate.

Let me just say, I come to this as someone who grew up in a family farm operation, a family small business. I can tell you firsthand from real life, honest experience the effect that the death tax has on families and creating jobs and opportunities and being able to continue what I believe is the American Dream, and that is to have an opportunity for your children and your grandchildren to continue a life that you love and cherish. Nothing stands in the way more for families and small businesses to be successful, to continue, than the death tax.

We spend thousands and thousands of dollars every year as a way to try and avoid what the death tax will do to us. It is morally wrong that the day you die, your heirs should not only see the undertaker but have to go see the tax man to see how much the Federal Government is going to take away from a lifetime of work.

The idea, while the gentleman from North Dakota (Mr. POMEROY), I have the greatest respect for him, but the idea of continuing an immoral tax that destroys family, destroys family businesses, I have seen neighbors who have lost everything they have, lost generations of work on a family farm because of the death tax. It is a fact that nothing is more harmful, nothing is more hurtful than a tax that takes away the hope of the American Dream.

This country is based on farms, on small businesses. That is the lifeblood of this Nation, and nothing destroys it more than the death tax; and that is why we have to kill this death tax to make sure that we can experience the American Dream in this country.

Mr. POMEROY. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DAVIS).

Mr. DAVIS of Tennessee. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of the Pomeroy substitute to House Resolution 8. And I argue that anyone in this body who is currently concerned about our ballooning national debt should vote in favor of the substitute.

The Pomeroy substitute is fair, and it covers those who need tax exemption now, America's small businessmen and America's farmers.

It is clear from the debate today that the majority of our Members in this body believe that our farmers and small business men and women need relief from the estate tax, and I will do all I can to ensure that these hardworking Americans get their due tax relief. In my opinion, the Pomeroy substitute does this by increasing the estate tax exemption level in 2006 by $3 million for individuals and $6 million for couples. Additionally, from 2009 forward, the tax exemption level would be $3.5 million for individuals and $7 million for couples. This will fully cover 99.8 percent, 99.8 percent of all the estates in this country. Only two out of every 1,000 would not be totally covered.

I know my friends on the other side of the aisle desperately want to make sure that the Paris Hiltons of America are fully covered, but they have done pretty good the last 100 years; and I am sure under the Pomeroy bill in the future they will continue to do pretty good.

Additionally, the substitute bill eliminates the liability for tax on gains accrued before death. This is incredibly important to those children who may decide to sell the small farms and businesses they have just inherited. By using the stepped-up basis to calculate the value on an estate at a time of death, the substitute bill is actually making the Tax Code simpler and less cumbersome. It seems to me that this is important to us. It is important to the President, and it is important to many of us in Congress.

I will do all that I need to do in order to support estate tax relief for farmers and small business owners in my district. But would it not be a great message to send to the Senate and to the American people by providing them with the estate tax relief they want and need without breaking the bank? It seems to me that it is the fiscally conservative thing to do. I truly believe we have got to stop this liberal policy of borrowing and spending.

To my friends on the right who believe that any estate tax is so vile that you took your polling advice and decided to start calling it the death tax, you should read Leviticus 25 containing God's message to Moses that every 50 years, called the Jubilee, all possessions must be returned to the original owners. I invite you to read that scripture.

You had a chance in 2002 to increase the benefits by giving the tax relief to the estates of all Americans. Why did you not? It clearly was not to keep the budget balanced. Was it political? Every year around tax time and every 2 years around election time, you come back with permanent tax repeal. I think now is the time to do it. Let us get it done.

The Pomeroy substitute bill is a bill we need to send to the Senate. It is a fair bill. It is fiscally responsible. It should be the House's bill.

Mr. POMEROY. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from North Dakota (Mr. POMEROY) has 4½ minutes remaining. The gentleman from Missouri (Mr. HULSHOF) has 14½ minutes remaining.

Mr. POMEROY. Mr. Speaker, I reserve the balance of my time.

Mr. HULSHOF. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding me time. I thank the gentleman for his leadership on this issue.

I think it is important that we spend a moment or two and talk about how we got here, why do we have a death tax and what is its consequence; what is the fundamental we are talking about.

The death tax began in 1916 in order to fund World War I, a noble cause but a cause that has long since passed. It remained through the 1920s and 1930s under the rationale that we should prevent the accumulation of wealth, an issue more than addressed with our current anti-trust laws.

The death tax has become a harmful relic of previous times. It survives through the inertia of government and now has the consequence of punishing hard work and success. It harms families, and it kills small businesses.

Families should not have to visit the undertaker and the tax collector on the very same day.

The death tax is fundamentally unfair and violates what should be our principle of freedom and liberty and the imperative of personal property rights.

Freedom and liberty demand that hard-working Americans be able to leave their children and their grandchildren the results of their diligence and their success and not have Washington get a windfall.

I urge all of my colleagues to act positively today on behalf of all Americans and let the death tax die for good.

Mr. POMEROY. Mr. Speaker, in light of the imbalance of time, I would be happy to have my friend from Missouri burn up a little more of his time, unless he has no further speakers.

Mr. HULSHOF. Mr. Speaker, I have no further requests for time, and I can assure my friend I will not use the entire 14 minutes to close.

Mr. Speaker, who has the right to close?

The SPEAKER pro tempore. The gentleman from Missouri (Mr. HULSHOF) has the right to close.

Mr. HULSHOF. Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in opposition to H.R. 8, which continues, in my view, the policies by the majority of three tax cuts, in 4 years, with four straight record-breaking deficits that have added $2 trillion in 4 years to the Nation's debt. And here again the majority offers $850 billion of tax cuts to the wealthiest families in this country.

When you get in a hole that is $2 trillion deep, rule one, stop digging. If you cannot figure that out, you cannot produce any more when it comes to economic growth for this country or jobs or resolving the health care crisis or the educational crisis we have in the country. My view is repeating the same mistake and expecting a different result is a sign that you have lost your bearings.

This bill will do nothing to stimulate the economic growth or savings, which is what we should be focused on, rather than further shifting the tax burden from wealth to work.

We could be debating and using this time on simplifying the code. Just 2 weeks ago there was a report out by the IRS and others showing that $350 billion a year goes unreported in taxes where people are not complying and cheating.

We have a Tax Code that rewards and initiates a culture of cheating and penalizes those who abide by the rules. That is where we should be focusing, on simplifying the code and taking away the incentive to cheat, which is what we have today in our code.

With all the economic challenges we are facing today in the area of health care, energy, education, eliminating the estate tax, fully eliminating, should be the last of our priorities. But the Republicans will soldier on and continue to fight until taxes are eliminated for the very last multimillionaire. Instead of helping the wealthy avoid taxes, we should be helping middle-class families save for their retirement.

That is a true deficit we have in this country, a retirement and savings deficit. The savings rate is at its lowest level since the 1930s, lower than any other industrialized nation. Millions of families are financially unprepared for retirement.

Given this reality, why are we debating the elimination of the estate tax instead of real tax reform and a savings agenda for the middle class.

Are holding the interests of the wealthy and special interests above the hopes and dreams of the middle-class families the kind of values we want our Tax Code to reflect?

As late former Supreme Court Justice Louis Brandeis once said, "We can have democracy in this country or we can have great wealth concentrated in the hands of a few, but we cannot have both."

Mr. Speaker, there is no doubt which one this bill will achieve.

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Miss MCMORRIS), a newly elected Member from the State of Washington.

Miss MCMORRIS. Mr. Speaker, I appreciate the opportunity to address the House today on this very important piece of legislation, the repeal of the death tax and making it permanent.

The repeal of the death tax is one of the first bills that I was honored to place my name on as a cosponsor.

Growing up on a family farm in eastern Washington, I have seen firsthand the negative impacts the death tax has on our families and our businesses.

One of my top priorities in Congress is to grow jobs and expand the economy in the Pacific Northwest.

□ 1630

I believe that the repeal of the death tax will help accomplish this goal, especially for the farmers and small businesses in my district.

The death tax costs thousands of jobs each year; and by repealing this unnecessary tax, jobs will be created and many small business owners will be able to add workers to their payrolls.

As a Member who represents a significant farming sector, I have seen the death tax destroy some family farms. Without a doubt, death taxes hurt our farmers and our ranchers by forcing family farms to sell land, buildings or equipment needed to operate their business in order to pay for this excessive tax. Some family farmers have had to take out a second mortgage on their home to pay for the tax.

When farms and ranches shut down, so do the businesses they support, leaving many out of work and leading to a depressed rural economy.

The time is now to end the death tax. I support the passage of H.R. 8 in order to end this unjust, unfair, and inefficient tax burden on our families, businesses and especially our farming communities.

Mr. POMEROY. Mr. Speaker, I believe we are at the end of our time, and I yield myself the balance of the time to close our side.

Mr. Speaker, I am feeling a bit like the man in the middle as we approach this debate. There has been some on our side that suggests the Pomeroy substitute provides too much estate tax relief. Indeed, the amounts are higher than acceptable. Obviously, we have heard from the other side they believe this is too low, but I would say to my friends in the majority, and listen to this carefully, those who approach this issue with an all-or-nothing mentality are likely to get nothing.

We cannot tell what is going to happen in the year 2010. None of us know. Except there is one thing we know, and look at this chart, the national debt is going to exceed $10 trillion, $10 trillion, 36 percent above where we are at today, and this is based upon established budget projections.

Do we really believe that that future Congress is going to sit blithely by and let this become implemented? There is not a nickel's worth of certainty in that. And we all know, because as damaging as this is to the budget in the first 10 years, with $290 billion of revenue loss, debt service added, this is a $326 billion hit to the budget in the first 10 years, look what happens in the second 10 years: $1.3 trillion impact in the second 10 years when we count the value of the debt service.

Do any of us think that we are really going to allow this to happen in the future years?

That is why I have advanced a very different alternative, entitled certain and immediate estate tax relief, because it is certain and it is immediate, and it deals by taking the estate tax to $6 million per couple, $7 million per couple by the time we get to 2009. It deals with the estate tax issues of 99.7 percent of the population.

Those of my colleagues looking at this chart may not be able to see this tiny red line, because that is what three-tenths of 1 percent represent with looking at the total population, three out of 1,000. and we know that on average those estates are going to average $15 million.

So for three-tenths of 1 percent we offer an alternative that has no capital gains, that is one-quarter of the cost, that immediately phases in estate tax relief and is far and away the superior way to go. All or nothing gets us nothing. Vote Pomeroy, immediate and certain estate tax relief.

Mr. Speaker, I yield back the balance of my time.

Mr. HULSHOF. Mr. Speaker, I yield myself the balance of the time.

Let me first say, Mr. Speaker, how much I appreciate my friend from North Dakota as we have done this in a number of sessions of Congress, and I appreciate the tone, and he is a friend of mine, and I have a lot of respect for him and the intent with which he comes to this debate.

Let me answer a couple of points that have been raised in particular, first of all, about the tax simplification. Tax day is 2 days away, and I am sure taxpayers, in particular small businesses and family farmers, would appreciate anything that we can do to simplify our tax laws, and I would submit that permanent repeal of the death tax does just that.

In fact, H.R. 8 is one simple paragraph, and it reads as follows: "Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act." Basically, we repeal the sunset.

Now, again, the gentleman from North Dakota's (Mr. POMEROY) substitute, I counted, and I hope I am counting correctly, but 40 subparagraphs and directing accountants and the like to this subparagraph or that particular paragraph.

The reason that we are here is because of complicated and arcane Senate budget rules, called the Byrd rule, that we phase out the death tax for one single year. In 2010, it magically disappears, and then on January 1 of 2011 it springs back to life, and the uncertainty, how would one as an estate planner advise a client when the tax is gone today and comes back again in the very next year? By making death tax repeal permanent, we give taxpayers the certainty they need to make those long-term financial decisions.

The form itself, the blank form I am holding here, Form 706, is 40 pages in length for the estate tax return, 40 pages in length, and it comes with a handy dandy 30-page instruction booklet. So when one is talking about simplification, what better simplification would there be than ripping these pages dealing with the estate tax completely out of the Internal Revenue Code?

Lastly, when it comes down to the nuts and bolts of it, whether or not the Pomeroy substitute, and again, in the effort to pursue the American dream, whether those businesses are going to be shielded by the Pomeroy substitute or not shielded, the fact is that as long as the tax is on the books, as long as Congress draws some line in the sand, and that is all we are doing with the substitute, is just some arbitrary line, we are still going to have those family businesses that are going to be taking some of their resources and these convoluted schemes, legal, but efforts to avoid the tax.

Again, we hear a lot about these very high-profile individuals who have been successful. I mean, this is the land of opportunity, is it not? I would submit to my colleagues that the billionaires and the top of the Fortune 500 lists, those folks have a stable full of lawyers and accountants to create this intricate estate plan to thwart the estate tax.

Not so, and I go back to the original discussion, that small family in Columbia, Missouri, the Eiffert family who spends $52,000 a year just to buy term life insurance because they might have to face the estate tax. Under the current law, or probably even under the gentleman from North Dakota's (Mr. POMEROY) substitute, there is no certainty for families like the Eiffert family.

So I salute my colleague.

The gentleman from Illinois (Mr. EMANUEL), again a colleague of mine on the Committee on Ways and Means, said, why are not we debating real reform? Interestingly, there is a lot of discussion. I am not here to advocate one particular tax reform proposal because we have got this blue ribbon panel that is happening and looking at various options. There is a lot of talk about the consumption tax, and yet it is notable that, while there may be support for the idea of a general consumption tax, the death tax, by contrast, is a tax on nonconsumption.

We talk a lot, too, about sin taxes. Why can we not put taxes on alcohol or on cigarettes and the like and whether or not that generates support among certain groups. This death tax is a tax on virtue. In other words, if you work hard, you play by the rules, if you scrape together your savings, and, again, we as an industrialized Nation, not only do we have even under the Pomeroy substitute a 47 percent death tax rate which would be the second highest in the world, but the fact is that we are not very good at savings and investments. In fact, if you are looking at your 1040 right now, look at line eight because it says if you have been thrifty and you are able to generate a little interest income, guess what, Uncle Sam says put this amount here because we are going to take our bite of the apple.

Permanent repeal of the death tax actually rewards virtue.

Let me just paraphrase a column recently, actually it was some years ago but I think republished recently by Professor Edward J. McCaffery. He is a professor who says this: "As a committed liberal myself, I used to believe that the gift and estate tax was essential to a just society. But as a former estate planner and a scholar in both law and economics, I confess that I was mistaken. The gift and estate tax is quite simply a bad tax, even, and maybe especially, when viewed from a liberal perspective."

Professor McCaffrey goes on and says, "This is not a supply-side argument but a moral one. People who die with large amounts of wealth have done three good things for society. They have exercised their talents, rather than living a life of leisure. They have saved, contributing to a common pool of capital whose benefits manifest, for example, in lower interest rates, inure to all. And they have refrained from spending all of their wealth on themselves."

In fact, Professor McCaffrey across the Capitol some years ago I think before the Senate Finance Committee said, to paraphrase Scripture, the reason he changed his mind, I was blind but now I see.

If this comes from an unrequited liberal that the estate tax, the death tax, is a bad tax, then I would suggest to all of my colleagues here that it is time to permanently and completely repeal the tax.

Finally, I would say to my friend again, because there has been some discussion about creating a new tax, as the gentleman knows, the intent of H.R. 8, the underlying bill, is to help make it easier to pass a family business from one generation to the next. As we have heard from nonpartisan groups, 70 percent of family businesses do not make it to a second generation, 87 percent of family businesses do not make it to a third generation, and often the reason cited is because of this very confiscatory punitive tax called the death tax.

The fact is that under H.R. 8, if it were to pass and become the law of the land, the tax rate imposed at death on a lifetime of work and thrift is zero percent. Under my friend's substitute amendment, the rate imposed would be locked in at 47 percent.

Now I mentioned my personal experience, and I am running our family farm. If a surviving heir chooses not to farm and then makes the conscious decision to dispose of assets, then that is a taxable event, but that is a purposeful decision made by the heirs of that family business owner. It is not the Federal Government requiring the death of a family member to be a taxable event.

So I would simply say to all of my colleagues that death should not be a taxable event, period. Under the underlying bill of H.R. 8, it would no longer be a taxable event. Under the substitute from my friend, individuals above an arbitrary line drawn by this body, death would continue to be an event that triggers the Federal death tax. That is why prominent organizations such as the Chamber of Commerce, National Federation of Independent Business, American Farm Bureau Federation and a host of other small business coalition members, representing the interest of small businesses and family farms across the country, support H.R. 8 and oppose my friend from North Dakota's substitute.

I urge a "no" on the substitute and a "yes" on the underlying bill.

Mr. KIND. Mr. Speaker, I rise today in strong support of making estate tax relief permanent so that family-owned farms and businesses can be passed down from generation to generation. The estate tax should be updated and modernized to reflect both the economic growth many Americans have experienced in recent years, and the hard work of millions of entrepreneurs and those just trying to make a living. These businesses should not be punished for being successful or for simply having their owners pass away.

The United States is the land of opportunity, encouraging free enterprise and rewarding entrepreneurs. The estate tax should be modified to protect family-owned small businesses and family farms from the threat of having to be sold just to pay the tax.

But, Mr. Speaker, H.R. 8 would fully repeal the estate tax for all Americans at a time when the administration is running record deficits that threaten the futures of our children's children. As we all know, the estate tax applies to fewer than 2 percent of all estates, about 50,000 a year. This bill would initially cost the Nation's treasury $290 billion over 10 years.

This year alone, our budget deficit will exceed $400 billion. This administration has turned a projected $5.6 trillion surplus over 10 years into deficits totalling $2.6 trillion. However, even with these record deficits, we are debating yet another tax cut.

With the majority's policies leading our Nation toward a fiscal train wreck, we should not be talking about totally repealing the death tax and instead talk about doing something about the debt tax, which falls upon all Americans.

Therefore, I am supporting the substitute being offered by my good friend Mr. POMEROY. His legislation will immediately help the small businesses and family farms by increasing the estate tax exemption to $3 million for individuals and $6 million for couples. This meaningful, common-sense bill will exempt 99.7 percent of all estates from the estate tax. Under current law, the tax basis for inherited property is "stepped up" to its value at transfer through 2009, which helps farmers and small business owners who inherit property by reducing the amount of capital gains taxes to which the property is subject. Under current law, in 2010, "carry-over" basis rules (with a $1.3 million exemption) replace the "stepped-up" basis rules, creating burdensome new requirements and increasing the tax liability for many of these property-owners. H.R. 8 makes this switch permanent and creates more losers than winners. The Pomeroy substitute, however, will retain the "step-up" rules rather than the "carry-over" rules.

Mr. Speaker, it is our responsibility to avoid towering deficits and reduce the debt future generations will inherit. We must give them the capability and flexibility to meet whatever problems or needs they face. I cannot, in good faith, support legislation that will put our country further into deficit spending with a tax cut that will hurt future generations for the unforeseeable future.

Mr. MANZULLO. Mr. Speaker, I rise in strong support of H.R. 8, the Death Tax Repeal Permanency Act of 2005. As Chairman of the Small Business Committee, I've heard horror story after horror story from small business owners who worry about the future of their small business because their heirs will not be able to pay the death tax and also continue the business. Why should they spend countless thousands of dollars for life insurance premiums, attorney and accountant fees just to plan to pay the death tax? Those monies are better invested in their small businesses. Raising the cap is just a band-aid that postpones the inevitable decision to abolish the death tax once and for all.

Permanent repeal of the death tax will protect millions of small and family-owned businesses from the return of this devastating tax. I have seen the effects of the death tax firsthand in my district. Before I came to Congress in 1992, I practiced law in a rural county in northern Illinois. I was there at the estate sale when the mom and her kids had to sell off half the family farm because they couldn't afford to pay the death tax after dad died. All they wanted to do was continue on with their lives, work the farm, and put food on the table. But in their most vulnerable time, after they had lost their dad and husband, after they had spent their lives paying taxes, the government came to them and said, "We want more!" And their American Dream was crushed.

Despite serious estate planning efforts, 70 percent of small and family-owned businesses do not survive through the second generation and 87 percent do not make it through the third generation. In fact, 9 out of every 10 successors whose family business failed within three years of the owner's death said death taxes played a major role in their company's demise.

The death tax is one of the most archaic and destructive taxes to small businesses in our tax code. The death tax discourages savings and investment, reduces wages and job creation, and is a leading cause of dissolution for thousands of small businesses. This is an immoral tax. It's time to once and for all permanently do away with the death tax that confiscates the hard work and savings of the most productive and important part of the U.S. economy, our small businesses.

Mr. COBLE. Mr. Speaker, I rise today in support of H.R. 8, the Death Tax Repeal Permanency Act of 2005.

I was proud to support the Economic Growth and Tax Relief Reconciliation Act of 2001, which included a permanent repeal of the Death Tax. Unfortunately, due to arcane rules of the Senate, this much-needed relief for working Americans is scheduled to sunset at the end of 2010. Since then, my colleagues and I have voted three times to make this repeal permanent. I am hopeful that both the House and Senate will finally agree to permanently repeal the Death Tax and send this legislation to President Bush for his signature.

Unless we pass this much needed legislation, my constituents in the Sixth District of North Carolina will once again be subject to the Death Tax in 2011. Further, the sunsetting of this tax makes it difficult for business owners to make strategic planning and investment decisions that could have a major impact on the future of their businesses and loved ones. Finally, I do not believe that we should punish American families who have worked diligently to provide for themselves and want to pass along their success to their children and grandchildren.

It is my belief that few sections of the tax code are more unfair and hazardous to the economy than the Death Tax. Conceptually and in practice, it diminishes personal incentive to remain industrious. Furthermore, it encourages people to become less reliant on themselves and their loved ones and more reliant on a government that is on occasions intrusive, confiscatory, and ill-suited to help people.

After 20 years in Congress, I still believe that smaller government and lower taxes are the most effective economic policies. Eliminating the Death Tax will continue to restore consumer confidence, spur capital investment, and create new jobs which are critical components of economic growth, particularly within the small business community.

Mr. Speaker, I support a complete and permanent repeal of the Death Tax.

Mr. TIAHRT. Mr. Speaker, I rise today in strong support of H.R. 8, the Death Tax Repeal Permanency Act of 2005. This bill would put an end to the estate tax, commonly referred to as the death tax.

My only disappointment in voting to eliminate the death tax this year is that we must again wait for the Senate to follow suit. The House has already voted to permanently repeal this tax in both the 107th Congress and the 108th Congress. Unfortunately, the Senate has not been able to pass this permanent repeal.

I am very pleased, however, that the House has once again listened to the people and will try to nail the coffin shut on the death tax. Asking families to pay taxes on what is left behind when a loved one dies is simply not the right way for a government to collect taxes.

Throughout our history, Americans have worked vigorously to achieve great success despite extraordinary hardships. Farmers have tilled the earth, inventors have exercised their ingenuity, builders have constructed, entrepreneurs have established businesses, and in the process of becoming successful, wealth is created. When a person successfully pursues a dream and wisely manages resources over a lifetime, the federal government should not reward those accomplishments by seizing a significant portion of what he intended to pass along to the family.

As is often the case, family farmers or small business owners make plans to pass the family business to their children after they die. Unfortunately, due to burdensome death taxes, there are countless examples of families who have been forced to sell the business or purchase it back from the government.

As a result, a business that has been in a family for generations can be lost overnight because of the enormous burden of the death tax. And when a business leaves its family roots, there can be a loss of pride in the fundamental traditions that helped make the business successful. This is not the legacy parents want to leave their children and grandchildren.

Aside from the harmful effects the death tax has on family small businesses, there is an inherent injustice in re-taxing assets. Because taxes have already been paid on accumulated gains over a lifetime, the death tax constitutes a double taxation. Re-taxing a person's assets when they die is equivalent to purchasing from the government what already belongs to a family.

Resources that otherwise would have been utilized to hire more employees or invest in capital are underused when families are forced to make alternative plans for dealing with the death tax. This results in fewer jobs and a less robust economy.

According to the Joint Economic Committee, the death tax results in a reduction of stock in the economy by nearly $500 billion. When businesses cease to grow efficiently, fewer jobs are made available to the unemployed.

South-central Kansas has experienced several years of high unemployment following the economic downturn after 9/11. We must do all we can to help bring jobs back to those who need them. Permanently eliminating the death tax is one way we can help the economy fully rebound, which means more high-quality, high-paying jobs for Americans.

Because small businesses are so important in providing jobs for Americans, the death tax is a tax on jobs. Small, family-owned businesses are especially vulnerable to the death tax because most small-business owners have the entire value of their business in their estate.

According to one study, more than 70 percent of family businesses do not survive the second generation, and 87 percent do not make it to the third generation. The threat of the death tax forces small-business owners to pay for expensive "estate planning" just to keep the business in the family. Instead of helping families maintain and grow their small businesses, the Federal Government will be able to seize about half the business unless the death tax is repealed.

I urge my colleagues to join me today in once again voting to end this tax that has caused so much harm to so many American families.

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise in opposition to H.R. 8, the Republican Estate Tax bill. This legislation is further evidence of Republican's chronic addiction to digging deeper into debt. At a time when we face a deficit of over $400 billion, Republicans today chose to pass a bill that will cost Americans another $290 billion—with the cost growing to nearly a trillion dollars after 10 years. This vote comes less than a month after the majority supported a budget that will slash funding from education and from our firefighters, police, and veterans. This is a clear statement of the majority's priority which is to put corporations and the very rich ahead of our families and communities.

Another rarely discussed provision of the Republican bill is the repeal of "step-up in basis," which will result in an increase in capital gains taxes and additional compliance burdens for many estates. This means that more families, businesses and family farms will have an increased tax liability rather than receive any benefit from this repeal.

I support the Democratic alternative, the Certain and Immediate Estate Tax Relief Act, which would take effect next year and exempt 99.7 percent of families and businesses from this tax for a third of the cost of the Republican proposal. In fact, if this substitute is adopted, all but 71 Minnesota families, 11 North Dakota families, and 5 South Dakota families will be exempted from the estate tax.

Permanent repeal of the estate tax benefits only the very wealthiest in our society while endangering our long-term economic stability and the solvency of Social Security and Medicare. It is my hope that Congress and the Administration will end this reckless spending and return us to common-sense, responsible public policy that makes the health, education and safety of American families our top priority.

Mr. HULSHOF. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 202, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from North Dakota (Mr. POMEROY).

The question is on the amendment in the nature of a substitute by the gentleman from North Dakota (Mr. POMEROY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. POMEROY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 238, not voting 2, as follows:

[Roll No. 101]

AYES—194

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—238

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter

Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sanders
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—2

Gillmor
Jindal

□ 1711

Ms. GINNY BROWN-WAITE of Florida, Ms. HARRIS, Mrs. DRAKE, and Messrs. COX, FORTENBERRY, TERRY and GARY G. MILLER of California changed their vote from "aye" to "no."

Messrs. OBEY, MEEHAN and TOWNS changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. JINDAHL. Mr. Speaker, on rollcall No. 101 I was inadvertently detained. Had I been present, I would have voted "no."

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SABO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 272, noes 162, not voting 1, as follows:

[Roll No. 102]

AYES—272

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chandler
Chocola
Clay
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sanchez, Loretta
Saxton
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—162

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berman
Bishop (NY)
Blumenauer
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carnahan
Carson
Case
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Fattah
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Rothman
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—1

Gillmor

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1727

Mr. RUSH changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109-43) on the resolution (H. Res. 211) providing for consideration of the Senate bill (S. 256) to amend title 11 of the United States Code, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FLOODING OF THE DELAWARE RIVER

(Mr. DENT asked and was given permission to address the House for 1 minute.)

Mr. DENT. Mr. Speaker, I rise today to bring to this body's attention the terrible natural disaster that has recently occurred in my district in Pennsylvania. On April 2, heavy rains triggered substantial flooding of the Delaware River. The river overflowed in various local municipalities. Hardest hit were the small borough of Portland in Northampton county and the city of Easton, also in Northampton County.

I was back in my district at the time of the flooding. I toured the water-damaged areas extensively, visited with local residents, and was horrified by the destruction and heartbreak that this disaster has induced. Keep in mind all this occurred less than 1 year suffered from the devastating effects of Hurricane Ivan.

On April 9, in response to what I had seen, I wrote a letter to the President, asking him to declare the 15th District a Federal disaster area. The Governor of Pennsylvania also requested this relief, and I supported him in that request. I also keep in regular contact with our State and Federal Emergency Management officials in order to coordinate relief efforts.

I urge my colleagues to keep the citizens devastated by this natural disaster in their prayers.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, in a country that espouses the importance of protecting the inherent rights of every person, abortion denies the rights of our most innocent and vulnerable members, our children.

As legislators, we have the great responsibility to strive to uphold the truths upon which our great country was founded, especially that every individual is entitled to life, liberty, and the pursuit of happiness.

Abortion is not a sign that women are "free to choose." It is a sign that women have been abandoned.

□ 1730

They have not had the support and care that they so desperately need. Rather, abortion is the only option offered.

Abortion is one of the greatest scourges of our time. It is a sign that we have not met the needs of women. Women deserve better than abortion. It is a crime against humanity which not only takes the innocent life of a child but also profoundly alters the life of the mother. Women possess dignity and intrinsic beauty, and abortion tears them apart at the very core of their being.

I am proud to have had the opportunity to join with such dynamic pro-life women as Patricia Heaton, the costar of the TV show Everybody Loves Raymond. She is an outspoken advocate for women and for the protection of the rights of the unborn. This past week, I met with Patricia while she was in Washington meeting with Members of Congress and staff members discussing the crucial need that we have as a society to strive to address the real challenges facing pregnant women and promoting women-centered solutions to significantly reduce abortion and protect women's health.

I am pleased to be associated with organizations that work to increase public awareness of the devastation that abortion brings to women, men and their families. These organizations ensure that the emotional and physical pain of abortion will no longer be shrouded in secrecy and silence but rather exposed and healed.

This past year, the pro-life movement has enjoyed many major victories in Congress. We have seen the passage of legislation protecting the sanctity of life and addressing the critical needs of women. The Partial Birth Abortion Ban was signed into law by President Bush. The Unborn Victims of Violence Act also passed the House.

I have worked together with my colleagues here in Congress and with President Bush to defend the intrinsic rights of all citizens, especially the most defenseless. I am pleased to note that today the House Committee on the Judiciary held a markup of my bill, H.R. 748, the Child Interstate Abortion Notification Act, CIANA. It was referred favorably as amended out of committee by a 20 to 13 margin and should be brought to the floor for a vote soon.

This critical legislation makes it a Federal offense to knowingly transport a minor across a State line with the intent that she obtain an abortion in circumvention of a State's parental consent or parental notification law. CIANA also requires that a parent or, if necessary, a legal guardian be notified pursuant to a default Federal parental notification rule when a minor crosses State lines to obtain an abortion, unless one of several carefully drawn exceptions is met.

A minor who is forbidden to drink alcohol, to stay past a certain hour or to get her ears pierced without parental consent is certainly not prepared to make a life-altering, hazardous and potentially fatal decision such as obtaining an abortion without the consultation or the consent of at least one parent.

My legislation will close a loophole that allows adults not only to help minors break State laws by obtaining an abortion without parental consent but is also, unfortunately, contributing to ending the life of an innocent child. We will close that loophole.

I am hopeful that in this 109th session of Congress we will be successful in securing the rights of parents once and for all, and I encourage my colleagues to vote in favor of this bill.

We have a great responsibility as a Nation to maintain a true reverence for vulnerable human life and to continue to build a culture of life. I will continue to work to ensure that the precious gift of life and the dignity of womanhood are promoted and protected at every level.

RECORD TRADE DEFICITS CONTINUE

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, well, congratulations to the Bush-Cheney administration. They set another record yesterday, but it is one I am certain they will soon eclipse. The United States of America ran the largest 1-month trade deficit in our history, $61 billion. Tens of thousands of jobs were lost in order to achieve that record. Whole industries were exported to China and other cheap wage countries in order to set that record.

Congratulations to the administration. Their trade policy is a tremendous success for those few multinational corporations who are profiting hand-over-fist with these policies, while tens of thousands of Americans lose their job and we lose our industrial base here at home.

In the first 2 months of the year, a $29 billion trade deficit with Communist China. We are on a par, the Bush administration is on a path, to beat their record trade deficit with Communist China that they set just last year, a $162 billion trade deficit with Communist China last year; a country which pirates products from small businesses across America, including a number in my district, both hi-tech, furniture and others; a country that does not observe international laws; a country that the Bush-Cheney administration told us, "Oh, please, give us permanent most-favored-nation status for those Chinese, and then they will clean up their act. Put them in the World Trade Organization and we will use the force of law against them."

Well, they have only chosen to file one complaints against the tens of billions of dollars of products pirated by the Chinese from American firms, and that was for one of the drug companies, of course. Who else would they go to bat for? Not the small businesses, not the hi-tech business in my district, not the furniture business in my district, not the other businesses across America. Yet their trade policy is working just great.

Now they say two things. Well, if the dollar just drops a little bit, everything will be fine. Well, the dollar has dropped a lot, and everything is not fine, and the dollar is on the verge of dropping one whole heck of a lot more. Even when it gets down to the value of an Indian rupee, it still is not going to solve the trade problem. Because the classic economic theory is, well, if your currency is devalued, then your manufacturers will crank things up and your goods will be bought overseas. That will not happen for two reasons:

One, we do not make things anymore, and many of our companies have moved their industrial base to China and many more are contemplating doing that or being forced to do that, or to Mexico or to other countries where they can exploit labor better. So, for that reason, it is not going to happen.

Second, because the Chinese will not allow our goods in, and they have illegally pegged their currency to ours, so their currency is artificially cheap. It falls with the dollar, so we can never catch up with the Chinese. And the Bush administration has refused to do anything about those illegal actions by the Chinese, the illegal pirating of U.S. goods, theft of jobs, illegal currency manipulations by the Chinese.

The Bush administration will not do anything because a few big companies and contributors are doing very well over there. It is just to the detriment of the majority of the workers and people here at home in the United States of America.

They say there is another reason why the trade deficit is so big, because our economy is growing so fast, faster than other economies. That is why we got a big trade deficit.

Well, that is an interesting argument. So we are borrowing a bunch of money from the Chinese, they are now our second largest international creditor, soon to be our largest, the Japanese are number one, and we use that money which we borrow from them to buy goods that used to be produced in the United States of America. And since those are produced nominally by American corporations, that shows growth here at home.

In the meantime, here at home people are unemployed, running up their credit cards, they have lost their jobs to unfair Chinese competition, and that shows what a robust and growing economy we have.

What a disaster this is for the working people of this country. What a disaster this is for the future industrial might of the United States of America, for our productive capacity. What a disaster it is going to be when the dollar tanks and oil goes up even more because the dollar will have been devalued so much.

There are so many things wrong with this laissez faire trade policy it is hard to know where to start, but the Bush administration thinks it is working just fine because they set a new record yesterday, the largest 1-month trade deficit in the history of the United States of America, and they are hoping they beat it every month this year and beat last year's record trade deficit, because that means jobs are exported, and, in the words of the President's former economic adviser, that is a good thing when we export jobs. It makes the country more efficient.

IN SUPPORT OF LT. ILARIO PANTANO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I spoke last night about a marine that I have in my prayers each and every night, Second Lieutenant Ilario Pantano. Lieutenant Pantano has served this Nation in great honor in both the first and second gulf wars. From my personal experience with him, I know that he is a dedicated family man and a man who loves the corps.

During his service in Iraq last year, Lieutenant Pantano was faced with a very difficult situation that caused him to make a split-second decision to defend his life. He felt threatened by the actions of two insurgents under his watch and, in an act of self-defense, he had to resort to force.

Two and one half months later, a sergeant under his command, who never saw the shooting, accused him of murder. Lieutenant Pantano now faces charges of two counts of murder.

Mr. Speaker, what is happening to this young man is an injustice. In a combat fitness report, his superiors praised his leadership and talent, and he was by all accounts an exceptional marine.

Mona Charen, a respected Washington journalist, wrote the following about this case: "Obviously, the United States cannot turn a blind eye to war crimes. If a soldier lines up civilians in front of a pit, My Lai style, and massacres them, he would richly deserve, and every self-respecting American would demand, a court martial." She further states, "But, good Lord, by what possible standard can this be called murder? Pantano was in the middle of a war zone, not a vacation on the Riviera. He had been dodging ambushes and booby traps for weeks. He had seen his comrades killed and maimed. Perhaps," according to Ms. Charen, "he acted too hastily in shooting those Iraqis. But a murder charge? Has the Marine Corps gone PC," politically correct?

The Washington Times even wrote an editorial on Lieutenant Pantano. They said: "Lieutenant Pantano is straight out of some romanticized war story. The 33-year-old Hell's Kitchen native left a six-figure salary in New York City to serve his country. His mother says of him, 'If he has a fault, it is that he is too idealistic and puts moral responsibility and duty to his country and his men before anything else.' For that," further quoting, "Lieutenant Pantano faces criminal charges that could result in death.

"At a time when the military is being stretched, the Pantano case sends all the wrong signals to servicemen. Finding a few good men will only get harder and harder if overzealous lawyers are permitted to intimidate the troops. In an army, that is a losing formula."

That a quote from the Washington Times.

Mr. Speaker, I have put in a resolution, House Resolution 167, to support Lieutenant Pantano as he faces these allegations. I hope that my colleagues in the House will take some time to read my resolution and look into this situation for themselves. Lieutenant Pantano's mother has a Web site that I am encouraging people to visit. The address is www.defendthedefenders.org.

Mr. Speaker, I hope and pray that when Lieutenant Pantano faces his Article 32 hearing on April 25, he will be exonerated for all the charges. Because, Mr. Speaker, to put doubt in the minds of our soldiers is to condemn them to death.

Mr. Speaker, I close by asking the good Lord to please bless our men and women in uniform, to please bless their families, to bless the families who have given a child dying for freedom, and I ask the good Lord to please help Lieutenant Pantano as he faces these charges.

I have written the President of the United States and asked him to please look into this matter. I did get a courtesy response back, but no more than that.

I do say as I close, please, God, continue to bless our men and women in uniform.

PEACEFUL CREATION OF DEMOCRACY IS POSSIBLE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last week Victor Yushchenko, the new president of Ukraine, spoke to a joint session of Congress. We were lucky to have received such a distinguished speaker, one who has done so much to encourage democracy over the last year, even overcoming a vicious poison attack by those who opposed his calls for democratic reform in the Ukraine.

Mr. Yushchenko led the people of Ukraine through what is called the Orange Revolution. Ukrainian protestors bravely rejected an illegal and predetermined presidential election and demanded a new one.

Since he took office after winning the second election, Ukrainians have been getting serious about fighting corruption, promoting fair competition and demanding transparent government business relations. Peaceful creation of democracy is possible.

□ 1745

As I listened to President Yushchenko, I could not help but note the irony that a man who has encouraged democracy through such peaceful and nonviolent means had been invited to speak to a joint session of the U.S. Congress, which is still working with the White House to create a democracy in Iraq through the barrel of a gun. The irony is that Ukraine, an Eastern European holdover from the Soviet Union's Communist bloc, understands the inner workings of democracy better than the President and Congress of the United States.

I believe that the war in Iraq flies in the very face of democratic governance. Instead of upholding the tenets of democracy, the war in Iraq has violated democracy's core principles to a degree unimaginable when the U.S. declared war in March 2003. In January 2005, the Iraqi people held their first election in over 50 years, and I congratulate them for their bravery in accomplishing this feat. But the ends do not justify the means. From the very beginning, the President's case for invading Iraq was based on false premises and manipulations of the truth, hardly the stuff democracies are made of.

We know now, and many of us knew back in 2003, that Saddam Hussein did not pose a threat to the United States. He never possessed ties to al Qaeda's terrorist network, and no weapons of mass destruction have ever turned up in Iraq. In fact, earlier this year, President Bush officially called off the search for the missing weapons of mass destruction. These are shameful and truthless grounds for fighting a war that has, so far, cost the lives of more than 1,500 American troops and tens of thousands of innocent Iraqi civilians, not to mention more than 12,000 American soldiers who have been severely and permanently wounded in the war.

The cost to our Nation's treasury has been just as staggering. After Congress puts the finishing touches on the latest supplemental appropriations bill, this war's total cost will amount to more than $200 billion in just over 2 years. Mr. Speaker, $200 billion in 2 years. Just think about that amount. Adjusted to inflation, the combined costs of the Korean War, the Vietnam War, and the first Gulf War are easily eclipsed by the war in Iraq.

Sadly, a vicious insurgency still plagues the Iraqi people and America's brave soldiers on a daily basis. Yet President Bush seems to think that everything in the Middle East is going just fine. Yesterday, the President stated, and I quote him, "More than 150,000 Iraqi security forces have been trained and equipped and, for the first time, the Iraqi Army, police, and security forces now outnumber U.S. forces in Iraq." Well, then, here is the question: Why do our young men and women continue to remain in Iraq if the Iraqi people are prepared to handle their own security? Why do our young men and women continue to die in staggering numbers if the Iraqi Army, police, and security forces are trained and equipped?

The flip side of the President's boasts is that the American military presence is not helping matters. That is why, with the support of 30 of my House colleagues, I have introduced H. Con. Res. 35, legislation that calls for the U.S. to withdraw its military forces from Iraq. Let me be clear: the U.S. should not abandon the country it voluntarily invaded; but instead of maintaining a military presence in Iraq, we must invest in humanitarian and developmental aid that is so crucial in the peaceful advancement of a young democracy.

Mr. Speaker, it is time to change direction in Iraq. We must begin to bring our troops home. It is time to give Iraq back to the Iraqis. If we need some guidance, I recommend taking a page out of the Ukrainian playbook on building a democracy. Because when it comes to advancing democracy, Ukraine seems to understand what many Members of the U.S. House of Representatives do not.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 513

Mr. BISHOP of New York. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 513.

The SPEAKER pro tempore (Mr. DENT). Is there objection to the request of the gentleman from New York?

There was no objection.

THE PHARMACEUTICAL MARKET ACCESS ACT OF 2005

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise again tonight to talk about the high cost of prescription drugs here in the United States relative to what the rest of the people in the industrialized world pay for the same drugs.

Recently there was an article in The Wall Street Journal which talked about how much name-brand prescription drugs have gone up just in the last year; and I think in that article they said over the last 5 years prescription drugs have gone up more than twice the rate of inflation. In fact, I think it is more like three times the rate of inflation. These are drugs that have been on the market for a long period of time, and the research costs were paid for a long time ago.

Recently, I got some research together from some pharmacies in three cities of five of the most commonly prescribed drugs in the United States. First, Lipitor, which is a drug which is made in Ireland. Every single tablet is made in Ireland, and it is exported around the world. The price of a 30-day supply of Lipitor in London, England, was $40.88. That same drug in Athens, Greece, was $55.65; and in the United States, $76.41.

The next drug here is Nexium, the new purple pill: 30 tablets, 20 milligrams, London, $42.23; Athens, $57.09; the United States, $138.06.

We compared the prices of Previcet, Zoloft, and Zyrtec. If you add them up, the price of those five drugs in London, $195.95; in Athens, those same five drugs, $231.04; but here in the United States, $507.96.

Why is this important? Well, this year, according to the head of pharmacology at the University of Minnesota, Dr. Steve Schondelmeyer, according to him, this year, Americans will spend $200 billion on prescription drugs. And if you compare what Americans pay for the same name-brand drugs compared to the industrialized countries around the rest of the world, we are paying at least 30 percent more. In fact, I think it may be more like 50 to 75 percent more, but let us take 30 percent. Thirty percent of $200 billion is $60 billion.

I believe if we treated prescription drugs the way we treat every other product and allowed Americans to have access to those drugs and those products as we do with other products, you would see prices in the United States drop dramatically.

That is why I have reintroduced a bill that has passed several times; in fact, we have improved it this year, made it even safer, the Pharmaceutical Market Access Act of 2005. I hope Members will go to my Web site at gil.house.gov, get the facts, take a look at these charts, get a copy of the bill, and decide to become a cosponsor. It is important, because we need to send a message that Americans deserve to have world-class access to world-class drugs at world-market prices, and when we do, we will see the prices here in the United States reflect more what is the average among the industrialized world.

So I hope my colleagues will join me. Go to my Web site at gil.house.gov; there is a lot of information there. We have about 70 sponsors right now; we would like to get that to 220. Please join me in the Pharmaceutical Market Access Act of 2005.

ORDER OF BUSINESS

Ms. CORRINE BROWN of Florida. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

PRIORITIES: VETERANS, BANKRUPTCY, AND THE ESTATE TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to comment on the Republicans' priorities. Many of them talk about protecting veterans and making sure that veterans have the support they need when they return from protecting this country's freedom in Iraq.

Today the House passed H.R. 8 to make permanent the repeal of the estate tax. This bill will cost the American taxpayers $295 billion over the next 10 years. The cost on the first 2 years could go as high as $1 trillion.

This bill gives a tax break to the wealthiest three-tenths of 1 percent of estates, while imposing a new capital gains tax on most of us, including small business owners and farmers. At the same time, the Republicans passed a budget that calls for $800 million in cuts to the VA over the next 5 years.

Clearly, the Republicans are attempting to balance the budget on the backs of the veterans.

Tomorrow, this same House will vote on bankruptcy legislation that does not protect our veterans. Many of our servicemembers, especially the citizen soldiers of the Guard and the Reserve forces, face terrible financial problems because they do not qualify for a narrow protection of debt incurred while on duty if S. 256 becomes law.

Since 9/11, approximately half a million Reservists and Guardsmen have been called to active duty, some more than once. Hundreds of thousands of Reservists and National Guardsmen are currently activated in support of the ongoing military operations. According to the National Guard, four out of 10 members of the National Guard and Reservist forces lose income when they leave their civilian jobs for active duty.

The people of this country need to see what policies the Republicans actually vote for. They talk the talk very well, but they do not walk the walk or roll the roll for our veterans who have sacrificed their bodies for this Nation.

Today, the gentleman from Illinois (Mr. EVANS), our ranking member, filed a bill for mental health for our veterans. It is clear that they are slipping through the cracks, and we need to focus our attention on how to assist veterans returning from the war, whether it is economic, whether it is health care, or whether it is to make sure that they have their jobs and have a seamless transition.

We need to do more than talk the talk. We need to make sure that our money follows all of this rhetoric we have on the floor constantly about how we support the veterans. It should not be just talk, but it should be our actions.

ORDER OF BUSINESS

Mr. BOUSTANY. Mr. Speaker, I ask unanimous consent to give my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

TOUGH ISSUES FACING LOUISIANA FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. BOUSTANY) is recognized for 5 minutes.

Mr. BOUSTANY. Mr. Speaker, I rise today on behalf of the farming community of southwest Louisiana. During the March district work period, I held community meetings in all eight parishes of my district to discuss issues facing my constituents. At each meeting, farmers and their families filled the rooms to ask for help.

Farming in Louisiana is not just a job for these men and women, Mr. Speaker. They love the land that they work, and they want to ensure that their livelihood is preserved for generations to come, but they are struggling to survive. Unless Congress can come to their aid, these farmers may not be in business by the end of the year.

Let me give some examples. Steve Broussard is a banker in my district and Steve works with farm loans for local growers, and he told me four rice farmers in our district have been forced to quit already this year. By the end of this season, eight more could be out of business. For a rural community, farms are the foundation of a local economy. The closure of a single farm means the loss of a customer for many local businesses and a reduction of revenue for schools, public utilities, and hospitals in these communities.

Cindy Lahaye works in a hospital in Mamou, Louisiana; and Cindy told me that in this town of 3,500, they are feeling the ripple effect at their rural hospital because the surrounding farming community cannot afford health care at this time. This is a problem that begins with our farmers and affects every one of us.

In my recent conversations, I asked my constituents for input and suggestions on what could be done to provide relief for our farming community. First and foremost, Mr. Speaker, we must reopen important markets that have been closed for various political reasons. I had a farmer in Ville Platte, Louisiana, who told me, I have bins full of rice, but I am broke. Bumper crops in the past few years have caused prices to drop, and with a new crop going into the field, there is no place to move the surpluses from the past 2 years. Iraq, Iran, and Cuba were all some of the largest importers of U.S. rice, and all three of these export markets remain restricted.

Cuba, for example, had resumed importing agricultural commodities from U.S. farmers because of the provisions in the Trade Sanctions Reform and Export Enhancement Act of 2000. A recent ruling by the Office of Foreign Assets Control threatens to derail this reemerging market. My colleague from Missouri has introduced a bill that could provide immediate relief for the rice farmers of my district. H.R. 1339 amends the Trade Sanctions Reform and Export Enhancement Act of 2000 to clarify allowable payment terms for sales of agricultural commodities and products to Cuba.

□ 1800

I am proud to cosponsor this bill, and I pledge my support for this legislation.

Secondly, taxpayer dollars dedicated to the United States Agency for International Development and the PL 480 program should be used to purchase U.S. commodities and not foreign food. The program serves two purposes. One, it provides emergency and nonemergency food aid to countries in need; and, secondly, the program helps American farmers since the money is used to purchase American agricultural products.

Wynn Watkins of Jefferson Davis Parish, Mr. Speaker, told me this. Congressman BOUSTANY, he said, all we have here is rice. It is the busiest time of the year for us, and we all came out of our fields to hear you speak today. We are being asked to send our boys to Iraq and Iraq cannot take our rice. Where is the justice in that? I agree with Wynn Watkins, Mr. Speaker.

USAID's budget proposal would transfer $300 million of the agency's $1.2 billion of food aid funding for 2006, and the transferred funds would be used to purchase foreign food for emergency relief. As a member of the Committee on Agriculture, I am opposed to this transfer.

Third, we need to improve the counter cylical payment process. A higher-than-expected final price for rice in 2004 significantly reduced last year's payments. Many farmers mistakenly based their budgets and capital investments on information found on the National Agriculture Statistics Service Web site. The number had not been adjusted for 3 months, and the USDA and the NASS need to reform their calculation and communication strategies to avoid future such incidents. I have asked Secretary Johanns to look into this, and I urge him to be flexible with the farmers who must repay these advances.

Fourth, rising fuel prices and the surging cost of fertilizer have nearly doubled the cost of production for the farmers in my district. We must pass a long-term, comprehensive energy policy. Abundant, affordable and reliable energy is critical, critical to the success of our agriculture industry.

And, finally, we must honor the promises made to our farmers in the 2002 farm bill. Larry Sarver, from Crowley, Louisiana, told me that in 2002 he had a 6-year agreement with the Federal Government and he made budget and capital investment decisions. We need to protect this farm bill.

RISING PHARMACEUTICAL PRICES

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, my colleague, the gentleman from Minnesota (Mr. GUTKNECHT) was up here a moment ago talking about the price of pharmaceutical products and how they have been rising and increasing and ever going up, three, four times the rate of inflation.

There was this report done by AARP the other day that was covered in USA Today and on the news about how pharmaceutical prices had in the last year gone up close to about three times the rate of inflation.

The truth is, over the last 5 or 6 years pharmaceutical products have gone up somewhere close to four times, three times the rate of inflation. And every one of us know people in our district who go to get their prescriptions filled. They got them last month or they got them 2 months ago, same pills, same amount of dosage, nothing different, and the price is up 40 bucks. And there is nothing to explain how that went up $40. And senior citizens who are on a fixed income, families who are on a fixed income and they have a sick child cannot afford a health care cost that is rising close to three times or four times the rate of inflation.

Now, last Congress, Democrats and Republicans came together, not because it was a Democratic idea or not because it was a Republican idea, because it was the right idea, to offer reimportation of pharmaceutical products, allowing people to go to Canada and go to Europe to buy pharmaceutical products that are 50 percent cheaper than they are here in the United States, or go to England, go to Ireland.

All over Europe and Canada the same drugs that we find on our shelves at our local pharmacy are 50 or 40 percent or 60 percent, depending on what you want, cheaper than they are here. I have on my Web site in my congressional office a Costco in Chicago and a Costco in Toronto. And the same Costco, we compared the same pharmaceutical products most used by senior citizens for arthritis, blood pressure, other types of medications they need. And the Costco in Canada offers, on average, 52 percent savings for the same products that you could buy at Costco in Chicago.

We are separated by a little over 200 miles. But they saved 50 percent on their needs of their medications, whether it is Lipitor or other type of products. And why? Because it is the only product in this country that is a closed market, forcing American consumers to pay a 50 percent premium for the products that their dollars spent paid for the research.

We developed those drugs here in this country. We gave a tax credit to these companies to develop those pharmaceutical products, and we have the dubious honor to pay a 50 percent premium over Canada and Europe. So what has happened is that the American senior citizens, the American taxpayers, are subsidizing the poor, starving French and German and Swiss and Dutch. We have got to come to an end to this and allow people to have the access to the free market.

We are going to negotiate and discuss China trade, other types of trade deals where everybody here is going to talk about free trade except for one product. What? Pharmaceutical products, the product on which the United States pays more than it does on television, more than it does on consumer electronics, more than it does on food, more than it does in other areas. Why? Because we have a closed market.

What we are trying to do, Democrats and Republicans are trying to allow the principles of the free market to work, bringing competition and choice to bear. If you did that, then the American consumer and taxpayers would see a dramatic drop in their prices. And we are not being allowed to vote on that. Why? Because the pharmaceutical industry is giving you the best government they can buy. They have stopped us and the ability to bring that vote. If we did, we would pass that vote here. We would pass it in the Senate.

But the American people are on to what is happening. They know that we need to deal with this because we cannot continue to subsidize the rest of the world, both on the research side and on the price side; and that is what is happening.

We know it is safe because over a million seniors a year go over the border to Canada. We turn them into illegal drug runners. Go over the border to Canada and a billion dollars worth of trade and get their pharmaceutical products, and not one of them has ever gotten sick.

But what we are talking about is bringing Canadian cattle that we know is tainted, some of it, with mad cow disease. Now that we allow in. Accessing pharmaceutical products in Canada, Lipitor, other drugs on the Canadian market that is 50 percent cheaper, that is against the law. That policy has been brought to you by the United States government.

It is time to allow Democrats and Republicans to come together to bring common sense policies and the principles in government to work. Principles in business, businesses always allow competition. They find the cheapest price they can. We can get cheap prices and stop having the taxpayer subsidize too high a price.

My colleague, the gentleman from Minnesota (Mr. GUTKNECHT), and I have introduced this legislation. Other Democrats and Republicans are on it. And, again, it is not about politics. It is not about partisanship. In the last Congress, 88 Republicans and 153 Democrats came together, passed it, not once, not twice but three times. We will do it against this year.

ORDER OF BUSINESS

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

IN RECOGNITION OF HERMANN A. GRUNDER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized for 5 minutes.

Mrs. BIGGERT. Mr. Speaker, I rise today to honor a man whose spirit and dedication to the world of science inspired him to give more than four decades of tireless service to the Nation as a scientist, administrator and a leader.

This week Dr. Hermann A. Grunder will retire as Director of Argonne National Laboratory, a leading Department of Energy science laboratory that I am proud to say is located in my congressional district in Illinois. I have had the privilege of working closely with Dr. Grunder over the course of the last 5 years during his tenure at Argonne, and so I speak with personal knowledge and affection when I say that Hermann has left an indelible stamp on Argonne, the quality of life in my district, the DOE complex and the Nation.

There is no doubt that he has created a positive and lasting legacy, both nationally and internationally, and I would like to take this time to pay tribute to his many achievements and wish him well on the occasion of his retirement.

Dr. Grunder first entered the DOE system in 1959 at Lawrence Berkeley Laboratory in California. After a short break to complete his Ph.D. at the University of Basel in Switzerland, he returned to Berkeley as a physicist in 1964 and has served the Nation ever since. At Berkeley, his scientific excellence, vision and leadership earned him executive positions of increasing responsibility.

In 1985, he left Berkeley to become the first Director of the Thomas Jefferson National Accelerator facility in

Virginia, which he helped to build from the ground up literally. Today, the Jefferson lab is one of the Nation's leading accelerator laboratories.

In 2000, Dr. Grunder became Director of Argonne. The first thing I noticed when I met Hermann was his energy and enthusiasm for science. It is infectious. As a long-time member of the Committee on Science and chairman of its Subcommittee on Energy, I have had the good fortune of meeting many of the Nation's most talented scientists; and I can say without a doubt that Hermann's passion for science and his dedication to DOE's system of national laboratories stands out among the crowd.

As Argonne's 10th Director, Dr. Grunder strengthened the laboratory by renewing senior management at the highest level and grooming the laboratory's next generation of leaders. Through his active efforts to encourage strong research ties between Argonne and regional universities and Fermilab, Dr. Grunder greatly enhanced the Midwest's reputation as a world center of advanced scientific research and development. These collaborations are expected to trigger new scientific, technological and economic benefits for Illinois and the Nation, while providing students from Illinois and around the world with a greater role in research at Argonne.

While at Argonne, Dr. Grunder emerged as an international advocate for safe, proliferation-free nuclear energy, a strong steward of DOE's unique user facilities at our national labs, and a keen supporter of biosciences and technology's role in homeland security.

Under his leadership, Argonne reviewed ongoing research in the aftermath of September 11 and identified many potential ways this research could improve our homeland security. Since then, Argonne has contributed to hundreds of research initiatives designed to anticipate, detect and counter terrorist acts.

It came as no surprise in 2004 when Energy Secretary Spencer Abraham chose to honor Dr. Grunder's career with the DOE laboratory system by presenting him with the Secretary of Energy's Gold Award in recognition of his tireless engagement on issues of national importance, including nuclear energy, national security and international user facilities.

The DOE and the Office of Science recognized how extremely lucky they were to have a true champion like Dr. Grunder on their team for so long; and we in Illinois were very, very lucky to have had such an outstanding professional at the helm of one of our two outstanding labs for the last 5 years.

Mr. Speaker, Dr. Hermann Grunder has contributed greatly to the DOE laboratory complex, my district, and the State of Illinois and our Nation. His commitment and industrious efforts as a public servant serve as an inspiration to us all. I know that his presence at Argonne will be greatly missed, but I am confident that with his abundant energy and zeal for science he will continue to do great things in the scientific community for years to come.

Today I congratulate Dr. Grunder on his retirement and wish him all the best in his many future endeavors.

SENTENCED TO SERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I rise to alert the American people to the case of Emiliano Santiago. His case, his plight should be known and feared by every high school junior and senior across the country, as well as every parent and every guardian.

Emiliano Santiago is a 26-year-old soldier from Seattle who proudly and bravely served his country for 8 years immediately following high school. His 8-year commitment to the United States military was up a few months ago, or at least so he thought. That is when Emiliano Sahtiago discovered that Secretary Rumsfeld's secret back door draft existed. Despite 8 years in the military, despite fulfilling his commitment to his country, Emiliano cannot leave the military. Emiliano Santiago cannot leave the military this week, this month or any year in the future for some time to come. Emiliano Santiago cannot leave the military this decade or the next decade.

The ugly little secret in the Pentagon is that Emiliano Santiago's voluntary service is involuntary. He has been sentenced to serve. The ugly truth of the matter is simply this: He is forced to serve at the whim of Rumsfeld potentially until Christmas Eve in the year 2031. Emiliano Santiago signed up in 1996. He has been sentenced to 35 years of service under Mr. Rumsfeld.

□ 1815

He is now subject to the whim of Mr. Rumsfeld. He will be in his fifties before he can escape from Mr. Rumsfeld's grasp.

Do you think anyone told Emiliano what he was getting into? Not a chance. Welcome to the myth of the voluntary military service under Donald Rumsfeld. He cannot find enough soldiers so the Pentagon is forcing those already in service to stay whether they want to or not, whether they have jobs, family, or plans of their own.

Emiliano is owned by Mr. Rumsfeld. Welcome to the volunteer Army. They call it stop-loss. It is an involuntary military service. Just ask Emiliano and 50,000 other U.S. soldiers. Yes, 50,000 soldiers who signed up in what they thought was a voluntary military cannot now voluntarily leave the military at the end of their commitment.

Stop-loss is Rumsfeld's legalese for a backdoor draft. It is legal, real; and do not let anyone, especially military recruiters, tell you otherwise.

A recruiter signed up Emiliano. The recruiter was saying, Sign up here for 8 years. He never explained to me of the possibility of stop-loss. No one told Emiliano of the backdoor draft. And Americans are just finding out about the recruiter provision found in the No Child Left Behind Act. Or as I call it, No Child Left Un-recruited. High schools must turn over high school student contact information or lose funding. Now, there is the makings of the voluntary Army.

Rumsfeld has unlimited power to keep you in the military, and the military now has unlimited access to your son and daughter. Forget about any right to privacy. This is America under Republican leadership. If you are in high school right now, the military has your name, your address, and your phone number. If you are in Rumsfeld's military, he has you for decades. It is the new Republican definition of family planning. Ask Rumsfeld what you are doing for the rest of your life.

It is wrong and it is not working. Recruitment in the Army National Guard plunged 31 percent in February and another 12 percent in March. The word is spreading. America's all-voluntary military has been replaced by Rumsfeld's sentence-to-life military.

I served my country as an officer in the United States Navy. I am proud of my military service and proud of anyone who serves America in the military. But today's honor and duty are being distorted into recruiter mandates to find more bodies. The National Guard is adding another 1,400 recruiters.

I want to be clear about this. Do not blame the recruiters. It is not their fault. They are doing what good soldiers do: follow orders. Being a recruiter used to be a plum job, reserved for only the best of the best. They were soldiers who were models for American military pride. But Rumsfeld has turned them into overworked, overstressed, overzealous representatives with quotas to fill and truth to stretch.

I want the U.S. military at its finest. I want recruiters back to what they can be: role models for America whether someone chooses to join the military or whether decides instead to be proud of the military.

We are not doing that today. We are taking names of literally every high school student in America. Demand that the No Child Left Behind Act apply only to education and not to recruiting. Until then, get the paperwork and opt out, either for yourself or your kid. You can find it at www.militaryfreezone.org. Let me give it again: www.militaryfreezone.org.

Take back your right to the personal privacy that used to be guaranteed by your government. Emiliano Santiago is looking forward to Christmas Eve 2031. That is when he is finally out of Rumsfeld's grasp. We used to have a voluntary military. Now we have Rumsfeld's military. It is a sentence to serve.

ILLINOIS TENTH DISTRICT STUDENTS AID TSUNAMI VICTIMS

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I rise today to recognize the efforts of schools in the Tenth Congressional District of Illinois who together raised over $600,000 for tsunami victims halfway around the world.

Student councils, community service clubs, entire students bodies from all around our district have held fundraising events and collections in ongoing efforts to benefit the American Red Cross, UNICEF and countless other relief organizations.

I want to highlight the work of Dan Klein, who attends St. Viator High School in Arlington Heights, Illinois, who set out modest goals for his work. Daniel took $300 of his own money and with some help from his parents ordered 1,000 red rubber bracelets with "Students for Relief" embedded on them. Thinking he could send a small donation to the battered region from bracelet sales, Daniel's efforts led to anything but small. He has sold over 450,000 bracelets via his Web site, www.studentsforrelief.com, and raised over $500,000 for tsunami victims.

Many other young people across my district exemplify American generosity. Prospect High School students in Prospect Heights raised over $500,000 to help rebuild Nagapattinam, a small shoreline town in Southeast Asia where their school custodian is from.

Students at Loyola Academy and Regina Dominican High School in Wilmette raised a combination of $14,000 for their relief efforts.

Deerfield High School students raised $3,500 for the American Red Cross through bracelet sales.

Student council and Model U.N. organizations at Fremd High School in Palatine raised over $500 for UNICEF.

Highland Park High School's Key Club and Transitional Program of Instruction raised $570 for UNICEF.

Students organizations from Glenbrook North High School in Northbrook organized a 2-day fundraising drive that raised $10,000 for the American Red Cross.

Students from Glenbrook South High School in Glenview raised over $8,000 for the American Red Cross.

The Service Over Self Club at John Hersey High School in Arlington Heights raised $1,500 for the Red Cross.

The student council and Red Cross Club at Lake Forest High School organized homeroom competitions and a number of themed events and dances raising $5,000 for the Red Cross.

The Student Council at Libertyville High School raised nearly $5,400 for Oxfam USA/International.

New Trier High School in Winnetka initiated a bracelet, pizza and bake sale, along with a study-a-thon netting over $10,000 for relief efforts.

At Rolling Meadows High School the student council, National Honors Society, and Students Of Service raised $2,000 for the Red Cross during their 2-week fund raising effort and also collected clothes, blankets, and other essentials.

In Lincolnshire Stevenson High School, they had a Penny Wars competition among freshmen, sophomore, junior, and seniors classes who collected $5,300 for the American Red Cross.

Vernon Hill High School raised $3,500 for efforts with Best Buy matching their donation with $7,000 more.

In Gurnee, Warren Township High School's student council sponsored two fundraisers netting $400 for the Cooperative for Assistance and Relief Everywhere, CARE International.

Elementary school children in my district also made substantial contributions.

First through eighth graders at Holy Cross School in Deerfield raised $2,000 for tsunami relief efforts in conjunction with Catholic Charities Week.

Ariana Michel and Gabrielle Feldman of South Park Elementary School in Deerfield raised $2,000 themselves in just 2 days selling bracelets.

In Northbrook, Westmoor, Greenbriar and Meadowbrook elementary schools raised over $2,000 for the Red Cross.

Northbrook Junior High School students raised $5,000 for the tsunami efforts.

Students at Wescott School in Northbrook raised $2,700 for UNICEF.

Countryside Montessori School in Northbrook raised $1,200 for the American Red Cross through a coffee and bake sale.

Eighth grade classes at Field School in Northbrook raised $1,000 for the American Red Cross.

Elm Place School in Highland Park collected school supplies to fill 166 bags sent to students in Phuket, Thailand.

Fifth graders at Lincoln School in Highland Park organized a bake sale netting $900 for the relief effort.

Jefferson School in Hoffman Estates raised $2,200 from a wristband sale for tsunami victims.

In Libertyville, Copeland, Highland, Adler, Butterfield and Rockland elementary schools raised $1,500 for relief efforts.

Winkleman Elementary School in Glenview raised $2,000 through a rummage sale that will go to Heifer International. In addition, third grade classes at the school raised $780 for the American Red Cross and made 45 fleece blankets for orphanages.

Kindergarten, first, and second grade classes at Lyons School in Glenview collected $3,200 for the American Red Cross.

Students at Hawthorn Schools in Vernon Hills organized a district-wide bracelet sale raising $12,000 for tsunami victims.

Deerpath Middle School in Lake Forest raised over $1,600 for the American Red Cross.

The Lake Forest Country Day School held a dance marathon raising $6,000 for the tsunami relief.

In addition, students Ian and Lane Mankoff of Lake Forest raised $15,000 for the relief effort through a hot chocolate fundraiser.

St. Theresa School in Palatine raised $6,400 for tsunami victims.

Mr. Speaker, the schools and students I mentioned have taken up the challenge of service with honor while representing their communities with distinction. I am honored to represent these schools that have shown the desire to make a difference in the lives of those ravaged by the tsunami. They not only represent the best of our communities, but they are what makes our country strong. Thank you for the opportunity to recognize these outstanding student and schools of the 10th District of Illinois.

All of these efforts I think exemplify the best that is in the American spirit. And it is so heartening to see the youngest Americans giving the most, showing people across the world that they have never met what Americans can do.

HONORING ULYSSES BRADSHAW KINSEY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I rise to pay tribute to a recently deceased great American, Ulysses Bradshaw Kinsey.

As a boy, Mr. Kinsey grew up on a large farm where he shared responsibilities with his older siblings. Mr. Kinsey's values of fairness, compassion, and personal integrity were learned from his father and mother. He closely observed and admired his beloved father's fair treatment of people regardless of race and stature. He also admired his mother for her kindness and compassion towards others. This strong foundation would become the basis for Mr. Kinsey's personal and professional values.

While attending Florida A&M, he met and married his wife of 63 years. With their children they were loving and unfailing in their devotion. Mr. Kinsey believed that the best way to love his children was to love their mother. He encouraged independence of action and attitude while loyally supporting them and allowing them to develop in directions of their own choosing.

At the same time, he set well-defined limits that were firm and consistent. Mr. Kinsey's focus on the individual development and welfare of each child was transferred to his professional life in a long distinguished career as an educator. In 1941, he began his career as a social studies and history teacher at his high school alma mater. By 1943, he became assistant principal and also served as school treasurer, junior class sponsor, and athletic director.

In September of 1950, at the birth of his sixth child, Mr. Kinsey became principal of Palmview Elementary School, formerly an industrial high school. And by 1953, he had earned his masters degree in education and supervision from Florida A&M college. He also attended Lincoln University Law School in St. Louis, Missouri, during his summer vacations and completed his legal education.

Although Mr. Kinsey decided to become an educator partly because of the financial demands of a growing family, he never regretted that decision; and that decision was a fortunate one for the thousands of children who passed through Palmview's doors during Mr. Kinsey's long tenure as a principal.

As a leader, he focused on two rudiments of education, one, critical thinking through the development of reading and writing skills, and quantitative reasoning. His emphasis on these educational basics may explain why Palmview Elementary School, an institution located in an inner-city community with an 86 percent African American student population, was so hotly pursued by suburban parents during the early turbulent days of integration in the South.

Palmview, an educational oasis, was distinguished from other schools by its clean, safe environment, intensive extra-curricular activities in art and music and computers in the classrooms.

With a calm, careful demeanor, Mr. Kinsey led the way academically, not only for African American children but also for all children in West Palm Beach County.

His impact on his community also influenced many others beyond the children who became part of the Palmview family. His work as a community organizer and leader began in the early 1940s. U.B., along with other African American educators, employed Thurgood Marshall and he was successful in bringing integration of the teachers and giving them the back pay they deserved.

His contributions are countless to education and he serves as a role model for others and leaves a very rich legacy.

POSITIVE IRAQ WAR EFFORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, so often when we hear of events in the Middle East the reports are negative, sometimes even the discussion on the floor reflects a great deal of negativism.

□ 1830

Recently, I led a delegation to Jordan and Iraq and later to Germany. Matter of fact, we just returned yesterday. And I thought I would report on what I saw there because so often soldiers say we really wish you would go back and tell the American people the war we are fighting and not the one that they see on television or in the newspapers.

So, on previous trips, I had been amazed at how positive the morale was. Everyplace that I went, soldiers seemed to be rather upbeat, pulled together, seemed to have a sense of mission.

As we flew into the Al Asad, which is a somewhat remote base about 90 miles west of Baghdad out in the desert, extreme cold, no vegetation, no trees, no grass, as we landed there in the dust and the sand, I thought, this is the place where we are going to see some people who are really pretty negative about what is going on, and I was really surprised.

There were 180 Nebraskans from my home State there. That is why I went there. They had not had a CODEL there for at least 9 months, maybe never there. And again I saw the same thing, a sense of accomplishment, a real sense of pride in what they were doing. I pressed them, and I talked to them, and I still got no negative comments and no major complaints.

We went on down to Baghdad, and we talked to General Petraeus, who is in charge of training the Iraqi soldiers, and General Casey, who is in charge of the overall command there. General Casey made the point that the infrastructure still needs improving. Obviously, the electricity is better, but it is still not working all the time. Sewage at times is not what it should be; and, at times, their oil pipelines are getting blown up. But, again, there is general improvement, but they both said the January 30 elections were truly a watershed event. Since that time, there has been a definite qualitative shift in what is happening in Iraq.

I thought I would just point out some of the things that we were told and some of the things that we observed.

General Casey said, and General Petraeus as well, that by the end of the year Iraqi troops should be out in front in all concentrations in Iraq. They would have, in many cases, U.S. backup, but there are right now several areas of Iraq that are totally controlled, with no U.S. backup, by Iraqi forces. So the training of the Iraqis has been excellent.

The Iraqi intelligence is improving. Many Iraqis are now coming forward with information regarding insurgents that were not coming forward before. The attacks have been reduced, and the Iraqis are certainly much more confident of their future.

Apparently, many of the Sunnis are regretting not having participated in the elections, and at this point they are beginning to volunteer for the army, for the police, which was something that was unheard of a few months ago, and the Sunnis are pressing to get a place at the table in the new government.

There is no shortage of Iraqi recruits apparent at the present time. There are roughly 100 battalions of army Iraqis, 152,000 total have been trained and equipped, 85,000 police, 67,000 members of the army. The Iraqis have been provided with up-armored vehicles, body armor, about 130,000 sets. So they are well over halfway to their goal of 270,000 Iraqi soldiers trained.

Also, the Iraqis are performing much better, whether they are policemen or soldiers. The recent instigation or uprising in downtown Baghdad by al Sadr, where we have several thousands of his supporters demonstrating, it was well-orchestrated, but the thing that we did not hear was that whole situation was controlled by Iraqi police, with no U.S. backup, and so we find that they are much in control of the situation.

We also had a chance to talk to Mr. al Jafari, the prime minister. When we asked him what he wanted to say to the American people, he had just been installed as prime minister the day before we saw him, he said, the thing I would like to say is we owe a debt of gratitude to the United States and particularly for the loss of soldiers. He said, when you sent your soldiers over here and the sacrifices they made, it is something we can never forget, and that we will always be grateful for.

We asked him if he would have an inclusive government, if he would include the Kurds and Sunnis and Shiites. He said he would, and that remains to be seen, because he is linked with a very conservative Islamic Shiite party that has some ties to Iran. So I guess the proof will be in the pudding, and we will see what he does. He was very cordial, nice and intelligent; and, of course, they have a President at the present time, a Kurd named Talabani.

We also were heartened by the progress women had made in Iraq, because at the present time every third name on the ballot last January 30 was a female name. So we will have about 80 representatives of the 275 member delegates to the constitutional convention.

So, all in all, Mr. Speaker, we think things are better. They are not perfect.

but it is heartening to see the progress that has been made.

GUN LIABILITY LEGISLATION

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY. Mr. Speaker, yesterday I talked about no fly. In other words, terrorists in this country cannot get onto a plane, but they can certainly go into a gun store and be able to buy a gun. Today, I would like to talk about gun liability, which is going to be out on the floor in the next week or so.

The leadership of Congress is constantly preaching about personal responsibility: Individuals should accept the consequences of their actions. I agree with that. Unfortunately, this culture of responsibility does not extend to the gun industry and negligent gun sellers.

Both the Senate and the House have bills granting the gun industry unprecedented immunity from litigation and other legal actions, legal actions that many of us that have suffered from gun violence were able to take advantage of in the courts. Under this legislation, dealers and manufacturers of guns would receive immunity from any legal action.

Sellers and makers of nearly every other consumer product must face the consequences of their negligence and their misjudgments. Manufacturers and sellers of toy guns are more liable for their products than the makers and sellers of assault weapons and handguns.

The NRA has named this issue as their number one legislative priority this year. They said this will end frivolous lawsuits, but not a single suit against the gun industry has ever been deemed frivolous by a court of law.

This legislation is not about protecting an honest gun dealer who illegally sells a gun to someone who later commits a crime. This legislation protects cases of gross negligence which has led to the deaths of unsuspecting victims.

For example, I think the majority of us remember the incident here in the D.C. area. The owner of the Bull's Eye Shooter Supply Store in Washington State was sued because he could not account for 239 guns in his inventory. One of these guns was the Bushmaster used in the D.C. sniper cases. The D.C. sniper killers were allowed to get their hands on a gun because of this store's negligence, but this legislation would get Bull's Eye Shooter Supply off the hook from any legal action. By the way, the victims were able to sue Bull's Eye and win a court judgment.

Fortunately, there was a lawsuit against Bull's Eye and Bushmaster, and part of the settlement was Bushmaster agreeing to work with its dealer to promote safer sales practices to prevent incidents of negligence. That is one of the tools of being allowed to sue, to make manufacturers, to make people responsible for their products.

This legislation would have required the immediate dismissal of the lawsuit against Bull's Eye.

The gun industry must be subject to the same laws that govern every other American business. Courthouse doors must remain open to those injured or who have lost loved ones because of the gun industry's negligence.

This bill would allow gun dealers to knowingly sell large quantity of guns to a single customer intending to traffic the guns to criminals without any legal repercussions.

Stripping away the threat of legal action would seriously jeopardize any opportunity to make guns safer. Without the threat of lawsuits, the gun industry will not have any incentives to incorporate gun locks, safety triggers and smart gun technology into their products. Had this law been in place 40 years ago, the auto industry certainly would not have made the cars we are driving any safer than what we are in today.

Instead of giving the gun industry never-before levels of protection, I support giving the gun industry Federal research and development money. This money would be used to develop reasonable safety measures for their products.

But Congress has not been responding to the threat of gun violence. Let me speak in a language the Congress leadership understands, dollars and cents.

The secret that most people do not understand is the gun violence in this country is costing millions and billions of dollars. People do not understand that the Centers for Disease Control at one time was able to study the economical impact of gun violence in this country. By an act here in Congress we are not allowed to do that anymore, so that data does not come out.

Years ago, independent studies have shown gun violence costs our health care system over $100 billion every single year. $100 billion. The $100 billion a year cost includes premiums paid for private health insurance and tax dollars used to pay for Medicaid, Medicaid in our States that are having such a hard time. Medicaid that is going to be cut here in the House and the Senate. These costs often are not reimbursed and cost the States vital health care money.

Victims who survive suffer years of rehabilitation costing hundreds of thousands of dollars. My son was injured 11 years ago and is still going under physical therapy to be able to keep what he has.

The average cost of each firearm fatality, including medical care, police services and lost productivity is almost $1 million a year. This Nation has to start looking at the gun violence. We can do this without the right of gun owners being taken away. Wake up, America.

TRADE IS THE WAVE OF THE FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, first, let me express my appreciation to my friend the gentleman from Tennessee (Mr. DUNCAN).

Mr. Speaker, I had the opportunity a couple of weeks ago to join with my colleagues, the gentleman from Florida (Mr. HASTINGS), the gentleman from Washington (Mr. HASTINGS), the gentleman from Georgia (Mr. GINGREY) and the gentleman from Florida (Mr. CRENSHAW) to meet with leaders in the European Union and the European Commission. One of the things that I found from meeting with them and from discussions that I had with our great ambassador to the European Union, Rockwell Schnabel, is that trade is obviously the wave of the future.

We have one of the most important trade relationships between the 25 member European Union and the United States of America on the face of the earth. In fact, trade between the EU and the United States is just short of $1 trillion a year. It is $966 billion, in fact, last year.

I think it is important for us to note that we have dealt with more than a few problems with the European Union. We have lots of great challenges, and I happen to believe that one of the best ways to deal with those challenges is for us to enhance that trade relationship.

We are in the midst of discussing the establishment of our first bilateral trade agreement in a long period of time as we in the not-too-distant future are going to be addressing the Central American Free Trade Agreement, which will include the Dominican Republic. As my colleagues know, Mr. Speaker, we have put together a wide range of bilateral agreements over the past several years.

I today met with the ambassador from the United Arab Emirates, one of our great allies in the global war on terror, and we hope very much we are going to be able to put together a free trade agreement with the United Arab Emirates.

I think it is also important for us to note that in dealing with the European Union one of the best ways for us to address many of the disputes and challenges we have would be to embark upon a U.S.-EU free trade agreement. That is why today I have introduced H.

Con. Res. 131, and I would encourage my colleagues to join in cosponsoring this very important measure. It is just a vehicle to begin the discussion, the prospects of negotiating for a U.S.-EU FTA.

Mr. Speaker, let us look at some of the disputes that we have right now with the European Union.

We all know that agriculture subsidies within the EU are many, many, many times greater than the agriculture subsidies that are provided for U.S. farmers. In fact, as we negotiated and worked on the farm bill, I voted against it at the end of the day, the farm bill, because I was concerned about the level of subsidization for U.S. agriculture.

But one of the things that some of the leaders who were supportive of that measure here in the House said was that if we can see a diminution of the level of subsidization that the European Union provides to its agriculture sector of the economy we will not have to have the agriculture subsidies that we have in the United States. So, obviously, embarking on negotiations for a U.S.-EU free trade agreement would allow us to really begin to boldly address the issue of agriculture subsidies that are so great within the European Union.

□ 1845

Another dispute that we have is this struggle between Airbus and Boeing. We know that within the European Union there are tremendous subsidies for Airbus, and I believe we should do everything that we can to diminish those so we can have, in fact, a level playing field as we address the issue in the aerospace industry.

And we have several other very important issues that need to be addressed in the area of privacy, in the area of e-commerce.

Mr. Speaker, I believe that this step which we have taken today to begin the discussion of a U.S.-EU free trade agreement will be very beneficial in enhancing the standard of living of the American people, the people in the European Union, and the people around the world.

AMERICA AT WAR

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, tomorrow a funeral will be held for Staff Sergeant Stephen Kennedy, the second soldier killed in Iraq who was a member of an Army National Guard unit headquartered in my hometown of Knoxville.

Both of these young men who were killed were from just outside my district; but I was able to attend the funeral for the first, Sergeant Paul Thomason, as we were not in session in Congress at the time.

Both of these men leave wives and each had four small children and many other relatives. I admire and respect their service. There are many ways one can serve this country, but certainly one of the most honorable is by serving in our Nation's Armed Forces.

I am pro-military and believe we should have a strong national defense, but I emphasize the word national. It goes against every traditional conservative belief for the U.S. to try to be the policemen of the world and to place all of the burden and cost of enforcing U.N. resolutions on our military and our taxpayers.

It is no criticism of anyone in the military to say that the war in Iraq was a very unnecessary war. The more than 1,500 soldiers who have died there were simply doing their duty in the best way they could, probably hoping to come home as soon as they could, but certainly hoping to come home safely rather than in a body bag.

Now this past Saturday we saw headlines about anti-American demonstrations all over Iraq. One wire service story said more than 300,000 demonstrated in Baghdad.

Last year, our own government took a poll and found that 92 percent of Iraqis regarded us as occupiers rather than liberators. An earlier poll had a similar, but slightly lower, figure of 82 percent; and these were polls taken by us, or at least by the Coalition Provisional Authority, which is 95 percent U.S.

Obviously, the great majority of people in Iraq do not appreciate what we have done there and do not want us there. They do want our money, and that is the only reason some will say good things about us being there because we do still have several hundred thousand Iraqis on the U.S. payroll.

This is a nation that Newsweek said had a GDP of only $65 billion the year before the war. By the end of this year, we will have spent $300 billion in just 3 years in Iraq and Afghanistan, but mostly in Iraq. Iraq had a total military budget of just a little over two-tenths of 1 percent of our military budget in the year before we attacked. They were no threat to us whatsoever. Just a few weeks ago, a report came out saying our prewar intelligence was dead wrong. At that time, Richard Perle, one of the main architects of this war, appeared before the House Committee on Armed Services to say that everyone at that time thought there was a threat. This was not correct.

Just before the House voted to authorize the war in October 2002, I was asked to come to the White House for a briefing with Condoleezza Rice, George Tenet, and John McLaughlin. I asked at that time how much Hussein's military budget was in comparison to ours and was told the two-tenths of 1 percent figure I mentioned a few minutes ago. I asked was there any evidence of imminent threat. I said one man cannot conduct a war by himself, it would have to involve many others, was there any movement toward war. I was told there was none. George Tenet later confirmed there was no imminent threat in his speech at Georgetown University just after he resigned as head of the CIA.

There were just five other Members at that briefing, so we got to ask a lot of questions. I asked about former economic adviser Lawrence Lindsey's prediction that the war would cost 100 to $200 billion. Ms. Rice said the war would not cost nearly as much. Now we know that Mr. Lindsey's prediction was far too low. Most of what we have spent and are spending in Iraq is pure foreign aid, megabillions to provide free health care and rebuild Iraqi roads, schools, water and power plants, airports and railroads, and provide law enforcement, among many other things.

At the White House briefing, I said most conservatives have always been against massive foreign aid and huge deficit spending. The war in Iraq has led to foreign aid and deficit spending on unprecedented scales.

There is nothing conservative about the war in Iraq, and many conservative columnists and activists have now realized this. Columnist Georgie Ann Geyer wrote in 2003, "Critics of the war against Iraq have said since the beginning of the conflict that Americans, still strangely complacent about overseas wars being waged by minorities in their name will inevitably come to a point where they will see they have to have a government that provides services at home or one that seeks empire across the globe."

The first obligation of the U.S. Congress should be to our own citizens, not the citizens of Iraq. In 1998 when Saddam Hussein was not even in the news, I voted to give $100 million to the Iraqi opposition to help them begin the effort to remove Saddam Hussein. We should have let Iraqis fight this war instead of sending our kids over there to fight and die and be maimed, and the sooner we bring our troops home the better. I hope we have learned that we should never be anxious to go to war and should do so only when we are forced to do so and there is no other reasonable alternative.

SOCIAL SECURITY REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCHENRY. Mr. Speaker, this evening I have requested an hour to speak about a pertinent issue for our Nation and a large issue for all generations in our country, and that is Social Security. As a nation, we have to recognize that we have a problem that we are facing with a system that we have had in place for 70 years. It is a problem that we must address, and it is an issue that we must ensure that we fix for future generations while at the same time maintaining our commitment to those that are at or near retirement age.

This is a large issue that we need to take on as a Congress. It is a large issue that we need to take on here in Washington, D.C., so that all Americans in all walks of life have the safety and security of their retirement savings.

So this evening many of my colleagues will join me to speak about the need for reform of Social Security and to maintain our commitment to those that are at or near retirement age while allowing younger workers a better opportunity and system to operate in.

To that end, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) is in her second term here in Washington, D.C., representing her constituents of Florida very well. We both serve on two committees together, Committee on Government Reform as well as the Committee on Financial Services. I am proud to call her a colleague. She also shares another distinction: she goes home every weekend, just as I do. She does that in order to maintain her sanity, just as I do.

Mr. Speaker, I yield to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, another day in the Fifth Congressional District means that again my seniors received calls trying to frighten them about Social Security. This is the sixth set of calls that have gone into my district. The majority of the responses I receive is stop, stop, stop those calls. We trust you; we know you will do what is right.

As the American public knows, the long-term future of Social Security is problematic at best. We have all heard the facts that in the year 2017 the Social Security trust fund will begin paying out more than what it takes in and that if Congress does nothing, the program will face at least a 25 percent guaranteed cut in benefits in 2041. So if we do nothing, there will be future cuts. These are the facts, and they are indisputable.

What I am here to share with Members this evening is about the dangerous double talk from the opponents of any kind of reform of Social Security. I would like to read some interesting quotes from Washington politicians about Social Security. The first one is: "If you do not do anything, one of two things will happen: Either it will go broke and you won't ever get it. Or if we wait too long to fix it, the burden on society of taking care of our generation's Social Security obligations will lower your income and lower your ability to take care of your children."

Or how about the following: "This fiscal crisis in Social Security affects every generation."

Or how about this gem of a quote: "This is the time to straighten Social Security for the future. We can and must accomplish this critical goal for the American people."

Members may be asking themselves what right wing Member of Congress said that Social Security was in a crisis and which reformer said the program would go broke if we do nothing to fix the problem. Guess what, these are quotes from none other than former Democrat President Bill Clinton. Leaders of our country from both parties have known that Social Security needs reform. What bothers me today is when we finally have a President and a Congress that is brave enough to grab what is often termed the third rail of politics, partisan obstructionists are unwilling to even come to the table and debate reform honestly and with some substance.

I represent the congressional district with the most Social Security recipients. 47 percent of my voting age population receives Social Security, a quarter of a million people on Social Security. Politically the easiest thing for me to do is to throw up my hands and oppose reform. But instead of sticking my head in the sand like the Democrats are doing and refusing to admit we have a problem, even though their former President did, I am working to find a permanent solution.

If Democrats, the AARP, and the unaccountable 527 groups would be honest with themselves and with the American public, they would acknowledge the truth of President Clinton's statement that "this fiscal crisis in Social Security affects every generation."

Instead, what do we hear? We hear scare tactics from the liberal left about Republican efforts to privatize the system, to force our parents to eat dog food, and take away the only future our seniors have.

Mr. Speaker, the time has come for them to come to the table and do what President Clinton suggested. It is time to engage intellectually dishonest partisan politicians who refuse to debate the issue on its merits.

How, the American public should ask, can Congress expect to solve a substantive policy matter like Social Security when one side refuses to debate seriously.

If the Democrats want to have any relevance in the lives of our seniors, it clearly is time for them to come to the table. The discussion should begin with the simple question: Does Social Security face a problem?

I believe every American believes that Social Security does face a problem.

"Legislators whose answer to that problem is 'no' should probably go ahead and cosponsor a bipartisan bill to do nothing in the 109th Congress and go on to other issues." Who said that? Well, how about former Democrat Congressmen Tim Penny and Charlie Stenholm. Congressmen Penny and Stenholm know something needs to be done. Why will they not bring their former colleagues to the table.

Let me tell a story about one of the town hall meetings I had in my district. Before I began a discussion with my constituents and listening to their suggestions, I held up a 10-page packet of questions and talking points that were sent out by MoveOn.org. I told my constituents that I was there to listen to their genuine concerns and questions, not to hear canned questions from a bussed in MoveOn.org member or to read off their cheat sheet. What do you know, about 2 minutes into the question and answer period, I got question number 3 right off the MoveOn.org cheat sheet. This is a perfect example of the left wing partisans stacking events at town hall meetings that are intended to benefit our constituents. I am sure other Members experienced the same phenomenon.

Getting back to the obstructionism of Washington politicians, here is another quote: "Because of the retirement of the baby boomers by the year 2013, the surpluses built up in Social Security start to dwindle down, and sometime around the year 2032, Social Security faces a serious crisis." Guess who said that? It was actually former Vice President Al Gore.

So the American public clearly can see that Washington Democrats are very good about talking out of both sides of their mouth if it furthers their partisan goals.

□ 1900

Al Gore talked a good game, but where is he today when it comes to presenting a plan or encouraging his members to guarantee the solvency of Social Security for future generations?

We have all read news accounts where President Clinton proposed that government directly invest a portion of Social Security money in the financial markets to capture a higher rate of return, rather than the dismal rate that it receives now.

Where, the public has to ask, were the liberal opposition groups back then? They supported a Democrat President who proposed this, but they oppose a Republican one. President Bush has proposed allowing workers to invest 4 percent of their payroll taxes into personal, safe and secure accounts. To many, this is a safer route than putting our Social Security taxes straight into the stock market like President Clinton wanted.

Where is the AARP with a plan of their own? We met with them in our office; and, quite honestly, all they said was, no, no, no. They did not have a plan of their own. All I have seen from them so far is a statement that personal accounts are unacceptable to their leadership.

But if you think about it, Social Security is already somewhat personalized. When you get home, I challenge people to check their yearly statement from the Social Security Administration. Your future benefits are there calculated for you, not for the general public but for you. It already is somewhat personalized. Why do you not ask AARP why their leadership promotes stock and bond investing by selling mutual funds to its members or why they offer risky investment choices like a Latin American stock fund and even a junk bond fund? I personally find it very appalling the AARP sponsors trips to casinos where seniors literally gamble away their retirement.

Why do we not change the subject slightly and talk about the unions that are opposed to any change? They also said, no, sir, no way, to personal accounts. But when you ask union leaders where they invest their union pension funds, once again we hear double talk. They invest them, guess where, in the stock market. Why is it good enough for union leadership but not their members? I guess so much for risky schemes. The unions, AARP and others on the liberal left already have them.

Tonight I hope that I have made clear that there is one side and one side only that is honestly engaged in the debate over the future of Social Security. All the other side has thus far is fear, fear, and another hearty helping of fear. Quit trying to scare our seniors. The 527s are the ones making the calls as well as the opposition party. I want to speak to any senior listening tonight and I want to make it perfectly clear, I will not change your Social Security benefits in any way. The President has clearly said those who are 55 and above will be under the traditional plan as we know it.

So I challenge the opposition to join us, and I challenge the people who may be watching this evening, help us save Social Security for your children and grandchildren. We have stepped up to the plate and made it clear that we are willing to work toward a permanent solution that benefits all Americans.

Mr. Speaker, I hope that as we continue to debate this issue on the floor, back in our districts and around the kitchen table, we will all remember that it is our constituency we are working for and it is not partisan political groups.

Mr. MCHENRY. I certainly appreciate the sentiments of the gentlewoman from Florida. I am certain that her constituents appreciate her passion on this issue to ensure that Social Security does not harm those that are at or near retirement age. I appreciate her boldness on this issue and telling many of us things that we do not want to hear oftentimes. Her independence of mind, the independence of her agenda, it is certainly respected here in the halls of Congress. I am proud to call her a colleague.

Mr. Speaker, I am here to talk about Social Security, which in my mind is the most important domestic issue facing America today, not just for seniors but for those seniors' children and grandchildren. It is a vital program that we need to reform to ensure that we can continue with this program for generations to come. I am so grateful to be part of a political party that is taking this problem on. We in the majority in the House, we in the majority in the Senate, along with our President, and I am so thankful we have a great President, are taking on this issue. Whether you like President Bush or not, he has guts and you have to respect that.

They called Social Security the third rail of American politics. If you touched it, you got fried. Well, things have changed. This is an issue that Americans are beginning to realize needs to be fixed in order to make sure it can be vibrant for future generations. And George Bush showed us all that we can and should tackle this issue, for our seniors and for our grandchildren. We in Congress are serious about taking this on. We are serious about a bipartisan approach, and we are serious about transforming this system into one that will thrive throughout the 21st century and beyond.

We want to transform it with three principles in mind, and these are important.

First, no reform that will pass this House will dare change the benefits of those that are at or near retirement age. For those that are currently drawing Social Security checks right now, none of the plans we debate will affect your Social Security check. But it will affect your children and grandchildren. So it is definitely important to you to consider those things.

Number two, no reform should raise taxes. You will hear a lot about raising taxes or raising the tax cap and say that that will fix the system. It will not. Tax hikes just postpone the problems we will face with Social Security, and tax hikes are not real reform.

The third issue is that we must make sure that these are voluntary personal accounts.

I will further talk about these issues as my time goes on, but I am proud at this point to recognize one of my favorite colleagues, my majority leader, our Republican leader in this U.S. House, a leader that not only shares our values but works and fights every day to see that we not only just talk about these values but we enact them into law, a man who has won close vote after close vote to even the ire and fire and fury of the minority but a man who has led our House in a great direction over the 10 years we have been in the majority, a man I am proud to call my Republican leader and will continue to call my Republican leader, Mr. TOM DELAY from Texas.

Mr. DELAY. I thank the gentleman from North Carolina for yielding to me, and I appreciate those words more than you know. I really appreciate you having this Special Order on an incredibly important issue that is important to all of us. You are fighting along with the gentleman from Texas (Mr. HENSARLING) the fight that makes sure that we have retirement security for our seniors, for all of us, for our young today, providing retirement security for them.

Mr. Speaker, for all the rhetoric being thrown at the Social Security debate these days, four facts rise above the opinions.

Fact number one: The ratio of workers to retirees is shrinking. In 1945, there were 42 workers for every retiree. Today, there are three. And when my daughter retires, there will only be two.

Fact number two: The average rate of return for Social Security money is 1.6 percent. In other words, Americans could do better just putting their money into a simple savings account.

Fact number three: In just 3 years, the first of the baby boomers will start to retire, and in just over a decade, the Social Security system will start to pay out more money than it takes in.

Fact number four: Seniors are living longer and living more active lives than they were when Social Security was first created. Average life expectancy has increased 15 years since the 1930s, yet the system is still making 20th century assumptions.

These facts are not in dispute. Social Security is in trouble. The trouble is not as bad as it will be 10 years down the road if we do nothing, but it is serious trouble nonetheless. The question is not whether Social Security needs fixing. The question is when, how and by whom.

When? As soon as possible, Mr. Speaker. With each passing day, fewer and fewer workers are paying more and more benefits to support an ever-increasing population of retirees. The four facts I mentioned before all lead to a fifth fact, that every year that we wait to strengthen and improve Social Security, the problem gets $600 billion bigger. If we wait until after the next election, that is $1.2 trillion more we will eventually have to come up with. We have an opportunity to act this year, and we must seize it.

How? Permanently and comprehensively, Mr. Speaker. Every 15 years or so since its creation, Congress has gone in and treated a symptom of Social Security's more fundamental fiscal problems. But this time, thanks to the leadership of President Bush, we are committed to solving the problem itself, permanently. We need a solution to the fundamental challenges facing Americans' retirement security beyond just altering a formula here or there. We need a solution that goes beyond mere tax increases or benefit tweaks. We need to acknowledge 21st century realities and develop solutions around them.

One of those solutions, or, rather, a part of any such solution, is the establishment of personal retirement accounts within the Social Security system that will enable younger workers to build their own retirement nest eggs that they can pass on to their children and that the government can never take away. Personal retirement accounts are an exciting, innovative and secure way for younger workers to save for their retirements and prepare for their own futures their own way.

Finally, Mr. Speaker, by whom? By us, Mr. Speaker. The fiscal crisis that now threatens the Social Security system has been looming since the baby boom exploded after the end of World War II.

Mr. Speaker, we are running out of time. Regrettable as it is that national Democrats have decided to put their heads in the sand and pretend that Social Security is perfectly sound, action still needs taking. Seniors are living longer, more independent lives; the boomers, the most affluent generation in history, are preparing for retirement; and younger workers who have their own families to raise and needs to meet are counting on us to protect Social Security not only for current and near retirees but for themselves and their children, too. We have a chance this year with the leadership and vision of President Bush to come together to strengthen and preserve Social Security.

Mr. Speaker, if our oaths of office mean anything, it is a chance that we must take. I thank the gentleman from North Carolina for bringing this Special Order, and I appreciate the commitment and the willingness to constantly talk about this issue so eventually the American people know, number one, there is a problem and, number two, there are solutions out there to fix that problem.

Mr. McHENRY. I thank the majority leader for taking time out of his busy schedule in order to be a part of this special order. I certainly appreciate the passion he brings to his service in the House and his effectiveness as well.

Mr. Speaker, as I said, we have three issues that we need to make central to this reform of Social Security. First, no benefit cuts for those that are at or near retirement age. No changes. Second, no reforms should raise taxes. No reforms should raise taxes. And, number three, we must have voluntary personal retirement accounts that allow individual ownership. We want to move to a modern system that is tied to a better approach, with people having ownership and actually having control over their investments and having control over their retirement.

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So the gentleman from the great State of Texas (Mr. HENSARLING), another one of my good colleagues, represents the Dallas area. He is in his second term here in the Congress; and from the get-go in 2003, when he first entered this place, he was recognized as a leader. And he is, indeed, a leader. He has led the fight for conservative budgets. He is a man who is passionate about representing his constituents in Texas well, including his wife and two kids; and he is a man who wants to talk about the family budget, not just about our Federal budget, because politicians oftentimes come to Washington and want to represent government rather than absolutely representing the people that they were elected to represent, and that is the families, those families across America who have to live within their budget in order to make ends meet.

So with that, Mr. Speaker, I yield to the gentleman from Texas (Mr. HENSARLING), whom I am proud to call a leader and proud to call a friend.

Mr. HENSARLING. Mr. Speaker, I thank the gentleman for yielding to me, and I certainly appreciate his leadership on this vital issue to the future of many Americans, not only seniors but younger Americans. So I think it is especially apt that the youngest Member of the House of Representatives would help bring this issue to the national consciousness tonight.

I am also especially honored that I could follow the esteemed majority leader to the floor. But for his leadership we would not be having this discussion now. And due to his leadership and his courage and his commitment to principle, this House is trying to make a stand, not just for the next election but for the next generation, because I think as more Americans become familiar with the challenges in Social Security, they will soon realize that if this House does not act and act now that Social Security as we know it will not be there for future generations. And, Mr. Speaker, we cannot look ourselves in the mirror and let that happen.

And I not only speak for myself tonight, but I probably speak for many other Members of this body in saying that Social Security is more than just a run-of-the-mill congressional debate. It is something that is very personal to me because, Mr. Speaker, I have two parents who are in their 70s. Social Security is part of their retirement. My father worked all of his life paying into the system, and I feel a moral obligation not just as a Member of Congress but as a son to make sure that my parents receive every single penny of Social Security benefits that they paid for.

So as we have this discussion about what can we do for future generations, every Member of this Congress I believe is committed to the proposition that for anybody who is receiving Social Security today, or will soon be receiving Social Security, nothing in the system is going to change. That is a matter of fairness. That is a matter of commitment that this Nation has made to its seniors. But not only do I feel a moral commitment to my parents; I have a moral commitment to two other people. And that happens to be my daughter, Claire, who is 3 years old; and my son, Travis, who is 18 months old. And again my wife, Melissa, and I realize that if this body does not do something that the retirement security that my parents enjoy will not be there for our children: and that is simply not fair, Mr. Speaker.

Let me say that Social Security has indeed been a very important program in the history of America, and it has helped alleviate poverty for a number of seniors. It has given a lot of seniors peace of mind, but it is not a system that is based upon savings and investment. It is a system that takes funds from current workers to transfer to current retirees. That is a system that works well if we have a whole lot of workers and only a few retirees. And when Social Security was first created back in the 1930s, we had over 40 workers paying into a system to benefit every one retiree. As recently as 1950, that figure was down to only 16 workers paying into a system to benefit every one retiree. Today we are down to only 3.3 workers paying into a system for every one retiree. And today's younger workers are quickly on a road to see only two, two workers paying into a system for every one retiree. That presents incredible financial challenges to our Social Security system.

And there is another challenge we have. There is another demographic trend that is great for seniors, but not so great for the Social Security system, and that is when Social Security was first created, the life span of an average American worker was 60 years of age. Due to the marvels of modern medicine and better technology, today the average life span of a worker has increased to 77. So again we have fewer and fewer workers supporting more and more retirees, and these retirees are living longer and longer. The system cannot keep pace.

So what has Congress done in the past? In many respects it has started to take the security out of Social Security. As time has gone by, taxes have increased. Many benefits have been cut. So as time goes by, we start to lose the security in Social Security. Social Security was a great deal for my grandparents, who were born in roughly 1900. When we look at what they put into the system versus what they took out, they received a 12 percent rate of return on their Social Security. That is great retirement security, Mr. Speaker. That is great retirement security.

My parents who were born, my dad in the late 1920s, my mother in the early 1930s, they are receiving roughly a 4 percent rate of return on their Social Security. Not good, but not bad.

My generation, represented by those born around 1960, we are going to receive only about a 2.5 percent rate of return. That is barely keeping pace with inflation, Mr. Speaker. And my children, represented by those who were born approximately in the year 2000, they could receive a negative rate of return. In other words, they may be putting more money into the system than they take out. That, Mr. Speaker, is when we lose the security that is in Social Security.

So all of these financial pressures, where is this leading us? Unfortunately, it is soon going to lead us to a sea of red ink.

There is some good news. The good news is as of today, Social Security is still running a surplus. But for those who can see the top of this chart here, just 3 years away, the surpluses in Social Security begin to decline. And in just 12 years, in the year 2017, we go from having surpluses to having deficits. In other words, in the year 2017, Social Security begins to go bankrupt. And as the years go by, the sea of red ink only gets larger and larger and larger and larger. And, Mr. Speaker, that is indeed a large sea of red ink.

How large? The trustees of the Social Security trust fund tell us that is a $10.4 trillion sea of red ink that will simply drown the system, drown our children and grandchildren, if we do not act today.

Mr. Speaker, we often hear large numbers tossed around in the Nation's Capital and $10.4 trillion is a very large number. But let me try to relate that to a number that we can all understand. In other words, what the Social Security trustees are telling us is that if we wanted to balance the system and ensure that our children and grandchildren have the same retirement security that current retirees have, every man, woman, and child in America would have to write a check today to the Federal Government for over $34,000. That is almost a $150,000 check from a family of four to try to balance this system. Mr. Speaker, my guess is not many Americans would want to write out that $34,000 check tonight. So we are going to look at some other options.

What are the options if we do not write out that check tonight to balance the system since we know we have fewer workers, more retirees, and they are living longer? If we do nothing, younger workers today who have just recently entered the workforce, those in their 20s, by the time they retire, they will have their Social Security benefits cut by a full third. How many seniors today could afford to have their Social Security benefits cut by a full third? So many seniors rely upon that Social Security. It is unconscionable. Is that the future we are going to leave our children and grandchildren?

Mr. McHENRY. Mr. Speaker, reclaiming my time, how much is that per year that we delay reform? The numbers I have are that it is about $600 billion a year.

Mr. HENSARLING. Mr. Speaker, indeed, I appreciate the gentleman for bringing up that point because not only do we have a huge dollar amount to solve the problem today, every year that we turn our backs on this as a Congress, as a Nation, that mountain gets $600 billion higher each year of inaction. So, indeed, the cost of inaction is great.

Mr. McHENRY. Absolutely. And reclaiming my time, Mr. Speaker, the numbers are about $4,500 for every American in the workforce; $9,000 for a married couple. These numbers are so staggering, and so I think it is a moral imperative for Congress to act.

And with that, Mr. Speaker, I further yield to the gentleman.

Mr. HENSARLING. Mr. Speaker, if for whatever reason we choose not to reduce benefits when we can use the least creative approach that has ever come out of Washington, D.C., and that is increase taxes, if we decide to try to solve this sea of red ink by raising taxes again, younger workers today will see their payroll taxes increase by 43 percent. I mean 43 percent, what a staggering tax increase on young families. I mean, what is that going to do for people who are trying to buy a home or start a family, and what is that going to do to job creation in America? It would be a crushing tax burden.

But at the end of the day, there are only three options if we are going to save Social Security as we know it for future generations. We are either looking at a massive tax increase, we are looking at a massive benefit cut, or we are looking at something else that the President is leading on, and that is having something called a personal retirement account, something that is going to have real assets in it that people own, that families can create a nest egg with, their own nest egg that will grow over time, and using something that Albert Einstein once called the greatest discovery he ever made in his life, and that was compound interest. And I believe that that is the option that we should begin to look at as a Nation, personal saving accounts.

And again I want to reiterate a couple of principles. No one is talking about changing Social Security. For those who are on Social Security tonight, those who are about to be on Social Security, we have a moral commitment to make sure that the system they worked on is there. But I hope, Mr. Speaker, that as time goes by and more Americans will listen to this debate, I do not know of any grandparent in America who wants to deny their grandchildren equal retirement security and equal retirement opportunity that they have enjoyed.

So I think it is critical that we turn to personal accounts so that younger workers on a voluntary basis, a total voluntary basis, will be able to put some money aside in an account that can grow over time. And I think what we are doing, Mr. Speaker, is we are adding the best elements of Social Security to the best elements of a company pension plan. We are going to keep the government backing. Nobody is ever going to lose all their retirement security. The government backing, the social safety net, will always be there. We are going to have guaranteed lifetime benefits. We are going to have progressive benefits for lower-income workers. But to that we are going to add worker ownership so that workers can actually own a part of their Social Security. They will be invested in the length and breadth of the American economy, not in their brother-in-law's real estate deal or in 100 shares of Enron, but we are talking about pension-grade investments that over time have proven to be safe and yield a retirement security better than Social Security promises and cannot deliver.

Some tonight would say, That sounds great but it sounds a little risky to me. The real risk is leaving one's retirement security in Washington because already Washington has raided the Social Security trust fund over 59 times, and they have spent that money for $75 million indoor rain forests, and they have spent it on $800,000 outhouses that do not even work and studies about how college students decorate their dorms. They spend it on a lot of things besides retirement security. There have been over 20 tax increases. And we started out taking 1 out of $50 for Social Security, now 1 out of 8. There have been multiple benefit cuts, declining rates of return, and no ownership rights.

□ 1930

Mr. Speaker, the real risk in Social Security is leaving America's seniors' retirement security in the hands of Washington. Because of that, I want to applaud my colleague from North Carolina, who has made a great impact as a freshman Member, I want to applaud him for his leadership and speaking out not only for the current generation of retirees but future generations of retirees, represented by my children.

Mr. MCHENRY. Mr. Speaker, reclaiming my time, I thank the gentleman. I certainly appreciate his passion on this issue and his devotion to our conservative philosophy and to our great Nation.

Mr. Speaker, if I may, I think with the earlier speakers you have heard there is a problem with Social Security. It is a problem we must tackle. I believe we have a moral obligation to step forward and to solve this problem before it results in a doubling or tripling of taxes or 30 percent cuts in benefits, these massive, devastating changes that can really hurt our Nation and hurt communities and hurt seniors. So we have a moral obligation to step forward and come up with a better plan.

I want to tell you, the longer we wait, the tougher it becomes to fix the problem and the more expensive it becomes. As I said earlier, $600 billion a year we waste by not fixing the problem. That roughly equates to about $4,500 per person, per working person.

Some would say, why do we not just tax more? And there is this concept of raising the Social Security tax cap. I want to tell you, it is not that simple. When you are talking about a $600 billion a year payment we have to make in order to not solve the problem, it is hard to tax enough in order to meet that obligation. Beyond that, even if you take the cap off of the income subject to Social Security, that would only buy about 2 years, about 2 years, of further solvency in the system.

So it is not a fix. It is delaying the problem, delaying the pain. And because our Nation is changing, because of the demographics of our Nation and the fact that we are going to have fewer people working per each retiree, we have to change the system in order to make it solvent for future generations.

With the baby boomers beginning to retire in 2008 and 2009, baby boomers were born between 1946 and 1964, so the first half of the baby boomers will begin to retire in 2008 and 2009. As they begin to retire, we are going to have to pay out more and more and more in the Social Security system. Certainly we have made that obligation as a great Nation, but I think we need to take on this problem of our change in population and the giant bubble that the baby boomers represent in terms of the population of our Nation and take on this issue to fix it.

So the problem is clear. Our demographics have changed in this Nation over the 70 years of the Social Security program, and Social Security is broken. It was designed in 1935 before television, before commercial aviation, before computers, and it needs to be redesigned. We do not drive 1935 automobiles anymore, do we? So what we need is a vehicle for retirement savings that is in keeping with our times.

That solution, Mr. Speaker, is personal accounts, personal retirement savings accounts. Personal accounts will eliminate the long-term liabilities of the Social Security system, that long-term liability that the gentleman from Texas (Mr. HENSARLING) spoke of, that $11 trillion unfunded liability.

We as a Congress need to take on this challenge. But why is that? Why is it that Social Security retirement accounts, personal savings accounts, fix the system? It is because when workers put their own money into personal accounts for Social Security instead of the old system of Social Security, they lessen their own future pull on the system.

You see, by having your own accounts, just like IRAs, they accumulate money, they accumulate interest, and interest upon interest, interest upon interest upon interest. That is the power of investments, and that is what is going to allow personal retirement savings accounts to give a better rate of return than our current Social Security system.

Money into personal accounts means less of a pull on the system later. Remember, these accounts, as the President has spoken of, these personal retirement accounts, they are voluntary, so there will be no changes if you are at or near retirement age. For those 55 and older, no changes. For those that are younger, they will have the option, the opportunity to choose a personal retirement account for their own Social Security benefits. No effects on seniors currently. They are voluntary for younger workers. It is a wonderful opportunity for us to have this debate about personal ownership.

Beyond that, some say, how does this work? How do personal retirement accounts work?

Well, first of all, you cannot take the money to Las Vegas. You cannot go and bet your money. You cannot throw it in your brother-in-law's business. You would have to use widely diversified securities, savings accounts, certificates of deposit, bond funds, municipal bonds, bond and stock fund mix, these type of options, well-regulated, very diversified.

Some say, well, this seems sort of foreign to me. Currently, in America we have personal retirement accounts all across this Nation.

It brings about a story that occurred to me back in my district in Western North Carolina, Mr. Speaker, in the Tenth District of North Carolina. I went out and was out at church one day, at a new church visiting, and I met a fellow there named Dave Roland. Dave Roland works for the Foothills Area Mental Health Developmental Disabilities and Substance Abuse Authority located in Western North Carolina, in Burke and Caldwell Counties.

These folks that are out there serving those with mental health issues, they have personal accounts. Wait a second. How does that happen, some are saying. This seems very odd to me. But they have personal accounts.

I will not get into the arcane nature of tax law changes and everything else, but between 1935 and 1983 different entities had the ability to opt out of Social Security. They had the ability to provide their own type of retirement plans, many personal savings accounts like we are trying to implement. So some of these governmental entities still have them today.

Unfortunately, that option was closed in 1983. Since then, no organization can opt out of Social Security, no governmental entity can opt out of Social Security. But for the groups who opted out beforehand, before 1983, if they wanted to remain outside the system, they could, and many still remain outside the system.

Fully 4 percent of the American workforce is outside of the Social Security system. They have some type of personal savings accounts. That is over 5 million people. They work for organizations that have opted out over the preceding years.

Just so you know, there is a big myth out there, Congress has not opted out of the system. We are still in the Social Security system. I, along with my staff and all Members here in Congress and on Capitol Hill, pay into Social Security. So we have a good interest in making sure this program continues, because we do pay in.

Now, not all the opted-out plans are the same. They are very different. But I found out about the Foothills program because I was lucky enough to meet David Roland. He works at the Foothills Mental Health Authority, as I said, and is one of my constituents.

I am trying to find out about other programs like David has, so I ask those, Mr. Speaker, those that hear my voice or see my face to shoot me an e-mail if you know of anyone who has an opted-out system, whether they work for a governmental entity, in any State in the Nation, not just my own constituents in North Carolina. So they can e-mail me at patrick.mchenry@mail.house.gov. That is patrick.mchenry@mail.house.gov. Please let me know. I want to know your story about a system where you have opted out. I want to know the kind of returns you have gotten, whether you like them or not.

But everyone I have talked to loves their personal retirement accounts, including David Roland. They are optional at Foothills Mental Health Authority. They are optional. An employee can make the choice to stay in the current Social Security system or have this system of personal retirement accounts.

At Foothills, they have the option of paying their portion of Social Security, their 6.2 percent of FICA tax, into a

403(b) annuity plan. It is just like an IRA, very similar to that.

Dave Roland told me this. He lives in Morganton, and he is one of the folks that opted out. He has been working at Foothills for 7 years, since March of 1998. He is 34 years old. He is responsible for all the yearly regulatory training at Foothills for all these mental health service providers.

He could not be happier with the system. He is not a slick Wall Street investor. No, he is a man that likes spending time with his children, is devoted to his church and works hard every day. He is a regular guy, just like you and me. I want to tell you what he says. I want to quote from him right now.

"I am a common worker. I have the benefit of a plan along the lines of what the President has proposed. In 7 years I have accumulated over $50,000. I control the amount of risk that I want, and it is far better than what I could have gotten from the Social Security plan. I cannot imagine that I would have the same amount had I been in Social Security."

I am not going to tell you what Dave makes. In fact, I would not ask that question of him. But he is a man that is much like millions of Americans across this Nation. In 7 short years, he has a personal retirement account like we are proposing here in Congress, and in 7 short years he has accumulated over $50,000 of retirement savings.

Now that is an amazing feat, if you consider the fact that he began investing in the late nineties and there were ups and downs in the stock market just in the last 7 years, and he has $50,000 in savings. That is a staggering number in a short period of time.

But those are the type of benefits that we are talking about. He could buy an annuity when he retires. If he continues to get a similar rate of return, he could buy an annuity and get far more than what the Social Security system could give him. Benefits for Social Security are capped at about $2,000 a month.

So a regular guy from my district has a personal retirement account. That is why I am so optimistic about what we are trying to do here in Congress, the type of reforms that we are trying to achieve, with personal ownership, a new retirement system that enables people personal ownership and allows them to pass on to their heirs if they do not spend all the money, to pass on to their heirs if they do not make the retirement age. These are wonderful opportunities for us to give to all Americans, all walks of life.

Mr. Speaker, do you know what? When Dave Roland makes his money and gets his check at the end of the week or the end of the month, it is his money. It is his money. Thankfully, he has a personal retirement account that he still controls and still owns, because it is his money.

That is what we are trying to do with personal retirement accounts, to give personal ownership, that level of inheritability to pass onto your heirs, that personal freedom, while at the same time having it well-regulated, operating very similar to the way Social Security does today, meaning the money is taken out of your check, you are obligated to be a part of the Social Security system, and that the investments will be well-regulated, the risks minimized.

What is fascinating, though, is there have been studies done on the stock market. There are some left-wing liberals that will tell you we should not invest in the stock market. I think we have gotten great rates of return in the stock market. We have gotten a better rate of return certainly than any government program can give.

Certainly I would like to be concerned about the rising tide in our Nation, to make sure that all Americans have that same ability to improve their life, to have personal ownership, personal savings and be a part of our marketplace, be a part of our marketplace.

I will tell you this: Some say the stock market is risky.

□ 1945

Over the last 200 years, the average rate of return in the stock market has been 7 percent. Now, that is over three times the best rate of return for Social Security. In any 20-year period in American history, the stock market has never gone down. Even during the Great Depression in the 1930s and the 1940s, the stock market did not go down. It had a positive return.

So we want to give all Americans, Mr. Speaker, that opportunity. We have a moral obligation as a Congress to take on this issue, to solve this problem, not just for a few years, not just push the problem back to another Congress another day; but we have a moral obligation to do what is right for our constituents and do what is right for all Americans, and allow them to have a better system to operate for their retirement savings, not just for the next couple of years, but for generations to come. And with personal accounts, without raising taxes, and while maintaining our commitment to those who are at or near retirement age, we can do this as Americans.

We are not going to let those on the other side of the aisle just deny that there is a problem. That, in fact, is denying reality. And do not believe, Mr. Speaker, and do not allow the American people to believe that there is not a problem. This is an issue we have to take on as a Nation, and we are going to take it on. It is going to be the Republican Congress that takes this on. We are hopeful that some Democrats will come to the reality that there is a problem and that the right thing to do is to tackle it now instead of pushing it off to another day.

I appreciate this time to speak about this need for Social Security reform.

THE NEED FOR TAX REFORM

The SPEAKER pro tempore (Mr. GOHMERT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. HOYER) is recognized for 60 minutes as the designee of the minority leader.

Mr. HOYER. Mr. Speaker, I rise to speak about tax reform and tax simplification, but one of our newest Members has had the opportunity to have the floor for the previous hour and talk about Social Security. I know that he is very worried about Social Security and, as a result, has been addressing that. But I am constrained to say that he talked about personal accounts with reference to Social Security. Of course, what he did not say is that Social Security has nothing to do with the solvency of Social Security. He talked about a moral responsibility. The President of the United States and his party indicated they were not going to spend any money of Social Security. In fact, in the last 4 years, they have spent and continue to spend every nickel of Social Security. I am sure my young friend will acknowledge that point at some point in time, but that is not the subject tonight of our Special Order.

Mr. Speaker, the one thing that millions of Americans will not be saying at the end of this week is, TGIF, thank goodness it is Friday. Friday is the day, of course, April 15, the annual deadline for filing Federal income tax returns, a duty of citizenship that provokes anxiety, confusion, and, yes, even anger in many taxpayers every year. Without question, the Internal Revenue Code has become a maze of complexity that confounds millions of Americans, including, I think, all of us who will speak. It treats many taxpayers unfairly; and it creates an opportunity, some would say an incentive, for those who would exploit its complexity to avoid compliance, thus placing an unfair share on others.

As Nina Olson, Mr. Speaker, said, the National Taxpayer Advocate stated in December in her annual report to Congress: "The most serious problem facing taxpayers and the IRS alike is the complexity of the Internal Revenue Code. The only meaningful way to reduce these compliance burdens is to simplify the Tax Code enormously." So said Nina Olson, the National Taxpayer Advocate.

All of us, of course, bear some responsibility for the complexity of our Tax Code, Democrats and Republicans and every American who believes that the tax preferences that he or she utilizes are worthwhile. Considered individually, the tax preferences that clutter the code certainly can be rationalized and explained. Collectively, however, they are a jumble of confusion that have a corrosive effect on our democracy.

As Paul O'Neill, the former Secretary of the Treasury said, "One of the unseen consequences of the Tax Code's complexity is the sense it leaves taxpayers that the system is unfair, and that others pay less tax because of special advantages." Almost every American, I think, feels that, including those who take special advantage.

A few facts illustrate the scope of the problem, Mr. Speaker. In 1913, the Tax Code was a mere 500 pages in length. Today, the code and regulations total more than 60,000 pages. Four common forms, form 1040 and schedules A, B, and D, take an estimated 28 hours and 30 minutes to prepare. Think of that. They are relatively simple forms. When the IRS started tracking this information in 1988, the average paperwork burden was 17 hours and 7 minutes, about 11 hours less. Even the simplest form in the IRS inventory, a 1040 EZ, perhaps misnamed, now requires 3 hours and 43 minutes for the average taxpayer to prepare, up from 1 hour and 31 minutes in 1988.

Complexity costs more than $100 billion. That cost is in accounting fees and the value of taxpayers' time to complete their returns. This is roughly equivalent to what we spend to run the Department of Education, Homeland Security, and State. Think of it: the cost of complexity for our taxpayers, $100 billion more than we spend on the Department of Education, Homeland Security, and the Department of State. Not surprisingly, Mr. Speaker, more Americans than ever rely on tax professionals. I know I do. Nearly 60 percent rely on tax professionals today compared to 48 percent in 1990.

If the administrative burden does not convince you that reform is crucial, the crisis in noncompliance should. The IRS has estimated there is a $311 billion annual tax gap due to underreporting, underpayment, and nonfiling. Think of that, $311 billion. The bad news is that the budget deficits we are running up under this administration and the Republican leadership this coming year will be over $400 billion. So even if we collected every nickel of that that was due and owing, we still would not solve our budget deficit, but it would help.

Now, leaders in the Republican Party have repeatedly proclaimed their commitment to tax reform and simplification. We have heard that. The party that wants to bring down taxes wants to simplify the code. Both of us can share that objective. However, let us look at the facts.

The gentleman from Texas (Mr. DELAY), the House majority leader, stated in April of 2001, "We are pushing forward with our campaign to reform the Tax Code. We are making it fairer, flatter, simpler, and less burdensome to the American people." That is what the gentleman from Texas (Mr. DELAY) said in 2001, that they were making the Tax Code fairer, flatter, simpler, and less burdensome. But the facts, unfortunately, and no one should glory in these facts, but, unfortunately, the facts say otherwise. Republican tax bills during the last 4 years have added, added more than 10,000 pages to the code and regulations. In fact, during the 108th Congress, the Republicans orchestrated nearly 900 changes in the Tax Code.

Now, those of us that have been here as long as the gentleman from Massachusetts (Mr. NEAL) and I will remember passing a tax reform package which was designed to protect the taxpayer. And a report of our colleague, our Republican colleague, the gentleman from Ohio (Mr. PORTMAN), who is now going to be our trade negotiator, that report said that one of the things that Congress had to stop doing if the IRS was going to be able to efficiently and effectively administer the Tax Code was to stop changing it every year. We have changed it every 4 years of this administration. And, of course, today on the floor of the House of Representatives, we changed it again. We made it more complex. In fact, many of us argued that what we did was really raise the taxes on really thousands of farmers and small business people as a result of the change we made.

Just one bill, the Republicans' so-called American Jobs Creation Act, resulted in 561 changes to the Tax Code, requiring more than 250 pages of tax law changes. Is it any wonder why it takes Americans so long to fill out their forms? The Joint Economic Committee notes how this one new law will require more than 10 percent of all small businesses to keep additional records, result in more disputes with the IRS, increase tax preparation costs, and require additional complex calculations.

Clearly, our tax system must be made simpler, fairer, and more efficient for the sake of every American, for every family.

Now, there are some people, frankly, who are wealthy and can afford unlimited accounting services to make sure that they take every advantage of the Tax Code, but the overwhelming majority of Americans are not in that position. Because of that, it is incumbent upon the Congress of the United States and each one of us individually to ensure that the Tax Code is fairer, simpler, and more efficient and that Americans can understand it and take much less time to fulfill their obligations to their country.

I think President Bush has taken an important first step in this effort by appointing the bipartisan Advisory Panel on Federal Tax Reform. I applaud him for doing that. It is chaired by former Senators Connie Mack, who served in this body as well; and John Breaux, who also served in the House of Representatives.

The panel, in my opinion, must present options for reforming the Internal Revenue Code. The requirement to do so is prior to July 31. I am hopeful that Congress can act on this important issue during the 109th Congress. I believe there is an increasing momentum, Mr. Speaker, among taxpayers for real reform; and Democrats intend to join and lead this fight. Democrats want to see reform to the Tax Code. Democrats are committed to a fairer, simpler, more efficient Tax Code.

For example, we need to diffuse the middle-class time bomb, the alternative minimum tax. Now, the alternative minimum tax was adopted for people who were making hundreds of millions of dollars, corporations making hundreds of millions of dollars, maybe billions, but were paying no taxes at all. So what the Congress said some decade and a half ago, was that, look, everybody in our country needs to contribute to its defense and its support. Therefore, we will have an alternative minimum tax.

That was never intended to adversely impact middle-income earners, not in the million dollar category, but far less than that. It was not intended for them. But Americans are now finding, two-earner families doing reasonably well, but just making their college tuition payments for their child, paying for their cars so that they can get to and from work, and paying for their mortgage payment because maybe they had to get a new house and housing prices have gone up; they are not having an easy time, and what they are finding now is they are getting caught in the web.

We should have fixed this 4 years ago. We should have fixed it 3 years ago. We should have fixed it 2 years ago. We should have fixed it last year. We should fix it this year. We are not going to. The President has not proposed fixing it, and the Republicans do not want to fix it either. Why? Because it is a secret stealth tax increase on middle-income and upper-middle income Americans.

□ 2000

That is why we do not fix it, so that the majority party can posture that they are cutting taxes while at the same time raising taxes. The AMT, or the Alternative Minimum Tax, will hit an estimated 3 million taxpayers this year, requiring them to pay $6,000 or more on average than they would otherwise owe, and which, when this was adopted, was not intended to have any effect on them. And the number of taxpayers subject to this tax will explode.

Listen to this, my friends. All of our constituents ought to know this. It will go from the 3 million who are adversely affected today to 35 million taxpayers.

Now let us say, just for the sake of argument, that there are only 15 million families there. So 50 million families, in other words, 35 million taxpayers who have a wife and children, so maybe as many as 50 or 60 million people, 35 million taxpayers will be included in the provisions of the Alternate Minimum Tax by 2010.

Furthermore, Mr. Speaker, because the AMT was not indexed for inflation, that is the way we could have protected the middle-income folks, we did not do it. We should be doing it now. We should have done it in 2001, we should have done it in 2002, we should have done it in 2003, we should have done it in 2004, and we should have done it this year. We are not doing it. It ensnares more and more middle-income taxpayers because it was not indexed.

We also, Mr. Speaker, need to take a hard look at moving toward a return-free income tax system, a system that would say to most taxpayers, you do not have to get involved in paperwork. Here is the deal. You can file very easily because the tax system will be much simpler and much fairer.

Think how much better Americans would feel, not that they are going to feel great about paying their taxes. None of us feel great about paying our taxes. But all of us understand, as a democracy, that it is necessary if we are going to have a national defense and if we are going to have other services in this country.

We need to simplify, Mr. Speaker, as well tax rules for small businesses. No reason small businesses ought to be under a mountain of rules and regulations and tax requirements. We ought to stop individuals and corporations, however, from gaming the system, which means that small businesses and individuals have to pay more than their fair share. We need to consider overhauling the corporate income tax and focus on eliminating tax breaks that actually encourage American companies to move jobs overseas.

The gentleman from Massachusetts (Mr. NEAL) has been very involved in this entire issue, and perhaps he will discuss it when I yield to him. Overseas, rather than giving tax incentives to corporations and businesses, to create and keep jobs here in America for Americans.

The American people are acutely aware of the unnecessary complexity and dire need for real tax reform in America today. The Republican party has not led on this issue. And the President can call a commission together, but for 5 years they have taken no action. The American people need and deserve a tax system that is simpler, fairer and efficient.

I would like to yield now to some of my colleagues who are here. The gentleman from Georgia (Mr. SCOTT) has been here for a long time waiting to speak, and I thank him for being here. I yield to the gentleman from Georgia.

Mr. SCOTT of Georgia. Mr. Speaker, I want to just, first of all, thank our distinguished Minority Whip, the gentleman from Maryland (Mr. HOYER) for the distinguished leadership that he has been providing on this issue.

Mr. Speaker, I rise today to discuss what is one of the what I call tragic burdens, one of the greatest tragic burdens on the American family, and this is the costly, complex Tax Code. This Friday, April 15, is tax day for millions of Americans who will spend countless hours this week trying to comply with our unbelievably complex tax laws.

At the outset, I want to make something very clear, Mr. Speaker, to the American people tonight. Let me make it clear that it is Democrats who you will see tonight who are taking the leadership. It will be Democrats on this floor of the Congress tonight who are taking the leadership to make our tax system fairer, less complicated, and simpler.

Now we all know that over the last 4 years this government has been getting bigger under the Republicans. The deficits have soared under the Republicans. Social Security is coming under direct attack and attempting to be dismantled and privatized by the Republicans. And our tax system has gotten more complicated, more unfair and complex under the Republicans.

There has been a growing unfairness in the Tax Code and an astronomically exploding national debt, trillions upon trillions of dollars, and growing each year.

But, Mr. Speaker, it is Democrats who are here tonight providing the leadership for tax fairness, for tax relief, for tax simplification and, most importantly, for reducing taxes on working American families.

Americans are double-taxed by the time and expense that it takes to do their taxes. For example, individuals, businesses, tax-exempt public and private entities spend nearly 6 billion hours complying with the Tax Code.

Nearly 60 percent of taxpayers currently use a tax professional to prepare their taxes, compared to only 40 percent in 1990. A typical taxpayer knows that a competent tax professional does not work for free, so it is costing taxpayers an estimated $100 billion each year in accounting fees and the value of their time to complete their tax returns.

Now, Mr. Speaker, I am reading a very interesting book by Thomas Friedman, and it is called "The World is Flat". And in this book, he talks about a phenomenal situation that takes place largely because of the paperwork and the complexity of our tax returns and preparing them.

He points out very clearly in a chapter called "While I Was Sleeping" that over in India a burgeoning industry is taking place, preparing Americans' taxes, outsourcing jobs. In 2001, it was 50,000; 2002, it was 100,000; 2003, it was 400,000; and 2005 it is projected to be over 1 million. Not just jobs, but our precious preparation of our taxes being outsourced.

I am here to tell you that our failure to simplify our Tax Code is causing a major transformation of our accounting profession. Taxpayers are losing money due to the complexities of the system.

The Government Accountability Office estimates that Americans overpay their taxes by an estimated $1 billion a year because they fail to claim deductions. About a quarter of Americans who are eligible for the Earned Income Tax Credit fail to claim it due to complexities.

Mr. Speaker, this is terrible. It is a tragedy, and we must make our Tax Code easier for the American people, make it easier for them to figure it out.

As an entrepreneur who started a successful small business, I was not surprised to learn that the IRS estimates that the average self-employed taxpayer has the greatest compliance burden of almost 60 hours to prepare his or her taxes. It is no wonder that small business owners overpaid their taxes by $18 billion in 2000 and 2001, according to the GAO.

This is unacceptable, Mr. Speaker. We do not need to take this any further. Considering these statistics, is it any wonder why 70 percent of Americans recently polled believed their Federal taxes are too complicated?

In that same Associated Press poll, about half of the respondents would prefer to visit the dentist than prepare their taxes.

Another tax problem that Americans will discover is, as our distinguished leader, the gentleman from Maryland (Mr. HOYER), pointed out, that the Alternative Minimum Tax which will have to be paid by nearly 3 million taxpayers this year, that number will explode to 30 million by 2010 according to the Congressional Budget Office. By 2010, the AMT will ensnare one-third of all households and 97 percent of families with two children and incomes between 75,000 and 100,000, according to the Brookings Institute.

Now, in January our distinguished President announced the establishment of a bipartisan panel to provide alternatives to simplify the Tax Code, which I certainly join with my leader in commending him. This advisory panel will submit to the Secretary of the Treasury a report of its recommendations by July 31, 2005; and I hope that the advisory panel will consider tax fairness as well as tax simplification. And let us all work together. The current Tax Code is riddled with special advantages for various subgroups of business people.

Mr. Speaker, I serve on the Financial Services Committee, and I am deeply worried about the finances of our country. A simplified Tax Code would reduce tax cheaters and cut down on compliance expenses for all taxpayers. I believe that it is time for Congress to clean up this Tax Code and provide some relief to families and small businesses.

Yes, we Democrats are taking the leadership on this as you see tonight. But this is bipartisan. The American people are looking for Democrats and Republicans to join together and make our tax preparation simple, easy to understand. The American people deserve this, and the American people are going to get it with us working together to bring tax relief, to bring tax simplification of the Tax Code to the American people.

Mr. HOYER. I thank the gentleman from Georgia for his remarks and for his restating the commitment the Democrats have to ensuring that Americans get a fairer, simpler and more efficient tax system that treats them fairly and treats everybody else fairly as well.

Now it is my great pleasure, Mr. Speaker, to introduce or to yield to one of the senior members of the House of Representatives, the distinguished gentleman from Massachusetts, mayor of his town before he came here, and as a member of the Ways and Means Committee has been in the leadership of opposing complicating the Tax Code, opposing making it less fair and opposing tax legislation which sent jobs overseas. He has been a true giant in the leadership on this effort, and I am pleased to join with him in this effort that we join tonight. I yield to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I want to congratulate the gentleman from Maryland (Mr. HOYER) and thank the other members of the team that have assembled tonight for the purpose of discussing what we can do to simplify the Tax Code for the American people.

Mr. Speaker, we argue frequently in this institution about tax cuts. In fact, this afternoon we came up with an estate tax cut that only further complicates the tax system. And indeed we ought to be called the House of Lords here for what we did today. We have created a system of peerage now. You can pass on money in this instance, vast sums, without any qualms. We can take care of Paris Hilton, we can take care of the idle rich, but we cannot address the issue in a forthright manner about Social Security or we cannot make sure that those Humvees arrive in time for our young men and women who serve us with great honor every day in Iraq and Afghanistan or to make sure that they have the necessary equipment. And as they return home we are asking now for a copay on veterans services at Veterans hospitals.

But what is striking about this, in a town that often talks about tax cuts, we could quite easily, Republicans and Democrats working together, do something that everybody in America desires, and that is a simplification of our Tax Code.

People really have to believe in their tax system. They have to believe that there is an equitable distribution of the burden, but there is also an important investment based upon the potential achievements that come from us paying our taxes.

Now, I notice that the first two speakers were very bipartisan in their commentary about how we might get to the starting line. But let me be just a little bit more discerning, offer a little bit more scrutiny of what has happened here during the last 10 years.

Now, if you recall, when the Republicans came to majority status here, they promised, and the former chairman of the Ways and Means Committee very clearly stated, and I quote, they were going to pull the Tax Code up by its roots.

☐ 2015

They were going to rip the Tax Code up by its roots. We were all going to a long funeral for the Tax Code. And they were going to give us a flat tax. They were going to give us a consumption tax. We are no closer to a flat tax or a consumption tax than we were when they started. In fact, the reality is that they have not backed up their words with action.

The Tax Code today is more complicated than ever, and the very people on the Republican side who denounce the Tax Code's complexity are the ones that put together what they now call a convoluted monstrosity. They put it into effect.

The law that Republicans criticize today was part of their 2001 tax bill that a Republican-controlled White House sent to a Republican-controlled House and then to a Republican-controlled Senate. So the Republicans controlled the conference committee. They negotiated the final version of the bill. They provided almost all of the votes for the plan, and now there is even a Republican administration that administers the Internal Revenue Service, and we are no closer to simplification.

That is one of the reasons that we voted against the tax bill on our side, but let me tell you what the 2001 law did. It added 214 million hours to the paperwork burden for United States taxpayers in 2001 alone. It led to an explosive growth of the Tax Code. The Tax Code has expanded from 500 pages in 1913 to 45,662 pages in 2001 to 60,044 pages today.

Think of it: 60,000 pages and almost 15 percent, one quarter of those 60,000 pages have come into effect during these last 4 years. Think about that: 15,000 new pages of tax laws from the same people who rail against tax complexity. It is breathtaking in its audacity.

But do we have time in this institution to address the Bermuda tax issue? No, we do not. I remind the American people tonight that for the cost of $27,000 you can open a post office box on the island of Bermuda, declare that you are a corporate citizen of Bermuda while those 146,000 soldiers are in Iraq and say that your citizenship belongs to Bermuda, thereby escaping the responsibility and obligations that we have in America to those young men and women in uniform.

Well, they have controlled this Congress for 10 years, 10 years; they said they were going to do something about the Tax Code.

Well, let us talk about alternative minimum tax. They have done nothing about alternative minimum tax. It is creeping up across the board on the American people. I have asked for hearings time and again on alternative minimum tax.

Let me announce this to the American people tonight one of the best things about this debate, as a Democrat from Massachusetts, I have proposed eliminating, getting rid of the alternative minimum tax. I want to congratulate the Republicans for one thing. Seldom have I ever been part of any legislation where I got more pats on the back on their side or words of encouragement and fewer votes. Fewer votes. They will encourage me, say keep up the battle. Stay with it. Stay after it. And then I will say, let us have an up-or-down vote on getting rid of AMT, alternative minimum tax.

If you are watching tonight and you take advantage of the Hope tax credit or the child tax credit, you bump into a whole new category of taxation. When that individual finds out what is about to happen on Friday or if they picked up their taxes during the last few days or weeks, they are going to be pretty upset with the notion of alternative minimum tax.

I filed a very good simplification bill here. It is almost revenue neutral, and it will achieve all the ends and strip pages from the Tax Code. But again, I want to hearken back to what I spoke of when I started.

We should stop arguing about tax cuts in this town. After all, we have had five tax cuts while we are fighting two wars. But we could do something that all members of the American family are in favor of and that is simplifying the Tax Code, changing the Tax Code, getting rid of the complexity instead of what has happened during these 10 years from a party that promised to take the Tax Code and tear it out by its roots. We now have a Tax Code that has roughly 15,000 more pages. It is wild in its complexity with what has happened.

I want to thank the gentleman from Maryland (Mr. HOYER) and the gentleman from Georgia (Mr. SCOTT) and the others that will participate in this discussion. But hearken back to that notion I have raised, and that is let us simplify the Tax Code for the American people as Democrats have promised to do.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. NEAL). That is our pledge. The Democrats are going to work. We are going to work hard, and we will work with the President if the President wants to work, and we will work with the other side of the aisle to make this a fair, simpler, more efficient tax system. We owe that to the American public. We want to be the party of reforming our tax system so that Americans will say, I understand it, nobody likes to pay taxes but I am paying a fair share.

I thank the gentleman from Massachusetts (Mr. NEAL). It is now my honor to yield to my good friend, the distinguished gentlewoman from Cleveland, Ohio (Mrs. JONES), who has done such an extraordinary job during her tenure here and is now a member of the Committee on Ways and Means.

Mrs. JONES of Ohio. Mr. Speaker, I want to thank the gentleman from Maryland (Mr. HOYER) for his support for the years I have here in Congress and his support for my appointment to the Committee on Ways and Means. I am happy to be on the committee that is going to have the opportunity to review the Tax Code, and I want to thank him for his leadership on this issue.

Public distrust, that is the main reason why we urgently need fundamental tax reform. More and more Americans distrust the current tax system because they perceive it as unfair. Are they wrong? No.

Lower- and middle-income Americans bear a disproportionate tax burden. Small businesses bear a great compliance burden. That is unfair.

Does fairness in our tax system matter? Of course it does. It matters because tax collection depends on voluntary compliance. And in a democracy like ours, people contribute private resources to provide the public goods and services we deem appropriate as a community, including helping those not able to fend for themselves.

In America, paying taxes embodies a civic relationship of mutual responsibility, and people's obligation to pay them is as legitimate as any other public duty. So I am glad that we are discussing comprehensive tax reform, an issue that will only become more important for us in this Congress.

Let me offer five short points to consider as we discuss the important issue. First, fundamental tax reform is a necessity. The current system is complicated, inefficient, and unfair. Its unpopularity is warranted, and that is a problem because that breeds distrust.

The Tax Code must be simplified in order to eliminate the disproportionate amount of time and money currently spent on compliance. For example, the average taxpayer with a self-employed status has the greatest compliance burden in terms of tax preparation, 59 hours. In 2002 taxpayers spent more than $90 billion in compliance. I know somebody has already talked about that, so I will move on.

Second, simplification can occur only with fundamental tax reform. This is clear after decades of incrementalism. We know that tax reform cannot be done in a piecemeal fashion. The current system is flawed at its roots. Hard-working, middle-income, and lower-income people bear the largest burden in our current tax system.

Third, fundamental tax reform must focus on the tax base. Our tax base is derived from total income. However, this is complicated by the bewildering array of adjustments, deductions, credits, omissions, and mismeasurements. This undermines the fairness of our tax system. Therefore, fundamental tax reform must focus on the issue of tax base in order to achieve equity, efficiency, simplicity, and accountability.

Fourth, the Tax Code must encourage entrepreneurship. Small businesses provide our economy's foundation. They need a tax system that frees resources for investment and ensures affordable capital. We must support small business and American entrepreneurship which make up the backbone of our economy.

Fifth, fundamental tax reform is possible. Tax reform is not an easy task. However, the American public demands it. They see our tax system is unfair, and they are right. As it was in the mid-eighties, the time is right to begin taking serious steps towards achieving fundamental tax reform. We must listen to our constituents and be up to the task of implementing a fair tax system.

I want to close with this: this is a letter from one of my constituents. And I will not read it all, but I will read a portion of it.

It is dated March 22, 2005. It is from Stratford Road, Cleveland Heights, Ohio, 44118, to Congresswoman TUBBS JONES:

"Dear STEPHANIE, When we worked in the Cuyahoga County Prosecutor's Office, we prosecuted matters deemed criminal by statute. For how it will potentially decimate our district and others, the alternative minimum tax ought to be considered criminal.

"The AMT increased my Federal tax liability by over $13,000. This increase did not result so much from my income level but rather was directly related to the fact that Cleveland Heights has among the highest property tax rates in the State and the State of Ohio is among the States with the highest income tax rates.

"The AMT was enacted in response to individuals earning over $200,000 a year who reduced or eliminated tax liabilities through various tax shelters. Because the AMT has not been adjusted for inflation and tax cuts, households with children earning over $50,000 will be subject to the AMT. Those residing in high-tax districts like Cleveland Heights will also be hit the hardest.

"I have no fancy tax shelters. Ninety percent of those subject to AMT, including me, face this tax solely on account of paying high income property taxes and having children. Without immediate changes to the AMT and our outrageous high property taxes, people will continue to move out of Cleveland Heights with consequential loss of an income tax base, decline in property values, and a loss of diversity.

"In my neighborhood alone there are over 20 homes for sale, the majority leaving on account of the taxes. The AMT exacerbates the problem as a significant proportion of these high taxes can no longer be deducted to reduce taxable income. This double whammy will affect Cleveland Heights residents as well as those in other inner ring suburbs proportionally more so than others."

He suggests two changes. AMT should not consider any income earned or taxed in one city or State of residence or any real estate tax on one's principal residence in order to increase taxable income.

Secondly, he suggested that school funding cannot rely so heavily on real estate taxes.

It is signed by Tony Mastroianni. He is a young doctor and young lawyer. And I just wanted to submit it for the RECORD so he knew I presented this information for my colleagues for review with regard to AMT.

I thank the gentleman for the opportunity to speak.

CLEVELAND HTS., OH.
MARCH 22, 2005.

Hon. STEPHANIE TUBBS JONES,
Longworth House Office Building,
Washington, DC.

DEAR STEPHANIE: When we worked in the Cuyahoga County Prosecutor's Office we prosecuted matters deemed criminal by statute. For how it will potentially decimate our district and others, the alternative minimum tax (AMT) ought to be considered criminal.

The AMT increased my federal tax liability by over $13,000. This increase did not result so much from any income level but rather was directly related to the fact that Cleveland Heights has among the highest property tax rates in the state and the state of Ohio is among the states with the highest income tax rates.

The AMT was enacted in response to individuals earning over $200,000/yr who reduced/eliminated tax liability through various tax shelters. Because the AMT has not been adjusted for inflation and tax cuts, households with children earning over $50,000 will be subject to the AMT. Those residing in high tax districts like Cleveland Heights will be hit the hardest.

I have no fancy tax shelters. 90% of those subject to AMT, including me, face this tax solely on account of paying high income/property taxes and having children.

Without immediate changes to the AMT (and outrageously high property taxes), people will continue to move out of Cleveland Heights with consequential loss of an income tax base, decline in property values and loss of diversity. In my neighborhood alone, there are over 20 homes for sale: the majority leaving on account of the taxes. The AMT exacerbates the problem as a significant proportion of these high taxes can no longer be deducted to reduce taxable income. This 'double whammy' will affect Cleveland Heights residents as well as those in other inner ring suburbs proportionately more so than others.

Allow me to propose two suggestions: AMT should not consider any income earned/taxed in one's city/state of residence or any real estate tax on one's principal residence in order to increase taxable income. Itemized deductions are already limited based on income level; there is no need to further penalize individuals for buying a single residence and having children: we need kids (and to feed them) to grow up and pay into social security! Go after real tax shelters; School funding cannot rely so heavily on real estate taxes. Real estate taxes in Cleveland Heights are among the highest in the state and Cleveland Heights is fourth in spending per pupil in Cuyahoga County. Ed Kelley and other inner ring suburb mayors have been meeting to determine ways of equitable school funding so that people do not flee Cleveland Heights on account of obscene property taxes. As mentioned above, not being able to deduct such taxes is adding insult to injury.

The AMT is a national problem that clearly exacerbates an ongoing problem in Cleveland Heights. I hope that you and your colleagues can remedy this soon. If you need additional information or would just like to listen to me complain, I may be reached at work or at home.

Thank you.

Sincerely,

TONY MASTROIANNI.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for her comments. I think her reading of the letter is an example of all that we are hearing from Americans: Congressman, this Tax Code I cannot understand. Congressman, this Tax Code costs me a lot of money and a lot of time to comply. And I want to comply and I want to be honest and help my country but, golly day, I am having trouble figuring it out. Will you please make it fair? Will you please make it simpler and just make it work better for me, for my family, and for the country.

Mr. Speaker, I yield to someone who is working very hard to do just that for his constituents and all Americans, the newest member of the Committee on Ways and Means, the gentleman from Illinois (Mr. EMANUEL), who does an extraordinary job.

Mr. EMANUEL. Mr. Speaker, I would like to pick up on a point the gentleman made of what we hear from our constituents. That is this notion that people are just trying to be honest and just trying to do something that is honest.

The fact is we all know the sense of frustration that we are hearing from our constituents is that the Tax Code has created a culture that has rewarded cheating and penalizes those who play by the rules.

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That is what we have today, and that is a problem, that is a frustration that we hear from people.

When we were on Easter recess, there was a report by the IRS showing that there goes about $350 billion of unreported income, which would wipe the deficit off by three-quarters of this country. People who are hiding income, playing games, not reporting it, forcing the middle class to pay an ever-increasing amount of money, they are basically cheating. We know it is going on. They think the $350 billion is a low number.

It is getting worse as the tax code has gotten worse, and yet we are putting middle class families further behind on health care bills, college costs, trying to figure out how to save for their retirement and a tax burden and a tax code that does not do justice to what they are trying to do as parents and as a family.

So we have a code that rewards cheating. It promotes a culture of cheating and a code that on the other end is the middle class family. It penalizes those who play by the rules and try to do the right thing by their family.

Everybody has got something that they have proposed so I do not want to be outdone. I have also done something to that effect, but I not only have done it by legislation, I do it in my office.

One little story. I run a tax assistance program clinic in my congressional office every Saturday. We have the big four accounting firms, the accountants from the banks. It is called a tax assistance program. It is run as an entity. We house it in my congressional office. We advertise about it.

Every Saturday from 8:30 to 11:30, we actually help people fill out their taxes. We do it for two-and-a-half to three months a year. This last year we did about 1,132 taxes for individuals with families, returning on average $1,900 in earned income tax credit deductions, tax deductions they would not have gotten because nobody else would have filled it out. I say, if you can fill out the EITC tax code, you can go to graduate school. You do not need to do it. It is the most complicated form. By comparison, I want you to know, if you are a corporation and try to get the export-import loan agreement, it is 12 questions, but for the earned income tax credit, it is over 200 questions. We fill it out.

We also do college assistance, and we have back in my district about $10 million in different deductions and credits that exist in the code they would not have gotten, and after three months in a row every Saturday 45 different families show up. We turn on average away 15 families because we cannot help do them, and we make them first in line the next Saturday. But we do that every Saturday for three months. We did our last one last Saturday. We run these clinics so we know firsthand how these go besides the one I do for myself.

Second, I have introduced legislation called the simplified family credit. It takes the earned income tax credit, the per child deduction and the dependent care and takes 200 pages of the code and 2,000 additional pages down to 12 questions. It collapses all of those deductions that exist for families earning somewhere between $15,000 to $50,000 down to 12 questions. It would save a huge amount of money that ends up because of waste and abuse in the code because it is too complicated.

There are estimates of about $6 billion dollars, and if you simplified it, not only would you save money, but for people who have chosen to work and do right by their children, you have a tax code that was on their side, not on the side of folks who are trying to get lawyers and accountants to try to figure out how to basically game the system.

Any reform should understand that people are in the moderate income, $50,000 and less, should have a code that is simple for them to use.

So I have introduced what I call the simplified family credit that takes those three credits, the earned income tax credit, the per child and the dependent care and puts it down to 12 questions.

We run the clinic in my office to help families fill out their taxes and the tax forms, the 1040, and get them the type of deductions that we are talking about.

I want to stress, every one of us, we have people hit by the AMT. People come around and it is going to be Friday, they are going to be all in downtown Chicago and the neighborhoods and around the State and around the country. Their heads will be shaking because they know this code was not designed with them or their families in mind. It was designed for those who can afford lawyers, accountants and lobbyists. Those are the people that are benefiting by this code, and this code does injustice to people who are trying to do right by their families.

We need a code that not only understands the trials and the challenges of the middle class family but finally reflects what they are trying to do for their kids rather than what the lobbyists are trying to do for their interests. That is what we have to do when we reform this code is put it back on the working class and middle class families who are trying to do right for their families.

I want to thank the gentleman for this time and organizing this, especially as Friday looms in people's eyes and they have to face literally around the kitchen table all those bills. It is not meant for 9 hours of unpleasant time trying to fill that out. We can do better.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments, and I congratulate him for those clinics. I think that is a wonderful idea. I think very frankly we ought to have similar clinics and cooperate with a number of the people in our communities who could help people, particularly the EITC is difficult to understand for Members, much less those who it is designed for, to make sure people at the very poor end of the income scale have enough resources to support their kids. That is what it is all about, and this is what we think ought to be done.

So I thank the gentleman. I also want to thank him for the simplification of all the child tax credits that are now available because if we can get that just one item, as you pointed out, down from those 200-plus questions down to 10 or 12 questions, we are going to save a lot of money, a lot of time and a lot of mistakes, a lot of mistakes. The EITC is complicated, but there are a lot of mistakes made, not by people who want to commit fraud but who simply make mistakes.

I am glad that we are joined now by, in my view, one of the real stars of the new class in the Congress. She has been sent to us from south Florida, an area where I used to live, and she is doing an extraordinary job. I yield to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER) very much for yielding and thank him so much for giving us this opportunity to talk to the American people about what is essentially a startling contrast between our vision and our view on what tax reform should entail and what the majority's vision is.

I think that is really what we should ask people to take a look at, because the perception that is out there in America is not what it should be, and really what I would like to spend some time talking about is how the majority talks about making taxes simpler. As we can see, they have plenty of rhetoric that they have thrown around over the years as far back as 1997 and even for the years before that. Yet their actions do not match the rhetoric.

That is really what it boils down to, and I am a person that is all about action. That is what our caucus is about, and I think you have to walk the walk when you talk the talk, and that is not happening with this administration. It is not happening with the leadership of this body.

It is critical that the American people understand the consequences of the years, and I know that they do. Every working family sitting around their kitchen table understands the consequence of the complexities and the carving up of the Tax Code by the Republican majority here. I mean, that is what they have continued to do, in spite of the fact that they go out in America and talk about how complex it is. Well, it is time that something gets done about it. The time for talking needs to stop.

Their tax policies clearly favor some citizens over others. They pick and choose. They pick winners and loser among businesses and industries, and they do it all under the guise and cloak of tax reform.

One of the most important consequences is that the Federal Government and State and local governments, they do not have adequate resources to pay for the day-to-day services that our constituents need. That is a direct consequence of not having tax reform. There are real needs that are not being addressed because our local governments cannot provide the services because of the tax system as it is currently constructed. . That squeeze is being felt all across this country, and particularly in the towns and cities in my district and in the districts of many of our colleagues.

That is because the debt burden faced by the Federal Government is going to dramatically worsen in the future if the administration's tax cuts are made permanent. If the Bush tax cuts are made permanent, this problem is only going to get worse.

The Government Accountability Office projects that interest on the national debt would nearly equal all of the Federal taxes, including income and payroll taxes that we generate in 2040, not now but the taxes that we generate in 2040, if the recent tax cuts are made permanent.

Current and proposed debt and the rising level of interest that we pay on that debt, which is soon to average about $300 billion a year, which is more than we spend on Medicaid to help make people understand what that means, we weaken Social Security and threaten benefits for today's seniors, for disabled workers and their survivors, much of which affects women disproportionately which I want to address in a moment.

The amount merely required to pay interest on the national debt ultimately will be almost twice the amount that is paid out to all Americans in Social Security benefits. That is unbelievable. The interest on the national debt will be more than twice what we pay out in Social Security benefits.

Unlike interest on the national debt, Social Security has its own dedicated taxes, and the President fails to acknowledge that these costs crowd out resources for other priorities that affect people of all ages, people over 55 and younger people as well, in health care, in education and in homeland security. I want to take a minute and just talk about the impact on women of the Bush administration's policy decisions as it relates to tax cuts and the lack of tax reform.

There are programs serving women and families that are really bearing the burden of deficit reduction. The President's budget now in front of us slashes funding for countless domestic programs.

The administration itself in child care calculates 300,000 additional children could lose assistance by 2009 from the continued freeze in funding. Between 2003 and 2004, 200,000 children have lost child care help.

In Medicaid, the administration would cut $7.6 billion over 5 years, and the House even more.

Education and training: Investment in high school vocational education programs that can help train women and girls for higher paying, nontraditional jobs is totally eliminated.

Supplemental nutrition for women, infants and children: The cut of $658 million could mean 660,000 fewer pregnant women, infants and children receiving WIC assistance in 2010.

I want to boil this down for another few seconds. Millionaires' average tax cut in 2004 was $123,592, which is more than five times the annual income of a typical single mother with children, whose median income is $22,637. That is what their policy translates into for regular, everyday people.

More than one-quarter of single-parent families, who are overwhelmingly headed by women, get nothing from the 2001 and 2003 tax cuts.

These tax cuts, the bottom line, and the budget simply makes the wrong choices for women, for their families and for all Americans.

Mr. Speaker, I want to again thank the gentleman from Maryland (Mr. HOYER) so much for this opportunity for us to help the American people understand that it is Democrats that are committed both in action, deed and rhetoric, and our actions will match our words when it comes to tax reform.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman and she left me a beautiful segue into the closing of our action matching our words. That is what ought to happen, and when that does not happen, people get pretty cynical. Let me refer to some words.

In 1996, Newt Gingrich was the Speaker of this House and he said, "The current system is indefensible," referring to the Tax Code. He was right. "It is riddled with special interest tax breaks. Today's Tax Code is so complex that many Americans despair that only someone with an advanced degree in rocket science could figure it out. They are wrong. Even a certified genius such as Albert Einstein needed help in figuring out this Form 1040." In 1996, 8 years ago, the Republicans were in charge of this House, and Mr. Gingrich was our Speaker.

A year later, Mr. Gingrich said this as the Speaker of the House, "So we want to move towards a simpler tax code that takes less time to fill out, that is easier for the American people," 1997.

In the last 7 years, the Speaker's party, the Republican Party, has made the Tax Code 25 percent more complicated than it was in 1997, moving in exactly the opposite direction.

In 2001, 4 years later, 2001, President Bush said, Americans want our Tax Code to be reasonable and simple and fair. He was absolutely right. That is what I want. That is what every American wants. These are goals that have shaped my plan. What plan? No plan, no plan here, no plan in the Committee on Ways and Means, no plan from the White House.

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And then in 2004, fast forward 3 years, just last year: "The administration has made tax simplification a priority, and we look forward to working with Congress to achieve it. A simpler code is something we owe honest taxpayers, and the worst thing of all for the tax cheat."

Mr. Speaker, we agree with the President, but what did we do today? This very day, we made the Tax Code more complicated, not to mention costing many small farmers and small businessmen more money than they otherwise would have paid with existing policy.

Mr. Speaker, my Republican friends, my Democratic friends, on behalf of the Democratic Party, I pledge that we are going to fight to reform a system that is complicated, that is unfair, and that is inefficient so that Americans will say, as painful as April 15 may be, at least it was easier to fill out, at least I think it was fair, and at least I think it will be handled in an efficient way.

Democrats are committed to reforming this Tax Code so it will be simpler, fairer, and more efficient.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MCCARTHY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Mrs. MCCARTHY, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

(The following Members (at the request of Mrs. BIGGERT) to revise and extend their remarks and include extraneous material:)

Mrs. BIGGERT, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, today.

Mr. DREIER, for 5 minutes, April 14.

Mr. DUNCAN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 47 minutes p.m.), the House adjourned until tomorrow, Thursday, April 14, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1521. A letter from the Secretary, Department of Agriculture, transmitting the annual assessment of the cattle and hog industries, pursuant to Public Law 106-472 7 U.S.C. 181, et seq; to the Committee on Agriculture.

1522. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Nectarines and Peaches Grown in California: Revision of Handling Requirements for Fresh Nectarines and Peaches [Docket No. FV05-916-1 IFR] received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1523. A letter from the Director, Regulatory Review Group, FSA, Department of Agriculture, transmitting the Department's final rule — Tobacco Transition Assessments (RIN: 0560-AH31) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1524. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 04-04, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1525. A letter from the Acting Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the Selected Acquisition Reports (SARs) for the quarter ending December 31,2003, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

1526. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting two reports, the first is the "Department of Defense (DoD) Chemical and Biological Defense Program (CBDP) Annual Report to Congress," and the "Department of Defense (DoD) Chemical and Biological Defense Program (CBDP) Performance Plan for Fiscal Years 2004-2006," pursuant to 50 U.S.C. 1523; to the Committee on Armed Services.

1527. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of funds that were expended during the preceding two fiscal years for performance of depot-level maintenance and repair workloads by the public and private sectors, pursuant to 10 U.S.C. 2466(d)(1); to the Committee on Armed Services.

1528. A letter from the Assistant Secretary for Reserve Affairs, Department of Defense, transmitting the National Guard ChalleNGe Program Annual Report for Fiscal Year 2004, pursuant to 32 U.S.C. 509(k); to the Committee on Armed Services.

1529. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Resolving Tax Problems [DFARS Case 2003-D032] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1530. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Tax Procedures for Overseas Contracts [DFARS Case 2003-D031] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1531. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the Council's 2004 Annual Report, pursuant to 12 U.S.C. 3305; to the Committee on Financial Services.

1532. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the Status and Condition of Head Start Facilities used by the American Indian and Alaska Native Programs, as required by Section 650(b) of the Head Start Act; to the Committee on Education and the Workforce.

1533. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Amendments Affecting the Country Scope of the End-User/End-Use Controls in Section 744.4 of the Export Administration Regulations (EAR) [Docket No. 040615184-4184-01] (RIN: 0694-AD15) received April 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1534. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report describing, to the extent practicable, any involvement of a foreign military or defense ministry civilian that have participated in the International Military Education and Training (IMET) program, and have been identified in the Country Reports on Human Rights Practices for 2004 as violating internationally recognized human rights subsequent to such training, pursuant to Section 549 of the Foreign Assistance Act, as amended; to the Committee on International Relations.

1535. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on "Overseas Surplus Property," pursuant to Public Law 105-277, section 2215; to the Committee on International Relations.

1536. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report mandated in the Participation of Taiwan in the World Health Organization Act, 2004 (Pub. L. 108-235), Section 1(c); to the Committee on International Relations.

1537. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1538. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1539. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1540. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting the Program Performance Report for FY 2004, as required by the Government Performance and Results Act; to the Committee on Government Reform.

1541. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period January 1, 2005 through March 31, 2005 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a Public Law 88-454; (H. Doc. No. 109—19); to the Committee on House Administration and ordered to be printed.

1542. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 032205C] received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1543. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-8 Airplanes [Docket No. FAA-2004-19541; Direcorate Identifer 2004-NM-129-AD; Amendment 39-14013; AD 2005-06-05] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1544. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes [Docket No. FAA-05-20399; Directorate Identifier 2005-CE-02-AD; Amendment 39-13988; AD 2005-04-16] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1545. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes [Docket No. FAA-2004-19446; Directorate Identifier: 2004-NM-130-AD; Amendment 39-13967; AD 2005-03-11] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1546. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Honeywell International Inc. TFE731-2 and -3 Series Turbofan Engines [Docket No. FAA-2004-18019; Directorate Identifier 2003-NE-65-AD; Amendment 39-14004; AD 2005-05-15] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1547. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-200B, 747-200C, 747-200F, 747-300, and 747SR Series Airplanes Equipped With General Electric (GE) CF6-45 or -50 Series Engines [Docket No. FAA-2004-19945; Directorate Identifier 2004-NM-22-AD; Amendment 39-14017; AD 2005-06-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1548. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. 2003-NM-256-AD; Amendment 39-13968; AD 2005-03-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1549. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-80C2 Turbofan Engines; Correction [Docket No. 2003-NE-43-AD; Amendment 39-13835; AD 2004-22-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1550. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-622R and A300 F4-622R Airplanes [Docket No. FAA-2004-19542; Directorate Identifier 2003-NM-282-AD; Amendment 39-14005; AD 2005-05-16] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1551. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319, A320, and A231 Series Airplanes [Docket No. FAA-2004-19264; Direcorate Identifier 2004-NM-90-AD; Amendment 39-14014; AD 2005-06-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1552. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100B SUD, -200B, -200C, -200F, and -300 Series Airplanes [Docket No. FAA-2005-20431; Directorate Identifier 2005-NM-040-AD; Amendment 39-13995; AD 2005-04-51] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1553. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes (Collectively Called A300-600); and A310 Series Airplanes [Docket No. FAA-2004-19451; Direcorate Identifier 2002-NM-138-AD; Amendment 39-13983; AD 2005-04-11] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1554. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 2000EX and 900EX Series Airplanes [Docket No. FAA-2005-20425; Directorate Identifier 2005-NM-014; AD; Amendment 39-13987; AD 2005-04-15] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1555. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757 Series Airplanes [Docket No. FAA-2004-19202; Directorate Identifier 2004-NM-95-AD; Amendment 39-13989; AD 2005-05-01] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1556. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. FAA-2004-19768; Directorate Identifier 2004-NM-184-AD; Amendment 39-13990; AD 2005-05-02] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1557. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Diectives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Series Airplanes [Docket No. FAA-2004-18678; Directorate Identifier 2001-NM-312-AD; Amendment 39-13991; AD 2005-05-03] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1558. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aerospatiale Model ATR 42-200, -300, and -320 Series Airplanes [Docket No. FAA-2004-19562; Directorate Identifier 2004-NM-73-AD; Amendment 39-13992; AD 2005-05-04] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1559. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc Models RB211 Trent 768-60, Trent 772-60, and Trent 772B-60 Turbofan Engines [Docket No. 2003-NE-28-AD; Amendment 39-13994; AD 2005-05-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1560. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT9D-59A, -70A, -7Q, and -7Q3 Turbofan Engines [Docket No. 2001-NE-27-AD; Amendment 39-14002; AD 2005-05-13] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1561. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eagle Aircraft (Malaysia) Sdn. Bhd. Model Eagle 150B Airplanes [Docket No. FAA-2004-19897; Directorate Identifier 2004-CE-45-AD; Amendment 39-

14003; AD 2005-05-14] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1562. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasiliera de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2003-NM-34-AD; Amendment 39-13998; AD 2005-05-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1563. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200, 757-200CB, and 757-200PF Series Airplanes Equipped with Rolls Royce Model RB211 Engines [Docket No. FAA-2005-20424; Directorate Identifier 2004-NM-268-AD; Amendment 39-13986; AD 2005-04-14] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1564. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, -100B, -100B SUD, -200B, -200C, -200F, and -300 Series Airplanes; and Model 747SP and 747SR Series Airplanes; Equipped with Pratt and Whitney Model JT 9D-3 or -7 (except -70) Series Engines [Docket No. FAA-2004-19812; Directorate Identifier 2003-NM-197-AD; Amendment 39-13996; AD 2005-05-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1565. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727 Airplanes [Docket No. FAA-2004-19530; Directorate Identifier 2002-NM-274-AD; Amendment 39-14008; AD 2005-05-19] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1566. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes [Docket No. FAA-2004-19751; Directorate Identifier 2002-NM-59-AD; Amendment 39-14001; AD 2005-05-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1567. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes (Collectively Called A300-600); and Model A310 Series Airplanes; Equipped with Certain Honeywell Inertial Reference Units (IRU) [Docket No. FAA-2004-19537; DIrectorate Identifier 2004-NM-145-AD; Amendment 39-13993; AD 2005-05-05] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1568. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class D, E2 and E4 Airspace; Columbus Lawson AAF, GA, and Class E5 Airspace; Columbus, GA; Correction [Docket No. FAA-2003-16596; Airspace Docket No. 03-ASO-20] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1569. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Cape Town Treaty Implementation [Docket No. FAA-2004-19944; Amendment Nos. 47-27 and 49-10] (RIN: 2120-AI48) received March 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1570. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Proposed Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, KS [Docket No. FAA-2004-19579; Airspace Docket No. 04-ACE-69] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1571. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Redesignation of Mountainous Areas in Alaska [Docket No.: FAA-2004-19532; Amendment No. 95-340] (RIN: 2120-AI44) received March 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1572. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Ames, IA [Docket No. FAA-2004-19580; Airspace Docket No. 04-ACE-70] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1573. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Carrying Candidates in Elections [Docket No. FAA-2005-20168] (RIN: 2120-AI12) received March 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1574. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of E2 Airspace; and Modification of Class E5 Airspace; Ankeny, IA [Docket No. FAA-2004-19581; Airspace Docket No. 04-ACE-71] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1575. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Mifflintown, PA [Docket No. FAA-2004-19458; Airspace Docket No. 04-AEA-11] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1576. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mount Comfort, IN [Docket No. FAA-2004-18948; Airspace Docket No. 04-AGL-18] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1577. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; Presque Isle, ME [Docket No. FAA-2005-20388; Airspace Docket No. 05-AEA-04] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1578. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Angoon, AK [Docket No. FAA-2004-19414; Airspace Docket No. 04-AAL-16] received March 30, 2005; to the Committee on Transportation and Infrastructure.

1579. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace, Hibbing, MN [Docket No. FAA-2004-18534; Airspace Docket No. 04-AGL-17] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1580. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Coffeyville, KS. [Docket No. FAA-2004-19583; Airspace Docket No. 04-ACE-73] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1581. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mountain Grove, MO [Docket No. FAA-2005-20064; Airspace Docket No. 05-ACE-6] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1582. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla/Vichy, MO. [Docket No. FAA-2005-20059; Airspace Docket No. 05-ACE-1] (RIN No. 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1583. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, IA [Docket No. FAA-2004-19582; Airspace Docket No. 04-ACE-72], pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1584. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla/Vichy, MO. [Docket No. FAA-2005-20059; Airspace Docket No. 05-ACE-1] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1585. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace, Mena, AR [Docket No. FAA-2004-19405; Airspace Docket No. 2004-ASW-14] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1586. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Beluga AK [Docket No. FAA-2004-19696; Airspace Docket No. 04-AAL-24] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1587. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Neosho, MO.

[Docket No. FAA-2005-20063; Airspace Docket No. 05-ACE-5] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1588. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Macon, MO. [Docket No. FAA-2005-20066; Airspace Docket No. 05-ACE-8] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1589. A letter from the Secretary, Department of Health and Human Services, transmitting a letter containing the initial estimate for the applicable percentage increase in Medicare's hospital inpatient prospective payment system (IPPS) rates for Federal fiscal year (FY) 2006; to the Committee on Ways and Means.

1590. A letter from the Commissioner, Social Security Administration, transmitting a report providing notice that the Commissioner has completed the five year nationwide demonstration project to extend fee withholding and direct payment of authorized fees under Titles II and XVI of the Social Security Act to certain non-attorney representatives providing that they meet certain prerequisites, pursuant to Public Law 108—206, section 303; to the Committee on Ways and Means.

1591. A letter from the Secretary, Department of Veterans Affairs, transmitting the biennial report describing the administration of the Montgomery GI Bill education assistance program, covering the program through September 30, 2004, pursuant to 38 U.S.C. 3036; jointly to the Committees on Armed Services and Veterans' Affairs.

1592. A letter from the Secretary, Department of State, transmitting the 2004 Annual Report on United Nations voting practices, pursuant to 22 U.S.C. 2414a; jointly to the Committees on International Relations and Appropriations.

1593. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report required by the Foreign Intelligence Surveillance Act of 1978, pursuant to 50 U.S.C. 1807; jointly to the Committees on the Judiciary and Intelligence (Permanent Select).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 902. A bill to improve circulation of the $1 coin, create a new bullion coin, and for other purposes; with amendments (Rept. 109-39). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 458. A bill to prevent the sale of abusive insurance and investment products to military personnel (Rept. 109-40). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 525. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees (Rept. 109-41). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 798. A bill to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes; with an amendment (Rept. 109-42). Referred to the Committee on the Whole House on the State of the Union.

Mr. GINGREY: Committee on Rules. House Resolution 211. Resolution providing for consideration of the bill (S. 256) to amend title 11 of the United States Code, and for other purposes (Rept. 109-43). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TANCREDO (for himself, Mr. JONES of North Carolina, Mr. COBLE, and Mr. GARRETT of New Jersey):

H.R. 1587. A bill to match willing United States workers with employers, to increase and fairly apportion H-2B visas, and to ensure that H-2B visas serve their intended purpose; to the Committee on the Judiciary.

By Mr. EVANS (for himself, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. MICHAUD, Ms. HERSETH, Mr. STRICKLAND, Ms. BERKLEY, Mr. UDALL of New Mexico, Mrs. DAVIS of California, Mr. BISHOP of Georgia, Mr. DEFAZIO, Mr. LYNCH, Ms. DELAURO, Mr. GRIJALVA, Mr. VAN HOLLEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr: MCDERMOTT, Mr. SCHIFF, Mr. ABERCROMBIE, Mr. CASE, Mr. MCGOVERN, Mr. PETERSON of Minnesota, Mrs. JONES of Ohio, Ms. BORDALLO, Mr. ORTIZ, Mr. GEORGE MILLER of California, Mr. ANDREWS, Mr. BAIRD, Mr. KENNEDY of Rhode Island, Mr. LANGEVIN, Mr. KUCINICH, Mr. EMANUEL, and Mr. TAYLOR of Mississippi):

H.R. 1588. A bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mr. GEORGE MILLER of California, Ms. DELAURO, Mr. OWENS, Mr. KILDEE, Mr. WEXLER, Ms. MILLENDER-MCDONALD, Mr. KUCINICH, Ms. CARSON, Mr. FILNER, Mr. SANDERS, Mr. WAXMAN, Mr. LANTOS, Mr. BLUMENAUER, Mr. DAVIS of Illinois, Mr. RUSH, Ms. PELOSI, Mrs. MCCARTHY, Ms. CORRINE BROWN of Florida, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, Mr. HINOJOSA, Mr. PAYNE, Mrs. JONES of Ohio, Mr. MCDERMOTT, Ms. MATSUI, Ms. WASSERMAN SCHULTZ, Ms. SOLIS, Mrs. CAPPS, Ms. KILPATRICK of Michigan, Mr. BROWN of Ohio, Mr. JACKSON of Illinois, Ms. LEE, Ms. LINDA T. SÁNCHEZ of California, Mrs. DAVIS of California, Mr. GRIJALVA, Ms. MCKINNEY, Mr. FARR, Mr. LEWIS of Georgia, Ms. WATSON, and Mr. DOGGETT):

H.R. 1589. A bill to improve the lives of working families by providing family and medical need assistance, child care assistance, in-school and afterschool assistance, family care assistance, and encouraging the establishment of family-friendly workplaces; to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Government Reform, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself and Mr. FLAKE):

H.R. 1590. A bill to amend the Food Security Act of 1985 to restore integrity to, and strengthen payment limitation rules for, commodity payments and benefits; to the Committee on Agriculture.

By Mr. GILCHREST (for himself, Mr. EHLERS, Mr. KIRK, Mr. BLUMENAUER, and Mr. DEFAZIO):

H.R. 1591. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS (for himself, Mr. GILCHREST, Mr. BOEHLERT, Mr. BAIRD, Mr. HONDA, and Mr. KIRK):

H.R. 1592. A bill to establish marine and freshwater research, development, and demonstration programs to support efforts to prevent, control, and eradicate invasive species, as well as to educate citizens and stakeholders and restore ecosystems; to the Committee on Science, and in addition to the Committees on Transportation and Infrastructure, Resources, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS:

H.R. 1593. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Resources.

By Mr. BRADLEY of New Hampshire (for himself and Mr. MEEHAN):

H.R. 1594. A bill to require the Secretary of Defense to develop and implement a plan to provide chiropractic health care services and benefits as part of the TRICARE program; to the Committee on Armed Services.

By Ms. BORDALLO (for herself, Mr. RAHALL, Mr. SENSENBRENNER, Mr. CONYERS, Mr. YOUNG of Alaska, Mr. SKELTON, Mr. BURTON of Indiana, Mr. LANTOS, Mr. JONES of North Carolina, Mr. HONDA, Mr. FLAKE, Mr. EVANS, Mr. RENZI, Ms. VELÁZQUEZ, Mr. FORTUÑO, Mr. GEORGE MILLER of California, Mr. ISSA, Mr. SCOTT of Virginia, Mr. MILLER of Florida, Ms. ZOE LOFGREN of California, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. WILSON of South Carolina, Mr. ORTIZ, Mr. ALEXANDER, Mrs. CHRISTENSEN, Mr. REHBERG, Mr. KIND, Mrs. NAPOLITANO, Mr. UDALL of New Mexico, Mr. GRIJALVA, Mr. CARDOZA, Mr. TOWNS, Mr. PAYNE, Ms. NORTON, Mr. BECERRA, Mr. HASTINGS of Florida, Mr. HOLDEN, Ms. BERKLEY, Mr. CROWLEY, Ms. SCHAKOWSKY, Mr. LANGEVIN, Ms. SOLIS, Mr. WU, Ms. WATSON, Mr. CASE, Mr. SCOTT of Georgia, and Ms. MATSUI):

H.R. 1595. A bill to implement the recommendations of the Guam War Claims Review Commission; to the Committee on Resources.

By Mr. ALEXANDER (for himself, Mr. Baker, Mr. Jindal, Mr. Jefferson, Mr. Boustany, Mr. McCrery, and Mr. Melancon):

H.R. 1596. A bill to amend the Outer Continental Shelf Lands Act to promote uses on the Outer Continental Shelf; to the Committee on Resources.

By Ms. BALDWIN (for herself, Mr. Brown of Ohio, Mr. Kucinich, Mr. Chabot, Mr. Gonzalez, and Mr. Sensenbrenner):

H.R. 1597. A bill to amend the Internal Revenue Code of 1986 to increase the age limit for the child tax credit; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself, Mr. Evans, Mr. Filner, Ms. Hart, Mr. Foley, Mr. Fossella, and Mr. Whitfield):

H.R. 1598. A bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war; to the Committee on Veterans' Affairs.

By Mr. BRADLEY of New Hampshire:

H.R. 1599. A bill to amend the Internal Revenue Code of 1986 to extend for two years the higher exemption amounts under the alternative minimum tax for individuals and to adjust the exemption amounts and phaseout thresholds in the alternative minimum tax for inflation; to the Committee on Ways and Means.

By Mrs. CUBIN (for herself, Mr. Rahall, Mr. Shimkus, Mr. Costello, and Mr. Ney):

H.R. 1600. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes; to the Committee on Resources.

By Mr. FATTAH:

H.R. 1601. A bill to require a study and comprehensive analytical report on transforming America by reforming the Federal tax code through elimination of all Federal taxes on individuals and corporations and replacing the Federal tax code with a transaction fee-based system; to the Committee on Ways and Means.

By Mr. GALLEGLY:

H.R. 1602. A bill to provide grants for prosecutions of cases cleared through use of DNA backlog clearance funds; to the Committee on the Judiciary.

By Mr. GINGREY:

H.R. 1603. A bill to require the Bureau of Alcohol, Tobacco, Firearms, and Explosives to make video recordings of the examination and testing of firearms and ammunition, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GRANGER:

H.R. 1604. A bill to amend title 10, United States Code, to provide for the inclusion of hazardous duty pay and diving pay in the computation of military retired pay for members of the Armed Forces with extensive hazardous duty experience, to require a Comptroller General study on the need for a tax credit for businesses that employ members of the National Guard and Reserve, and to require a report by the Secretary of Defense on the expansion of the Junior ROTC and similar military programs for young people; to the Committee on Armed Services.

By Mr. HENSARLING:

H.R. 1605. A bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication; to the Committee on House Administration.

By Mr. HENSARLING:

H.R. 1606. A bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication; to the Committee on House Administration.

By Mr. HERGER (for himself and Mr. Pomeroy):

H.R. 1607. A bill to amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts for charitable purposes; to the Committee on Ways and Means.

By Ms. HERSETH (for herself, Mr. Osborne, Mr. Peterson of Minnesota, Mr. King of Iowa, Mr. Berry, Mr. Pomeroy, Mr. Graves, Mr. Boswell, Ms. McCollum of Minnesota, Mr. Skelton, Mr. Kennedy of Minnesota, Ms. Kaptur, Mr. McHugh, Mr. Fortenberry, Mr. Moran of Kansas, Mr. Leach, Mr. Ryun of Kansas, Mr. Strickland, Mr. Latham, Mr. LaHood, Ms. Carson, Mr. Pence, Mr. Nussle, Mr. Terry, and Mr. Chandler):

H.R. 1608. A bill to amend the Clean Air Act to increase production and use of renewable fuel and to increase the energy independence of the United States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOLT:

H.R. 1609. A bill to reduce until December 31, 2008, the duty on potassium sorbate; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 1610. A bill to reduce until December 31, 2008, the duty on sorbic acid; to the Committee on Ways and Means.

By Ms. HOOLEY:

H.R. 1611. A bill to modify the calculation of back pay for persons who were approved for promotion as members of the Navy and Marine Corps while interned as prisoners of war during World War II to take into account changes in the Consumer Price Index; to the Committee on Armed Services.

By Ms. KAPTUR:

H.R. 1612. A bill to establish ethanol and biodiesel fuel requirements for the Federal fleet; to the Committee on Government Reform.

By Mr. KENNEDY of Rhode Island (for himself, Mr. Frank of Massachusetts, Mr. Hinchey, Ms. Millender-McDonald, Ms. Lee, Ms. Jackson-Lee of Texas, Mr. George Miller of California, Mr. McDermott, Mr. Grijalva, Ms. Linda T. Sánchez of California, Mr. Owens, Ms. Woolsey, Mr. Kucinich, Mr. Platts, Mr. Abercrombie, Mr. Wexler, Mrs. Lowey, Mr. Higgins, Mr. Hinojosa, and Mr. Serrano):

H.R. 1613. A bill to amend the Public Health Service Act to authorize formula grants to States to provide access to affordable health insurance for certain child care providers and staff, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. LOWEY:

H.R. 1614. A bill to amend the Internal Revenue Code of 1986 to reduce estate tax rates by 20 percent, to increase the unified credit against estate and gift taxes to the equivalent of a $3,000,000 exclusion and to provide an inflation adjustment of such amount, and for other purposes; to the Committee on Ways and Means.

By Mr. McDERMOTT (for himself, Mr. Petri, Ms. Eddie Bernice Johnson of Texas, Mr. Leach, Mr. Farr, Mr. Shays, Mr. Pallone, Mr. Ramstad, Mr. Kildee, Mr. Johnson of Illinois, Mr. Spratt, Mr. Walsh, Mrs. Tauscher, Mr. Boehlert, and Mr. George Miller of California):

H.R. 1615. A bill to ensure that proper planning is undertaken to secure the preservation and recovery of the salmon and steelhead of the Columbia River basin and the maintenance of reasonably priced, reliable power, to direct the Secretary of Commerce to seek scientific analysis of Federal efforts to restore salmon and steelhead listed under the Endangered Species Act of 1973, and for other purposes; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McHENRY (for himself, Mr. Graves, Mr. Kennedy of Minnesota, Mr. Souder, Mr. Burton of Indiana, Mr. Walden of Oregon, Ms. Foxx, Miss McMorris, and Mr. Boozman):

H.R. 1616. A bill to amend the Controlled Substances Act to provide an increased penalty for endangering the life of a child while illegally manufacturing a controlled substance; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETRI:

H.R. 1617. A bill to allow borrowers consolidating student loans to choose a variable or fixed interest rate, and for other purposes; to the Committee on Education and the Workforce.

By Mr. RENZI (for himself, Mr. Smith of New Jersey, Mr. Hayworth, and Mr. Jones of North Carolina):

H.R. 1618. A bill to amend title 38, United States Code, to establish a group disability insurance benefit for members of the Armed Forces who incur certain severe disabilities; to the Committee on Veterans' Affairs.

By Mr. SANDERS (for himself, Mr. Weiner, Mr. Owens, Ms. Jackson-Lee of Texas, Mr. Conyers, Mr. Kucinich, Mr. George Miller of California, Ms. Lee, Mr. Evans, Mr. Jackson of Illinois, Mr. Grijalva, Ms. Kilpatrick of Michigan, Ms. Woolsey, Mr. Tierney, Mr. Stark, Mr. Cummings, Ms. Schakowsky, Mr. McGovern, and Mr. Lantos):

H.R. 1619. A bill to amend the Truth in Lending Act to protect consumers from usury and unreasonable fees, and for other purposes; to the Committee on Financial Services.

By Mr. SHERMAN (for himself and Mr. Smith of Texas):

H.R. 1620. A bill to establish the Commission on Freedom of Information Act Processing Delays; to the Committee on Government Reform.

By Mr. SIMMONS (for himself, Mr. Van Hollen, Mrs. Capito, Mr. Ferguson, Mr. Rogers of Michigan, Mr. Wilson of South Carolina, Mr. Hoekstra, Mrs. Miller of Michigan, Mr. Gerlach, Mr. McCotter, Mr. McHugh, Mr. Shimkus, Mr. Davis of Kentucky, Mr. Smith of New Jersey, Mr. Pitts, Mr. LoBiondo, Mr. Hayes, Mr. Hoyer, Mr. Moran of Virginia, Ms. Kilpatrick of Michigan, Ms. Roybal-

ALLARD, Ms. LINDA T. SÁNCHEZ of California, Mr. CARDIN, Ms. NORTON, Mr. BISHOP of New York, Mr. PRICE of North Carolina, Mr. COOPER, Mr. TIBERI, Mr. HOLT, Mr. RANGEL, Mr. FRANK of Massachusetts, Ms. FOXX, and Mr. LATOURETTE):

H.R. 1621. A bill to amend the Internal Revenue Code of 1986 to repeal the authority of the Secretary of the Treasury to enter into private tax collection contracts; to the Committee on Ways and Means.

By Mr. STEARNS:

H.R. 1622. A bill to amend the Communications Act of 1934 to reduce restrictions on media ownership, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STRICKLAND:

H.R. 1623. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

By Mr. THOMPSON of California (for himself, Mr. BOSWELL, Mr. SALAZAR, Mr. CRAMER, Mr. BISHOP of Georgia, Ms. HERSETH, Mr. CHANDLER, Mrs. TAUSCHER, Mr. COSTA, Mr. ISRAEL, Mr. CARDOZA, Mr. BERRY, Mrs. MCCARTHY, and Ms. HOOLEY):

H.R. 1624. A bill to amend the Internal Revenue Code of 1986 to provide for the immediate and permanent repeal of the estate tax on family-owned businesses and farms, and for other purposes; to the Committee on Ways and Means.

By Mr. VISCLOSKY:

H.R. 1625. A bill to amend the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes" to clarify the authority of the Secretary of the Interior to accept donations of lands that are contiguous to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Resources.

By Mr. WU:

H.R. 1626. A bill to amend part D of title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate for lower prices for Medicare prescription drugs and to eliminate the gap in coverage of Medicare prescription drug benefits, to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 1627. A bill to amend title XVIII of the Social Security Act to provide geographic equity in fee-for-service reimbursement for providers under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY (for himself, Mr. SHAYS, and Ms. FOXX):

H.J. Res. 41. A joint resolution proposing an amendment to the Constitution of the United States to provide that no person born in the United States will be a United States citizen unless a parent is a United States citizen, or is lawfully admitted for permanent residence in the United States, at the time of the birth; to the Committee on the Judiciary.

By Mr. DREIER:

H. Con. Res. 131. Concurrent resolution expressing the sense of Congress relating to a free trade agreement between the United States and the European Union (EU); to the Committee on Ways and Means.

By Mr. MORAN of Virginia (for himself, Mr. MEEHAN, Mr. ISSA, Mr. GRIJALVA, Mrs. DAVIS of California, Mr. LARSEN of Washington, Mr. RYAN of Ohio, Mr. SMITH of Washington, Mr. BARTLETT of Maryland, Mr. REYES, Mr. MCINTYRE, Mr. JONES of North Carolina, Mrs. JONES of Ohio, Mr. ABERCROMBIE, Mr. SKELTON, Mr. SNYDER, Mr. SPRATT, Mr. SHIMKUS, Mrs. MCCARTHY, Mr. HAYES, Mrs. DRAKE, Ms. KAPTUR, Mr. TAYLOR of Mississippi, and Mr. NEUGEBAUER):

H. Res. 212. A resolution honoring military children during "National Month of the Military Child"; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. GUTIERREZ introduced a bill (H.R. 1628) for the relief of Elvira Arellano; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under Clause 7 of Rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mrs. NORTHUP, Mr. ISSA, and Mr. GALLEGLY.

H.R. 13: Mr. LAHOOD.

H.R. 22: Mr. DUNCAN, Mr. BRADLEY of New Hampshire, Mr. LATOURETTE, and Mr. TURNER.

H.R. 25: Mr. GRAVES.

H.R. 49: Mr. MCDERMOTT.

H.R. 69: Mr. MCCAUL of Texas.

H.R. 97: Mr. EDWARDS and Mrs. DRAKE.

H.R. 147: Ms. HART.

H.R. 266: Mr. BOUSTANY.

H.R. 269: Mr. CARDOZA.

H.R. 304: Mr. CARDOZA.

H.R. 311: Mr. BARROW, Mr. KIRK, Mr. MCGOVERN, Mr. MEEK of Florida, Mr. MORAN of Virginia, Mr. MCNULTY, Mr. NADLER, Mr. LANTOS, Mr. NEAL of Massachusetts, Mr. HASTINGS of Florida, Ms. BORDALLO, Mr. ETHERIDGE, Mr. ROSS, Mr. WU, Mr. TOWNS, Mr. JEFFERSON, and Mr. WEINER.

H.R. 312: Ms. ROS-LEHTINEN.

H.R. 339: Mr. SENSENBRENNER.

H.R. 371: Ms. HERSETH, Mr. NORWOOD, Mr. BERRY, Mr. ANDREWS, and Mr. HOLT.

H.R. 466: Mr. GREEN of Wisconsin.

H.R. 523: Mr. HENSARLING.

H.R. 525: Mr. MARIO DIAZ-BALART of Florida, Ms. LEE, Mr. SMITH of Texas, and Mr. BURGESS.

H.R. 527: Ms. ZOE LOFGREN of California, Mr. MURTHA, and Mr. CASE.

H.R. 535: Mr. GEORGE MILLER of California, Ms. HARMAN, Mr. RANGEL, and Ms. ESHOO.

H.R. 556: Mr. LANTOS, Mr. OLVER, and Ms. SCHWARTZ of Pennsylvania.

H.R. 558: Mr. CARDOZA.

H.R. 602: Mr. RANGEL, Mr. SHAW, Mrs. JONES of Ohio, Mrs. KELLY, Mrs. BONO, Mr. CRAMER, Ms. SCHWARTZ of Pennsylvania, and Mr. RAHALL.

H.R. 624: Mr. GOODLATTE.

H.R. 625: Mr. LANTOS.

H.R. 651: Mr. SKELTON.

H.R. 653: Mr. WU, Mr. CARNAHAN, Mrs. NAPOLITANO, Mr. MEEKS of New York, Ms. HERSETH, Mr. MCGOVERN, and Mr. CHANDLER.

H.R. 669: Mr. WALSH.

H.R. 676: Mr. OLVER.

H.R. 712: Mr. WAMP.

H.R. 719: Mr. EVERETT, Mr. BERRY, Mr. HINCHEY, Mr. SNYDER, Mr. THOMPSON of Mississippi, Mr. FARR, Mr. GORDON, and Mr. LAHOOD.

H.R. 758: Ms. GRANGER.

H.R. 762: Mr. RYAN of Ohio.

H.R. 763: Mr. RYAN of Ohio.

H.R. 772: Mr. SCOTT of Georgia, Mr. GRIJALVA, Mr. MENENDEZ, and Mr. GENE GREEN of Texas.

H.R. 780: Ms. WATSON, Mrs. CHRISTENSEN, Mr. INSLEE, Mr. ETHERIDGE, and Mr. MOORE of Kansas.

H.R. 787: Mr. DANIEL E. LUNGREN of California, Mr. MCKEON, Ms. HARMAN, and Mr. CUNNINGHAM.

H.R. 798: Mr. LEWIS of Kentucky.

H.R. 808: Mr. ABERCROMBIE, Mr. BOYD, Mr. BUTTERFIELD, Mrs. JO ANN DAVIS of Virginia, Mr. FORTUÑO, Mr. FRANK of Massachusetts, Mr. GUTIERREZ, Ms. HERSETH, Mr. HOLDEN, Mr. KIND, Mr. NEAL of Massachusetts, Mr. PAUL, Mr. VAN HOLLEN, Mr. MURPHY, Mr. CONAWAY, Mr. MICHAUD, Mr. LATOURETTE, Mr. GRIJALVA, Ms. LEE, Mr. BAKER, Mr. BERRY, Mr. HEFLEY, Mr. SERRANO, Mr. ALEXANDER, and Mr. ORTIZ.

H.R. 809: Mr. HOSTETTLER, Mr. ROYCE, Mr. TURNER, Mr. GREEN of Wisconsin, Mr. SESSIONS, and Mr. CULBERSON.

H.R. 819: Mr. JOHNSON of Illinois, Mrs. KELLY, Mr. PETERSON of Minnesota, Ms. ROS-LEHTINEN, and Mr. GUTKNECHT.

H.R. 827: Mr. CAMP.

H.R. 867: Mr. CUELLAR.

H.R. 869: Mr. FRANK of Massachusetts.

H.R. 881: Mr. SHAW.

H.R. 908: Mr. TOWNS.

H.R. 913: Mr. MILLER of Florida, Mr. MCGOVERN, Mr. DAVIS of Alabama, Mr. BOUCHER, Mr. FEENEY, Mr. FLAKE, and Ms. HOOLEY.

H.R. 923: Mr. TIERNEY and Mr. LIPINSKI.

H.R. 939: Mr. MEEK of Florida, Mr. FARR, Mrs. DAVIS of California, Mr. NADLER, Mr. SERRANO, and Mr. STARK.

H.R. 946: Ms. WOOLSEY.

H.R. 986: Mr. FILNER.

H.R. 995: Mr. MCGOVERN.

H.R. 1029: Mr. LEWIS of Georgia and Mr. MICHAUD.

H.R. 1073: Mr. FORTUÑO.

H.R. 1074: Mr. FORTUÑO.

H.R. 1075: Mr. FORTUÑO.

H.R. 1079: Mr. PETRI.

H.R. 1095: Mr. RANGEL.

H.R. 1103: Ms. MCCOLLUM of Minnesota and Mr. JOHNSON of Illinois.

H.R. 1106: Mr. ALLEN and Mr. MURPHY.

H.R. 1107: Mr. LANTOS.

H.R. 1108: Ms. LEE and Mr. WAXMAN.

H.R. 1114: Mr. POMBO.

H.R. 1131: Mr. GUTIERREZ.

H.R. 1133: Ms. ROS-LEHTINEN, Mr. BERMAN, Mr. BLUMENAUER, Mr. KENNEDY of Rhode Island, Mr. KENNEDY of Minnesota, Mr. PALLONE, Mr. SCHIFF, Mr. TANCREDO, and Mr. KUHL of New York.

H.R. 1140: Mr. PAUL.

H.R. 1175: Ms. MOORE of Wisconsin.

H.R. 1194: Mr. GRIJALVA.

H.R. 1214: Mr. UDALL of Colorado.

H.R. 1219: Mr. UPTON, Mr. SHADEGG, Mrs. DRAKE, Mr. DEAL of Georgia, and Mr. MCCAUL of Texas.

H.R. 1227: Mr. SABO, Mr. TIERNEY, Mr. STARK, and Mr. SNYDER.

H.R. 1239: Mr. GOODE, Mr. NEAL of Massachusetts, Mr. SPRATT, Mr. PETRI, Mrs.

Myrick, Mr. Miller of Florida, Mr. Alexander, Mr. Inglis of South Carolina, Mr. Pascrell, Mr. Latham, Mr. Hostettler, and Mr. McCotter.

H.R. 1258: Mr. Payne and Mr. Cummings.

H.R. 1259: Mr. Kildee.

H.R. 1262: Mr. Fitzpatrick of Pennsylvania, Mr. Boozman, Mr. Berman, Mr. Manzullo, Mr. Allen, and Mr. Grijalva.

H.R. 1273: Mr. Gutknecht, Mr. Kennedy of Minnesota, and Mr. Green of Wisconsin.

H.R. 1279: Mr. Gallegly.

H.R. 1281: Mr. Rangel and Mr. Jefferson.

H.R. 1309: Mr. Grijalva and Mr. Rangel.

H.R. 1316: Mr. Paul, Mr. Doolittle, Mr. Sessions, Mr. Cole of Oklahoma, and Mr. Miller of Florida.

H.R. 1317: Mr. Waxman.

H.R. 1329: Mr. Nadler, Mr. Boswell, Mr. Brown of Ohio, Mr. Moran of Virginia, and Mr. McDermott.

H.R. 1337: Mr. Culberson, Mr. Goode, Mr. Cantor, Mr. Conaway, Mr. Cole of Oklahoma, Mr. Gingrey, Mr. Carter, Mr. Marchant, Mr. Cox, Mr. Ryan of Wisconsin, Mr. Sam Johnson of Texas, Mr. Hensarling, Mr. Tancredo, Mr. Doolittle, Mr. Poe, Mr. Price of Georgia, Mr. Barrett of South Carolina, and Mr. Sodrel.

H.R. 1339: Mr. LaHood, Mr. Rehberg, Mr. Boozman, and Mr. Graves.

H.R. 1355: Ms. Foxx, Mr. Weldon of Florida, Mr. McHenry, Mr. Jones of North Carolina, Mr. Gutknecht, Mr. Hensarling, Mr. Gohmert, Mr. Cuellar, Mr. Fortenberry, Mr. Mario Diaz-Balart of Florida, and Ms. Wasserman Schultz.

H.R. 1356: Mr. Taylor of Mississippi.

H.R. 1357: Mr. Rahall.

H.R. 1358: Ms. Bordallo, Mr. McGovern, Mr. Evans, Mr. Barrow, Ms. Harris, Mr. Spratt, Mr. Taylor of Mississippi, Mr. Gordon, and Mr. DeFazio.

H.R. 1362: Mr. Payne.

H.R. 1376: Mr. Meehan, Mr. Cox, Mr. Smith of New Jersey, Mr. Markey, Mr. Davis of Illinois, Mr. Cummings, Mr. Weiner, Mr. Ackerman, Mr. Frank of Massachusetts, Ms. Schakowksy, Mr. Michaud, and Mr. Boehlert.

H.R. 1384: Mr. Shuster, Mr. Kuhl of New York, Mrs. Drake, Ms. Foxx, Mr. Sam Johnson of Texas, Mr. Tancredo, Mr. Jones of North Carolina, Mr. Doolittle, Mr. Goode, Mr. Conaway, Mr. Pence, Mr. Culberson, Mr. Cole of Oklahoma, and Mr. Garrett of New Jersey.

H.R. 1401: Ms. Eddie Bernice Johnson of Texas, Mr. Israel, and Mr. Stark.

H.R. 1402: Ms. Kaptur.

H.R. 1406: Ms. Bordallo.

H.R. 1410: Ms. Woolsey.

H.R. 1421: Mr. Terry, Mr. Upton, and Mr. Gillmor.

H.R. 1425: Mr. Lantos.

H.R. 1445: Mr. Wexler, Mr. Pitts, Mr. Alexander, and Mr. Bartlett of Maryland.

H.R. 1446: Mr. Cole of Oklahoma, Mr. Osborne, Mr. McHenry, Mr. Terry, Ms. Ginny Brown-Waite of Florida, and Mr. Boozman.

H.R. 1449: Mr. Boustany, Mr. Pitts, and Mr. Sessions.

H.R. 1471: Mr. Bradley of New Hampshire, Mrs. Johnson of Connecticut, Mr. Upton, Ms. DeLauro, and Mr. Renzi.

H.R. 1500: Mr. Miller of Florida.

H.R. 1520: Mr. Snyder.

H.R. 1521: Mr. Brady of Pennsylvania.

H.R. 1540: Mr. Rohrabacher.

H.R. 1554: Mr. Walden of Oregon.

H.R. 1565: Ms. DeGette and Mr. Lipinski.

H.R. 1578: Mr. Wamp, Mr. Sensenbrenner, and Mr. Cannon.

H.J. Res. 23: Mr. Wu, Mr. Evans, Mr. Weiner, Mr. Serrano, and Mr. Kennedy of Rhode Island.

H.J. Res. 27: Mr. Sensenbrenner.

H.J. Res. 28: Ms. Moore of Wisconsin, Mr. Filner, Ms. Linda T. Sánchez of California, and Mr. Grijalva.

H.J. Res. 29: Mr. Davis of Illinois, Mr. Payne, Mr. Grijalva, and Mr. Bishop of Georgia.

H.J. Res. 30: Mr. Hinchey, Mr. Lewis of Georgia, Ms. Woolsey, Mr. Davis of Illinois, Mr. Grijalva, and Mr. Sanders.

H. Con. Res. 24: Mr. Inslee, Mr. Faleomavaega, Mr. Gerlach, Mr. Delahunt, Mr. Markey, Mr. Simmons, Mr. Strickland, Mr. Van Hollen, Mr. Baca, Ms. Linda T. Sánchez of California, Mr. Farr, Mr. Filner, Mr. Butterfield, Mr. Serrano, Mr. Brady of Pennsylvania, Mr. Holden, Mr. Kucinich, Ms. Loretta Sanchez of California, Mr. Larsen of Washington, Ms. Schakowsky, Ms. Woolsey, Mr. McGovern, Mr. Brown of Ohio, Mr. Kildee, Mr. Grijalva, Mr. Ryan of Ohio, and Mr. Stupak.

H. Con. Res. 71: Mr. Thompson of Mississippi and Mr. Burton of Indiana.

H. Con. Res. 87: Mr. Grijalva.

H. Con. Res. 89: Mr. Smith of New Jersey, Mr. Chandler, Mr. Chabot, Mr. Berman, Mr. Pence, Mr. Faleomavaega, and Ms. Lee.

H. Con. Res. 90: Ms. Woolsey, Mr. Honda, Mr. Filner, Mr. Rangel, Ms. Baldwin, Mr. Tancredo, Mr. Hobson, Mr. Kucinich, Mr. Smith of New Jersey, and Ms. Eshoo.

H. Con. Res. 102: Mr. Faleomavaega and Mr. Holt.

H. Con. Res. 107: Ms. Eddie Bernice Johnson of Texas.

H. Res. 14: Mr. Gillmor, Mr. Putnam, and Mr. English of Pennsylvania.

H. Res. 85: Mr. Meehan.

H. Res. 137: Mrs. Emerson, Mr. Boswell, Mr. Case, and Mr. Bonner.

H. Res. 175: Mr. Meehan and Mr. McDermott.

H. Res. 185: Mrs. Christensen.

H. Res. 197: Mr. Filner, Mr. Gene Green of Texas, Mr. Langevin, Mr. Honda, Ms. Slaughter, Mr. Blumenauer, Mr. Gordon, Ms. Schakowsky, Mrs. Lowey, Mr. Clyburn, Mr. Carnahan, Mr. Pascrell, and Mr. Doggett.

H. Res. 208: Mr. Wilson of South Carolina, Mr. Sabo, Mr. Murtha, Mr. Terry, Mrs. Wilson of New Mexico, Mr. Walden of Oregon, Mr. Otter, and Mr. McGovern.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 513: Mr. Bishop of New York.

H.R. 525: Mr. Towns.

SENATE—*Wednesday, April 13, 2005*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Thou great God, who made us in Your image. Thank You for creating us but little lower than the angels. Enable us to see Your divine image in every human being. Help us to look beyond poverty and pathology to the goodness even in the unlovely. Teach us to look beneath superficial differences of accents, of language, of color, and of position to see the true worth of all people.

Bless Your servants in the legislative branch of Government. Bring to the surface the goodness within each of them. As they think together and work together in the Chamber, in committee rooms, and in their offices, help them to treat others with the reverence, respect, and kindness that You desire for all of Your children.

We pray for our military men and women. Keep them safe. Give them the will to pursue mercy as well as justice. We also pray for our enemies and their loved ones. Lord, give all of us insight into Your will and the courage to do it. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, we will begin today's session with a 1-hour period of morning business. Following that time, the Senate will resume debate on the emergency supplemental appropriations bill. Last night we agreed to a time limit of 40 minutes with respect to the pending Durbin amendment relating to the National Guard. If we are able to yield back some of that debate time, we would have a vote on the Durbin amendment by 10:50 this morning. If the debate continues past that point, then we will likely delay the vote on the amendment until sometime after noon today, after discussion with the Democratic leader. There are two additional pending amendments at this time, and we anticipate other amendments being offered throughout the day. Chairman COCHRAN will be here this morning to prepare to have the Senate debate and dispose of these amendments during today's session. I expect we will make considerable progress on the appropriations bill with rollcall votes as necessary over the course of the day.

Just as a reminder to our colleagues, the Secretary of State will be giving a briefing to Senators today from 3 to 4 this afternoon for those interested.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF BUSINESS

Mr. REID. Through the Chair to my distinguished colleague, are we expected to work through the Condoleezza Rice hour?

Mr. FRIST. Through the Chair, our expectation is to work through that hour. As the Democratic leader knows, and as our colleagues should know, we are trying to do briefings on a regular basis to make the opportunity available for people to come to these briefings. We do not need to stop action on the Senate floor. So we will be working through that period.

TRIBUTE TO POPE JOHN PAUL II

Mr. FRIST. Mr. President, I wish to comment on the passing of Pope John Paul II last week. A number of us had the opportunity to represent the United States, represent this body in Rome. It was a moving experience, an emotional experience, and one that I briefly want to share.

The passing of Pope John Paul II was moving. It was a historical event that riveted the world. Millions of Catholics and non-Catholics alike were touched and influenced by this great man. He leaves an extraordinary legacy that all of us have reflected upon over the last week.

In his 26-year reign as head of the Catholic Church, the third longest pontificate in history, Pope John Paul was seen by more people than any other individual in history. He influenced more lives than many kings and presidents before him.

Together with Ronald Reagan and Margaret Thatcher, Pope John Paul helped vanquish the Soviet Union, expose the brutality of communism, and free hundreds of millions of people around the world.

He, indeed, was a hinge of history, one of the great leaders of the 20th century who helped make our world over on the pillars of faith, freedom, liberty, and human dignity.

As I mentioned, I had the real privilege of leading a delegation of 14 Senators to pay tribute to this great leader. We left last Wednesday. As we soared over the Atlantic, all of us shared our thoughts and stories and reflected upon the Pope's remarkable life. Not only did he live through the great upheavals of the 20th century, but he helped bring about many of its greatest achievements.

As a young man in war-torn Poland, he lived under those heavy boots of fascism and communism, and yet even then he possessed an enduring hope and commitment to man's redemption.

To our great fortune, Karol Woljtyla ascended the world's stage and, as the 264th Pope of the Catholic Church, pressed belief into global action.

In the Catholic Church, he grew its religious following from 757 million faithful when he began his papacy in 1978 to over 1 billion today.

We arrived as a delegation in Rome on Thursday morning. The weather was truly glorious that day; one might even say Heaven-sent weather—clear blue skies, sunshine, a gentle wind.

After a brief moment to organize, we went to Vatican City. As we drove along the roadways, posters lined the city walls with giant pictures of John Paul emblazoned with the words "grazie" and "a dio." As we pulled closer to St. Peter's Square, priests, monks, pilgrims, and well-wishers from around the world, many Americans, would come up and say hello to us, all crowding those stone streets around the Basilica.

On that first day, our delegation was escorted into St. Peter's to view the

Pope's body. We filed into the crowds as they passed respectfully. Many had waited hours and hours, indeed, well over 24 hours on average. They passed by bowing, saying prayers, crossing themselves, and waving small papal flags. As we came around the corner, we came into view of the Holy Father. It was a powerful moment for our entire delegation—the viewing. It was the first of many powerful moments over the remainder of that day and the next day when the service actually occurred.

As we passed by the body, you could not help but to pause and run through a series of your own prayers of thankfulness, as each and every one of us did.

The next day was the funeral. Again, it was a beautiful day—crisp weather, morning sky glistening overhead. The square was full, silent, solemn, and respectful. We were privileged to enter the Square and find our seats. Our seats were out front, probably 50 or 75 yards, both the Senate and House delegations.

The ceremony was about 2½ hours. Many people have had the opportunity to see it on television, but the presence there, that sense of time and place is difficult to describe. You could feel the powerful strength of the man for whom we all gathered and prayed. It was uplifting, it was serious, and a very dignified celebration in many ways.

As the funeral drew to a close, the adoration for Pope John Paul crescendoed to almost an electric pitch. I heard my colleagues who were with us describe it to our other colleagues over the course of the last 48 hours that way off in the distance we began to hear clapping and the roar of the crowd as it came forward, a huge wave all the way up to St. Peter's and then to the Basilica. It was truly a moving and powerful experience.

The crowd did, at the end, begin to chant and begin to cheer as the Pope was held up one last time in that wooden coffin and dipped down to the people in St. Peter's. He was then lifted aloft and carried solemnly into the Basilica for his final burial.

In closing, I know I speak for all my colleagues when I say it was a tremendous honor for those of us who were able to attend on behalf of our fellow Americans and this institution in paying our respects for a momentous and truly historic world figure.

Pope John Paul will be remembered for many things: his intellect, his charisma, his warmth, his steadfast belief in the culture of life. Above all, he will be remembered for his humble dedication to God and his unwavering love for us all, each and every one a child of God.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that I be allowed to take up to 20 minutes of the majority time, and I respectfully ask the President pro tempore to notify me when I have 2 minutes remaining.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, having heard the words of the majority leader relative to the delegation that was in Rome last week for the burial of Pope John Paul II, I think all Americans, as well as every other individual around the world, were truly moved by the work of this man over the years he served as Pope of the Roman Catholic Church.

Having been to Rome a couple of years ago and been in a service that Pope John Paul II celebrated, I, too, was very moved by the presence of this man. Certainly during his term as Pope he had a tremendous impact on the world, and this man is truly going to be missed as a leader, not just of the religious world but as the world leader that he was.

* * *

JUDICIAL NOMINEES

Mr. CHAMBLISS. Mr. President, I rise this morning to discuss an issue that is very dear to my heart. I practiced law for 26 years before I came to Congress and I had the pleasure of trying many cases before any number of judges, both at the State and Federal level, and I am very much concerned about what is happening with our judiciary today. For the last 2 years, I served on the Senate Judiciary Committee and have observed what obviously happened during those 2 years, but during the last few months, as we entered into this new session and approached the confirmation of nominees who are being put forward by the President, I remain concerned about some things that are happening.

I will start by noting again that never before in the history of the Senate has a minority of 41 Senators held up confirmation of a judicial nominee where a majority of Senators has expressed their support for that nominee. It is for this reason, if given the opportunity, I will vote in favor of changing our rules to allow confirmation of a judicial nominee by a simple majority because under the Constitution of the United States, the Senate is required to give its advice and consent to the President on his judicial nominees.

The Senate can say no in regard to any particular nominee, but to do so we need an up-or-down vote to decide what advice we give the President. Failing to answer the question is shirking our constitutional role in the separation of powers scheme. The Constitution spells out in certain areas, such as passage of constitutional amendments and ratification of treaties, where more than a simple majority of Senators is required. Confirmation of judges is not one of these areas.

The Senate rules have changed on several occasions over the years as to whether and in what circumstances a filibuster is allowed, but we have, unfortunately, come to a point in time where the filibuster is being abused to hold up judicial nominees on which we are required to act; that is, to say yes or no. I believe it is in violation of the Constitution.

I want to take a point in fact relative to the circuit in which I practiced for a number of years, and that is what is happening today with regard to the judicial nominee to the Eleventh Circuit Court of Appeals. The Democrats have held up confirmation of the only nominee President Bush has made to the Eleventh Circuit Court which handles Federal appeals in my home State of Georgia as well as Alabama and Florida.

As a result, on February 20 of last year, President Bush exercised his constitutional authority to make a recess appointment of Judge Bill Pryor, the former attorney general of the State of Alabama. This recess appointment is temporary in nature, but President Bush has renominated Judge Pryor in the 109th Congress for a permanent position on the Eleventh Circuit Court of Appeals.

As a former member of the Senate Judiciary Committee, I know we need to review with great care the qualifications of judicial nominees to ensure that they have established a record of professional competence, integrity, and the proper temperament for judicial service. I intend to vote for confirmation of Judge Pryor's nomination to the Eleventh Circuit for the following reasons: Since his recess appointment, Judge Pryor has gained the respect of his colleagues on the Eleventh Circuit without regard to political persuasions. This is no surprise to me because Judge Pryor is a tremendously selfless public servant who has worked very hard to help others both within and outside the scope of his official duties.

In private life, he established a program called Mentor Alabama which provides adult role models for at-risk children, and he has personally acted as such a mentor. In his service as attorney general for the State of Alabama, Bill Pryor established a record of evenhanded enforcement of the law. A noteworthy example of his fair-minded treatment of his public duties is his enforcement of Alabama abortion laws. Bill Pryor is personally opposed to abortion based on his deeply held faith as a Roman Catholic. However, in 1997, the Alabama Legislature enacted a ban on partial birth abortion that did not comport with the Supreme Court's decision in Planned Parenthood v. Casey. The Alabama statute prohibited abortions prior to as well as following viability of the fetus. Attorney General Pryor ordered law enforcement officials to enforce the law only insofar as it was consistent with the Supreme Court's precedents which encompassed only postviability situations. In so doing, he adopted the narrowest possible construction of the Alabama statute.

Moreover, in the wake of September 11, 2001, many abortion clinics were receiving letters with threats of anthrax exposure. In response, Attorney General Pryor held a press conference in which he asserted that the Alabama law "provides stern felony penalties for those who now prey upon the public anxiety over fears of anthrax and other potential dangers. We warn anyone who is tempted to do so that their deeds are not a joke and will not be treated as mild misbehavior, but as a despicable crime against their fellow citizens that will not be tolerated." At this crucial time in history, Bill Pryor's statement sent a clear message that anthrax threats against abortion clinics would be prosecuted vigorously.

Despite his personal religious convictions, Bill Pryor has a keen knowledge of the Constitution's requirement that the Government make no law respecting the establishment of religion or prohibiting the free exercise thereof.

In Chandler v. Siegleman, as attorney general he persuaded the Eleventh Circuit to vacate a district court injunction that prohibited student-initiated prayers in school. Acknowledging the constitutional distinction between student-led prayers and teacher-led prayers, Bill Pryor refused to argue on appeal in favor of the constitutionality of teacher-led prayers as was the position of then Alabama Governor Fob James. In addition, General Pryor rejected Governor James' suggestion that the State of Alabama argue that the first amendment was never incorporated by the 14th amendment and thus does not apply to the States.

In sum, Bill Pryor has established an impressive record as a fair, diligent, and competent public servant. His nomination to the Eleventh Circuit enjoys strong bipartisan support in his home State of Alabama, and in my home State, our attorney general, the Honorable Thurbert Baker, a Democrat, has written in support of Bill Pryor's nomination.

I urge my Democratic colleagues to stop holding up the confirmation of President Bush's only nominee to the Eleventh Circuit by voting to move forward with Judge Pryor's nomination when it reaches the floor.

Now let us look at another circuit. I just explained what the situation is with the Eleventh Circuit. Opposition to some of President Bush's nominees in other areas of the country such as the Ninth Circuit strikes me as odd because it directly contradicts what some Democrats have said in the past about the concept of balance on the courts.

My friend from the other side of the aisle, the senior Senator from New York, acknowledged a couple of years ago in a speech on the Senate floor that the Ninth Circuit was "by far the most liberal court in the country."

To quote from the CONGRESSIONAL RECORD of March 13, 2003, Senator SCHUMER stated:

> I believe there has to be balance, balance on the courts. And I have said this many times, but there is nothing wrong with a Justice Scalia on the court if he is balanced by a Justice Marshall. I wouldn't want five Scalias, but one might make a good and interesting and thoughtful court with one Brennan. A Rehnquist should be balanced by a Marshall.

Four of President Bush's nominees to the Ninth Circuit—Richard Clifton, Jay Bybee, Consuelo Callahan, and Carlos Bea—have been confirmed and are now sitting on the Ninth Circuit. That is the good news. But Democrats refused to give an up-or-down vote to two of President Bush's nominees to the Ninth Circuit, or one-third of the judges he has nominated. When one considers that 14 out of the 26 active sitting judges on the Ninth Circuit Court of Appeals were appointed by President Clinton and 2 of them were confirmed in the last year of his Presidency, the Judiciary Committee and the Senate in general treated President Clinton fairly with respect to the Ninth Circuit. Moreover, of the 28 total seats on the Ninth Circuit, 17 were Democratic nominees, 14 by President Clinton and 3 by President Jimmy Carter.

We now have two remaining seats on the Ninth Circuit to fill, and we have seen two nominees from President Bush to fill these seats. The fairness that the Senate showed President Clinton's nominees has not been applied to all of President Bush's nominees, as the two nominees, Carolyn Kuhl and Bill Myers, have been filibustered despite their tremendous qualifications.

President Clinton had 8 years in office and was able to put in over half the active judges on the Ninth Circuit Court of Appeals. I might add that some of these active judges turned out to be activist judges. But with due respect to my colleagues on the other side, it is time to balance out 17 Clinton and Carter nominees with qualified individuals such as Carolyn Kuhl and Bill Myers. That is the kind of balance we need on the Ninth Circuit.

One of the reasons the Ninth Circuit needs some balance is the outrageous nature of some of the decisions coming from that bench. For example, in the 1996–1997 term, Judge Reinhart, a Carter appointee, was overturned six times in cases where he was the author of the majority opinion.

To cite specific examples of outrageous cases of judicial activism, the Ninth Circuit Court of Appeals has, first, barred children in public schools from voluntarily reciting the Pledge of Allegiance—that was in Newdow v. U.S. Congress, a 2002 case; second, initially barred California from holding a gubernatorial recall election notwithstanding a clear State statutory scheme and widespread popular support, which was a 2003 decision in the case of Southwest Voter Registration Education Project v. Shelley; third, invented a constitutional right to commit suicide, a 1996 decision, Compassion in Dying v. Glucksberg; and fourth, made it far more difficult to prosecute those who give material support to foreign terrorist organizations, the case of Humanitarian Law Project v. U.S. Department of Justice, a 2003 case.

Also, this court struck down California's three strikes criminal sentencing law in the case of Andrade v. California in 2001 and only implemented the Supreme Court's reversal of that decision by a divided panel with Judge Reinhardt upholding the defendant's sentence only under the Supreme Court's "compulsion" and Judge Pregerson stating that "in good conscience" he could not follow the Supreme Court's decision.

Lastly, that court held that a foreign national criminal apprehended abroad pursuant to a legally valid indictment was entitled to sue the U.S. Government for money damages, a 2003 case, Alvarez-Machain v. United States.

I could go on, but there is no small wonder, then, that even Senator SCHUMER has stated:

> The Ninth Circuit is by far the most liberal court in the country. Unless this is the kind of activist court that Democrats want to preserve, it's time to at least allow an up-or-down vote on nominees like Carolyn Kuhl and Bill Myers to restore some balance.

There have been two issues that have been raised by the other side during the debate and the filibuster by the other side of the aisle relative to the judicial nominees sent up by the President. One of those is the fact that filibustering Federal judges is not something that is new, and it is a contention of the other side of the aisle that Republicans initiated a filibuster on the nomination of Judge Abe Fortas back in the Johnson administration. I will once again set the record straight relative to exactly what happened, and I will quote because I want to make sure that we get this exactly right. This is from a statement made by the former chairman of the Judiciary Committee, Senator ORRIN HATCH, in some remarks that were made on the Senate floor on March 1, 2005. Senator HATCH stated as follows:

> Some have said that the Abe Fortas nomination for Chief Justice was filibustered. Hardly. I thought it was, too, until I was corrected by the man who led the fight against Abe Fortas, Senator Robert Griffin of Michigan, who then was the floor leader for the Republican side and, frankly, the Democratic side because the vote against Justice Fortas, preventing him from being Chief Justice, was a bipartisan vote, a vote with a hefty number of Democrats voting against

him as well. Former Senator Griffin told me and our whole caucus there never was a real filibuster because a majority would have beaten Justice Fortas outright. Lyndon Johnson, knowing that Justice Fortas was going to be beaten, withdrew the nomination. So that was not a filibuster. There had never been a tradition of filibustering majority-supported judicial nominees on the floor of the Senate until President Bush became President.

I think that factual statement by Senator HATCH says it all relative to any issue concerning the contention that this is not the first time we have seen filibusters on the floor of the Senate. As we move into the consideration of these judges for confirmation, I am not sure what is going to come out from the other side.

I have great respect, first of all, for this institution in which we serve. I am very humbled by the fact, as is every one of the 100 Senators here, that our respective States have seen fit to send us here to represent them. But as I traveled around the country last year, campaigning for President Bush, as well as for Senate nominees, I continuously heard from individuals—whether it was in a formal gathering or whether it was in an informal gathering such as, on a lot of occasions, being in airports, or sometimes even walking down the street—it was unbelievable the number of Americans, and I emphasize that these were not Republicans or Democrats in every instance, they were just Americans who were very much concerned about what is happening with respect to the judicial nominees on the floor of the Senate.

The PRESIDENT pro tempore. The Senator now has 2 minutes left, at which time there will be 10 minutes left for the majority.

Mr. CHAMBLISS. I thank the Chair.

This body has a number of rules which have been in place for decades. Those are good and valid rules and need to be followed in most instances. But there comes a time when you have to look the American people in the eye and say: I know Americans sent a majority party to the Senate, and I know you want us to carry out the will of the American people but, unfortunately, even though it only takes 51 votes to confirm one of President Bush's judicial nominees, we have a Senate rule that says you have to have 60 votes before you get to the point where you only have to have 51 votes. It doesn't take a Philadelphia lawyer to figure out something is wrong with that rule, and it needs to be corrected.

As we move into the consideration of these judges, I hope we will reach an accord so the integrity of this institution will be maintained. Hopefully, our rules can be maintained intact. But it is imperative we do the will of the American people, which is move toward the confirmation of the President's judicial nominees as required by the Constitution of the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Virginia.

ISSUES CONFRONTING THE SENATE

Mr. ALLEN. Mr. President, I rise to share with my colleagues my observations and urgings on two issues: One, following on the eloquent remarks of the Senator from Georgia, SAXBY CHAMBLISS, on the importance of judges and actions in the Senate; and the second has to do with our National Guard and Reserves who are being called up for duty and what the Federal Government can do to be helpful to them.

JUDGES

First, on judges, I look at four pillars as being essential for a free and just society: freedom of religion, freedom of expression, private ownership of property, and fourth, the rule of law. The rule of law is where judges come in, where you have fair adjudication of disputes, as well as the protection of our God-given rights.

It is absolutely essential we have judges on the bench at the Federal level, and at all levels, who understand their role is to adjudicate disputes, to apply the facts and evidence of the case to the laws, laws made by elected Representatives. We are a representative democracy. That means the judges ought to apply the law, not invent the law, not serve as a superlegislature, not to use their own opinions as to what the law should be but rather apply it. That is absolutely essential for the rule of law, for the credibility and stability one would want to be able to rely on in our representative democracy for investments and, as we advance freedom, to try to have the people of other countries around the world put into place these four pillars of a free and just society.

What we have seen is a break of precedent in the Senate. For 200 years judicial nominees from the President, when they were put forward, were examined by the Judiciary Committee very closely, as they should be, as to their temperament, philosophy, and scholarship. If they received a favorable recommendation from the committee, they would come to the floor and Senators would vote for them or against them. In the last 2 or 3 years, what we have seen is unprecedented obstruction, a requirement, in effect, of a 60-vote margin for judges, particularly at the appellate level. The most egregious in recent years, in my view, was Miguel Estrada. He is an outstanding individual, completely qualified—great scholarship, great experience—a modern-day Horatio Alger story, having come to this country from Central America, applying himself, doing well. Indeed, the American Bar Association unanimously gave him their highest recommendation and endorsement.

That went on for a year. Then it went on for another year. It went on for over 2 years, and he finally had to withdraw, notwithstanding the fact that a vast majority of Senators were actually for Miguel Estrada.

It is not unique to him. It has happened to roughly 10 or so appellate judges, including those nominated for the Ninth Circuit, which is the circuit where you have adventurous, activist judges who ignore the will of the people. For example, the recitation of the Pledge of Allegiance in schools, which they struck down because they are concerned about the words "under God." That is the sort of activist judiciary that is ignoring the will of the people, who are the owners of this Government.

People say: What do we need to do, and they up come with this term, "nuclear option." It is a constitutional option. It shows how out of touch people are in calling this a nuclear option, when all it is is the question of whether it is a majority vote to give advice and consent or to dissent on a particular judicial nomination. It is my view, in the event the minority party continues with the approach of obstructing the opportunity of a nominee to have fair consideration, then this constitutional option must be utilized. We should not be timid. We should not cower. I believe the obstructionist approaches are preventing me from exercising my duty and responsibility to the people of the Commonwealth of Virginia to advise and consent on these judicial nominations. I hope my colleagues will not continue this obstructionist approach. In the event they do, then we have to use the constitutional option. I do not think it is too much to ask Senators to get off their haunches and show the backbone or spine to vote yes or no, but vote, and then explain to their constituents why they voted the way they did on any particular man or woman who has been nominated to a particular judicial position.

I am hopeful we do not have to use it, but if we do, go for it. Do not cower. Do not be timid. The people, as my colleague from Georgia said, all across this country, whether they are down in Cajun country in Louisiana, whether they are in Florida, whether they are in the Black Hills of South Dakota, or whether they are in the Shenandoah Valley of Virginia, expect action on judges. As much as people care about less taxation and energy security for this country and wanting us to be leaders in innovation, they really expect the Senate to act on judges. It is a values issue. It is a good government issue. It is a responsibility-in-governing issue that needs to be addressed.

AMENDMENT NO. 356

I would like to turn my attention to the amendment pending on the supplemental, one submitted by Senators DURBIN, MIKULSKI, and me. This amendment will eliminate the pay gap that many of our Federal employees who serve in either the National Guard or the Reserves suffer when they are called up for active duty. We need to do everything we can within reason to recruit and retain those who serve in the Guard and Reserves. We, as a Federal Government, and I, as a Senator, encourage private businesses to make up that pay gap.

Many times, when people get called up, their Active-Duty pay is less than they would be getting in the primary job. That is what the pay gap is. It is one of the key factors, top five factors in people not re-upping. It does have an impact on their families. On average, the pay-gap loss is about $368 a month. They still have housing payments, they still have food. Many of those who serve in the Guard and Reserve have families, and those expenses go on.

Out of the 1.2 million members of the National Guard and Reserves, 120,000 are also employees of the Federal Government. As of January 2005, 43,000 Federal employees have been activated since September 11, 2001, and are serving courageously and beneficially for our freedom and our security. Right now there are more than 17,000 on active duty.

There are those firms in the private sector who have made up this pay gap. There are over 900 companies, such as IBM, Sears, General Motors, UPS, Ford, that make up the pay differential. In fact, 23 States have enacted similar legislation to make up the pay difference. I am proud to say one of them is the Commonwealth of Virginia.

The Senate has supported this in the past. I think it makes a great deal of sense that we support not only the members of the Guard and Reserves who are called up to active duty who serve in the Federal Government, but also support their families. I think this amendment, which I am sponsoring along with Senators DURBIN and MIKULSKI, makes a great deal of sense. It is one I hope, when we get to voting on it sometime today, will enjoy the support of all the Members of the Senate. It is very important we do what we can, within reason, to help in the recruitment and retention of those who are serving our country, who are disrupting their lives and, in fact, are being called up more frequently and for longer duration than ever before.

I hope we will see that agreed to on the supplemental some time today. I also hope we will get back to the 200-year history of the Senate on consideration, treatment, and actual voting on outstanding judicial nominees who have come out of the Judiciary Committee with a favorable recommendation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, am I correct that we are in morning business and it is appropriate to address the Senate in morning business?

The PRESIDING OFFICER. The Senate is in a period of morning business. The minority side controls 30 minutes. The Senator is recognized.

THE NOMINATION PROCESS

Mr. NELSON of Florida. Mr. President, yesterday it live the nomination and confirmation process as envisioned by our Constitution with regard to two nominees. The Constitution, of course, provides that it is a two-step process: the President nominates and the Senate then confirms or rejects. In this case, there was quite a contrast between the two nominees.

In one of my committees, the Foreign Relations Committee, we have a highly contentious, highly divisive debate raging over the nominee of the President, Mr. John Bolton, to be the Permanent Representative of the United States to the United Nations. It is a very significant post representing the wishes of the American people, of the U.S. Government, to the world body, the United Nations.

While at the same time those confirmation hearings were occurring in the Senate Foreign Relations Committee, another one of my committees, the Commerce Committee, was considering the nomination of Dr. Michael Griffin to be administrator of NASA. Dr. Griffin's nomination is quite a contrast to Mr. Bolton's nomination, for it is embraced almost unanimously in a bipartisan way. The extraordinary support is shown even to the point that the chair of the Science and Space Subcommittee, Senator HUTCHISON of Texas, and I, the ranking member of that subcommittee, both requested that the chairman of the full committee, Senator STEVENS, accelerate the confirmation process. So that Dr. Griffin could be confirmed by the committee and we could get his nomination to the floor of the Senate this week, putting him in place as the administrator next Monday. NASA desperately needs to have a strong leader in place, particularly as we recover from the disaster to Columbia. We are also going to launch an expected flight for recovery somewhere about the middle of May. That is the contrast between two nominees.

I think one of the things that makes Dr. Griffin so attractive as the head of NASA is not only that he is literally a rocket scientist with six graduate degrees. Not only does he have exceptional experience in the Nation's space program, both the manned and unmanned programs, but he carries with him a demeanor that contains an element of humility, which will serve him well in the NASA family. NASA is a family. We have seen that borne out in the history of our space program in times of tragedy as we have had in the past. The NASA family comes together, and in times of triumph not only with the extraordinary space accomplishments we have had, but in times of extraordinary triumph where in fact it has been said that failure is not an option. The extraordinary success we had with Apollo 13 in which we thought we had three dead men on the way to the Moon when the Apollo module blew up, and how in real time people in a simulator back in Houston, people in mission control, the design engineers—all came together to figure out the fix. Since the main propulsion system had blown up, rapidly losing electricity, and how to design the circumstances which in a trajectory towards outer space they could get back home safely to Earth. And they did that.

That is another illustration of how the NASA family works when it comes together. It wants a leader who has an appreciation of that family, who knows something about the business of that family, and who in fact can comport themselves with humility.

Interestingly, this is a contrast to the other nomination being considered at the same time, on the very same day, in another one of my committees. This is a controversial nomination because of the alleged improprieties which stem not from a sense of humility but from a sense of entitlement, even bordering on arrogance in demanding one's way. Not one's personal beliefs and ideology—we can all debate those because those are differences of issues. But in this particular case, Mr. Bolton is alleged to have berated intelligence analysts and, according to the allegations from some former very high-ranking State Department officials, insisting that they be fired, dismissed, or transferred because their analysis of the intelligence differed with his. Contrast the personalities, the nominee to be NASA administrator and the nominee to be the U.S. Representative to the U.N., contrast of styles, contrast of attitudes, and contrast of capabilities. Thus, it leads to extraordinary differences in the nomination process.

I wish all of the nominations were as Dr. Griffin in NASA, except for one hiccup that I think we are taking care of with the junior Senator from Virginia. It is my hope that today Chairman STEVENS will call the committee, that we will vote Dr. Griffin out of the Commerce Committee and get his nomination to the floor. At least by tomorrow, so his name can be sent, confirmed, and the President can go ahead and swear him in.

INFORMATION DATA BROKERS

If that were not enough to engage one Senator from the State of Florida in activities, we also saw yesterday a day that started to bring out new revelations on a completely different subject. This time we found from the wire reports that the number of names which had been thought to have been missing or stolen from an information data broker, namely one located in my State, a company called Seisint in Boca Raton, FL, owned by LexisNexis. The company is owned by an international conglomerate located in France, which a month ago announced that 30,000 names were missing—that is 30,000 names and Social Security numbers, and who knows how much other sensitive information. These records are compiled in this company for many law enforcement agencies. We were told yesterday the number is now not 30,000, it is 10 times that; it is over 300,000.

This is one of a series of five or six revelations in the last 2 months of information. Data brokers trade and sell this information about us—information that normally we would be so careful in seeing that it's secured and locked up or shredded so somebody can't get that information and go out and steal our identity. We now find these information brokers—in one case called ChoicePoint—have 12 billion records; they have records on virtually every American.

We have seen over the last couple of months a series of these stories where the information is suddenly missing, or they found that somebody hoodwinked them and bought their information under false pretenses. It is now out in the public domain in somebody else's hands.

Members of the Senate, if we don't do something about this, none of us in America will have any privacy left because our personal identities will be taken from us.

I hope Senators have had an opportunity to experience what I have in talking with victims of identification theft. One of the biggest complaints, aside from the harassment and the financial losses, is they can't get their identity back. They do not know where to go. They go to their local law enforcement. We can't help you. They go to their State agencies. We can't help you. They go here, they go there, and they keep getting referred to somebody else, and all the while somebody else has their identity. Maybe they are put on the watch list, or the do-not-fly list, or suddenly they are getting dinged for $25,000 charges on a credit card, or their driver's license—such as the truck driver's license in Florida which gives the privilege of driving vehicles loaded with hazardous materials. Guess what that would do in the wrong hands.

We find, if we don't do something, that none of us will have any privacy left. It used to be in the old days that we were careful to shred our records, or keep them locked up. Now we know all of this private, personal, and financial information is in the hands of information brokers who have it on computer—billions of bits of information. They are trading it and selling it and buying it. There is something we can do about it. I suggested one way a month ago when I offered a bill that has been referred to the Commerce Committee. Today, Senator SCHUMER of New York and I have taken a number of bills, including mine and his, and we have put them together into a comprehensive package. The bill is being referred to the Commerce Committee, and it is my hope we will get the Senate to start moving on this. As we speak, the Judiciary Committee is having a hearing on this very subject. It is my hope we will get some action so we can protect the personal identity of every American.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

NUCLEAR OPTION

Mrs. MURRAY. Mr. President, I imagine that recently it has been pretty difficult to wake up every morning to read the newspaper if you are a Federal judge. Extremists in and out of Washington, DC, have nearly declared war on the judiciary, from demanding retribution for recent decisions that lawmakers disagree with to suggesting impeachment for judges who do not toe the party line. It is discouraging, it is disheartening, and it is downright wrong.

But what is so concerning about this recent rhetorical assault is it is being backed by action that has nothing to do with judges and everything to do with increasing Republican power at the expense of our Constitution.

I am deeply concerned that Republicans are trying to increase their power by ignoring rules dating to our country's founding. They want to push through radical judicial nominees who will serve a lifetime on the bench by eliminating a 200-year-old American rule allowing each Member in the Senate to speak out on behalf of our constituents and to fight for the ideals we hold dear.

We had an election last year, and it is true, Republicans ended up with a majority in this body. But that does not mean half the country lost its voice. That does not mean tens of millions of Americans will have no say in our democracy. That does not mean Republicans have carte blanche to pack the courts and to ignore the rights of the minority.

In reality, this is not about judges. This is not about a Senate procedural change. This is, plainly and simply, a power grab and an effort to dismantle the checks and balances our Founding Fathers created. Without that system, the Senate would simply become a rubberstamp for the President. It would allow whichever political party is in power, Republican or Democrat, to have the say over our Nation's courts. I will not stand for that.

This is a basic argument about the future of the Senate. It is about how we are going to conduct our business. I believe in giving the people a voice, in standing up for those people who sent me here, and in protecting the rights of minorities everywhere.

One of the first things every child is taught about American Government is the separation of the three branches. This separation and the checks and balances that come with it are fundamental to the greatest system of government ever created. This system is worth protecting. That is exactly what many of my colleagues and I intend to do.

This is not a debate about judicial nominations. It is about increasing the amount of power that is wielded by the majority. We hear a lot about judges in the Senate, so let me put that discussion in context for a minute.

The judges who serve on the Federal bench affect the lives and liberties of every American. These are lifetime appointments. This is not the nomination to a commission or nomination to an ambassadorship; this is a lifetime appointment for a Federal judge whose rulings over the next 30 or 40 or more years will have ramifications for every single American.

As Senators, we are elected to serve our constituents. We are asked to confirm judges whose decisions can change U.S. history and shape the lives of American people for generations to come.

When any citizen, Republican or Democrat, in a blue State or a red State, a man or a woman, no matter what race, color, or creed, comes before a judge, we have a responsibility to ensure they will get a fair shake. That citizen, no matter who or where they are, must know our system will work for them. They have to have confidence in that.

How can we make those assurances to each and every Senator, Republican or Democrat, red or blue State, man or woman, no matter what race, color or creed, if Republicans alone are selecting, considering, and confirming them to the courts? I don't believe we can.

In addition, we expect Federal judges to provide the proper check in our system of checks and balances outlined in our Constitution. Without it, our system does not function properly. We have to ensure each and every nominee for the courts has sufficient experience to sit in judgment of our fellow citizens. We have to ensure every nominee will be fair to everyone who comes before their court. We have to ensure every nominee will be evenhanded in administering justice, and we have to ensure every nominee will protect the rights and the liberties of each and every American.

To determine if a nominee meets those standards, we have to explore their record, we have to ask them questions, we need to weigh their responses.

That is a tremendous responsibility of each and every Senator. It is one I take very seriously.

In the Senate we have made a lot of progress in confirming the judges President Bush has nominated. Look at the figures. The Senate has now confirmed 205 judicial nominees of President Bush. In 3 years we have stopped 10 of those whose records raised the highest questions about their abilities to meet the standard of fairness every American expects. Let me repeat that: We have confirmed 205 judicial nominees. That is a confirmation of 95 percent. We have confirmed 205 judges, the best confirmation rate since President Reagan. Today, 95 percent of Federal judicial seats are filled. This is the lowest number of vacancies in 13 years. There are now more Federal judges than ever before.

I have to point out while the majority is complaining today about our confirmation rate, it was a different story during the Clinton administration. Back then, Republicans used many roadblocks to stop or block the confirmation of judges who were nominated by President Clinton. During Clinton's second term, 175 of his nominees were confirmed and 55 were blocked from getting votes. During those years, the majority used the committee process to ensure nominees they disagreed with never came to a vote in the Senate and 55 never received consideration.

The Senate has an impressive record of confirming judges. That is clear in the 98-percent confirmation rate, the 95 percent of Federal judicial seats that are filled, and today the lowest number of vacancies in 13 years.

I will talk about the process we have used in my home State of Washington to confirm judges. We have worked out a system to ensure that Washington judges are nominated and confirmed even when different political parties hold Senate seats or control the White House. For many years I worked with a Republican Senator and a Democratic President to nominate and confirm Federal judges from my State. Today, with a Republican President I am working with my colleague from Washington State on a bipartisan process to recommend judicial candidates. We developed a bipartisan commission process that forwards names to the White House. It has worked very well. Both sides had equal representation on the commission. The commission interviews and vets the candidates.

It worked for Senator Gorton and me when we forwarded names to President Clinton and it is working well for Senator Maria Cantwell and me as we recommend names to President Bush. I am very proud that during President Bush's first term we worked together to confirm five excellent judges through this bipartisan commission.

We, in fact, confirmed Ron Leighton, a distinguished trial lawyer in Tacoma who is now a U.S. district court judge for the western district of Washington in Tacoma.

We confirmed Lonny Suko as a district court judge for the eastern district of my State. He is a distinguished lawyer and a U.S. magistrate judge who has earned the respect of many in his work on some of eastern Washington's most difficult cases.

We also confirmed Judge Ricardo Martinez for a vacancy on the U.S. district court for the western district of Washington State. He, in fact, holds the distinction of becoming the first Latino district judge in the history of our State. For over 5 years he has served as magistrate judge for the U.S. District Court in the western district. Before that, he was a superior court judge for 8 years and a King County prosecutor for 10 years. I will never forget calling him from the Senate floor after we completed his vote on the confirmation. I could hear the cheers in the background from a truly overjoyed, deserving family.

Also during the first term we confirmed Judges Richard Tallman and James Robart. Both of them are now serving lifetime appointments with dignity.

In Washington State, we are making genuine bipartisan progress confirming judges. It is a process that serves the people of my home State well. Our record of bipartisanship makes this current Republican power grab all the more outrageous. The record proves it is not about judges at all. This procedure is about destroying the checks and balances our Founding Fathers created to prevent the abuse of Governmental power and to protect the rights and freedoms of all Americans. Now we are hearing the Republicans want to destroy the independence in Federal judges by rewriting the rules so they can ram through appointment of Federal judges, especially a Supreme Court Justice, who will overreach and roll back the rights of American people.

Recent comments by advocates on the other side and even by some elected officials have left me very worried about the future of the independent judiciary. It seems many in this country are intent on running roughshod over the Constitution, bent on misusing their power to destroy fundamental principles of our great democracy. That is not how America works. It is not what our Founding Fathers intended. In our democracy, no single person and no single political party may impose extreme views on the Nation. The constitutional system of checks and balances was set up for a reason. It has worked for two centuries. There is no reason to destroy this fundamental principle now.

My colleagues and I are standing up to these abuses. We are fighting to protect the historic power of this body to make sure it is not a rubberstamp for sectarian, partisan, special interests. We will continue to do so.

I yield back the remainder of the time on this side and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. OBAMA. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OBAMA. Mr. President, I rise today to urge my colleagues to think about the implications of what has been called the nuclear option and what effect that might have on this Chamber and on this country. I urge all of us to think not just about winning every debate but about protecting free and democratic debate.

During my Senate campaign, I had the privilege and opportunity to meet Americans from all walks of life and both ends of the political spectrum. They told me about their lives, about their hopes, about the issues that matter to them, and they also told me what they think about Washington.

Because my colleagues have heard it themselves, I know it will not surprise many of them to learn that a lot of people do not think much gets done around here on issues about which they care the most. They think the atmosphere has become too partisan, the arguments have become too nasty, and the political agendas have become too petty.

While I have not been here too long, I have noticed that partisan debate is sharp, and dissent is not always well received. Honest differences of opinion and principled compromise often seem to be the victim of a determination to score points against one's opponents.

But the American people sent us here to be their voice. They understand that those voices can at times become loud and argumentative, but they also hope we can disagree without being disagreeable. At the end of the day, they expect both parties to work together to get the people's business done.

What they do not expect is for one party, be it Republican or Democrat, to change the rules in the middle of the game so they can make all the decisions while the other party is told to sit down and keep quiet.

The American people want less partisanship in this town, but everyone in this Chamber knows that if the majority chooses to end the filibuster, if they choose to change the rules and put an end to democratic debate, then the fighting, the bitterness, and the gridlock will only get worse.

I understand that Republicans are getting a lot of pressure to do this from factions outside the Chamber, but we need to rise above "the ends justify the means" mentality because we are here to answer to the people—all of the people, not just the ones who are wearing our particular party label.

The fact is that both parties have worked together to confirm 95 percent of this President's judicial nominees. The Senate has accepted 205 of his 214 selections. In fact, we just confirmed another one of the President's judges this week by a vote of 95 to 0. Overall, this is a better record than any President has had in the last 25 years. For a President who received 51 percent of the vote and a Senate Chamber made up of 55 percent of the President's party, I would say that confirming 95 percent of their judicial nominations is a record to be proud of.

Again, I urge my Republican colleagues not to go through with changing these rules. In the long run, it is not a good result for either party. One day Democrats will be in the majority again, and this rule change will be no fairer to a Republican minority than it is to a Democratic minority.

I sense that talk of the nuclear option is more about power than about fairness. I believe some of my colleagues propose this rule change because they can get away with it rather than because they know it is good for our democracy.

Right now we are faced with rising gas prices, skyrocketing tuition costs, a record number of uninsured Americans, and some of the most serious national security threats we have ever had, while our bravest young men and women are risking their lives halfway around the world to keep us safe. These are challenges we all want to meet and problems we all want to solve, even if we do not always agree on how to do it. But if the right of free and open debate is taken away from the minority party and the millions of Americans who ask us to be their voice, I fear the partisan atmosphere in Washington will be poisoned to the point where no one will be able to agree on anything. That does not serve anybody's best interest, and it certainly is not what the patriots who founded this democracy had in mind. We owe the people who sent us here more than that. We owe them much more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, if I am not mistaken, the pending business is the Durbin amendment which I offered yesterday.

The PRESIDING OFFICER. I have been informed the Senate has not laid down that measure yet.

Mr. DURBIN. I ask unanimous consent to be recognized as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 356 TO H.R. 1268

Mr. DURBIN. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to my amendment: Senators KERRY, LANDRIEU, SARBANES, LEAHY, LINCOLN and LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, for those who are following the business of the Senate, after morning business we hope to move to closure of debate on my amendment. It is my understanding that Senator STEVENS is returning from the White House and would like to speak on the amendment, and we will have a formal unanimous consent request but it is my intent to protect his right to speak for up to 5 minutes and to protect my right to close for up to 5 minutes. Otherwise, our goal is to try to have a vote at 12:15 on this amendment. I say that even though there has not been a formal consent agreed to, but that is what the discussion leads to.

For those who are following this debate, this is an important bill that is before us. It is the supplemental appropriations bill. The President has come to Congress and asked for money to wage the war in Iraq and Afghanistan. What we find curious is that this amount is not being included in the President's budget. In fact, he is arguing he is moving toward a balanced budget but fails to include the cost of the war.

It is my understanding, and I think I am close on this number, with this additional $81 billion, we will have allocated and spent $210 billion on the war in Iraq and Afghanistan. The President refuses to include this in his budget. If he did, we would have a much deeper deficit than currently stated.

Those of us who believe in at least honesty in accounting cannot understand why we are doing this separately. Why do we have a supplemental bill for this war in Iraq and Afghanistan when we are clearly going to be there for a period of time? I hope for a short period of time but at least for some period of time.

That budget argument aside, I will go to the merits of what we are discussing. The $81 billion for the war in Iraq and Afghanistan is a figure that I will support. I was one of the Senators who joined my great friend and leader Senator ROBERT BYRD in voting against the resolution to authorize the President to use force in this war in Iraq.

Mr. BYRD. Right.

Mr. DURBIN. There were 23 of us on the Senate floor who did that. I believe it was the right vote not because I am making any excuses for Saddam Hussein, a tyrant, a dictator, a man I am glad is out of power, but many of us, particularly those of us sitting on the Intelligence Committee at the time, felt there were representations being made to the American people about the nature of this threat that were just plain wrong.

I listened in the Intelligence Committee as they described the evidence of weapons of mass destruction and was puzzled. I could not understand the statements from the administration which were coming out about all of these weapons of mass destruction in Iraq that threatened us in the Middle East and around the world; the evidence was not there. The people that we needed on the ground to confirm the evidence were not there.

In addition, there was a lot of speculation about nuclear weapons that Saddam Hussein was developing with aluminum tubes to be used in centrifuges. As we listened to the agencies of our own Government in hot debate over whether or not these tubes had anything to do with nuclear weapons, I was puzzled as to how some of the leaders in this administration could be talking about mushroom clouds because Saddam Hussein is going to detonate a nuclear weapon. They talked about some connection between the terrible tragedy of 9/11 on America and Saddam Hussein, and yet there was no evidence—and there still is absolutely no evidence—connecting Saddam Hussein to that terrible tragedy that occurred on 9/11.

As this evidence accumulated, Senator BYRD, myself, and many others said the case that the administration is making for the invasion of Iraq is not there. The evidence is not there. I personally feel one of the worst things that can happen in a democracy is when the leadership of a democratic government misleads the American people into believing there is a threat that does not exist.

I am not arguing that they deliberately misled us. It could have been a sin of omission. I do not know the answer to that. But the fact is those of us who voted against the use of force had serious questions as to the justification for the war, and I might add serious questions about our readiness for that war. Trust me and other Senators, if we needed to call on any military force in the world to perform a mission, I want to dial 911 and find the United States on the other end of the line. We have the very best military in the world. I knew they would acquit themselves very well once the invasion was under way, and I knew they would be successful.

I could not predict how long it would take, and thank goodness it was short-lived. But the military aspects of the war and the success notwithstanding, it is clear that this administration was not prepared for waging the peace that followed. They were unprepared in terms of the number of men and women on the field, in terms of the equipment that is available, such as armor for humvees and body armor for soldiers. We were not prepared for it. Here we are, more than 2 years later in Iraq, in a position where we need to stay and finish, and we are still arguing over the basics.

I visited Iraq 3 weeks ago, went there after first going to Kuwait and visiting with our troops. I met with the 1644th Illinois National Guard unit, a transport unit that moves humvees and trucks back and forth between Baghdad and Kuwait City every single day at great danger to the men and women driving those vehicles. The first thing they wanted to show me was: get in the truck, sit here and look how cramped it is as we sit here for hours and look around. There is no armored protection for us as we are driving back and forth through these dangerous zones. Two years after the invasion, we still do not have the adequate equipment that our troops need.

This bill will come before us, and I will support it. I had misgivings, and still do, about the initiation of the invasion of Iraq but I do not have any misgivings about providing our soldiers, our marines, our airmen and our sailors the very best equipment and all the resources they need to perform their mission and come home safely.

Look at some other aspect of this war that is equally important. This is a different war than we have ever waged. This is a war that depends on an American fighting force that is largely, or at least to a great extent, composed of men and women in the National Guard and Reserves. We have not done this before, but we have to do it now. Were it not for the 40 percent of the 157,000 or 160,000 men and women in Iraq from Guard and Reserve units, we would not be able to send our soldiers in the field to fight. Thank goodness those Guard and Reserve units are there.

Understand that unlike the Active-Duty military, the Guard and Reserve military come in under different personal and family circumstances. Here is a man or woman in a Guard unit in Illinois or virtually any State who signed up to serve his or her country looking for perhaps some scholarship assistance to go to school, ready to respond to a natural disaster or to be called up for a few weeks at a time, and they are being activated for lengthy periods, for a year to a year and a half and sometimes more. It is creating a terrible hardship for the families of these Guard and Reserve unit members.

The amendment that is pending before us is very basic. We have said to employers across America, if one of their employees is in the Guard or Reserve, and that employee is activated, do your best to stand behind that employee and his family; make certain, if they can, they keep their health insurance in place, if necessary; try to make up the differential in pay between what the military pays and what they were making in the private sector so that soldier who is off risking his life is not worried about the family back home.

And guess what. Almost 1,000 American businesses have stepped forward and said: We accept the challenge. We believe in these men and women. We believe in America. We are going to stand behind them. So when they are activated, these companies step up, as well as units of local government, and make up the difference in pay, giving them the peace of mind to know that even though they are separated from their family while away overseas, they are going to have enough money coming in to make the mortgage payments, pay the utility bills, and all the basics of life.

When it comes to employers, there is one employer that does not meet that obligation; there is one employer in America, the largest single employer of Guard and Reserve soldiers in America, that refuses to make up the difference in pay. There is one employer in America which has said for 2 straight years now, We will not protect the Guard and Reserve soldiers' families while they are overseas fighting. There is one employer in America that coincidentally is praising all of these private-sector employers for standing behind their soldiers and yet refusing to cover their own employees. What is that employer? It is the United States Government. Our Federal Government refuses to make up the pay differential for activated Federal employees who go into the Guard and Reserve. It turns out that some 51 percent of those who are serving overseas today have seen a dramatic cutback in their pay. How can we have Web sites and speeches praising all of the employers across America, the businesses that stand behind their soldiers, while the Federal Government does not?

So for the third time since the invasion of Iraq, I am offering this amendment. It is called the Reservist Pay Security Act, and it says the Federal Government will meet the obligation private sector employers are meeting every day and make up the pay differential for Federal employees who go overseas in the Guard and Reserve. It is not a radical suggestion. It is a commonsense suggestion that we would stand behind these employees and soldiers as we ask others to do.

I see some of my other colleagues are in the Chamber, and I am going to yield the floor at this moment. We are hoping for a vote at around 12:15 or so, but we are going to accommodate the schedules of the Senators and try to ask for a unanimous consent.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1268 which the clerk will report.

The assistant journal clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Kerry amendment No. 333, to extend the period of temporary continuation of basic allowance for housing for dependents of members of the Armed Forces who die on active duty.

Kerry amendment No. 334, to increase the military death gratuity to $100,000, effective with respect to any deaths of members of the Armed Forces on active duty after October 7, 2001.

Durbin amendment No. 356, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator has the floor.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished Senator from Massachusetts, Mr. KERRY, for not to exceed 10 minutes, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished Senator from West Virginia for his courtesy.

Mr. President, I ask unanimous consent to add Senator LAUTENBERG as a cosponsor to Senate amendment No. 333 and Senate amendment No. 334.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 333 AND 334

Mr. KERRY. Mr. President, yesterday I introduced two amendments to help our military families to be able to contend with the death of a loved one and the problems that flow to these families when one of America's service people are lost either in combat or in the course of duty. The disruptions are obviously enormous and unimaginable in many ways, but one of those disruptions is that after a period of 180 days, even in the middle of a school year, a widow would have to move off the base notwithstanding the kids are in the middle of a school year. I can give the names of people I have met in a number of instances over the course of the last couple of years traveling the country, people who talked about the incredible disruption to their family because of this.

What we have learned listening to the commanders in the military and also to the families is that when we recruit, we are not just recruiting individual soldiers, and when we equip, we don't just equip by giving them the weapons and the technology they need to fight a war. We recognize we recruit a whole family and we retain a whole family. We need to have policies that are family thoughtful, family sensitive, so we can retain people in the military, particularly in a volunteer force where we expend enormous public dollars in order to train people to provide us with the superb capacity we have in our military.

One of my amendments would provide an extension of that 180-day period of time so you get a year for the school year issue and other issues of finding a suitable home and figuring out whether you are going to go back and live with your parents, what your job is going to be, and where you are going to live, so all of these things are not providing added pressure to families who are already remarkably disrupted.

The second is an amendment that would extend the death benefits, the total death benefits to families so those families who are unfortunate enough to lose a loved one are not suffering for the rest of their lives as a consequence of that contribution to their Nation.

These amendments would be the first strong steps in what I call the military families bill of rights. I am not going to go through all of the details and the arguments for that, but I would like to say to my colleagues that yesterday I sent out an e-mail asking Americans to send stories in about their personal struggles with these issues, or those of their friends and friends' families that they heard about.

In less than 24 hours over 2,000 families responded. They took the time out of their busy days in the hopes that we would listen, so I would like to share a few of those stories with my colleagues.

The first is a couple in Austin, TX, who e-mailed me about one of their two young children who has Job's syndrome. When their father was called to duty, Home Depot stopped paying his salary and cut his health insurance. His wife, who was a schoolteacher, had to purchase insurance on the open market, leaving her finances in complete disarray. Her daughter was in the hospital so often that she eventually used up all of her sick and vacation days. The school docked her pay for lost time, and her financial situation went from bad to worse.

This is because her husband was serving his country, but the Government did nothing for his family to make up that difference.

I got an e-mail from a pharmacist whose nurses were upset about a woman who could not afford medication for her child because her husband had been called to duty in Iraq. They eventually found a way to get the mother the medication that her daughter needed, but the pharmacist was left questioning his Nation's leadership. Here is what he said:

> I was dismayed that there apparently was no help available for this mother whose husband was serving his country.

A guy in Abilene, TX, e-mailed me about his first friend in the world who was shot down in Iraq. He left behind a wife and three children. Over 2,000 people honored him at the memorial service, but that did not do anything to help his parents, who were draining their retirement savings to get health insurance for their grandchildren. This fallen soldier's friend wrote:

> Nathan's family is getting by because of their love and faith in God and each other, but after losing a son in service to America, they should not have to struggle to see that his wife and children will get by. His wife has already lost her husband, and his children will already grow up without their father. His daughter Courtney will not have her Dad to walk her down the aisle when she marries. They will not have a Dad at their High School graduations or at the birth of their children. They should not have to sacrifice anymore.

That is what this friend wrote to us, all of us Senators. Finally, I want to share a letter I received in February from Amy Beth Moore from Fort Hood, TX. Her two children, Meghan, age 13, and Sean, age 10, no longer have their father Jim. During his tour in Iraq, Jim was shot at, and his Hummer took a near deadly bullet in the gas tank. When he returned home, he was a senior officer in charge of refitting his unit for the next deployment. This required frequent helicopter flights back and forth from Texarkana.

On November 29, 2004, his Blackhawk crashed, killing Jim and six other soldiers. Listen to what Amy wrote:

> Consider our predicament. But for the grace of God, my husband would not have survived a deployment to Iraq and then was working to ready the Fourth Infantry Division for its next deployment. Why should it matter where he was killed while serving proudly in the military? Why should we as his surviving wife and children not be entitled to the increased death gratuity and life insurance? I have been a full time mom, managing the home front of a career soldier and it is now up to me as a widow and a single parent to provide for our children. These benefits would greatly assist me in doing that and frankly, without them, we will have a serious challenge in the days and months and years ahead without Jim. I know that compensation in any form will in no way make up for the loss of a loved husband and father and all the missed moments that we would have shared as a family, but nothing is more important to me right now than trying to take care of my children, and it is on their behalf that I make this request.

We have heard from military families. We have heard from friends. There are thousands more such stories across the Nation. The test is whether we, as a matter of conscience and common sense, are going to do what is right for those who serve our country.

I thank the Appropriations Committee for fixing part of this, for going beyond the administration's request to limit the benefit to combat. But now I ask my colleagues to heed the advice of uniformed military leaders about those on active duty today and their families in the military. We need to provide this benefit to all Active-Duty personnel.

Amy Beth Moore is right. What difference does it make where he was killed? He was killed preparing the troops to do what we need to do in Iraq, and his loss is as real whether he was killed in Iraq or elsewhere. If we fail to adopt these amendments we are going to confirm the greatest fears of Amy Beth Moore and the over 2,000 Americans who e-mailed their stories to me, that Washington talks a good game but doesn't really care about these families.

For the survivors of our Nation's fallen heroes, much of life remains. Although no one can ever put a price on the loss of the life of any loved one, it is up to us to try to be generous, and I think correct, in helping them to put their lives back together. I urge my colleagues to join me in working toward a strong bipartisan military families bill of rights that does right by those who serve and by their families. I hope we can start that by taking the right direction in adopting these two important amendments today.

I thank the distinguished Senator from West Virginia again for his courtesy.

I ask unanimous consent to add Senator DURBIN as a cosponsor.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask if the Senator will add my name as a cosponsor to both amendments.

Mr. KERRY. I am honored to have the Senator from West Virginia as a cosponsor.

The PRESIDING OFFICER. The Senator from West Virginia retains the floor.

Mr. BYRD. Madam President, the bill before us contains funding for a number of items that can hardly be described as emergencies, despite the fact that they are contained in an emergency supplemental funding bill.

One of those items that fairly leaps off the page is a $36 million earmark, tucked away in the report under military construction for the Army, to build a new, permanent prison at Guantanamo, Cuba. Why is this tucked away as an emergency? It is to house detainees from the war on terrorism.

What struck me about this item is that the American people are being asked to build a permanent prison to house 220 prisoners from the war on terrorism when the courts have not yet determined the legal status of the detainees or whether the United States can continue to hold these individuals indefinitely without charging them with a crime.

We are walking on thin ice here—thin ice. If ever there was a case of putting the cart before the horse, this seems to be it. Construction of a new permanent prison in Guantanamo assumes that the United States has in place a solid policy and a valid requirement for the long term internment of detainees at that site when in fact neither the policy nor the requirement has been validated.

Ever since the Supreme Court ruled last year that U.S. law applied to Guantanamo, and that prisoners held there could challenge their detentions in Federal Court, the status of the detainees at Guantanamo has been a matter of open debate. A flurry—we have reached beautiful spring weather now, but a flurry of subsequent legal challenges mixed with allegations of prisoner abuse have only muddied the waters further.

In August, a Federal district judge ruled that the military tribunals being conducted at Guantanamo must be halted because they did not provide minimally fair procedures and violated international law. Hey, look out here. Look what we are doing. Where are we going? Meanwhile, another Federal judge recently stopped the Government from transferring detainees from Guantanamo to other countries pending a review of the process.

What is wrong with that? At the heart of the Guantanamo detention controversy is whether the detainees are entitled to prisoner of war status under the 1949 Geneva Convention, or are they, as the administration contends, "enemy combatants" who are entitled to no judicial oversight. It is a complex legal debate that is unlikely to be resolved anytime soon.

And yet the White House has determined that the construction of a $36 million maximum security prison at Guantanamo is such an urgent requirement that it cannot allow the courts to rule on the validity of the administration's detainee policy or even wait for the regular appropriations process. Not even wait for the regular bill—put it in the supplemental.

This despite the fact that there is currently no overcrowding at Guantanamo, that the prison population is steadily declining—down to approximately 540 from a high of about 750—and that the Pentagon has already built a $16 million, permanent, state-of-the-art maximum security prison at Guantanamo to hold 100 prisoners. At the same time, according to an article last month in The New York Times, the Defense Department is trying to enlist the aid of the State Department and other agencies to transfer more prisoners out of Guantanamo, in an effort to cut by more than half the current population at Guantanamo.

The fact is, the Pentagon has no idea at this point how many detainees from the war on terrorism are facing long term detention, or where they will eventually end up.

As Defense Secretary Donald Rumsfeld put it at a hearing before the Senate Appropriations Committee in February, "The Department of Defense would prefer not to have the responsibility for any detainees."

For once, I agree with Secretary Rumsfeld, particularly given the allegations of abuse that have dogged the Defense Department's treatment of detainees in Iraq and Afghanistan as well as Guantanamo. The Defense Department should not automatically assume an open-ended burden of being the world's jailer of foreign enemy combatants.

Given all the uncertainties concerning the future requirements for detention facilities at Guantanamo, where—oh where, tell me—is the urgency in this request? The Defense Department insists that prisoners currently in custody at Guantanamo are in conditions that are safe, secure, and humane. The current detention facilities at Guantanamo include Camp 4, where detainees live in 10-man bays with nearly all-day access to exercise yards and other recreational privileges; Camp 1, where detainees are housed in individual cells with a toilet and sink in each cell; and Camp 5, the new 100-bed maximum security prison that the Pentagon boasts would be envied by many States. Camp Delta also boasts a 19-bed detainee hospital, which military officials describe as a state-of-the-art facility, complete with first-rate dental care.

With the exception of the existing maximum security prison, these are temporary facilities, but according to the Defense Department, they are designed to provide safe, secure, and humane housing for the prisoners. As the Pentagon is quick to point out, the concrete slab and open-air chain-link enclosures that originally housed prisoners when the Guantanamo detention facilities opened in January of 2002 are long gone.

The Defense Department, in its justification for the new prison, asserts that the existing temporary facilities are nearing the end of their useful life, will not meet Geneva Convention requirements, and will be subject to continued scrutiny by the International Committee of the Red Cross, the ICRC, until facility standards are raised.

Playing the Geneva Convention card is a curious tactic coming from an administration that selectively cherry-picks which of the Geneva Convention standards it chooses to apply to the prisoners at Guantanamo. The only Geneva Convention requirements cited by the Defense Department in its justification for the new prison are that housing units and core functions should be contiguous and allow for communal conditions where practical—certainly nice-to-have amenities but hardly a core requirement for the humane treatment of prisoners.

In fact, the ICRC's main concern about Guantanamo, according to the organization's website, is not contiguous detention units but the fact that the administration has attempted to place the detainees in Guantanamo beyond the law. Building a new prison will not address that concern, and it will not exempt the Guantanamo detention center from the watchful eyes of the Red Cross. Nor will allegations of mistreatment of prisoners at Guantanamo be resolved by trading one set of cell blocks for another.

There may indeed be advantages to moving more Guantanamo prisoners from temporary into permanent detention facilities, but until we have a clearer picture of the number of prisoners who will be housed there over the long term, there is no compelling reason to rush into spending $36 million of your money—it is your money—the taxpayers' dollars to build a prison based on guesstimates instead of facts.

At a hearing of the Senate Armed Services Committee last month, Gen Bantz Craddock, Commander of the U.S. Southern Command, which oversees Guantanamo, was asked what the Pentagon was doing to improve the quality of life for the U.S. military personnel assigned to Guantanamo. General Craddock replied that he had submitted a list of unfunded requirements of several million dollars for U.S. military facilities. But, he continued, "we are watching this closely because we don't want to get out in front of the policy with regard to the long-term detainee issue down there."

That is good advice from General Craddock, and I would suggest that we apply it to the detention facilities at Guantanamo as well. It is the policy that should drive the construction, not the other way around. Before we ask the American taxpayers—before we ask you, the people out there who are watching the Senate Chamber here with open eyes, with open ears and probably with open mouths, you, it is your money—before we ask you, the American taxpayers to spend $36 million to build a brand new permanent prison for foreign detainees at Guantanamo we should make sure that we have an ironclad requirement for that prison. Until the courts have resolved the legal status of the prisoners and until the Department of Defense and the administration determine the role of the department in the long-term detention of the prisoners, building a permanent maximum security prison at Guantanamo is premature.

Madam President, are there any pending amendments ahead of this amendment?

The PRESIDING OFFICER. There are amendments pending.

Mr. BYRD. I will take my amendment in the order in which the amendment has been called up.

I ask unanimous consent ahead of time if it may be in order to have the yeas and nays on my amendment, even though it won't be voted on at this moment.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

AMENDMENT NO. 367

Mr. BYRD. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 367.

Mr. BYRD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To reduce by $36,000,000 the amount appropriated for "Military Construction, Army", with the amount of the reduction to be allocated to funds available under that heading for the Camp 6 Detention Facility at Guantanamo Bay, Cuba)

> On page 169, line 13, strike "$897,191,000" and insert "$861,191,000".

Mr. BYRD. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I thank the Chair, and I thank all Senators.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, for the information of all Senators, we are preparing to seek unanimous consent that we have a series of three votes that will begin at 1:45 p.m. today. These will be on or in relation to the Durbin amendment and the two Kerry amendments which are pending before the Senate. We hope to be able to reach agreement on this consent request so Senators can be advised very soon that that will be the order of the Senate.

That still leaves, of course, the amendment of the Senator from West Virginia which we will have an opportunity to discuss separate and apart from these three that will be voted on. Then we will seek to deal with that amendment in the regular order.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, I am pleased to advise the Senate that we have been able to reach agreement on a series of votes that will occur at 1:45. I am authorized by the leadership on both sides to propound this unanimous consent request.

I ask unanimous consent at 1:45 p.m. today the Senate proceed to a series of votes in relation to the following amendments: Durbin No. 356; Kerry No. 333; Kerry No. 334; provided further that no amendments be in order to these amendments prior to the votes, and that prior to the Durbin vote Senator STEVENS and Senator DURBIN be allocated 5 minutes each to speak; further, that there be 2 minutes equally divided for debate prior to each vote; finally, that all votes after the first be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, I appreciate the cooperation of all Senators in getting this agreement. Senator BYRD has offered an amendment on which the yeas and nays have been ordered, but we will not vote on that amendment until others who wish to speak on the amendment have an opportunity to do so. That will occur at any time. If we do complete debate on the Byrd amendment prior to 1:45, that could be something we could consider adding, but at this point we are not prepared to make that announcement.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Madam President, imagine how nervous you would be if I told you as we go about our business in the Senate, hidden in the Capitol basement were over 500 tons of some of the deadliest material ever conceived by man, VX nerve gas. Suppose I told you it had been there for decades, and although the authorities had previously promised to safely destroy some toxins, they were now changing their tune. They had put their plans to dispose of these deadly weapons on hold, leaving you to babysit them. I imagine you would start to feel a little nervous. Now you know how the residents of Madison County, KY, feel. For the people of Madison County, KY, and all over central Kentucky, the fear I have described is a daily reality.

The Blue Grass Army Depot in Madison County contains 523 tons of our Nation's chemical weapons stockpile. Since the 1940s, it has stored mustard gas, sarin nerve agent, and VX nerve agent. Each of these is among the deadliest nerve agents ever created. As little as 10 milligrams of VX is enough to kill a human being. That is about the mass of 10 grains of sand. It is virtually undetectable to the naked eye, and yet if that tiny amount is inhaled, death is imminent. If it is absorbed through the skin, death takes mere minutes.

The time has come for the safety of our fellow Kentuckians to safely eliminate these heinous weapons.

The Department of Defense has agreed it is time for the weapons to go. They promised they would dispose of them. Congress has appropriated hundreds of millions of dollars for them to safely destroy the materials. Yet the Department refuses to take the necessary steps to accomplish the task. The Department has offered all sorts of reasons why, many of which even contradict each other. But the bottom line is, they refuse to spend the money the President requested and the Congress appropriated to dispose of these chemical weapons stored in Kentucky.

This Congress cannot and will not let them get away with it. The Department's foot dragging on eliminating these weapons is simply unacceptable. The best they claim they can do is to place the Blue Grass Army Depot on caretaker status, meaning that virtually no cleanup action will be taken. The Department's own studies have shown the longer we sit on these dangerous weapons, the greater the risk to surrounding communities. The Department of Defense needs to fulfill its obligations, and it needs to clean up these sites now—not some other time, now.

In 1996, I authored legislative language that created the Assembled Chemical Weapons Alternatives Program, also known as ACWA, to find the best method to destroy VX and other deadly agents. The Blue Grass Army Depot became one of the ACWA sites, along with a site in Pueblo, CO.

The DOD refuses to clean up that site in Colorado also, and so my friend Senator WAYNE ALLARD knows this issue well. I thank him for his steadfast involvement and leadership on this question. He feels as strongly as I do that the dangerous substances located at the hearts of our States need to be disposed of safely and quickly.

The Department claims ACWA sites must be downgraded to caretaker status because they are over budget due to cost overruns. Yet the Department's own schizophrenic decisionmaking is what led to these costs. The Department has repeatedly stopped or slowed down design work and then restarted, adding unnecessary startup and stop-work costs. They stingily parcel out appropriated monies in such small quantities that it is impossible to spend it efficiently. Thus, it is the Department's own bureaucratic mismanagement that has created the cost problems.

Perhaps we should expect no less from an outfit whose operating maxim is printed on this board behind me. Dr. Dale Klein, the Assistant to the Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs, admitted in his testimony last week before the House Armed Services Committee that, as he said:

> As I often tell people, some of our budgeting processes are accurate but incorrect.

Let me run that by you one more time. He said:

> As I often tell people, some of our budgeting processes are accurate but incorrect.

What nonsense. Can you believe that? Dr. Klein, speaking of the Department of Defense, said on the record:

> . . . some of our budgeting processes are accurate but incorrect.

I will leave it to someone else to figure out exactly what that means, but it does not fill me with confidence in the Department's ability to resolve this issue. The Congress must pursue this matter if we ever want to see positive results. Therefore, I have authored a provision, section 1115, in this bill before us, the supplemental appropriation bill, that expressly directs DOD to spend the money Congress has appropriated to dispose of chemical weapons at the Blue Grass Army Depot, which is in Kentucky, and the Pueblo Chemical Depot, which is in Colorado. It forbids them, absolutely forbids them, from shunting that money into any other purpose.

Let me be clear: This provision does not add a penny of new spending to this bill. It merely requires the Department to spend the money they requested for the purposes they identified.

DOD has broken its word to the citizens of Madison County. But the language I have authored will force the Department to get Blue Grass back on track, and I promise that prediction will prove both accurate and correct. My provision will guarantee that the $813.4 million in prior-year monies that has been budgeted for ACWA sites will not be transferred for other purposes.

Over the past several years, the President has requested specific funds for ACWA. For reasons of comity, Congress has provided these funds for the overall chemical demilitarization program largely in lump sums, trusting that DOD would comply with the President's budget request. But they have not. Instead, DOD undermined the President's budget request and diverted funds intended for the ACWA Program. This language will hold the Department to the President's budget request with respect to this program.

My provision will force DOD to obligate at least $100 million at the ACWA sites within 120 days of the enactment of this legislation before us. Because the Department has purposely—purposely—withheld funds from the ACWA sites and downgraded them to caretaker status, work has come to a virtual halt at Blue Grass in Kentucky and completely at Pueblo in Colorado.

The Department itself has repeatedly determined that the storing of these deadly weapons poses an increasing danger over time. Yet they now complain they will have to jump through multiple bureaucratic hoops before those sites can be up and running again. By obligating $100 million immediately, we can get much-needed funds moving through the pipeline again and help jump-start the cleanup efforts at both sites.

My provision will also require the Department to provide Congress with a bimonthly accounting, every 2 months, of the money spent at these sites. This improved oversight will hopefully shed some light on the opaque processes at DOD. Perhaps with enough work, we can even find out how to make a budget both accurate and correct.

Because safety is paramount, my provision will do one more thing. It will prohibit DOD from conducting a study on the transportation of chemical weapons across State lines. Because transporting chemical weapons across State lines is illegal already, one would think this provision unnecessary. But despite the law, the Department has ordered a study on doing that which it cannot legally do. It is a mystery to me why the Department would spend precious time and money exploring an option that is not an option, that is illegal under Federal law. Let me say again, the Department of Defense is currently spending funds that should be going toward destroying deadly chemical weapons on studying a course of action that is illegal.

That suggests to me that rather than destroying the chemical weapons where they are stored, the Department is considering transferring them out of the Blue Grass Army Depot to other facilities. That is reckless and irresponsible for too many reasons to describe. Kentuckians do not want trucks full of nerve gas speeding down the interstate, and I suspect neither do the people of other States, such as Alabama, Arkansas, Utah, or any other State. Even if it were legal, there is no way politically these weapons are going to be moved across the country to some other site for destruction.

Before I conclude, I want to address one more failure of the Department of Defense. By not meeting their obligations to the people of Kentucky and Colorado, they are breaking not only their word, they are breaking America's word. That is because by placing the ACWA sites on caretaker status, the Department is acknowledging the weapons will not be disposed of at least until 2016 at the earliest, yet the United States has signed the Chemical Weapons Convention, which establishes a deadline for elimination of these substances in 2012 at the latest. The Department of Defense should be working with all the speed it can muster to meet this deadline, not openly thumbing its nose at it. Passing this bill will move us closer to compliance with the Chemical Weapons Convention.

In this age of terrorism, our decisionmaking processes for handling and disposing of such horrifying weapons must be focused and clear. The Department of Defense approach to ACWA sites has been neither.

I urge our colleagues to support this bill. With the passage of section 1115, you will get accountability and transparency from the Department of Defense. You will ensure that the promise made to the people of Kentucky is a promise fulfilled. Most importantly, you will protect the safety of hundreds of thousands of Americans.

On the other hand, if we do nothing, it will all be left up to DOD. The best they can be is "accurate but incorrect."

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is time control in place right now?

The PRESIDING OFFICER. The Senator has 5 minutes prior to the first vote.

Mr. STEVENS. I have 5 minutes after 1:45 p.m.

The PRESIDING OFFICER. The Senator has 5 minutes before the vote at 1:45 p.m.

AMENDMENT NO. 334

Mr. STEVENS. Mr. President, I wish to speak first on the amendment offered by Senator KERRY.

The PRESIDING OFFICER. The Senator from Alaska may proceed.

Mr. STEVENS. Mr. President, our Defense Subcommittee has considered this matter very closely. We believe the provision for death gratuity is a special and unique situation, and we provided it in the bill before the Senate.

What we seek to provide is a special recognition for our Nation's fallen heroes who have given their lives in combat defending our Nation or who have died in training or other activity that is considered related to combat by title X.

Let me state that again. Our provision covers all service members who lose their lives in combat or who die in training or other activity that is considered combat related by title X.

The normal death gratuity in effect now is $12,400. It provides immediate cash to meet the needs of survivors. This amount is payable immediately and is intended to provide sufficient funding to support families until other benefits, particularly those such as the Survivor Benefit Plan, Dependency and Indemnity Compensation, and Social Security, come into play.

We believe every life is precious, and we grieve over the loss of life when it occurs among anyone in our military. But our Appropriations Committee has included this provision to provide special recognition for fallen heroes. This special recognition is intended for those who have died as a result of combat or combat-related situations, such as training, and in support of the global war against terrorism our Nation is fighting.

The administration and the Department of Defense strongly oppose the recommended expansion of the death gratuity to cover all deaths of anyone who is in uniform. In fact, a 2004 independent study requested by the Department of Defense concluded that the full system of benefits provided to survivors of members who die on active duty is adequate, substantial, and comprehensive.

That study did identify a lack of recognition for direct sacrifice of life, as provided by the Public Safety Officers' Benefit Act, which pays more than $267,000 to survivors in recognition of deaths in performance of duty of law enforcement officers and firefighters. The Senate supplemental bill provides this type of recognition for our military.

First, if we consider opening the special death gratuity for all casualties, we should also consider the significance of a retroactive date, as we considered the concept of trying to cover all casualties. If the increased death gratuity is provided for all deaths, there is no longer a direct connection to the events of 9/11 and the war against terrorism.

Finally, to increase the death gratuity to include all deaths would cost an additional $300 million in this year alone, 2005. The total bill for fiscal year 2005 would be about $1.1 billion.

Many of us who served in war in defense of our Nation—and I am one of those—believe there is a special significance in the way we have defined death gratuity in the Senate bill before us now. We believe it is fully appropriate for the problem of recognizing fallen heroes.

I know this provision is related to other outpourings of those who have lost life in the September 11 controversy. There is a connection in that this provision seeks to recognize soldiers who have fallen as a result of the actions we have taken as a nation to address 9/11 in the fight against terrorism. I do not believe we should devalue the most heroic sacrifices of our men and women in uniform by making this cover anyone in uniform.

Mr. President, I do intend to oppose this amendment.

I have 5 minutes before 1:45 p.m.

AMENDMENT NO. 356

Mr. President, I also rise to oppose the amendment to fill the pay gap when Guard and Reserve are mobilized. This is the Durbin amendment. This emergency supplemental bill is not the proper legislative vehicle to add new benefits without approval of the committee of jurisdiction. The Senate Armed Services Committee, I am told, does not support the inclusion of this new benefit in our supplemental bill. The administration did not request that additional authority, and I am told it opposes this amendment. The proposed amendment, I believe, should be held for debate when the appropriate committee, such as the Armed Services Committee, brings the authorization bill before the Senate.

The amendment to this bill would require Federal agencies to pay any difference between military pay and civilian compensation for employees of the Federal Government who either volunteer or are called to active duty. The estimate we received from the Congressional Budget Office is this is an additional cost of $152 million over a 5-year period.

Reservists and guardsmen know when they are activated what their military pay will be, what their total compensation is. There is no misunderstanding about that. In an all-volunteer force, individuals choose whether they serve in the military. Certainly financial considerations enter into that decision, whether their service be full time or part time, with an obligation to answer the call of duty when necessary.

When Guard and Reserve members train for mobilization, they understand they are subject to mobilization during war and national emergencies. The likelihood of mobilization is evident as the Department has been mobilizing Guard and Reserve members almost continuously for the past 13 years.

More importantly, this provision would do a disservice to patriotic non-Federal reservists who are self-employed, small businessmen, or employees who do not receive such coverage as proposed by the Durbin amendment.

In addition, the amendment would allow mobilized reservists to make significantly more than those active-duty service members whom they join when they are called up to serve in active duty. This could be interpreted by some active-duty members to mean that the Federal Government places a higher value on the service of those people who are called up temporarily than we do on those who are career military people. The amendment would cause a significant equity issue as far as the active-duty service members and I believe would negatively affect their morale.

Requiring the Department of Defense and other Federal agencies to pay the differential salary limits the ability of agencies to accommodate staffing shortages through temporary personnel actions. Once these people are called up, the Department has to hire someone temporarily to take their place. The place is there for them when they come back, but they will not have the ability to have the money available if they have to pay this differential. This issue becomes more significant the longer the period of active duty.

Another concern is that this amendment does not distinguish between Reservists who volunteer to perform active duty and those who are involuntarily called to active duty. Reservists who volunteer for duty can weigh the financial impact of such service when considering whether to apply for an assignment.

Finally, Reserve service offers a robust pay and benefits package. With the support of Congress, military pay is now very competitive with pay in the private and public sectors and allowances are increasing to minimize out-of-pocket expenses.

Any changes to Guard and Reserve compensation system should be assessed for the long term, not just during this current deployment. Questions regarding affordability and equity of benefits must be carefully weighed and answered before we legislate changes.

This appropriation bill is not the appropriate legislative vehicle to set military compensation policy; this change should be considered by the Armed Services and Governmental Affairs Committees which have jurisdiction over these matters.

Thus, we strongly recommend that the Senate hold this authorization measure for full consideration by the Armed Services and Governmental Affairs Committees. The amendment deserves adequate time for analysis and debate in light of the full system of military benefits and funding constraints.

I strongly oppose this amendment.

Mr. BYRD. Mr. President. Senator DURBIN's amendment touches on a critical issue: the strains being placed upon the National Guard and the Reserve by the long deployments to Iraq and Afghanistan. He correctly points out that these deployments have resulted in a financial crisis for unknown numbers of American families who have loved ones called to duty, pulled out of their civilian careers, and sent half a world away for long periods of time.

The amendment pending before the Senate would compensate those members of the National Guard and the Reserve who suffer a loss of income because they are away from their civilian jobs—but only if those jobs are with the Federal Government. The many Guardsmen and Reservists who work in the private sector would not be helped by the amendment.

I am very sympathetic to the plight of the families of National Guardsmen and Reservists who have found themselves in dire financial straits because of a long, unexpected deployment that takes the family breadwinner away from his job. I have heard from families in West Virginia who could be facing financial ruin because of a soldier's drop in income due to a protracted, 18-month deployment.

However, the Congress is approaching this problem from the wrong end. The heart of this matter is not how much Uncle Sam may pay our citizen-soldiers. The problem is that our National Guard and Reserve are being deployed, and re-deployed, for such long periods at a time. The United States hasn't sent so many part-time soldiers overseas in half a century. In addition to causing financial hardships for many American families, the pace of these deployments is threatening to break the back of the National Guard and the Reserve.

In 2003, I offered two amendments to limit the deployment and re-deployment of the National Guard and Reserve. Unfortunately, the Senate voted down those amendments, and the strains on the National Guard and the Reserve continue and, in some cases, are worsening. Until Congress limits the excessive deployments of our citizen-soldiers, or until our troops start coming home from Iraq, there will continue to be myriad strains on our troops and their families. It is not reasonable to expect the government to compensate our troops and families for each difficulty or strain that this foolish war in Iraq has caused, because our national treasure is finite.

What's more, I am concerned that the amendment on which the Senate will soon vote will have financial consequences for many years down the road. Our country is neck deep in red ink, and Congress must be judicious in enacting benefits that grow to have a life of their own well after the Senate has voted. This problem is compounded by the refusal of the President to budget for the costs of the wars in Iraq and Afghanistan. If the White House does not budget for the war, there is no way to increase revenues or lower other spending in order to balance the budget. In the coming days of debate on this emergency supplemental appropriations bill, I will offer an amendment on this crucial point.

Despite these reservations about the pending amendment, the bottom line is that the families of many National Guardsmen and Reservists are experiencing real financial hardships. Although this amendment will only take care of some of those families, it will provide a lifeline to families who are struggling to make ends meet because of the demands of the war in Iraq. I commend the Senator from Illinois for his commitment to the National Guard, and I will support him on this amendment.

However, when the Senate next considers relieving the strains caused by the long deployments of the Guard and Reserve, the Senate should not adopt a piecemeal approach. The heart of the matter is our open-ended mission in Iraq. Unless that matter is addressed head-on, Congress will continue to find more and more ways to spend our nation's scarce treasure. That is not a wise fiscal course.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am disappointed that the Senator from Alaska, who has served the Senate and his country so well, now opposes this amendment. When it was last offered on an emergency supplemental bill on October 17, 2003, he joined with 95 of our colleagues in voting for this amendment. I think the amendment still is a valid amendment.

Let me explain what the amendment does. Seventeen thousand Federal employees have been activated into Guard and Reserve units. They find that when they go into this activated status, they are receiving less in income than they were paid by the Federal Government. The bill says the Federal agencies they worked for will make up the difference so as they are serving our country and risking their lives overseas they will have this pay differential, so their families will be able to keep the mortgage paid, pay the utility bills, and keep the family together.

The Senator suggests this is going to create some sort of a disadvantage to those in active military, but I am sure he feels, as I do, that companies across America that stand behind their employees who are activated in the Guard and Reserve are doing the right and patriotic thing by making up the difference in pay between what one is paid when they are home and what one is paid when they are in uniform. They are saying to this soldier: We are with you; we are with your family; serve your country and come back to your job; we are proud of you.

There is one employer at the top in America that does not do it. It is the Federal Government. The arguments are made on the floor today that if we stand behind these soldiers who are Federal employees, somehow it is a poor reflection on the rest of the military. That is not true. We revere and honor those who serve our country, active military, activated Guard, activated Reserve. Fifty-one percent of the activated Guard and Reserve take a cut in pay to serve America. What I am saying is if one is a Federal employee, for goodness sakes, they ought to have their salary made whole. Why should they go overseas, worrying about whether they are going to get hit by a bullet, step on a landmine or hit by a rocket-propelled grenade, and whether their spouse can pay the bills at home for tuition for the kids? Why do we not stand behind these soldiers who are serving? We are out there on the Fourth of July waving our flags, but, for goodness sakes, we have a chance to stand behind them today on the Senate floor. It is absolutely shameful that the Federal Government will not provide the same kind of pay protection for our activated Guard and Reserve that over 900 private businesses, State and local governments, have provided across America. We honor them.

The Secretary of Defense has a Web site to honor the fact that they are standing behind the soldiers, but we do not do it. The Federal Government does not do it. This is our chance to make a difference.

Also, on the Kerry amendment, I disagree with the Senator from Alaska. To think that if someone is on a troop plane headed over to Kuwait and, God forbid, it crashes, they are entitled to $12,000; however, if they get off the plane and are killed in combat they should be entitled to $100,000—I think they are heroes in both instances. Senator KERRY is suggesting we should regard them as such. I think his amendment is a valid amendment and, yes, it does cost money. It costs money to stand behind our veterans, our soldiers, and their families. That is part of the real cost of war. That is why I urge my colleagues to vote for this amendment. The amendment I am offering today passed 96 to 3 when last called. It passed by a voice vote after that. It has the support of the Reserve Officers Association, the National Guard Association of the United States, and the Enlisted Association of the National Guard of the United States. These organizations represent the men and women who are risking their lives in Iraq and Afghanistan, and are asking for basic fairness from the Federal Government. I think this amendment is long overdue.

For 3 years now, this amendment has been lost in conference. It passes on the Senate floor and disappears, and Federal employees activated to serve our country wonder what happened. Well, today we will have a chance with this rollcall vote to see if we want to stand behind these men and women in uniform. This is an amendment that is long overdue.

I ask unanimous consent that Senator SALAZAR of Colorado be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I suggest the absence of a quorum, before a vote is called.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that we each have 1 more minute.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I wish to address the Senator from Illinois because every person the Senator has mentioned in connection with Senator KERRY's amendment is covered. All the people on an airplane going to combat are covered. Any training-related combat, they are covered. The question is whether people who stand side by side with someone in the Pentagon working daily in uniform, a civilian person working the same job, whether one should be covered in the event of death and the other should not, whether one should be covered while driving home here in Washington, DC, after drinking too much, gets in an automobile accident, and get the same benefit a fallen hero gets. I ask the Senator if he would consider in connection with his amendment eliminating a request for the yeas and nays and we would be glad to accept that amendment.

Mr. DURBIN. I say to the Senator, if I had not lost this amendment twice in conference after it passed the Senate, I would agree to that, but I think we need a record vote. I do not know what it takes to finally get this Senate to go on record and stand by the Senate position in conference. Twice now we have taken this proposal to conference and it has disappeared, with the White House or Department of Defense or somebody opposing it. If we have a record vote, I think we have a much better chance to say to the conferees, for goodness sakes, the third time, let us stand up for these men and women. I am sorry; I want to insist on the yeas and nays. I believe that is the only way to make it clear where we stand on the issue and to convince the conferees to finally stand for the Senate position if it succeeds.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I move to table the Senator's amendment.

Mr. COCHRAN. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER (Mr. SUNUNU). Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—39

Allard
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Cornyn
Craig
Crapo
DeMint
Ensign
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Inhofe
Isakson
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thune
Vitter
Voinovich

NAYS—61

Akaka
Alexander
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Conrad
Corzine
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Harkin
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Martinez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Specter
Stabenow
Thomas
Warner
Wyden

The motion was rejected.

Mr. COCHRAN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. The yeas and nays have been ordered on the underlying amendment. I ask the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Durbin amendment.

The amendment (No. 356) was agreed to.

Mr. COCHRAN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. We have under the order a vote, now, on two Kerry amendments, Nos. 333 and 334. Is there time for debate?

The PRESIDING OFFICER. Under the previous order, there is 2 minutes to be evenly divided on each amendment.

Mr. KENNEDY. Mr. President, I am delighted to join my colleague in sponsoring these amendments, which will increase the death gratuity from $12,000 to $100,000 for all service members killed on active duty, and allow their dependents to continue receiving the basic housing allowance for a full year instead of the 180 days in current law.

All of us support our troops. We obviously want to do all we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives as they carry out their missions. But we also need care for the families of these courageous men and women who make the ultimate sacrifice.

Any service member's death is tragic, whether in combat overseas or a training accident here in the United States. They are heroes, not victims. These brave men and women came forward to serve our country knowing what the dangers were and knowing the possibilities. They stood tall when the country needed them.

Their case is a tragedy, and so is the void left behind for their loved ones.

We know what happens when a family is notified of a death. There is a knock on the door. They open the door and a military officer is standing there to give them the most dreaded news they will ever receive. Details are few and typically only include the time and place of the death, and perhaps some brief words on how it happened. A few days later, he provides them a death gratuity check for $12,000 and helps them through the process of making the funeral arrangements while the flag draped coffin is on the way home.

After the burial, the conversation turns to additional funds and benefits. The topic often has to be pressed by the officer, because the families, so burdened, seldom think in terms of what their benefits might be. They slowly realize that instead of having a constant breadwinner for many years, they receive only a modest monthly sum.

The burden of combat deaths falls most often on the junior enlisted personnel, whose average yearly wages can be as low as $17,000. The actual benefit depends on number of children and other specific circumstances, and decreases over time because of age or a child's status as a student.

The current Senate bill uses the administration's formula to achieve a $500,000 threshold, and includes some noncombat deaths, but not all of them. The bill, for example, provides a $100,000 gratuity to survivors of those killed in training accidents. But it retains the current $12,000 gratuity for other types of deaths, such as those who collapse during strenuous exercise or are killed in an accident driving to work. It is distinction without a difference for the family of the service member who died. They know only that their loved one went to work to help prepare their fellow soldiers, marines, sailors or airmen for battle and will never return. In today's military, all jobs and stations are equally important.

Our amendment eliminates any distinction between combat and non-combat deaths and provides a death gratuity of $100,000, regardless of where or how a service member dies.

Along with other provisions of the bill, the amendment would increase the total death benefit to $500,000, depending on the amount of military life insurance a person carries.

No one can ever put a price on a human life, but there is no doubt that current levels are unacceptably low.

It's also very important to extend the length of time for surviving widows and children to remain in military housing to a full year, either on base or with housing assistance.

Currently, surviving spouses and dependents of military personnel killed on active duty may continue in their military housing or receive their military housing allowances for up to 180 days after the death of their loved one.

Their loss is traumatic enough without the immediate pressure of having to find a place to live, moving, and disrupting their life all over again. Extending the length of time for survivors to stay in military housing gives them greater flexibility as they struggle to deal with what has happened. Children will be able to finish the school year among friends and in familiar surroundings.

We know we can do much more to take care of military families after the loss of a loved one. We have been complacent for too long, and I urge my colleagues to support us in providing this much needed and well-deserved relief to these courageous and suffering families.

Mr. KERRY. Mr. President, point of inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 333

Mr. KERRY. Mr. President, it is my understanding the Senator from Alaska, or the manager, is prepared to accept one of the amendments, I think. Am I correct?

Mr. STEVENS. The Senator is correct; we are willing to accept the second amendment.

Mr. KERRY. Mr. President, that is amendment No. 334, which extends the period of time that spouses can remain on a base after their spouse has died in action.

Mr. STEVENS. Mr. President, that is amendment No. 334.

I ask unanimous consent that the rollcall be vitiated and the Senate adopt that amendment.

Mr. KERRY. Amendment No. 333.

Mr. STEVENS. Amendment No. 333?

Mr. KERRY. Mr. President, I ask unanimous consent that Senator LINCOLN be added as a cosponsor.

The PRESIDING OFFICER. To which amendment?

Mr. KERRY. To amendment No. 333 and amendment No. 334.

The PRESIDING OFFICER. Without objection, it is so ordered. The cosponsor will be added to both amendments.

Mr. STEVENS. Our records show it is amendment No. 334.

Mr. KERRY. Mr. President, there is confusion.

Mr. STEVENS. I am corrected; it is amendment No. 333.

The PRESIDING OFFICER. It is the understanding of the Chair, the amendment described by the Senator from Massachusetts is——

Mr. KERRY. No. 333.

The PRESIDING OFFICER. No. 333.

Mr. KERRY. Thank you.

The PRESIDING OFFICER. Does the Senator from Alaska wish to modify his unanimous consent request?

Mr. STEVENS. I have made the motion we vitiate the rollcall and accept the amendment.

The PRESIDING OFFICER. No rollcall has been ordered at this time. Without objection, amendment No. 333 is agreed to. The motion to reconsider is laid upon the table.

The amendment (No. 333) was agreed to.

The Senator from Massachusetts.

AMENDMENT NO. 334

Mr. KERRY. Mr. President, the second amendment is an amendment to raise the death benefit for those who die while in service to our country. Currently, it is $12,000 plus change. We want to take it up to $100,000.

The Senator is going to tell you that the Pentagon is opposed to this. Secretary Rumsfeld is opposed to this. The uniformed leadership at the Pentagon is overwhelmingly in favor of it.

Air Force GEN Michael Moseley said:

> I believe a death is a death and our servicemen and women should be represented that way.

Army GEN Richard Cody said:

> It is about service to this country and I think we need to be very, very careful about [drawing a] distinction.

And GEN Richard Myers, Chairman of the Joint Chiefs of Staff, said:

> I think a death gratuity that applies to all service members is preferable to one that's targeted just to those that might be in a combat zone.

Let me say to our colleagues, you can be driving a car and have a car accident in a combat zone, and you qualify for the upper level. But if you are serving on an aircraft carrier or elsewhere and you are training personnel, and you die from a catapult that falls or you have an accident, you do not get the same benefit, even as you are preparing to send troops to war.

That is wrong. We believe you ought to apply it according to the desire of the uniformed generals, which is to treat all members of the service the same say.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska.

Mr. STEVENS. Mr. President, respectfully, the Senator from Massachusetts is wrong. Those who die in training or other activities related to combat are covered by our amendment. We sought to recognize fallen heroes from the time they enter training for combat to go overseas. They are covered by our amendment. What this amendment does is it does not give us the opportunity to recognize those who put their lives on the line. We oppose this amendment because of that fact. We do believe there ought to be a distinction.

The Senator's amendment will mean, if someone right here in this district while in uniform drinks too much and dies while driving home, they are going to get this gratuity, the same gratuity the fallen hero should get. It is wrong to cover anyone in uniform with this type of allowance. We have increased the insurance for everyone in uniform. They can buy up to $400,000. But raising this from $12,240 to $100,000—it should go to those related to combat and in combat.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. Mr. President, I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 25, nays 75, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—25

Allard
Bennett
Bond
Bunning
Burns
Burr
Cochran
Cornyn
DeMint
Dole
Domenici
Enzi
Frist
Grassley
Hatch
Inhofe
Lott
McConnell

Santorum
Sessions
Shelby
Stevens
Thomas
Voinovich
Warner

NAYS—75

Akaka
Alexander
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Brownback
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Coleman
Collins
Conrad
Corzine
Craig
Crapo
Dayton
DeWine
Dodd
Dorgan
Durbin
Ensign
Feingold
Feinstein
Graham
Gregg
Hagel
Harkin
Hutchison
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
McCain
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Sununu
Talent
Thune
Vitter
Wyden

The motion was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 334) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I want to thank my colleagues for having supported amendment No. 334 to extend the $100,000 death gratuity to the survivors of all who die on active duty.

I want the record to show what the amendment will accomplish and why what it accomplishes is important.

Current law provides $12,000 to all members of the military who die on active duty, regardless of circumstance.

Earlier this year, President Bush proposed increasing the death gratuity to $100,000 for those who die in Iraq, Afghanistan, or designated combat zones.

The supplemental legislation reported by the Appropriations Committee increases the death gratuity to $100,000 for those who die in combat and those classified under circumstances classified as warranting Combat Related Special Compensation, CRSC, if they had lived. CRSC was a compromise brokered a few years ago in lieu of concurrent receipt. Using CRSC, the $100,000 death gratuity would go to those who die "as a direct result of armed conflict; while engaged in hazardous service; in the performance of duty under conditions simulating war; or through an instrumentality of war." For all others, the death gratuity remains $12,000.

My amendment is very simple. It changes the existing law to say $100,000 shall be paid in death gratuity under all circumstances in which $12,000 is now paid. It eliminates the provisions in the legislation that distinguish between the manner and place of deaths. It eliminates any connection to combat related special compensation. It does not extend the death gratuity to anyone who doesn't already receive the $12,000.

The amendment simply heeds the advice of the uniformed leadership of the military who said, unambiguously, that a death is a death is a death, and Congress should not try to parse them.

General Richard A. Cody, U.S. Army, said:

> It is about service to this country and I think we need to be very, very careful about making this $100,000 decision based upon what type of action. I would rather err on the side of covering all deaths rather than try to make the distinction.

Admiral John B. Nathman, U.S. Navy, said:

> This has been about . . . how do we take care of the survivors, the families and the children. They can't make a distinction; I don't believe we should either.

General Michael T. Moseley, U.S. Air Force, said:

> I believe a death is a death and our servicemen and women should be represented that way.

General William Nyland, U.S. Marine Corps, said:

> I think we need to understand before we put any distinctions on the great service of these wonderful young men and women. . . . they are all performing magnificently. I think we have to be very cautious in drawing distinctions.

Finally, General Richard Myers, the Chairman of the Joint Chiefs of Staff, said:

> I think a death gratuity that applies to all service members is preferable to one that's targeted just to those that might be in a combat zone.

I also want to note that the practical effect of my amendment is identical to the provisions of the House-passed supplemental. The underlying bill, H.R. 1268, passed the House on March 16, 2005, and in section 1113 it would require an equal death gratuity of $100,000 for all service members, regardless of the circumstance and location of their death. Like my amendment, it does not treat one military family differently than others.

Lastly, my amendment has been endorsed by the Enlisted Association of the National Guard of the United States, EANGAUS; the Military Officers Association of America, MOAA; the National Guard Association of the United States, NGAUS; the National Military Family Association, NMFA; the Reserve Enlisted Association, REA; and the Reserve Officers Association, ROA.

I thank my colleagues again for their support and look forward to working with them to hold this mark in conference.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 367

Mrs. HUTCHISON. Mr. President, I rise to speak against the Byrd amendment. It is my understanding that, after I speak and after Senator BYRD has a few minutes to respond, we will have a vote on this amendment.

The amendment put forth by Senator BYRD would take out $40 million requested by the administration in emergency funds to build a detection facility and security fence at Guantanamo Bay. I believe we must keep the $40 million to allow the Department to move forward to make better facilities at Guantanamo Bay, facilities that are more secure, and facilities that will make operations more efficient, especially in the use of guards.

Currently, there are about 545 detainees at Guantanamo Bay. About half of those are housed in three camps, which are built as temporary facilities. I have seen these facilities. Many of us have gone to Guantanamo Bay to look at them. They are basically walls made of chain-link fences. Of course, there is no climate control, and there is not very much room for exercise of detainees. Building the more permanent facility would provide a better, more secure facility, and facilities that are better housing units.

I think Guantanamo Bay is the perfect place to hold these types of detainees, many of whom are dangerous terrorists. I do not want these prisoners moved. I don't want them moved into facilities in communities in our country, on our shores, where they can pose a danger for our citizens and serve as a lightning rod for terrorist activity. Al-Qaida has shown that it will try to liberate—by force if necessary and with no regard to the loss of innocent lives—their fellow terrorists. U.S. forces in Iraq and Afghanistan have weathered such attacks and thwarted repeated violent escape attempts. Recent reports of tunnels, riots, and mortar attacks against detention facilities in Iraq have been well publicized in the press.

Do we want to move that to the lower 48 States in the United States of America? I don't think so. Having them on an island, where other terrorist attempts to free prisoners are much less able to be put forth, is the exact right place for these prisoners. I want to make sure that we have the best facilities possible and that we have the permanent facilities on an island in Cuba so that there is not as much capability to do harm to innocent Americans as there would be if we moved those prisoners to places on our soil such as Atlanta, GA, or Florida.

The detention facility that would be built will also reduce the number of required personnel. The current facilities require significant personnel to monitor detainees. A permanent facility would free 150 of them to perform other tasks in the global war on terror. It will be the same for the security fence: we could free up 196 people who are now guarding around the perimeter of Guantanamo Bay. So that is 346 fewer guards that would be needed if we had the permanent facilities.

It is very important that we keep the $40 million asked for by this administration to make better, more permanent facilities at Guantanamo Bay. I want them to stay on that island, not moved into the United States where we know terrorists are dwelling, we know they are looking for ways to attack our country. The last thing we want is for them to start moving into detention facilities to try to free prisoners and, in the process, harm innocent Americans or the people who are guarding those prisoners.

So I ask the Senate to vote this amendment down and give the administration and the Department of Defense the capability to house these prisoners in the most efficient way possible and certainly in a way that protects American lives to the greatest extent possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I do not know of any other Senators who intend to debate this issue. I would like to put an exclamation point on the statement made by the distinguished Senator from Texas though.

One thing that is clear, if we do not have a permanent facility there, an improved facility, we are going to have to keep more U.S. personnel there guarding and maintaining the security of this facility. If we use the funds the administration is requesting, approve the request the administration has submitted to the Congress, then we will be able to use a lot of the people who are there now for other purposes elsewhere in the war on terror to help better defend the country and make sure we are safeguarding the security interests of the American people.

This is not to help prisoners have a better deal, even though the facility will be more humane and easier to care for and to deal with, but it will be more secure, and it will help us reallocate resources that will benefit our national security interests. That is the point.

This is money well invested. The administration is requesting it. Our subcommittee chair supports it after reviewing the request. So I think the Senate should support the committee and what it has recommended and reject the Byrd amendment.

The PRESIDING OFFICER. Is there further debate on the Byrd amendment? The Senator from West Virginia.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, the Pentagon defends the current facilities for the incarceration of prisoners at Guantanamo as being safe, secure, and humane. There is no emergency, unforeseen or otherwise, that requires the immediate construction of a 220-bed maximum security prison to relieve existing deficiencies at Guantanamo, and so it is premature.

That is part of the case I am making, it is premature. Why have this item in this bill? Why in an emergency supplemental bill? It is premature to ask the American taxpayers to spend $36 million—it is your money. I say to the taxpayers—to build a permanent maximum security prison at Guantanamo when the courts have not yet determined the legal status of the detainees at Guantanamo or have not determined whether the United States can continue to hold them indefinitely without charging them with a crime.

The prison population at Guantanamo is steadily declining, down to about 540 from a high of 750. The Department of Defense reportedly hopes to further cut the current population by at least half. However, DOD has not given a firm estimate of how many detainees it expects will require long-term incarceration.

Why all the hurry? The 220-bed prison is a guesstimate—a guesstimate—not an estimate.

The Department of Defense has already built one permanent maximum security prison at Guantanamo, a $16 million state-of-the-art facility completed less than a year ago that has the capacity to hold 100 prisoners.

Temporary detention facilities at Guantanamo include several camps in which prisoners are housed in individual cells with a toilet and sink in each cell, and one camp where detainees who are considered the least dangerous are housed in 10-man bays with all-day access to exercise yards.

The Department of Defense contends that these temporary facilities are nearing the end of their useful life, but the Department does not argue they are unsafe or uninhabitable.

The U.S. military has many urgent unmet needs, some of which are emergency status needs. Construction of a second permanent maximum security prison at Guantanamo is not among these urgent, unmet needs. This is a decision that should be deferred until the courts have resolved the legal status of the detainees at Guantanamo and until the Defense Department determines the number of detainees it expects to hold in custody for the long term.

What I am saying right now is the request is premature. Let us wait until the courts do their job. Then we will have a picture of what we need to do. Let us not be premature in spending the taxpayers' money when there are too many unanswered questions that ought to be answered and which in time will certainly present us with a clear picture of the permanent needs.

I thank the Chair and thank all Senators.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas, 27, nays 71, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—27

Akaka
Baucus
Biden
Boxer
Byrd
Carper
Dorgan
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kohl
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Pryor
Reed
Reid
Rockefeller
Sarbanes
Specter
Stabenow
Wyden

NAYS—71

Alexander
Allard
Allen
Bayh
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Cantwell
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
DeMint
DeWine
Dodd
Dole
Domenici
Durbin
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kerry
Kyl
Landrieu
Lieberman
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Roberts
Salazar
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—2

Dayton
Kennedy

The amendment (No. 367) was rejected.

Mr. COCHRAN. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 372

Mr. CORNYN. Mr. President, I call up my amendment numbered 372, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 372.

Mr. CORNYN. I ask unanimous consent the reading of the amendment be dispensed with.

The amendment is as follows:

> (Purpose: To express the sense of the Senate that Congress should not delay enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate)
>
> At the appropriate place, insert the following:
>
> **SEC. ___. SENSE OF THE SENATE.**
>
> It is the sense of the Senate that—
>
> (1) our immigration system is badly broken, fails to serve the interests of our national security and our national economy, and undermines respect for the rule of law;
>
> (2) in a post-9/11 world, national security demands a comprehensive solution to our immigration system;
>
> (3) Congress must engage in a careful and deliberative discussion about the need to bolster enforcement of, and comprehensively reform, our immigration laws;
>
> (4) Congress should not short-circuit that discussion by attaching amendments to this supplemental outside of the regular order; and
>
> (5) Congress should not delay the enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate.

Ms. MIKULSKI. Mr. President, I realize the Senator from Texas has been recognized to offer his amendment. I ask unanimous consent I be permitted to offer my amendment after the Cornyn-Feinstein amendment.

Mr. CORNYN. Reserving the right to object, I have no objection to that request. I note that Senator FEINSTEIN, who is also joining me as a cosponsor on this amendment, would like to speak following me. Senator ISAKSON would also like to speak. I ask unanimous consent they be recognized.

Ms. MIKULSKI. Withholding the right to object, I have no objection to how long you wish to speak on your amendment, Senator. I wanted to be sure I got to offer my amendment this afternoon.

Mr. CORNYN. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Maryland will be considered after the amendment of the Senator from Texas.

Mr. CORNYN. I thank the Senator from Maryland for working with us.

This amendment is a sense of the Senate that Congress should not delay enactment of the supplemental appropriations bill by attempting to conduct a debate about comprehensive immigration reform at this time.

As I made clear, along with Senator KYL and others on this point, I am for comprehensive immigration reform. It is long overdue. It is something in the regular order we are going to consider, both in the Subcommittee on Immigration, Border Security, and Citizenship, which I chair in the Judiciary Committee, but also I have talked with the chairman of the full Judiciary Committee, Senator SPECTER, and he has advised me that once we complete our work—hopefully in the next couple of months—he would give us an expedited markup in the full committee.

On a subject so complex and potentially divisive as comprehensive immigration reform, it is appropriate we take up this issue as we would most complex issues; that is, by the regular order. It is particularly important we do so in light of the subject matter of the present legislation in the Senate which is an emergency supplemental appropriations bill that should be passed without undue delay so our men and women in uniform can get the resources they need, including the equipment to do the job we have asked them to do and which they have so heroically agreed to do on our behalf in the war on terror.

I confess there are many good proposals out there with regard to immigration reform. The Senator from Maryland has a proposal on H-2B on which there will be some agreement; some people will agree with it. The distinguished Senator from Idaho has a bill called the agriculture jobs bill which will attempt to create a workforce that can work in the agricultural industry. I have some problems with the details of that bill, but in the main it is a well-intentioned effort to try to deal with part of this problem.

I say "part of this problem" advisedly. Rather than try to deal with this issue on a piecemeal basis, it is important we enact comprehensive reform. For too long we have simply ignored the fact our borders are not secure, that once people get past the border they literally can melt into the landscape. It has resulted in the current untenable proposition that there are about—no one knows for sure—10 million people who have come into our country outside of our laws. We need to deal with that, particularly in a post-September 11 environment, by addressing the security concerns, by restoring our reputation in this country as a nation that believes in and adheres to the rule of law but also in a way that is compassionate and deals with the economic reality involved where approximately 6 million of those 10 million people are currently in the workforce, many performing jobs American citizens simply do not want to perform.

It is not because I disagree with the general intent of immigration reform that I speak in favor of this resolution, which says we ought to take up this matter but in the regular course and on another day.

It is mainly because I do not want to see, nor do I believe any Senator on the floor or in their office or elsewhere would want to see us get bogged down and diverted in an immigration debate that, frankly, I do not think we are yet ready for, and at a time which I think could well damage our long-term prospects at getting comprehensive immigration reform passed, but particularly in a way that is calculated—let me change that word; it is not "calculated"—the result likely would be that we would slow down and perhaps bog down this emergency supplemental appropriations bill to equip our troops with what they need.

So this resolution suggests, in the last paragraph, that:

> Congress should not delay the enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate.

I commend this to all of our colleagues. I express my appreciation in particular to the Senator from California, Mrs. FEINSTEIN, for working with us. We both serve on the Judiciary Committee and believe this is an important issue. But it needs to be handled in the regular course that would not divert us from the immediate task at hand, which is to make sure our troops have the resources they need in order to complete the job we have asked them to do on our behalf.

Mr. President, with that, I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Texas for authoring this sense-of-the-Senate amendment. I am proud to be a cosponsor. I agree with all the comments he has made. I believe it is a huge mistake to bypass the Judiciary Committee, to bypass the Immigration Subcommittee on bills that are big in their ramifications on the United States of America.

If we do that, we will get into a debate on the floor on the AgJOBS bill. I think very few people know, for example, that the way the bill is written you can have two misdemeanor convictions and essentially still get a temporary green card. That can be misdemeanor theft. That can be misdemeanor battery. That can be misdemeanor drugs. I will have an amendment to address that. I will take some time with it.

Most people do not know you just have to have 100 hours of work in a 12-month period. I will have an amendment to address that, and there will be other amendments to address that. But this is a very controversial bill that can have a huge impact on the number of people coming across the border. At the very least, it should have a markup in Judiciary. We should have an opportunity to make amendments in Judiciary before it comes to the floor of the Senate as an amendment on an appropriations bill.

There is also the REAL ID bill, which very well may come up. Senator MIKULSKI has an amendment on H–2B. I am concerned about it because it does not have a cap on the number, and the H–2B quota has been reached. I believe it is 66,000. Maryland has some problems, which are valid problems, I am sure. But just to open the bill, unless there is a specified number—I think we need to discuss it.

I will bring up the State Criminal Alien Program for reauthorization. This is paying back the States for their costs of confinement of illegals who commit felonies and misdemeanors and go to county jails and State prisons. So it will open a long and complicated debate on the floor of the Senate. We should not do that. Please. I have sat as a member of the Immigration Subcommittee now for 12 years. I come from a big immigration State, the largest, no doubt about that, in America, a State with very deep concerns.

I understand the agricultural labor needs of the States as well as anyone. And not to be able to have a markup, not to be able to make amendments in a committee and present a bill that has been scrubbed, amended, and is ready for prime time, I believe, is a huge mistake.

So I am very pleased to support the Senator's amendment. I will have another amendment in due course in this area as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I stand at this moment to very cautiously oppose the resolution and to express my reason. I say "cautiously" because of my respect for the Senator from Texas and respect for the Senator from California and all of the work they are putting into immigration and the need for comprehensive reform.

None of us in the Senate argue about it, but we certainly are willing to talk about it. In fact, we have talked about it now for 1,201 days since 9/11. Mr. President, 9/11 was that day of awakening when we found out there were millions of foreign nationals in our country without documentation, and some of them were here with evil intent. Not many but some. Most are here and hardworking.

Tragically enough, because of the character of an obsolete package of immigration laws, they are living in the back streets and shadows of America. They have no rights. They work hard. Many of them take their money back to their birth country. Some of them attempt to stay. That is where we are. We all know that.

The Senator from California has talked about the numbers. Her State has a very big problem. I hope we can get into that debate.

Let me also talk about the timing of it. I think you are going to see, if it is extended, only those who would want to extend the time of this debate. The issue of the Senator from Maryland is a very small, sensitive, important debate. It is very time sensitive. That law should have been in place the first of April so the hires could have gone forth at the first of May. In my State, the resorts open June 1. It is critical that workforce be in place by June 1.

Comprehensive debate, according to the Senator from Texas, should probably take place late summer, early fall, when they have finally done their work. I do not criticize them for that. But I must tell you, long before 9/11 I was looking at the very tragic situation of American agriculture. American agriculture has admitted openly that they have a very large problem. It is quite simple. The Bureau of Labor and Statistics will tell you the workforce may have as many as, well, 1.6 million workers, and 70 percent of them are not documented and therefore, by definition, illegal. By surveys alone, the workers admit it. Yet we now say: Gee whiz, we will talk about it now.

It is too late now. It can't be done now. It is time sensitive to the industry, very time sensitive to the food on the shelf of the American consumer, time sensitive to humane support of those who toil in our fields.

No, there is never the right time. And, oh, about this supplemental, this "urgent" supplemental—I am sorry, I do not mean to criticize the Senator from Texas—we have been urgently working on this for 2 months. That is how long ago the President proposed it, 2 months ago. We will have this on the President's desk by the first of May. That is when they want it. We do not need to debate immigration for 4, 5 days unless the Senator from California wants to drag it out.

There will be amendments on the floor of the Senate to my bill, and there should be. It is open for amendment. I would hope I could convince Senators to take it as it is. It has had hearings before the Judiciary Committee. It is well vetted. It has been 8 years in the crafting. Last year, I had 509 groups supporting it. This year I will have 600.

This issue's time has come, and it is time the Senate deal with it openly and forthrightly. I was willing to step back for a moment. I told the leader so. The leader worked on it but could not put that package together. I will be on the floor of the Senate later today, hopefully, offering my amendment. It has been filed at the desk. We can deal with this in a day, unless there are Senators who want to drag it out by throwing in amendments that ought to go in the substantive comprehensive package that the Senator from Texas, chairing the committee, is working on and attempting to do at this moment.

A comprehensive bill? You bet. Rifle shots, targeted? You bet. We have to do it now and should do it now—H–2B, H–2A, critical to Americas's workforce and food supply now, not this fall or this winter or next year. We almost collapsed the raisin industry in the Central Valley in California last year. Why? Because Social Security was doing its work and checking Social Security numbers. And 72 percent of them were mismatches. That is a phrase for "illegal." The Senator from California knows it. She has admitted she has a major problem in the heart of America's agricultural food basket.

Shame on us for not having the time to deal with the problem and deal with it forthrightly, honestly, and fairly. I am willing to subject my work to amendments, if the Senator from California wants to bring all of the amendments she can. I would hope she would target it to those specific two, the AgJOBS bill. She is right about misdemeanors, but I am only following the current Federal law, the current law for immigration. I haven't changed it at all. If she doesn't like it, she will bring amendments, and maybe we can adjust that a little.

I have worked with the Senator from California. I am not disagreeing with the premise of some of her arguments. But if she wants to throw the whole baby in with the bath water, then she had better be careful because she will collapse her agricultural economy if we make a misstep.

We are doing something right now that is critical to America and to America's culture. We are trying to control our borders. We are trying to apprehend and deport those in our country who are illegal. We ought to do that. I have voted for everything along the way. But as we work to get all of this done and clean up the inheritance of the last 20 years of bad law or law that wasn't enforceable—and we learned all about it in a post-9/11 environment—we have to remember one thing: As we do the right things, we have to do all of it the right way or we will collapse certain segments of America's economy because we destroyed the workforce that is out there at this moment, toiling in America's agricultural fields or in America's processing plants, working hard to take money home to their children and wives—not here, dominantly in Mexico. Some here.

That is the reality that I bring to the floor, and I am very willing to debate. I hope we can get into that debate later on today.

When you think about the Cornyn-Feinstein resolution, that this is not the right thing, then when is it? Twelve hundred days from now, 1,300, 1,400 days from the day that America awoke to the problem as America's people were killed and our trade center fell and our Pentagon was attacked? That is the reality. We are doing all the right things. We are moving in the right direction. But let's make sure that as we do, we do it in a package that doesn't start collapsing segments of our industry or mistreating people who work hard for themselves and for the American economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I thank the Senator from Texas for allowing me a few moments to speak about this issue.

If we read the preamble to this proposed amendment, it says it is a sense of the Senate that the Congress of the United States should not delay the appropriation to our men and women in harm's way by having a debate over immigration policy. It could just as easily say it is the sense of the Senate that the Congress should not delay a comprehensive immigration reform debate which is the reason we have the problem today.

I have a great respect for the Senator from Texas. I understand why this amendment has been put together because, as the Senator has said, there are a lot of us who have been trying for 3 or 4 days to figure out a way to bring about a meaningful debate on comprehensive immigration reform. I am taking this opportunity because I want to make points not on behalf of the Senator from Georgia but on behalf of the 9 million people in Georgia I represent.

Those points are as follows: REAL ID is not an immigration issue. It is a national security issue. By the time we get to the end of this debate and the conference, it should be a part of this package.

No. 2, I have the greatest respect for the Senator from California and the Senator from Idaho and the Senator from Texas and the distinguished chairman of the Judiciary Committee, the Senator from Pennsylvania. I wouldn't disregard for a second the amount of work that has gone into the comprehensive immigration laws of this country, trying to bring about fundamental change. However, as of this date, in the 3 and a half plus years since 9/11, the Congress has done little to address some major issues. For a second, I would like to address them.

As I do, I want you to know I am a second-generation Swedish American. Because of this great country, my grandfather emigrated in 1903 in the potato famine. My father was born in 1916. My grandfather wasn't naturalized until 1926. Because of this Constitution, I am in the Senate today. I respect the legal immigration process. I also despise those who tend to judge books by covers and categorize people by their ethnicity or their look or say: They are an illegal alien. We have delayed so long in dealing with securing our borders, enforcing legal immigration and seeing to it there are consequences to bad behavior, the American people have lost confidence in the government to actually do what the Constitution expects us to do.

Think about a few things for a second. We have talked about agriculture. We are spending money enforcing the adverse effect wage rate on the onion farms of south Georgia. We are spending money enforcing a law that actually would induce a farmer to think about hiring undocumented workers rather than documented workers because it is going to cost him $2, $3, or $4 an hour more to hire the documented worker, and we don't have the enforcement people to enforce our borders. How in the world can we justify trying to enforce that which induces the wrong thing to happen?

We have seen our health facilities, our educational facilities—I chaired the Georgia Board of Education. I spent more time providing Spanish-speaking teachers for our State, and bilingual programs, which I am proud of. I want to educate every one of them. I helped write No Child Left Behind. But as the flood and the flow continues and the suspicion continues that we fail in Washington to recognize the crisis we have in this country, a crisis that is causing some of our citizens to take actions that worry me deeply, it is my responsibility on the floor of this Senate to represent the people of the State of Georgia.

I respect the Senator from Texas and this amendment. I understand why it is here. If we get about the business of a feeding frenzy, of taking some of the points I have mentioned and the Senator from Idaho has, we may delay, but somehow, some way we need to send the American people the clear signal we get it. We are going to have comprehensive reform. We are going to have a comprehensive debate, and it is going to be sooner rather than later.

I will disagree, I am sure, as will others with me, on where we need to go. But disagreeing on how we get there and getting there are two different things. We no longer have the luxury. Our States, our school systems, our hospitals, our farmworkers, and our people no longer have the luxury or the patience for us to delay any longer.

In my State of Georgia, there is an old saying: If you want to get the mud out of the stream, get the hog out of the spring. Procrastination on dealing with the delicate and difficult issues of comprehensive immigration reform have muddied the water in America and will do great harm if we don't hurry up and take the 8, 3, 4, and 6 years of work that has been done in committees and move forward with comprehensive reform.

I believe the Senator from Texas is trying to use this as a foundation for that to happen. I understand the Senator from Idaho's frustration which I have shared. I hope if my remarks contribute anything, it will be to send a message: Regardless of whether we agree on the specifics, let us no longer delay in dealing with the single largest domestic issue to the people of the United States and that is comprehensive immigration reform and rewarding legal immigration and getting our arms around illegal immigration.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I wanted to make a brief response, both to the Senator from Georgia and the Senator from Idaho. One of the reasons why I think it is so difficult to look at a broken immigration system is because our immigration system is so big. America takes more immigrants in its regular immigration quota a year than other industrialized countries put together.

If you take that and you take all of the other programs, H–1B, H–2B, the L visas, and all these other visas, it adds up to about 5.5 million people a year who come into our country under one visa or another. It is an enormous job to look over this whole breadth and scope of immigration programs and make the necessary changes.

I think one logical change is if a quota of people coming from Mexico is perhaps too small, people have to wait too long; therefore, there is a huge illegal immigration problem. Nonetheless, we are a nation of laws. If we have the law, we should follow the law. So I am one who believes reform should be done, but in the name of reform I don't believe we should pass a bill quickly on an appropriation bill without going through the necessary steps to adjust it and amend it in the committee.

Let me make a point in response to the Senator from Idaho, and I am pleased that he is a great expert on California agriculture. Since he is, he will know that the great bulk of the workforce is illegal. That workforce has been there for a very long time. I would accept a bill that provided for some adjustment of a workforce that had worked in agricultural labor for 3 years, that had been in California doing it, could show prior work documentation and be vouched for by employers.

According to this bill that we are going to have on the floor—and I assume people feel it is going to sweep through—you only have to work for a hundred days—that is, 575 hours—in 12 months and you are eligible for your family coming, for a temporary green card; and then if you work another time, you get a permanent green card.

Well, this is going—mark my words—to be a huge magnet. When I discuss this with people, they say: There is an eligible date. Look at it here. Do you think people across the border know the eligible date? All they know is they have to be here and work for a hundred days, so come on over. They come over and you cannot find them and they don't go home. What happens is the numbers build up, the people in southern California find people camping in their backyards, in their gullies, and in the parks; there is no housing, the schools are overcrowded, and then people go to the ballot with an initiative. That is what happened in 1994 when proposition 187, unconstitutional as it was, passed. Polls show that if put on the ballot today, it would most likely pass again.

So I have tried to be constructive. I have proposed amendments that have been rejected by the authors in the House and the Senate. I am on the Immigration Subcommittee. Why do any of us serve on a subcommittee, then, if a bill of such enormous dimension—this could be the largest immigration program in history. It could bring millions of people into this country. The workers, their spouses, their minor children are all permitted.

We should know what we do. Now, a hundred days of work, 575 hours of work—if I were on the other side, I would say I can sneak across and get a hundred hours of work, then I can bring in my family and I will have a green card. It is nirvana.

For my State, it is perhaps different—Texas might be the next State, and then Arizona—in terms of sheer numbers and problems. When the President proposed his plan, let me tell you that apprehensions at the border in February went up 14.2 percent; the next month, March, 57.8 percent; April, 79.6 percent. So the call was out there, and people thought, aha, and they tried to come across the border to get into the country. The same thing will happen.

That is why it is important that we figure a way to prevent that from happening. I will provide for an adjustment of status for people who have worked in agricultural labor for a long time, for a substantial period of time.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. For a nice question or a mean one?

Mr. CRAIG. I have never been mean to the Senator from California, nor has she to me. She obviously makes very important points. None of those have been disputed and none of them have been dismissed out of hand. California is a unique situation. Texas is a unique situation. My State of Idaho has a large number of undocumenteds during the year, but it is equal to one county in the Central Valley of California. I understand that.

I don't understand California agriculture as well as the Senator from California, but I spent a good deal of time down there because I work on a broad variety of issues dealing with California and water. California has a very real problem. The Senator has a right to be concerned and alarmed. Any amendments she would wish to offer that are viewed as constructive I will take a very hard look at to make sure that what we do works.

Yes, we have a January 1, 2005, date. I will not get into the details of my bill. We will debate that. So the rush of the border would already have had to occur. But it hasn't. It has increased simply because there is a demand for workers in this country.

If the Senator wants to help me shape that more, I am willing to listen to that and see what we can do with amendments that deal with the misdemeanor issue she is concerned about and a time certain. None of us wants to create a rush at the border. What we want to create for California and the rest of the country is a legal workforce that is there, real, and honors those here for 3, 4, 5 years, who are married and have families here. We say: Go back to Mexico, and you may get back across the border.

Mrs. FEINSTEIN. Mr. President, I think I have the floor. I was waiting for the question.

Mr. CRAIG. The question is quite simple: Offer your amendments, and I will take a serious look at them. You make very important issues for your State and many other States, and I hope you will do that in a fair and responsible way, as you have always been on this issue.

Mrs. FEINSTEIN. I thank the Senator.

Mr. CHAMBLISS. Will the Senator yield?

Mrs. FEINSTEIN. Yes.

Mr. CHAMBLISS. Mr. President, I happen to agree with her 100 percent. She is exactly right. Not only are we going to see a flood of illegals coming across in greater numbers than what we have today, we are going to see status under the AgJOBS bill, which is pure and simple amnesty. But you are also going to have somewhere between 8 million and 13 million illegal aliens who are here today having the opportunity to become legalized. Just the fact that we don't know, as the Senator has alluded to, how many there are, with the difference being between 8 million and 13 million, that tells you how big the problem is.

So I happen to agree with her, and I will simply tell her we are going to have an alternative—Senator KYL and I—to the AgJOBS when we get to that. The Senator is exactly on target relative to these folks who are going to line up at the border.

Mrs. FEINSTEIN. If I may conclude my discussion, and then I will yield the floor to Senator CRAIG. He mentioned raisins. The last time I looked, it took 40,000 workers in California to harvest the raisin crop in 4 different counties. Most of these are illegals. Most of these have done it year after year. They also go from crop to crop to crop, as we know.

The key is to take care of, in my view, the people who are already here and working and are a part of this. The demand for the agricultural jobs comes every time the employer sanctions are carried out. Then suddenly the agricultural industry says we are for bringing more people in from other countries. I think we have to find a way to have a workforce that is known, identifiable, reasonably and well paid, that can get housing, can send their children to school, that work in this industry. Probably one-half of the agricultural workforce—I would say 600,000 workers—is illegal. These are the 600,000 who I believe we should be concerned with—not opening the border to bring in more but to find a way that they then can become a responsible part of the workforce. That is where I am, because I admit that is a need.

This bill does not do that. This bill sets up a different program and does not relate to people who have been here for years working in agriculture. They may be very good citizens. They probably are. Some of them own their homes, they have children, they are responsible. They have a tough life, true. I think this can be handled. But what has happened is there is a set mentality that the bill has to be this way because we have 60 votes, and we are going to keep it this way. That is a problem and, therefore, that mentality does not let it go through Immigration, does not let amendments have exposure in committee.

Virtually everybody here who is arguing is a member of the Judiciary Committee. That is where we ought to be debating it instead of on the floor passing a piece of legislation of which no one—no one—knows the absolute effect.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Arizona.

Mr. KYL. Mr. President, before the Senator yields, may I ask two quick questions? Will the Senator from California respond? First, the Senator from California is the ranking member on the Terrorism and Homeland Security

Subcommittee of the Judiciary Committee, which I chair; is that correct?

Mrs. FEINSTEIN. That is correct.

Mr. KYL. Mr. President, let me ask the Senator another question. She talked about the probability of thousands and thousands of illegal immigrants being attracted to come into the country who are not here now. The Senator from Idaho said we will have a cutoff date.

Was the Senator from California, in raising that concern—which I believe to be an absolutely legitimate concern—perhaps talking about section 101(D)(1)(c) of the bill of the Senator from Idaho which actually invites former lawbreakers to return to the United States? In other words, illegal immigrants who have formerly worked in U.S. agriculture.

Mrs. FEINSTEIN. Mr. President, can the Senator give me a page?

Mr. KYL. I do not have the page. It is a section that permits former immigrants, who worked here illegally in agriculture but have since returned to their home, to return to our southern border and apply for the special status that is set up in the bill the Senator from California described earlier in order to file a preliminary application for status as temporary permanent resident if they appear in designated ports of entry with an application that "demonstrates prior qualifying employment in the United States." and then could be granted admission to the United States by the Department of Homeland Security.

That is question No. 1. Is that one of the areas in which additional illegal immigrants would be attracted to come into this country?

Mrs. FEINSTEIN. Absolutely. Additionally, this bill gives this special temporary green card to people with two misdemeanors on their record. I have discussed this with the authors in the House, and they do not want to amend it. My own view is there should be no misdemeanors. Why should somebody who broke a law coming here be able to break two more laws and get special consideration? We all know misdemeanor laws vary. We know there are misdemeanor drug laws, there are misdemeanor battery laws, misdemeanor theft laws, misdemeanor driving under the influence—there are all kinds of criminal misdemeanors. To say someone who broke the law who came here illegally, who was illegally employed, can have two misdemeanors on their record and have a special status is something I do not understand. Yet I have implored them for a substantial period of time, and they do not want to change.

If we had a chance to discuss this in the Judiciary Committee in a markup, this would be brought out, and we could debate it back and forth. People could say why they want it, we could say why we do not think it should be included, and there would be a vote. At least a bill would have been vetted by a committee process.

Mr. KYL. Will the Senator from California yield for another question?

Mrs. FEINSTEIN. I will be happy to yield.

Mr. KYL. Under the provisions we talked about before, which would attract any number of illegal immigrants—and by the way, that is not a term I throw around negatively because they would, in fact, have to say they were illegal immigrants in order to gain entry into the United States. They would have to say they were working illegally in the United States before and now they want to come back. That is the provision of law under which they could actually come back into the United States.

Based on the experience of the Senator from California with the use of illegal documentation—Social Security cards, driver's licenses, all of the other items of identification that can be counterfeited—would the Senator have a view as to whether this particular provision could be taken advantage of by those wishing to commit fraud? Of course, people already committed fraud in this country by coming here illegally and using those same fraudulent documents to gain employment in the first place. Isn't this one that would engender a lot of fraudulent applications to come back into the United States?

Mrs. FEINSTEIN. This has been and is today a huge problem. Additionally, there is another problem on our southern border, if the Senator would give me a minute, and that is, other than Mexicans crossing the border being picked up illegally. I think it was up to 88,000 last year. So it is shooting up. And when you ask the Border Patrol about it, they say this is very difficult for them to sort it all out because there is such pressure on the border. The Senator, certainly, in Arizona knows that pressure on the border.

The fraud of documents is well known. One can buy a driver's license, a Social Security card fraudulently in places that I know of and have seen it happening in southern California for $15 or $20. So that is not a big problem.

Mr. KYL. If I can conclude by saying to the Senator from California, I think the proposal she and the Senator from Texas have set forth to put this very important but very complicated discussion off and not have this debate on the bill that helps to fund our war operations in Iraq and Afghanistan is a very good proposal which I intend to support.

As she knows, I welcome the opportunity to work with her and also with my good friend and colleague from Idaho, the Senator who is proposing the bill, which I would oppose but would hope to be able to work on if we have the opportunity to do that outside the kind of activity in which we are engaged on the supplemental appropriations bill.

So I do support the proposal of the Senators from Texas and California and hope the body will approve it.

Mrs. FEINSTEIN. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I enjoyed this debate. It has been over 15 years since the Senate has had real debate on immigration. The Simpson-Mazzoli bill was the last time the Senate seriously looked at this issue, and it took us years to finally come up with a bill. We have not seriously addressed changes since.

There have been dramatic changes across America in immigration patterns, the number of people coming in, certainly issues of national security. If there is ever an issue we should address in comprehensive fashion, it is immigration.

I commend President Bush. We do not see eye to eye on many things, but I commend him for his leadership in suggesting we debate immigration. His proposal is not one I embrace in its entirety, but it at least opened the debate. Many were critical of it, some lauded it, but at least he had the courage to step up and say: Let's debate it.

Now comes the sense-of-the-Senate resolution that says we have an important bill before us relative to the war in Iraq, Afghanistan, and tsunami relief. Senator CORNYN, a Republican of Texas, and Senator FEINSTEIN, a Democrat of California, have said this bill should not include immigration provisions. I think they make a compelling argument, an argument which I joined with several of my colleagues in making to Senator FRIST a few days ago, who cosigned a letter—about 20 of us—to Senator FRIST saying we do not believe one specific immigration provision should be part of this conference or this appropriations bill, and that relates to the REAL ID.

For those who have not followed the debate, the REAL ID is a provision adopted in the House of Representatives which will be part of this appropriations bill when the House and Senate come together to decide the final work product.

My concern, I say to Senator CORNYN and Senator FEINSTEIN, is that the garlic is in the soup. There is no way to take it out at this point. Those of us who may be conferees will walk into that conference committee and face an immigration issue, a very serious immigration issue, a very controversial one.

So the suggestion we not add any immigration debate to this bill may be a good one to expedite it but like it or not we are going to face what I consider to be some very onerous provisions of the REAL ID bill which will be part of the conference committee report. If it is appropriate, I will retain the floor but ask the Senator from Texas about that particular circumstance. Would the Senator from Texas be open to modifying his sense of the Senate resolution in paragraph 4? In paragraph 4, the Senators from Texas and California say Congress should not short circuit the discussion of immigration by attaching amendments to this supplemental outside of the regular order.

Would the Senator from Texas modify his resolution to add the following language: Or by including provisions relating to immigration in the conference report to this supplemental appropriation bill?

If the Senator would, then I think what we are saying is we want a clean bill. By this vote, we are instructing our conferees to not come back with REAL ID, to not come back with any immigration provision.

I understand the predicament Senator MIKULSKI faces in Maryland. Senator REED of Rhode Island faces a similar predicament when it comes to Liberian refugees. Senator SCHUMER faces an emergency situation with victims of volcano on an island who are now going to be deported back to tragic circumstances.

The point I am making is we cannot escape the reality immigration is on top of us and coming at us, but if we want this bill—because of its special nature—to be clean, I ask, without yielding the floor, if I could, through the Chair, if the Senator from Texas would be open to including this language in his sense of the Senate resolution?

Mr. CORNYN. Mr. President, I appreciate the question of the Senator from Illinois. For purposes of the Senate bill, it is absolutely critical, as I think the debate has shown so far, we not get into other unrelated issues to the war supplemental, but we ought to leave it up to the conferees. Obviously, we are going to have to deal with the House provisions, and that is going to be worked on in the conference committee I do not expect to be on.

This is the agreed language Senator FEINSTEIN and I have been able to come up with, and it covers the area we have some control over: that is, what happens in the Senate on the Senate's version of the bill.

Certainly, I will want to work with the Senator from Illinois and all my colleagues to try to make sure we enact comprehensive reform. Part of the problem is we are taking this in a rifle-shot fashion when I think what we need to do is deal with it comprehensively. That is the reason for the resolution.

Mr. DURBIN. I thank the Senator from Texas. I do apologize. I mentioned to him a minute or two ago that I was going to ask a question along these lines. I would like to ask Senator CORNYN and Senator FEINSTEIN to consider this. Because if we do not go to that next step and say we are not going to let the House bring in an immigration provision in conference and tie our own hands and not offer important immigration provisions in the Senate, that is unfair. If we are going to make this an immigration and appropriations bill, then we have some pretty important issues to consider.

Senator KENNEDY has an issue with Senator CRAIG—Senator MIKULSKI, so many do. If this conference is going to be open and the REAL ID provisions come rolling out at us, as difficult as it is, as time consuming as it may be, we have no recourse but to open the issue and open the debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, reluctantly, I rise to oppose this amendment, even though I agree with many of the principles expounded in it. No. 1, to my colleagues on the Judiciary Committee, the sponsors of this amendment, I too, agree, that our immigration system is badly broken. It does fail to serve the interests of our national security and our national economy. We do need to enact the critical appropriations bill to support our troops and help people who are tsunami victims and some other important aspects. At the same time, though, the sense of the Senate really should be directed to the House. For someone like myself, who has a very serious crisis because of something called the H–2B visas, which I will explain in more detail at another time, the fact is this is our only vehicle.

Immigration, as an issue, was introduced in the supplemental appropriation bill in the House of Representatives with an enormously controversial and prickly concept, the so-called REAL ID card. I know that my colleague from Tennessee has proposed some creative solutions to deal with that. I know that others want to talk about this. If we can talk about comprehensive immigration reform, I am all for it. But the question is, When are we going to do it? It has been over 1,000 days since 9/11, and we have not done comprehensive immigration reform, nor have we looked at what aspects of immigration are working. There are certain aspects that are working in certain areas of the guest worker programs; college students who come from abroad, who work in our country and learn in our country and go back home, what a tremendous exercise in public diplomacy the so-called J visas have accomplished.

In my own State, the H–2B visa, which allows guest workers to come into this country for seasonal employment to take jobs that are certified as not being held by American workers, with a mandated return to their own home, has worked well. It has worked so well that the cap is now bursting at the seams.

I am all for comprehensive immigration reform, but No. 4 says Congress should not short circuit the discussion by attaching amendments to this supplemental. We have had no discussion. There is nothing to short circuit. What we do have is a series of, as Senator DURBIN has said, these rifle-shot crisis situations.

It would be wonderful if we could have comprehensive reform. I look forward to participating in that comprehensive reform. For now, we have to look at those States that are facing a crisis because of the flawed immigration system we have now and for which we are advocating modest and temporary legislative remedies.

I salute our colleagues. They have a big job ahead of them. Anybody willing to undertake comprehensive immigration reform needs to be encouraged, supported and worked with. We need elasticity in this bill to deal with those things related to our economic viability. In many ways, a guest worker program that is working needs to be addressed, and I hope to offer an amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I know the Senator from Maryland has worked hard on this need, as well as the Senator from Idaho, and there are other Senators who feel deeply we ought to deal with immigration. Most of us have been to Iraq, Kuwait and Afghanistan. We know what this bill is about. This bill is about whether the National Guard men and women from Tennessee have sufficient armor when they go into a combat zone. This bill is about whether we are going to get some money to the new Palestinian Authority in time for them to be a success so we can begin to have the hope of peace in the Middle East. This bill is about whether we are going to fully fund a building in Baghdad for our thousands of Americans who are there so that they do not have to live in trailers and live in a more dangerous situation than most Americans outside of this country live in today in the world.

This bill is about whether our combat men and women have rifles that are sufficiently modern to defend themselves. This bill is about whether we have safe trucks. Eight hundred of them convoy from Kuwait City to Baghdad every day, carrying supplies to our men and women. This bill is about whether we have helmets for our combat men and women. We should not be slowing it down. It is amazing to me that we would slow down a bill to support the men and women in Iraq and Afghanistan, 40 percent of whom have left their mortgages, left their homes, left their children, left their jobs. They are dealing with all the issues we have to deal with from half a world away. Plus they are being shot at, and some of them are being killed. We are slowing it down because we have failed to address one of the single most important issues facing our country, and so we come up in the middle of a debate about whether to support our troops and say, okay, let us stop for a few weeks and argue about immigration.

For Heaven's sake, we should pass the bill to support our troops immediately. We agree with it. We all support it. We support them. We all agree with it. Then we should get about the business of dealing with the point of the Senator from Maryland, and the proposal of the Senator from Idaho, and the work Senator KYL and Senator CORNYN are doing.

This is a country that is unified by a few principles, our country, the United States of America. We are not unified by our race or by our ethnicity or anything else such as that. Among those principles is the rule of law. We go all around the world meddling in other people's business, preaching about the rule of law, yet we have 10 to 15 million people living here who violate the law by being here. We should not tolerate that, and we should be embarrassed as a Congress that we have failed to deal with it.

This is not a problem Tulsa can deal with or Nashville can deal with. This is a flat out responsibility of the Congress to solve, and we should solve it. We are dumping on the backs of local communities the cost for schools to educate people who are illegally here. Ten years ago in the schools of southern California, a third of the children in the largest school district in California were here illegally. Somebody has to pay for that. Emergency rooms in hospitals have many people there who are here illegally. That is straining the budgets of cities and states.

So here we are in the middle of a debate about how quickly we can support our military effort, and somebody over in the House of Representatives attaches a bill that might make some sense but—No. 1, it slows down our bill for the troops, and No. 2, it probably imposes upon states a big unfunded Federal mandate which most of the people on this side of the aisle were elected to stop. I mean there are 190 million state driver's licenses. What the House provision would do is say we are going to turn the state driver's license examiners into CIA agents so they can go around and check and see whether we have any terrorists coming in, and then we are going to make them pay for it as well. Here is one more unfunded mandate.

Then the third thing we are doing, and we have not even considered through our committees whether this is the best way to do it, is determining if we are going to have in effect a national identification card. In fact, that is what the REAL ID Program is. It is a national identification card. They say it is not, but what else is it? We have taken an ineffective national identification card, the driver's license—I have mine right here. We have taken an ineffective national identification card, and we are trying to turn it into an effective one. We know it is ineffective because we know that the terrorists in 9/11 all had driver's licenses. I know it because mine expired in 2000, and every time I hand it over at the airport they never turn it over to see if it was renewed to the year 2005. We have an ineffective identification card, and the House wants us, without going to a single committee, to pass a big unfunded mandate, slow down help for the troops, and pass an unfunded national identification card. That is what we are being asked to do here, and I don't think we should do it. That is not the right way to go about it.

I fully support the idea of allowing the Democratic and Republican leadership to agree on a certain time soon where we address this massive challenge to our credibility as a nation, as a nation of the rule of law, and where we create an immigration system we can be proud of. For me, that means a generous program to allow people to come here and work legally, and then we enforce the law. For me, that means we do not have a double system where we have 500,000 or a million people who stand in line to get in, and then we have another million people who break the line to get in. That is not right.

We also need to address questions about whether we are going to continue to require people who apply for student visas to say when they apply that they never intend to live here. Of course, many of them do and we want many of them to. Do we not want the brightest scientists in China or India to come to the University of Alabama or Tennessee and then stay here and create jobs to keep our standard of living up? We are getting more competition from those other countries for these bright people. We need to look at that. Then we need to look at enforcement.

But this is not the way to do business here. I strongly support the Cornyn resolution. I do not want to see the REAL ID legislation or any other immigration legislation slow down money for the troops, put an unfunded mandate on state and local governments, and prematurely, without careful, comprehensive consideration, try to deal on this floor with one of the greatest issues we have to face.

We should pass the Cornyn resolution. We should pass the bill supporting the troops. Then we should set aside a specific time, face up to it, and do our job of reforming the immigration laws.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Oklahoma.

Mr. COBURN. Mr. President, I rise to speak on this issue because I think we find ourselves fixing the wrong problem again. The real consequence of not having addressed the immigration problems in this country means we have problems with crops that are not going to be harvested because we don't have workers. But the time to do that is right after we finish this bill.

The American people as a whole do not want an amnesty program, but they will accept an amnesty program if we fix the border, and we have not secured the border. We have not done what we need to do in this body, in the House or through the administration, to enforce the laws of this country.

It is illegal to come here and we should not reward illegal behavior. But you can't even begin to address that until you say we are going to enforce closing this border for national security purposes but also for competitive purposes.

We need to have a national debate about how many people need to come in and supply an effort to our Nation as we grow. All of us in this country are immigrants except for the Native Americans. We would welcome others. But it has to be done legally. We have not done our job as bodies of the legislature, along with this administration, of first securing the border.

We have a national priority in terms of our own safety. Yet the politics of securing that border plays into every Presidential candidate who is running today. It becomes a political football. The fact is, for our children we need to secure that border to make sure we don't have terrorists coming across. "60 Minutes" 3 or 4 weeks ago showed a person from Croatia who came across the border illegally, became a legalized citizen after that, and ran guns and exported them throughout our country. He had access illegally to get here in the first place. That is not what we want.

We need to solve agricultural problems. I come from an agricultural State. But the American people are not going to accept an amnesty program, I don't care how you design it, based on any type of emergency, until we fix the obligation we have, which is to control that border. We have the capability to do it. We have the technology to do it. We have the money to do that and a lot less of other things if we would do it. If we will in fact control that border, then we can solve every other problem that comes about.

There are going to be consequences of not fixing the problems that were outlined by Senator MIKULSKI and Senator CRAIG, but rightly so, because we haven't done our job. There are consequences when we do not do our job. So I support Senator CORNYN's resolution fully. We need to come back and address this. We need to address every other area, but we have to first recognize that the American people are counting on us to do what is right in terms of securing the border. As long as we continue to ignore that because it is not politically acceptable in certain circles, then we are not going to fulfill our duty to protect this country. When we have troops fighting in Iraq and in Afghanistan and around the rest of the world, and we will not even enforce the law when we have the capability to do it, we dishonor them.

So this is fixing the wrong problem. It is a problem, yes, but it is not the real problem. The problem is the border and controlling the border. I am convinced the American people are compassionate and will deal with any other issue of those who are here and those who want to come here in an orderly fashion, once they have the confidence that we have the border controlled. But we fail to do that at our peril, we fail to do that at the peril of the safety of this country, and we fail to do that at the peril of these areas that need specialized help in a short period of time. We are going to suffer the consequences of that and we should.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I point out the debate we have been seeing here in the last couple of hours to me proves the point, and that is this is a complex, difficult, contentious issue, but one that, from what I heard over the last couple of hours, we all agree needs to be addressed.

Indeed, that is what the resolution says. It says Congress must engage in a careful and deliberate discussion about the need to bolster enforcement of and comprehensively reform our immigration laws. That is what the resolution says.

I know different Senators have different proposals. As I have said, I think the idea is we ought to take up those in the Judiciary Committee in the Subcommittee on Immigration, and we ought to be able to come up with a bill we can present to the chairman of the Judiciary Committee and other members. We can have it marked up. With the help of the majority leader, we can get it to the floor of the Senate.

It would be my hope we can do that within the next few months. I agree. We have a serious problem that has long been neglected in this country, and it cries out for an answer.

Lest any of our colleagues think this is not a complicated matter, let me point out some of the matters contained in the AgJOBS bill alone which I think are very controversial. For the benefit of our colleagues who are listening, this will give them a flavor of why I say this is such a complex and contentious issue.

For example, although the AgJOBS bill purports to be a temporary worker program, it does not have a requirement once people are qualified to work in the program that they actually return to their country of origin. I believe this component of a work-and-return concept is absolutely critical to any program we might justly call the temporary worker or guest-worker program.

Second, one of the provisions of the AgJOBS bill is entitled "Eligibility for Legal Services." This provision requires free, federally funded legal counsel be afforded through the Legal Services Corporation to assist temporary workers in the application process for legal permanent residency. That is right. The bill requires that the taxpayers pay the bill for these allegedly temporary workers to apply for legal permanent residency under the bill, creating a new legal right and a new right to legal representation for which the American taxpayers are going to be called on to pay.

Third, the AgJOBS bill allows farm workers who are currently working illegally in the United States to cut in line in front of workers who have followed legal avenues from the start, violating the principle the Senator from Tennessee articulated so well just a few moments ago.

Next, AgJOBS grants amnesty to as many as 3 million illegal aliens who say they have worked recently in U.S. agriculture, along with their family members.

So not only are we talking about a worker program, we are talking about bringing families and children, which common sense tells us will decrease the likelihood that at any such time in the United States part of this program will indeed be temporary. Indeed, it is more likely that they will stay beyond the span of their visa and live here permanently.

One other point: Since virtually all of the special agricultural workers granted the one-time-only amnesty enacted in 1986 left agricultural work as soon as they had their green cards on hand, AgJOBS puts illegal aliens on the path to U.S. citizenship in a two-step process.

First, illegal aliens would be granted temporary residence and indentured for up to 6 years to ensure they continue to work in agriculture in the short term. Next, once these newly legalized aliens are provided records of labor, they will be granted lawful permanent residence and then U.S. citizenship—amnesty, in a word.

Next, AgJOBS also freezes wage levels for new legal H-2A, nonimmigrant, agricultural workers at the January 2, 2003, level for 3 years following enactment. The undocumented worker can then stay in the United States indefinitely while applying for permanent resident status. They can become citizens so long as they work in the agricultural sector for 675 hours over the next 6 years. Their spouse and minor children are permitted to accompany them and will also earn legal permanent residency status.

I point that out because, as the Senator from Georgia, Mr. CHAMBLISS, said earlier, I doubt there are many of our colleagues who understand the content of this AgJOBS bill. If the Senator from Idaho chooses to offer it as an amendment, we will take up that debate. Senator FEINSTEIN and others may offer some amendments, and I hear that Senator KYL and Senator CHAMBLISS may have amendments of their own. Who knows how many other amendments may be working out there related to AgJOBS or maybe a more comprehensive bill to deal with this issue generally.

But that makes the point. While we are spending time talking about immigration reform, we are not getting to the job that ought to be highest on our list of priorities; that is, making sure this emergency supplemental appropriations bill passes without undue delay and without getting bogged down in other matters, such as immigration reform.

In the end, I join with all of my colleagues and say it is past time we deal with immigration problems in this country comprehensively. We have no border security now. We do at the bridges, but between the bridges it is come and go almost as you please. While many people come across the border to work, we understand as human beings people who have no hope or no opportunity where they live will do almost anything to be able to provide for their family. Be it human smugglers or be it self-guided trips across the Rio Grande or across our northern border, it is relatively easy to get into the United States, and the terrorists who know that can exploit that and hurt the American people.

We also know once people get to the interior of the United States, there is virtually nonexistent law enforcement. We have inadequate detention facilities along the border, particularly in my State. They have to let virtually all of the detainees, the immigrants who come across illegally, go on their own recognizance and ask them to come back for a deportation hearing 30 days later. It should be no surprise that in some instances 88 percent of them don't show up and simply melt into the landscape—many of them working in places all across the country doing jobs Americans, perhaps, do not want.

But this demonstrates how badly broken our immigration system is, our border security, our interior enforcement, and the reason we need to deal with this comprehensively, not just with a Band-Aid.

I hope my colleagues will join Senator FEINSTEIN and me and the others who have spoken already in support of the Cornyn-Feinstein resolution and let us have a debate about immigration—comprehensive immigration reform. But let us not do it at the time when our troops are fighting the war on terror and delay them getting the equipment and the resources they need in order to do the job they volunteered so nobly to do on our behalf.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Texas for his leadership on this issue and for his remarks, which I share.

We have a problem with immigration and law enforcement and national security. Some of these are just security and some of these involve economic and social policy that impact the immigration question.

I believe we can do better. We need to give serious thought and consideration that we can do much better. We have people who want to come here. They want to do so in the right way. They will be assets to our Nation. We ought to identify those people and try to accommodate as many as possible, consistent with our own national interest.

The Senator from Texas mentioned what is happening in enforcement today. It is a nightmare. There was an article this morning in the Washington Times about 13 illegals stopped by the local police officers. They were released on bail. They are asked to show up for a hearing on their deportation. The statistics show, as the Senator just said, as much as 80 percent of those people do not show up. They become absconders. It makes a mockery of the system in many ways.

I have some ideas about this issue. I have some beliefs that local law enforcement has been confused in what their authority is. We ought to encourage them to be helpful in this area instead of discouraging, as the current laws today are.

I have done legal research on that particular question, but this is a Defense supplemental bill to fund our soldiers in the field in combat. It is not the time to debate comprehensively one of the most complex and sensitive subjects this country has to deal with. That is fundamental.

The Sensenbrenner language offered early on on the intelligence bill was not accepted. He was given a promise he could move it on the first vehicle that came out of the House. This is more a national security issue, by far, than an immigration bill. It is simply a tool to create a system by which we can readily identify those who are not here legally.

It is my observation, having been around this Senate now for some years, that you can propose and do a lot of things on immigration. Unless you come up with something that works, that has the actual potential to be an impediment to illegal entry into our country, that is when we start hearing an objection. It seems those proposals never pass.

I am prepared not to offer anything on this bill. I am prepared not to debate on this bill. My opinion is, the Sensenbrenner language is fine. I am all for it. But we are at this point looking at the potential of a flood of amendments dealing with immigration on a bill that ought to be funding our soldiers.

The distinguished Senator from Mississippi who chairs the Appropriations Committee must be looking in wonder at a bill that is supposed to be funding our troops that has now become a massive debate on this issue of immigration. It is unfortunate.

Senator FEINSTEIN and Senator CORNYN have agreed on an amendment that makes sense. It is something I can live with. I believe it would move us forward.

The legislation being proposed, such as AgJOBS, is not good to begin with, and I would probably oppose it, but more than that it is not the time to deal with it. We are just not ready. It is not appropriate.

I urge our colleagues to support this, and not only support it but to vote down the amendments that deal with immigration so we can get this bill done. We will have to deal with immigration. It is a critical national issue. It is important to our country. We are a nation of immigrants. We do not want to stop people from coming here. We do have needs in many areas and sectors of our economy.

I am not sure the Republic is going to fall if we do not have enough custodial helpers in some resort somewhere. I am not sure the Republic is going to fall if there is not somebody to turn the bedspreads down at night and put a little piece of chocolate on the pillow. In fact, we have a lot of American citizens who do that work dutifully every day. If they were paid $2 or $3 more an hour, maybe they would do it; maybe there would be more American citizens prepared to do that work.

We grow cotton in my home State of Alabama. If we bring twice as much cotton into the United States as was brought in the year before, will we not drive down the price of cotton, or any other commodity?

We need to be of the understanding that unlimited immigration to meet every possible need some business person says is critical is not the right policy for our country just because they say it is critical. They have an interest. They want cheap labor. We are now talking about matters that go beyond this supplemental.

I am proud of our soldiers. I have been to Iraq and Afghanistan three times. They are performing exceedingly well. We have a responsibility to support them. This legislation does that. It is our responsibility to move it forward, get it to them, remove this uncertainty, make sure the Defense Department has what they need to support our troops because we are holding their feet to the fire. If they are not doing what the Defense Department ought to be doing, we are going to be on them, and we need to give them the resources so we can legitimately complain if our soldiers are not being adequately supported. We will make a mistake if we get off that purpose and move toward a full-fledged debate on immigration.

I support the Cornyn-Feinstein amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—61

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Cornyn
DeMint
Dole
Domenici
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Murray
Nelson (NE)
Pryor
Reid
Roberts
Salazar
Santorum
Schumer
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Wyden

NAYS—38

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Carper
Conrad
Corzine
Craig
Crapo
DeWine
Dodd
Dorgan
Durbin
Feingold
Harkin
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Nelson (FL)
Obama
Reed
Rockefeller
Sarbanes
Snowe
Stabenow
Voinovich
Warner

NOT VOTING—1

Dayton

The amendment (No. 372) was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, today I rise to offer an amendment. I understand my colleague from California is seeking a unanimous consent.

Mrs. FEINSTEIN. Yes. If I may, Mr. President. I thank the Senator from Maryland. I ask unanimous consent—

Ms. MIKULSKI. This is without yielding the floor.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to be recognized following the Senator from Maryland for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Will the Senator from Maryland yield?

Ms. MIKULSKI. Yes, without losing my floor privileges.

Mr. STEVENS. Mr. President, I have an amendment at the desk. It is an amendment to restore the money for the initial design of the building for the National Intelligence Director. When this bill was before our committee, we reduced that amount at the time, but when the budget was presented, there was not a nominee for that office.

Yesterday, I presented to the Intelligence Committee Ambassador Negroponte to be the new NID and discussed this issue with him. It has become somewhat controversial. This amendment I have would restore the money our committee reduced in the line that deals with the NID. It has been cleared.

I ask unanimous consent that this amendment be set aside temporarily so we may consider this amendment. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I am now confused. As a courtesy to the chairman of the Subcommittee on Defense Appropriations, I yielded to him so he could offer his technical amendment. Are we now laying my amendment aside?

Mr. STEVENS. No.

Ms. MIKULSKI. Where are we?

The PRESIDING OFFICER. The Senator is offering a unanimous consent to set aside your amendment and to bring up his, which has not been done yet.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, in the interest of following the regular order and engaging in senatorial courtesy, we really need order. I could not hear the distinguished Senator and, therefore, was concerned that we were having some slippage in our process.

AMENDMENT NO. 386

Mr. STEVENS. Mr. President, I thank the Senator from Maryland. I have a request to set aside the Senator's amendment temporarily while we consider this amendment which has been cleared on both sides. It restores the original budget request for NID.

I offer the amendment on behalf of myself and the Senator from Hawaii, and I ask unanimous consent that the amendment be brought before the Senate, that it be adopted, that the motion to reconsider be laid upon the table, and that we go back to the amendment of the Senator from Maryland.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. INOUYE, proposes an amendment numbered 386.

The amendment is as follows:

On page 149, line 10 strike "$89,300,000" and insert "$250,300,000" and on line 11 strike "$20,000,000" and insert "$181,000,000."

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to and the motion to reconsider is laid upon the table.

The amendment (No. 386) was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized. The Chair will enforce order.

AMENDMENT NO. 387

Ms. MIKULSKI. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, and Mr. STEVENS, proposes an amendment numbered 387.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants)

On page 231, between lines 3 and 4, insert the following new title:

TITLE VII—TEMPORARY WORKERS

SEC. 7001. SHORT TITLE.

This title may be cited as the "Save Our Small and Seasonal Businesses Act of 2005".

SEC. 7002. NUMERICAL LIMITATIONS ON H–2B WORKERS.

(a) In General.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

"(9) An alien counted toward the numerical limitations of paragraph (1)(B) during any one of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved.".

(b) Effective Date.—

(1) In general.—The amendment in subsection (a) shall take effect as if enacted on October 1, 2004, and shall expire on October 1, 2006.

(2) Implementation.—Not later than the date of enactment of this Act, the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b), in a manner consistent with this section and the amendments made by this section.

SEC. 7003. FRAUD PREVENTION AND DETECTION FEE.

(a) Imposition of Fee.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 426(a) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended by adding at the end the following:

"(13)(A) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 101(a)(15)(H)(ii)(b).

"(i) The amount of the fee imposed under subparagraph (A) shall be $150.".

(b) Use of Fees.—

(1) Fraud prevention and detection account.—Subsection (v) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended—

(A) in paragraphs (1), (2)(A), (2)(B), (2)(C), and (2)(D) by striking "H1–B and L" each place it appears;

(B) in paragraph (1), as amended by subparagraph (A), by striking "section 214(c)(12)" and inserting "paragraph (12) or (13) of section 214(c)";

(C) in paragraphs (2)(A)(i) and (2)(B), as amended by subparagraph (A), by striking "(H)(i)" each place it appears and inserting "(H)(i), (H)(ii), "; and

(D) in paragraph (2)(D), as amended by subparagraph (A), by inserting before the period at the end "or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(ii)".

(2) Conforming amendment.—The heading of such subsection 286 is amended by striking "H1–B and L".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2005.

SEC. 7004. SANCTIONS.

(a) In General.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 3, is further amended by adding at the end the following:

"(14)(A) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 101(a)(15)(H)(ii)(b) or a willful misrepresentation of a material fact in such petition—

"(i) the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and

"(ii) the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 204 or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

"(iii) The Secretary of Homeland Security may delegate to the Secretary of Labor, with the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

"(iv) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

"(v) In this paragraph, the term 'substantial failure' means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 7005. ALLOCATION OF H-2B VISAS DURING A FISCAL YEAR.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by section 7002, is further amended by adding at the end the following new paragraph:

"(j) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens who enter the United States pursuant to a visa or other provision of nonimmigrant status under section 101(a)(15)(H)(ii)(b) during the first 6 months of such fiscal year is not more than 33,000.".

SEC. 7006. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H-2B NONIMMIGRANTS.

Section 416 of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105–277; 8 U.S.C. 1184 note) is amended—

(1) by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security"; and

(2) by adding at the end the following new subsection:

"(d) PROVISION OF INFORMATION.—

"(1) QUARTERLY NOTIFICATION.—Beginning not later than March 1, 2006, the Secretary of Homeland Security shall notify, on a quarterly basis, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of House of Representatives of the number of aliens who during the preceding 1-year period—

"(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

"(B) had such a visa or such status expire or be revoked or otherwise terminated.

"(2) ANNUAL SUBMISSION.—Beginning in fiscal year 2007, the Secretary of Homeland Security shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

"(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

"(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

"(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

"(3) INFORMATION MAINTAINED BY STATE.—If the Secretary of Homeland Security determines that information maintained by the Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.".

Ms. MIKULSKI. Mr. President, today I rise to offer an amendment that is desperately needed by small and seasonal business throughout the country. This amendment is identical to the bipartisan bill I introduced in February called Save Our Small and Seasonal Business Act. It is designed to be a 2-year temporary solution to the seasonal worker shortage that many coastal States and resort States are facing.

I wish to acknowledge the need for comprehensive immigration reform, but right now small and seasonal businesses all over this Nation are in crisis and need our help. These businesses need seasonal workers before the summer begins so they can survive.

For years, they have relied on something called the H–2B visa program to meet their needs. This is a temporary guest worker program. But this year they cannot get the temporary labor they need because they have been shut out of the H–2B visa program because the cap has been reached. This is a program that lets businesses hire temporary guest workers when no American workers are available.

This amendment modeled after the Save Our Small and Seasonal Business helps employers by doing four things:

It temporarily exempts the good actor workers—those who do return home after they have worked a season—from the H-2B cap. Employers apply for and actually name those good compliant workers who have complied with the law, they name them so that they are allowed them to reenter for this temporary period.

It protects against fraud within the H-2B program.

It provides a fair and balanced allocation for the H–2B visas.

And it reports to Congress how the program is working and where the beneficiaries are.

I urge my colleagues to help small businesses by passing this amendment and save these businesses and actually save thousands of American jobs.

Thousands of small and seasonal businesses are facing a worker shortage as we approach the summer. In my home State, this is primarily in the seafood industry. This year, because the cap of 66,000 workers was reached earlier in the year, my small businesses have been effectively shut out. We have had a lot of summer seasonal business in Maryland on the Eastern Shore and Ocean City, people working on the Chesapeake Bay, and many of these businesses use the program year after year.

First of all, they do hire American workers. They hire all the American workers they can find. But at this time of the year, we need additional help to meet seasonal demands. Because that cap was reached for the second year in a row, I might add, these employers are at a disadvantage. They cannot use the program. What will it mean? It will mean that some of our businesses will actually have to close their doors.

My amendment is supported on both sides of the aisle. It does not change existing requirements for employers. Employers cannot just turn to the H-2B visa whenever they want. First of all, employers must try vigorously to recruit those workers. Then they must demonstrate to the Department of Labor that they have no U.S. workers available. Only after that are they allowed to fill seasonal vacancies with the H–2B visas.

The workers they bring in often participate in the program year after year. They often work for the same companies. They do not stay in the United States and are prohibited by law from doing so. They return to their home country, to their families, and their U.S. employer starts all over the following year.

Let me just say this: Right now in certain villages in Mexico, there are many women—mothers and their adult daughters, aunts—who are packing their bags. They are ready to come back to Maryland where they have come before to work in Clayton Seafood or Phillips Crab House, which so many of you have enjoyed in your visits to the bay, or Harrison's seafood. Some of them have been in business 100 years. Some of them are major employers. A lot of college kids work their way through college working at Phillips Seafood, but Phillips Seafood needs these guest workers to help these kids and to help the restaurant stay open.

These workers are not taking the jobs, they are helping American workers keep their jobs and American companies keep their doors open and, I might add, to the delight of many of you here, to the delight of people who enjoy our products, and to the delight of the people who collect the sales tax, Social Security, and so on from those American workers.

I know we need comprehensive reform, but while we are waiting for that, I have a temporary fix. By the way, working with my colleagues on both sides of the aisle, we looked for regulatory relief. We consulted with the Department of Labor and the Department of Homeland Security. Secretary Chao could not have been more gracious, more cooperative, more forthcoming, but when it came down to it, her legislative counsel said, you need to change the law. She could not change the regulations on this cap.

What does my amendment do? First, my amendment continues to protect those American jobs. It is a short-term fix because it is a 2-year solution. This amendment will only be in place for 2 years. So it allows this comprehensive reform to go forward.

What it does is exempt returning seasonal workers from the cap. That means there are no new workers. It means those people who have worked before and have gone back home are the only ones who would be eligible. In other words, in the last 3 years, they had to have worked here under the law, come in under the law, and returned home as the law requires. So it is not new people. It is not an amnesty program. It is an employment program for them and for us. These workers receive a visa, and it requires their employers to list them by name. So in all probability, they will return to the same employer. Then, at the end of the year, they will do it all over again. Remember, the only people eligible are those who have used the program in the past—the employer and the actual person coming in.

I worry about fraud, too. So we have an antifraud fee that ensures that Government agencies processing the H–2B visa will get added resources in their new sanctions. The bill creates a fair allocation of visas. Some summer businesses lose out because winter employers get all the visas. This will make the system more fair. We also simplified the reporting requirements.

I could give example after example of businesses that have been impacted. Clayton Seafood started over a century ago. They work the water of the bay supplying crab, crabmeat, and seafood. It is the oldest working crab processing plant in the world, and by employing 65 H–2B visa workers they have been able to retain all of their full-time workers.

The Friel Cannery, which began its business over 100 years ago, is the last corn cannery left out of 300. When they could not find local workers, they turned to the H–2B visa. Since then, that business is open and thriving. Each year this program helps the company not only maintain its workforce, but 75 Americans have good paying full-time jobs in accounting and marketing and other areas, and it keeps 190 seasonal workers going and 70 farmers who would not have a cannery to go to are also able to keep their jobs.

So that is what my legislation is all about. It is a quick and simple legislative remedy. It has strong bipartisan support. It is realistic. It is specific. It is immediate, achievable, and does not exacerbate our immigration problem.

Every Member of the Senate who has heard from their constituents, whether they are seafood processors, landscapers, or other people in resort areas, know the urgency in their voice. They know the immediacy of the problem. Our companies feel urgency. They feel immediacy. They feel desperation.

I urge my colleagues to join me in passing this amendment and keeping the doors of American companies open while we also maintain control of our borders.

Mr. KENNEDY. Will the Senator yield for a question?

Ms. MIKULSKI. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I, first, commend Senator MIKULSKI, and I see the Senator from Maine, Ms. COLLINS, and others who have been interested in this issue. Am I right that the earlier numbers by and large have been taken up primarily by winter tourism? The time for application comes at the time of the year when great numbers are taken up for the winter tourism, which has happened historically, and what we are trying to do with the Senator's amendment is to treat the summer tourism and the summer needs on an even playing field, as they are in my own State, which are primarily smaller mom-and-pop stores and some very small hotels that need that. So this basically creates a more even playing field, as I understand, between those who would be taken in the wintertime and those who need the help in the summer. No. 1; am I correct?

Ms. MIKULSKI. The Senator from Massachusetts has accurately assessed what has created the crisis: that given the time of application and when they want the people to work, the winter needs then take up practically all 66,000. We acknowledge our colleagues who do need the winter help, but we need their help for the summer help. You are also correct that my legislation would create a more even playing field between the two and, again, this is a temporary legislative remedy while we assess the entire situation of the need for comprehensive reform, how we keep American jobs, how we keep American companies open, and yet retain control of our borders.

Mr. KENNEDY. Am I correct this is a rather modest increase in terms of the demand? In my own State, the numbers are approximately 6,000 for the summertime. The numbers the Senator has are going to be nationwide, so this is very modest based upon the need. The final point which the Senator has emphasized, but I think it is very important to underline, is these are people who have been here before, who have gone home and came back and therefore have demonstrated over the course of their life that they return back home and are in conformity with both the immigration and labor laws that exist today.

Ms. MIKULSKI. The Senator, again, has made an accurate assessment. This bill is only applicable to employers and guest workers who have complied with the law. If a worker has not been here before and they have not demonstrated that they have complied with the law, not returned to their home country, they would not be eligible. That is why I say we need to help American business but keep control of the border.

Mr. KENNEDY. I thank the Senator for her response and urge my colleagues to give strong support for her amendment.

Ms. MIKULSKI. I thank the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as many are well aware, the cap in current law on the number of H–2B visas is too restrictive, and it's imposing needless hardships on many businesses that rely on seasonal workers to meet the heavy demands of the tourism industry. Once again, these small industries are facing a crisis this summer if the number of visas isn't increased immediately. Senator MIKULSKI's timely amendment will provide the much-needed relief they deserve, and I urge the Senate to support it.

For several years in a row, the cap has created a crisis for the tourism industry in Massachusetts and nationwide. Countless small, family-run businesses depend on the ability to hire more workers for the summer season, and they can't possibly find enough U.S. workers to fill the need. Without this amendment, many of these firms can't survive because the seasonal business is the heart of their operation.

This fiscal year's allocation of 66,000 visas was exhausted just a few months on into the year. Senator MIKULSKI will make about 30,000 additional visas available, and it should be enacted as soon as possible, so that these firms can make their plans for the coming months.

Obviously, this amendment is only temporary relief. It should be achieved through comprehensive immigration reform. We all know our immigration system is broken, and many other reforms are needed as well. The Nation needs a new immigration policy that reflects current economic realities, respects family unity and fundamental fairness, and upholds our enduring tradition as a Nation of immigrants.

Enacting these other reforms will take time—time we don't have if we want to rescue countless seasonal employers around the country. Senator MIKULSKI's proposal provides the immediate relief needed to enable employers counting on H–2B workers to keep their doors open this summer, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in strong support of the amendment offered by my colleague along the Chesapeake Bay, Senator MIKULSKI. This amendment would make minor, temporary changes to the non-immigrant, seasonal visa program known as the H–2B visa program. This program allows small businesses in the Commonwealth of Virginia to hire temporary workers for non-agricultural jobs.

As many of my colleagues know that for each fiscal year, which starts on October 1, there has been a statutory limitation on the number of admissions to the U.S. under the H–2B visa category since 1990. In 2004, the statutory cap of 66,000 H–2B visas was reached on March 9. This year the H–2B cap was reached much earlier on January 3.

As a result of reaching this cap for the second year in a row, many businesses, mostly summer employers, have been unable to obtain the temporary workers they need because the cap was filled prior to the day they could even apply for the visas. Consequently, these businesses have and will continue to sustain significant economic losses unless Congress acts.

Our amendment helps fix this problem by making common-sense reforms to our H–2B visa program that will allow our small and seasonal companies an opportunity to remain open for business.

First, the bill would reward good workers and employers. Those workers who have faithfully abided by the law for one of the past 3 years would be exempted from the cap. This exemption will help keep together workers and employers who have had a successful track record of working together.

Second, the bill would make sure that the Government agencies processing the H–2B visas have the resources they need to detect and prevent fraud. Starting on October 1, 2005, employers participating in the program would pay an additional fee that would be placed in a Fraud Prevention and Detection account. The Departments of State, Homeland Security, and Labor could use these funds to educate and train their employees to prevent and detect fraudulent visas.

Finally, the bill would implement a visa allocation system that would be fair for all employers. Half of the 66,000 visas would be reserved for employers needing workers in the winter and the other half would be reserved for companies needing workers for the summer. This provision would allow both winter employers and summer employers an equal chance to obtain the workers they desperately need.

Without these modifications, these employers will continue to struggle in their efforts to find the necessary employees to keep their businesses running. Many in the seafood industry in Virginia have come to my office, looked me straight in the eye, and told me that their businesses are not going to make it another year if something is not done soon. Only through passage of this amendment can this detrimental cycle be interrupted and these businesses can be saved.

Unfortunately, the only real opposition to this legislation is "perception." I have the utmost respect for those in this Chamber that may not fully support this amendment. Their perception on this matter stems from good principles. Illegal immigration has grown to be a substantial problem in this country, especially in the area of domestic security, and I agree that changes must be made to make our policy work.

However, the temporary changes this amendment proposes does not belong in the debate on immigration or illegal immigration. The H–2B program is a seasonal, non-immigrant worker visa program. In fact, it may be one of the last programs we have to provide a legal, seasonal workforce for our small businesses, allowing them to fill the gaps where domestic workers cannot be found.

More importantly, these changes do not belong in the immigration debate because they deal with an economic issue. Over 75 percent of net new jobs in this country come from small businesses. This amendment proposes changes to help save our small businesses. In many parts of the country, for every temporary H–2B worker that is hired, two more full-time domestic workers are sustained.

There are some criticisms of this program which I am sure some will raise. Let's take a moment and examine some of these mis-perceptions surrounding the H–2B program.

H–2B employers do not do enough to recruit U.S. workers. They could just pay more. Virginia employers have not found this to be the case. The Department of Homeland Security and the Department of Labor set stringent guidelines on recruitment and wages.

First, U.S. employers must prove that they have exhausted all opportunities to hire U.S. workers. One H–2B employer agent in Virginia, who assists employers in this process, have told me that they have already spent in excess of $250,000 on such ads on behalf of its 300 plus clients for the 2005 employment season. This was out of over 6,000 job openings for 300 plus employers in 30 plus States.

Even after this campaign, they only succeeded in locating and hiring less than 50 U.S. workers who expressed an interest in the H–2B jobs. They were all hired, but unfortunately, less than half of these workers started work and even less completed the entire season.

In regard to the seafood industry, over the past 15 years, Americans have slowly withdrawn from their workforce. It is common for motivated workers to make $75–$100 dollars in a 7-hour day shucking oysters, picking crabs, or packing the product. Those in the seafood industry have told me that despite this earning potential, "frequently U.S. workers will work for a day or two and then never return. It is difficult to function on the uncertainty of our local work force, but we never give up on them."

In addition, the Department of Labor requires H–2B workers and U.S. workers to be paid the same wages for the same work. Additionally, all of the same taxes taken out of a domestic worker's salary are taken out of the H–2B worker's salary; however, the H–2B worker by regulation are ineligible to receive any benefits from the taxes withheld from their paycheck.

The H–2B program encourages illegal immigration; or, there's nothing more permanent than a temporary worker, a long review of the management of this program reveals otherwise. The employers have successfully ensured that the workers return to their home country. If they do not, employers are not able to participate in the program next year, and neither are the workers. Most consulates in their home countries require the workers to present themselves personally to prove that they have returned home.

Believe me, I am a strong supporter of efforts to help those Americans who want to work get the skills they need to be successful in the workforce. But these H–2B workers are not taking jobs from Americans, they are filling in the gaps left vacant by Americans that do not want them. Like I have said before, this program actually helps to sustain domestic jobs.

The future success of the H–2B visa program rests on the ability of businesses to participate in it, but right now, many will be denied access to the program for the second year in a row. The amendment introduced today helps fix this problem by focusing on three main objectives to help make the H–2B program more effective and more fair.

These seasonal businesses just cannot find enough American workers to meet their business needs. And ultimately, that is why this program is so important. Without Americans to fill these jobs, these businesses need to be able to participate in the H–2B program. The current system is not treating small and seasonal businesses fairly and must be reformed if we want these employers to stay in business.

I congratulate the distinguished Senator from Maryland for raising this issue. I have joined her as a cosponsor on this amendment. In my some quarter of a century that I have been privileged to be in the Senate I have watched in my State the loss of the textile industry and the furniture industry. Peanuts have disappeared, tobacco has disappeared, and now the seafood industry is disappearing.

The distinguished Senator from Maryland and I have paralleled our careers, and my recollection is there used to be about 150 oyster-picking and crab-picking small businesses in my State. If there is one thing about this legislation, it is for the small person operator, man and woman. I doubt if there is now more than 40 out of the 150 or more picking houses remaining in my State, and these folks have come to see me. They are very quiet when they come in. They do not have any high-paid lobbyist. They come up themselves. Maybe they take off their overalls, but by and large they come right in the office in a very courteous way and they do not beg for anything. They just want to have an opportunity to remain in existence. Most of these small operations have been handed down from family to family.

Throughout Virginia, we take great pride in the Virginia crabcake. We are in competition with the Maryland crabcake. Now, I know Marylanders will come over and steal the Virginia crabmeat to put in their crabcakes. I say to my dear friends, the two Senators from Maryland, they know that, but pretty soon there may not be any crabmeat left for the crabcakes from either State to put on their menus.

Likewise, the oysters have declined, but that, I cannot say, is entirely due to this labor situation. It is more because of the Chesapeake Bay and the problems we are having with the balance of nature. The oysters are disappearing for a variety of reasons, but I will not get into that. Then a number of the seafood houses that provide bait for fishing are dependent on these workers.

I ask my colleagues to listen carefully to two letters that were written to me, and then I will yield the floor. The first one is from Cap'n Tom's Seafood. He states:

> My name is Tom Stevens. I am owner and operator of Cap'n Tom's Seafood located in Lancaster County in the Northern Neck of Virginia.

By the way, that is one community I have tried to help because those counties have great pride, but they do not have as strong an economy as they once did. He continues:

> I'm located less than 30 minutes from businesses like The Tides Inn, Indian Creek Yacht Club and Windmill Point. These business are large consumers of seafood. I also have many customers in the Richmond area.
>
> When I opened my plant, for years I tried to operate using local help. However, it has become much harder to operate. Not only is the local force scarce and unreliable, but the younger generation is not interested, in learning the trade. On holidays, such as Thanksgiving and Christmas when oysters are in demand, shuckers are nowhere to be found.
>
> As you are aware, in this business, oysters must be shucked and crabs must be picked soon after they arrive. I have tried to get local help by advertising in the local newspapers and through the employment agency without success. I finally got help through the H2 B workers program.
>
> Speaking for myself and several others in the industry, we could not operate our businesses if it weren't for the H2 B program. I can not emphasize enough how important this program is for the seafood industry of Virginia. These workers are reliable, hard working, and with excellent work ethics. Their main purpose is to earn money to improve their lives and the lives of their families in their country of origin. I pay them as I do my other workers, not the minimum I was told I could, but the top of the pay scale for the seafood industry. I deduct their taxes including Social Security and pay unemployment, even though they do not claim it.
>
> I sincerely hope that you will continue to support the H2 B workers program and to strengthen the program by increasing the quota. The future of the seafood industry is dependent entirely on this program. It is important that our industry remains strong and healthy for the welfare of the State of Virginia.
>
> Sincerely,
>
> TOM STEVENS.

The other letter is from Bevans Oyster Company, Inc., in Kinsale, VA, a small community:

> I am Ronald Bevans, President and owner of Bevans Oyster Company. My company relies on the Federal H2–B temporary foreign visa program to provide the legal, reliable, seasonal labor which my company needs in order to stay in business. We have used this program since 1996 to obtain fish packers from March 1 to December 31. Our workers, for the most part, return to us each year. Some of them have been with us since we started the program in 1996.

And on and on it goes. One sentence in here stands out:

> Our seafood business cannot survive without the H2–B workers.

Mr. President, I strongly support this amendment, and I hope my colleagues in the Senate will join with me to help these small and seasonal businesses by agreeing to this amendment.

I ask unanimous consent to have this letter and other letters printed in the RECORD and yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEVANS OYSTER COMPANY, INC.,
Kinsale, VA, January 6, 2005.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I am Ronald Bevans, president and owner of Bevans Oyster Company, Inc. My company relies on the federal H–2B temporary foreign visa program to provide the legal, reliable, seasonal labor which my company needs in order to stay in business. We have used this program since 1996 to obtain fish packers from March 1 to December 31. Our workers, for the most part, return to us each year. Some of them have been with us since we started utilizing the program in 1996

This year we requested 110 workers. Our filing agent, Mid-Atlantic Solutions, tells us that our application is still at the U.S. Department of Labor awaiting certification to be used for the next step of the approval process. Although our application was filed as early as legally possible, it did not get to the Citizenship and Immigration Service (CIS) before the H–2B statutory cap of 66,000 annual visas was met. Consequently, we will be unable to employ our H–2B seasonal workforce.

Our seafood business cannot survive without the H–2B workers.

I make every effort to hire American workers for these positions, and have Americans working here wherever possible. However, our experience has been that there is an insufficiency of Americans willing to do the type of work required for these positions. Generally those who are hired quit within the first week. We have a loyal local workforce, but they are getting older and their number diminishes each year.

It is critical that you understand that without the help of our foreign workers Bevans Oyster Company will have to shut down and the American workers currently employed here will lose their jobs as well.

I opened Bevans Oyster Company in 1966 and have owned and operated it myself ever since. Over the years, my business has continued to grow. When the need arose for additional workers and I could not find reliable help in my area, I turned to the H–2B program to meet my seasonal labor shortfall. With the help of this program over the past eight years, my business has grown and flourished and is now a vital part of the Northern Neck community. This business is my life. By suspending the H–2B program, the government is not only preventing me from accessing my employees, it is taking my livelihood and everything I have worked so hard to build.

The lack of seasonal workers for our fish season will have a domino effect on many other people and industries. Our fish suppliers will either have to find a new market for their bait fish or dock their fishing boats. Our customers, which are located along the entire east coast and along the Gulf from Florida to Texas, who have come to depend on us over the years for their bait needs, will suffer from the lack of product, causing their customers to suffer, and so on.

As you well realize, the Virginia seafood industry is located in rural counties and provides many needed jobs for U.S. citizens in these communities. The loss of Virginia seafood H–2B workers will lead to the loss of the American jobs the seafood industry provides.

I go to extraordinary lengths to ensure that my workers are legally employed and that U.S. workers jobs are protected. The wages I pay are above the prevailing wage for this area and industry. I make sure my workers are housed in decent, safe, and affordable housing. These workers have told me that the opportunity to work in the U.S. has improved their quality of life as well as that of their families and their home communities. The money earned and returned to their home country is an important contribution to that economy. Workers build homes and educate their children. Without the H–2B program, they would never realize these dreams.

My company desperately needs some type of relief from this cap. I don't know all the answers. All I know is that we need our workers, and they need us. Please keep the H–2B program operating until a comprehensive solution to the immigration issue is reached. Thank you for your consideration of this request.

Sincerely,

RONALD W. BEVANS.

LITTLE RIVER SEAFOOD, INC.,
Reedville, VA, March 24, 2005.

To: Mr. John Frierson.
From: J. Gregory Lewis.
Re: H–2B Program.

DEAR MR. FRIERSON: Thank you for your phone call yesterday regarding the H–2B program and our needs as an employer of immigrant workers. This program has enabled us to meet our seasonable labor needs for many years. Our seasonal jobs, (crab picking, crab packing, etc.), are manual, repetitive tasks—unskilled labor.

Regarding our questions about payment to these laborers, when Little River Seafood, Inc., hires an employee, that person, local or immigrant, completes the necessary W–4 federal withholding form and the State of Virginia withholding form. We withhold the required social security tax, and federal and state taxes on all employees. In addition, we pay the employer's share of social security tax and pay the federal and state unemployment taxes.

Though our pickers are guaranteed a wage of $5.25 per hour, which is the prevailing wage, they are paid by the "piece rate" per pound of crabmeat. Most pickers end up earning between $7 and $9+ per hour depending upon how quickly they learn, their level of ability, and ultimately, their productivity. All pickers, immigrant or local, are paid in the same way.

As our older local employees have retired, the younger locals do not seek employment in this field. Because we are stabilized by the use of legally documented H-28 seasonal workers, we are able to continue in the crab processing business, make crab purchases from our local watermen (some of whom are students), and keep our local workers employed, some on a year-round basis. Without the H-2B employees, our ability to stay in business, keep our local workers employed, and contribute to the economy would be severely jeopardized.

Regarding your questions as to recruitment of employees, Little River Seafood advertises each year, prior to the crabbing season, in our local newspapers. Response to these advertisements has been minimal. Our local Virginia Employment Commission is made aware of our employee needs, and of course, because we are in a small, rural community, these needs are also spread by word-of-mouth. Local response is almost nil. We have employed a few students during the summer for miscellaneous jobs around the plant, and, as mentioned, we do make crab purchases from students that are crabbers learning the business.

We certainly appreciate your phone call and your interest in learning more about the necessity of keeping the H-2B program in effect allowing countless small businesses in the United States to remain in business and continue to contribute to the economy.

Please let us know if we can provide you with further information.

J. GREGORY LEWIS,
President.

GRAHAM & ROLLINS, INC.,
Hampton, VA, January 12, 2005.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER, I am in receipt of your letter dated January 10, 2005, concerning H2-B workers for Graham & Rollins, Inc. My two sons and I appreciate your timely action in pursuit of reconsideration of our petition, however painful, it apparently is not to be. It is a shame that a small fourth generation family business must vanish because our government has become so impersonal to communicate a simple omission of just two names before closing the door and rejecting our petition irrespectively of the consequence from such an act. We have examined all options to save the company concluding that we must by June or July obtain the Mexican H2-B skilled laborers we have trained over the years. As a final act towards this object, we ask if you would consider sponsoring a bill similar in nature to the one you introduced last year exempting returning H2-B visa holders (beneficiaries/workers) from the annual FY 66,000 H2-B program cap, or raising the cap to accommodate the needs of entitled businesses that have been left out. We have reason to believe there are many small businesses such as our own faced with the same crisis, and congressional action is required to keep those institutions whole. The H2-B program was created to accomplish the work not being done in this country because of unavailability of the domestic work force to meet the needs of our work place.

Taking away the employees we have trained and become dependent upon through this program is like sabotage. This cannot and must not happen to the many small companies like Graham & Rollins affected by the reduction of the visa cap. I trust and hope you are in agreement and will expedite congressional action to accomplish exempting the returning H2-B workers or raising the cap. Please let us know as soon as possible if you are supportive of this request and if we can help by contacting our other representation.

Sincerely,

JOHN B. GRAHAM, Sr.

R&W MARINE CONSTRUCTION, INC.,
Cobbs Creek, VA, March 29, 2005.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

R&W Marine Construction, Inc. has been operating in Virginia for 38 years as a small construction business specializing in marine construction and excavation. We engage in heavy construction consisting of building piers, bulkheads, riprap (stone) installation along shorelines and landscaping work. This type of work is not easy and requires hard physical labor.

Over the years of operating my business, I have continuously dealt with labor problems. It is very difficult to hire domestic workers that are dependable, reliable and are willing to do this type of work. I have hired some excellent supervisors over the years but they can not work without the laborers. We have frequently advertised in the local and regional newspapers and also contacted the employment agencies for job referrals. We pay competitive rates and offer benefits to all domestic workers. We accept employment applications year round and only receive a very small quantity. Most of these applicants will not accept a labor position or are not suitable for this line of work. R&W Marine also recruits students for summer time positions.

We were introduced and participated in the H2B Program in 2000. It has been very successful to the livelihood of my business and has created the workforce needed to meet the work demand. The pay rates for the H2B workers are specified by the U.S. Department of Labor. The wages are subject to all state and federal taxes. These workers arrive in the spring and return to their country within 10 months of their arrival. They always return home within this time frame. I have never had a problem with a worker not abiding by the immigration policies. R&W Marine has had many of the same workers return consecutively for the past 5 years and are all legal workers.

If businesses are not able to acquire the number of H2B workers needed to operate their business, they may be forced to hire illegal workers. This will increase the problems for the Immigration Service of keeping up with who will be entering the U.S. and the security of our country. Also, if businesses are forced to shut down or minimize their services they provide to the public, there may be a significant reduction in our American domestic workforce.

I thank you for your time and consideration in this matter. Please continue to gain support for the H.R. 793, the H2B cap fix bill.

Sincerely yours,

RICHARD E. CALLIS,
President/Owner.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, first of all, if I could just say preliminarily, in order not to split the united front in support of this amendment, I am not going to get into a debate between the quality of the Virginia crabcake and the Maryland crabcake, although I must note it is the Maryland crabcake that has always held preeminence in that discussion.

Mr. WARNER. Mr. President, I object to that statement.

Mr. SARBANES. I commend my colleague from Maryland for a very innovative and carefully reasoned response to a crisis situation. This is a clear example of legislative craftsmanship that addresses the issue and does it in a way that does not open up a lot of unintended consequences or other possibilities. It does not constitute any major restructuring of the immigration laws or anything of that sort. This is really an effort in a very focused, almost laser-like way, to address this specific problem.

The problem is the following: Under the administrative set up, an employer cannot seek an H-2B visa until within 120 days of when it would be used or exercised. That means that people who need summer employees cannot come in right at the beginning of the year to seek the H-2B visas. What happened, of course, this year is people in the earlier part of the year—the winter people in a sense—came in, and used up all of the 66,000 visas that were available so people who have relied on this program over the years to carry out their businesses were shut out altogether. Of course, that raises very dire prospects for the operation of these small businesses all across the country.

We have underscored the crisis confronting the seafood business in Maryland and Virginia, but innkeepers in Maine, hotel operators in Florida, and businesses all across the country confront similar problems with respect to being able to bring in these H-2B visa workers.

This amendment maintains all the requirements that existed previously. In other words, the employers must still demonstrate they have sought to find American workers for these jobs. That is a current requirement. That is maintained in this amendment.

These employers, some of them, have made extraordinary efforts to do that, visiting college campuses, attending job fairs, exploring every possible way they can find workers. Many have gone well beyond what I think has been previously required in terms of meeting that requirement. But, they have not been able to find the workers. They need these H-2B workers.

What my colleague, Senator MIKULSKI, has done—I think in a very measured way—is, if you previously brought in an H-2B worker and that worker has then gone back at the end of the limited time during which they were permitted to come into the country to do the job, you can, despite the fact we have now bumped up against the ceiling, bring that worker or workers that helped you meet your employment situation back in. No new worker would come into the country under this provision who had not been here before as part of this H-2B program. So, in effect, you are saying to someone: Look, you have come for the last 2 or 3 years as part of this program, so it is going to be available to you to come again. And you say to the employer seeking to bring them, you can bring back that workforce in order to meet your work situation.

In that sense, it is not an expansion of the general availability of the program. You are not broadening who can partake of it. You must have previously participated in the program in order to be able to come in again. I think that is a very innovative way to address the situation. It will enable these small businesses to function.

It is important to recognize that it is not the functioning of the particular business involved, but it is the functioning of other businesses, dependent upon the particular business that needs these workers, that will be affected most. If you cannot do the processing of the seafood, then the people down the line who depend on getting that seafood in order to do their business are going to be adversely affected as well. So there is a ripple effect that goes out through the economy which raises the threat of having a substantial economic impact, at least in some areas of the country.

I also want to underscore the amendment, as I understand it—and my colleague can correct me if this is not so—maintains all of the existing penalties that would apply to an employer who might misrepresent any statement on their H-2B petition. In other words, employers would still be held responsible in terms of how they conducted their effort. As I mentioned earlier, they are required to go through all of the necessary measures to ensure they have not been able to find available, qualified U.S. citizens to fill these jobs before they file an H-2B visa application.

This amendment is limited in time. It is limited in scope, but it would address the current crisis situation. It might not totally address it, but we are confident it would do so sufficiently to enable most, if not all, of these businesses to carry out their functions.

I think it does not raise larger questions and, therefore, because it has been very carefully developed, I think it constitutes an appropriate response to the situation we are now confronting. I urge my colleagues to support this amendment. It does the job. It does it in a very direct and focused way, and it will enable us to work through these problems while we await general revisions of the immigration laws.

This doesn't open up that particular path which I know would concern some Members of this body.

I again commend my colleague for very carefully working out an amendment. I know how much he has consulted with people in the administration and colleagues here in the Senate. I very much hope this body will adopt this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief, but at the same time I think what we have all said is very important to this issue. The H-2B class of workers is a critical component to not just the seafood industry of our coasts but to the resort industry of our country. For any of you who have ever skied in the West and met this nice young lady or man who speaks with a Norwegian brogue and they are helping you up and down the ski lift, my guess is they are class 2B. If you have met a young man or woman waiting on tables at a resort, possibly in Sun Valley, ID, they are a class 2B. The reason they are there is because they come, they build a stable presence, they are there for the period of time our resort hospitality industries need them, and it is most important that we have them.

Both Senators from Maryland have already talked about the dynamics of first that employer must seek domestic workers, U.S. citizens, and when that labor supply is exhausted they must seek elsewhere because they simply need that workforce. They come, they stay, they go home. It is a program that works well.

I am going to be on the floor later debating another program that doesn't work well: H-2A. The reason it doesn't—and it used to years ago in the 1950s: identified the worker and the work necessary and the employer. We had nearly 500,000 in those days of H-2A, known only then as the Bracero Program. It was out of the great wisdom of the Congress, and it has not worked since. This one works.

But what the Senator from Maryland is doing is bumping up the cap a little bit. Why? Because we have a growing economy, and we have a growing need. It isn't a static workforce; it is a dynamic workforce—whether it is the seafood industry, whether it is the hospitality industry, or whether it is a stone quarry mining semiprecious stones in the State of Idaho to be polished and placed in the countertops of high-end kitchens of new homes across America. That is the diversity of this particular workforce.

She has identified it. She has recognized it. It is a cap of 65,000. The cap for 2005 was reached on the first day of the fiscal year. That not only speaks to the need but it speaks to the reality of the problem.

The amendment is very specific. This amendment would temporarily exempt returning workers who have good records and play by the rules from the H-2A cap, protect against fraud for H-2B, protect against fraud in the H-2B program by adding a $150 antifraud fee, and on and on. In other words, it has some safety checks in it, but it rewards those who play by the rules—and most do. They come, they work, they go home.

That is not only ideal for our country, it is ideal for these foreign nationals who can benefit themselves and their families by coming here to work for a salary that is, of course, better than the salary they can earn in their own home country and working in conditions that meet all of the standards of our labor laws in this country. That is fundamentally what is so important.

My conclusion is simply this: This amendment provides a fair and balanced allocation system for H-2B visas. Currently, many summer employees lose out as winter employers tend to be the first in line for the B's. That was already expressed, both by the Senator from Massachusetts and by others who have spoken on this issue.

I strongly support the amendment. It is the right time. It needs to be done. We simply cannot wait. This is an issue that is very time sensitive. We can't wait until October to hire folks who are needed the first of May.

I hope that we move it quickly through the Congress and get it to the President's desk.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. CRAIG. I yield briefly, yes.

Mr. SARBANES. The Senator made the point that this addresses those workers who have played by the rules. In other words, they have come, they have worked, and gone back. They have met all of the requirements. Of course, they pay taxes while they are here. We know they are here. They are followed and documented.

But I want to add a dimension: It also addresses the employers who have played by the rules by seeking to get their workers through the system legally.

Mr. President, I will read from the article in the Baltimore Sun:

> Despite their frustration, the owners say they will not turn to an obvious alternative work force. "I am not going to hire illegals," said one of the owners. "It is against the law."

He made the point that they have done everything legally. This H-2B program is a win-win situation. The workers pay taxes, the Government knows who they are, and they get checked at the border. So you have employers who want to play by the rules and employees who have played by the rules. This amendment focuses on them and gives them a solution to a very pressing problem.

Mr. CRAIG. I thank the Senator from Maryland for bringing that up. What he demonstrates by that statement is a system that works. But he also demonstrates that the other Senator from Maryland has recognized that when pressures build and limits are met, you turn the valve a little bit and let the pressure off and let the legal system work, quite often in H–2A.

Last year, 45,000 people were identified. But 1.6 million are in the workforce. We had a system in H–2A that worked like this, and we were sensitive and constantly working to adjust it. And we wouldn't have an illegal, undocumented problem that we will debate later tomorrow or next week. This is a system that works, but it also is one that we have been sensitive to and have been willing to adjust the cap so everybody can effectively play by the rules and meet the employment needs they have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin my remarks by commending the Senator from Maryland for her work on this very important issue. She and I, along with Senator GREGG of New Hampshire, Senator KENNEDY from Massachusetts, and many of our colleagues, have joined forces in a bipartisan way to address an issue that affects the small businesses in our States.

Many American businesses—particularly those in the hospitality, forest products, and fishery industries—rely on seasonal employees to supplement their local workers during the peak season. That is certainly true in my home State of Maine. We have many seasonal restaurants and hotels that need to greatly expand their workforces during the summer and fall months. Many of them, after fruitless efforts to hire American workers, have found that it has worked very well for them to hire in the past foreign workers under the H–2B visa program. But this year all 66,000 available H–2B visas were used up within the first few months of the fiscal year—in fact, in early January. The Department of Homeland Security announced that it would stop accepting applications for H–2B visas. This creates a particular inequity for States such as mine that have a later tourism season. By the time Maine restaurant owners, hotel owners, and other tourism-related small businesses can apply for these workers, there are no more visas.

My colleagues from Maryland and Idaho have raised very important points. These are workers who often return year after year to the same familiar family business in Maine. When their work is done, they leave and return home to their home countries. They play by the rules. The businesses play by the rules. They are not hiring people who are here illegally. They are hiring people through this special program.

Without these visas, employers are simply going to be unable to hire a sufficient number of workers to keep their businesses running during the peak season. Many of these businesses fear this year they will have to decrease their hours of operation during what is their busiest and most profitable time of year. This would translate into lost jobs for American workers, lost income for American businesses, and lost tax revenues for our States.

These losses will be significant. We must help them be avoided. That is why I have worked with my colleagues in introducing the legislation upon which this amendment is based. It is the Save Our Small and Seasonal Businesses Act of 2005. It would offer relief to these businesses by excluding from the cap returning foreign workers who were counted against the cap within the past 3 years and to address the regional inequities in the system. It would limit the number of H–2B visas that could be issued in the first 6 months of the fiscal year to half of the total number available under the cap.

By allocating visas equally between each half of the year, employers across the country operating both in the winter and the summer seasons will have a fair and equal opportunity to hire these much-needed workers.

Let me emphasize what, perhaps, is the most important point in this debate. That is, employers are not permitted to hire these foreign workers unless they can prove they have tried but have been unable to locate available American workers through advertising and other means.

As a safeguard, current regulations require the U.S. Department of Labor to certify that such efforts have occurred. In Maine, as in other States, our State Department of Labor takes the lead in ensuring that employers have taken sufficient steps—including advertising—to try to find local workers to fill these positions. Indeed, that is the preference of my Maine employers. They would much rather be able to hire local workers. Indeed, they do hire local workers, but there simply are not enough local people to fill these seasonal jobs that peak during the summer and the fall.

Comprehensive, long-term solutions are necessary for this and many other immigration issues. But we have an immediate need. The summer season is fast approaching. Tourism is critical to the economy of Maine. But if the tourism businesses are not able to hire a sufficient number of workers to operate their businesses, the economy will suffer and American jobs will be lost. It is exactly as the Senator from Maryland so eloquently explained in her statement.

We need to make sure we act now to avoid a real crisis for these seasonal businesses this summer and fall.

I salute the Senator from Maryland for her work on this. I hope my colleagues will join in supporting this amendment. This vehicle may not be the very best for this proposal, but we do need to act. Time is running out.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Maine for her remarks, along with her and her colleague from Maine for their advocacy on behalf of Maine workers. We know Maine has been hard hit with many issues.

I ask unanimous consent to add Senator DEWINE of Ohio as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I hope the distinguished chairman of the Committee on Appropriations would take my amendment or, at the very least, have an amendment tonight. There needs to be a discussion on how we proceed.

I note there seems to be no one here. I could speak on this bill, I have such passion, such fervor about the need for it that I could speak for an extended period of time, but I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from California is to be recognized following the last debate.

Mr. INHOFE. I see.

Ms. MIKULSKI. Mr. President, my amendment is pending.

The PRESIDING OFFICER. That is correct.

Ms. MIKULSKI. My amendment is pending and I recognize the Senator from Oklahoma wishes to speak. The Senator from California has an amendment.

Mr. INHOFE. Will the Senator yield?

Ms. MIKULSKI. Yes.

Mr. INHOFE. I was going to make a unanimous consent request to have a very short statement concerning S. 359. I recognize your amendment is pending, but I would do that through unanimous consent. This is the Agriculture Job Opportunity Benefits and Security Act.

Ms. MIKULSKI. If the Senator wishes to speak on another matter, perhaps as if in morning business, I have no objection to that.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. If I might, how long will this be?

Mr. INHOFE. I respond to the Senator from California, I could do anywhere between 2 minutes and an hour. Your choice.

Mrs. FEINSTEIN. I would object since I have been waiting.

Mr. INHOFE. I can make it very short.

Mrs. FEINSTEIN. Two minutes.

Mr. INHOFE. Three minutes.

Ms. MIKULSKI. Perhaps I could clarify this, Mr. President. The reason I asked for a quorum call, reclaiming my right to the floor, is so the distinguished chairman of the Appropriations Committee and I could discuss how we were going to proceed for the rest of the evening. Therefore, the Senator from California would know how to exercise her right as the next in line.

So if the Senator from California could be patient for a minute to get clarification, he could be a time-filler.

Would that be a good way to do it?

Mr. INHOFE. That would be fine.

Ms. MIKULSKI. It is a klutzy way of talking about it, but it is, nevertheless, where we are.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I will make this very quick. And I appreciate this very much from the Senators from Maryland and California.

Mr. President, I just want to get on the record.

Last summer, I had an intern in my office from Rwanda. I have been active in Rwanda in kind of a mission thing for quite some time. She came to this country 10 years ago after the genocide that was taking place. She went through all the problems in becoming a legal resident. And, of course, she is going to actually become a citizen.

I have been privileged for a number of years to be chosen to speak at the various naturalization ceremonies in Oklahoma. These people go through all of the procedures. I daresay that most of those who go through the naturalization process become better citizens than some who are born here.

Certainly, they know more about the history of this country. That is one of the reasons I have opposed, historically, any type of an amnesty program.

Now, the one that is before us by my very good friend from Idaho has four steps of amnesty in AgJOBS. The first one is a temporary resident status, so that this jobs bill states that upon application to DHS, the immigration status of an illegal immigrant shall—not "will," not "may be," but "shall"—be adjusted to lawful temporary resident status as long as the immigrant worked in an agricultural job for at least 575 hours or 100 workdays, whichever is less.

The next step is to take that same person and give them permanent resident status. The third step would be to make an adjustment not only for those individuals coming in but also for the spouses and the minor children. So we are talking about opening that gate for many more people.

Fourthly, the reentry. Now, this means if somebody left the country under any circumstances, they would be allowed to come back and go through this process.

On top of that, another thing I do not like about the legislation is it does have a taxpayer-funded legal services provision in it.

So I just want to get on record and say this is something I do not think is in the best interests of this country.

Mr. President, I do thank the Senator from California and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. Reserving my right to object, may I ask what the Senator would like to do?

Mrs. FEINSTEIN. What I would like to do is put forward an amendment. I gather there will be no more votes tonight.

Ms. MIKULSKI. Well, that is what we are trying to determine. That is what I am trying to determine. I would like to have a quorum call.

The PRESIDING OFFICER. The Senator from California has the floor.

The Senator from California.

Mrs. FEINSTEIN. Yes, that is fine. I will not take long. I will just put the amendment in. I will not ask for a vote tonight.

Ms. MIKULSKI. I have no objection.

Mrs. FEINSTEIN. I thank the Senator very much.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside.

Mrs. FEINSTEIN. Mr. President, I want the Senator to know it is my intention to vote for her amendment. I obviously did not want it on this bill, but since it is, it is my intention to vote for it.

AMENDMENT NO. 395

(Purpose: To express the sense of the Senate that text of the REAL ID Act of 2005 should not be included in the conference report)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk and ask that the amendment be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. CLINTON, and Mrs. BOXER, proposes an amendment numbered 395:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Senate conferees should not agree to the inclusion of language from division B of the Act (as passed by the House of Representatives on March 16, 2005) in the conference report;

(2) the language referred to in paragraph (1) is contained in H.R. 418, which was—

(A) passed by the House of Representatives on February 10, 2005; and

(B) referred to the Committee on the Judiciary of the Senate on February 17, 2005; and

(3) the Committee on the Judiciary is the appropriate committee to address this matter.

Mrs. FEINSTEIN. I thank the clerk. This amendment is cosponsored by Senators BROWNBACK, LIEBERMAN, ALEXANDER, LEAHY, CLINTON, and BOXER.

As the clerk has read, it is a sense-of-the-Senate amendment. It relates directly to the REAL ID Act. It is the sense-of-the-Senate amendment that attempts to bind the Senate conferees to oppose the REAL ID Act in the conference on this bill. I would like to take a minute to explain why.

First of all, this was presented to the Senate in February. It has not yet been heard by the Senate Judiciary Committee. And, once again, a very controversial bill will be considered in conference on this bill. It was put in the House bill in a preemptive way. It is there, and we have to deal with it.

I want everyone to know this bill is major in scope in what it does to change immigration hearings and much to do with immigration. It very much tightens the standards for asylum and withholding of removal. It would give judges broad discretion to deny asylum claims based on the credibility of the applicant. And possibly one reason alone could mean a negative credibility finding.

It changes the statutory requirement that an applicant must demonstrate to be granted asylum, making it much more difficult, and it eliminates judicial review by barring a court from reversing the decision of the judge or other adjudicator about the availability of corroborating evidence.

It would give the Secretary of the Department of Homeland Security the ability to unilaterally waive all laws to construct the border fence, including possibly wage and hour laws, criminal laws, labor laws, civil rights, and so on.

Now, the problem with this section—I happen to be for finishing this 3-mile stretch of California border with a border fence—is the wording in this is so broad that it appears to provide waiver authority over laws that might impede the expeditious construction of barriers and roads not just to finish the fence in Southern California but anywhere in the United States. And it would allow for no review or appeal of the decisions of the Secretary of Homeland Security relating to this.

In terms of judicial review of orders of removal, it would limit, if not eliminate, stays of removal while cases are pending. Most importantly, it would eliminate, for the first time in our Nation's history, any habeas corpus review of removal orders for both criminal and noncriminal immigrants. This is a major change. It would limit the ability of the courts of appeal to review mixed questions of law, even in cases of longtime, lawful permanent residents, if virtually any crime led to the deportation.

Further, the restrictions on reviewing mixed questions of law would apply to asylum and claims under the Convention Against Torture. Now, here is a section that causes great concern. I believe it does to Republicans as well as Democrats.

The REAL ID Act appears to essentially create bounty hunters. Let me tell you how it does that. It increases the authority of bail bondsmen to arrest and detain anyone they believe is illegal, including a financial incentive by leaving it up to a bondsman's opinion that an alien poses a flight risk which necessitates them being turned over to the Department of Homeland Security. If that is the case, the alien forfeits his or her bond premium under very broad circumstances. Illegal aliens turned over to the Department of Homeland Security must be detained.

Now, this is at a time when immigration officials have not proven they can detain all of the aliens they apprehend today.

What this does is, it says to the bail bondsman, if you think someone is illegal, you can go after them. You can maintain custody over them and you turn them in, and they have to be detained. This is on a bail bondsman's opinion of illegality. It also would provide bail bondsmen with unfettered access to information on illegal aliens and to influence Government processes with noncitizens subject to bonding. I don't know that we should be giving bail bondsmen this authority without any hearing in the Senate or any consequential discussion in the House on this point.

It sets minimum bonds for aliens in removal proceedings at $10,000, and it prohibits the Department of Homeland Security from releasing anyone on their own recognizance who is in removal proceedings. We don't even know if we can hold everybody. This particular section, actually more than any other, causes me enormous concern, and obviously the cosponsors of this sense of the Senate.

It does a number of other things. It holds spouses and children of an alien accountable for an alien's involvement in a terrorist organization or activity, even if they didn't know about it. I don't know that we should do that without understanding what we are doing.

With respect to driver's licenses, it creates a large unfunded mandate on the States. The CBO did a cost estimate of the costs associated with implementing the driver's license provisions and estimated that DHS would spend $20 million over the 5-year period to reimburse States for the cost of complying with the legislation. But in addition, it would require States that participate in the driver's license agreement, which is an interstate database, to share driver information at a cost of $80 million over 3 years, to reimburse States for the cost to establish and maintain the database. The grand total is $100 million over 3 to 5 years.

The just-passed intelligence reform law sets up a process whereby States, the Federal Government, and interested parties will make recommendations for establishing minimum Federal standards for driver's licenses and personal identification documents. The REAL ID Act essentially countermands the rights of States in this process. Both the current law, pursuant to the intelligence reform bill, and the REAL ID Act require that States set certain minimum document requirements as well as minimum issuance standards. The difference is that the REAL ID Act eliminates the stakeholder process and proscribes a very complicated and burdensome set of requirements on States.

It also has differences between the intelligence reform bill and the REAL ID Act on the issue of driver's licenses and personal identification documents. The intelligence bill gives States 2 years to comply with minimum standards. The REAL ID Act gives States 3 years in order for these documents to be accepted by a Federal agency for official purposes.

Secondly, the intelligence reform bill requires that the Secretary of Homeland Security and the Secretary of Transportation work together to establish minimum standards for driver's licenses and personal identification documents. The REAL ID Act imposes on States what must be done.

I don't think we should do this. We passed an intelligence reform bill. We dealt with some standards in that bill. Here, without a hearing, without any committee consideration, this bill is put, by the House of Representatives, on to this supplemental and is in conference.

I don't think we should do this. The sponsors agree with me. So we have proposed a sense of the Senate that would seek to bind conferees to eliminate the REAL ID Act from this bill. That doesn't mean it is eliminated for all time. I also believe the Judiciary Committee should promptly hear the bill. We should consider amendments. We should be able to compare it in this house with the intelligence reform bill just passed and, therefore, make a decision. This is what the Senate is set up for. We are meant to be a deliberative body. We are meant to consider major and controversial pieces of legislation and, if necessary, slow them down. This is added unilaterally on this supplemental bill with no consideration by this house whatsoever. It is going to resolve itself with a very few Members of this body dealing with an enormously complicated, controversial bill that conflicts with other legislation passed by this body. We don't do our work if we let this happen.

We have proposed this sense of the Senate, and I am hopeful there will be enough votes in this body so that the conferees on the Senate side will simply not accept business being done this way. Who would have thought a major piece of immigration legislation would be placed, without hearing, on this emergency supplemental which deals with the war in Iraq and critical emergency matters? It is a big mistake.

I ask for the yeas and nays, and I understand the vote will not be tonight, but this will be put in the order.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mrs. FEINSTEIN. I thank the Chair and yield the floor.

AMENDMENT NO. 387

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The Senator is recognized.

Ms. MIKULSKI. As I understand the regular order, the H-2B amendment I have offered is pending. I note that there are other speakers on the other side of the aisle but on the same side of the issue who wish to speak. I note the Senator from Wyoming is here and he wishes to speak. I want to continue the debate on this amendment.

The PRESIDING OFFICER. The Senator's amendment is the regular order.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the Senator from Maryland. I will briefly tell of my interest and support for this idea. I am very pleased to be a cosponsor. This is an issue we have struggled over the last couple of years. Certainly it is not the overall remedy to our whole struggle on immigration. However, this is something we do need to do now that will last in the meantime while we work on the other.

Each of us who has spoken has a little different role to play in our home States with regard to this issue. In Wyoming, it is primarily the summer season, travel and vacations, Jackson Hole, WY, and other places where this has been a very important part of providing services there. Last year, of course, we were caught up in the 66,000-worker limitation, and it was kind of unfortunate for us because, as I said, it was the summer season, and therefore, the applications didn't get in as quickly as they did in some other places where their seasons started earlier. By the time our folks applied, there were no vacancies.

I am for an overhaul of immigration. When we have the needs and we want people to be able to legally come to this country, whether it is for a short while, whether it is for a longer while, come legally, I am one who thinks illegal is illegal and we shouldn't have it that way.

We have to look at the demands and then find a relatively simple way to work through it; otherwise, people tend to try to ignore it and go around, so that doesn't work.

These small businesses are in need of some relief. They cannot find workers to do these jobs. The Labor Department certifies there is indeed a labor shortage in this case and they look to willing workers.

The Mikulski amendment is quite simple, as has been explained. It doesn't count workers to the cap of 66,000 who have participated in the H-2B program during the past 3 years. It separates the allocation to two 6-month batches 2-year temporary relief. It collects new fees for fraud prevention and detection so folks who process the applications have the skills and tools to identify fraud. We need to make these changes.

I understand the difficulty with the bill that is on the floor. I think the resolution is coming clear so we can deal with some of these issues and leave the larger, longer term solutions to another time.

Mr. President, I thank the Senator from Maryland and I look forward to a very positive vote on this issue.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I thank the Senator from Wyoming for his comments in articulating the economic issues facing Wyoming. I have had the occasion to visit there myself and I know what a wonderful State it is. I am not much of a skier; I am built a little too close to the ground for that. But this shows this is not only a coastal State issue, and it also shows it is not only a seafood processing issue; this is an issue that affects our entire country, particularly those who depend upon summer seasonal workers. We understand some of our States enjoy—whether it is Massachusetts, Wyoming, or Idaho—both summer and winter. Either way, the Senator knows that we depend on summer workers. We thank him and the Senator from Idaho who spoke, as well as others.

Mr. President, I note that the hour is late and now that the Senator from Wyoming has spoken, I am not sure if there are other people who wish to speak.

I ask unanimous consent that Senator SNOWE of Maine be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I want to get a vote on my amendment, but it is not possible tonight. Therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. DEMINT). Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I have requests to make on behalf of managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

AMENDMENT NO. 401

I send an amendment to the desk on behalf of Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, proposes an amendment numbered 401.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 193, line 23 of the bill, strike "$500,000" and insert in lieu thereof: "$1,000,000".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 401) was agreed to.

AMENDMENT NO. 402

Mr. COCHRAN. Mr. President, the next amendment is on behalf of Senators MCCONNELL, LEAHY, and OBAMA that addresses the Avian flu virus in Asia, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, for himself, Mr. LEAHY, and Mr. OBAMA, proposes an amendment numbered 402.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To address the avian influenza virus in Asia)

On page 192, line 19, after "March 2005," insert "and the avian influenza virus,".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 402) was agreed to.

AMENDMENT NO. 403

Mr. COCHRAN. Mr. President, I now send to the desk an amendment on behalf of Mr. LUGAR and Mr. BIDEN. It deals with an increase in funding for the Department of State's Office of the Coordinator for Reconstruction and Stabilization with an offset.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself, Mr. LUGAR, and Mr. BIDEN, proposes an amendment numbered 403.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional amounts for diplomatic and consular programs and reduce the amount available for the Global War on Terror Partners Fund)

On page 171, line 13, strike "$757,700,000" and insert "$767,200,000".

On page 171, line 21, after "education:" insert the following "*Provided further*, That of the funds appropriated under this heading, $17,200,000 should be made available for the Office of the Coordinator for Reconstruction and Stabilization:".

On page 179, line 24, strike "$40,000,000" and insert "$30,500,000".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 403) was agreed to.

AMENDMENT NO. 404

Mr. COCHRAN. Mr. President, I now send an amendment to the desk on behalf of Mr. LEAHY regarding environmental recovery activities in tsunami-affected countries.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 404.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify language in the bill relating to environmental recovery activities in tsunami affected countries)

On page 194, line 7, delete "Aceh" and everything thereafter through "Service" on line 9, and insert in lieu thereof: "tsunami affected countries".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 404) was agreed to.

AMENDMENT NO. 405

Mr. COCHRAN. Mr. President, I send an amendment to the desk on behalf of Mr. LEAHY requiring a 5-day notification to the committees on appropriations for tsunami funds.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 405.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

(Purpose: To require five day prior notification to the Committees on Appropriations for tsunami recovery and reconstruction funds)

On page 194, line 19, after colon insert the following:

Provided further, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds:

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 405) was agreed to.

Mr. COCHRAN. Mr. President, I thank the Senators.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 406

(Purpose: To protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation)

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Indiana [Mr. BAYH], for himself, Mr. CORZINE, and Mr. PRYOR, proposes an amendment numbered 406.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. BAYH. Mr. President, I rise to support a cause which is essential to the continued prosecution of our war on terrorism. It is essential to preserving our National Guard and Reserve as a vital force in defending our country, and it is essential to defending our moral obligation to those who defend our Nation.

No one—particularly those citizens who have placed themselves in harm's way at our bidding—should be forced to choose between doing right by their loved ones and doing right by our country. The amendment I have submitted will prevent that moral tragedy from happening.

What I refer to as the patriot penalty—the cut in income those who are called to active duty in our Guard and Reserve must suffer—has become a very serious problem. We now have about 180,000 Active-Duty Guard and Reserve personnel: 40 percent of the forces in Iraq have been called to active duty from the Guard and Reserve. The deployments are now lasting longer on average than any time since the Korean war.

Since that conflict, it had been our practice to not summon the Guard and Reserve for active duty for more than 6 months. Today it is routine they are called to service in Afghanistan, Iraq, and elsewhere for longer than that period of time, making these deployments not reasonably anticipatable on behalf of these individuals and their families.

Mr. President, 51 percent—more than half—of the guardsmen and reservists who are called to active duty suffer a loss of income, the patriot penalties. The average loss is $4,400 per citizen soldier—a material amount of money for the average American family. The General Accounting Office in a recent study indicates that there is growing financial strain on these families, even up to bankruptcy. It is morally unacceptable. It is unacceptable from a national security standpoint and from our obligation as fellow citizens that those we place in harm's way and ask to make the ultimate sacrifice physically should also be asked to make the ultimate sacrifice financially.

That is what this amendment would stop. It is hard, not just for the soldiers and their families involved; it is also undermining the vitality of the Guard and Reserve and the essential role they play in service to defending our country. Fully five out of six of the Reserve branches did not meet their recruiting goals in the most recent period. General Helmly, the head of the Army Reserve, has described the Army Reserve as a broken force. At a time when we are relying upon our Reserve and our Guard men and women more than ever before, they are on the cusp of becoming, according to their commander, a broken force. We must not let that happen. Of the 78 percent of these individuals who are considering not reenlisting in the Guard and Reserve, fully 75 percent, three-quarters, cite the loss in income as a material factor in their decision to not reenlist.

Many laudable firms in my State and, I am sure, in the State of Mississippi, the State of South Carolina, and elsewhere, are doing their part. About one-third of employers are seeking to make up this penalty, the patriot penalty, on their own; 23 States are helping. It is important we do our part as well.

Our amendment would provide, after someone has been called to active service for more than 6 months—therefore a period of time more than was reasonably anticipatable—for up to $10,000 in lost income be made up for these individuals, meaning that more than 95 percent of those who suffer this penalty would be made whole.

We provide incentives for the two-thirds of employers currently not contributing to making up these penalties, for them to do their part as well, making it a public-private partnership. The cost over the next 5 years is estimated to be about $535 million. Given the scope and the magnitude of the undertakings in Afghanistan, in Iraq, the costs we are incurring for so many other activities, including to try to train, equip and put into place Afghans and Iraqis to defend their countries, this is well within our budget. This is well within what we can afford as a country, to do right by those who are attempting to implement freedom abroad, to ensure that they can do right by their loved ones and their families at home.

Objections, of course, are raised to anything in the Senate. The principal one is that it will lead to an inequality of pay to those on the battlefield, permanent Active-Duty personnel versus Reserve and Guard men and women who have been called to serve by their side. These are unequal circumstances. As I said, for those who are Active-Duty and have made that commitment to our country, they can plan for that circumstance. For those in the Guard and Reserve who have been called to service for a period of time that was not anticipatable because it is longer than any time in the last half century, they require and deserve somewhat different treatment. I simply say, we do not call upon our Active-Duty personnel to take a cut in pay when they enter combat. We should not ask our guardsmen and reservists to take a cut in pay when they do likewise. That is why the patriot penalties must be made up.

In conclusion, we should find it within both our hearts and our wallets to do right by those who defend our country. It is important to the fight against terrorism. It is important to the preservation of the Guard and Reserve as a vital component of our Nation's security. It is important and essential that we fulfill our moral obligation to those we have called to duty so that they can do right by their loved ones, just as we are asking them to do right by their company.

I respectfully ask for my colleagues' support of this urgent and worthwhile initiative.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of Rule XVI for the purpose of proposing to the bill H.R. 1268 amendment No. 398, which I ask unanimous consent to have printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

On page 231, after line 6, add the following:

TITLE VII—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING

SEC. 7001. FINDINGS.

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly know as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

SEC. 7002. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this title referred to as the "Special Committee").

SEC. 7003. PURPOSE AND DUTIES.

(a) Purpose.—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) Duties.—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) Investigation of Wasteful and Fraudulent Practices.—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) Evidence Considered.—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

SEC. 7004. COMPOSITION OF SPECIAL COMMITTEE.

(a) Membership.—

(1) In general.—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) Date.—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) Vacancies.—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Service.—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) Chairman and Ranking Member.—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) Quorum.—

(1) Reports and recommendations.—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) Testimony.—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) Other business.—A majority of the members of the Special Committee, or ⅓ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

SEC. 7005. RULES AND PROCEDURES.

(a) Governance Under Standing Rules of Senate.—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) Additional Rules and Procedures.—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

SEC. 7006. AUTHORITY OF SPECIAL COMMITTEE.

(a) In General.—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) Hearings.—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) Issuance and Enforcement of Subpoenas.—

(1) Issuance.—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) Enforcement.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) Meetings.—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

SEC. 7007. REPORTS.

(a) Initial Report.—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 7003 not later than 270 days after the appointment of the Special Committee members.

(b) Updated Report.—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) Additional Reports.—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) FINDINGS AND RECOMMENDATIONS.—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 7003.

(e) DISPOSITION OF REPORTS.—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

SEC. 7008. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—

(1) IN GENERAL.—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) APPOINTMENT OF STAFF.—

(A) IN GENERAL.—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) MAJORITY STAFF.—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) MINORITY STAFF.—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) NONDESIGNATED STAFF.—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) COMPENSATION.—

(1) MAJORITY STAFF.—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) MINORITY STAFF.—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) NONDESIGNATED STAFF.—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) REIMBURSEMENT OF EXPENSES.—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) PAYMENT OF EXPENSES.—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

SEC. 7009. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

SEC. 7010. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

Mr. DORGAN. Mr. President. I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of Rule XVI for the purpose of proposing to the bill H.R. 1268 amendment No. 399. which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

At the end of the bill, add the following:

SEC.   . (a) None of the funds appropriated or made available in this Act or any other Act may be used to fund the independent counsel investigation of Henry Cisneros after June 1, 2005.

(b) Not later than July 1, 2005, the Government Accountability Office shall provide the Committee on Appropriations of each House with a detailed accounting of the costs associated with the independent counsel investigation of Henry Cisneros.

Mr. KERRY. Mr. President, this debate on emergency funding for our military wouldn't be complete if we did not begin to address the crises military families face at home as well as abroad.

I am proud that the Senate has passed my two amendments, one to allow families to stay in military housing for a full year after the death of a spouse, the other to ensure all military families receive $500,000 in total death benefits when a loved one dies in service to America, but I am also deeply moved by the stories I have heard from across our country in the last 24 hours about the challenges to military families every day.

Yesterday, I sent an email to Americans asking them to share their stories—of husbands and wives, sons and daughters, neighbors and friends who serve their country with courage but have been left on their own by our policies here at home. Within hours over 2,000 Americans sent me their stories. They took time out of their busy days to share their stories on the hope someone would listen. Their voices must be heard in the halls of Congress. Today, I enter a small sample of their stories into the CONGRESSIONAL RECORD to prove we are listening, and hope that today's victory marks a new beginning, and that soon Congress will answer all their prayers and pass a comprehensive Military Families Bill of Rights.

I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Alan Neville—Aberdeen, SD

This is a story about my own family. In January 2003, my wife was called to active duty with her Army National Guard unit. She was inactive status and a mere 7 days from being completely out of the military when she was mobilized. She went from being a civilian attorney to a Sergeant/E–5 administrative clerk at a significant loss of pay. At that time, I became a single parent to four young children for one full year. In August 2004, I too was called to active duty with my Army Reserve unit. I went from being a university professor to being a Sergeant First Class/E–7. Once again, our four children were without one of their parents during their critical stages of development. We've done our part, now it's time for others to do their part. The burden placed on the National Guard and Reserve forces seems extreme. The morale among more seasoned soldiers, those with 10 to 20 years of service, is not good. Many are getting out of the military at the first available moment.

Jack Cooper—Corpus Christi, TX

This is a story about a young couple in Austin, Texas. The husband works for Home Depot and was called up in the Marine reserves. There are two young children, both girls. One of the girls has Job's Syndrome. Home Depot did not continue the family's insurance.

They had to go out and pay ridiculous rates for additional health insurance to cover the child. That was money they could not afford because Home Depot did not pay his salary while he was gone. The child was in the hospital for much of the time the father was in Iraq. The mother had to take off from teaching to stay with the child in the hospital. She used up all vacation and sick time, and then was docked pay for lost time.

We are not taking care of our soldiers or their families.

Doris Fulmer—Albuquerque, NM

I just lost my husband on February 11. He was a navy pilot for 28 years. He paid on my SBP for years, and now I can hardly get by, and waiting for the increase in October is going to be difficult. I will have to sell my house to survive. It appears they are waiting for us to die to . . .

Not enough is being done for the active duty veteran. I don't see how the administration can be so tight with the veterans and their loved ones while we wage war in a foreign country and pour in millions of millions of dollars.

Stephen Cleff—Haddenfield, NJ

This past Christmas, my uncle was called into service in Iraq. He has served this country in Vietnam and when he returned continued to serve as a policeman.

My uncle is 58 years old. This is an example of how stretched our armed forces are because of the current policies of the President and his followers.

His current service not only required that he miss Christmas with his family, including his father who was very ill, but more importantly, it required that he miss his father's funeral. His wife is now alone in their house, waiting for his return. I do not know the specifics of their finances, but I do know that they relied on his income as a police officer.

I wonder how easily our current majority leaders would send people into combat if they had to survive on the same benefits.

Christopher Perkins—Burnham, ME

Here in Central Maine we have a young man, Fred Allen who, like myself, volunteered to be a paratrooper and served in both Afghanistan and then in Iraq.

He was grievously wounded in both legs in Falluja, a name we all know from the news. He spent a good deal of time in the hospital getting back on his feet and continues his healing and therapy at home. According to his mother he is receiving little in the way of compensation or direct help.

I can draw a strong parallel here with my personal experience in the Army.

I enlisted in 1967 at the height of Vietnam and also went Airborne. I served with the 3/506th Airborne Infantry "Currahees" of the 101st Airborne Division in 1968–69. I was a radio operator and then a machine gunner in the field. I received the Combat Infantryman's Badge, Jump Wings, Air Medal and the Bronze Star with "V" Device for heroism in ground combat.

After my return home my best friend was killed in Vietnam and I began to have serious problems with nightmares, depression etc.

The army's answer at the time was a "resignation for the good of the service" Sign here and you can go home.

In the 1980's there was a greater awareness of the problems veterans were having and programs were developed, but for over 15 years we were on our own. Many good soldiers didn't make it.

Thanks to Senators Mitchell and Cohen I was finally able to receive PTSD treatment and treatment for arthritis and a disability award.

It is my greatest hope that our younger brothers will not have to wait so long for their help. I once wrote a critique of the PTSD program at VAMROC, Togus, Maine for Senator Mitchell. This was my final remark.

"We who placed our lives in the balance, and were not found wanting, ask for no more than that which is our due, to be treated with dignity, honor and respect."

Pamela Goers—Romulus, MI

My stepson is in the Navy stationed in Washington State. He finds it so extremely hard to take care of his family on his pay that he was willing to volunteer to go to Iraq [again] because of the bonus offered and how much his family would benefit from it. This is just wrong. The military men and women put their lives on the line for us; the least we can do is ensure that their families are provided for.

James Tate—Coon Rapids, Iowa

I have 2 sons in Afghanistan, deployed for 1 year duty with the 168th Infantry Iowa National Guard. The younger has had the misfortune of having his marriage disintegrate in his absence and he has no assurance that his construction job will be available on his return. The older has a contract detassling business for 2 Iowa seed corn companies. This is a very seasonal business and Mike has suffered a $60,000.00 loss of income from the business. In his absence his wife and I had the responsibility of keeping the business going but the companies involved were fearful that in his absence we would not be able to handle the number of acres he normally completes. Consequently they cut the allotted acres by ½. Much of the fixed expenses of running such an operation remain the same regardless of the total acres performed. Normally the business returns approximately $70,000 above expenses. Last summer the return was less than $10,000.00. Besides, there remains a question of whether or not the companies will make the normal acres available in the future or if they will give them to the other contractors that filled the void this past summer.

My wife and I raised and educated 11 law abiding, tax paying American citizens. This administration has created a situation that for the first time in nearly 70 years leaves me ashamed of what my country is doing in the world.

D. Bottoms—Oregon, WI

My best friend Kurt Jerke, age 31, is a captain in the Indiana National Guard. He was a Ph.D. graduate student in the Department of Biological Sciences at Purdue University. In his final year for his Ph.D. degree, he received orders to leave for Afghanistan. At this time, his wife Katie had just giving birth to his first son. Kurt left when his son was only two months old. Katie has been in a daze ever since Kurt left for Afghanistan with managing her job, daycare and caring for her child, while maintaining there house all as a single parent. They're son, Cade, is now a year old. He's a walking, talking, cute little guy. Kurt missed his son's first year and Kurt still has no end in site. Kurt has no idea when or if he's coming home. Kurt has no idea if he's staying in Afghanistan or if he's going to Iraq . . .

Sandy Fox—Cleveland, OH

As a 6-year member of the Ohio National Guard, my son was within one month of completing his obligation when he was notified that he could not leave the service. He is now in Baghdad, much to the dismay of the entire family.

He has two sons, ages 2 and 4. He discovered the week before he shipped out for Iraq that his wife is pregnant with a daughter . . . the first female in our family for quite a long time. His wife is a nursing student who also has a part-time job. Not only has his departure caused emotional upheaval for the entire extended family, he was the major "breadwinner" for his nuclear family.

Knowing that she could not afford to keep up payments on their apartment, their vehicles, etc., without his income, she approached the military for assistance. She was told that there was nothing they could do for her. . . that she would have to turn to her in-laws for help to sustain her and her family while her husband was serving our country.

In summary, this poor pregnant woman is living in the basement of her in-laws' home with her two sons because the military and our government turned their backs on her. Their atrocious treatment of the military personnel, their families and our veterans belies all their public rhetoric about family values and moral integrity. It's disgraceful! I don't know how they sleep at night.

Kara Block—Jamaica Plain, MA

My brother is a lieutenant in the Marine Corps. He has been on two tours of duty to Iraq and is about to deploy for the third time, this time to Afghanistan.

Since 9/11, our family has been continually shadowed with the threat of losing my brother on one of his deployments. He was on the first wave of the invasion in March 2003 as part of the 1st Light Armored Reconnaissance that forged ahead to Tikrit. On that first Iraq deployment, we did not hear from our brother until it was time for his battalion's return to the States. He called my parents via a satellite phone before heading back, to ask them to wire $200 for a phone card to call home from the ship that carried them homeward. The U.S. government does not pay for its troops to keep in touch with their families while deployed.

On his second deployment to Iraq, my brother called home to ask for a particular kind of field binoculars, as those that should have been standard issue to him had not been provided. These binoculars cost my parents $500, and were obtained only with great difficulty [incidentally, per Newsweek in 2003, the average American troop spent over $2000 outfitting himself/herself with safety and field gear]. For many other military families, the purchase of this necessary safety-enhancing instrument would be prohibitively expensive.

In January 2004, when much media ado was made about the lack of armor in the Humvees contributing to many unnecessary roadside fatalities from IEDs, President Bush made a statement assuring all military family members that the troops would receive proper armor by March 2004. However, upon their return, several Marines Lieutenants informed us that the armor did not arrive till June/July 2004; despite the battalion's mission being to escort military and civilian convoys—a highly dangerous duty that took them all over IED-infested roads of Iraq. The Marines also cited a shortage of flak-jackets on their first deployment.

The ordeal of enduring those long, dangerous deployments (especially cognizant of the lack of armor/equipment) and perennially bracing for bad news is too great to recount here. Needless to say, these last few years have taken an extensive toll on the health and happiness of this family, which I consider as much of a sacrifice for this nation as the military service of my brother.

Despite the outcry of his family against such things as his inadequate training for the jobs with which he was tasked, lack of armor and other safety-enhancing equipment [and despite the acknowledged fact that he and his men faced death at every moment at the behest of a president who lied us about the reasons for war], my brother has volunteered to extend his time in the Marines and to deploy for a third time in two years. Were I a poet I would better describe my boundless pride in him and all our troops. Heartbreakingly, he and all the other troops who give so much for this country ask so little in return.

We celebrate the heroism our troops with homecoming parades, yellow ribbons and imposing bronze memorials. But we as a country [especially in Congress] should put our money where our mouth is and increase combat pay, grant our Veterans adequate health care and other benefits, and take care of the families of the fallen or injured (e.g., access to good education for their children). THAT would be a meaningful demonstration of our respect and appreciation for their sacrifice. Our troops deserve no less.

Theresa Grof—Agawam, MA

My husband was activated in 2001 after 9/11. His pay was so low as a technical sergeant in the U.S. Air Force Reserves that we are now 20,000 dollars in debt and have no way out. My husband has served his country many times, he is a Gulf War Veteran, Operation Enduring Freedom Veteran, and an Iraqi Freedom Veteran. He has 14 years in the United States Air Force Reserve, but the pay is so low and the benefits being slowly eroded away that he is no longer sure if he wants to make it to 20 years. He sees his unit falling apart and wants to stay but with cuts in benefits and our debts mounting (we have also both attended college on our GI Bills during these activations) that it just does not seem feasible to stay in the reserves any longer. His unit is losing more and more longtime reservists every week. The unit is becoming undermanned and when they get a new recruit, which is not very often, the person is not well trained enough to really help. This problem of losing long serving military men like my husband will affect the military's mission. Retaining these men is important and passing a bill to help those of us so in debt because of continuous activations should be a major priority at this time. I am very proud of my husband and I see his determination to keep serving his country but soon there will be no reason to stay.

Mark Vaughn—East Greenwich, RI

I am in the U.S. Army Reserve and have been deployed 4 times in 8 years. I have missed almost 36 percent of my daughter's life while deployed. When not deployed I am an adjunct college professor and, until recently did not make enough to be able to afford health insurance. The only time I and my daughter were covered was while I was deployed. While I believe that is would be cost prohibitive to provide all Reserve and National Guard soldiers health benefits, it would be the right thing to do to provide them a health plan which they could buy into (co-pay). This plan would cover them and their families whether or not they were deployed. In addition to providing the families of our soldiers, sailors, marines and airmen a benefit it will also help keep them healthy should they be called up. I believe that it would also provide a strong incentive for recruiting. Just a thought.

Heidi Behr—Orlando, FL

I work as a social worker at a local elementary school in Maitland, Florida. We have some kids in our school whose parents are serving in Iraq and Afghanistan. I know of many families (some at our school and in our community and elsewhere around the country) who are struggling to make ends meet financially because they are not receiving adequate compensation while their loved ones serve in the Armed Forces. Many of the families who have members in the National Guard are dealing with the double blow of loss of pay while also now not having their husband or wife at home. I think it is criminal that our government calls these national guards up without compensating the family for their lost wages and insurance. If a family was dependent on this guard member's insurance through their civilian job, many times those families have now lost health insurance. This is not right and needs to be taken into account by the government when they decide to call these men and women back into service.

Carrie Philpott—Eugene, OR

My son joined the Marine Corp in November of 2002. He enlisted with the hopes that he would be able to fulfill his dream of attending college and earning a BA degree in Criminal Justice. Other than the GI bill, no other funds are available to him for higher education He has just spent a month at home with me after being injured while serving our country in Iraq. He had the time to study his military benefits package and look at what university he would be able to attend. Imagine his disappointment and frustration to find that his GI bill will only cover 1.75 years of an undergraduate degree at a state university that doesn't even offer a degree in his field of study. He has now returned to his unit to complete his 4 year enlistment only to be told that he will have to go back to Iraq in Aug. '06.

Along with his physical injury, my son had nightly nightmares, screaming out visions that could only have come from his battle experiences. I wonder what else he will have to endure for the price of an education?

Kathy Hartman—Loveland, CO

This is a story in reverse to what you are seeking. I have a nephew serving in Iraq who works as a security guard for a private contractor. He receives approximately $18,000 per month and has all of the finest in equipment and security. He received his training as a Ranger in the U.S. Army but now serves as an employee of a private contractor.

My question is, why isn't every soldier employed in Iraq able to receive the salary, benefits and equipment that this "soldier" does? Why have we contracted some of this war out to the highest bidders, using our tax dollars to pay some of our soldiers a more-than-decent wage while our "grunts" fight and die at minimum wage? I do not understand this inequity except of course for the fact that we have now set up wars and military expenses to benefit large corporations even more than they have benefited in the past.

Don't get me wrong. While I do not believe in this war, I do believe that all those in harm's way should be equitably compensated, trained and outfitted. I would rather that all soldiers be compensated at a wage befitting the horror and danger they experience.

Clearly the private contractors are able to pay generous compensation in addition to making generous profits. This is wrong.

Nada Smith McLeskey—Columbus, OH

I was married for 28 years to my first husband who for 21 years served our country in the United States Air Force. He continues today serving our country by teaching your high school students leadership by serving with the JRAFROTC Program in Salt Lake City, Utah. Our daughter served for 6 years in the Utah Air National Guard and today our son serves our country in the United States Air Force in the Special Forces branch. Our son has already seen one tour of duty to the Middle East. He is married and a father of 3 children. He is an enlisted service member. His wife was forced to stop working because their childcare far out weighed the income she could bring home and the subsistence allowance program was cut by the Bush Administration. They now live in base housing but none the less, their income for a family of five is roughly $2000 per month. By the time their bills are paid, there is little left for them to buy groceries or enjoy the luxury of maybe going out to a movie or to eat. I send them what I can per month to help out. I know what it is like to serve our country and have to live on an extremely tight budget. My daughter in law would love to work so they can pay off their debts and have extra money, but with 3 children under the age of 6 it is impossible as childcare would eat up all her wages. Thank you.

Doug Brewer—Tacoma, WA

My daughter is best friends with a 16 year-old whose father is a reservist. He was deployed to Iraq, leaving behind a 12 year-old autistic child, who needs the care of two parents to even have a semblance of a quality of life. The father is in Mosul, a very dangerous place, ostensibly for a year, but we all know how that length of time has tended to expand. I can't tell you how many tears this family has shed over the father's safety, the one parent's frustration of raising an autistic child (among two other siblings), as well as the financial pressures of having the main bread-winner gone. Why? For what purpose?

Katie Laude—Beaver Dam, WI

My husband is a reservist currently serving in Afghanistan. He served his 8 years of military service after getting an ROTC scholarship for college. After finishing his two years of being a company commander he went on IRR. After September 11th he was given the advice to join back with his unit or risk being "cross-leveled" into another unit where he wouldn't know the troops.

Well, as it turns out, he did join his old unit again but was still cross leveled to a unit in St. Cloud, MN (we live in southern Wisconsin). We have three boys (ages 9, 6 and 1). I had our third son after my husband had left. To make it worse, I have NO family support group unless I want to drive over 5 hours to the unit in Minnesota. I have had to hire out virtually everything around our house (lawn, snow removal, home maintenance, etc). After taking a year leave from my job after the baby was born, I felt I had to go back to work. So I am now working full time as a teacher and raising three kids with no husband.

Linda Brown—Bunker Hill, WV

Our daughter is in the MD Air National Guard as well as a full time college student. We still carry her on our medical insurance. She has been deployed twice in the last 3 years each time putting her education on hold. Her boyfriend works full time at the WV Air National Guard but does not have medical insurance. My daughter became pregnant but is unable to marry her boyfriend because he does not have medical insurance. There is no way she could marry him and then have the baby with no insurance. I advised her not to, what if something happened to her or the baby? We cannot afford to pay out of pocket and we make too much money to qualify for Government aid. We would like our daughter to be married and she would like to be also. Her boyfriend has checked into private insurance but at $800 a month they can not afford it. My daughter served in Qatar in Operation Enduring Freedom as did her boyfriend. He flies almost every week doing missions for our government but is not offered insurance! It makes me so mad, most of our government officials don't care about healthcare for others because they will never have to worry about themselves.

Gail Mountain—Gloucester, MA

Like a lot of stories about abuse and mistreatment, despite the specific issue surrounding that abuse and mistreatment, proving it is very difficult.

Nonetheless, I would like to share my suspicion of mistreatment of my nephew as a member of the Air Force reserve who lost his job in the U.S. upon his return from a 3-month assignment in Kuwait, perhaps a year ago.

He had been getting subtle messages for months from his employer that his need for time off to accommodate his military training was not appreciated.

When he returned from Kuwait, he was "let go" under what I believe to me the guise of his inability to do his work.

He believes, and so do I, that he lost his job because of the time it took for him to serve his country.

He will never be able to prove it, but I think we need to also find a way to insure this does not happen to those who choose to serve our country, yet still need to earn a living.

This young man continues to diligently work on his master's degree and to take every opportunity to get as much military training as he can so he can become a part of the investigative branch of the Air Force because he loves his country and because he wants to participate in the safety of it. I hope a part of your work will be to also insure that our reserves and our national guard are taken care of by the country they choose to protect.

Sarah O'Malley—Castine, ME

This story is of a man in a town near by, the nephew of a friend, a high school classmate. Harold Gray was in the National Guard, the 133rd Engineering Battalion from here in Maine. He was injured several months ago by a road side bomb, getting hit with shrapnel in the head and shoulder.

Shrapnel destroyed his eyes and lodged in his brain.

Harold was in a coma for quite a while at a military hospital in Washington. His wife traveled to DC to be by his side, and his three young daughters are staying in their home community with family. Harold's wife is a manicurist with no benefits, when she doesn't work, she doesn't get paid. She hasn't been working for months now. In every store you go in around here, there is a coffee can with Harold's picture, collecting spare change to help support his family. This soldier's family is living off good will and spare change.

As a Guardsman, I don't know what kind of extended support Harold and his family can expect. The best case scenario for Harold's situation would be a full cognitive recovery, but with total blindness. This is however, extremely unlikely. Harold will live the rest of his life with shrapnel in his brain, and the severe cognitive deficit that goes with it, as well as the loss of this sight. As a Guardsman, not a member of the Army etc, I fear that his family will fall between the cracks, and through loop holes and bureaucracy not receive the benefits (however paltry) that regularly commissioned soldiers are entitled to.

Jean Harris-Letts--Middleburg, FL

I am a physician in a town where many of my patients count on military benefits.

For Medicare recipients, most of the time both Social Security checks go for food and rent, while hopefully the service connected spouse will be able to get his or her medication from the Veterans Administration. The non-military spouse will have to get samples of meds or often go without.

My younger patients whose spouses are in the military are in an only slightly better position . . . It baffles me how anyone could countenance cutting military benefits in a time of war, when so much depends on morale.

The patients to whom I refer are not deadbeats. They are hard working people, who are just not being properly compensated, and find only twenty four hours in the day when they try to do more.

George Cleveland—Milwaukee, WI

I am a Vietnam era vet with severe back pain, lumbar/sacrel facet degeneration. I was completely independent when President Clinton was in office. When President Bush got in office and reduced V.A. funds. They took away my pain meds, which where 6–5mg Percocets and 2–10mg Oxiocotins. It's gotten to the point that I can't walk with my grandchildren anymore. I'm 58 years old and poor with no other insurance I've talked to other vets with similar problems. We've basically been told that we are not worth the price of our meds. What's going to happen 40 years from now when the vets from Iraq still need help will they be forgotten to? Just go to any V.A. Hospital in this country and talk to the vets sitting in the smoking area and ask. This will probably screw me pretty bad but at this point I just don't give a damn.

Holly Ortman—Fort Benning, GA

My name is Holly Ortman. Not only am I a nurse in the US AF Reserves (inactive now), but I am also a spouse of an active duty soldier in the US Army and a mother of 4. I am highly educated and was working on my Practitioners Degree. I have always stood behind our government and its decisions, but as of late, I feel that my support is dissipating due to the government's lack of support for the military families and the military child. When our son was 6 months old, my husband was given orders to deploy to Afghanistan with the 10th Mountain Division. At the time I was an ICU Nurse manager at the local hospital. At this point in our lives, we only had 3 children. Due to the demands of being a mother of 3, one of which was only 6 months, and an acting single parent due to the absence of my husband, I had to step down as the nurse manager and work in the ER as an emergency/trauma nurse. This was very short lived because in the state of New York nursing is unionized, therefore everything works off of seniority. That left only night shifts open for me to work. Because finding a trustworthy person to come in at night and watch 3 children and get 2 of them ready for school the next morning is so difficult I had to totally resign my nursing position. Just so you understand the seriousness of this let me explain that before I resigned, our family income was close to $4500.00 a month. Because I could not work due to the military deployment, our income fell to less than 1800.00 a month. This qualified our family for W.I.C., and other forms of public assistance, which we had never needed before, but desperately need now. During his deployment, my husband re-enlisted for another 6 years. He is a very patriotic man and he wanted to do what he felt in his heart was right. We toughed it out and my husband came home in May of 2004. Shortly after his return, we found out we were pregnant with our 4th and last child. He then received his orders for Fort Benning, Georgia. We relocated to Fort Benning and upon his First day of reporting and 6 months TO DO THE DAY of his return from Afghanistan he was told to collect his CIF gear, he would be leaving for Iraq by January and that they needed his combat experience over there. We were devastated, as the birth of our last child was due in February and we were hoping to financially catch up by me going back to work. Due to the fact that my pregnancy was high risk, he was allowed to stay behind until the baby was born. He is now leaving for Iraq this Saturday. My career, in a field that is in dire need of experienced people, will once again be on hold, and we will have to scrape by yet again due to the minimal amount the government pays my husband to leave his family and put his life on the line. I was so disappointed in my government when I heard that many wanted to decrease the deployment pay. We are barely making it as it is and without that pay we would literally be in dire straights. Now there is talk of decreasing the amount of the yearly raise to help the budget. Both of my oldest children go to a military school and it has been a God send. They have deployment groups for them and a counselor to help with the transition, which was very hard during the first deployment. These schools know how special a military child is. Now Donald Rumsfeld wants to shut down our military schools. How much more can you people keep taking from us before you realize that we have nothing left to take? I cannot even repay my government student loan because I can not work because of his continual deployment and the government doesn't pay him enough to keep us above poverty level. My family has sacrificed so much and only keeps getting slapped in the face by our government. My family feels so used. I currently hold a commission as Major in the USAF IRR, which I am resigning, and I have told my husband, we will find him a way out. We just can't afford the price of your freedom anymore. I am sorry but fine speeches and big talk cannot put food on my table and bring my husband home alive. Thank you for this chance to share this with you.

Richard Perez, Sr.—Las Vegas, NV

On February 10th, 2005 at 11:30pm in Al Asad, Iraq, we lost our only son USMC LCpl Richard A. Perez Jr.

His story is on www.richardperezjr.com website.

The heartache will never end. My wife Rosemarie who had been a senior sales agent for State Farm with the states highest sales totals for the past 4 years is devastated and has no more energy to even perform her job anymore because of the loss of our only son.

I, Richard A. Perez Sr., Battle with this problem daily, recently our son had signed with us on a very large home loan which we thought would solve all problems as we have rented for 20+ years and never owned a home.

We bought it with the pretense that Rich would help us with the home loan and to build upon his career and life with his own family as he was generating money in his management position at Jack in the Box restaurant. The house has not been built as of yet, but the looming cost of a home here in Las Vegas is skyrocketing and a big payment is due soon. We cannot afford to do this as our daughter is a student at UNLV another a student in High School aspiring model and actress and a third only 10 years old a gymnast in Henderson . . . all girls who lost their brother.

I personally have lost my job and find myself on unemployment getting 329.00 per week because I grieved too long and could not perform my job at the level expected.

Costs run high, but our family has been ruined by a war my son never intended on entering as he was a reservist and had goals and dreams of his own. We still have not even gotten our sons final report , we don't even know the details of what happened? 8-9 weeks ago . . . He was proud to be a Marine and we are proud of him, the little money the Government gave us has paid his college loans at UCLA and we are faced with the hardship of our lives being ruined, because of Iraq.

My whole family has suffered during the past 2–3 months since the accident but really the past 7–9 months we've been stressed and it has affected all that we do daily.

What a disaster, what a shame that my own land of liberty, land of the free has placed us in bondage for years to come and has all of us reeling as where do we go from here?

I am a 7th generation American. My family tree is American Indian, Spanish and Mexican from Los Angeles, CA. I grew up thinking my country was great, my forefathers defended my stance so we can live today. My very uncle Fred Perez sold airplanes to Iraq and Iran as he worked for Boeing in the 60-70s. My cousin lost a leg in the USMC in Vietnam. My Uncle lost an arm in Korea and my wife's uncle died on the shores of France during WWII. What happened to the American Dream? Why, when my family and son defended liberty, do we now suffer? People in NYC buildings were provided 2 million dollars each so they could adjust to their loss. Yes, they needed it, but we do too.

Mr. WARNER. Mr. President, I will offer an amendment to H.R. 1268 which would require the Department of Defense to submit a report to Congress by July 15, 2005, on the Government's processes and policies for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for reuse and redevelopment decisions.

This report will be of tremendous assistance to States and local communities affected by BRAC, and faced with difficult decisions about the redevelopment and economic revitalization of their areas. The report required by this amendment is similar to Community Guides to base reuse, which were published by the Department of Defense in all four previous BRAC rounds during the Commission's deliberations. These guides served a vital purpose for affected communities by explaining existing Federal law pertaining to property disposal and by endorsing a proactive and cooperative relationship between military departments and local communities, without appearing to be directive in nature. I ask support for this amendment.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

ARMY 1ST LIEUTENANT CHARLES WILKINS, III

Mr. DEWINE. Mr. President, inscribed on an exterior wall of the Chapel at the Normandy American Cemetery and Memorial in France, are the following words:

> These endured all and gave all that justice among nations might prevail and that mankind might enjoy freedom and inherit peace.

Many years after the bloody battle on Normandy's shores and many miles from those sandy beaches and jagged cliffs, Army 1LT Charles Wilkins, III, of Columbus, OH, like the thousands of American servicemen who perished before him over 60 years ago, gave his life so that others, too, might enjoy freedom and inherit peace.

On August 20, 2004, 1st Lieutenant Wilkins was killed near Samarra, Iraq, when a roadside explosive detonated near his Humvee. He was 38-years-old.

Today, I would like to pay tribute to this fellow Ohioan and to take a few moments to remember him here in the Senate Chamber. You see, Charles—or Chuck, as he was known to his family and friends—was a deeply devoted, unselfish man. He lived his life with a sense of duty—always dutiful to his country, to his family, to his friends, and to his job. Chuck defined the term "citizen soldier," balancing his service in the Ohio National Guard with his obligations to his family and his career.

After attending both Bishop Hartley High School and St. Charles Preparatory School, Chuck graduated in 1985, and enlisted in the U.S. Air Force. After his discharge, he enrolled at The Ohio State University to study economics. While in college, Chuck joined the Ohio National Guard because, according to his sister Lorin, "He wanted to be an officer." After earning his college degree, Chuck took a job as a transportation planner with the Federal Highway Administration, became a volunteer for Habitat for Humanity, and began attending Capital Law School—all while continuing his service in the National Guard.

At any time, Chuck could have quit being a soldier and settled into a quiet life as a civilian. But, that wasn't the type of person he was. Rather, Chuck was the type of person who always gave 100 percent of himself. In addition to his full time job, his military responsibilities, and his law classes, Chuck served as a peer-advisor at Capital for first-year law students.

As someone who also attended law school, myself, I know how difficult and time consuming study can be—and Chuck Wilkins was doing it with a host of additional fulltime commitments! One of his advisees remembered how helpful Chuck was:

> Without Chuck, I doubt I would have made it through that very difficult first year [of law school]. He was always positive and upbeat, and he was constantly encouraging [us] to never give up. We could always count on Chuck to lift us up when we were down. It was important to him to make our first year journey a little bit better by sharing things that weren't available to him during his first year. I'm glad he took the time to make our first year law school world a better place.

Chuck Wilkins always made time for others. As one of his co-workers said, "He was always looking out for somebody else, never for himself." It was this sense of selflessness led Chuck to Iraq.

Chuck was a member of the 216th Engineering Battalion, based in Chillicothe, OH. When his original unit was passed over for deployment to Iraq, Chuck sought a transfer to a unit that was scheduled to deploy in February of 2004. The new unit needed officers, and the Iraqi people needed bridges and roads. Once again, Chuck gave of himself so that others would not go without. It was hard for Chuck to leave his career and his law school studies, but as his sister, Lorin, said, "He was Army, through and through. He wanted to help rebuild Iraq so people could have the same freedoms we do."

As I said earlier, Chuck Wilkins wanted the Iraqi people to "enjoy freedom and inherit peace."

Though his sense of duty compelled him to go, it still was hard for Chuck to leave his family—the family he loved so very much. Like any mother, Natalie Wilkins did not want her son to leave for war. She begged him not to go and to seek an exemption, but Chuck would just reply, Mom, I can't stay. I have to go with my men." While his deep sense of duty pulled him away from his loved ones here at home, Chuck remained a family man" in every sense of that phrase. His sister, Lorin, says that Chuck was always there for the family. She said that even with his busy schedule, if you called him, he would be there." He took good care of his mom and dad and his sisters, always making sure that his family was provided for—whether he was home in Ohio or thousands of miles away in Iraq.

Charles Wilkins, Jr.—Chuck's father—says that one of his last memories of his son is of him swimming in a pool, playing with his nephew, laughing. That is when Chuck Wilkins was happiest—that is when he was making others happy, making them feel safe and cared for and protected.

We honor the fallen because they have honored us—with their service, with their sacrifice. Charles Wilkins not only gave himself to his country, he gave a little bit of himself to everyone he met.

When Charles passed away, his mother said that the world lost a good man—a man whose life was bound by duty and good deeds. Our world is the lesser without him, but it is also the better for the time he lived on this earth. Charles Wilkins was a good citizen, a good soldier, a devoted family man, and a compassionate human being. Everyone who met him was touched by him in some way. He will be dearly missed.

My wife Fran and I continue to keep his grandmother, Dorothy; his mother, Natalie; his father, Charles; and his sisters Lorin and Davina in our thoughts and our prayers.

I yield the floor.

ALASKA-MONGOLIA TIES

Ms. MURKOWSKI. Mr. President, I rise today to pay tribute to and recognize the contributions of an ally to the United States, an ally that has contributed to our efforts in Afghanistan and Iraq and who has worked in close cooperation with my State of Alaska.

While their contributions have not received the widespread recognition given to other countries, the nation of Mongolia has been a steadfast friend of the United States. They have not been deterred by those critics who deride the quality of the nations included in the coalition forces.

Mongolia's contributions mean a bit more to the State of Alaska. In September 2004, we marked the 1-year anniversary of the start of the Alaska-Mongolia National Guard State Partnership.

Through the State Partnership Program, a true friendship has developed between Mongolia and Alaska. Our National Guard has established broad working relationships and increased exchanges with their Mongolian partners. They stand side by side with the Mongolian Armed Forces in Iraq as they participate in the coalition fighting the global war on terror. In fact, the Mongolian Ministry of Defense specifically requested Alaska National Guard support based on Alaska's relationship with their nation.

I would like to quote MG Craig Gambell that, "[a]s long as the Mongolian Armed Forces are willing to send troops in support of Operation Iraqi Freedom, the Alaska National Guard will continue to stand by their side."

Prior to 2000, Mongolia did not have a national policy of deploying forces beyond its borders. Yet, they were the first coalition country to contribute an infantry battalion to Iraq. The Mongolian Armed Forces are currently providing security to a logistics base in southern Iraq, escorting convoys, constructing military barracks, medical facilities, and local schools. They deserve special recognition for preventing a suicide attack that could have killed hundreds.

Alaska's pairing with Mongolia in the National Guard State Partnership Program is fitting, given our similar geographic size, topography, population density, and climate. The program allows Alaska's soldiers to work with Mongolian forces on professional military skills as well as in military-to-civil and civil-to-civil areas. Beyond the teamwork in Iraq, other events have been coordinated to keep the partnership together for years to come.

Last year, an Alaska National Guard delegation met with Prime Minister Elbegdorj, as well as other senior level government and military leaders in Mongolia. Already plans to send observers both this year and next have been made.

The success that the partnership enjoyed this past year is a direct reflection of the willingness and eagerness on both sides to further our relations. The Alaska National Guard tells me that Mongolia is enthusiastic about their democratic reforms and is aggressively working to meet its goals.

I thank the leaders of Mongolia for their friendship and support, and I look forward to the continued success of this partnership between the Land of the Midnight Sun and the Land of Blue Sky.

CAMBODIAN KHMER NEW YEAR

Mr. REED. Mr. President, I rise today on behalf of my fellow Rhode Islanders to commemorate the 2549th Anniversary of the Buddha, the Khmer New Year.

This 3-day anniversary, which begins today, highlights the rich heritage of Cambodian Americans, while recognizing contemporary Khmerian accomplishments. Specifically, the New Year's festivities celebrate the ancient dance, music, and religious traditions of the Cambodian community. The event also provides older Cambodian Americans with an opportunity to pass their customs down to future generations while simultaneously allowing all Khmerians to share their culture with other Americans.

This celebration traditionally serves as a respite between the Khmerian harvest and the weeks colloquially referred to as the "rainy season." Traditionally, the Anniversary of the Buddha affords Khmerians a chance to give thanks, reflect, and welcome the spirit Tevada Chhnam Thmey. Also, in accordance with tradition, scores of Cambodian-Americans will gather with friends and family to visit local monasteries. While there, the Khmerian people will proffer food to their clergymen, pray for ancestors, give charity to the less-fortunate, forgive the misdeeds of others, and thank elders for their knowledge and care.

The Khmerian ceremonies and activities occurring this week demonstrate that each year brings new opportunities for charity, peace, and happiness. Rhode Islanders witnessed the realization of one such opportunity this year. I was fortunate to work with Miriam Hospital in Providence and Representatives Kennedy and Langevin to obtain visas to reunite Cambodian-Rhode Islander Minea Meas with his family. Three long years after Minea received political asylum in our country, his wife, Chantol Lim, and his children Monita, Sovannra, and Sinvath joyfully relocated from Cambodia to build a positive future with Minea in Rhode Island. Consequently, the Meas family will never forget the Year of the Monkey.

As we commemorate this important time, let us reflect on recent international affairs and our Nation's continued efforts to promote universal human rights and fundamental democratic ideals. Let us also take this opportunity to honor the Cambodian Americans currently serving in our Nation's military, for helping to preserve the liberties we all enjoy.

Finally, I would like to wish all Cambodian Americans happiness, prosperity, and good health in this, the Year of the Rooster.

ADDITIONAL STATEMENTS

TRIBUTE TO MAX M. FISHER

● Mr. VOINOVICH. Mr. President, he was the son of poor Russian immigrants who grew up to be a citizen of the world. He was a skilled businessman who devoted much of his time to giving away millions of dollars to charity. He was a modest man with a low profile who was sought out by world leaders for his advice.

America has lost one of its finest citizens with the passing last month of Max Fisher.

A former Member of this body, Jacob Javits, called Max Fisher "perhaps the single most important lay person in the American Jewish community." If for no other reason, his commitment to the Jewish people would have earned him the title, but the hundreds of millions of dollars he helped raise for Jewish charitable causes further demonstrated his devotion.

Presidents Nixon and Ford turned to him to serve as an unofficial emissary to Israel during times of crisis in the Middle East. His work was hailed by Henry Kissinger in his autobiography.

Though a resident of Michigan as an adult, Max Fisher was no Wolverine. He was a Buckeye through and through. Max grew up in Salem, OH and attended the Ohio State University on a football scholarship. In his time as an athlete the world got a glimpse of the competitive spirit that was to serve him so well in business. In one of his most famous plays as a Buckeye, Max sacrificed four of his teeth when he successfully blocked a punt with his face.

After his graduation from Ohio State in 1930, Max headed for Detroit and began his career as a pioneer in the oil refining business. Max saw that the automobile would transform the nation, and he had the vision to create the refinery capacity necessary to run those millions of new vehicles. He learned the business inside and out and became a legend when he built another oil company—Aurora Gasoline and its affiliate, Speedway '76—that, after a series of mergers, became Marathon Oil in 1962. Twenty years later, U.S. Steel bought Marathon and the sale of Max Fisher's 600,000 shares added another fortune to his fortune.

Never content to rest on his laurels, Max's business interests continued. He had successful ventures in food processing and real estate, including as a partner in the purchase of the 77,000 acre Irvine Ranch in Orange County, CA, which was the largest private real estate transaction in American history at the time.

One of the traits of Max Fisher that I admire most is that he never abandoned his friends in time of trouble. When others might have told him he had reason to do so, he remained loyal. After his friend Richard Nixon resigned the presidency and entered a long winter as a political pariah, Max reached out to him with encouraging words, writing that "history will record the great contribution you have made to the world." He stuck by his friend Gerald Ford when Jimmy Carter narrowly defeated him in 1976.

Some say that after Ohio State, Detroit was Max's first love. When riots erupted in Detroit in the late 1960s, Max did everything in his power to try to bring people of all races and faiths together. At his funeral, a retired Federal judge told the story of how Max Fisher went down to City Hall to demand the release of African American citizens who were jailed for peaceful protests. Max never gave up on Detroit—and nearly everyone will tell you that without Max, Detroit might not have survived as a viable urban core.

Max had the grace to see the innate value of people as children of God. I always felt good when I met with Max. His honesty was consuming and he made you feel like you were the only person he cared about. His example of giving generously and doing deeds of loving kindness inspired others to follow suit. No one will ever be able to calculate the money that would not have been given without Max's example.

I will never forget the wonderful program that was held to honor Max when we cut the ribbon to open the Max Fisher College of Business at the Ohio State University. I am sure it was a special moment for Max to think about what it meant for the son of an immigrant to have the College of Business named for him at one of the Nation's largest universities. And as an Ohio State alumnus and former football player, I'm sure it was special to know that just a stone's throw away was the Horseshoe where he played football as a student. It was a fitting tribute to a great American who made a difference for his fellow man and country.

Like the Ohio State University's College of Business, the Detroit Symphony Orchestra's performance hall also bears Max's name. These twin monuments to Max Fisher are a fitting tribute to a man who was a genius in business and every bit the passionate humanitarian.

Ours is a better Nation and world for him having been in it. Thank you, Max.•

EZION-MOUNT CARMEL UNITED METHODIST CHURCH

• Mr. BIDEN. Mr. President, I rise today to commemorate the 200th anniversary of a true Delaware institution, Ezion-Mount Carmel United Methodist Church. Ezion-Mount Carmel stands as a testament to the power of faith and community. It has survived through several incarnations to become a beacon of light in Wilmington, and a constant reminder that we can—and we must—triumph over adversity.

Ezion-Mount Carmel's history is as complex as one might expect from such a venerable institution. Its genesis was when the African-American members of the Old Asbury Methodist Church, unsatisfied with being forced to worship from the church's balcony, founded their own congregation and helped establish the freedom to worship in Delaware. That congregation would ultimately come to be known as Ezion-Mount Carmel United Methodist Church, and it has survived war, fire and community strife with a clear purpose and mission.

Beyond its extraordinary past, Ezion-Mount Carmel is a dynamic force for good today. One of Wilmington's community outreach leaders, the church offers numerous programs which have a real, positive effect on the often troubled community in which it resides. As it has for two centuries, Ezion-Mount Carmel continues to be a place of refuge and hope for those in need. It is where a congregation and a community gather to gain strength from each other and from God, and to continue a legacy of remarkable achievement.

For its noble past, its exciting present and its promising future, I ask that the Senate join me in congratulating Ezion-Mount Carmel United Methodist Church on its 200th anniversary.•

SOO LOCKS ANNIVERSARY

• Mr. LEVIN. Mr. President, this year marks the 150th anniversary of completion of two of the four Soo Locks in the St. Marys River. These locks, completed in 1855, provide the link between Lake Superior and the rest of the Great Lakes at Sault Ste. Marie, MI. These locks have proved to be vital to the economy of the Great Lakes region as well as the nation as a whole. The locks, in fact, handle more cargo than the Panama Canal annually. The history of the Soo Locks is really the story of the settlement of the Midwest and the rise of the region's industrial legacy.

Lake Superior is separated from Lake Huron by the St. Marys River. Prior to the locks, rapids made navigation of this river impossible. The Ojibway Indians, and later white settlers, were forced to portage their small boats around the rapids to reach Lake Superior. Larger ships had to have their cargo unloaded and then moved by wagon to the other side of the rapids, where it could be loaded onto another ship.

In the 1840s, extensive copper and iron mining began in Michigan's Upper Peninsula, and several boomtowns soon sprang up along Lake Superior's shores. Due to the lack of roads, all travel and trade was done by boat. The increased traffic soon made it clear that continuing the loading and unloading of cargo at Sault Ste. Marie would not be possible.

An act of Congress in 1852 gave 750,000 acres of public land to the State of Michigan for use as compensation to the company that would build a system of locks between Lake Superior and the other Great Lakes. The project was undertaken by the Fairbanks Scale Company due to their mining interests in the Upper Peninsula.

Despite poor building conditions during the cold winters, the two 350-foot locks were constructed within the 2-year deadline set by the State. On May 31, 1855, the locks were turned over to the State of Michigan and named the State Lock.

The opening of the State Lock decreased the cost of shipping iron ore from the Upper Peninsula to industrial centers like Detroit, Chicago, and Cleveland, by more than half. This, along with railroad improvements, allowed Michigan's Upper Peninsula to fuel America's industrial revolution. Michigan was able to lead the nation in iron production for almost 50 years. Even today, about 22 percent of the iron ore produced in the United States comes from Marquette County alone.

In 1881, it became clear that new locks would be necessary to keep up with growing traffic. Additionally, the State did not have the funds to improve the existing locks, so they were transferred to the jurisdiction of the Army Corps of Engineers, where they have been ever since.

The current lock system consists of a total of four locks, two of which are shallower and no longer used. The other two, the MacArthur and the Poe locks, were completed in 1943 and 1968 respectively. The MacArthur lock is used most often and can accommodate ships of up to 800 feet in length. Larger ships need to use the Poe lock as it can handle ships of up to 1,000 feet in length. There are plans to build a new lock in place of the two unused locks, but funding has not been appropriated. Common cargos that pass through the locks today include iron ore, limestone, coal, grain, cement, salt and sand.

Today the Great Lakes shipping industry and the Soo Locks still allow many industries to stay competitive. The Soo Locks shaped the economy of the Great Lakes region, and the engineers who helped design and construct the locks truly deserve to be remembered and honored.•

HONORING THE ACCOMPLISHMENTS OF KING'S DAUGHTERS MEDICAL CENTER

• Mr. BUNNING. Mr. President, I pay tribute and congratulate King's Daughters Medical Center of Ashland, KY. This hospital has been named as one of the Solucient Top 100 Hospitals in America.

King's Daughters has been chosen for this award among every hospital in America. This award cannot be applied for; it is simply given to the hospitals that rank among the best in clinical outcomes, patient safety, operational efficiency, financial results, and service to the community. Solucient, a leading source of health care business intelligence, uses these five criteria to independently determine the best hospitals in America.

The citizens of Ashland should be proud of this hospital. Their success serves as an example of how Kentucky is more than capable of providing elite-level health care to its citizens. King's Daughters Medical Center's dedication and hard work should be an inspiration to the health care community of the Commonwealth. I wish them continued success in the future.•

SELF-HELP ENTERPRISES

• Mrs. BOXER. Mr. President, I rise to commemorate the 40th anniversary of Self-Help Enterprises. Self-Help is an organization that helps low-income families build their own homes. Now in its 40th year, Self-Help Enterprises has been instrumental in building over 5,000 new homes in the San Joaquin Valley.

As its name implies, Self-Help aids families that try to help themselves. The mission of Self-Help Enterprises stresses that of personal responsibility, pride in ownership and community. Through its various programs Self-Help not only helps to build houses, it builds communities.

To qualify for help a family must demonstrate that it is committed to building their own home and that it is dedicated to helping others in the community. In this way, Self-Help ensures that a sense of community is built. Families receive counseling through every step of the home building process and are taught, not shown, how to build a house so that they may take pride in their work. Each family must contribute at least 40 hours of "sweat equity" a week towards building their home, with a total of 1,300–1,500 hours of labor. Self-Help calls this sweat equity the family's down payment. Families are organized into groups of 10 or 12. From these groups families work to build each others' homes. Through cooperative work Self-Help Enterprises helps an average of 150 families build homes each year.

Self-Help Enterprises also works on Community Development Projects designed to improve the infrastructure present in low-income neighborhoods. Similarly, Self-Help rehabilitates older homes to help families keep homes that may be run-down, and makes homes safer to live in. To date, Self-Help has rehabilitated 5,000 homes, renovated 20,000 water and sewer connections, and weather-proofed 40,000 homes.

Self-Help understands the importance of providing affordable housing to families. For families who cannot own a home, Self-Help develops multifamily housing projects and establishes rent levels and financing plans to give low-income families a chance to raise their children in a safe and secure environment.

In its mission statement, Self-Help Enterprises states that all families really need is "someone to bridge the gulf between dreams and reality." Self-Help is that bridge. I congratulate Self-Help Enterprises on their 40th anniversary and wish them many more years of continued success.•

HABITAT FOR HUMANITY, FRESNO

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the 20th anniversary of Habitat for Humanity, Fresno.

Habitat for Humanity, Fresno was formed in 1985. For the past 20 years, Habitat for Humanity has been a champion in the community on behalf of those who cannot afford homes. The mission of Habitat for Humanity is to end poverty housing "by uniting individuals, families and communities to build decent, affordable housing."

Since its inception, Habitat for Humanity, Fresno has helped build over 35 homes. The process through which it helps to build homes demonstrates its dedication to its mission. Habitat for Humanity stresses that it does not build homes for families. It facilitates the building of homes. While the difference may seem slight, it is in fact one of the sources of success for this organization. To qualify for aid from Habitat for Humanity, families must show that they are invested in building a home. This investment, or dedication, will serve as the foundation from which a house is built.

Habitat for Humanity chooses its families regardless of ethnicity. It provides aid to low income families who show a willingness to partner with the community. This willingness to partner serves to perpetuate an altruistic sense of participation and involvement within the community. And indeed, Habitat for Humanity is fueled by the dedication and goodwill of volunteers.

Since 1985, Habitat for Humanity has hosted over 7,000 volunteers. These volunteers range in age, ethnicity, gender and occupation. The diverse background of these volunteers is representative of the far reach that Habitat for Humanity has in the community.

The homes they construct are built with the love, strength and dedication of a community. The mission of Habitat for Humanity goes far beyond merely building houses. Through its work in the community Habitat for Humanity not only builds houses, it builds strength within the community and confidence in its recipients.

I congratulate Habitat for Humanity, Fresno on the celebration of its 20th anniversary and wish them continued success.•

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:50 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 18. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

H.R. 135. An act to establish the "Twenty-First Century Water Commission" to study and develop recommendations for a comprehensive water strategy to address future water needs.

H.R. 482. An act to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 18. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 135. An act to establish the "Twenty-First Century Water Commission" to study and develop recommendations for a comprehensive water strategy to address future water needs; to the Committee on Environmental and Public Works.

H.R. 482. An act to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; to the Committee on Energy and Natural Resources.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes; to the Committee on Indian Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1621. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Administration's 2005 annual report entitled "Atlantic Highly Migratory Species"; to the Committee on Commerce, Science, and Transportation.

EC–1622. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The Cessna Aircraft Company Models 172R, 172S, 182T, and T182T Airplanes; REQUEST FOR COMMENTS" ((RIN2120–AA64) (2005–0173)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1623. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The Cessna Aircraft Company Models 402C, and 414A Airplanes" ((RIN2120–AA64) (2005–0174)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1624. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A310 Series Airplanes; and Model A300 B4-600, B4-600, B4-500R, and F4-600R Series Airplanes, and Model C4 605R Variant F Airplanes; REQUEST FOR COMMENTS" ((RIN2120–AA64) (2005–0175)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1625. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honeywell International Inc. TFE731-2 and -3 Series Turbofan Engines" ((RIN2120–AA64) (2005–0169)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1626. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200 and 300 Series Airplanes; CORRECTION" ((RIN2120–AA64) (2005–0170)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1627. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757 Series Airplanes" ((RIN2120–AA64) (2005–0160)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1628. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 2000EX and 900EX Series Airplanes" ((RIN2120–AA64) (2005–0161)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1629. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 8 Airplanes" ((RIN2120–AA64) (2005–0146)) received on April 7, 2005 ; to the Committee on Commerce, Science, and Transportation.

EC–1630. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Lrd. Models PC 12 and PC 12/45 Airplanes" ((RIN2120–AA64) (2005–0171)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1631. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6–80C2 Turbofan Engines; CORRECTION" ((RIN2120–AA64) (2005–0166)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1632. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330, A340–200, and A340–300 Series Airplanes; CORRECTION" ((RIN2120–AA64) (2005–0167)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1633. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerospatiale Model ATR 42–200, 300, and 320 Series Airplanes" ((RIN2120–AA64) (2005–0157)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1634. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100B SUD, 200B, 200C, 200F, and 300 Series Airplanes" ((RIN2120–AA64) (2005–0163)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1635. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes" ((RIN2120–AA64) (2005–0164)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1636. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4300 622R and A300 F4 622R Airplanes" ((RIN2120–AA64) (2005–0165)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1637. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Airplanes" ((RIN2120–AA64) (2005–0150)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1638. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 100B, 100B SUD, 200B, 200C, 200F and 300 Series Airplanes and Model 747ST and 747SR Series Airplanes; Equipped with Pratt and Whitney Model JT9D–3 or –7 Series Engines" ((RIN2120–AA64) (2005–0151)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1639. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes; A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4–605R Variant F Airplanes (Collectively Called A300-600); and A310 Series Airplanes" ((RIN2120–AA64) (2005–0162)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1640. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 200B, 200C, 200F, 300, and 747SR Series Airplanes Equipped with General Electric CF6–45 or 50 Series Engines" ((RIN2120–AA64) (2005–0168)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1641. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4-600, 600R, and F4-600R Series Airplanes, and Model C4–605R Variant F Airplanes; and Model A310 Series Airplanes; Equipped with Certain Honeywell Inertial Reference Units" ((RIN2120–AA64) (2005–0148)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1642. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Limited Model BAE 146 and Avro 146RJ Series Airplanes" ((RIN2120–AA64) (2005–0158)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1643. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 90 30 Airplanes" ((RIN2120–AA64) (2005–0159)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1644. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757–200, 200CB, and 200PF Series Airplanes Equipped with Rolls Royce Model RB211 Engines" ((RIN2120–AA64) (2005–0152)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1645. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB 135 and 145 Series Airplanes" ((RIN2120–AA64) (2005–0153)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1646. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eagle Aircraft Sdn. Bhd. Model Eagle 150B Airplanes" ((RIN2120–AA64) (2005–0154)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1647. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT9D–59A, 70A, 7Q and 7Q3 Turbofan Engines" ((RIN2120–AA64) (2005–0155)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1648. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc Models 768–60, 772–60, and 772B–60 Turbofan Engines" ((RIN2120–AA64) (2005–0156)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1649. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 90 30 Airplanes" ((RIN2120–AA64) (2005–0144)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1650. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757–200 Series Airplanes" ((RIN2120–AA64) (2005–0145)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1651. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAe 146 Series Airplanes" ((RIN2120–AA64) (2005–0147)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1652. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes" ((RIN2120–AA64) (2005–0149)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1653. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328–300 Series Airplanes" ((RIN2120–AA64) (2005–0142)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1654. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–300, 400, and 500 Series Airplanes Modified in Accordance with Supplemental Type Certificate" ((RIN2120–AA64) (2005–0143)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1655. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing 737–600, 700, 700C, 800, and 900 Series Airplanes" ((RIN2120–AA64) (2005–0139)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1656. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC 155B and EC 155B1 Helicopters" ((RIN2120–AA64) (2005–0140)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1657. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Short Brothers Model SD3 60 Series Airplanes" ((RIN2120–AA64) (2005–0127)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1658. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, D1, and EC130 B4 Helicopters" ((RIN2120–AA64) (2005–0128)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1659. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC 155B, EC155B1, SA 360C, SA 365C, SA 365C1, SA 365C2, SA 365N, SA 365N1, AS 365N2, AS 365 N3, and SA 366G1 Helicopters" ((RIN2120–AA64) (2005–0129)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1660. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes" ((RIN2120–AA64) (2005–0130)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1661. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600–2B19 Airplanes" ((RIN2120–AA64) (2005–0120)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1662. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Gulfstream Model GV SP Series Airplanes" ((RIN2120–AA64) (2005–0119)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1663. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CT58 Series and Surplus Military T58 Series Turboshaft Engines" ((RIN2120–AA64) (2005–0124)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1664. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 2B19 Airplanes and Model CL 600 1A11, 2A12, and CL 600 2B16, Series Airplanes" ((RIN2120–AA64) (2005–0123)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1665. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: CORRECTION - Raytheon Aircraft Company 90, 99, 100, 200, and 300 Series Airplanes " ((RIN2120–AA64) (2005–0137)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1666. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron Canada Model 407 Helicopters" ((RIN2120–AA64) (2005–0136)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1667. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200 and 300 Series Airplanes" ((RIN2120–AA64) (2005–0135)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1668. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce Deutschland Ltd. and Co KG Model Tay 611–8, 620–15, 650–15, and 651–54 Turbofan Engines" ((RIN2120–AA64) (2005–0138)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1669. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model DH 125, HS 125, and BH 125 Series Airplanes; BAe 125 Series 800A, and 800B Airplanes; and Hawker 800 and 800XP Airplanes; Equipped with TFE731 Engines" ((RIN2120–AA64) (2005–0132)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1670. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAe 146 Series Airplanes and Model Avro 146 RJ Series Airplanes" ((RIN2120–AA64) (2005–0133)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1671. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron A Division of Textron Canada Model 222, 222B, 222U, and 230 Helicopters" ((RIN2120–AA64) (2005–0134)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1672. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Mifflintown, PA" ((RIN2120-AA66) (2005-0080)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1673. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Beluga, AK" ((RIN2120-AA66) (2005-0065)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation; to the Committee on Commerce, Science, and Transportation.

EC-1674. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Red Dog, AK" ((RIN2120-AA66) (2005-0059)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1675. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Badami, AK" ((RIN2120-AA66) (2005-0060)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1676. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Haines, AK" ((RIN2120-AA66) (2005-0058)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1677. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Angoon, AK" ((RIN2120-AA66) (2005-0064)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1678. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Kulik Lake, AK" ((RIN2120-AA66) (2005-0057)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1679. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Prospect Creek, AK" ((RIN2120-AA66) (2005-0056)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1680. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Seward, AK" ((RIN2120-AA66) (2005-0055)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1681. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Annette Island, Metlakatla, AK" ((RIN2120-AA66) (2005-0061)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1682. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Coffeyville, KS" ((RIN2120-AA66) (2005-0078)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1683. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Macon, MO" ((RIN2120-AA66) (2005-0075)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1684. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Neosho, MO" ((RIN2120-AA66) (2005-0076)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1685. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Rolla/Vichy, MO" ((RIN2120-AA66) (2005-0077)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1686. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mount Comfort, IN" ((RIN2120-AA66) (2005-0070)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1687. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Hibbing, MN" ((RIN2120-AA66) (2005-0069)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1688. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mean, AR" ((RIN2120-AA66) (2005-0066)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1689. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mountain Grove, MO" ((RIN2120-AA66) (2005-0068)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1690. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Lexington, MO; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120-AA66) (2005-0049)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1691. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Rolla, MO" ((RIN2120-AA66) (2005-0046)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1692. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Rolla/Vivhy, MO" ((RIN2120-AA66) (2005-0047)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1693. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Boone, IA; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120-AA66) (2005-0048)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1694. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Coffeyville, KS" ((RIN2120-AA66) (2005-0053)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1695. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Nevada, MO" ((RIN2120-AA66) (2005-0041)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1696. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Ozark, MO" ((RIN2120-AA66) (2005-0040)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs:

Special Report entitled "The Role of Professional Firms in the U.S. Tax Shelter Industry" (Rept. No. 109-54).

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs:

Special Report entitled "Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling" (Rept. No. 109-55).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 362. A bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes (Rept. No. 109-56).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 39. A bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration (Rept. No. 109-57).

S. 148. A bill to establish a United States Boxing Commission to administer the Act, and for other purposes (Rept. No. 109-58).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*David Garman, of Virginia, to be Under Secretary of Energy.

By Mr. INHOFE for the Committee on Environment and Public Works.

*John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army.

*Luis Luna, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency.

*Stephen L. Johnson, of Maryland, to be Administrator of the Environmental Protection Agency.

*D. Michael Rappoport, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2008.

*Michael Butler, of Tennessee, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2008.

*Major General Don T. Riley, United States Army, to be a Member and President of the Mississippi River Commission.

*Brigadier General William T. Grisoli, United States Army, to be a Member of the Mississippi River Commission.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 769. A bill to enhance compliance assistance for small businesses; to the Committee on Small Business and Entrepreneurship.

By Mr. LEVIN (for himself, Ms. COLLINS, Mr. JEFFORDS, Ms. STABENOW, Mr. DEWINE, Mr. BAYH, Mr. DAYTON, Mr. LEAHY, Mr. KENNEDY, Mr. REED, Mr. LAUTENBERG, Mr. WARNER, and Mr. AKAKA):

S. 770. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

By Mr. ALLARD:

S. 771. A bill to better assist low-income families to obtain decent, safe, and affordable housing as a means of increasing their economic and personal well-being through the conversion of the existing section 8 housing choice voucher program into a flexible voucher program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORNYN (for himself and Mr. HARKIN):

S. 772. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

By Mr. CORZINE:

S. 773. A bill to ensure the safe and secure transportation by rail of extremely hazardous materials; to the Committee on Commerce, Science, and Transportation.

By Mr. BUNNING:

S. 774. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 775. A bill to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the "Boone Pickens Post Office"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. JOHNSON (for himself, Mr. THUNE, Mr. DAYTON, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. ROCKEFELLER):

S. 776. A bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES:

S. 777. A bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 778. A bill to amend title XVIII and XIX of the Social Security Act to require a pharmacy that receives payments or has contracts under the medicare and medicaid programs to ensure that all valid prescriptions are filled without unnecessary delay or interference; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. LEVIN):

S. 779. A bill to amend the Internal Revenue Code of 1986 to treat controlled foreign corporations established in tax havens as domestic corporations; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. Res. 106. A resolution congratulating the University of Denver Pioneers men's hockey team, 2005 National Collegiate Athletic Association Division I Hockey Champions; considered and agreed to.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 65, a bill to amend the age restrictions for pilots.

S. 172

At the request of Mr. DEWINE, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Maine (Ms. COLLINS), the Senator from Iowa (Mr. HARKIN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 172, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

S. 288

At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 288, a bill to extend Federal funding for operation of State high risk health insurance pools.

S. 289

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 289, a bill to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011.

S. 300

At the request of Ms. COLLINS, the names of the Senator from Missouri (Mr. TALENT) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 300, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 308

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 308, a bill to require that Homeland Security grants related to terrorism preparedness and prevention be awarded based strictly on an assessment of risk, threat, and vulnerabilities.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 352, a bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes.

S. 357

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 357, a bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 424

At the request of Mr. BOND, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 432

At the request of Mr. ALLEN, the names of the Senator from Arkansas

(Mr. PRYOR) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 432, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 467

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 557

At the request of Mr. COBURN, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 557, a bill to provide that Executive Order 13166 shall have no force or effect, to prohibit the use of funds for certain purposes, and for other purposes.

S. 582

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 697

At the request of Mr. OBAMA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 697, a bill to amend the Higher Education Act of 1965 to improve higher education, and for other purposes.

S. 757

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 758

At the request of Mr. ALLEN, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to ensure that the federal excise tax on communication services does not apply to internet access service.

S. 765

At the request of Mr. WARNER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

S. CON. RES. 17

At the request of Mr. BIDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution calling on the North Atlantic Treaty Organization to assess the potential effectiveness of and requirements for a NATO-enforced no-fly zone in the Darfur region of Sudan.

AMENDMENT NO. 316

At the request of Mr. NELSON of Florida, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 316 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 333

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Illinois (Mr. DURBIN), the Senator from West Virginia (Mr. BYRD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 333 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 334

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Colorado (Mr. SALAZAR), the Senator from Illinois (Mr. DURBIN), the Senator from West Virginia (Mr. BYRD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 334 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 340

At the request of Mr. DEWINE, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Colorado (Mr. SALAZAR) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 340 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 341

At the request of Mr. DEWINE, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. CORZINE) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 341 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 342

At the request of Mr. DEWINE, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Illinois (Mr. DURBIN), the Senator from Oregon (Mr. SMITH), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 342 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San

Diego border fence, and for other purposes.

AMENDMENT NO. 356

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Maryland (Mr. SARBANES), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mrs. LINCOLN), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 356 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

At the request of Mr. OBAMA, his name was added as a cosponsor of amendment No. 356 proposed to H.R. 1268, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 769. A bill to enhance compliance assistance for small businesses; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, as Chair of the Senate Committee on Small Business and Entrepreneurship, regulatory fairness remains one of my top priorities. In 1996, I was pleased to support, along with all of my colleagues, the Small Business Regulatory Enforcement Fairness Act, SBREFA, which made the Regulatory Flexibility Act more effective in curtailing the impact of regulations on small businesses. One of the most important provisions of SBREFA compels agencies to produce compliance assistance materials to help small businesses satisfy the requirements of agency regulations. Unfortunately, over the years, agencies have failed to achieve this requirement. Consequently, small businesses have been forced to figure out on their own how to comply with these regulations. This makes compliance that much more difficult to achieve, and therefore reduces the effectiveness of the regulations.

The Government Accountability Office, GAO, found that agencies have ignored this requirement or failed miserably in their attempts to satisfy it. The GAO also found that SBREFA's language is unclear in some places about what is actually required. That is why today, I am introducing The Small Business Compliance Assistance Enhancement Act of 2005, to close those loopholes, and to make it clear that we were serious when we first told agencies, and that we want them to produce quality compliance assistance materials to help small businesses understand how to deal with regulations.

My bill is drawn directly from the GAO recommendations and is intended only to clarify an already existing requirement—not to add anything new. Similarly, the compliance guides that the agencies will produce will be suggestions about how to satisfy a regulation's requirements, and will not impose further requirements or additional enforcement measures. Nor does this bill, in any way, interfere or undercut agencies' ability to enforce their regulations to the full extent they currently enjoy. Bad actors must be brought to justice, but if the only trigger for compliance is the threat of enforcement, then agencies will never achieve the goals at which their regulations are directed.

The key to helping small businesses comply with these regulations is to provide assistance—showing them what is necessary and how they will be able to tell when they have met their obligations. Too often, small businesses do not maintain the staff, or possess the resources to answer these questions. This is a disadvantage when compared to larger businesses, and reduces the effectiveness of the agency's regulations. The SBA's Office of Advocacy has determined that regulatory compliance costs small businesses with less than 20 employees almost $7,000 per employee, compared to almost $4,500 for companies with more than 500 employees. If an agency can not describe how to comply with its regulation, how can we expect a small business to figure it out? This is the reason the requirement to provide compliance assistance was originally included in SBREFA. That reason is as valid today as it was in 1996.

Specifically, my bill would do the following:

Clarify how a guide shall be designated: Section 212 of SBREFA currently requires that agencies "designate" the publications prepared under the section as small entity compliance guides. However, the form in which those designations should occur is not clear. Consistent use of the phrase "Small Entity Compliance Guide" in the title could make it easier for small entities to locate the guides that the agencies develop. This would also aid in using on line searches—a technology that was not widely used when SBREFA was passed. Thus, agencies would be directed to publish guides entitled "Small Entity Compliance Guide."

Clarify how a guide shall be published: Section 212 currently states agencies "shall publish" the guides, but does not indicate where or how they should be published. At least one agency has published the guides as part of the preamble to the subject rule, thereby requiring affected small entities to read the Federal Register to obtain the guides. Agencies would be directed, at a minimum, to make their compliance guides available through their websites in an easily accessible way. In addition, agencies would be directed to forward their compliance guides to known industry contacts such as small businesses or associations with small business members that will be affected by the regulation.

Clarify when a guide shall be published: Section 212 does not indicate when the compliance guides should be published. Therefore, even if an agency is required to produce a compliance guide, it can claim that it has not violated the publishing requirement because there is no clear deadline. Agencies would be instructed to publish the compliance guides simultaneously with, or as soon as possible after, the final rule is published, provided that the guides must be published no later than the effective date of the rule's compliance requirements.

Clarify the term "compliance requirements": The term "compliance requirements" also needs to be clarified. At a minimum, compliance requirements must identify what small businesses must do to satisfy the requirements and how they will know that they have met these requirements. This should include a description of the procedures a small business might use to meet the requirements. For example, if, as is the case with many OSHA and EPA regulations, testing is required, the agency should explain how that testing might be conducted. The bill makes clear that the procedural description should be merely suggestive—an agency would not be able to enforce this procedure if a small business was able to satisfy the requirements through a different approach.

It is time we get serious about ensuring that small businesses have the assistance they need to deal with the maze of Federal regulations we expect them to handle on a daily basis. The Small Business Compliance Assistance Enhancement Act of 2005 will make a significant contribution to that effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Compliance Assistance Enhancement Act of 2005".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Small businesses represent 99.7 percent of all employers, employ half of all private sector employees, and pay 44.3 percent of total United States private payroll.

(2) Small businesses generated 60 to 80 percent of net new jobs annually over the last decade.

(3) Very small firms with fewer than 20 employees spend 60 percent more per employee than larger firms to comply with Federal regulations. Small firms spend twice as much on tax compliance as their larger counterparts. Based on an analysis in 2001, firms employing fewer than 20 employees face an annual regulatory burden of nearly $7,000 per employee, compared to a burden of almost $4,500 per employee for a firm with over 500 employees.

(4) Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) requires agencies to produce small entity compliance guides for each rule or group of rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code.

(5) The Government Accountability Office has found that agencies have rarely attempted to comply with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note). When agencies did try to comply with that requirement, they generally did not produce adequate compliance assistance materials.

(6) The Government Accountability Office also found that section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) and other sections of that Act need clarification to be effective.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To clarify the requirement contained in section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) for agencies to produce small entity compliance guides.

(2) To clarify other terms relating to the requirement in section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

(3) To ensure that agencies produce adequate and useful compliance assistance materials to help small businesses meet the obligations imposed by regulations affecting such small businesses, and to increase compliance with these regulations.

SEC. 3. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

"(a) COMPLIANCE GUIDE.—

"(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications 'small entity compliance guides'.

"(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

"(A) the posting of the guide in an easily identified location on the website of the agency; and

"(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

"(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

"(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

"(B) not later than the date on which the requirements of that rule become effective.

"(4) COMPLIANCE ACTIONS.—

"(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

"(B) EXPLANATION.—The explanation under subparagraph (A)—

"(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

"(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements.

"(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

"(i) shall be suggestions to assist small entities; and

"(ii) shall not be additional requirements relating to the rule.

"(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

"(6) REPORTING.—Not later than 1 year after the date of enactment of the Small Business Compliance Assistance Enhancement Act of 2005, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives describing the status of the agency's compliance with paragraphs (1) through (5).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting "and entitled" after "designated".

By Mr. LEVIN (for himself, Ms. COLLINS, Mr. JEFFORDS, Ms. STABENOW, Mr. DEWINE, Mr. BAYH, Mr. DAYTON, Mr. LEAHY, Mr. KENNEDY, Mr. REED, Mr. LAUTENBERG, Mr. WARNER, and Mr. AKAKA):

S. 770. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, today my colleague from Maine, Senator COLLINS and I are very pleased to introduce the National Aquatic Invasive Species Act of 2005. This bill, which reauthorizes the Nonindigenous Aquatic Nuisance Prevention and Control Act, takes a comprehensive approach towards addressing aquatic nuisance species to protect the nation's aquatic ecosystems. Invasive species are not a new problem for this country, but what is so important about this bill is that this is the first real effort to take a comprehensive approach toward the problem of aquatic invasive species. The bill deals with the prevention of introductions, the screening of new aquatic organisms that do come into the country, the rapid response to invasions, and the research to implement the provisions of this bill.

During the development of this country, there were more than people immigrating to this country. More than 6,500 non-indigenous invasive species have been introduced into the United States and have become established, self-sustaining populations. These species—from microorganisms to mollusks, from pathogens to plants, from insects to fish to animals—typically encounter few, if any, natural enemies in their new environments and wreak havoc on native species. Aquatic nuisance species threaten biodiversity nationwide, especially in the Great Lakes.

In fact, the aquatic nuisance species became a major issue for Congress back in the late eighties when the zebra mussel was released into the Great Lakes. The Great Lakes still have zebra mussels, and now, 20 States are fighting to control them. The Great Lakes region spends about $30 million per year to keep water pipes from becoming clogged with zebra mussels.

Zebra mussels were carried over from the Mediterranean to the Great Lakes in the ballast tanks of ships. The leading pathway for aquatic invasive species was and still is maritime commerce. Most invasive species are contained in the water that ships use for ballast to maintain trim and stability. Aquatic invaders such as the zebra mussel and round goby were introduced into the Great Lakes when ships, often from nations, pulled into port and discharged their ballast water. In addition to ballast water, aquatic invaders can also attach themselves to ships' hulls and anchor chains.

Because of the impact that the zebra mussel had in the Great Lakes, Congress passed legislation in 1990 and 1996 that has reduced, but not eliminated, the threat of new invasions by requiring ballast water management for ships entering the Great Lakes. Today, there is a mandatory ballast water management program in the Great Lakes, and the Coast Guard is in the rule-making process to turn the voluntary ballast water exchange reporting requirement into a mandatory ballast water exchange program for all of our coasts. The current law requires that ships entering the Great Lakes must exchange their ballast water, seal their ballast tanks or use alternative treatment that is "as effective as ballast water exchange." Unfortunately, alternative treatments have not been fully developed and widely tested on ships because the developers of ballast technology do not know what standard they are trying to achieve. This obstacle is serious because ultimately, only on-board ballast water treatment will adequately reduce the threat of new aquatic nuisance species being introduced through ballast water.

Our bill addresses this problem. First, this bill establishes a deadline for the Coast Guard and EPA to establish a standard for ballast water management and requires that the standard reduce the number of plankton in the ballast water by 99 percent or the best performance that technology can provide. This way, technology vendors and the maritime industry know what they should be striving to achieve and when they will be expected to achieve it. After 2011, all ships that enter any U.S. port after operating outside the Exclusive Economic Zone of 200 miles will be required to use a ballast water treatment technology that meets this standard.

I understand that ballast water technologies are being researched, and some are currently being tested onboard ships. The range of technologies include ultraviolet lights, filters, chemicals, deoxygenation, ozone, and several others. Each of these technologies has a different price tag attached to it. It is not my intention to overburden the maritime industry with an expensive requirement to install technology. In fact, the legislation states that the final ballast water technology standard must be based on the best performing technology that is economically achievable. That means that the Coast Guard must consider what technology is available, and if there is no economically achievable technology available to a class of vessels, then the standard will not require ballast technology for that class of vessels, subject to review every three years. I do not believe this will be the case, however, because the approach of this bill creates a clear incentive for treatment vendors to develop affordable equipment for the market.

Technology will always be evolving, and we hope that affordable technology will become available that completely eliminates the risk of new introductions. Therefore, it is important that the Coast Guard regularly review and revise the standard so that it reflects what the best technology currently available is and whether it is economically achievable.

There are other important provisions of the bill that also address prevention. For instance, the bill encourages the Coast Guard to consult with Canada, Mexico, and other countries in developing guidelines to prevent the introduction and spread of aquatic nuisance species. The Aquatic Nuisance Species Task Force is also charged with conducting a pathway analysis to identify other high risk pathways for introduction of nuisance species and implement management strategies to reduce those introductions. And this legislation, for the first time, establishes a process to screen live organisms entering the country for the first time for non-research purposes. Organisms believed to be invasive would be imported based on conditions that prevent them from becoming a nuisance. Such a screening process might have prevented such species as the Snakehead, which has established itself in the Potomac River here in the DC area, from being imported.

The third title of this bill addresses early detection of new invasions and the rapid response to invasions as well as the control of aquatic nuisance species that do establish themselves. If fully funded, this bill will provide a rapid response fund for states to implement emergency strategies when outbreaks occur. The bill requires the Army Corps of Engineers to construct and operate the Chicago Ship and Sanitary Canal project which includes the construction of a second dispersal barrier to keep species like the Asian carp from migrating up the Mississippi through the Canal into the Great Lakes. Equally important, this barrier will prevent the migration of invasive species in the Great Lakes from proceeding into the Mississippi system.

Lastly, the bill authorizes additional research which will identify threats and the tools to address those threats.

Though invasive species threaten the entire Nation's aquatic ecosystem, I am particularly concerned with the damage that invasive species have done to the Great Lakes. There are now roughly 180 invasive species in the Great Lakes, and it is estimated that a new species is introduced every 8 months. Invasive species cause disruptions in the food chain, which is now causing the decline of certain fish. Invasive species are believe to be the cause of a new dead zone in Lake Erie. And invasive species compete with native species for habitat.

This bill addresses the "NOBOB" or No Ballast on Board problem which is when ships report having no ballast when they enter the Great Lakes. However, a layer of sediment and small bit of water that cannot be pumped out is still in the ballast tanks. So when water is taken on and then discharged all within the Great Lakes, a new species that was still living in that small bit of sediment and water may be introduced. By requiring technology to be installed, this bill addresses a very serious issue in the Great Lakes.

All in all, the bill would cost between $160 million and $170 million each year. This is a lot of money, but it is a critical investment. As those of us from the Great Lakes know, the economic damage that invasive species can cause is much greater. However, compared to the annual cost of invasive species, the cost of this bill is minimal. Therefore, I urge my colleagues to cosponsor this legislation and work to move the bill swiftly through the Senate.

Ms. COLLINS. Mr. President, from Pickerel Pond to Lake Auburn, from Sebago Lake to Bryant Pond, lakes and ponds in Maine are under attack. Aquatic invasive species threaten Maine's drinking water systems, recreation, wildlife habitat, lakefront real estate, and fisheries. Plants, such as Variable Leaf Milfoil, are crowding out native species. Invasive Asian shore crabs are taking over Southern New England's tidal pools and have advanced well into Maine—to the potential detriment of Maine's lobster and clam industries.

I rise today to join Senator LEVIN in introducing legislation to address this problem. The National Aquatic Invasive Species Act of 2005 would create the most comprehensive nationwide approach to date for combating alien species that invade our shores.

The stakes are high when invasive species are unintentionally introduced into our Nation's waters. They endanger ecosystems, reduce biodiversity, and threaten native species. They disrupt people's lives and livelihoods by lowering property values, impairing commercial fishing and aquaculture, degrading recreational experiences, and damaging public water supplies.

In the 1950s, European Green Crabs swarmed the Maine coast and literally ate the bottom out of Maine's softshell clam industry by the 1980s. Many clam diggers were forced to go after other fisheries or find new vocations. In just one decade, this invader reduced the number of clam diggers in Maine from nearly 5,000 in the 1940s to fewer than 1500 in the 1950s. European green crabs currently cost an estimated $44 million a year in damage and control efforts in the United States.

Past invasions forewarn of the long-term consequences to our environment and communities unless we take steps to prevent new invasions. It is too late to stop European green crabs from taking hold on the East Coast, but we still have the opportunity to prevent many other species from taking hold in Maine and the United States.

Senator LEVIN and I introduced an earlier version of this legislation in March of 2003. Just a few months earlier, one of North America's most aggressive invasive species hydrilla—was found in Maine for the first time. This stubborn and fast-growing aquatic plant had taken hold in Pickerel Pond in the Town of Limerick, ME, and threatened recreational use for swimmers and boaters. At the time, we warned that unless Congress acted, more and more invasive species would establish a foothold in Maine and across the country.

Unfortunately, Congress failed to act on our legislation and new invasions have continued. In December, for the first time, the Maine Department of Environmental Protection detected Eurasian Milfoil in the State. Maine was the last of the lower 48 States to be free of this stubborn and fast-growing invasive plant that degrades water quality by displacing native plants, fish and other aquatic species. The plant forms stems reaching up to 20 feet high that cause fouling problems for swimmers and boaters. In total, there are 24 documented cases of aquatic invasive species infesting Maine's lakes and ponds.

When considering the impact of these invasive species, it is important to note the tremendous value of our lakes and ponds. While their contribution to our quality of life is priceless, their value to our economy is more measurable. Maine's Great Ponds generate nearly 13 million recreational user days each year, lead to more than $1.2 billion in annual income for Maine residents, and support more than 50,000 jobs.

With so much at stake, Mainers are taking action to stop the spread of invasive species into our State's waters. The State of Maine has made it illegal to sell, posses, cultivate, import or introduce eleven invasive aquatic plants. Boaters participating in the Maine Lake and River Protection Sticker program are providing needed funding to aid efforts to prevent, detect and manage aquatic invasive plants. Volunteers are participating in the Courtesy Boat Inspection program to keep aquatic invasive plants out of Maine lakes. Before launch or after removal, inspectors ask boaters for permission to inspect the boat, trailer or other equipment for plants. More than 300 trained inspectors conducted upwards of 30,000 courtesy boat inspections at 65 lakes in the 2004 boating season.

While I am proud of the actions that Maine and many other States are taking to protect against invasive species, all too often their efforts have not been enough. As with national security, protecting the integrity of our lakes, streams, and coastlines from invading species cannot be accomplished by individual States alone. We need a uniform, nationwide approach to deal effectively with invasive species. The National Aquatic Invasive Species Act of 2005 will help my State and States throughout the Nation detect, prevent and respond to aquatic invasive species.

The National Aquatic Invasive Species Act of 2005 would be the most comprehensive effort ever undertaken to address the threat of invasive species. By authorizing $836 million over 6 years, this legislation would open numerous new fronts in our war against invasive species. The bill directs the Coast Guard to develop regulations that will end the easy cruise of invasive species into U.S. waters through the ballast water of international ships, and would provide the Coast Guard with $6 million per year to develop and implement these regulations.

The bill also would provide $30 million per year for a grant program to assist State efforts to prevent the spread of invasive species. It would provide $12 million per year for the Army Corps of Engineers and Fish and Wildlife Service to contain and control invasive species. Finally, the Levin-Collins bill would authorize $30 million annually for research, education, and outreach.

Mr. President, the most effective means of stopping invading species is to attack them before they attack us. We need an early alert, rapid response system to combat invading species before they have a chance to take hold. For the first time, this bill would establish a national monitoring network to detect newly introduced species, while providing $25 million to the Secretary of the Interior to create a rapid response fund to help States and regions respond quickly once invasive species have been detected. This bill is our best effort at preventing the next wave of invasive species from taking hold and decimating industries and destroying waterways in Maine and throughout the country.

One of the leading pathways for the introduction of aquatic organisms to U.S. waters from abroad is through transoceanic vessels. Commercial vessels fill and release ballast tanks with seawater as a means of stabilization. The ballast water contains live organisms from plankton to adult fish that are transported and released through this pathway. Last week, a Federal judge ruled that the Government can no longer allow ships to dump, without a permit from the Environmental Protection Agency, any ballast water containing nonnative species that could harm local ecosystems. The court case and subsequent decision indicates that there are problems with our existing systems to control ballast water discharge and signals a need to address invasive hitchhikers that travel to our shores aboard ships. Our legislation would establish a framework to prevent the introduction of aquatic invasive species by ships.

The National Aquatic Invasive Species Act of 2005 offers a strong framework to combat aquatic invasive species. I call on my colleagues to help us enact this legislation in order to protect our waters, ecosystems, and industries from destructive invasive species—before it's too late.

By Mr. CORZINE:

S. 773. A bill to ensure the safe and secure transportation by rail of extremely hazardous materials; to the Committee on Commerce, Science, and Transportation.

Mr. CORZINE. Mr. President, today I am introducing legislation, the Extremely Hazardous Materials Rail Transportation Act of 2005, to ensure the safety and security of toxic chemicals that are transported across our nation's 170,000 mile rail network.

On January 6, 2005, a freight car carrying toxic chlorine gas derailed in South Carolina. The derailment caused a rupture that released a deadly gas cloud over the nearby community of Graniteville. As a result of this accident, nine people died and 318 needed medical attention. Many of those needing medical attention were first responders who arrived at the scene of the accident unaware that a tank car containing chlorine gas had ruptured. As one responder described it, "I took a breath. That stuff grabbed me. It gagged me and brought me down to my knees. I talked to God and said, 'I am not dying here.'" In the aftermath of the chlorine release, more than 5,000 area residents needed to be evacuated from their homes.

The Graniteville accident was the deadliest accident involving the transport of chlorine. But it was not the first. Since the use of rail for chlorine transport began in 1924, there had been four fatal accidents involving the release of chlorine, according to the Chlorine Institute. Thirteen people have died. In addition, the National Transportation Safety Board has investigated 14 derailments from 1995 to 2004 that caused the release of hazardous chemicals, including chlorine. In those instances, four people died and 5,517 were injured.

The Graniteville accident exposes fundamental failings in the transport of hazardous materials on America's rail system. These failings include pressurized rail tank cars that are vulnerable to rupture; lack of sufficient training for transporters and emergency responders; lack of sufficient notification to the communities that hazardous material train run through and a lack of coordination at the federal level between the many agencies that are involved in rail transport of hazardous materials.

Because of these failings, our Nation's freight rail infrastructure remains vulnerable to the release of hazardous materials either by accident or due to deliberate attack. The "Extremely Hazardous Material Rail Transportation Act addresses these safety and security issues. My legislation would require the DHS to coordinate Federal, State and local efforts to prevent terrorist acts and to respond to emergencies in the transport by rail of extremely hazardous materials. It requires the DHS to issue regulations that address the integrity of pressurized tank cars, the lack of sufficient training for transporters and emergency responders, and the lack of sufficient notification for communities. It would also require the DHS to study the possibility of reducing, through the use of alternate routes, the risks of freight transportation of extremely hazardous material; except in the case of emergencies or where such alternatives do not exist or are prohibitively expensive. Finally, it contains protections for employees who report on the safety and security of transportation by rail of extremely hazardous materials.

I hope my colleagues will support this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Extremely Hazardous Materials Rail Transportation Act of 2005".

SEC. 2. COORDINATION OF PRECAUTIONS AND RESPONSE EFFORTS RELATED TO THE TRANSPORTATION BY RAIL OF EXTREMELY HAZARDOUS MATERIALS.

(a) REGULATIONS.—

(1) REQUIREMENT FOR REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the Secretary of Transportation and the heads of other Federal, State, and local agencies, prescribe regulations for the coordination of efforts of Federal, State, and local agencies aimed at preventing terrorist acts and responding to emergencies that may occur in connection with the transportation by rail of extremely hazardous materials.

(2) CONTENT.—

(A) IN GENERAL.—The regulations required under paragraph (1) shall—

(i) require, and establish standards for, the training of individuals described in subparagraph (B) on safety precautions and best practices for responding to emergencies occurring in connection with the transportation by rail of extremely hazardous materials, including incidents involving acts of terrorism; and

(ii) establish a coordinated system for notifying appropriate Federal, State, and local law enforcement authorities (including, if applicable, transit, railroad, or port authority police agencies) and first responders of the transportation by rail of extremely hazardous materials through communities designated as area of concern communities by the Secretary of Homeland Security under subsection (b)(1).

(B) INDIVIDUALS COVERED BY TRAINING.—The individuals described in subparagraph (A)(i) are first responders, law enforcement personnel, and individuals who transport, load, unload, or are otherwise involved in the transportation by rail of extremely hazardous materials or who are responsible for the repair of related equipment and facilities in the event of an emergency, including an incident involving terrorism.

(b) AREA OF CONCERN COMMUNITIES.—

(1) DESIGNATION OF AREA OF CONCERN COMMUNITIES.—

(A) IN GENERAL.—In prescribing regulations under subsection (a), the Secretary of Homeland Security shall compile a list of area of concern communities.

(B) CRITERIA.—The Secretary of Homeland Security shall include on such list communities through or near which the transportation by rail of extremely hazardous materials poses a serious risk to the public health and safety. In making such determination, the Secretary shall consider—

(i) the severity of harm that could be caused in a community by the release of the transported extremely hazardous materials;

(ii) the proximity of a community to major population centers;

(iii) the threat posed by such transportation to national security, including the safety and security of Federal and State government offices;

(iv) the vulnerability of a community to acts of terrorism;

(v) the threat posed by such transportation to critical infrastructure;

(vi) the threshold quantities of particular extremely hazardous materials that pose a serious threat to the public health and safety; and

(vii) such other safety or security factors that the Secretary determines appropriate to consider.

(2) CONSIDERATION OF ALTERNATE ROUTES.—The Secretary of Homeland Security shall conduct a study to consider the possibility of reducing, through the use of alternate routes involving lower security risks, the security risks posed by the transportation by rail of extremely hazardous materials through or near communities designated as area of concern communities under paragraph (1), except in the case of emergencies or where such alternatives do not exist or are prohibitively expensive.

SEC. 3. PRESSURIZED RAILROAD CARS.

(a) NEW SAFETY STANDARDS.—

(1) REQUIREMENT FOR STANDARDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the Secretary of Transportation and the heads of other relevant Federal agencies, prescribe by regulations standards for ensuring the safety and physical integrity of pressurized tank cars that are used in the transportation by rail of extremely hazardous materials.

(2) CONSIDERATION OF SPECIFIC RISKS.—In prescribing regulations under paragraph (1), the Secretary of Homeland Security shall consider the risks posed to such pressurized tank cars by acts of terrorism, accidents, severe impacts, and other actions potentially threatening to the structural integrity of the cars or to the safe containment of the materials carried by such cars.

(b) REPORT ON IMPACT RESISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the Secretary of Transportation and the heads of other relevant Federal agencies, submit to the appropriate congressional committees a report on the safety and physical integrity of pressurized tank cars that are used in the transportation by rail of extremely hazardous materials, including with respect to the risks considered under subsection (a)(2).

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) the results of a study on the impact resistance of such pressurized tank cars, including a comparison of the relative impact resistance of tank cars manufactured before and after the implementation by the Administrator of the Federal Railroad Administration in 1989 of Federal standards on the impact resistance of such tank cars; and

(B) an assessment of whether tank cars manufactured before the implementation of the 1989 impact resistence standards and tank cars manufactured after the implementation of such standards conform with the standards prescribed under subsection (a).

SEC. 4. REPORT ON EXTREMELY HAZARDOUS MATERIALS TRANSPORT SAFETY.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the Secretary of Transportation, submit to the appropriate congressional committees a report on the safety and security of the transportation by rail of extremely hazardous materials, including the threat posed to the security of such transportation by acts of terrorism.

(b) CONTENT.—The report required under subsection (a) shall include, in a form that does not compromise national security—

(1) information specifying—

(A) the Federal and State agencies that are responsible for the oversight of the transportation by rail of extremely hazardous materials; and

(B) the particular authorities and responsibilities of the heads of each such agency;

(2) an assessment of the operational risks associated with the transportation by rail of extremely hazardous materials, with consideration given to the safety and security of the railroad infrastructure in the United States, including railroad bridges and rail switching areas;

(3) an assessment of the vulnerability of railroad cars to acts of terrorism while being used to transport extremely hazardous materials;

(4) an assessment of the ability of individuals who transport, load, unload, or are otherwise involved in the transportation by rail of extremely hazardous materials or who are responsible for the repair of related equipment and facilities in the event of an emergency, including an incident involving terrorism, to respond to an incident involving terrorism, including an assessment of whether such individuals are adequately trained or prepared to respond to such incidents;

(5) a description of the study conducted under section 2(b)(2), including the conclusions reached by the Secretary of Homeland Security as a result of such study and any recommendations of the Secretary for reducing, through the use of alternate routes involving lower security risks, the security risks posed by the transportation by rail of extremely hazardous materials through or near area of concern communities;

(6) other recommendations for improving the safety and security of the transportation by rail of extremely hazardous materials; and

(7) an analysis of the anticipated economic impact and effect on interstate commerce of the regulations prescribed under this Act.

(c) FORM.—The report required under subsection (a) shall be in unclassified form, but may contain a classified annex.

SEC. 5. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—No person involved in the transportation by rail of extremely hazardous materials may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of any lawful act done by the person—

(1) to provide information, cause information to be provided, or otherwise assist in an

investigation regarding any conduct which the person reasonably believes constitutes a violation of any law, rule, or regulation related to the security of shipments of extremely hazardous materials, or any other threat to the security of shipments of extremely hazardous materials, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any Member of Congress or any committee of Congress; or

(C) a person with supervisory authority over the person (or such other person who has the authority to investigate, discover, or terminate misconduct);

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule, or regulation related to the security of shipments of extremely hazardous materials or any other threat to the security of shipments of extremely hazardous materials; or

(3) to refuse to violate or assist in the violation of any law, rule, or regulation related to the security of shipments of extremely hazardous materials.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c)—

(A) by filing a complaint with the Secretary of Labor; and

(B) if the Secretary has not issued a final decision within 180 days after the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, by commencing a civil action in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) COMPLAINT TO DEPARTMENT OF LABOR.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in subsection (b) of section 42121 of title 49, United States Code, except that notification made under such subsection shall be made to the person named in the complaint and to the person's employer.

(B) COURT ACTION.—An action commenced under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b)(2)(B) of title 49, United States Code.

(C) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the violation occurs.

(c) REMEDIES.—

(1) IN GENERAL.—A person prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the person whole.

(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) in the case of a termination of, or other discriminatory act regarding the person's employment—

(i) reinstatement with the same seniority status that the person would have had, but for the discrimination; and

(ii) payment of the amount of any back pay, with interest, computed retroactively to the date of the discriminatory act; and

(B) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(d) RIGHTS RETAINED BY PERSON.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any person under any Federal or State law, or under any collective bargaining agreement.

SEC. 6. CIVIL PENALTIES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prescribe regulations providing for the imposition of civil penalties for violations of—

(1) regulations prescribed under this Act; and

(2) the prohibition against discriminatory treatment under section 5(a).

SEC. 7. NO FEDERAL PREEMPTION.

Nothing in this Act shall be construed as preempting any State law, except that no such law may relieve any person of a requirement otherwise applicable under this Act.

SEC. 8. DEFINITIONS.

In this Act:

(1) EXTREMELY HAZARDOUS MATERIAL.—The term "extremely hazardous material" means—

(A) a material that is toxic by inhalation;

(B) a material that is extremely flammable;

(C) a material that is highly explosive;

(D) high-level radioactive waste; and

(E) any other material designated by the Secretary of Homeland Security as being extremely hazardous.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives.

By Mr. BUNNING:

S. 774. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

Mr. BUNNING. Mr. President, today, I am introducing the Social Security Benefits Tax Relief Act of 2005, which repeals the 1993 income tax increase on Social Security benefits that went into effect in 1993.

When Social Security was created, beneficiaries did not pay federal income tax on their benefits. However, in 1983, Congress passed legislation requiring that 50 percent of Social Security benefits be taxed for seniors whose incomes were above $25,000 for an individual and $32,000 for a couple. This additional revenue was credited back to the Social Security trust funds.

In 1993, Congress and President Clinton expanded this tax. A provision was passed as part of a larger bill requiring that 85 percent of a senior's Social Security benefit be taxed if their income was above $34,000 for an individual and $44,000 for a couple. This additional money is credited to the Medicare program.

I was in Congress in 1993, and fought against this provision. This is an unfair tax on our senior citizens who worked year after year paying into Social Security, only to be taxed on their benefits once they retired.

My bill, the Social Security Benefits Tax Relief Act, would repeal the 1993 tax increase on benefits and would replace the money that has been going to the Medicare program with general funds. This legislation is identical to the legislation I introduced in the 108th Congress.

Recently during debate on the Budget Resolution, I introduced an amendment that provides the Finance Committee with the tax cuts to finally repeal the 1993 tax increase on Social Security benefits. My amendment passed by a vote of 55 yeas to 45 nays. The legislation I am introducing today provides the legislative blueprint for repealing this unfair tax.

The 1993 tax was unfair when it was signed into law, and it is unfair today. I hope my Senate colleagues can support this legislation to remove this burdensome tax on our seniors.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 775. A bill to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, OK, as the "Boone Pickens Post Office"; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, I rise today to proudly introduce legislation to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, OK, as the "Boone Pickens Post Office".

Thomas Boone Pickens, Jr. emulates the Oklahoma spirit of hard work, entrepreneurship and philanthropy. He is an excellent example of the potential to achieve success in our American free enterprise system. I honor, I proudly seek to name the post office in his hometown of Holdenville, OK, where he was born in 1928.

As the son of a landman, Pickens quickly appreciated the business potential of oil exploration. Oklahoma State University awarded Pickens a bachelor of science in geology in 1951. He grew frustrated with the bureaucracy of working for a large company and decided to start his own in 1956. This company was the basis for what became one of the leading oil and gas exploration and production firms in the nation, Mesa Petroleum Company.

Not only did Pickens lead in the energy industry itself, he possessed the unique ability to recognize and acquire undervalued companies. Repeatedly, markets eventually realized the worth of these companies, and shareholder profits soared.

His innovative thinking and business skills amassed the fortune and wisdom he unselfishly shares with others. Oklahoma State University has benefited from his generous investment in academics and athletics. He is also a dedicated supporter of a wide range of medical research initiatives. He is an energetic advocate for the causes he believes in, devoting his time to serve on numerous boards and receiving recognition through countless awards.

He often said, "Be willing to make decisions. That's the most important quality in a good leader. Don't fall victim to what I call the ready-aim-aim-aim-aim syndrome. You must be willing to fire." That is exactly the Oklahoma mentality of leadership, the ability to make tough decisions and stick to them.

I encourage my colleagues to join me in support of this legislation as we commemorate an outstanding citizen so that future generations will be challenged by his example, just as we have been.

By Mr. JOHNSON (for himself, Mr. THUNE, Mr. DAYTON, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. ROCKEFELLER):

S. 776. A bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. JOHNSON. Mr. President, I rise today to introduce legislation to ensure that rural America's aviation network benefits from the same level of service and safety as America's busiest airports. Whether moving products and services as part of the global economy, or shepherding sick patients for medical care, rural communities require the same basic air infrastructure network. By ensuring that Flight Service Stations remain in rural areas, general aviation pilots will continue to be able to serve regions that may otherwise be neglected.

Flight Service Stations currently provide general aviation pilots with weather briefings, temporary flight restrictions, emergency information, and aid in search and rescue situations. Flight Service Station Specialists use their expertise of regional weather, landscape, and flight conditions to ensure pilots reach their destinations safely. Their work has kept general aviation running smoothly and has literally saved lives.

On February 1, 2005, the Federal Aviation Administration announced that operations conducted by Flight Service Stations would be performed by a private contractor. Under the Administration's proposal, the contractor will eliminate 38 of the 58 stations across the country. Work currently conducted by these stations will then be done by employees located in the remaining 20 stations.

The Federal Aviation Administration's proposal will lead to decreased safety for pilots of small planes because they will no longer be talking to personnel familiar with regional weather and topography. The consolidated system will strain service capability because fewer employees will be responsible for a growing system of general air traffic. The proposed plan will be especially harmful to rural areas that more heavily rely upon smaller aircraft.

The Federal Aviation Safety Security Act would ensure that these facilities can continue to preserve and protect general aviation in the United States. This legislation is supported by a large number of general aviation pilots and others who depend on their regional Flight Service Station. The bill already enjoys significant bipartisan support, and I will continue to work with members of both parties to preserve aviation safety.

I ask unanimous consent that the text of the Federal Aviation Safety Security Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Federal Aviation Safety Security Act of 2005".

SEC. 2. INHERENTLY GOVERNMENTAL DETERMINATION.

For purposes of section 2(a) of the Federal Inventory Activities Act of 1998 (112 Stat. 2382), the functions performed by air traffic control specialists at flight service stations operated by the Federal Aviation Administration are inherently governmental functions and must be performed by Federal employees.

SEC. 3. ACTIONS VOIDED.

Any action taken pursuant to section 2(a) of the Federal Inventory Activities Act of 1998 (112 Stat. 2382), or any other law or legal authority with respect to functions performed by air traffic control specialists at flight service stations operated by the Federal Aviation Administration is null and void.

By Mr. SARBANES:

S. 777. A bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, today I am reintroducing legislation to re-designate Catoctin Mountain Park as the Catoctin Mountain National Recreation Area. This measure was unanimously approved by the full Senate during the 108th Congress, but unfortunately, was not considered in the House.

I spoke during the 108th Congress about the need to enact this legislation and I want to underscore some of the key reasons today. Catoctin Mountain Park is a hidden gem in our National Park System. Home to Camp David, the Presidential retreat, it has been aptly described as "America's most famous unknown park." Comprising nearly 6000 acres of the eastern reach of the Appalachian Mountains in Maryland, the park is rich in history as well as outdoor recreation opportunities. Visitors can enjoy camping, picnicking, cross-country skiing, fishing, as well as the solitude and beauty of the woodland mountain and streams in the park.

Catoctin Mountain Park had its origins during the Great Depression as one of 46 Recreational Demonstration Areas (RDA) established under the authority of the National Industrial Recovery Act. The Federal Government purchased more than 10,000 acres of mountain land that had been heavily logged and was no longer productive to demonstrate how sub-marginal land could be turned into a productive recreational area and help put people back to work. From 1936 through 1941, hundreds of workers under the Works Progress Administration and later the Civilian Conservation Corps were employed in reforestation activities and in the construction of a number of camps, roads and other facilities, including the camp now known as Camp David, and one of the earliest—if not the oldest—camp for disabled individuals. In November 1936, administrative authority for the Catoctin RDA was transferred to the National Park Service by Executive Order.

In 1942, concern about President Roosevelt's health and safety led to the selection of Catoctin Mountain, and specifically Camp Hi-Catoctin as the location for the President's new retreat. Subsequently approximately 5,000 acres of the area was transferred to the State of Maryland, becoming Cunningham Falls State Park in 1954. The remaining 5,770 acres of the Catoctin Recreation Demonstration Area was renamed Catoctin Mountain Park by the Director of the National Park Service in 1954. Unfortunately, the Director failed to include the term "National" in the title and the park today remains one of eleven units in the National Park System—all in the National Capital Region—that do not have this designation.

The proximity of Catoctin Mountain Park, Camp David, and Cunningham Falls State Park, and the differences between national and state park management, has caused longstanding confusion for visitors to the area. Catoctin Mountain Park is continually misidentified by the public as containing lake and beach areas associated with Cunningham Falls State Park, being operated by the State of Maryland, or being closed to the public because of the presence of Camp David. National Park employees spend countless hours explaining, assisting and redirecting visitors to their desired destinations.

My legislation would help to address this situation and clearly identify this park as a unit of the National Park

System by renaming it the Catoctin Mountain National Recreation Area. The Maryland State Highway Administration, perhaps in anticipation of the enactment of this bill, has already changed some of the signs leading to the Park. This bill would make the name change official within the National Park Service and on official National Park Service maps. Moreover, the mission and characteristics of this park—which include the preservation of significant historic resources and important natural areas in locations that provide outdoor recreation for large numbers of people—make this designation appropriate. This measure would not change access requirements or current recreational uses occurring within the park. But it would assist the visiting public in distinguishing between the many units of the State and Federal systems. It will also, in my judgment, help promote tourism by enhancing public awareness of the National Park unit.

I urge approval of this legislation and ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Catoctin Mountain National Recreation Area Designation Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Catoctin Recreation Demonstration Area, in Frederick County, Maryland—

(A) was established in 1933; and

(B) was transferred to the National Park Service by executive order in 1936;

(2) in 1942, the presidential retreat known as "Camp David" was established in the Catoctin Recreation Demonstration Area;

(3) in 1952, approximately 5,000 acres of land in the Catoctin Recreation Demonstration Area was transferred to the State of Maryland and designated as Cunningham Falls State Park;

(4) in 1954, the Catoctin Recreation Demonstration Area was renamed "Catoctin Mountain Park";

(5) the proximity of Catoctin Mountain Park, Camp David, and Cunningham Falls State Park and the difference between management of the parks by the Federal and State government has caused longstanding confusion to visitors to the parks;

(6) Catoctin Mountain Park is 1 of 17 units in the National Park System and 1 of 9 units in the National Capital Region that does not have the word "National" in the title; and

(7) the history, uses, and resources of Catoctin Mountain Park make the park appropriate for designation as a national recreation area.

(b) PURPOSE.—It is the purpose of this Act to designate Catoctin Mountain Park as a national recreation area to—

(1) clearly identify the park as a unit of the National Park System; and

(2) distinguish the park from Cunningham Falls State Park.

SEC. 3. DEFINITIONS.

(a) MAP.—The term "map" means the map entitled "Catoctin Mountain National Recreation Area", numbered 841/80444, and dated August 14, 2002.

(b) RECREATION AREA.—The term "recreation area" means the Catoctin Mountain National Recreation Area designated by section 4(a).

(c) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. CATOCTIN MOUNTAIN NATIONAL RECREATION AREA.

(a) DESIGNATION.—Catoctin Mountain Park in the State of Maryland shall be known and designated as the "Catoctin Mountain National Recreation Area".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to Catoctin Mountain Park shall be deemed to be a reference to the Catoctin Mountain National Recreation Area.

(c) BOUNDARY.—

(1) IN GENERAL.—The recreation area shall consist of land within the boundary depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) ADJUSTMENTS.—The Secretary may make minor adjustments in the boundary of the recreation area consistent with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9(c)).

(d) ACQUISITION AUTHORITY.—The Secretary may acquire any land, interest in land, or improvement to land within the boundary of the recreation area by donation, purchase with donated or appropriated funds, or exchange.

(e) ADMINISTRATION.—The Secretary shall administer the recreation area—

(1) in accordance with this Act and the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(2) in a manner that protects and enhances the scenic, natural, cultural, historical, and recreational resources of the recreation area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 778. A bill to amend title XVIII and XIX of the Social Security Act to require a pharmacy that receives payments or has contracts under the medicare and medicaid programs to ensure that all valid prescriptions are filled without unnecessary delay or interference; to the Committee on Finance.

Mrs. BOXER. Mr. President, today I am introducing "The Pharmacy Consumer Protection Act of 2005" to ensure that our Nation's pharmacies fill all valid prescriptions without unnecessary delay or interference.

We are hearing more and more stories about pharmacists refusing to fill prescriptions for contraceptives because of their personal beliefs, not their medical concerns. Some of my constituents have told me about their experiences. One woman in Merced County was turned away by a pharmacist who said "we don't do that here," but, less than two hours later, another pharmacist in the store filled the same prescription for another customer immediately. It's not just in California, of course.

In Menomonie, WI, a pharmacist told a woman he wouldn't fill her prescription for birth control pills or even transfer her prescription to another pharmacy. In Fabens, TX, a married woman had just had a baby. It had been a C-section. Her doctor told her not to get pregnant again in the near future, and prescribed birth control pills. She went to get her prescription refilled while visiting her mother in Fabens. Unfortunately, the cashier told her that the pharmacist wouldn't be able to refill her prescription because birth control was "against his religion" and was a form of "abortion."

The American people do not think this is right. According to a November 2004 CBS/New York Times poll, 8 out of 10 Americans believe that pharmacists should not be permitted to refuse to dispense birth control pills, including 70 percent of Republicans. They know that contraceptives are a legal and effective way to reduce unintended pregnancies and abortions.

But this challenge is not just about contraceptives. It's about access to health care. It's about making decisions based on science and medicine. Tomorrow, pharmacists could refuse to dispense any drug for any medical condition. Access to pharmaceuticals should depend on medical judgments, not personal ideology.

The Pharmacy Consumer Protection Act requires pharmacies that receive Medicare and Medicaid funding to fill all valid prescriptions for FDA-approved drugs and devices without unnecessary delay or interference. That means, if the item is not in stock, the pharmacy should order it according to its standard procedures, or, if the customer prefers, transfer it to another pharmacy or give the prescription back.

There are medical reasons why a pharmacy wouldn't want to fill prescriptions including problems with dosages, harmful interactions with other drugs, or potential drug abuse. This bill would not interfere with those decisions.

I know some are concerned about those pharmacists who do not want to dispense particular medications because of their personal beliefs, including their religious values. I believe that is between the pharmacist and his or her employer. In this bill, it is the responsibility of the pharmacy, not the pharmacist, to ensure that prescriptions are filled. Pharmacies can accommodate their employees in any manner that they wish as long as customers get their medications without delay, interference, or harassment.

Most of our pharmacies receive reimbursements through Medicaid. When the prescription drug program goes into full effect in January, a growing number will be part of Medicare. If a pharmacy contracts with our Medicaid or Medicare programs, directly or indirectly, they should fulfill their fundamental duty to the patients they serve.

Most pharmacists work hard and do right by their patients every day. They believe in science. They believe that if a doctor writes a valid prescription, it should be filled. But, unfortunately, some have put their personal views over the health of their patients. That is wrong. When people walk into a pharmacy, they should have confidence that they will get the medications they need, when they need them. The Pharmacy Consumer Protection Act of 2005 will help ensure just that.

By Mr. DORGAN (for himself and Mr. LEVIN):

S. 779. A bill to amend the Internal Revenue Code of 1986 to treat controlled foreign corporations established in tax havens as domestic corporations; to the Committee on Finance.

Mr. DORGAN. Mr. President, today I'm joined by Senator LEVIN of Michigan in introducing legislation that we believe will help the Internal Revenue Service (IRS) combat offshore tax-haven abuses and ensure that U.S. multinational companies pay the U.S. taxes that they rightfully owe.

Tens of millions of taxpayers will be rushing to file their tax returns in the next few days in order to fulfill their taxpaying responsibility by the April 15 filing deadline. Some tax experts estimate that taxpayers will spend over $100 billion and more than 6 billion hours this year trying to comply with their federal tax obligation. It's no wonder that many Americans are frustrated with the current tax system and would gladly welcome substantive efforts to simplify it.

However, this frustration changes to anger when the taxpayers who pay their taxes on time each year discover that many corporate taxpayers are shirking their tax obligations by actively shifting their profits to foreign tax havens or using other inappropriate tax avoidance techniques. The bill that Senator LEVIN and I are introducing today is a simple and straightforward way to try to tackle the offshore tax-haven problem.

Specifically, our legislation denies tax benefits, namely tax deferral, to U.S. multinational companies that set up controlled foreign corporations in tax-haven countries by treating those subsidiaries as domestic companies for U.S. income tax purposes. This tracks the same general approach embraced and passed by the Congress in other tax legislation designed to curb the problem of corporate inversions.

We have known for many years that some very profitable U.S. multinational businesses are using offshore tax havens to avoid paying their fair share of U.S. taxes. But Congress has really done very little to stop this hemorrhaging of tax revenues. In fact, recent evidence suggests that the tax-haven problem is getting much worse and may be draining the U.S. Treasury of tens of billions of dollars every year.

The New York Times got it right when it suggested that "instead of moving headquarters offshore, many companies are simply placing patents on drugs, ownership of corporate logos, techniques for manufacturing processes and other intangible assets in tax havens . . . The companies then charge their subsidiaries in higher-tax locales, including the U.S., for the use of these intellectual properties. This allows the companies to take profits in these havens and pay far less in taxes."

How pervasive is the tax-haven subsidiary problem? Last year, the Government Accountability Office (GAO), the investigative arm of Congress, issued a report that Senator LEVIN and I requested that gives some insight to the potential magnitude of this tax avoidance activity. The GAO found that 59 out of the 100 largest publicly-traded federal contractors in 2001—with tens of billions of dollars of federal contracts in 2001—had established hundreds of subsidiaries located in offshore tax havens.

According to the GAO, Exxon-Mobil Corporation, the 21st largest publicly traded federal contractor in 2001, has some 11 tax-haven subsidiaries in the Bahamas. Halliburton Company reportedly has 17 tax-haven subsidiaries, including 13 in the Cayman Islands, a country that has never imposed a corporate income tax, as well as 2 in Liechtenstein and 2 in Panama. And the now infamous Enron Corporation had 1,300 different foreign entities, including some 441 located in the Cayman Islands.

More recently, former Joint Committee on Taxation economist Martin Sullivan released a study that looked at the amount of profits that US. companies are shifting to offshore tax havens. He found that U.S. multinationals had moved hundreds of billions of profits to tax havens for years 1999–2002, the latest years for which IRS data is available.

Although Congress passed legislation, which I supported, that addresses the problem of corporate expatriates that reincorporate overseas, that legislation did nothing to deal with the problem of U.S. companies that are setting up tax-haven subsidiaries to avoid their taxpaying responsibilities in this country.

The legislation that we are introducing builds upon the good work of Senators GRASSLEY and BAUCUS and other members of the Senate Finance Committee by extending similar tax policy changes to cover the case of U.S. companies and their tax-haven subsidiaries.

Specifically, our legislation would do the following: 1. Treat U.S. controlled foreign subsidiaries that are set up in tax-haven countries as domestic companies for U.S. tax purposes. In other words, we would simply treat these companies as if they never left the United States, which is essentially the case in these tax avoidance motivated transactions.

2. List specific tax-haven countries subject to the new rule (based upon the previous work by the Organization for Economic Cooperation and Development) and give the Secretary of the Treasury the ability to add or remove a foreign country from this list in appropriate cases.

3. Provide an exception where substantially all of a U.S. controlled foreign corporation's income is derived from the active conduct of a trade or business within the listed tax-haven country.

4. Make these proposed changes effective beginning after December 31, 2007. This will give businesses ample time to restructure their tax-haven operations if they so choose.

This legislation will help end the tax benefits for U.S. companies that shift income to offshore tax-haven subsidiaries. For example, any efforts by a U.S. company to move profits to the subsidiary through transfer pricing schemes will not work because the income earned by the subsidiary would still be immediately taxable by the United States. Likewise, any efforts to move otherwise active income earned by a U.S. company in a high-tax foreign country to a tax haven would cause the income to be immediately taxable by the United States. Companies that try to move intangible assets—and the income they produce—to tax havens would be unsuccessful because the income would still be immediately taxable by the United States.

Let me be very clear about one thing. This legislation will not adversely impact U.S. companies with controlled foreign subsidiaries that are located in tax havens and doing legitimate and substantial business. The legislation expressly exempts a U.S.-controlled foreign subsidiary from its tax rule changes when substantially all of its income is derived from the active conduct of a trade or business within a listed tax-haven country.

In 2002, then-IRS Commissioner Charles Rossotti told Congress that "nothing undermines confidence in the tax system more than the impression that the average honest taxpayer has to pay his or her taxes while more wealthy or unscrupulous taxpayers are allowed to get away with not paying." Last week, IRS Commissioner Everson echoed similar sentiments at a Senate Transportation-Treasury Appropriations Subcommittee hearing I attended on the IRS's FY 2006 budget request.

They are absolutely right. It's grossly unfair to ask our Main Street businesses to operate at a competitive disadvantage to large multinational businesses simply because our tax authorities are unable to grapple with the growing offshore tax avoidance problem. It is outrageous that tens of millions of working families who pay their taxes on time every year are shouldering the tax burden of large profitable U.S. multinational companies that use tax-haven subsidiaries.

I hope that Congress will act promptly to enact legislation to curb these tax-haven subsidiary abuses. I urge my colleagues to cosponsor this bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 106—CONGRATULATING THE UNIVERSITY OF DENVER PIONEERS MEN'S HOCKEY TEAM, 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I HOCKEY CHAMPIONS

Mr. SALAZAR (for himself and Mr. ALLARD) submitted the following resolution; which was considered and agreed to:

S. RES. 106

Whereas the Denver Pioneers first won the National Collegiate Athletic Association (NCAA) Hockey Championship in 1958;

Whereas the University of Denver has won 7 NCAA Division I Men's Hockey Championships, including back-to-back championships in 2004 and 2005;

Whereas on April 9, 2005, the University of Denver won the Frozen Four with a hard fought victory over the University of North Dakota Fighting Sioux; and

Whereas the Championship ended a terrific season in which the University of Denver outscored its opponents 170 to 109 and had a record of 31–9–2: Now, therefore, be it

Resolved, That the Senate congratulates the University of Denver Pioneers men's hockey team, Coach George Gwozdecky, and Chancellor Daniel Ritchie on an outstanding championship season, a season which solidifies the Pioneers' status among the elite in collegiate hockey.

AMENDMENTS SUBMITTED AND PROPOSED

SA 357. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUYE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 358. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 359. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 360. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 361. Mr. REID (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 362. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 363. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 364. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 365. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 366. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 367. Mr. BYRD proposed an amendment to the bill H.R. 1268, supra.

SA 368. Mr. CORZINE (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 369. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 370. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 371. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 372. Mr. CORNYN (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, supra.

SA 373. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 374. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUYE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 375. Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 376. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 377. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 378. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 379. Mrs. HUTCHISON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 380. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUYE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 381. Mr. CHAMBLISS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 382. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 383. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 384. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 385. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 386. Mr. STEVENS (for himself and Mr. INOUYE) proposed an amendment to the bill H.R. 1268, supra.

SA 387. Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) proposed an amendment to the bill H.R. 1268, supra.

SA 388. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 389. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 390. Mr. OBAMA (for himself, Mr. GRAHAM, Mr. BINGAMAN, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 391. Mr. OBAMA (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 392. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 393. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 394. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 395. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. CLINTON, and Mrs. BOXER) proposed an amendment to the bill H.R. 1268, supra.

SA 396. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 397. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 398. Mr. DORGAN (for himself, Mr. DURBIN, Mr. LAUTENBERG, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 399. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 400. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 401. Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 1268, supra.

SA 402. Mr. COCHRAN (for Mr. MCCONNELL (for himself, Mr. LEAHY, and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, supra.

SA 403. Mr. COCHRAN (for Mr. LUGAR (for himself and Mr . BIDEN)) proposed an amendment to the bill H.R. 1268, supra.

SA 404. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 405. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 406. Mr. BAYH (for himself, Mr. PRYOR, and Mr. CORZINE) proposed an amendment to the bill H.R. 1268, supra.

SA 407. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 408. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 409. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 410. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 411. Mr. SESSIONS (for Mr. BAUCUS (for himself, Mr. GRASSLEY, Ms. LANDRIEU, Mr. LOTT, Mrs. FEINSTEIN, Mr. VITTER, Mr. NELSON of Florida, Mr. BOND, and Mr. MARTINEZ)) proposed an amendment to the bill H.R. 1134, to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

TEXT OF AMENDMENTS

SA 357. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUYE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In the bill, on page 171, line 2 strike "$150,000,000 through "expended" and insert in lieu thereof the following:

"$470,000,000 to remain available until expended: Provided, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: Provided further, That of the funds provided under this heading, $12,000,000 shall be available to carry out programs under the Food for Progress Act of 1985".

SA 358. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Senate conferees should not agree to the inclusion of language from division B of the Act (as passed by the House of Representatives on March 16, 2005) in the conference report;

(2) the language referred to in paragraph (1) is contained in H.R. 418, which was—

(A) passed by the House of Representatives on February 10, 2005; and

(B) referred to the Committee on the Judiciary of the Senate on February 17, 2005; and

(3) the Committee on the Judiciary is the appropriate committee to address this matter.

SA 359. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMMIGRATION FRAUD.

(a) FRAUDULENT USE OF PASSPORTS.—

(1) CRIMINAL CODE.—

(A) SECRETARY OF HOMELAND SECURITY.—Section 1546 of title 18, United States Code, is amended by striking "the Commissioner of the Immigration and Naturalization Service" each place it appears and inserting "the Secretary of Homeland Security".

(B) DEFINITION OF PASSPORT.—Chapter 75 of title 18, United States Code, is amended by adding at the end the following:

"§ 1548. Definition

"In sections 1543 and 1544, the term 'passport' means any passport issued by the United States or any foreign country.".

(C) CLERICAL AMENDMENT.—The table of sections for chapter 75 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 1548. Definition.".

(2) IMMIGRATION AND NATIONALITY ACT.—Section 101(a)(43)(P) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(P)) is amended to read as follows:

"(P)(i) an offense described in section 1542, 1543, or 1544 of title 18, United States Code (relating to false statements in the application, forgery, or misuse of a passport);

"(ii) an offense described in section 1546(a) of title 18, United States Code, relating to document fraud used as evidence of authorized stay or employment in the United States for which the term of imprisonment is at least 12 months; or

"(iii) any other offense described in section 1546(a) of title 18, United States Code, relating to entry into the United States, regardless of the term of imprisonment imposed.".

(b) RELEASE AND DETENTION PRIOR TO DISPOSITION.—Section 3142(f)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C), by striking "or" after the semicolon; and

(2) by adding at the end the following:

"(E) an offense under section 1542, 1543, 1544, or 1546(a) of this title; or".

SA 360. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

USE OF GUANTANAMO BAY DETENTION FACILITIES

SEC. 6047. (a) The Secretary of Defense, the Attorney General of the United States, and the Director of National Intelligence (upon confirmation) shall submit a report to Congress, in both classified and unclassified form, assessing the use of detention facilities at Guantanamo Bay, Cuba, including—

(1) a statement of the rationale for using Guantanamo Bay as the location for detention facilities;

(2) a comparison of the costs of maintaining such a facility at Guantanamo Bay with maintaining a similar facility within the United States;

(3) a comparison of the measures necessary to maintain the facility securely at Guantanamo Bay with maintaining a similar facility within the United States;

(4) a comprehensive listing of interrogation techniques which could be lawfully used at Guantanamo Bay, but not at a location within the United States; and

(5) an analysis of procedural rights, including rights of appeal and review, which would be available to a detainee held within the United States, but not available to a similarly situated detainee held at Guantanamo Bay.

(b) The report under subsection (a) shall be submitted not later than 90 days after the date of enactment of this Act.

(c) Funds appropriated or otherwise made available under this Act related to improvements to facilities at Guantanamo Bay shall not be obligated until and unless the report is submitted to Congress.

SA 361. Mr. REID (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON TREATMENT OF CERTAIN VETERANS UNDER REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS DISABILITY COMPENSATION

SEC. 1122. It is the sense of the Senate that any veteran with a service-connected disability rated as total by virtue of having been deemed unemployable who otherwise qualifies for treatment as a qualified retiree for purposes of section 1414 of title 10, United States Code, should be entitled to treatment as qualified retiree receiving veterans disability compensation for a disability rated as 100 percent for purposes of the final clause of subsection (a)(1) of such section, as amended by section 642 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1957), and thus entitled to payment of both retired pay and veterans' disability compensation under such section 1414 commencing as of January 1, 2005.

SA 362. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—UNACCOMPANIED ALIEN CHILD PROTECTION ACT OF 2005

SEC. 701. SHORT TITLE.

This Act may be cited as the "Unaccompanied Alien Child Protection Act of 2005".

SEC. 702. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) COMPETENT.—The term "competent", in reference to counsel, means an attorney who—

(A) complies with the duties set forth in this title;

(B) is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia;

(C) is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting the attorney in the practice of law; and

(D) is properly qualified to handle matters involving unaccompanied immigrant children or is working under the auspices of a qualified nonprofit organization that is experienced in handling such matters.

(2) DIRECTOR.—The term "Director" means the Director of the Office.

(3) DIRECTORATE.—The term "Directorate" means the Directorate of Border and Transportation Security established by section 401 of the Homeland Security Act of 2002 (6 U.S.C. 201).

(4) OFFICE.—The term "Office" means the Office of Refugee Resettlement established by section 411 of the Immigration and Nationality Act (8 U.S.C. 1521).

(5) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(6) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" has the meaning given the term in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)).

(7) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children, as certified by the Director.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(51) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(52) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

(c) RULE OF CONSTRUCTION.—A department or agency of a State, or an individual or entity appointed by a State court or juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

Subtitle A—Custody, Release, Family Reunification, and Detention

SEC. 711. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), if a determination is made on a case-by-case basis that—

(i) such child is a national or habitual resident of a country described in this subparagraph;

(ii) such child does not have a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(iii) the return of such child to the child's country of nationality or country of last habitual residence would not endanger the life or safety of such child; and

(iv) the child is able to make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right, and shall be informed of that right in the child's native language—

(i) to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation; and

(ii) to consult, telephonically, with the Office.

(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

(b) CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—

(1) ESTABLISHMENT OF JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided under subparagraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), while such charges are pending; or

(ii) has been convicted of any such felony.

(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could personally endanger the national security of the United States.

(D) TRAFFICKING VICTIMS.—For purposes of this title and section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279), an unaccompanied alien child who is eligible for services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386), shall be considered to be in the custody of the Office.

(2) NOTIFICATION.—

(A) IN GENERAL.—The Secretary shall promptly notify the Office upon—

(i) the apprehension of an unaccompanied alien child;

(ii) the discovery that an alien in the custody of the Directorate is an unaccompanied alien child;

(iii) any claim by an alien in the custody of the Directorate that such alien is under the age of 18; or

(iv) any suspicion that an alien in the custody of the Directorate who has claimed to be over the age of 18 is actually under the age of 18.

(B) SPECIAL RULE.—In the case of an alien described in clause (iii) or (iv) of subparagraph (A), the Director shall make an age determination in accordance with section 715 and take whatever other steps are necessary to determine whether such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(3) TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.—

(A) TRANSFER TO THE OFFICE.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in subparagraph (B) or (C) of paragraph (1), not later than 72 hours after a determination is made that such child is an unaccompanied alien child;

(ii) in the case of a child whose custody and care has been retained or assumed by the Directorate pursuant to subparagraph (B) or (C) of paragraph (1), immediately following a determination that the child no longer meets the description set forth in such subparagraphs; or

(iii) in the case of a child who was previously released to an individual or entity described in section 712(a)(1), upon a determination by the Director that such individual or entity is no longer able to care for the child.

(B) TRANSFER TO THE DIRECTORATE.—Upon determining that a child in the custody of the Office is described in subparagraph (B) or (C) of paragraph (1), the Director shall transfer the care and custody of such child to the Directorate.

(C) PROMPTNESS OF TRANSFER.—In the event of a need to transfer a child under this paragraph, the sending office shall make prompt arrangements to transfer such child and the receiving office shall make prompt arrangements to receive such child.

(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about the age of such alien would affect the alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act, a determination of whether or not such alien meets such age requirements shall be made by the Director in accordance with section 715.

SEC. 712. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) PLACEMENT AUTHORITY.—

(1) ORDER OF PREFERENCE.—Subject to the discretion of the Director under paragraph (4), section 713(a)(2) of this Act, and section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied alien child in the custody of the Office shall be promptly placed with 1 of the following individuals or entities in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An individual or entity designated by the parent or legal guardian that is capable and willing to care for the well-being of the child.

(E) A State-licensed juvenile shelter, group home, or foster care program willing to accept physical custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the Office shall decide who is a qualified adult or entity and promulgate regulations in accordance with such decision.

(2) SUITABILITY ASSESSMENT.—Notwithstanding paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid suitability assessment conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such an assessment, or by an appropriate voluntary agency contracted with the Office to conduct such assessments, has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, and subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall—

(i) assess the suitability of placing the child with the parent or legal guardian; and

(ii) make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—

(A) POLICIES AND PROGRAMS.—

(i) IN GENERAL.—The Director shall establish policies and programs to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(ii) WITNESS PROTECTION PROGRAMS INCLUDED.—Programs established pursuant to clause (i) may include witness protection programs.

(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of involvement in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of involvement in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action, which may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) GRANTS AND CONTRACTS.—The Director may award grants to, and enter into contracts with, voluntary agencies to carry out this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(6) REIMBURSEMENT OF STATE EXPENSES.—The Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person described in subparagraphs (A), (B), and (C) of subsection (a)(1) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

(c) REQUIRED DISCLOSURE.—The Secretary of Health and Human Services or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(d) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 713. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph

(2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to such behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—A child shall not be placed with an entity described in section 712(a)(1)(E), unless the entity is licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director and the Secretary of Homeland Security shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma, physical and sexual violence, or abuse;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Regulations promulgated under subparagraph (A) shall provide that all children are notified of such standards orally and in writing in the child's native language.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 714. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—The annual Country Reports on Human Rights Practices published by the Department of State shall contain an assessment of the degree to which each country protects children from smugglers and traffickers.

(B) FACTORS FOR ASSESSMENT.—The Directorate shall consult the Country Reports on Human Rights Practices and the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to repatriate unaccompanied alien children.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;

(B) a description of the type of immigration relief sought and denied to such children;

(C) a statement of the nationalities, ages, and gender of such children;

(D) a description of the procedures used to effect the removal of such children from the United States;

(E) a description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin; and

(F) any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 715. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

(a) PROCEDURES.—

(1) IN GENERAL.—The Director shall develop procedures to make a prompt determination of the age of an alien in the custody of the Department of Homeland Security or the Office, when the age of the alien is at issue.

(2) EVIDENCE.—The procedures developed under paragraph (1) shall—

(A) permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention; and

(B) allow the appeal of a determination to an immigration judge.

(3) ACCESS TO ALIEN.—The Secretary of Homeland Security shall permit the Office to have reasonable access to aliens in the custody of the Secretary so as to ensure a prompt determination of the age of such alien.

(b) PROHIBITION ON SOLE MEANS OF DETERMINING AGE.—Radiographs or the attestation of an alien shall not be used as the sole means of determining age for the purposes of determining an alien's eligibility for treatment under this title or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the government.

SEC. 716. EFFECTIVE DATE.

This subtitle shall take effect on the date which is 90 days after the date of enactment of this Act.

Subtitle B—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 721. GUARDIANS AD LITEM.

(a) ESTABLISHMENT OF GUARDIAN AD LITEM PROGRAM.—

(1) APPOINTMENT.—The Director may appoint a guardian ad litem, who meets the qualifications described in paragraph (2), for an unaccompanied alien child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Directorate, the Office, or the Executive Office for Immigration Review.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to the child's presence in the United States, including facts and circumstances—

(i) arising in the country of the child's nationality or last habitual residence; and

(ii) arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) take reasonable steps to ensure that—

(i) the best interests of the child are promoted while the child participates in, or is subject to, proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

(ii) the child understands the nature of the legal proceedings or matters and determinations made by the court, and that all information is conveyed to the child in an age-appropriate manner; and

(F) report factual findings relating to—

(i) information collected under subparagraph (B);

(ii) the care and placement of the child during the pendency of the proceedings or matters; and

(iii) any other information collected under subparagraph (D).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until the earliest of the date on which—

(A) those duties are completed;

(B) the child departs the United States;

(C) the child is granted permanent resident status in the United States;

(D) the child attains the age of 18; or

(E) the child is placed in the custody of a parent or legal guardian.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings or interviews involving the child that are held in connection with proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and shall be given a reasonable opportunity to be present at such hearings or interviews;

(E) shall be permitted to consult with the child during any hearing or interview involving such child; and

(F) shall be provided at least 24 hours advance notice of a transfer of that child to a different placement, absent compelling and unusual circumstances warranting the transfer of such child before such notification.

(b) TRAINING.—

(1) IN GENERAL.—The Director shall provide professional training for all persons serving as guardians ad litem under this section.

(2) TRAINING TOPICS.—The training provided under paragraph (1) shall include training in—

(A) the circumstances and conditions that unaccompanied alien children face; and

(B) various immigration benefits for which such alien child might be eligible.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of subsection (a).

(2) PURPOSE.—The purpose of the pilot program established under paragraph (1) is to—

(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings or matters;

(B) assess the most efficient and cost-effective means of implementing the guardian ad litem provisions in this section; and

(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

(3) SCOPE OF PROGRAM.—

(A) SELECTION OF SITE.—The Director shall select 3 sites in which to operate the pilot program established under paragraph (1).

(B) NUMBER OF CHILDREN.—To the greatest extent possible, each site selected under subparagraph (A) should have at least 25 children held in immigration custody at any given time.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date on which the first pilot program site is established under paragraph (1), the Director shall submit a report on the achievement of the purposes described in paragraph (2) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 722. COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director should ensure that all unaccompanied alien children in the custody of the Office or the Directorate, who are not described in section 711(a)(2), have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director should—

(A) make every effort to utilize the services of competent pro bono counsel who agree to provide representation to such children without charge; and

(B) ensure that placements made under subparagraphs (D), (E), and (F) of section 712(a)(1) are in cities where there is a demonstrated capacity for competent pro bono representation.

(3) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to unaccompanied alien children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(4) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—The Director shall enter into contracts with, or award grants to, nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out the responsibilities of this title, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys.

(B) SUBCONTRACTING.—Nonprofit agencies may enter into subcontracts with, or award grants to, private voluntary agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(C) CONSIDERATIONS REGARDING GRANTS AND CONTRACTS.—In awarding grants and entering into contracts with agencies under this paragraph, the Director shall take into consideration the capacity of the agencies in question to properly administer the services covered by such grants or contracts without an undue conflict of interest.

(5) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings. Such guidelines shall be based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(B) PURPOSE OF GUIDELINES.—The guidelines developed under subparagraph (A) shall be designed to help protect each child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed under subparagraph (A) and submit the guidelines for adoption by national, State, and local bar associations.

(b) DUTIES.—Counsel shall—

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Directorate;

(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Directorate; and

(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

(c) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(d) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(e) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be given an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 723. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect 180 days after the date of enactment of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle C—Strengthening Policies for Permanent Protection of Alien Children

SEC. 731. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant, who is 18 years of age or younger on the date of application and who is present in the United States—

"(i) who by a court order, which shall be binding on the Secretary of Homeland Security for purposes of adjudications under this subparagraph, was declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State or juvenile court located in the United States, due to abuse, neglect, abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Director of the Bureau of Citizenship and Immigration Services that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien,

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as follows:

"(A) paragraphs (4), (5)(A), (6)(A), and (7) of section 212(a) shall not apply; and".

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), shall be eligible for all funds made available under section 412(d) of that Act (8 U.S.C. 1522(d)) until such time as the child attains the age designated in section 412(d)(2)(B) of that Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

(d) TRANSITION RULE.—Notwithstanding any other provision of law, any child described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) who filed an application for a visa before the date of enactment of this Act and who was 19, 20, or 21 years of age on the date such application was filed shall not be denied a visa after the date of enactment of this Act because of such alien's age.

SEC. 732. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) Training of State and Local Officials and Certain Private Parties.—

(1) In general.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children.

(2) Curriculum.—The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into education, training, or orientation modules or formats that are currently used by these professionals.

(b) Training of Directorate Personnel.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Directorate who come into contact with unaccompanied alien children. Training for Border Patrol agents and immigration inspectors shall include specific training on identifying children at the United States borders or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 711(a)(2).

SEC. 733. REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit a report for the previous fiscal year to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains—

(1) data related to the implementation of section 462 of the Homeland Security Act (6 U.S.C. 279);

(2) data regarding the care and placement of children in accordance with this title;

(3) data regarding the provision of guardian ad litem and counsel services under this title; and

(4) any other information that the Director or the Secretary of Health and Human Services determines to be appropriate.

SEC. 734. EFFECTIVE DATE.

The amendment made by section 731 shall apply to all aliens who were in the United States before, on, or after the date of enactment of this Act.

Subtitle D—Children Refugee and Asylum Seekers

SEC. 741. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) Sense of Congress.—Congress commends the Immigration and Naturalization Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the implementation of such guidelines by the Immigration and Naturalization Service (and its successor entities) in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) Training.—The Secretary shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 742. UNACCOMPANIED REFUGEE CHILDREN.

(a) Identifying Unaccompanied Refugee Children.—Section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) Training on the Needs of Unaccompanied Refugee Children.—Section 207(f)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

SEC. 743. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHILDREN IN ASYLUM AND REFUGEE-LIKE CIRCUMSTANCES.

(a) Placement in Removal Proceedings.—Any unaccompanied alien child apprehended by the Directorate, except for an unaccompanied alien child subject to exceptions under paragraph (1)(A) or (2) of section 711(a), shall be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(b) Exception From Time Limit for Filing Asylum Application.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

"(E) Applicability.—Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child as defined in section 101(a)(51).".

Subtitle E—Authorization of Appropriations

SEC. 751. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to the Department of Homeland Security, the Department of Justice, and the Department of Health and Human Services, such sums as may be necessary to carry out—

(1) the provisions of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279); and

(2) the provisions of this title.

(b) Availability of Funds.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

Subtitle F—Amendments to the Homeland Security Act of 2002

SEC. 761. ADDITIONAL RESPONSIBILITIES AND POWERS OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) Additional Responsibilities of the Director.—Section 462(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)) is amended—

(1) in subparagraph (K), by striking "and" at the end;

(2) in subparagraph (L), by striking the period at the end and inserting ", including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements; and"; and

(3) by adding at the end the following:

"(M) ensuring minimum standards of care for all unaccompanied alien children—

"(i) for whom detention is necessary; and

"(ii) who reside in settings that are alternative to detention.".

(b) Additional Powers of the Director.—Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following:

"(4) Authority.—In carrying out the duties under paragraph (3), the Director is authorized to—

"(A) contract with service providers to perform the services described in sections 102, 103, 201, and 202 of the Unaccompanied Alien Child Protection Act of 2005; and

"(B) compel compliance with the terms and conditions set forth in section 103 of the Unaccompanied Alien Child Protection Act of 2005, including the power to—

"(i) declare providers to be in breach and seek damages for noncompliance;

"(ii) terminate the contracts of providers that are not in compliance with such conditions; and

"(iii) reassign any unaccompanied alien child to a similar facility that is in compliance with such section.".

SEC. 762. TECHNICAL CORRECTIONS.

Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)), as amended by section 761, is amended—

(1) in paragraph (3), by striking "paragraph (1)(G)" and inserting "paragraph (1)"; and

(2) by adding at the end the following:

"(5) Statutory construction.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for unaccompanied alien children who are released to a qualified sponsor.".

SEC. 763. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect as if included in the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

SA 363. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CONSTRUCTION, GENERAL

Section 123 of Public Law 108–137 (117 Stat. 1837) is amended by striking "in accordance with" and all that follows through the end of the section and inserting "in accordance with the Baltimore Metropolitan Water Resources Gwynns Falls Watershed study draft feasibility report and integrated environmental assessment prepared by the Corps of Engineers and the City of Baltimore, Maryland, dated April 2004.".

SA 364. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

NUMERICAL LIMITATIONS RELATED TO ASYLUM

SEC. 6047. (a) Section 207(a) of the Immigration and Nationality Act (8 U.S.C. 1157(a)) is amended by striking paragraph (5).

(b) Section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) is amended to read as follows:

"(b) The Secretary of Homeland Security may, in the discretion of the Secretary of Homeland Security, adjust to the status of an alien lawfully admitted for permanent residence, the status of any alien granted asylum who—

"(1) applies for such adjustment,

"(2) has been physically present in the United States for at least one year after being granted asylum,

"(3) continues to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,

"(4) is not firmly resettled in any foreign country, and

"(5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

"Upon approval of an application under this subsection, the Secretary of Homeland Security shall establish a record of the alien's admission for lawful permanent residence as of the date on which such alien's application for asylum was approved.".

SA 365. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table: as follows:

At the end, add the following new title:

TITLE VII—NEW IMMIGRANT CATEGORIES

SEC. 7001. SHORT TITLE.

This title may be cited as the "Widows and Orphans Act of 2005".

SEC. 7002. NEW SPECIAL IMMIGRANT CATEGORY.

(a) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) in subparagraph (L), by inserting a semicolon at the end;

(2) in subparagraph (M), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(N) subject to subsection (j), an immigrant who is not present in the United States—

"(i) who is—

"(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

"(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

"(aa) for whom no parent or legal guardian is able to provide adequate care;

"(bb) who faces a credible fear of harm related to his or her age;

"(cc) who lacks adequate protection from such harm; and

"(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

"(ii) who is—

"(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

"(II) determined by such official to be a female who has—

"(aa) a credible fear of harm related to her sex; and

"(bb) a lack of adequate protection from such harm.".

(b) STATUTORY CONSTRUCTION.—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following:

"(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

"(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

"(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

"(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

"(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

"(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

"(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).".

(c) ALLOCATION OF SPECIAL IMMIGRANT VISAS.—Section 203(b)(4) of the Immigration Nationality Act (8 U.S.C. 1153(b)(4)) is amended by striking "(A) or (B) thereof" and inserting "(A), (B), or (N) thereof".

(d) EXPEDITED PROCESS.—Not later than 45 days from the date of referral to a consular, immigration, or other designated official as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (a), special immigrant status shall be adjudicated and, if granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year of the alien's arrival in the United States.

(e) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this title and the amendments made by this title, including—

(1) data related to the implementation of this title and the amendments made by this title;

(2) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (a); and

(3) any other information that the Secretary of Homeland Security determines to be appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 7003. REQUIREMENTS FOR ALIENS.

(a) REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.—

(1) DATABASE SEARCH.—An alien may not be admitted to the United States under this title or an amendment made by this title until the Secretary of Homeland Security has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the Untied States on criminal, security, or related grounds.

(2) COOPERATION AND SCHEDULE.—The Secretary of Homeland Security and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by paragraph (1) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by section 7002(a).

(b) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(1) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(A) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States under this title or an amendment made by this title, the alien shall be fingerprinted and submit to the Secretary of Homeland Security such fingerprints and any other personal biometric data required by the Secretary.

(B) OTHER REQUIREMENTS.—The Secretary of Homeland Security may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and National Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of subparagraph (A).

(2) DATABASE SEARCH.—The Secretary of Homeland Security shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(3) COOPERATION AND SCHEDULE.—The Secretary of Homeland Security and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by paragraph (2) is completed not later than 180 days after the date on which the alien enters the United States.

(4) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(A) ADMINISTRATIVE REVIEW.—An alien who is admitted to the United States under this title or an amendment made by this title who is determined to be ineligible for an adjustment of status pursuant to section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) may appeal such a determination through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security. The Secretary of Homeland Security shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(B) JUDICIAL REVIEW.—Nothing in this title, or in an amendment made by this title, may preclude application of section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)).

SA 366. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—ACCOUNTABILITY IN DARFUR

SECTION 7001. SHORT TITLE.

This title may be cited as the "Darfur Accountability Act of 2005".

SEC. 7002. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) GOVERNMENT OF SUDAN.—The term "Government of Sudan" means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this title.

(3) MEMBER STATES.—The term "member states" means the member states of the United Nations.

(4) SUDAN NORTH-SOUTH PEACE AGREEMENT.—The term "Sudan North-South Peace Agreement" means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People's Liberation Army/Movement on January 9, 2005.

(5) THOSE NAMED BY THE UN COMMISSION OF INQUIRY.—The term "those named by the UN Commission of Inquiry" means those individuals whose names appear in the sealed file delivered to the Secretary-General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Security Council.

(6) UN COMMITTEE.—The term "UN Committee" means the Committee of the Security Council established in United Nations Security Council Resolution 1591 (29 March 2005); paragraph 3.

SEC. 7003. FINDINGS.

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that the atrocities occurring in Darfur, Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, "[w]hen we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring".

(3) President George W. Bush, in an address before the United Nations General Assembly on September 21, 2004, stated, "[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide".

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law and carried out other atrocities in the Darfur region.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry into violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564.

(6) United Nations Security Council Resolution 1564 declares that if the Government of Sudan "fails to comply fully" with Security Council Resolutions 1556 and 1564, the Security Council shall consider taking "additional measures" against the Government of Sudan "as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector or individual members of the Government of Sudan, in order to take effective action to obtain such full compliance and cooperation".

(7) United Nations Security Council Resolution 1564 also "welcomes and supports the intention of the African Union to enhance and augment its monitoring mission in Darfur" and "urges member states to support the African Union in these efforts, including by providing all equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union Mission".

(8) On February 1, 2005, the United Nations released the Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, dated January 25, 2005, which stated that, "[g]overnment forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur", that such "acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity", and that the "magnitude and large-scale nature of some crimes against humanity as well as their consistency over a long period of time, necessarily imply that these crimes result from a central planning operation".

(9) The Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General notes that, pursuant to its mandate and in the course of its work, the UN Commission collected information relating to individual perpetrators of acts constituting "violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes" and that the UN Commission has delivered to the Secretary-General of the United Nations a sealed file of those named by the UN Commission with the

recommendation that the "file be handed over to a competent Prosecutor".

(10) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590, establishing the United Nations Mission in Sudan (UNMIS) consisting of 10,000 military personnel and 715 civilian police personnel. The mandate of UNMIS includes to "closely and continuously liaise and coordinate at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur, especially with regard to the Abuja peace process and the African Union Mission in Sudan". Security Council Resolution 1590 also urged the Secretary-General and United Nations High Commissioner for Human Rights to increase the number and deployment rate of human rights monitors to Darfur.

(11) On March 29, 2005, the United Security Council passed Security Council Resolution 1591, establishing a Committee of the Security Council and a Panel of Experts to identify individuals who have impeded the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, or who are responsible for offensive overflights, and calling on member states to prevent those individuals identified from entry into or transit of their territories and to freeze those individuals non-exempted assets.

(12) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593, referring the situation in Darfur since July 1, 2002, to the Prosecutor of the International Criminal Court (ICC) with the proviso that personnel from a state outside Sudan not a party to the Rome Statute of the ICC shall not be subject to the ICC in this instance.

SEC. 7004. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that—

(A) extends the freezing of property and assets and denial of visas and entry, pursuant to United Nations Security Council Resolution 1591, to include—

(i) those named by the UN Commission of Inquiry;

(ii) family members of those named by the UN Commission of Inquiry and those designated by the UN Committee; and

(iii) any associates of those named by the UN Commission of Inquiry and those designated by the UN Committee to whom assets or property of those named by the UN Commission of Inquiry or those designated by the UN Committee were transferred on or after July 1, 2002;

(B) urges member states to submit to the Security Council the name of any individual that the government of any such member state believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, or crimes against humanity in Darfur, along with evidence supporting such belief so that the Security Council may consider imposing sanctions pursuant to United Nations Security Council Resolution 1591;

(C) imposes additional sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as—

(i) humanitarian organizations are granted full, unimpeded access to Darfur;

(ii) the Government of Sudan cooperates with humanitarian relief efforts, carries out activities to demobilize and disarm Janjaweed militias and any other militias supported or created by the Government of Sudan, and cooperates fully with efforts to bring to justice the individuals responsible for genocide, war crimes, or crimes against humanity in Darfur;

(iii) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(iv) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(v) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(D) establishes a military no-fly zone in Darfur;

(E) supports the expansion of the African Union force in Darfur so that such force achieves the size and strength needed to prevent ongoing fighting and violence in Darfur;

(F) urges member states to accelerate assistance to the African Union force in Darfur;

(G) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force in the region, UNMIS, international humanitarian organizations, and United Nations monitors;

(H) extends the embargo of military equipment established by paragraphs 7 through 9 of Security Council Resolution 1556 and expanded by Security Council Resolution 1591 to include a total prohibition of sale or supply to the Government of Sudan;

(I) supports African Union and other international efforts to negotiate peace talks between the Government of Sudan and rebels in Darfur, calls on the Government of Sudan and rebels in Darfur to abide by their obligations under the N'Djamena Ceasefire Agreement of April 8, 2004, and subsequent agreements, and urges parties to engage in peace talks without preconditions and seek to resolve the conflict; and

(J) expands the mandate of UNMIS to include the protection of civilians throughout Sudan, including Dafur;

(3) the United States should work with other nations to ensure effective efforts to freeze the property and assets of and deny visas and entry to—

(A) those named by the UN Commission of Inquiry and those designated by the UN Committee;

(B) any individuals the United States believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, and crimes against humanity in Darfur;

(C) family members of any person described in subparagraphs (A) or (B); and

(D) any associates of any such person to whom assets or property of such person were transferred on or after July 1, 2002;

(4) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that—

(A) humanitarian organizations are being granted full, unimpeded access to Darfur and the Government of Sudan is providing full cooperation with humanitarian efforts;

(B) concrete, sustained steps are being taken toward demobilizing and disarming Janjaweed militias and any other militias supported or created by the Government of Sudan;

(C) the Government of Sudan is cooperating fully with international efforts to bring to justice those responsible for genocide, war crimes, or crimes against humanity in Darfur;

(D) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(E) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(F) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(5) the President should work with international organizations, including the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union to establish mechanisms for the enforcement of a no-fly zone in Darfur;

(6) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence, and member states should support fully this extension;

(7) the President should accelerate assistance to the African Union force in Darfur and discussions with the African Union and the European Union and other supporters of the African Union force on the needs of such force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and command and control assistance, and intelligence;

(8) the President should appoint a Presidential Envoy for Sudan—

(A) to support the implementation of the Sudan North-South Peace Agreement;

(B) to seek ways to bring stability and peace to Darfur;

(C) to address instability elsewhere in Sudan; and

(D) to seek a comprehensive peace throughout Sudan;

(9) United States officials, including the President, the Secretary of State, and the Secretary of Defense, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur;

(10) the Secretary of State should immediately engage in a concerted, sustained campaign with other members of the United Nations Security Council and relevant countries with the aim of achieving the goals described in paragraph (9);

(11) the United States fully supports the Sudan North-South Peace Agreement and urges the rapid implementation of its terms;

(12) the United States condemns attacks on humanitarian workers and calls on all forces

in Darfur, including forces of the Government of Sudan, all militia, and forces of the Sudan Liberation Army/Movement and the Justice and Equality Movement, to refrain from such attacks; and

(13) The United States should actively participate in the UN Committee and the Panel of Experts established pursuant to Security Council Resolution 1591, and work to support the Secretary-General and the United Nations High Commissioner for Human Rights in their efforts to increase the number and deployment rate of human rights monitors to Darfur.

SEC. 7005. IMPOSITION OF SANCTIONS.

(a) FREEZING ASSETS.—At such time as the United States has access to the names of those named by the UN Commission of Inquiry and those designated by the UN Committee, the President shall, except as described under subsection (c), take such action as may be necessary to immediately freeze the funds and other assets belonging to anyone so named, their family members, and any associates of those so named to whom assets or property of those so named were transferred on or after July 1, 2002, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control.

(b) VISA BAN.—Beginning at such times as the United States has access to the names of those named by the UN Commission of Inquiry and those designated by the UN Committee, the President shall, except as described under subsection (c), deny visas and entry to—

(1) those named by the UN Commission of Inquiry and those designated by the UN Committee;

(2) the family members of those named by the UN Commission of Inquiry and those designated by the UN Committee; and

(3) anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(c) WAIVER AUTHORITY.—The President may elect not to take an action otherwise required to be taken with respect to an individual under subsection (a) or (b) after submitting to Congress a report—

(1) naming the individual with respect to whom the President has made such election;

(2) describing the reasons for such election; and

(3) including the determination of the President as to whether such individual has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(d) ASSET REPORTING REQUIREMENT.—Not later than 14 days after a decision to freeze the property or assets of, or deny a visa or entry to, any person under this section, the President shall report the name of such person to the appropriate congressional committees.

(e) NOTIFICATION OF WAIVERS OF SANCTIONS.—Not later than 30 days before waiving the provisions of any sanctions currently in force with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons therefor.

SEC. 7006. REPORTS TO CONGRESS.

(a) REPORTS ON STABILIZATION IN SUDAN.—

(1) INITIAL REPORT.—Not later than 30 days after the date of enactment of this title, the Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to succeed at such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, current status of United States and other assistance to the African Union force, and additional United States assistance needed.

(2) SUBSEQUENT REPORTS.—

(A) UPDATES REQUIRED.—The Secretary of State, in conjunction with the Secretary of Defense, shall submit an update of the report submitted under paragraph (1) until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(B) DURATION OF REPORTING REQUIREMENT.—The Secretary of State shall submit any updated reports required under subparagraph (A)—

(i) every 60 days during the 2-year period following the date of the enactment of this Act; and

(ii) after such 2-year period, as part of the report required under section 8(b) of the Sudan Peace Act (50 U.S.C. 1701 note), as amended by section 5(b) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018).

(b) REPORT ON THOSE NAMED BY THE UN COMMISSION OF INQUIRY.—At such time as the United States has access to the names of those named by the UN Commission of Inquiry, the President shall submit to the appropriate congressional committees a report listing such names.

SA 367. Mr. BYRD proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 169, line 13, strike "$897,191,000" and insert "$861,191,000".

SA 368. Mr. CORZINE (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, add the following:

REQUIREMENT FOR TRANSFER OF FUNDS

SEC. 2105. Not later than 15 days after the date of the enactment of this Act, the authority contained under the heading "INTERNATIONAL DISASTER AND FAMINE ASSISTANCE" in chapter 2 of title II of Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106; 117 Stat. 1227) to transfer funds made available under such chapter, shall be fully exercised and the funds transferred as follows:

(1) $53,000,000 shall be transferred to and consolidated with funds appropriated under the heading "PEACEKEEPING OPERATIONS" in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (as enacted in division D of Public Law 108-447; 118 Stat. 2988) and used for the support of the efforts of the African Union to halt genocide and other atrocities in Darfur, Sudan; and

(2) $40,500,000 shall be transferred to and consolidated with funds appropriated under the heading "INTERNATIONAL DISASTER AND FAMINE ASSISTANCE" in such Act and used for assistance for Darfur, Sudan.

SA 369. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

SETTLEMENT OF CLAIM FOR DAMAGES AT LAS CRUCES INTERNATIONAL AIRPORT

SEC. 1122. (a) Of the funds appropriated or otherwise made available by this Act, $2,100,000 shall be made available to the Secretary of the Air Force to settle the claim filed by the City of Las Cruces, New Mexico, for damages resulting from the operation of Air Force aircraft on runway 04/22 at Las Cruces International Airport on August 26, 2004.

(b) The acceptance by the City of Las Cruces, New Mexico, of the settlement amount made available under subsection (a) shall be in full satisfaction of the claim for damages described in such subsection.

SA 370. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 175, beginning on line 24, strike "$1,631,300,000" and all that follows through "*Provided*," on line 25, and insert "$1,636,300,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for programs and activities to promote democracy, including political party development, in Lebanon and such amount shall be managed by the Bureau of Democracy, Human Rights, and Labor of the Department of State: *Provided further*,".

On page 179, line 24, strike "$40,000,000" and insert "$35,000,000".

SA 371. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

SEC. 1122. Congress appropriated $1,000,000 in Operations & Maintenance, Navy within both the Fiscal Year 2004 and 2005 Defense Appropriations bills for the Navy to conduct a recruitment and retention screening test program called the "Vital Learning Recruitment/Retention Screening Test Program". The Navy is strongly encouraged to ensure that it utilizes a "best value" acquisition strategy which emphasizes the past performance technical capabilities of the company it selects to execute this program for which the $2,000,000 was appropriated.

SA 372. Mr. CORNYN (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) our immigration system is badly broken, fails to serve the interests of our national security and our national economy, and undermines respect for the rule of law;

(2) in a post-9/11 world, national security demands a comprehensive solution to our immigration system;

(3) Congress must engage in a careful and deliberative discussion about the need to bolster enforcement of, and comprehensively reform, our immigration laws;

(4) Congress should not short-circuit that discussion by attaching amendments to this supplemental outside of the regular order; and

(5) Congress should not delay the enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate.

SA 373. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking "appropriated" and all that follows through the period and inserting the following: "appropriated to carry out this subsection—

"(A) such sums as may be necessary for fiscal year 2005;

"(B) $750,000,000 for fiscal year 2006;

"(C) $850,000,000 for fiscal year 2007; and

"(D) $950,000,000 for each of the fiscal years 2008 through 2011.".

(b) LIMITATION ON USE OF FUNDS.—Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(6)) is amended to read as follows:

"(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.".

SA 374. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUYE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In the bill, on page 171, line 2 strike "$150,000,000 through line 6 and insert in lieu thereof the following:

"$47,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That of the funds provided under this heading, $12,000,000 shall be available to carry out programs under the Food for Progress Act of 1985: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress)."

SA 375. Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY ACT OF 2005

SEC. 701. SHORT TITLE.

This title may be cited as the "Agricultural Job Opportunities, Benefits, and Security Act of 2005" or the "AgJOBS Act of 2005".

SEC. 702. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) EMPLOYER.—The term "employer" means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(3) JOB OPPORTUNITY.—The term "job opportunity" means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(4) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(5) TEMPORARY.—A worker is employed on a "temporary" basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term "United States worker" means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term "work day" means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of "man-day" under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

Subtitle A—Adjustment to Lawful Status

SEC. 711. AGRICULTURAL WORKERS.

(a) TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer upon an alien who qualifies under this subsection the status of an alien lawfully admitted for temporary residence if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on December 31, 2004;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF TEMPORARY RESIDENT STATUS.—

(A) IN GENERAL.—During the period of temporary resident status granted an alien under this subsection, the Secretary may terminate such status only upon a determination under this Act that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF TEMPORARY RESIDENT STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to temporary resident status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a), such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a) as described in paragraph (1) shall not be eligible, by reason of such acquisition of that status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers temporary resident status upon that alien under subsection (a).

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition in accordance with this subparagraph of complaints by aliens granted temporary resident status under subsection (a) who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted temporary resident status under subsection (a) without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted temporary resident status under subsection (a) has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 360 work days or 2,060 hours, but in no case less than 2,060 hours, of agricultural employment in the United States, during the 6-year period beginning after the date of enactment of this Act.

(ii) QUALIFYING YEARS.—The alien has performed at least 75 work days or 430 hours, but in no case less than 430 hours, of agricultural employment in the United States in at least 3 nonoverlapping periods of 12 consecutive months during the 6-year period beginning after the date of enactment of this Act. Qualifying periods under this clause may include nonconsecutive 12-month periods.

(iii) QUALIFYING WORK IN FIRST 3 YEARS.—The alien has performed at least 240 work days or 1,380 hours, but in no case less than 1,380 hours, of agricultural employment during the 3-year period beginning after the date of enactment of this Act.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(v) PROOF.—In meeting the requirements of clauses (i), (ii), and (iii), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(vi) DISABILITY.—In determining whether an alien has met the requirements of clauses (i), (ii), and (iii), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the temporary resident status granted such alien under subsection (a), if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) GROUNDS FOR REMOVAL.—Any alien granted temporary resident status under subsection (a) who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a). The Secretary shall issue regulations establishing grounds to waive subparagraph (A)(iii) with respect to an alien who has completed at least 200 days of the work requirement specified in such subparagraph in the event of a natural disaster which substantially limits the availability of agricultural employment or a personal emergency that prevents compliance with such subparagraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted temporary resident status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—A spouse and minor child of an alien granted temporary resident status under subsection (a) may not be—

(i) removed while such alien maintains such status, except as provided in subparagraph (C); and

(ii) granted authorization to engage in employment in the United States or be provided an "employment authorized" endorsement or other work permit, unless such employment authorization is granted under another provision of law.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary, but only if the applicant is represented by an attorney; or

(II) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B) OUTSIDE THE UNITED STATES.—The Secretary, in cooperation with the Secretary of State, shall establish a procedure whereby an alien may apply for temporary resident status under subsection (a) at an appropriate consular office outside the United States.

(C) PRELIMINARY APPLICATIONS.—

(i) IN GENERAL.—During the application period described in subsection (a)(1)(B), the Secretary may grant admission to the United States as a temporary resident and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a preliminary application for such status under subsection (a) at a designated port of entry on the southern land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(ii) DEFINITION.—For purposes of clause (i), the term "preliminary application" means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.

(iii) ELIGIBILITY.—An applicant under clause (i) shall otherwise be admissible to the United States under subsection (e)(2) and shall establish to the satisfaction of the examining officer during an interview that the applicant's claim to eligibility for temporary resident status is credible.

(D) TRAVEL DOCUMENTATION.—The Secretary shall provide each alien granted status under this section with a counterfeit-resistant document of authorization to enter or reenter the United States that meets the requirements established by the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89-732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this Act as "qualified designated entities".

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this

section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department of Homeland Security, or bureau or agency thereof, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department of Homeland Security, or bureau or agency thereof, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department of Homeland Security pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104-134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the "Agricultural Worker Immigration Status Adjustment Account". Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the "Agricultural Worker Immigration Status Adjustment Account" shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for temporary resident status under subsection (a) (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for temporary resident status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for temporary resident status under subsection (a) during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) Dissemination of Information on Adjustment Program.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) Regulations.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) Effective Date.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section $40,000,000 for each of fiscal years 2006 through 2009.

SEC. 712. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) In General.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking "or" at the end;

(2) in subparagraph (C), by inserting "or" at the end;

(3) by inserting after subparagraph (C) the following:

"(D) who is granted status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2005,"; and

(4) by striking "1990." and inserting "1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted lawful temporary resident status.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of enactment of this Act.

Subtitle B—Reform of H–2A Worker Program

SEC. 721. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) In General.—The Immigration and Nationality Act is amended by striking section 218 (8 U.S.C. 1188) and inserting the following:

"H–2A EMPLOYER APPLICATIONS

"Sec. 218. (a) Applications to the Secretary of Labor.—

"(1) In general.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

"(A) the assurances described in subsection (b);

"(B) a description of the nature and location of the work to be performed;

"(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

"(D) the number of job opportunities in which the employer seeks to employ the workers.

"(2) Accompanied by job offer.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

"(b) Assurances for Inclusion in Applications.—The assurances referred to in subsection (a)(1) are the following:

"(1) Job opportunities covered by collective bargaining agreements.—With respect to a job opportunity that is covered under a collective bargaining agreement:

"(A) Union contract described.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

"(B) Strike or lockout.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(C) Notification of bargaining representatives.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

"(D) Temporary or seasonal job opportunities.—The job opportunity is temporary or seasonal.

"(E) Offers to united states workers.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

"(F) Provision of insurance.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

"(2) Job opportunities not covered by collective bargaining agreements.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

"(A) Strike or lockout.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(B) Temporary or seasonal job opportunities.—The job opportunity is temporary or seasonal.

"(C) Benefit, wage, and working conditions.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

"(D) Nondisplacement of united states workers.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

"(E) Requirements for placement of nonimmigrant with other employers.—The employer will not place the nonimmigrant with another employer unless—

"(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

"(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

"(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

"(F) Statement of liability.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

"(G) Provision of insurance.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

"(H) Employment of united states workers.—

"(i) Recruitment.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

"(I) Contacting former workers.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

"(II) Filing a job offer with the local office of the state employment security agency.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

"(III) Advertising of job opportunities.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

"(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

"(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

"(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

"(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

"(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

"(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

"(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

"(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

"(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A through 218C.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

"(d) WITHDRAWAL OF APPLICATIONS.—

"(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

"(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

"(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

"(e) REVIEW AND APPROVAL OF APPLICATIONS.—

"(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

"(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

"(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

"(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.

"H–2A EMPLOYMENT REQUIREMENTS

"SEC. 218A. (a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

"(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

"(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

"(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

"(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

"(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

"(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

"(F) CHARGES FOR HOUSING.—

"(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

"(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

"(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

"(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

"(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

"(iii) AMOUNT OF ALLOWANCE.—

"(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

"(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

"(2) REIMBURSEMENT OF TRANSPORTATION.—

"(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

"(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

"(C) LIMITATION.—

"(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

"(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

"(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

"(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

"(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

"(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

"(3) REQUIRED WAGES.—

"(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

"(B) LIMITATION.—Effective on the date of enactment of the Agricultural Job Opportunity, Benefits, and Security Act of 2005 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

"(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

"(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

"(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

"(II) 4 percent.

"(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

"(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

"(II) 4 percent.

"(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

"(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

"(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

"(i) the worker's total earnings for the pay period;

"(ii) the worker's hourly rate of pay, piece rate of pay, or both;

"(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

"(iv) the hours actually worked by the worker;

"(v) an itemization of the deductions made from the worker's wages; and

"(vi) if piece rates of pay are used, the units produced daily.

"(G) REPORT ON WAGE PROTECTIONS.—Not later than June 1, 2007, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

"(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

"(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

"(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

"(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

"(v) recommendations for future wage protection under this section.

"(H) COMMISSION ON WAGE STANDARDS.—

"(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

"(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

"(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

"(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

"(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

"(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

"(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

"(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

"(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

"(V) recommendations for future wage protection under this section.

"(iv) FINAL REPORT.—Not later than June 1, 2007, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

"(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

"(4) GUARANTEE OF EMPLOYMENT.—

"(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

"(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

"(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

"(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

"(5) MOTOR VEHICLE SAFETY.—

"(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

"(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H-2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

"(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

"(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H-2A worker at the request or direction of an H–2A employer; and

"(II) does not apply to—

"(aa) transportation provided, or transportation arrangements made, by an H-2A worker, unless the employer specifically requested or arranged such transportation; or

"(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

"(iii) CLARIFICATION.—Providing a job offer to an H-2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

"(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H-2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

"(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

"(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

"(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

"(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

"(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

"(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

"(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

"(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H-2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

"(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

"(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

"(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

"(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

"(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

"PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS

"SEC. 218B. (a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H-2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

"(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

"(c) CRITERIA FOR ADMISSIBILITY.—

"(1) IN GENERAL.—An H-2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

"(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

"(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

"(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

"(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

"(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

"(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

"(d) PERIOD OF ADMISSION.—

"(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

"(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

"(B) the total period of employment, including such 14-day period, may not exceed 10 months.

"(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

"(e) ABANDONMENT OF EMPLOYMENT.—

"(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

"(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

"(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

"(f) REPLACEMENT OF ALIEN.—

"(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

"(A) who abandons or prematurely terminates employment; or

"(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

"(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

"(g) IDENTIFICATION DOCUMENT.—

"(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

"(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

"(A) The document shall be capable of reliably determining whether—

"(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

"(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

"(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

"(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

"(C) The document shall—

"(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

"(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

"(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

"(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

"(A) for a period of more than 10 months; or

"(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

"(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

"(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

"(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

"(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

"(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

"(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

"(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

"(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

"(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

"(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

"(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

"(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS.—Notwithstanding any provision of the Agricultural Job Opportunity, Benefits, and Security Act of 2005, aliens admitted under section 101(a)(15)(H)(ii)(a) for employment as sheepherders—

"(1) may be admitted for a period of 12 months;

"(2) may be extended for a continuous period of up to 3 years; and

"(3) shall not be subject to the requirements of subsection (h)(5) relating to periods of absence from the United States.

"WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT

"SEC. 218C. (a) ENFORCEMENT AUTHORITY.—

"(1) INVESTIGATION OF COMPLAINTS.—

“(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

“(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

“(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

“(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

“(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

“(iii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 2 years.

“(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

“(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

“(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

“(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

“(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

“(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

“(2) The reimbursement of transportation as required under section 218A(b)(2).

“(3) The payment of wages required under section 218A(b)(3) when due.

“(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

“(5) The guarantee of employment required under section 218A(b)(4).

“(6) The motor vehicle safety requirements under section 218A(b)(5).

“(7) The prohibition of discrimination under subsection (d)(2).

“(c) PRIVATE RIGHT OF ACTION.—

“(1) MEDIATION.—Upon the filing of a complaint by an H-2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

“(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

“(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

“(C) AUTHORIZATION.—

“(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

“(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

“(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H-2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

“(3) ELECTION.—An H-2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

“(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

“(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

"(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

"(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

"(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

"(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

"(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

"(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

"(i) a recovery under a State workers' compensation law; or

"(ii) rights conferred under a State workers' compensation law.

"(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

"(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and H–2A employer reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

"(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

"(d) DISCRIMINATION PROHIBITED.—

"(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

"(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

"(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

"(f) ROLE OF ASSOCIATIONS.—

"(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

"(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

"DEFINITIONS

"SEC. 218D. For purposes of sections 218 through 218D:

"(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

"(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

"(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

"(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A(h)(3)).

"(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

"(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

"(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

"(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

"(9) LAYS OFF.—

"(A) IN GENERAL.—The term 'lays off', with respect to a worker—

"(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

"(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

"(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

"(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

"(B) from its nature, it may not be continuous or carried on throughout the year.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

"(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

"(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).".

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

"Sec. 218. H–2A employer applications.
"Sec. 218A. H-2A employment requirements.
"Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
"Sec. 218C. Worker protections and labor standards enforcement.
"Sec. 218D. Definitions.".

Subtitle C—Miscellaneous Provisions

SEC. 731. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this title and the amendments made by this title, and a collection process for such fees from employers participating in the program provided under this Act. Such fees shall be the only fees chargeable to employers for services provided under this Act.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as added by section 721 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as added by section 721 of this Act, and the provisions of this Act.

SEC. 732. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, and 218C of the Immigration and Nationality Act, as added by section 721 of this Act, shall take effect on the effective date of section 721 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 733. RELIGIOUS ORGANIZATIONS.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following:

"(C) It is not a violation of clauses (ii), (iii), or (iv) of subparagraph (A) for a religious denomination described in section 101(a)(27)(C)(i) or an affiliated religious organization described in section 101(a)(27)(C)(ii)(III), or their agents or officers, to encourage, invite, call, allow, or enable an alien who is present in the United States in violation of law to carry on the vocation described in section 101(a)(27)(C)(ii)(I), as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, and other basic living expenses.".

SEC. 734. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 721 and 731 shall take effect 1 year after the date of enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the measures being taken and the progress made in implementing this title.

SA 376. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency repair of the Fern Ridge Dam, Oregon, $24,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 377. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research and Facilities", $3,000,000, to remain available until expended, for the National Marine Fisheries Service to establish a cooperative research program to study the causes of lobster disease and the decline in the lobster fishery in New England waters: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 378. Mr. SCHUMER submitted an amendment intended to be proposed by the him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—MONTSERRAT IMMIGRATION FAIRNESS ACT

SEC. 701. SHORT TITLE.

This title may be cited as the "Montserrat Immigration Fairness Act".

SEC. 702. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF MONTSERRAT.

(a) IN GENERAL.—The status of any alien described in subsection (c) shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence, if the alien—

(1) applies for such adjustment within 1 year after the date of enactment of this Act; and

(2) is determined to be admissible to the United States for permanent residence.

(b) CERTAIN GROUNDS FOR EXCLUSION INAPPLICABLE.—For purposes of determining admissibility under subsection (a)(2), the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and 7(A) of section

212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(c) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—An alien shall be eligible for adjustment of status under subsection (a) only if the alien—

(1) is a national of Montserrat; and

(2) was granted temporary protected status in the United States by the Secretary of Homeland Security pursuant to the designation of Montserrat under section 244(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)(1)) on August 28, 1997.

SEC. 703. EFFECT OF APPLICATION ON CERTAIN ORDERS.

An alien present in the United States who has been ordered excluded, deported, or removed, or ordered to depart voluntarily, from the United States through an order of removal issued under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order of removal, apply for adjustment of status under section 702. Such an alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary of Homeland Security approves the application, the Secretary shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal shall be effective and enforceable to the same extent as if the application had not been made.

SEC. 704. WORK AUTHORIZATION.

The Secretary of Homeland Security shall authorize an alien who has applied for adjustment of status under section 702 to engage in employment in the United States during the pendency of such application and shall provide the alien with an appropriate document signifying authorization of employment.

SEC. 705. ADJUSTMENT OF STATUS FOR CERTAIN FAMILY MEMBERS.

(a) IN GENERAL.—The status of an alien shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence if the alien—

(1) is the spouse, parent, or unmarried son or daughter of an alien whose status is adjusted under section 702;

(2) applies for adjustment under this section within 2 years after the date of enactment of this Act; and

(3) is determined to be admissible to the United States for permanent residence.

(b) CERTAIN GROUNDS FOR EXCLUSION INAPPLICABLE.—For purposes of determining admissibility under subsection (a)(3), the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and 7(A) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

SEC. 706. AVAILABILITY OF REVIEW.

(a) ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide to aliens applying for adjustment of status under section 702 or 705 the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

(b) LIMITATION ON JUDICIAL REVIEW.—A determination by the Secretary of Homeland Security as to whether the status of any alien should be adjusted under this title is final and shall not be subject to review by any court.

SEC. 707. NO OFFSET IN NUMBER OF VISAS AVAILABLE.

The granting of adjustment of status under section 702 shall not reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SA 379. Mrs. HUTCHISON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following new section:

VISAS FOR NURSES

SEC. 6047. Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1), by inserting before the period at the end of the second sentence "and any such visa that is made available due to the difference between the number of employment-based visas that were made available in fiscal year 2001, 2002, 2003, or 2004 and the number of such visas that were actually used in such fiscal year shall be available only to employment-based immigrants, and the dependents of such immigrants, whose schedule A petition, as defined in section 656.5 of title 20, Code of Federal Regulations, was approved by the Secretary of Labor"; and

(2) in paragraph (2)(A), by striking "and 2000" and inserting "through 2004".

SA 380. Mr. KOHL (for himself, Mr. DEWINE, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUYE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, line 2 strike "$150,000,000" and all through line 6 and insert in lieu thereof the following:

"$470,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That of the funds provided under this heading, $12,000,000 shall be available to carry out programs under the Food for Progress Act of 1985: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).".

SA 381. Mr. CHAMBLISS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—TEMPORARY AGRICULTURAL WORKERS

SEC. 701. SHORT TITLE.

This title may be cited as the "Temporary Agricultural Work Reform Act of 2005"

Subtitle A—Temporary H–2A Workers

SEC. 711. ADMISSION OF TEMPORARY H-2A WORKERS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

"ADMISSION OF TEMPORARY H–2A WORKERS

"SEC. 218. (a) APPLICATION.—An alien may not be admitted as an H-2A worker unless the employer has filed with the Secretary of Homeland Security a petition attesting to the following:

"(1) TEMPORARY OR SEASONAL WORK OR SERVICES.—

"(A) IN GENERAL.—The agricultural employment for which the H–2A worker or workers is or are sought is temporary or seasonal, the number of workers sought, and the wage rate and conditions under which they will be employed.

"(B) TEMPORARY OR SEASONAL WORK.—For purposes of subparagraph (A), a worker is employed on a 'temporary' or 'seasonal' basis if the employment is intended not to exceed 10 months.

"(2) BENEFITS, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (m) to all workers employed in the jobs for which the H–2A worker or workers is or are sought and to all other temporary workers in the same occupation at the place of employment.

"(3) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and during a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

"(4) RECRUITMENT.—

"(A) IN GENERAL.—The employer shall attest that the employer—

"(i) conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation; and

"(ii) was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought.

"(B) Recruitment.—The adequate recruitment requirement under subparagraph (A) is satisfied if the employer—

"(i) places a job order with America's Job Bank Program of the Department of Labor; and

"(ii) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the area of intended employment.

"(C) Advertisement criteria.—The advertisement requirement under subparagraph (B)(ii) is satisfied if the advertisement—

"(i) names the employer;

"(ii) directs applicants to report or send resumes, as appropriate for the occupation, to the employer;

"(iii) provides a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

"(iv) describes the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

"(v) states the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

"(vi) offers wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

"(5) Offers to United States workers.—The employer has offered or will offer the job for which the nonimmigrant is, or the nonimmigrants are, sought to any eligible United States worker who applies and is equally or better qualified for the job and who will be available at the time and place of need.

"(6) Provision of insurance.—If the job for which the nonimmigrant is, or the nonimmigrants are, sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(7) Strike or lockout.—There is not a strike or lockout in the course of a labor dispute which, under regulations promulgated by the Secretary of Labor, precludes the provision of the certification described in section 101(a)(15)(H)(ii)(a).

"(8) Previous violations.—The employer has not, during the previous 5-year period, employed H–2A workers and knowingly violated a material term or condition of approval with respect to the employment of domestic or nonimmigrant workers, as determined by the Secretary of Labor after notice and opportunity for a hearing.

"(b) Publication.—The employer shall make available for public examination, within 1 working day after the date on which a petition under this section is filed, at the employer's principal place of business or worksite, a copy of each such petition (and such accompanying documents as are necessary).

"(c) List.—The Secretary of Labor shall compile, on a current basis, a list (by employer) of the petitions filed under subsection (a). Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for public examination in Washington, District of Columbia.

"(d) Special Rules for Consideration of Petitions.—The following rules shall apply in the case of the filing and consideration of a petition under subsection (a):

"(1) Deadline for filing applications.—The Secretary of Homeland Security may not require that the petition be filed more than 45 days before the first date the employer requires the labor or services of the H–2A worker or workers.

"(2) Issuance of approval.—Unless the Secretary of Homeland Security finds that the petition is incomplete or obviously inaccurate, the Secretary of Homeland Security shall provide a decision within 7 days of the date of the filing of the petition.

"(e) Roles of Agricultural Associations.—

"(1) Permitting filing by agricultural associations.—A petition to hire an alien as a temporary agricultural worker may be filed by an association of agricultural producers which use agricultural services.

"(2) Treatment of associations acting as employers.—If an association is a joint or sole employer of temporary agricultural workers, such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the petition was approved.

"(3) Statement of liability.—The application form shall include a clear statement explaining the liability under this section of an employer who places an H–2A worker with another H–2A employer if the other employer displaces a United States worker in violation of the condition described in subsection (a)(7).

"(4) Treatment of violations.—

"(A) Member's violation does not necessarily disqualify association or other members.—If an individual producer member of a joint employer association is determined to have committed an act that is in violation of the conditions for approval with respect to the member's petition, the denial shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or had reason to know of the violation.

"(B) Association's violation does not necessarily disqualify members.—

"(i) Joint employer.—If an association representing agricultural producers as a joint employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, the denial shall apply only to the association and does not apply to any individual producer member of the association, unless the Secretary of Labor determines that the member participated in, had knowledge of, or had reason to know of the violation.

"(ii) Sole employer.—If an association of agricultural producers approved as a sole employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied approval during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

"(f) Expedited Administrative Appeals of Certain Determinations.—Regulations shall provide for an expedited procedure for the review of a denial of approval under this section, or at the applicant's request, for a de novo administrative hearing respecting the denial.

"(g) Miscellaneous Provisions.—

"(1) Endorsement of documents.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii)(a) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) Preemption of state laws.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

"(3) Fees.—

"(A) In general.—The Secretary of Homeland Security may require, as a condition of approving the petition, the payment of a fee in accordance with subparagraph (B) to recover the reasonable costs of processing petitions.

"(B) Amounts.—

"(i) Employer.—The fee for each employer that receives a temporary alien agricultural labor certification shall be equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000.

"(ii) Joint employer association.—In the case of a joint employer association that receives a temporary alien agricultural labor certification, each employer-member receiving such certification shall pay a fee equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000. The joint employer association shall not be charged a separate fee.

"(C) Payments.—The fees collected under this paragraph shall be paid by check or money order made payable to the 'Department of Homeland Security'. In the case of employers of H–2A workers that are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the petition may be paid by 1 check or money order.

"(D) Inflation adjustment.—In the case of any calendar year beginning after 2005, each dollar amount in subparagraph (B) may be increased by an amount equal to—

"(i) such dollar amount; multiplied by

"(ii) the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2004.

"(h) Failure To Meet Conditions.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of subsection (a), or a material misrepresentation of fact in a petition under subsection (a)—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 1 year.

"(i) Willful Failures and Willful Misrepresentations.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a)—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 2 years;

"(3) for a second violation, the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 5 years; and

"(4) for a third violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H-2A workers.

"(j) Displacement of United States Workers.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (a) or during the period of 30 days preceding such period of employment—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate;

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 5 years; and

"(3) for a second violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H-2A workers.

"(k) Limitations on Civil Money Penalties.—The Secretary of Labor shall not impose total civil money penalties with respect to a petition under subsection (a) in excess of $90,000.

"(l) Failures To Pay Wages or Required Benefits.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment required under subsection (a)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H-2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under subsection (a)(2) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

"(m) Minimum Benefits, Wages, and Working Conditions.—

"(1) Preferential treatment of aliens prohibited.—

"(A) In general.—Employers seeking to hire United States workers shall offer the United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H-2A workers.

"(B) Interpretations and determinations.—While benefits, wages, and other terms and conditions of employment specified in this subsection are required to be provided in connection with employment under this section, every interpretation and determination made under this Act or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made in conformance with the governing principles that the services of workers to their employers and the employment opportunities afforded to workers by their employers, including those employment opportunities that require United States workers or H-2A workers to travel or relocate in order to accept or perform employment, mutually benefit such workers, as well as their families, and employers, principally benefitting neither, and that employment opportunities within the United States further benefit the United States economy as a whole and should be encouraged.

"(2) Required wages.—

"(A) An employer applying for workers under subsection (a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less than the prevailing wage.

"(B) In complying with subparagraph (A), an employer may request and obtain a prevailing wage determination from the State employment security agency.

"(C) In lieu of the procedure described in subparagraph (B), an employer may rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of intended employment that has been conducted or funded by the employer or a group of employers, that meets criteria specified by the Secretary of Labor in regulations.

"(D) An employer who obtains such prevailing wage determination, or who relies on a qualifying survey of prevailing wages, and who pays the wage determined to be prevailing, shall be considered to have complied with the requirement of subparagraph (A).

"(E) No worker shall be paid less than the greater of the prevailing wage or the applicable State minimum wage.

"(3) Requirement to provide housing or a housing allowance.—

"(A) In general.—An employer applying for workers under subsection (a) shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

"(B) Type of housing.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing, or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable State or local standards, Federal temporary labor camp standards shall apply.

"(C) Certificate of inspection.—Prior to any occupation by a worker in housing described in subparagraph (B), the employer shall submit a certificate of inspection by an approved Federal or State agency to the Secretary of Labor.

"(D) Workers engaged in the range production of livestock.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(E) Limitation.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

"(F) Housing allowance as alternative.—

"(i) In general.—The employer may provide a reasonable housing allowance in lieu of offering housing under subparagraph (A) if the requirement under clause (v) is satisfied.

"(ii) Assistance to locate housing.—Upon the request of a worker seeking assistance in locating housing, the employer shall make a good-faith effort to assist the worker in locating housing in the area of intended employment.

"(iii) Limitation.—A housing allowance may not be used for housing which is owned or controlled by the employer. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

"(iv) Reporting requirement.—The employer must provide the Secretary of Labor with a list of the names of all workers assisted under this subparagraph and the local address of each such worker.

"(v) Certification.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H-2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

"(vi) Amount of allowance.—

"(I) Nonmetropolitan counties.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

"(II) Metropolitan counties.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(G) EXEMPTION.—An employer applying for workers under subsection (a) whose primary job site is located 150 miles or less from the United States border shall not be required to provide housing or a housing allowance.

“(4) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—

“(i) IN GENERAL.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, measured from the worker's first day of work in such employment, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment by the employer.

“(ii) OTHER FEES.—The employer shall not be required to reimburse visa, passport, consular, or international border-crossing fees or any other fees associated with the worker's lawful admission into the United States to perform employment that may be incurred by the worker.

“(iii) TIMELY REIMBURSEMENT.—Reimbursement to the worker of expenses for the cost of the worker's transportation and subsistence to the place of employment shall be considered timely if such reimbursement is made not later than the worker's first regular payday after the worker completes 50 percent of the period of employment of the job opportunity as provided under this paragraph.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less or if the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (3).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (5)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters (such as housing provided by the employer pursuant to paragraph (3), including housing provided through a housing allowance) and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(5) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least 75 percent of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this subparagraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT; TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster (including a flood, hurricane, freeze, earthquake, fire, or drought), plant or animal disease, pest infestation, or regulatory action, before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker.

“(n) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker must file a petition with the Secretary of Homeland Security. The petition shall include the attestations for the certification described in section 101(a)(15)(H)(ii)(a).

“(o) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary of Homeland Security—

“(1) shall establish a procedure for expedited adjudication of petitions filed under subsection (n); and

“(2) not later than 7 working days after such filing shall, by fax, cable, or other means assuring expedited delivery transmit a copy of notice of action on the petition—

“(A) to the petitioner; and

“(B) in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate where the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States.

“(p) DISQUALIFICATION.—

“(1) Subject to paragraph (2), an alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years, violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission.

“(2) WAIVERS.—

“(A) IN GENERAL.—An alien outside the United States, and seeking admission under section 101(a)(15)(H)(ii)(a), shall not be deemed inadmissible under such section by reason of paragraph (1) or section 212(a)(9)(B) if the previous violation occurred on or before April 1, 2005.

“(B) LIMITATION.—In any case in which an alien is admitted to the United States upon having a ground of inadmissibility waived under subparagraph (A), such waiver shall be considered to remain in effect unless the alien again violates a material provision of this section or otherwise violates a term or condition of admission into the United States as a nonimmigrant, in which case such waiver shall terminate.

“(q) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

“(2) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Secretary of Homeland Security within 7 days of an H–2A worker's having prematurely abandoned employment.

“(3) REMOVAL BY THE SECRETARY.—The Secretary of Homeland Security shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

“(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

“(r) REPLACEMENT OF ALIEN.—

“(1) IN GENERAL.—Upon presentation of the notice to the Secretary of Homeland Security required by subsection (q)(2), the Secretary of State shall promptly issue a visa to, and the Secretary of Homeland Security shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker who abandons or prematurely terminates employment.

“(2) CONSTRUCTION.—Nothing in this subsection shall limit any preference required to be accorded United States workers under any other provision of this Act.

“(s) IDENTIFICATION DOCUMENT.—

“(1) IN GENERAL.—The Department of Homeland Security shall provide each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) with a single machine-readable, tamper-resistant, and counterfeit-resistant document that—

“(A) authorizes the alien's entry into the United States; and

“(B) serves, for the appropriate period, as an employment eligibility document.

“(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

"(A) The document shall be capable of reliably determining whether—

"(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

"(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

"(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

"(B) The document shall—

"(i) be compatible with other databases of the Secretary of Homeland Security for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

"(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(t) EXTENSION OF STAY OF H–2A WORKERS IN THE UNITED STATES.—

"(1) EXTENSION OF STAY.—

"(A) IN GENERAL.—If an employer seeks to employ an H–2A worker who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (n) shall request an extension of the alien's stay.

"(B) COMMENCEMENT; MAXIMUM PERIOD.—An extension of stay under this subsection—

"(i) may only commence at the completion of the H–2A worker's stay with the current employer; and

"(ii) shall not exceed 10 months.

"(2) WORK AUTHORIZATION UPON FILING PETITION FOR EXTENSION OF STAY.—

"(A) IN GENERAL.—An alien who is lawfully present in the United States may commence or continue the employment described in a petition under paragraph (1) on the date on which the petition is filed. The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document, as evidence that the petition has been filed and that the alien is authorized to work in the United States.

"(B) APPROVAL.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary of Homeland Security shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

"(C) DEFINITION.—In this paragraph, the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

"(u) SPECIAL RULE FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOATHERDERS, OR DAIRY WORKERS.—Notwithstanding any other provision of this section, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goatherder, or dairy worker may be admitted for a period of up to 2 years.

"(v) DEFINITIONS.—For purposes of this section:

"(1) AREA OF EMPLOYMENT.—The term 'area of employment' means the area within normal commuting distance of the worksite or physical location where the work of the H–2A worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to that employment.

"(3) DISPLACE.—In the case of a petition with respect to 1 or more H–2A workers by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the H–2A worker or workers is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

"(4) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

"(5) LAYS OFF.—

"(A) IN GENERAL.—The term 'lays off', with respect to a worker—

"(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (3) or (7) of subsection (a); but

"(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under subsection (a)(7), with either employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(B) CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(6) PREVAILING WAGE.—The term 'prevailing wage' means, with respect to an agricultural occupation in an area of intended employment, the rate of wages that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing method of pay for the occupation in the area of intended employment.

"(7) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

"(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

"(B) an alien provided status under section 220.".

SEC. 712. LEGAL ASSISTANCE PROVIDED BY THE LEGAL SERVICES CORPORATION.

Section 305 of the Immigrant Reform and Control Act of 1986 (8 U.S.C. 1101 note) is amended—

(1) by striking "A nonimmigrant" and inserting the following:

"(a) IN GENERAL.—A nonimmigrant"; and

(2) by adding at the end the following:

"(b) LEGAL ASSISTANCE.—The Legal Services Corporation may not provide legal assistance for or on behalf of any alien, and may not provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien—

"(1) is present in the United States at the time the legal assistance is provided; and

"(2) is an alien to whom subsection (a) applies."

"(c) REQUIRED MEDIATION.—The Legal Services Corporation may not bring a civil action for damages on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) or pursuant to those in the Blue Card Program established under section 220 of such Act, unless at least 90 days before bringing the action a request has been made to the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute and mediation has been attempted.".

Subtitle B—Blue Card Status

SEC. 721. BLUE CARD PROGRAM.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

"BLUE CARD PROGRAM

"SEC. 220. (a) DEFINITIONS.—As used in this section—

"(1) the term 'agricultural employment'—

"(A) means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986; and

"(B) includes any service or activity described in—

"(i) title 37, 37-3011, or 37-3012 (relating to landscaping) of the Department of Labor 2004-2005 Occupational Information Network Handbook;

"(ii) title 45 (relating to farming fishing, and forestry) of such handbook; or

"(iii) title 51, 51-3022, or 51-3023 (relating to meat, poultry, fish processors and packers) of such handbook.

"(2) the term 'blue card status' means the status of an alien who has been—

"(A) lawfully admitted for a temporary period under subsection (b); and

"(B) issued a tamper-resistant, machine-readable document that serves as the alien's visa, employment authorization, and travel documentation and contains such biometrics as are required by the Secretary;

"(3) the term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment;

"(4) the term 'Secretary' means the Secretary of Homeland Security;

"(5) the term 'small employer' means an employer employing fewer than 500 employees based upon the average number of employees for each of the pay periods for the preceding 10 calendar months, including the period in which the employer employed H–2A workers; and

"(6) the term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

"(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

"(B) an alien provided status under this section.

"(b) Blue Card Program.—

"(1) Blue card program.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

"(A) has been in the United States continuously as of April 1, 2005;

"(B) has performed more than 50 percent of total annual weeks worked in agricultural employment in the United States (except in the case of a child provided derivative status as of April 1, 2005);

"(C) is otherwise admissible to the United States under section 212, except as otherwise provided under paragraph (2); and

"(D) is the beneficiary of a petition filed by an employer, as described in paragraph (3).

"(2) Waiver of certain grounds for inadmissibility.—In determining an alien's eligibility for blue card status under paragraph (1)(C)—

"(A) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply;

"(B) the provisions of section 212(a)(6)(C) shall not apply with respect to prior or current agricultural employment; and

"(C) the Secretary may not waive paragraph (1), (2), or (3) of section 212(a) unless such waiver is permitted under another provision of law.

"(3) Petitions.—

"(A) In general.—An employer seeking blue card status under this section for an alien employee shall file a petition for blue card status with the Secretary.

"(B) Employer petition.—An employer filing a petition under subparagraph (A) shall—

"(i) pay a registration fee of—

"(I) $1,000, if the employer employs more than 500 employees; or

"(II) $500, if the employer is a small employer employing 500 or fewer employees;

"(ii) pay a processing fee to cover the actual costs incurred in adjudicating the petition; and

"(iii) attest that the employer conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation and was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought, which attestation shall be valid for a period of 60 days.

"(C) Recruitment.—

"(i) The adequate recruitment requirement under subparagraph (B)(iii) is satisfied if the employer—

"(I) places a job order with America's Job Bank Program of the Department of Labor; and

"(II) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the metropolitan statistical area of intended employment.

"(ii) An advertisement under clause (i)(II) shall—

"(I) name the employer;

"(II) direct applicants to report or send resumes, as appropriate for the occupation, to the employer;

"(III) provide a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

"(IV) describe the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

"(V) state the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

"(VI) offer wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

"(D) Notification of denial.—The Secretary shall provide notification of a denial of a petition filed for an alien to the alien and the employer who filed such petition.

"(E) Effect of denial.—If the Secretary denies a petition filed for an alien, such alien shall return to the country of the alien's nationality or last residence outside the United States.

"(4) Blue card status.—

"(A) Blue card.—

"(i) All-in-one card.—The Secretary, in conjunction with the Secretary of State, shall develop a single machine-readable, tamper-resistant document that—

"(I) authorizes the alien's entry into the United States;

"(II) serves, during the period an alien is in blue card status, as an employment authorized endorsement or other appropriate work permit for agricultural employment only; and

"(III) serves as an entry and exit document to be used in conjunction with a proper visa or as a visa and as other appropriate travel and entry documentation using biometric identifiers that meet the biometric identifier standards jointly established by the Secretary of State and the Secretary.

"(ii) Biometrics.—

"(I) After a petition is filed by an employer and receipt of such petition is confirmed by the Secretary, the alien, in order to further adjudicate the petition, shall submit 2 biometric identifiers, as required by the Secretary, at an Application Support Center.

"(II) The Secretary shall prescribe a process for the submission of a biometric identifier to be incorporated electronically into an employer's prior electronic filing of a petition. The Secretary shall prescribe an alternative process for employers to file a petition in a manner other than electronic filing, as needed.

"(B) Document requirements.—The Secretary shall issue a blue card that is—

"(i) capable of reliably determining if the individual with the blue card whose eligibility is being verified is—

"(I) eligible for employment;

"(II) claiming the identify of another person; and

"(III) authorized to be admitted; and

"(ii) compatible with—

"(I) other databases maintained by the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

"(II) law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(C) Authorized travel.—During the period an alien is in blue card status granted under this section and pursuant to regulations established by the Secretary, the alien may make brief visits outside the United States. An alien may be readmitted to the United States after such a visit without having to obtain a visa if the alien presents the alien's blue card document. Such periods of time spent outside the United States shall not cause the period of blue card status in the United States to be extended.

"(D) Portability.—

"(i) During the period in which an alien is in blue card status, the alien issued a blue card may accept new employment upon the Secretary's receipt of a petition filed by an employer on behalf of the alien. Employment authorization shall continue for such alien until such petition is adjudicated.

"(ii) If a petition filed under clause (i) is denied and the alien has ceased employment with the previous employer, the authorization under clause (i) shall terminate and the alien shall be required to return to the country of the alien's nationality or last residence.

"(iii) A fee may be required by the Secretary to cover the actual costs incurred in adjudicating a petition under this subparagraph. No other fee may be required under this subparagraph.

"(iv) A petition by an employer under this subparagraph may not be accepted within 90 days after the adjudication of a previous petition on behalf of an alien.

"(E) Annual check in.—The employer of an alien in blue card status who has been employed for 1 year in blue card status shall confirm the alien's continued employment status with the Secretary electronically or in writing. Such confirmation will not require a further labor attestation.

"(F) Termination of blue card status.—

"(i) During the period of blue card status granted an alien, the Secretary may terminate such status upon a determination by the Secretary that the alien is deportable or has become inadmissible.

"(ii) The Secretary may terminate blue card status granted to an alien if—

"(I) the Secretary determines that, without the appropriate waiver, the granting of blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i));

"(II) the alien is convicted of a felony or a misdemeanor committed in the United States; or

"(III) the Secretary determines that the alien is deportable or inadmissible under any other provision of this Act.

"(5) Period of authorized admission.—

"(A) In general.—The initial period of authorized admission for an alien with blue card status shall be not more than 3 years. The employer of such alien may petition for extensions of such authorized admission for 2 additional periods of not more than 3 years each.

"(B) Exception.—The limit on renewals shall not apply to a nonimmigrant in a position of full-time, non-temporary employment who has managerial or supervisory responsibilities. The employer of such nonimmigrant shall be required to make an additional attestation to such an employment classification with the filing of a petition.

"(C) Reporting requirement.—If an alien with blue card status ceases to be employed by an employer, such employer shall immediately notify the Secretary of such cessation of employment. The Secretary shall provide electronic means for making such notification.

"(D) Loss of employment.—

"(i) An alien's blue card status shall terminate if the alien is unemployed for 60 or more consecutive days.

"(ii) An alien whose period of authorized admission terminates under clause (i) shall be required to return to the country of the alien's nationality or last residence.

"(6) Grounds for ineligibility.—

"(A) Bar to future visas for condition violations.—Any alien having blue card status shall not again be eligible for the same blue card status if the alien violates any term or condition of such status.

"(B) ALIENS UNLAWFULLY PRESENT.—Any alien who enters the United States after April 1, 2005, without being admitted or paroled shall be ineligible for blue card status.

"(C) ALIENS IN H–2A STATUS.—Any alien in lawful H–2A status as of April 1, 2005, shall be ineligible for blue card status.

"(7) BAR ON CHANGE OR ADJUSTMENT OF STATUS.—

"(A) IN GENERAL.—An alien having blue card status shall not be eligible to change or adjust status in the United States or obtain a different nonimmigrant or immigrant visa from a United States Embassy or consulate.

"(B) LOSS OF ELIGIBILITY.—An alien having blue card status shall lose eligibility for such status if the alien—

"(i) files a petition to adjust status to legal permanent residence in the United States; or

"(ii) requests a consular processing for an immigrant visa outside the United States.

"(C) EXCEPTION.—An alien having blue card status may not adjust status to legal permanent resident status or obtain another nonimmigrant or immigrant status unless—

"(i)(I) the alien renounces his or her blue card status by providing written notification to the Secretary of Homeland Security or the Secretary of State; or

"(II) the alien's blue card status otherwise expires; and

"(ii) the alien has resided and been physically present in the alien's country of nationality or last residence for not less than 1 year after leaving the United States and the renouncement or expiration of blue card status.

"(8) JUDICIAL REVIEW.—There shall be no judicial review of a denial of blue card status.

"(c) SAFE HARBOR.—

"(1) SAFE HARBOR OF ALIEN.—An alien for whom a nonfrivolous petition is filed under this section—

"(A) shall be granted employment authorization pending final adjudication of the petition:

"(B) may not be detained, determined inadmissible or deportable, or removed pending final adjudication of the petition for change in status, unless the alien commits an act which renders the alien ineligible for such change of status; and

"(C) may not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as the petition for status is adjudicated.

"(2) SAFE HARBOR FOR EMPLOYER.—An employer that files a petition for blue card status for an alien shall not be subject to civil and criminal tax liability relating directly to the employment of such alien. An employer that provides unauthorized aliens with copies of employment records or other evidence of employment pursuant to the petition shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

"(d) TREATMENT OF SPOUSES AND CHILDREN.—

"(1) SPOUSES.—A spouse of an alien having blue card status shall not be eligible for derivative status by accompanying or following to join the alien. Such a spouse may obtain status based only on an independent petition filed by an employer petitioning under subsection (b)(3) with respect to the employment of the spouse.

"(2) CHILDREN.—A child of an alien having blue card status shall not be eligible for the same temporary status unless—

"(A) the child is accompanying or following to join the alien; and

"(B) the alien is the sole custodial parent of the child or both custodial parents of the child have obtained such status.".

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 219 the following:

"Sec. 220. Blue card program.".

SEC. 722. PENALTIES FOR FALSE STATEMENTS.

Section 1546 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Any person, including the alien who is the beneficiary of a petition, who—

"(1) files a petition under section 220(b)(3) of the Immigration and Nationality Act; and

"(2)(A) knowingly and willfully falsifies, conceals, or covers up a material fact related to such a petition;

"(B) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry related to such a petition; or

"(C) creates or supplies a false writing or document for use in making such a petition, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.".

SEC. 723. SECURING THE BORDERS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a comprehensive plan for securing the borders of the United States.

SEC. 724. EFFECTIVE DATE.

This subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 382. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, lines 7 through 10, strike "at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on" and insert "the previous 3 years, for at least 575 hours or 100 work days per year, before".

SA 383. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike line 5 and all that follows through page 14, line 23, and insert the following:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 6-year period beginning on the date of enactment of this Act.

(ii) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(iii) PROOF.—In meeting the requirements under clause (i), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(iv) DISABILITY.—In determining whether an alien has met the requirements under clause (i), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

SA 384. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, strike line 11 and all that follows through "(D)" on page 20, line 16, and insert the following:

(A) IN GENERAL.—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary only if the applicant is represented by an attorney; or

(II) with a qualified entity designated under paragraph (2) only if the applicant consents to the forwarding of the application to the Secretary; and

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B)

SA 385. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike lines 19 through 21, and insert the following:

(II) is convicted of a felony or misdemeanor committed in the United States.

SA 386. Mr. STEVENS (for himself and Mr. INOUYE) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 149, line 10 strike "$89,300,000" and insert "$250,300,000" and on line 11 strike "$20,000,000" and insert "$181,000,000".

SA 387. Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following new title:

TITLE VII—TEMPORARY WORKERS

SEC. 7001. SHORT TITLE.

This title may be cited as the "Save Our Small and Seasonal Businesses Act of 2005".

SEC. 7002. NUMERICAL LIMITATIONS ON H–2B WORKERS.

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

"(9) An alien counted toward the numerical limitations of paragraph (1)(B) during any one of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment in subsection (a) shall take effect as if enacted on October 1, 2004, and shall expire on October 1, 2006.

(2) IMPLEMENTATION.—Not later than the date of enactment of this Act, the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b), in a manner consistent with this section and the amendments made by this section.

SEC. 7003. FRAUD PREVENTION AND DETECTION FEE.

(a) IMPOSITION OF FEE.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 426(a) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended by adding at the end the following:

"(13)(A) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 101(a)(15)(H)(ii)(b).

"(i) The amount of the fee imposed under subparagraph (A) shall be $150.".

(b) USE OF FEES.—

(1) FRAUD PREVENTION AND DETECTION ACCOUNT.—Subsection (v) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended—

(A) in paragraphs (1), (2)(A), (2)(B), (2)(C), and (2)(D) by striking "H1–B and L" each place it appears;

(B) in paragraph (1), as amended by subparagraph (A), by striking "section 214(c)(12)" and inserting "paragraph (12) or (13) of section 214(c)";

(C) in paragraphs (2)(A)(i) and (2)(B), as amended by subparagraph (A), by striking "(H)(i)" each place it appears and inserting "(H)(i), (H)(ii), "; and

(D) in paragraph (2)(D), as amended by subparagraph (A), by inserting before the period at the end "or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(ii)".

(2) CONFORMING AMENDMENT.—The heading of such subsection 286 is amended by striking "H1–B AND L".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2005.

SEC. 7004. SANCTIONS.

(a) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 3, is further amended by adding at the end the following:

"(14)(A) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 101(a)(15)(H)(ii)(b) or a willful misrepresentation of a material fact in such petition—

"(i) the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and

"(ii) the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 204 or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

"(iii) The Secretary of Homeland Security may delegate to the Secretary of Labor, with the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

"(iv) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

"(v) In this paragraph, the term 'substantial failure' means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 7005. ALLOCATION OF H–2B VISAS DURING A FISCAL YEAR.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by section 7002, is further amended by adding at the end the following new paragraph:

"(j) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens who enter the United States pursuant to a visa or other provision of nonimmigrant status under section 101(a)(15)(H)(ii)(b) during the first 6 months of such fiscal year is not more than 33,000.".

SEC. 7006. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H–2B NONIMMIGRANTS.

Section 416 of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105–277; 8 U.S.C. 1184 note) is amended—

(1) by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security"; and

(2) by adding at the end the following new subsection:

"(d) PROVISION OF INFORMATION.—

"(1) QUARTERLY NOTIFICATION.—Beginning not later than March 1, 2006, the Secretary of Homeland Security shall notify, on a quarterly basis, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of House of Representatives of the number of aliens who during the preceding 1-year period—

"(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

"(B) had such a visa or such status expire or be revoked or otherwise terminated.

"(2) ANNUAL SUBMISSION.—Beginning in fiscal year 2007, the Secretary of Homeland Security shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

"(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

"(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

"(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

"(3) INFORMATION MAINTAINED BY STATE.—If the Secretary of Homeland Security determines that information maintained by the

Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.".

SA 388. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

UP ARMORED HIGH MOBILITY MULTIPURPOSE WHEELED VEHICLES

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $742,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OTHER PROCUREMENT, ARMY", as increased by subsection (a), $742,000,000 shall be available for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

(c) REPORTS.—(1) Not later 60 days after the date of the enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the current requirements of the Armed Forces for armored security vehicles.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the most effective and efficient options available to the Department of Defense for transporting Up Armored High Mobility Multipurpose Wheeled Vehicles to Iraq and Afghanistan.

SA 389. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, add the following:

SEC. 6047. STATE REGULATION OF RESIDENT AND NONRESIDENT HUNTING AND FISHING.

(a) SHORT TITLE.—This section may be cited as the "Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005".

(b) DECLARATION OF POLICY AND CONSTRUCTION OF CONGRESSIONAL SILENCE.—

(1) IN GENERAL.—It is the policy of Congress that it is in the public interest for each State to continue to regulate the taking for any purpose of fish and wildlife within its boundaries, including by means of laws or regulations that differentiate between residents and nonresidents of such State with respect to the availability of licenses or permits for taking of particular species of fish or wildlife, the kind and numbers of fish and wildlife that may be taken, or the fees charged in connection with issuance of licenses or permits for hunting or fishing.

(2) CONSTRUCTION OF CONGRESSIONAL SILENCE.—Silence on the part of Congress shall not be construed to impose any barrier under clause 3 of Section 8 of Article I of the Constitution (commonly referred to as the "commerce clause") to the regulation of hunting or fishing by a State or Indian tribe.

(c) LIMITATIONS.—Nothing in this section shall be construed—

(1) to limit the applicability or effect of any Federal law related to the protection or management of fish or wildlife or to the regulation of commerce;

(2) to limit the authority of the United States to prohibit hunting or fishing on any portion of the lands owned by the United States; or

(3) to abrogate, abridge, affect, modify, supersede or alter any treaty-reserved right or other right of any Indian tribe as recognized by any other means, including, but not limited to, agreements with the United States, Executive Orders, statutes, and judicial decrees, and by Federal law.

(d) STATE DEFINED.—For purposes of this section, the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SA 390. Mr. OBAMA (for himself, Mr. GRAHAM, Mr. BINGAMAN, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BENEFITS FOR MEMBERS OF THE ARMED FORCES RECUPERATING FROM INJURIES INCURRED IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.

(a) PROHIBITION ON CHARGES FOR MEALS.—

(1) PROHIBITION.—A member of the Armed Forces entitled to a basic allowance for subsistence under section 402 of title 37, United States Code, who is undergoing medical recuperation or therapy, or is otherwise in the status of "medical hold", in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom shall not, during any month in which so entitled, be required to pay any charge for meals provided such member by the military treatment facility.

(2) EFFECTIVE DATE.—The limitation in paragraph (1) shall take effect on January 1, 2005, and shall apply with respect to meals provided members of the Armed Forces as described in that paragraph on or after that date.

(b) TELEPHONE BENEFITS.—

(1) PROVISION OF ACCESS TO TELEPHONE SERVICE.—The Secretary of Defense shall provide each member of the Armed Forces who is undergoing in any month medical recuperation or therapy, or is otherwise in the status of "medical hold", in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom access to telephone service at or through such military treatment facility in an amount for such month equivalent to the amount specified in paragraph (2).

(2) MONTHLY AMOUNT OF ACCESS.—The amount of access to telephone service provided a member of the Armed Forces under paragraph (1) in a month shall be the number of calling minutes having a value equivalent to $40.

(3) ELIGIBILITY AT ANY TIME DURING MONTH.—A member of the Armed Forces who is eligible for the provision of telephone service under this subsection at any time during a month shall be provided access to such service during such month in accordance with that paragraph, regardless of the date of the month on which the member first becomes eligible for the provision of telephone service under this subsection.

(4) USE OF EXISTING RESOURCES.—In carrying out this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private organizations, or other private entities offering free or reduced-cost telecommunications services.

(5) COMMENCEMENT.—

(A) IN GENERAL.—This subsection shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

(B) EXPEDITED PROVISION OF ACCESS.—The Secretary shall commence the provision of access to telephone service under this subsection as soon as practicable after the date of the enactment of this Act.

(6) TERMINATION.—The Secretary shall cease the provision of access to telephone service under this subsection on the date this is 60 days after the later of—

(A) the date, as determined by the Secretary, on which Operation Enduring Freedom terminates; or

(B) the date, as so determined, on which Operation Iraqi Freedom terminates.

SA 391. Mr. OBAMA (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, to repair damage caused by flooding in the Kaskaskia River during January, 2005, to the Lake Shelbyville and Carlyle Lake projects, $5,400,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 392. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

EPILEPSY RESEARCH BY DEPARTMENT OF DEFENSE PEER REVIEWED MEDICAL RESEARCH PROGRAM

SEC. 1122. Of the amount appropriated or otherwise made available by this chapter under the heading "DEFENSE HEALTH PROGRAM", $1,000,000 shall be available for the Department of Defense Peer Reviewed Medical Research Program for epilepsy research, including—

(1) research into the relationship between traumatic brain injury and epilepsy; and

(2) research on the development of tools to monitor epilepsy.

SA 393. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . IMPLEMENTATION OF MISSION CHANGES AT SPECIFIC VETERANS HEALTH ADMINISTRATION FACILITIES.

(a) IN GENERAL.—Section 414 of the Veterans Health Programs Improvement Act of 2004, is amended by adding at the end the following:

"(h) DEFINITION.—In this section, the term 'medical center' includes any outpatient clinic.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Veterans Health Programs Improvement Act of 2004 (Public Law 108-422).

SA 394. Mr. WARNER submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

RE-USE AND REDEVELOPMENT OF CLOSED OR REALIGNED MILITARY INSTALLATIONS

SEC. 1122 (a) In order to assist communities with preparations for the results of the 2005 round of defense base closure and realignment, and consistent with assistance provided to communities by the Department of Defense in previous rounds of base closure and realignment, the Secretary of Defense shall, not later than July 15, 2005, submit to the congressional defense committees a report on the processes and policies of the Federal Government for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for re-use and redevelopment decisions.

(b) The report under subsection (a) shall include—

(1) a description of the processes of the Federal Government for disposal of property at military installations proposed to be closed or realigned;

(2) a description of Federal Government policies for providing re-use and redevelopment assistance;

(3) a catalogue of community assistance programs that are provided by the Federal Government related to the re-use and redevelopment of closed or realigned military installations;

(4) a description of the services, policies, and resources of the Department of Defense that are available to assist communities affected by the closing or realignment of military installations as a result of the 2005 round of base closure and realignment;

(5) guidance to local communities on the establishment of local redevelopment authorities and the implementation of a base redevelopment plan; and

(6) a description of the policies and responsibilities of the Department of Defense related to environmental clean-up and restoration of property disposed by the Federal Government.

SA 395. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. CLINTON, and Mrs. BOXER) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Senate conferees should not agree to the inclusion of language from division B of the Act (as passed by the House of Representatives on March 16, 2005) in the conference report;

(2) the language referred to in paragraph (1) is contained in H.R. 418, which was—

(A) passed by the House of Representatives on February 10, 2005; and

(B) referred to the Committee on the Judiciary of the Senate on February 17, 2005; and

(3) the Committee on the Judiciary is the appropriate committee to address this matter.

SA 396. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEFINITION OF IMMEDIATE RELATIVES.

Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting "In the case of a parent of a citizen of the United States who has a child (as defined in section 101(b)(1)), the child shall be considered, for purposes of this subsection, to be an immediate relative if accompanying or following to join the parent." after "21 years of age.".

SA 397. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Section 426(d) of the Water Resources Development Act of 1999 (113 Stat. 326) is amended by striking "$400,000" and inserting "$475,000".

SA 398. Mr. DORGAN (for himself, Mr. DURBIN, Mr. LAUTENBERG, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, add the following:

TITLE VII—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING

SEC. 7001. FINDINGS.

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly know as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

SEC. 7002. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this title referred to as the "Special Committee").

SEC. 7003. PURPOSE AND DUTIES.

(a) PURPOSE.—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) DUTIES.—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) INVESTIGATION OF WASTEFUL AND FRAUDULENT PRACTICES.—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) EVIDENCE CONSIDERED.—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

SEC. 7004. COMPOSITION OF SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) DATE.—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) VACANCIES.—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) SERVICE.—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) CHAIRMAN AND RANKING MEMBER.—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) QUORUM.—

(1) REPORTS AND RECOMMENDATIONS.—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) TESTIMONY.—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) OTHER BUSINESS.—A majority of the members of the Special Committee, or ⅓ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

SEC. 7005. RULES AND PROCEDURES.

(a) GOVERNANCE UNDER STANDING RULES OF SENATE.—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) ADDITIONAL RULES AND PROCEDURES.—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

SEC. 7006. AUTHORITY OF SPECIAL COMMITTEE.

(a) IN GENERAL.—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) HEARINGS.—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary

or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) Meetings.—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

SEC. 7007. REPORTS.

(a) Initial Report.—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 7003 not later than 270 days after the appointment of the Special Committee members.

(b) Updated Report.—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) Additional Reports.—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) Findings and Recommendations.—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 7003.

(e) Disposition of Reports.—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

SEC. 7008. ADMINISTRATIVE PROVISIONS.

(a) Staff.—

(1) In general.—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) Appointment of staff.—

(A) In general.—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) Majority staff.—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) Minority staff.—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) Nondesignated staff.—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) Compensation.—

(1) Majority staff.—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) Minority staff.—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) Nondesignated staff.—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) Reimbursement of Expenses.—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) Payment of Expenses.—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

SEC. 7009. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

SEC. 7010. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

SA 399. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

Sec.   . (a) None of the funds appropriated or made available in this Act or any other Act may be used to fund the independent counsel investigation of Henry Cisneros after June 1, 2005.

(b) Not later than July 1, 2005, the Government Accountability Office shall provide the Committee on Appropriations of each House with a detailed accounting of the costs associated with the independent counsel investigation of Henry Cisneros.

SA 400. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COVERAGE OF MILK PRODUCTION UNDER H-2A NONIMMIGRANT WORKER PROGRAM.

(a) In General.—For purposes of the administration of the H–2A worker program in a year, work performed in the production of milk for commercial use for a period not to exceed 10 months shall qualify as agriculture labor or services of a seasonal nature.

(b) Definitions.—In this section:

(1) H–2a nonimmigrant worker program.—The term "H–2A nonimmigrant worker program" means the program for the admission to the United States of H–2A nonimmigrant workers.

(2) H–2a nonimmigrant workers.—The term "H–2A worker" means a nonimmigrant alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

SA 401. Mr. COCHRAN (for Mr. McConnell) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 193, line 23 of the bill, strike "$500,000" and insert in lieu thereof: "$1,000,000".

SA 402. Mr. COCHRAN (for Mr. McConnell (for himself, Mr. Leahy, and Mr. Obama)) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 192, line 19, after "March 2005," insert "and the avian influenza virus,".

SA 403. Mr. COCHRAN (for Mr. Lugar (for himself and Mr. Biden)) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 171, line 13, strike "$757,700,000" and insert "$767,200,000".

On page 171, line 21, after "education:" insert the following "*Provided further*, That of the funds appropriated under this heading, $17,200,000 should be made available for the

Office of the Coordinator for Reconstruction and Stabilization:".

On page 179, line 24, strike "$40,000,000" and insert "$30,500,000".

SA 404. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 7, delete "Aceh" and everything thereafter through "Service" on line 9, and insert in lieu thereof:

tsunami affected countries

SA 405. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 19, after the colon insert the following:

Provided further, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds:

SA 406. Mr. BAYH (for himself, Mr. PRYOR, and Mr. CORZINE) proposed an amendment to the bill H.R. 1268. Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 170 between lines 14 and 15, insert the following:

CHAPTER 3

SEC. 1201. SHORT TITLE.

This chapter may be cited as the "Patriot Penalty Elimination Act of 2005".

SEC. 1202. INCOME PRESERVATION PAY FOR RESERVES SERVING ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) AUTHORITY.—Chapter 1209 of title 10, United States Code, is amended by inserting after section 12316 the following new section:

"§ 12316a. Reserves: income preservation pay

"(a) REQUIREMENT TO PAY.—The Secretary of the military department concerned shall pay income preservation pay under this section to an eligible member of a reserve component of the armed forces in connection with the member's active-duty service as described in subsection (b).

"(b) ELIGIBLE MEMBER.—A member is eligible for income preservation pay if—

"(1) in the case of a member who is an employee of the Federal Government—

"(A) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(B) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; and

"(C) with respect to such active-duty service, the amount of the member's preservice earned income determined under subparagraph (A) of subsection (c)(1) exceeds the amount of the member's military service income determined under subparagraph (B) of such subsection; or

"(2) in the case of any other member, the member—

"(A) meets the requirements of paragraph (1); and

"(B) is not receiving employment income preservation payments from the qualifying employer of the member as described in section 12316b of this title.

"(c) AMOUNT.—(1) Subject to paragraph (2), the amount payable under this section to a member in connection with active-duty service is the amount equal to the excess (if any) of—

"(A) the amount computed by multiplying—

"(i) the preservice average monthly earned income of the member, by

"(ii) the total number of the member's service months for such active-duty service, over

"(B) the amount computed by multiplying—

"(i) the military service average monthly income of the member, by

"(ii) the total number of months determined under subparagraph (A)(ii).

"(2) The total amount of income preservation pay that is paid to a member under this section may not exceed $10,000.

"(d) PRESERVICE AVERAGE MONTHLY EARNED INCOME.—For the purposes of this section, the preservice average monthly earned income of a member who serves on active duty as described in subsection (b) shall be computed by dividing 12 into the total amount of the member's earned income for the 12 months immediately preceding the member's first service month of the period for which income preservation pay is to be paid to the member under this section.

"(e) MILITARY SERVICE AVERAGE MONTHLY INCOME.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (b) is the amount determined by dividing—

"(1) the sum of the total amount of the member's earned income (other than basic pay, special and incentive pays, and allowances) and the total amount of the member's basic pay (under section 204 of title 37), any special and incentive pays paid to the member (under chapter 5 of title 37), and any allowances paid to the member (under chapter 7 of title 37) for the member's service months for such active-duty service, by

"(2) the total number of such months.

"(f) TIME AND MANNER OF PAYMENT.—(1) Subject to paragraph (2), the total amount of income preservation pay that is payable under this section to a member in connection with service on active duty is due and payable, in one lump sum, not later than 30 days after the date on which the member is released from the active duty.

"(2) The Secretary concerned may make advance payment of income preservation pay in whole or in part under this section to a member, under such terms and conditions as the Secretary determines appropriate, if it is clear from the circumstances that it is likely that the member's active-duty service will satisfy the requirements of subsection (b). In any case in which advance payment is made to a member whose period of such active-duty service does not satisfy such requirements, the Secretary concerned may waive recoupment of the advance payment if the Secretary determines that recoupment would be against equity and good conscience or would be contrary to the best interests of the United States.

"(g) DEFINITIONS.—In this section:

"(1) The term "earned income" has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

"(2) The term 'service month', with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

"(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.".

(b) RECHARACTERIZATION OF EXISTING SECTION ON PAYMENT OF CERTAIN RESERVES ON ACTIVE DUTY.—The heading of section 12316 of title 10, United States Code, is amended to read as follows:

"§ 12316. Reserves: payment of other entitlement instead of pay and allowances".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, is amended by striking the item relating to section 12316 and inserting the following new items:

"12316. Reserves: payment of other entitlement instead of pay and allowances.
"12316a. Reserves: income preservation pay.".

(d) EFFECTIVE DATE.—Section 12316a of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

SEC. 1203. EMPLOYMENT INCOME PRESERVATION ASSISTANCE GRANTS FOR EMPLOYERS OF RESERVES.

(a) AUTHORITY.—Chapter 1209 of title 10, United States Code, as amended by section 1202(a) of this chapter, is further amended by inserting after section 12316a the following new section:

"§ 12316b. Reserves: employment income preservation assistance grants for employers of reserves

"(a) REQUIREMENT TO MAKE GRANTS.—The Secretary of the military department concerned shall make a grant to each qualifying employer to assist such employer in making employment income preservation payments to a covered member of a reserve component of the armed forces who is an employee of such employer to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

"(b) Qualifying Employer.—(1) Except as provided in paragraph (2), for the purposes of this section, a qualifying employer is any employer who makes employment income preservation payments to a covered member to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

"(2) A State or local government is not a qualifying employer for the purpose of this section.

"(c) Covered Member.—For the purposes of this section, a member is a covered member if—

"(1) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(2) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; and

"(3) with respect to such active-duty service, the amount of the member's preservice average monthly wage or salary (as determined under subsection (e)) exceeds the amount of the member's military service average monthly income (as determined under subsection (f)).

"(d) Employment Income Preservation Payments.—(1) For the purposes of this section, employment income preservation payments are any payments made by a qualifying employer to a covered member in connection with the active-duty service of the member described in subsection (c) in order to make up any excess of the member's preservice average monthly wage or salary over the member's military service average monthly income.

"(2) The total amount of employment income preservation payments with respect to a covered member for which a grant may be made under subsection (a) may not exceed $10,000.

"(e) Preservice Average Monthly Wage or Salary.—For the purposes of this section, the preservice average monthly wage or salary of a covered member who serves on active duty as described in subsection (c) shall be computed by dividing—

"(1) the number of months of employment of the member with the qualifying employer during the 12-month period preceding the member's commencement on active duty as described in subsection (c); into

"(2) the total amount of the member's wage or salary paid by the qualifying employer during such months.

"(f) Military Service Average Monthly Income.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (c) is the amount determined by dividing—

"(1) the sum of the total amount of the member's earned income (other than basic pay, special and incentive pays, and allowances) and the total amount of the member's basic pay (under section 204 of title 37), any special and incentive pays paid to the member (under chapter 5 of title 37), and any allowances paid to the member (under chapter 7 of title 37) for the member's service months for such active-duty service, by

"(2) the total number of such months.

"(g) Definitions.—In this section:

"(1) The term "earned income" has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

"(2) The term 'service month', with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

"(h) Termination of Authority.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, as amended by section 1202(c) of this chapter, is further by inserting after the item relating to section 12316a the following new item:

"12316b. Reserves: income preservation assistance grants for employers of reserves.".

(c) Effective Date.—Section 12316b of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

SA 407. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, strike lines 3 through 8 and insert the following:

AGRICULTURAL AND NATURAL RESOURCES OF THE WALKER RIVER BASIN

Sec. 6017. (a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary of the Interior (referred to in this section as the "Secretary"), acting through the Commissioner of Reclamation, shall provide not more than $850,000 to pay the State of Nevada's share of the costs for the Humboldt Project conveyance required under—

(A) title VIII of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2016); and

(B) section 217(a)(3) of the Energy and Water Development Appropriations Act, 2004 (117 Stat. 1853).

(2) Amounts provided under paragraph (1) may be used to pay—

(A) administrative costs;

(B) the costs associated with complying with—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(C) real estate transfer costs.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide not more than $70,000,000 to the University of Nevada—

(A) to acquire from willing sellers land, water, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

(i) innovative agricultural water conservation;

(ii) cooperative programs for environmental restoration;

(iii) fish and wildlife habitat restoration; and

(iv) wild horse and burro research and adoption marketing.

(2) In acquiring land, water, and related interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to—

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(c)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide not more than $10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be—

(A) acquired only from willing sellers; and

(B) designed to maximize water conveyances to Walker Lake.

(d) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide—

(1) $10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to Walker Lake, with priority given to activities that are expected to result in the greatest increased water flows to Walker Lake; and

(2) $5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

SA 408. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

Sec. 6047. None of the funds made available by this or any other Act may be used by the Secretary of Energy to provide assistance to any affected unit of local government under section 116(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10136(c)) using a funding distribution formula other than that used to provide assistance for fiscal year 2004.

SA 409. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. VOLUNTARY LEAVE TRANSFERS FOR FEDERAL EMPLOYEES WITH SPOUSES ON ACTIVE DUTY WITH THE NATIONAL GUARD OR RESERVES.

(a) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by inserting after section 6340 the following:

"§ 6341. National Guard and reserve service

"(a) The Office of Personnel Management shall prescribe regulations to treat any period of service described under subsection (b) in the same manner and to the same extent as a period of a medical emergency.

"(b) The period of service referred to under subsection (a) is any period of service performed by the spouse of an employee while that spouse—

"(1) is a member of a reserve component of the Armed Forces as described under section 10101 of title 10; and

"(2) is serving on active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 5, United States Code, is amended by inserting after the item relating to section 6340 the following:

"6341. National Guard and reserve service. ".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and apply to any period of service (or portion of such period) described under section 6341(b) of title 5, United States Code (as added by this section) that begins on or after the date of enactment of this Act.

SA 410. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 3, insert the following:

(e) The referenced statement of managers under the heading "Community Development Fund" in title II of division G of Public Law 108-199 is deemed to be amended with respect to item number 450 by striking the "V.I.C.T.M. Family Center in Washoe County, Nevada, for the construction of a facility for multi-purpose social services referral and victim counseling;" and inserting "Washoe County, Nevada, for a facility and equipment for the SART/CARES victim programs;".

SA 411. Mr. SESSIONS (for Mr. BAUCUS (for himself, Mr. GRASSLEY, Ms. LANDRIEU, Mr. LOTT, Mrs. FEINSTEIN, Mr. VITTER, Mr. NELSON of Florida, Mr. BOND, and Mr. MARTINEZ)) proposed an amendment to the bill H.R. 1134, to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments; as follows:

Strike all after the enacting clause and insert the following:

SEC. . PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

"(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

"(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

"(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster mitigation payment' means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

"(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

"(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking "a qualified disaster relief payment" and inserting "qualified disaster relief payments and qualified disaster mitigation payments".

(B) Subsection (e) of section 139 of such Code is amended by striking "and (f)" and inserting ", (f), and (g)".

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.".

(c) EFFECTIVE DATE.—

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 13, 2005, at 10 a.m., to conduct a hearing on "The Federal Home Loan Bank System."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, April 13 at 11:30 a.m. in room SD-366 to consider pending calendar business.

Agenda Item 1: To consider the nomination of David Garman, to be Under Secretary of Energy.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 13, 2005 at 9:15 a.m. to conduct a business meeting on the following agenda:

Nominations: Stephen Johnson, nominated by the President to be the Administrator of the United States Environmental Protection Agency (EPA); Luis Luna, nominated by the President to be EPA's Assistant Administrator for Administration and Resource Manager; John Paul Woodley, Jr., nominated by the President to be Assistant Secretary of the Army for Civil Works; Major General Don Riley, United States Army, nominated by the President to be a Member and President of the Mississippi River Commission; Brigadier General William T. Grisoli, United States Army, nominated by the President to be a Member of the Mississippi River Commission; D. Michael Rappoport, nominated by the President to be a Member of the Board of Trustees of the Morris K. Udall Foundation; and Michael Butler, nominated by the President to be a Member of the Board of Trustees of the Morris K. Udall Foundation.

Resolution: A resolution authorizing alteration of the James L. King Federal Justice Building in Miami, Florida; and Committee resolution for the Calumet Harbor and River, Illinois.

Legislation: Water Resources Development Act of 2005.

The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 13, 2005, at 10 a.m., to hear testimony on "The U.S.-Central America-Dominican Republic Free Trade Agreement."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 13, 2005, at 9:30 a.m. to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor and Pensions meet in executive session during the session of the Senate on Wednesday, April 13, 2005, at 10 a.m. in SD–430.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, April 13, 2005 at 11:00 a.m. to hold a business meeting to consider pending Committee business.

AGENDA

Legislation

S. 21, Homeland Security Grant Enhancement Act of 2005; S. 335, a bill to reauthorize the Congressional Award Act; S. 494, Federal Employee Protection of Disclosures Act; and S. 501, a bill to provide a site for the National Women's History Museum in the District of Columbia.

Committee Reports

Report of the Permanent Subcommittee on Investigations, titled: "The Role of the Professional Firms in the U.S. Tax Shelter Industry"; and report of the Permanent Subcommittee on Investigations, titled, "Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling."

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. COCHRAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 13, 2005, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Indian Health.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet to conduct a hearing on Wednesday, April 13, 2005, at 9:30 a.m. on "Securing Electronic Personal Data: Striking a Balance Between Privacy and Commercial and Governmental Use." The hearing will take place in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Deborah Platt Majoras, Chairman, Federal Trade Commission, Washington, DC; Chris Swecker, Assistant Director for the Criminal Investigative Division, Federal Bureau of Investigation, Washington, DC; Larry D. Johnson, Special Agent in Charge, Criminal Investigative Division, U.S. Secret Service; Washington, DC; and William H. Sorrell, President, National Association of Attorneys General, Montpelier, VT.

Panel II: Douglas C. Curling, President, Chief Operating Officer and Director, ChoicePoint Inc., Alpharetta, GA; Kurt P. Sanford, President & CEO, U.S. Corporate & Federal Markets, LexisNexis Group, Miamisburg, OH; Jennifer T. Barrett, Chief Privacy Officer, Acxiom Corp., Little Rock, AR; James X. Dempsey, Executive Director, Center for Democracy & Technology, Washington, DC; and Robert Douglas, CEO, PrivacyToday.com, Steamboat Springs, CO.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 13, 2005, at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND PROPERTY RIGHTS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a hearing on "Less Faith in Judicial Credit: Are Federal and State Marriage Protection Initiatives Vulnerable to Judicial Activism?" for Wednesday, April 13, 2005 at 2 p.m. in SD–226.

Witness List: Mr. Lynn Wardle, Professor of Law, Brigham Young University, J. Reuben Clark Law School, Provo, UT; Mr. Gerard Bradley, Professor of Law, University of Notre Dame Law School, Notre Dame, IN.; and Dr. Kathleen Moltz, Assistant Professor, Wayne State University School of Medicine, Detroit, MI.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Personnel be authorized to meet during the session of the Senate on April 13, 2005, at 1:30 p.m., in open session to receive testimony on active and reserve military and civilian personnel programs, in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on April 13, 2005, at 10 a.m., in open session to receive testimony on high risk areas in the management of the Department of Defense in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRADE, TOURISM, AND ECONOMIC DEVELOPMENT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Trade, Tourism, and Economic Development be authorized to meet on S. 714—Junk Fax Prevention Act, on Wednesday, April 13, 2005, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mrs. MURRAY. Mr. President, I ask unanimous consent that Linda Jantzen, a Defense fellow in the office of Senator MIKULSKI, be granted floor privileges during the consideration of H.R. 1268, the emergency supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION LEGISLATION AND THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

Mr. SESSIONS. Mr. President, I am very troubled that on this Defense supplemental bill, designed to provide the resources necessary for our soldiers in the field to defend themselves and execute the policy of the United States of America against a hostile force, we are now moving into a prolonged and contentious debate over one of the issues that all of us must admit is critically divisive and contentious and important in our country; and that is, the immigration question.

As we all know, the 9/11 Commission made several recommendations involving security issues affecting this country, particularly in identification and better control over those who would come into our country, particularly those trying to come in illegally. That was debated in the intelligence bill. Then an agreement was reached. The House decided to put in that REAL ID language, designed to be consistent with the recommendations of the 9/11 Commission for security purposes—not an immigration bill, security bill language, their version of it. This Senate has not put any such language in the bill at this time.

I will say this. That is one thing. I, as a prosecutor, and somebody who has served on the Judiciary Committee—and we have wrestled with this for some time—have come to the very firm conclusion that the Sensenbrenner language is important for our security. We need to do something like this. We have waited too long, I believe. That is my view.

But now on this floor I am advised we are going to have the Mikulski immigration bill offered, and then we are going to have the Craig-Kennedy AgJOBS bill, which is a bill breathtaking in its scope, an absolute legislative approval of amnesty in an incredible scope, and absolutely contrary to the very generous but liberal position President Bush has taken with regard to immigration. That is going to be run through on this Defense supplemental, and we are going to have to vote on it.

The committees have not studied it. We have not looked at all the alternatives that might be considered or other legislation that I am interested in, such as legislation that would empower our local law enforcement to be better participants in this entire activity. All of that will be swept away, and we will come through with a bill where we give a million-plus people, who are here in our country illegally—they would be granted temporary resident status, by proving that they worked at least 100 hours illegally. And then, if they worked 2,060 hours during a period of 6 years, they then are adjusted to legal permanent residents, what most people call green card holders, a status that is a guaranteed track or pass to citizenship, and they can bring their families with them.

This bill will take 1 million people, and it will put them on a guaranteed track to citizenship, people who have come here illegally.

Now, what about the people who have followed these H–1B, H–2B visa programs who have worked here legally? Can they get advantage of this track? Do they get put on a process by which they become citizens? No. It is only the people who are here illegally.

This is a bad principle. It is a matter of very serious import for law. I was a Federal prosecutor for 15 years. It hurts me to see the indifference by which our Nation has handled our legal system regarding immigration.

Should we allow more people to come here under legitimate conditions? Absolutely. I am for that, legally. I am prepared to discuss that. But I am not for a plan that guarantees amnesty for people who have come here illegally and not providing the benefits to those who may be talented, maybe have the skills we need right now, those who do not have connections to criminal or terrorist groups. We ought to be working on that angle of it.

I am a team player and I want to see things done right, in this Senate. I want to see our leadership succeed. I want to see good policy executed. But we are not going to take this issue lightly. I suggest that it would be an abdication of our responsibility as Senators if we allow this to be rammed through, attached to a bill, without the American people knowing what we are doing. They need to know this. It is going to take some time for them to learn what is being considered here. Senators need to learn what is in this bill. They don't know yet.

This AgJOBS bill had 60-something cosponsors last year. Now I understand it is down to 45. Why? People are reading this thing. It is bad law, bad policy. You tell me—this will be the second time we have passed an amnesty bill, if AgJOBS were to become law. Passing another amnesty bill would do nothing more than send the signal to those around the world who would like to come to the United States that the best way to become a citizen is to come in illegally and hang on; they will never do anything to you, and eventually there will be another amnesty out there? That is why we are concerned about it.

Yes, there are hardship cases. Yes, we want to be fair to everybody. We want to be more than fair. We want to be generous. But we have to be careful if we have any respect for law. Sometimes people think in this body—maybe they have never had to deal with it as I have—that laws don't have much import. They do. They are important. They make statements. A society that cannot set rules and enforce those rules is not a healthy society. If you would like to know why America is the greatest, most productive, most free country in the history of the world, it is our commitment to the rule of law.

This process is undermining respect for law in a way that I have not seen before, maybe since Prohibition. I think we can improve immigration law. We can be generous with people and try to help them and their families and create something. But it is going to take a good while. It is going to take some hard work.

I for one am not going quietly on this bill. We are going to take time. We are going to have debate. We are going to delay this important defense supplemental bill now to go off on this tangent. But I hope and pray that somehow our leadership and those who are interested in these issues can find a way to put this off for now. Let this bill get passed.

Let's talk about this issue as part of a comprehensive debate. If we did that, we would be serving our constituents a lot better than what we are doing today.

If we go forward and we ram this through without the kind of hearings, debate, taking testimony, studying data, do all that kinds of stuff, our constituents are not going to be happy with us. As a matter of fact, I think they are going to rightly be upset with us. It is a tactic that should not be done on a matter of this importance.

I wanted to make that comment. I know at some point we will be moving forward with the bill. Hopefully the leadership can work with those who are interested in these issues and create a mechanism at some point in the future where it can be fully debated. I am not prepared to allow such a tremendously significant piece of legislation as the AgJOBS bill to go through without a full debate. Every minute that is available to this Senate to debate it should be put on it. The American people need to know what is happening on the floor of the Senate right now. Maybe when we have a vote, we will have the right outcome.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNAL REVENUE CODE OF 1986 AMENDED TO PROVIDE FOR PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1134 and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant journal clerk read as follows:

A bill (H.R. 1134) to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

There being no objection, the Senate proceeded to consider the bill.

Mr. BAUCUS. Mr. President, today, we will pass legislation in the Senate that provides tax relief to all Americans receiving disaster mitigation grants from the Federal Emergency Management Agency, FEMA. I am pleased that my good friend, Senator GRASSLEY, and I, along with my colleagues, Senators LANDRIEU, BOND, FEINSTEIN, LOTT, MARTINEZ, NELSON, and VITTER could work together to add a necessary and important amendment to H.R. 1134, which exempts disaster mitigation payments from taxation.

For 15 years, FEMA has awarded natural disaster mitigation grants that assist citizens, businesses and communities to take steps to prevent or mitigate damages from future natural disasters. The grants go towards elevating buildings in floodplains, flood proofing, seismic reinforcement, acquisitions or relocations, wind protections for roofs and strengthening of window protections. These grants provide a long-term benefit to society by reducing future loss of life and increasing public safety. In addition to these life-saving benefits, mitigation grants also provide a net cost benefit to society. FEMA conducts a cost-benefit analysis prior to awarding a grant that ensures the cost of funding a project is less than the damages expected to occur in the event of a disaster. FEMA estimates that for every dollar spent on mitigation, an average of eight dollars is saved in the long run.

Let me take a minute to explain the history of the tax issue at hand. Prior to June of last year, recipients of FEMA mitigation grants generally excluded them from income. The tax code states clearly that post-disaster grants were not taxable. But the tax code doesn't specifically describe the tax treatment of mitigation grants. FEMA assumed mitigation grants were treated the same as post-disaster relief grants. However, on June 28, 2004, the Internal Revenue Service issued a legal memorandum stating these mitigation grants were taxable as income. That means that someone who took advantage of mitigation opportunities to prevent future losses would face a significant tax liability. The average mitigation grant is $83,000. That means the average tax on a grant is tens of thousands of dollars. That isn't fair. It was never intended that taxes be collected under these mitigation programs, but under the legal memorandum issued by the Internal Revenue Service thousands of taxpayers may have to file amended tax returns and pay additional tax. Moreover, the Federal Government changed the rules and never made the recipients aware of the potential tax consequences.

I compliment the House for taking up this issue and passing legislation that helps taxpayers who receive mitigation grants after the date of enactment. However, there is a flaw in the House bill. The bill clearly provides tax relief to "amounts received after the date of enactment." What about taxpayers who received mitigation grants in 2004 or 2003 and before? The chairman of the Finance Committee and I have added an amendment that provides absolute certainty for all taxpayers who received grants in past years. Some have argued that the Department of the Treasury can provide tax relief for those who received grants prior to the date of enactment by using the intent gleaned from floor statements and letters from Members of Congress. Let me be clear, Congress writes laws and the clearest intent is in the letter of the law. If our intent is to provide tax relief for those who received grants before the date of enactment, we should write it into the law. And that is what the amendment my good friend Senator GRASSLEY and I have offered.

Before I finish, I want to thank Senators LANDRIEU, NELSON and FEINSTEIN for their tireless work. I can tell you firsthand there was a significant amount of pressure to pass this bill as it was sent from the House. We all wanted to pass this bill as quickly as possible, but we also wanted to be sure we got it right the first time. This bill does that.

I sincerely hope the House will do the right thing and pass this bill with the Senate amendment before the tax filing deadline on Friday.

Ms. LANDRIEU. Mr. President, last year the Internal Revenue Service hit my State like a Category 4 hurricane when it determined that disaster mitigation benefits from the Federal Emergency Management Agency are taxable. We get hurricane warnings when a storm is coming, we can track their paths as they come out of the Carribean and into the Gulf of Mexico. We didn't get any kind of "tax warning" from the IRS, but the financial toll on many of my constituents was devastating.

Let me explain what happened. In June of last year, the IRS chief counsel issued an advice letter that determined that FEMA disaster mitigation benefits were taxable as a matter of law. This ruling applied to a variety mitigation grant programs, covering a wide range of natural disasters. The main disasters that concern us in Louisiana are hurricanes and flooding. They are as much a part of life as crawfish boils and Mardi Gras. The key to our peace of mind is the National Flood Insurance program administered by FEMA. In Louisiana, 377,000 property owners participate in the National Flood Insurance program. It is a real Godsend to the people of my state.

The National Flood Insurance program also provides funding for property owners to flood-proof their homes through the flood mitigation grant program. FEMA distributes these grant funds to the States which then pass them along to local communities. The local communities select properties for mitigation and contract for the mitigation services. Communities use these funds to put homes on stilts, improve drainage on property, and to acquire flood proofing materials. These mitigation grants encourage property owners to take responsible steps to lessen the potential for loss of life and property damage due to future flooding. The grants also have the added benefit of saving money in the long term for the flood insurance program.

But the IRS has turned this valuable disaster preparedness and prevention program into a financial disaster for responsible property owners by making these payments taxable. This tax is unfair, unexpected, and an unfortunate policy decision—unfair and unexpected because no one told my constituents that they would be taxed for accepting FEMA disaster mitigation assistance. The local officials in their parish were just as surprised. This tax is unfortunate policy because in the long term, the IRS will undercut the effectiveness of using mitigation as a means of decreasing future costs to the flood insurance program. It will force people to take risks that they will not be hit by a disaster.

I was pleased that the House of Representatives passed a bill, H.R. 1134, to correct this problem. It says that going forward, disaster mitigation benefits are not taxable. But this legislation is not retroactive. It offers no relief to people who are facing a huge tax bill this Friday, April 15, for mitigation funding received in 2004 or earlier years. Virtually every constituent who has written or called my office about this issue received their grant in 2004. This bill will do nothing for them.

I understand that the sponsors of H.R. 1134 and its Senate version S. 586 claim that once it has been passed, the Department of the Treasury will issue some sort of notice to IRS field personnel essentially making the effect of this bill retroactive. Treasury officials, however, cannot cite a legal justification for issuing such a notice. They claim that they can rely on the floor statements of the chairs and ranking members of the House Ways and Means Committee and the Senate Finance Committee as a basis for issuing the notice.

Mr. President, we cannot legislate on a wink and a nod. The right way to make this relief retroactive is to pass the Baucus-Grassley amendment to H.R. 1134 and send it back to the House. This amendment will extend the tax relief in this bill to all recipients of FEMA disaster mitigation assistance past, present, and future. I am proud to be a cosponsor of the amendment. I thank the chairman and ranking member of the Finance Committee for their leadership in bringing this matter to the floor.

April 15th is 2 days away. I urge the other body to take up and pass H.R. 1134 as amended by the Senate, and send it to the President for his signature. This bill will bring peace of mind to thousands of responsible property owners who face an unfair tax burden. We should not allow April 15th to pass without giving these people relief.

Mr. SESSIONS. Mr. President, there is a substitute amendment at the desk. I ask that the amendment be considered and agreed to; the motion to reconsider be laid upon the table; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 411) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SEC. . PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

"(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

"(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

"(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster mitigation payment' means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

"(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

"(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking "a qualified disaster relief payment" and inserting "qualified disaster relief payments and qualified disaster mitigation payments".

(B) Subsection (e) of section 139 of such Code is amended by striking "and (f)" and inserting ", (f), and (g)".

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.".

(c) EFFECTIVE DATE.—

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

The bill (H.R. 1134), as amended, was read the third time and passed.

CONGRATULATING UNIVERSITY OF DENVER PIONEERS MEN'S HOCKEY TEAM

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 106 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant journal clerk read as follows:

A resolution (S. Res. 106) congratulating the University of Denver Pioneers men's hockey team, 2005 National Collegiate Athletic Association Division I Hockey Champions.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLARD. Mr. President, I rise today for the second year in a row to recognize the recent achievement of the University of Denver Hockey Team. On April 9, 2005, almost a year to the day that they won the 2004 Men's NCAA Division I Championship on the frigid ice of a Boston arena, the Pioneers repeated their amazing feat capturing a second national title in Columbus, OH at this year's Frozen Four. On this particular evening the University of Denver Pioneers defeated the North Dakota Fighting Sioux by a score of 4-1, clinching a seventh overall hockey championship.

At the helm of the University of Denver hockey team for the last 11 years has been coach George Gwozdecky. Coach Gwozdecky came to DU in 1994 and has compiled an impressive record at DU, including his 400th win as a coach a few short weeks ago and his 405th win in the national title game. Coach Gwozdecky has shaped the Pioneer program into one of the elite programs in all of collegiate sports, and he is the only NCAA coach to win a national hockey title as a player, assistant coach, and head coach.

Later today the University of Denver campus will host a rally in honor of the Pioneer hockey champions. While I regret that I can not be there in person to commend this fantastic team, I would like to honor just a few of the great players that made this repeat championship possible. Freshman Peter Mannino, named the Most Outstanding Player of this year's Frozen Four, made an astonishing 44 saves in the championship game including a 23 shot barrage in the third period. Forward Paul Stastny scored two of the Pioneer's four goals with Jeff Drummond and Gabe Gauthier each adding one. Five Pioneers, Forwards Gauthier and Stastny, Defensemen Matt Carle and Brett Skinner, and goalie Mannino were named to the All-Tournament Team.

Today I share my congratulations with the entire University of Denver community. Winning a national title is a rare and precious accomplishment. Winning two championships in a row is all the more rare. This achievement reflects the hard work and dedication of many people. Congratulations to all the DU Pioneers. Congratulations to Chancellor Daniel Ritchie, Provost Bob Coombe, President Mark Holtzman, Interim Director of Athletics Stuart Halsall, Coach Gwozdecky and his staff, and especially the Pioneer players, students and fans. You have made us all very proud.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 106) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 106

Whereas the Denver Pioneers first won the National Collegiate Athletic Association (NCAA) Hockey Championship in 1958;

Whereas the University of Denver has won 7 NCAA Division I Men's Hockey Championships, including back-to-back championships in 2004 and 2005;

Whereas on April 9, 2005, the University of Denver won the Frozen Four with a hard fought victory over the University of North Dakota Fighting Sioux; and

Whereas the Championship ended a terrific season in which the University of Denver outscored its opponents 170 to 109 and had a record of 31–9–2: Now, therefore, be it

Resolved, That the Senate congratulates the University of Denver Pioneers men's hockey team, Coach George Gwozdecky, and Chancellor Daniel Ritchie on an outstanding championship season, a season which solidifies the Pioneers' status among the elite in collegiate hockey.

EXECUTIVE SESSION

NOMINATION OF MICHAEL D. GRIFFIN TO BE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. SESSIONS. Mr. President, as in executive session, I ask unanimous consent that the Commerce Committee be discharged from further consideration of Michael Griffin to be the Administrator of NASA, and that the Senate proceed to executive session for its consideration. I finally ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements be printed in the RECORD, the President then be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Michael D. Griffin, of Virginia, to be Administrator of the National Aeronautics and Space Administration.

Mr. STEVENS. Mr. President, the National Aeronautics and Space Administration represents our Nation's greatest hopes and aspirations. President Bush nominated Dr. Michael D. Griffin to be the next NASA Administrator on March 14, 2005. Dr. Griffin takes over an agency that is embarking on the President's Vision for Space Exploration, which will take America back to the moon and eventually to Mars. The Vision is NASA's biggest mission since the Apollo program began more than 40 years ago. Dr. Griffin will guide NASA on the first steps of this important journey that will define America's presence in space for the next several decades. At the same time, we still mourn the loss of the *Columbia*'s crew as NASA readies the Space Shuttle for its return to flight next month. Dr. Griffin's first task will be to ensure that the shuttle program gets back on its feet safely and effectively. NASA needs its next Administrator immediately, and I thank the Senate for agreeing to the request from Senator INOUYE and myself to discharge and approve this nomination.

Dr. Griffin's extensive background in space and science will serve him and NASA well. He is currently head of the Space Department at the Johns Hopkins University Applied Physics Laboratory. Previously, Dr. Griffin was President and Chief Operating Officer of In-Q-Tel, an independent, nonprofit venture group chartered to identify and invest in cutting-edge commercial technologies for intelligence community applications. He has also served as CEO of the Magellan Systems Division of Orbital Sciences Corporation, as General Manager of Orbital's Space Systems Group, and as the company's Executive Vice President/Chief Technical Officer. Prior to joining Orbital, he was Senior Vice President for Program Development at Space Industries International, and General Manager of the Space Industries Division in Houston.

Dr. Griffin has served in a number of Governmental positions. With NASA, he served as both the Chief Engineer and the Associate Administrator for Exploration, and within the Department of Defense—DOD—he served as the Deputy for Technology at the Strategic Defense Initiative Organization—SDIO. Before joining SDIO, Dr. Griffin played a leading role in numerous space missions while employed at the Johns Hopkins APL, the Jet Propulsion Laboratory, and Computer Sciences Corporation. He holds seven degrees in the fields of physics, electrical engineering, aerospace engineering, civil engineering, and business administration, and has been an Adjunct Professor at the George Washington University, the Johns Hopkins University, and the University of Maryland. He is the lead author on more than two dozen technical papers and the textbook Space Vehicle Design. He is a recipient of the NASA Exceptional Achievement Medal and the DOD Distinguished Public Service Medal. He is also a Registered Professional Engineer in Maryland and California, and a Certified Flight Instructor with instrument and multi-engine ratings.

Dr. Griffin succeeds a close friend and former leader of my staff, Sean O'Keefe. Sean did an admirable job getting the agency's finances under control and, more importantly, holding NASA together after the *Columbia* tragedy. We were lucky NASA had such a leader during that trying time. At the Commerce Committee's hearing on Dr. Griffin's nomination I spoke of my recent travels with Sean, during which I was approached repeatedly by people who raved about Dr. Griffin. They all said he was the man for the job if he could be convinced to accept it. I am pleased the President appointed Dr. Griffin and I look forward to working closely with him and his team of talented professionals.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR THURSDAY, APRIL 14, 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, April 14. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee: provided that following morning business the Senate resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. Tomorrow morning, following morning business, the Senate will resume consideration of the Iraq-Afghanistan supplemental. We were able to make good progress on the bill today, and we look forward to another productive day tomorrow. Currently we have three amendments pending and we are working with the Democratic leadership to move forward with these amendments. Therefore, Senators should expect rollcall votes throughout the day tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:11 p.m., adjourned until Thursday, April 14, 2005, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate April 13, 2005:

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT J. PORTMAN, OF OHIO, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, VICE ROBERT B. ZOELLICK, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate Wednesday, April 13, 2005:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

MICHAEL D. GRIFFIN, OF VIRGINIA, TO BE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

DISCHARGED NOMINATIONS

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:

*Howard J. Krongard, of New Jersey, to be Inspector General, Department of State.

*Daniel R. Levinson, of Maryland, to be Inspector General, Department of Health and Human Services.

The Senate Committee on Commerce, Science, and Transportation was discharged from further consideration of the following nomination and the nomination was confirmed:

Michael D. Griffin, of Virginia, to be Administrator of the National Aeronautics and Space Administration.

*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

HONORING THE EXEMPLARY WORK OF LENA F. BLALOCK

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor Judge Lena F. Blalock of Pleasanton, Texas, for her dedication and commitment to community service.

Judge Lena Blalock has made the people of her district proud, by tirelessly dedicating her time to the municipal court for 25 years. Judge Blalock, originally from Silverton, Texas, has been the presiding judge of the Pleasanton Municipal Court since 1985 and works day after day for the betterment of the Pleasanton community.

By working as a nurse during World War II, working for the police department as a dispatcher, and setting up a business in Pleasanton specializing in TV and radio equipment, Judge Blalock has lived an outstanding life of service to the country and the community.

Judge Blalock has also been a member of the Church of Christ since 1946, and enjoys traveling, photography, and crocheting. In her spare time, she also enjoys visiting senior citizens camps in the fall and spring.

Judge Blalock has demonstrated great dedication to community service and I am honored to recognize her accomplishments here today.

INTRODUCTION OF THE AQUATIC INVASIVE SPECIES RESEARCH ACT

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. EHLERS. Mr. Speaker, I am pleased to introduce today a bill that is a critical component in our efforts to combat aquatic invasive species—the Aquatic Invasive Species Research Act. This legislation is similar to legislation that was reported out of the House Science Committee in the 108th Congress. It creates a comprehensive research program that supports Federal, State and local efforts to prevent invasive species from ever entering our waterways, as well as detection, control and eradication efforts once they are here. It complements a bill introduced today by Mr. GILCHREST in the House and Senators COLLINS and LEVIN in the Senate to reauthorize the National Invasive Species Act. This legislation is a critical component in our battle against these harmful and extremely damaging pests.

In undertaking this effort, I have found that many people wonder—"What is an invasive species? Why it is so crucial to keep them out of United States?" It is important that we understand these questions so that we can appreciate the scope of the threat that invasive species pose to our economy and environment.

The introduction of non-native species is not new to the United States. People have brought non-native plants and animals into the United States, both intentionally and unintentionally, for a variety of reasons, since the New World was discovered. Some examples include the introduction of nutria (which is a rodent similar to a muskrat) by trappers to bolster the domestic fur industry, and the introduction of the purple loosestrife plant to add rich color to gardens. Both nutria and purple loosestrife are now serious threats to wetlands. Non-native species may also be introduced unintentionally, such as through species hitching rides in ships, crates, planes, or soil coming into the United States. For example, zebra mussels, first discovered in Lake St. Clair near Detroit in the late 1980s, came into the Great Lakes through ballast water from ships.

Not all species brought into the country are harmful to local economies, people and/or the environment. In fact, most non-native species do not survive because the environment does not meet their biological needs. In many cases, however, the new species will find favorable conditions (such as a lack of natural enemies or an environment that fosters propagation) that allow it to survive and thrive in a new ecosystem.

Only a small fraction of these non-native species become an "invasive species"—defined as a species that is both non-native to the ecosystem and whose introduction causes or may cause economic or environmental harm or harm to human health. However, this small fraction can cause enormous damage, both to our economy and our environment.

The economic damage includes the cost of control, damage to property values, health costs and other factors. Just one species can cost government and private citizens billions of dollars. For example, zebra mussels have cost the various entities in the Great Lakes basin an estimated $3 billion during the past 10 years for cleaning water intake pipes, purchasing filtration equipment, and so forth. Sea lamprey control measures in the Great Lakes cost approximately $10 million to $15 million annually; and, on top of these expenses, there is the cost of lost fisheries due to this invader. In fact, invasive species now are second only to habitat loss as threats to endangered species.

Given the enormous economic and environmental impacts these invaders cause, two clear goals emerge: First, we need to focus more resources and energy into dealing with this problem at all levels of government; second, our best strategy for dealing with invasive species is to focus these resources to prevent them from ever entering the United States. Spending millions of dollars to prevent species introductions will save billions of dollars in control, eradication and restoration efforts once the species become established. In fact, one theme is central to both Mr. GILCHREST's bill and this legislation. It is an old adage, but one worth following—"An ounce of prevention is worth a pound of cure."

To successfully carry out this strategy, we need careful, concerted management of this problem, supported by research at every step. For example, we know that we must do more to regulate the pathways by which these invaders enter the United States (ships, aquaculture, etc.), which is an important component of Mr. GILCHREST's legislation. However, research must inform us as to which of these pathways pose the greatest threat and which techniques used to manage each pathway are effective. This legislation would help develop this understanding through the ecological and pathway surveys conducted under the bill. In fact, research underlies every management decision aimed at detecting, preventing, controlling and eradicating invasive species; educating citizens and stakeholders; and ensuring that resources are optimally deployed to increase the effectiveness of government programs. These items are also reflected in the legislation, which I will now describe in more detail.

The bill is divided into six main parts. The first three parts outline an ecological and pathway research program, combining surveys and experimentation, to be established by the National Oceanic and Atmospheric Administration, the Smithsonian Environmental Research Center and the United States Geological Survey. This program is focused on understanding what invasive species are present in our waterways, which pathways they use to enter our waterways, how they establish themselves once they are here and whether or not invasions are getting better or worse based on decisions to regulate pathways. In carrying out this program, the three principal agencies will develop standardized protocols for carrying out the ecological and pathway surveys that are called for under the legislation. In addition, they will coordinate their efforts to establish longterm surveys sites so we have strong baseline information. This program also includes an important grant program so that academic researchers and state agencies can carry out the surveys at diverse sites distributed geographically around the country. This will give Federal, State and local managers a more holistic view of the rates and patterns of invasions of aquatic invasive species into the United States. Lastly, the principal agencies will coordinate their efforts and pull all of this information together and analyze it to help determine whether or not decisions to manage these pathways are effective. This will inform policymakers as to which pathways pose the greatest threat and whether or not they need to change the way these pathways are managed.

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The fourth part of the bill contains two programs to develop, demonstrate and verify technologies to prevent, control and eradicate invasive species. The first is an Environmental Protection Agency grant program focused on developing, demonstrating and verifying environmentally sound technologies to control and eradicate aquatic invasive species. This research program will give federal, state and local managers more tools to combat invasive species that are also environmentally sound. The second is expansion both in terms of scope and funding of a National Oceanic and Atmospheric Administration and Fish and Wildlife Service program geared toward demonstrating technologies that prevent invasive species from being introduced by ships. This is the federal government's only program that is focused solely on helping develop viable technologies to treat ballast water. It has been woefully underfunded in the past and deserves more attention.

The fifth part of the bill focuses on setting up research to directly support the Coast Guard's efforts to set standards for the treatment of ships with respect to preventing them from introducing invasive species. Ships are a major pathway by which invasive species are unintentionally introduced; the ballast water discharged by ships is of particular concern. One of the key issues that has hampered efforts to deal with the threats that ships pose is the lack of standards for how ballast water must be treated when it is discharged. The Coast Guard has had a very difficult time developing these standards since the underlying law that support their efforts (the National Invasive Species Act) did not contain a research component to support their work. This legislation provides that missing piece.

Finally, the sixth and final part supports our ability to identify invaders once they arrive. Over the past couple of decades, the number of scientists working in systematics and taxonomy, expertise that is fundamental to identifying species, has decreased steadily. In order to address this problem, the legislation sets up a National Science Foundation program to give grants for academic research in systematics and taxonomy with the goal of maintaining U.S. expertise in these disciplines.

Taken together, both my bill and Mr. GILCHREST's bill represent an important step forward in our efforts to prevent invasive species from ever crossing our borders and combat them once they are arrive. New invaders are arriving in the United States each day, bringing with them even more burden on taxpayers and the environment. We simply cannot afford to wait any longer to deal with this problem, and so I urge all of my colleagues to support this legislation.

HONORING RABBI MICHAEL ROBINSON OF SONOMA COUNTY

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Rabbi Michael Robinson of Sonoma County who has dedicated his life to the cause of social justice at home and around the world. From the American civil rights movement to the Nicaraguan Contra war to the Israel-Palestinian conflict Rabbi Robinson has been on the front lines promoting peace and the improvement of humanity. On April 14 he is being presented with the Jack Green Civil Liberties Award by the ACLU of Sonoma County for his lifetime of achievements in this arena. Nobody deserves this honor more than Michael Robinson.

Born in North Carolina, Robinson received his B.A. from the University of Cincinnati and attended North Carolina State College before enlisting in the Navy during World War II. He served in the Pacific and became a pacifist immediately after this experience.

In 1952, after completing a course of study at Hebrew Union College in Cincinnati, Robinson became the first North Carolina native to be ordained as a rabbi. He later earned his doctoral degree from the New York Theological Seminary and served in temples in Seattle and Pomona as well as 29 years as an activist leader at Temple Israel in Westchester, New York. During the civil rights movement, the synagogue raised money to help rebuild the black churches that had been burned in the South and finance the van used by the Freedom Riders to tour the South. Rabbi Robinson marched with Martin Luther King, Jr., in Selma, and expressed his convictions with these words: "When I was 10 years old I began sitting on the back seat of the bus with 'colored people.' I never returned to the front seat."

After moving to Sonoma County with his wife Ruth, Rabbi Robinson served Shomrei Torah and is credited with growing the congregation from 30 families to now the largest Jewish congregation in Santa Rosa. Retired since 1996, Rabbi Robinson holds the title of Rabbi Emeritus at both Temple Israel and Shomrei Torah.

In addition to promoting affirmative action, same sex marriage, affordable housing, and other equality issues, Robinson has worked against nuclear war, apartheid, and all forms of injustice. He is known locally for his involvement in the Sonoma County Task Force on Homelessness, Children's Village, the Living Wage Coalition, Habitat for Humanity, the Sonoma County Peace and Justice Center, and the Sonoma Land Trust.

A founding member of Angry White Guys for Affirmative Action in 1996, Rabbi Robinson's words still resonate: "I hope that my anger will not dissipate until justice is done and every man, woman and child has equal access to all the privileges of a democratic society and receives equal respect."

Mr. Speaker, I share that passion and also Rabbi Robinson's hope that we as a nation can become better people and create a just society. Michael Robinson is a model for all of us—from the ACLU of Sonoma County to those in distant lands who strive for basic rights. His words as well as his deeds are an inspiration that none who have come into contact with him will ever forget.

THANKING MR. WAYNE MYERS FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. NEY. Mr. Speaker, on the occasion of his retirement in March 2005, we rise to thank Mr. Wayne Myers for 31 years of outstanding service to the United States Government, with the majority of it here in the U.S. House of Representatives.

Wayne began his Government career in 1967 as a soldier in the U.S. Army where he was trained as a combat radio repairman and served a tour of duty in South Vietnam. Upon being honorably discharged in 1970, he continued his education in the electronics field. After 4 years, Wayne became a technician at the National Air and Space Museum and later transferred to the National Gallery of Art. In 1979 he joined the engineering staff of the House Recording Studio as it began the historic television coverage of House floor proceedings. For the past 25 years Wayne Myers has led by his quiet dependable example. He has been a selfless team player. His faith has given him the inner peace to work through the most tenuous times without complaint while still maintaining a great sense of humor.

On behalf of the entire House community, we extend congratulations to Wayne for his many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish him many wonderful years in fulfilling his retirement dreams.

IN HONOR OF GAY, LESBIAN, STRAIGHT ALLIANCES AND THE NATIONAL DAY OF SILENCE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. NADLER. Mr. Speaker, I rise today to join hundreds of thousands of young people across the Nation to "break the silence" surrounding the scourge of anti-gay bullying and harassment in our schools. In more than 4,000 schools in all 50 states and Puerto Rico, students have taken a day-long vow of silence to peacefully and poignantly draw attention to the abuse routinely faced by their lesbian, gay, bisexual, and transgender (LGBT) classmates. Over 450,000 students are expected to participate in this year's National Day of Silence.

This ever-growing, student-led effort, cosponsored by the Gay, Lesbian, and Straight Education Network (GLSEN) and the United States Student Association, is a clarion call to parents, teachers, and school administrators to help end the all too common practice of dismissing or discounting student-on-student harassment. It is increasingly clear that young people of conscience will not sit idly by as their LGBT friends or classmates are preyed upon by bullies and bigots. They will stand up and speak out against such bigotry and intolerance, even if the adults in their lives will not.

We have all heard the saying, "sticks and stones may break my bones, but names will never hurt me," which has been used for generations by countless children to fend off verbal attacks from their peers. Unfortunately, the notion that such verbal bullying or harassment is a "normal" and unavoidable part of growing up remains a widely accepted attitude amongst school administrators and teachers in this country. Too often, adults tend to dismiss or even romanticize schoolyard bullying as some sort of coming of age ritual or an inevitable "right of passage." Today, I join with the growing chorus of voices, including informed educators, children's rights advocates and students, who reject such anachronistic, survival-of-the-fittest thinking.

The uncomfortable truth is that "names" and labels can indeed hurt. For sensitive or vulnerable young people—particularly LGBT youth who are already struggling with their sexuality in a cultural and social context that often is overwhelmingly hostile to it—such verbal abuse, and the social and emotional isolation that often accompanies it, can leave lasting emotional scars.

And too many schools have a culture that fosters and sustains a hostile environment for these youth. Surveys indicate that the average high school student hears 25 anti-gay slurs daily; 97 percent of high school students regularly hear homophobic remarks. Even more alarming are the results of GLSEN's must recent National School Climate Survey, which found that 84 percent of LGBT students had suffered some form of abuse and 82.9 percent of these reported that adults never or rarely intervened when present. It is unsurprising that such a pervasive atmosphere of harassment takes its toll. LGBT students are far more likely to skip classes, drop out of school and, most disturbingly, attempt suicide.

According to numerous studies, LGBT teens are 2 to 3 times more likely to attempt suicide. Such statistics are a sobering reminder that we must redouble our efforts to provide our children with safe and secure learning environments. No student should be harassed or attacked simply because they are perceived as different, or because they have had the courage to openly acknowledge their sexual orientation.

Through their actions, the student organizers and participants of the Day of Silence set an example for their peers and their elders alike. Their silence has spoken volumes about the need for us to recognize the corrosive climate of fear and intimidation that any kind of bullying creates. Our schools should be havens for learning and personal growth, not arenas for conflict and harassment. For their courage, their compassion, and their tenacity, I honor all those who took this vow of silence today.

TRIBUTE TO DR. SHIRLEY JACKSON, PRESIDENT OF RENSSELAER POLYTECHNIC INSTITUTE

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. OLVER. Mr. Speaker, I rise today to recognize the educational leadership of Dr. Shirley Jackson. As university president, Dr. Jackson has helped shape Rensselaer Polytechnic Institute, RPI, into one of the premier technological universities in the world.

A key aspect of Dr. Jackson's effort was the establishment of the "Rensselaer Plan," a collaborative roadmap joining together faculty, staff, students and alumni in an effort to make RPI an academic mecca within the Northeast region. During her tenure, she has increased the level of educational services the university can provide students in part by securing a $360 million unrestricted gift to RPI, one of the largest single gifts ever given to an American university, and by doubling annual fundraising in the last 3 years.

The influx of new financial resources during Dr. Jackson's tenure has spurred the new construction of state-of-the-art research facilities, including the Center for Biotechnology and Interdisciplinary Studies and the Experimental Media and Performing Arts Center. These construction projects have corresponded with increases in National Institute of Health, NIH, research funding from $400,000 in 1999 to $30 million in 2004. These increases have allowed the university to hire over 100 new faculty members and expand research activities. Students benefit from these first class facilities and improved student-to-faculty ratio while having the opportunity to be involved in cutting edge research.

Again, I commend Dr. Shirley Jackson for her remarkable accomplishments in keeping RPI, my alma mater, a top-tier technological university.

HONORING THE CONTRIBUTIONS OF PEARSALL CITY COUNCILMAN CONRAD CARRASCO, JR.

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the distinguished public service of Pearsall City Councilman Conrad D. Carrasco, Jr.

Conrad Carrasco has long been an established part of Frio County's legal community. He entered public service in 1980, and served as Justice of the Peace for Precinct No. 3 through 1990. The Justice of the Peace is the judicial officer who works most closely with average citizens, and Mr. Carrasco's duties included the issuance of warrants and the settlement of small claims disputes between citizens. In this role, as in his other roles, Conrad Carrasco served the people of Frio County with distinction.

He was elected to the City Council of Pearsall in May 2000. Mr. Carrasco has worked while on the council to safeguard Frio County's natural beauty and to ensure that the city is run in an accountable and effective manner. He serves in Place No. 3 on the council, for a term that extends through May 2006.

Finally, he has distinguished himself as a businessman. He has been employed with KBJ's Loan Company since 1995, and continues to be a valuable part of his community's financial sector.

Conrad Carrasco has accumulated an impressive record of success in business and service to the people of Frio County. He is an important resource for his community, and I am proud to have had this opportunity to thank him.

INTRODUCTION OF THE NATIONAL INVASIVE SPECIES COUNCIL ACT

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. EHLERS. Mr. Speaker, today I am introducing legislation to codify the Executive Order that established the Invasive Species Council and gave the Council responsibility for coordinating all invasive species activities across the Federal Government (Executive Order #13112, issued in February 1999). Invasive species, such as the snakehead fish and zebra mussel, cause an enormous economic, ecological and human health toll on the United States every year. There are over 20 different Federal agencies involved in prevention, eradication, control, monitoring, research and outreach efforts to deal with the threat of invasive species, and this Executive effort seeks to make these efforts more coordinated, effective and cost-efficient. Better management of invasive species efforts across federal agencies is critical to an effective response to this threat, and the Executive order was the right first step. However, it is only the first step. Congress now needs to pass this legislation to give the Council more authority to effectively meet this threat.

Since its inception, the Council has made progress in achieving its mandate. In particular, in January 2001 the Council issued the National Management Plan to provide a general blueprint of goals and actions for Federal agencies to better deal with invasive species. While this broad plan lacks detail in some areas, it helps focus the various federal efforts on common goals and coordinated actions. In addition, the Council established a Federal advisory committee consisting of 32 members from a broad array of stakeholders. The advisory committee has met several times in order to provide guidance on the development of the National Management Plan and on federal agency actions regarding invasive species in general.

While the Council has had some success, its authority to coordinate the actions of federal agencies has been limited. The Government Accountability Office (GAO) has recognized this problem, reporting that agencies did not incorporate the components of the National Management Plan into their annual performance plans. In addition, the GAO recommended that the Council study whether or not a lack of legislative authority has hampered its mission. Key agencies of the Council have already recognized this lack of authority as problematic and have supported codification of the Council in testimony before a November 2002 joint hearing of the House Resources and House Science Committees on aquatic invasive species.

The legislation I am introducing today essentially keeps the existing structure of the

Council intact, while at the same time it addresses issues raised by the GAO by giving the Council a clear statutory mandate.

First, the legislation maintains the Executive order's statement of administration policy that federal agencies should not undertake actions that may lead to the introduction or further spread of invasive species without careful consideration of the costs that the proposed action may cause. The legislation requires that the Council on Environmental Quality, in conjunction with the Council, issue guidelines for federal agencies to help them consider the consequences of any proposed action. The intent of this provision is to create a common set of guidelines by which all Federal agencies can measure their actions, not to give individuals a private right of action against government agencies that take actions regarding invasive species.

Second, the legislation makes some modifications to the existing institutional structure of the Council. The membership of the Council will remain the same; however the legislation updates the membership, as described by the Executive order, to reflect additional agencies that have been added since 1999. It also makes the Council an independent entity within the executive branch, to be chaired on a rotating basis by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. This is a change from the Executive order, which called for the Council to be housed within the Department of the Interior and chaired by that agency. If the Council is to be a truly independent entity that can work with all federal agencies, this change is necessary.

Third, the legislation retains the duties of the Council as described by the Executive order (including development of an updated National Management Plan), but it adds some new duties in order to give the Council more tools to use in coordinating Federal programs. In particular, the Council must submit an annual list of the top priorities in several different areas related to addressing the threat posed by invasive species. The legislation also specifically calls upon the Council to work with Federal agencies during the budget development and submission process in order to ensure that budget priorities reflect the priorities of the National Management Plan. The legislation also calls on the Office of Management and Budget to develop a crosscut budget of all invasive species efforts in the Federal Government. This is a necessary tool for the Council to coordinate efforts among the various Federal agencies.

Finally, the legislation retains the existing Invasive Species Advisory Council to serve as an important contributor to the ongoing dialogue between the Federal Government and stakeholders to ensure that the federal government acts in the most effective way.

This legislation will help further the federal government's efforts to combat invasive species, and I urge all of my colleagues to cosponsor this important legislation.

HONORING PETALUMA BRANCH OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the Petaluma Branch of the American Association of University Women for 50 years of community service. AAUW Petaluma has tirelessly advocated for equity for women and girls, lifelong education, and positive societal change. With over 200 members, AAUW Petaluma has developed a variety of successful methods to promote their agenda.

In recent years, the AAUW Petaluma has been awarded the Silver, Gold, and Platinum awards for excellence in recruitment, program content, success of their projects, and their overall positive energy by AAUW National.

Many of the programs sponsored by AAUW Petaluma are integral in bringing our community together. For example, mentoring and tutoring programs in the high schools involving adults and peers have helped build intergenerational relationships, and the All-Petaluma Schools Community Art Show and Art Train Docents have helped keep art programs alive in the community.

AAUW Petaluma's community involvement does not stop there. The group has organized community forums on health and planning issues. They exemplify an organization truly giving back to the community. In fact, I recently had the privilege of attending a developing relationships and connections event.

Mr. Speaker, it is my pleasure to honor the American Association of University Women, Petaluma Branch as an organization that has for the past half-century contributed to the women, girls, and community of Petaluma.

THANKING MR. ART NASH FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. NEY. Mr. Speaker, on the occasion of his retirement in March of 2005, we rise to thank Mr. Art Nash for 26 years of outstanding service to the United States Government, with the majority of it here in the U.S. House of Representatives.

Art began his Government career in 1967 as a soldier in the U.S. Army where he was trained as an electronics technician and served two years. After 10 years in the private sector he began his House career at the House Recording Studio's engineering department in 1980. For the next 24 years, Art has been an indispensable member of the television floor coverage crew, the Recording Studio tape room and maintenance shop.

Art has been described as a man of God who loves all people. His positive attitude has been his trademark and the term "detail man" best describes him. He has been an excellent teacher to his co-workers and all those around him. He has taken his time to do the job right or find an even better way. Service has been his greatest achievement. Whether it was during the long hours that the House was in session or working side by side with his co-workers, Art Nash has given his best.

On behalf of the entire House community, we extend congratulations to Art for his many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish him many wonderful years in fulfilling his retirement dreams.

HONORING THE DEDICATION OF ATASCOSA COUNTY APPRAISER EDDIE BRIDGE

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contributions of Atascosa County Appraiser Eddie Bridge.

Eddie Bridge is a hard working member of our community, helping to appraise real estate and personal property in Bee, Crane, Crockett, and Refugio Counties. He also spends his time consulting and assisting the staff members of Frio, Hall, Irion, Martin, Menard, and Starr Counties in both physical and statistical reappraisals. Starting off as a Valuation Consultant with Pritchard and Abbot in 1993, Mr. Bridge has many years of experience in his special line of work.

Mr. Bridge is a model of energy and commitment, often working from eight in the morning till nine in the evening. Despite his demanding schedule, Mr. Bridge still finds time for ranching and running cattle.

Eddie Bridge lives in Pettus with his wife of 24 years and his two children. Both of his children are Valedictorians and his son Edward II serves at the Air Force Academy in Colorado Springs, Colorado.

Our Nation is built upon the hard work and dedication of citizens like Eddie Bridge, and it is important to recognize the value of their daily contributions to both town and country.

Mr. Speaker, I am proud to have this opportunity to recognize the contributions of Atascosa County Appraiser Eddie Bridge.

HONORING OUR NATION'S YOUTH ON THE 10TH ANNUAL KICK BUTTS DAY, AN ANNUAL CELEBRATION OF YOUTH LEADERSHIP IN THE FIGHT AGAINST TOBACCO

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. MEEHAN. Mr. Speaker, I rise to honor our nation's youth today on the 10th annual Kick Butts Day, an annual celebration of youth leadership and activism in the fight against tobacco use.

Over the past 10 years, our Nation has made significant progress in reducing youth smoking rates. Young people themselves have played a major role in this success. We should be proud that we've reduced smoking rates among high school students by 40 percent since 1997, when smoking rates among youths peaked at an alarming 36.4 percent.

But we have more work to do. About 22 percent of high school students still smoke. Tobacco is still the leading preventable cause of death in our country, killing more than 400,000 people every year. On Kick Butts Day, we should commit to finishing the job of protecting our kids from tobacco addiction by supporting science-based tobacco prevention measures, strong deterrents to youth smoking, well-funded tobacco prevention and cessation programs, smoke-free air laws, and FDA authority over tobacco products and marketing.

Mr. Speaker, I would like to insert in the RECORD the attached report by the Campaign for Tobacco-Free Kids entitled "Ten Years of Kicking Butts: Reducing Youth Smoking in the United States." It is a valuable summary of the progress we have made in reducing youth smoking, the evidence that common sense solutions work, and the need still to redouble our efforts.

TEN YEARS OF KICKING BUTTS: REDUCING YOUTH SMOKING IN THE UNITED STATES—KICK BUTTS DAY 10TH ANNIVERSARY REPORT

On May 7, 1996, the Campaign for Tobacco-Free Kids held the first annual Kick Butts Day to focus the nation's attention on the serious and growing problem of youth tobacco use in our country. At that time, youth smoking rates had been rising alarmingly for several years, fueled by cigarette marketing campaigns such as Joe Camel and the Marlboro Man that appealed to youth and deep price cuts that made cigarettes more affordable to kids. In 1997, smoking rates among high school students reached an all-time-high, with 36.4 percent of high school students reporting that they were current smokers.

As we celebrate the 10th annual Kick Butts Day on April 13, 2005, the picture is much improved. After nearly 10 years of hard work, our nation has turned the tide, and we are making unprecedented progress in reducing youth tobacco use in our country. By implementing scientifically proven solutions like tobacco tax increases, well-funded tobacco prevention programs and smoke-free air laws, we have reduced smoking rates among high school students by 40 percent since 1996.

Still, there is much work to be done. Tobacco use remains the leading preventable cause of death in our country, killing more than 400,000 people and costing the nation more than $89 billion in health care bills every year. A quarter of all high school seniors still smoke, and another 2,000 kids become regular smokers every day, one-third of whom will die prematurely as a result.

Perhaps most troubling, a survey released March 31, 2005, by the Centers for Disease Control and Prevention (CDC) found that our progress in reducing youth smoking has slowed considerably or stalled completely. The survey found no statistically significant change in either high school or middle school smoking rates from 2002 to 2004.

Public health experts have pointed to several reasons for this leveling off in youth smoking rates: While states have cut tobacco prevention funding by 28 percent in the last three years and the American Legacy Foundation has also had funding reduced for its effective, national truth℠ youth smoking prevention campaign, the tobacco companies have increased their marketing expenditures to a record $12.7 billion a year—more than $34 million a day. More than two-thirds of all tobacco marketing dollars is spent on cigarette price discounts and free cigarette giveaways that make cigarettes more affordable to kids, who are very price-sensitive.

The recent CDC survey is a wakeup call to elected leaders at all levels that we cannot take continued progress in reducing youth smoking for granted and must redouble efforts to implement proven measures to reduce tobacco use, including tobacco tax increases, well-funded tobacco prevention programs, and smoke-free air laws. It is also critical that Congress enact legislation granting the U.S. Food and Drug Administration authority to regulate tobacco products, including the authority to crack down on marketing and sales to kids. If we take these steps, our nation will continue to achieve significant reductions in youth tobacco use. If we fail to do so, the progress we have made is at risk and could even reverse.

This report summarizes the progress we have made in reducing youth smoking in the United States and the challenges that remain.

PROGRESS IN REDUCING YOUTH SMOKING, SAVING LIVES AND SAVING MONEY

High school smoking rates have been reduced by 40 percent since reaching an all-time-high in 1997—in 1997, 36.4 percent of high school students smoked; today about 22 percent smoke (source: CDC's Youth Risk Behavior Survey and Youth Tobacco Survey).

Youth smoking rates have been reduced among all vulnerable age groups. Since smoking rates peaked in 1996–1997, we have reduced smoking by 56 percent among eighth graders, 47 percent among tenth graders and 31.5 percent among twelfth graders (source: National Institute on Drug Abuse Monitoring the Future Survey).

These declines mean that there are roughly 2 million fewer high school kids smoking than there would have been if smoking rates had remained constant.

These reductions in youth smoking will prevent 600,000 premature deaths due to smoking.

These reductions in youth smoking will save $32 billion in tobacco-related health care costs.

SUCCEEDING BY IMPLEMENTING SCIENTIFICALLY PROVEN SOLUTIONS

Our nation has succeeded in reducing youth smoking by implementing scientifically proven solutions, including tobacco tax increases, tobacco prevention programs funded with tobacco settlement and tobacco tax dollars, and smoke-free air laws that require all workplaces and public places to be smoke-free. We are making significant progress in implementing these solutions:

Cigarette Taxes—Forty-one states and DC have increased cigarette taxes since 1995, some more than once for a total of 79 separate cigarette tax increases. The average state cigarette tax has increased from 30.3 cents per pack on June 30, 1995, to 84.7 cents a pack (once all already approved cigarette taxes take effect July 1, 2005).

Smoke-Free Air Laws—In 1998, California became the first state to require all restaurants and bars to be smoke-free. Today, 10 states and 234 communities across America have strong smoke-free workplace laws. Seven states—California, Connecticut, Delaware, Maine, Massachusetts, New York and Rhode Island—have smoke-free laws that require all workplaces, including restaurants and bars, to be smoke-free. Three states—Florida, Idaho and Utah—have smoke-free laws that include restaurants, but not bars. Such laws now cover more than a third of the nation's population.

State Tobacco Prevention Programs—In 1996, only three states—Arizona, California and Massachusetts—had well-funded tobacco prevention programs. Today, 13 states do.

National Public Education Campaign—Another key factor in youth smoking declines has been the American Legacy Foundation's national truth℠ youth smoking prevention campaign. A study published in the March 2005 issue of the American Journal of Public Health found that declines in youth smoking accelerated after the launch of this campaign in 2000 and that there was a significant dose-response relationship between exposure to the truth℠ campaign's anti-smoking advertising and declines in youth smoking between 2000 and 2002, the period of the study.

DESPITE PROGRESS, CHALLENGES REMAIN

While our nation has made significant progress in reducing youth smoking, our work is far from done:

Tobacco use is still the nation's leading preventable cause of death, killing more than 400,000 people every year and sickening millions more.

Tobacco use costs our nation more than $89 billion in health care bills and $88 billion in productivity losses each year.

About 25 percent of high school seniors still smoke.

Every day, another 2,000 kids become regular smokers, one-third of whom will die prematurely as a result.

The tobacco industry is spending record amounts to market its deadly and addictive products. Since 1996, total tobacco marketing expenditures have increased by 144 percent to a record $12.7 billion a year—more than $34 million a day, according to the Federal Trade Commission's most recent annual report on cigarette marketing (for 2002). The tobacco companies spend more than $23 to market cigarettes and other tobacco products in the U.S. for every dollar the states spend on programs to protect kids from tobacco. More than two-thirds of all tobacco marketing dollars is spent on cigarette price discounts and free cigarette giveaways that make cigarettes more affordable to kids, who are very price sensitive.

While the tobacco companies have increased their marketing, the states have cut funding for tobacco prevention programs by 28 percent in the last three years (from $749.7 million in Fiscal 2002 to $542.6 million in Fiscal 2004). These cuts decimated some of the nation's most successful tobacco prevention programs, including those in Florida, Massachusetts and Minnesota. While more states have well-funded tobacco prevention programs today than 10 years ago, the bad news is that 37 states and DC are funding prevention programs at less than half the CDC's recommended minimum amount or providing no funding at all.

The progress of the past decade has shown that we have proven solutions to reduce tobacco use, including cigarette tax increases, well-funded tobacco prevention programs and smoke-free air laws. These solutions are the equivalent of a vaccine that protects kids from tobacco addiction and its deadly consequences. But like other vaccines, this vaccine must be administered to every generation of children. Otherwise, the tobacco epidemic will explode again, at great cost in health, lives and money.

CONGRATULATIONS TO MISS USA, CHELSEA COOLEY

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mrs. MYRICK. Mr. Speaker, on April 11, 2005, Miss North Carolina, Chelsea Cooley, won the Miss USA pageant. I congratulate her on this momentous accomplishment and want her to know that everyone in her hometown of Charlotte, NC, is very proud of her.

The Miss USA pageant is a competition where America's best and the brightest young women compete for the crown of Miss USA. It is truly a great accomplishment for Chelsea to have been crowned as the winner of this tough competition.

Currently, Chelsea is studying fashion marketing at the Art Institute of Charlotte. She listed that her dream job would be working as a buyer for Ralph Lauren. I have no doubt that she can achieve this, and many other, dreams.

Chelsea will now go on to represent the U.S. this May in the Miss Universe competition in Bangkok, Thailand. Chelsea's hometown of Charlotte, North Carolina, will again be cheering her on as will the whole country. We know she will represent us well and will do our country proud.

HONORING THE CONTRIBUTIONS OF NEW BRAUNFELS CITY ATTORNEY CHARLES E. ZECH

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the contributions of City Attorney Charles E. Zech.

Charles Zech serves as the city attorney for New Braunfels, Texas. He handles all aspects of municipal representation for the city of New Braunfels by providing representation and legal advice to the City Council, city employees, and 27 boards and commissions.

Before graduating from Southwest Texas State University with a bachelor of business administration in economics and finance, Mr. Zech was a member of the United States Navy. He went on to receive his law degree from St. Mary's University School of Law. Attorney Zech is licensed to practice in all county and district courts of Texas, the Texas Supreme Court, and the United States District Court.

He is a member of the Texas Bar Association, the San Antonio Bar Association, the Comal County Bar Association, and the Phi Alpha Delta International Legal Fraternity.

As an active member of the Board of Directors of the Texas City Attorney's Association and the chair of the ethics section of the International Municipal Lawyers Association, it is obvious that Mr. Zech plays an active role in the legal community.

Mr. Speaker, I am proud to have this opportunity to recognize New Braunfels City Attorney Charles Zech for his dedication and contributions to the community and his service to our Country.

CONGRATULATING THE PRESIDENT OF THE TENNESSEE STATE UNIVERSITY, DR. JAMES A. HEFNER, ON HIS RETIREMENT

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. COOPER. Mr. Speaker, I rise today to recognize the extraordinary contributions of Dr. James A. Hefner, president of the Tennessee State University, and to congratulate him on the occasion of his upcoming retirement on May 31, 2005.

During 14 years of leadership as president of TSU, Dr. Hefner has operated under the motto that "a passionate faculty are the most important instruments of change in the academic environment." He is indeed "passionate" about encouraging students to reach higher academic heights and he is a strong advocate for excellence in education.

Dr. Hefner has helped countless students realize their educational goals and subsequent contributions to the community. Under his leadership, enrollment at TSU has grown from 7,405 in 1991 to 9,100. Dr. Hefner has elevated the standing of TSU to the extent that, for the past 11 years, the university has been consistendy recognized in the U.S. News & World Report's "Guide to America's Best Colleges."

His rich career has spanned many areas of academia. Dr. Hefner has held positions as president of two universities, administrator, professor, writer and speaker. He credits the single common element of his success to his devotion to students. He strives to improve the education and financial conditions of minorities and is recognized as a renowned authority on minority economic issues. Dr. Hefner has authored 50 articles on economic research and authored or co-edited two books: Black Employment in Atlanta and Public Policy for the Black Community: Strategies and Perspectives. He has served on many regional and national boards and associations dedicated to scholarship in economics, labor relations and public management. He is a consultant to the Congressional Black Caucus, the National Institute of Public Management, the Department of Health, Education and Welfare, and the Department of Transportation. In addition to numerous honors, publications and professional leadership positions, Dr. Hefner was awarded the Presidential Leadership Award from the National Association for Equal Opportunity in Higher Education (the organization's highest honor) and the Achievement Award in Research.

On behalf of the Fifth District of Tennessee, I join with Tennessee State University as they celebrate Founders Day to thank my friend and colleague, Dr. James A. Hefner, for his generosity, commitment and dedication to American scholarship and service to the State of Tennessee. I extend my heartfelt congratulations on his retirement and wish him all the best in his future endeavors.

IN TRIBUTE TO PATRICIA HAVENS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to Patricia Havens, who has dedicated her life to preserving, researching and re-telling the history of my hometown of Simi Valley, California, and who will be honored this Saturday for her decades as a teacher, director and author in pursuit of that dedication.

Forty years ago, Pat Havens and 3 others founded the Simi Valley Historical Society. The society, largely under Pat's guidance, has been responsible for documenting and saving local buildings and antiques of historical significance. Many of them are now housed at the Strathearn Historical Park and Museum, where Pat serves as the museum director. The projects are ongoing.

The society is currently renovating Simi Valley's first house of worship, which opened as a Presbyterian church in 1902 and became a Catholic church 10 years later. The Rancho Simi Recreation and Park District purchased the building in 2002 and moved it to Strathearn Park, where it joins the Simi Adobe, which was built during the early days of the city's Spanish period beginning in 1795; the Strathearn family farmhouse that was built onto the adobe in 1892; the Simi Valley Library building that served the community from 1930 to 1962; and many other buildings and artifacts that tell the valley's story.

Preservation has not been enough for Pat Havens, however. Thirty years ago she began teaching the "History of Simi Valley" program and 5 years ago, in collaboration with Bill Appleton, she published through the historical society a comprehensive history of the valley, "Simi Valley: A Journey Through Time."

The city council named Pat as Simi Valley's first city historian while I was mayor of the city, a post she still holds.

Pat's ties to Simi Valley run deep. Although born in Arkansas, she moved here as a young girl and graduated from Simi Valley High School in 1947 with her future husband, Neil. Neil Havens served as the city's postmaster for 30 years, following in the steps of his father and grandfather, and died peacefully last year. Together they raised three children in Simi Valley, Debra, Barbara, and Russ.

During Pat's lifetime, Simi Valley transformed from a farming community into a thriving suburban city of 120,000 people. Thanks in large part to her efforts, Simi Valley's past was preserved before it slipped away. Mr. Speaker, I know my colleagues join me in thanking Pat Havens for dedicating 40 years to preserving Simi Valley's history and for helping to make it relevant to our lives today.

HONORING THE CONTRIBUTIONS OF THOMAS C. LOPEZ OF THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Thomas C. Lopez of the San Antonio Independent School District for his dedication to public service.

A long time resident of Texas, Thomas C. Lopez was born in San Antonio. He is a strong believer in his community, where he continues to work hard ensuring that our children receive the education that they deserve.

Thomas C. Lopez is no stranger to public service. He spent 34 years in the United States Army Reserve in active and reserve time. Having served his country, he retired with the rank of major in 2004.

A strong believer in education, Mr. Lopez currently serves as secretary and District 5 Trustee of the San Antonio Independent School District. He has also helped to improve our community through his involvement with the Affordable Housing Board of San Antonio Housing Services.

Mr. Lopez has striven to achieve the continued rebuilding of our inner-city neighborhoods. Because of his dedication toward education and housing, San Antonio, Texas is a better place for our families to live.

Mr. Speaker, I am deeply proud to have been given this opportunity to recognize Thomas C. Lopez of the San Antonio Independent School District for his dedicated service to his community.

NATIONAL HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. ROTHMAN. Mr. Speaker, I rise today to commend the board of directors of the National High School Mock Trial Championship for their commitment to a competition that is all-inclusive and sensitive to religious minorities.

The National High School Mock Trial Championship is a prestigious event that requires a tremendous amount of preparation, skill, and dedication on behalf of those students who are competing, and is looked upon with distinction by institutions of higher learning. The Torah Academy from Teaneck, New Jersey, located in my congressional district, won the New Jersey State Bar Foundation competition, and advanced to the national championship, which is to be held on May 4–7, 2005 in Charlotte, North Carolina.

The members of the mock trial team from Torah Academy observe the Sabbath, in accordance with their practice of Orthodox Judaism, and will therefore not be able to participate in any National High School Mock Trial Championship competition from sundown on Friday, May 6 through sundown on Saturday, May 7, 2005. After much discussion between the school, the national organizers, the New Jersey State Bar Foundation, and me, the Torah Academy will now be able to participate fully without being forced to violate its members' religious beliefs. The national organizers of the event have agreed to rearrange the schedule of the tournament to accommodate students of all religious faiths.

I thank the board of directors of the National High School Mock Trial Championship for their willingness to change the schedule to allow all students to fully compete in this competition. This is fundamentally a question of equal access and the right of religious minorities to participate in a competition open to students from every walk of American life, and I encourage the national organizers to restructure the schedule of competitions in future years with this in mind.

HONORING THE EXEMPLARY WORK OF THE PLEASANTON POLICE DEPARTMENT

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the exemplary work of the Pleasanton Police Department of Texas. They have shown outstanding dedication and commitment to the community for 53 years.

The Police Department was founded in 1952 and the first Chief of Police was Joe Sanders. Since 1952 there have been eight chiefs of police, and today the police department is made up of 16 commissioned officers, 5 communications operators and 1 data entry clerk.

The Pleasanton Police Department officers are devoted to performing their jobs in a professional manner while they are serving the community and the surrounding areas. The police department encourages all of its members to engage in community-building practices in order to provide quality service to all residents of the Pleasanton community.

The Pleasanton Police Department always strives to provide the highest quality service, preserving human rights, lives and property, while achieving the goals of the department serving the city and community. Currently holding the position of Chief is Gary Soward and Assistant Chief is John Eric Rutherford.

The men and woman of the Pleasanton Police Department are committed to excellence in leadership, providing progressive and proactive services that help to develop community partnerships and building for a better future.

Mr. Speaker, I am honored to have had this opportunity to recognize the noble service of all the officers at the Pleasanton Police Department.

IN HONOR OF MICHAEL J. BENNETT'S 40 YEARS OF SERVICE TO ST. MARK'S SCHOOL OF TEXAS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. SESSIONS. Mr. Speaker, I rise today to pay tribute to Michael J. Bennett's 40 years of teaching at St. Mark's School of Texas. I am proud to represent St. Mark's in the 32nd Congressional District of Texas.

Born 4 months before the German Blitz, Michael Bennett grew up "in the East End of London, not the rich part, but the tough part." He attended the East Ham Grammar School for Boys where he skipped his fifth year. As a "Sixth Former" or Senior, he was expected to specialize in an academic area to prepare for the demanding A Level exams. His father, understanding the importance technology would play in revitalizing post-war England, suggested he study Science. But as Michael recalled, while in Science class one day the Headmaster said "'This is not the place for you . . .' and he was right . . . I chose the Classics and that has made all the difference."

Michael passed his A Levels and was awarded a scholarship to study at Christ Church, Oxford where he studied classics and graduated with honors, earning both a B.A. and M.A. He would later earn another master's degree from the Bread Loaf School of English at Middlebury College. Michael has also studied at the Vergilian Society School at Cumae.

At the age of 22, he joined the faculty of the St. Andrew's School in Middletown, DE, as teacher, debate coach, and head of the Classics Department. Three years later, in 1965, he came to St. Mark's. During his tenure at St. Mark's he has taught Latin, Greek, English, debate and fine arts. He served as advisor for the Trivia Club, the Film Society, and the Junior Classical League. He was a member of the Curriculum Study Group and founded the Classical Society that presented plays in Latin by Roman playwrights Plautus and Terrence. In addition to teaching Latin, he currently serves as senior master, chairman of the Faculty Advisory Committee, Latin Club sponsor, chairman of the John H. Murrell Awards Committee, seventh grade class sponsor, and president of Cum Laude. Outside school, he is the opera critic for Northside People.

Michael is married to Dena, a freelance writer. He has two children. Sarah lives in Tacoma, WA where she is a child and family counselor. His son Paul, an alumnus from the Class of 1980 from St. Mark's is an attorney who lives in Annapolis, MD, with his wife and three children, Jeffrey, Allison and Annie. Michael proudly notes that grandson Jeffrey is a straight "A" student in his Latin class.

I would like to extend my sincere congrats to Michael and his family on this great occasion and wish him additional success as he continues to teach at St. Mark's.

HONORING THE CONTRIBUTIONS OF McMULLEN COUNTY TAX COLLECTOR ANGELA BOSWICK

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the McMullen County Tax Collector Angela Boswick for her dedicated public service.

Angela Boswick is a proud native of southwest Texas. She was born in Menard, Texas, where she attended Menard High School.

She began her professional life in the banking industry. During that period, she acquired the expertise and competence in finance that have stood her in such good stead during her work for the county.

Ms. Boswick has lived in McMullen County for the past 25 years. She entered public service in the tax office 15 years ago. Her hard work and competence have been repeatedly recognized by the county, and she has repeatedly been promoted, eventually rising to her current position as County Tax Collector.

Angela Boswick has been married for 10 years, and has further contributed to her community by raising two wonderful girls. She is the kind of public servant who holds our towns and cities together: hardworking, accountable, persistent and dedicated. Too often, the public servants who hold vital but low-profile positions such as tax collector do not get the recognition they deserve. For that reason, I am especially happy to have had the chance to thank Angela Boswick here today.

EXPRESSING LAMENT FOR THE GOUDSWARD FAMILY

HON. FRANK PALLONE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. PALLONE. Mr. Speaker, I rise on the House floor to express my deep sorrow for Diana Goudsward Collentine and her daughters, Kristina and Jennifer, the daughter and granddaughters of James and Marjorie Goudsward. On January 4, 2002, Diana and her two daughters were walking in a school safety zone in Waldwick, NJ when they were struck by an automobile operated by a medically impaired driver. This accident resulted in the tragic deaths of all three citizens.

In this tragedy's aftermath, Doug Goudsward, brother to Diane, has dedicated himself to preventing the medically impaired driver from obtaining a valid driver's license in another State, thereby further endangering the public. To this day, his brave and persistent efforts to protect the public have unfortunately not been fruitful.

Mr. Speaker, this situation is quite tragic and it is clear that Congress should work with the National Highway Traffic Safety Agency (NHTSA) to study the complex and controversial issue of medically impaired drivers. Congress and the NHTSA should develop guidelines, which are respectful to individual drivers, while setting appropriate standards for driving privileges that ensure the safety of communities and the general public.

RECOGNITION OF SGT. KENNETH "LEVI" RIDGLEY

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of Army Sgt. Kenneth L. Ridgley who was recently killed in action fighting for freedom in Mosul, Iraq.

Ridgley was a 30-year-old who grew up in Pearl, Mississippi. He graduated from East Richland High School in Olney, Illinois. He then went on to attend Southern Illinois University in Carbondale. He served as an Army sergeant assigned to the 3rd Battalion, 21st Infantry Regiment, 1st Brigade, 25th Infantry Division based at Fort Lewis, Washington. He was recently killed in action as a result of a combat related injury.

Sergeant Ridgley is survived by his wife, Charity Ridgley, of Steilacoom, Washington; a son, Dillon Ridgley; his father and mother, Clarence and Betty Richards, of Olney; a brother and his wife, Stan and Pam Richards, of Alhambra; and three sisters, Sonja Terry and her husband, Randy, of Willingford, Connecticut, Sher Richards and her husband, Steve Millett, of Columbus, Ohio, and Peggy Flauta and her husband, Rey, of Truckee, California I am proud of the service this young man gave to our country and the service his fellow troops perform everyday. Not enough can be said about Sergeamt Ridgley. It is troops like him that are risking their lives day in and day out to ensure our freedom here at home and to others throughout the rest of the world. I salute him and my best wishes go out to his family and all the troops fighting to ensure freedom and democracy.

HONORING THE CONTRIBUTIONS OF DOUG SELLERS OF THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Mr. Doug Sellers of the San Antonio Independent School District for his active work in our community.

Doug Sellers was born in the great State of Texas in 1952. He attended high school in San Antonio, where he currently serves as District 4 Trustee for the San Antonio Independent School District.

Doug Sellers is the type of educator who listens to our kids. Having started out as a Band Booster, he has been involved in the school district for over 15 years and he understands the unique needs of our children in the San Antonio community.

Doug Sellers believes that positive change in the educational community is the best way to help our city rise to the challenges of the next century. He has striven to make the San Antonio Independent School District a place where he is proud to send his own grandchildren.

Mr. Sellers is dedicated and passionate about improving our schools and he works hard for our community. Under Doug Sellers guidance, our educational and arts communities have a bright future.

Mr. Speaker, it is an honor to have been given this opportunity to recognize Doug Sellers of the San Antonio Independent School District for his dedication to the educational and arts communities.

INTRODUCTION OF THE NATIONAL AQUATIC INVASIVE SPECIES ACT

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. GILCHREST. Mr. Speaker, I join my colleague, Representative VERNON EHLERS, in introducing a pair of bills that comprehensively address the growing problem of aquatic invasive species in the United States and its territories. These foreign invaders, from Sea Lamprey in the Great Lakes to Asian Carp in the Mississippi to Moon Jellies in the Gulf to Rappa Whelk in the Chesapeake Bay to Zebra Mussels across the U.S. and hundreds of other plants, fish, and invertebrates, cause significant economic and ecological damage throughout North America. In recent estimates, invasive species are demonstrated to cost the U.S. at least $138 billion per year. Forty-two percent of the species on the Federal threatened and endangered species lists are negatively impacted by invasive species. Once established, invasive species displace native species, impede municipal and industrial water systems, degrade ecosystems, reduce recreational and commercial fishing opportunities, and can cause public health problems.

Aquatic invasive species are a particular problem because they readily spread through interconnected waterways and are difficult to treat safely. Hundreds of exotic species arrive in U.S. waters every day through a variety of pathways such as ballast water, hull fouling, aquaculture and the seafood trade. Without effective federal policies to prevent and control these introductions, we willingly surrender our valuable resource assets to these invasive species.

The National Aquatic Invasive Species Act of 2005 (NAISA) will address these problems by: (1) Establishing a national mandatory ballast water management program, (2) Requiring ships to have an Invasive Species Management Plan that outlines ways to minimize transfers on a "whole ship" basis, (3) Creating a ballast water treatment technology certification program, and (4) Including incentives for ship owners to install experimental ballast treatment technology.

NAISA would also prevent invasive species introductions from other pathways by: (1) Identifying and managing pathways that pose the highest risk of introducing invasive species, (2) Creating a screening process for planned importations of live aquatic organisms, (3) Supporting development and implementation of

State Aquatic Invasive Species Management Plans, including early detection, screening and rapid response activities at state and regional levels, (4) Conducting ecological surveys for early detection of invasive species and analysis of invasion rates and patterns, (5) Making available federal funding and resources for .rapid response to introductions of invasive species, (6) Preventing inter-basin transfer of organisms by increasing funding and resources for dispersal barrier projects and research, (7) Establishing environmental soundness criteria to ensure all prevention and control measures enacted do not further harm the environment, (8) Creating education and outreach programs to inform the public on preventing transfers of invasive species by proper cleaning of recreational boats, and proper disposal of nonnative organisms for home aquaria, (9) Conducting research on high-risk invasion pathways and alternative prevention and control technologies, and (10) Making available $170 million in federal funds for aquatic invasive species prevention, control, and research.

Congress has addressed this issue in two past legislative initiatives: the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) and its reauthorization as the National Invasive Species Act of 1996 (NISA). Spurred by the growing concern over the zebra mussel invasion in the Great Lakes, NANPCA created a multi-agency task force, the Aquatic Nuisance Species Task Force, to address the issue of aquatic invaders and empowered the Coast Guard to develop guidelines for ballast water management for the Great Lakes. In 1996, Congress expanded the ballast water guidelines to a national voluntary program to be made mandatory if compliance is not sufficient.

While these laws made some progress, they have not yet solved the problem of aquatic invasive species introductions. For example, the national ballast water guidelines have seen low compliance. In addition, the only prevention option currently available to ships, ballast water exchange, has varying effectiveness that is difficult to measure, causes vessel safety concerns, and is not appropriate for coastal voyages. Development of new methods of combating transfers of organisms from ballast water has been slow due to the lack of a ballast water standard and low funding for development of new technology.

We need improvements in current law. Our bills have been carefully researched and subjected to broad stakeholder review, and we believe the public and industry stakeholders will support both. We are drastically underinvesting in research and efforts to prevent, control, and eradicate aquatic invasive species. We don't get a second chance to prevent an invasive organism from taking hold in our waters. Our bills would make the U.S. proactive in saving its citizens billions of public dollars by allowing us to stop future invasions while effectively controlling and eradicating current invaders.

I urge my colleagues to support the National Aquatic Invasive Species Act and comprehensive prevention, control, and eradication of invasive species in the U.S.

RECOGNIZING SAN JOAQUIN COUNTY SHERIFF'S DEPARTMENT'S 1996 S.W.A.T. TEAM

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. POMBO. Mr. Speaker, I rise today to recognize the San Joaquin County Sheriff's Department's 1996 S.W.A.T. Team. That year was both successful in combating crime and yet terribly tragic as they faced the loss of a fellow S.W.A.T. Team member. The S.W.A.T. Team completed over 550 search warrants, experienced three shootings, and experienced the devastating loss of Deputy Dighton Little, who was killed in action while serving the people of San Joaquin County. His heroism will be remembered by my constituents, and I rise this day to honor his memory.

Mr. Speaker, please join me in congratulating each member of the San Joaquin County Sheriff's Department's S.W.A.T. Team of 1996 for their exemplary devotion, service, and selflessness in their important role as protectors of the community. The S.W.A.T. Team of 1996 included: Sergeant Walt Shankel, Sergeant Robert Humphreys, Deputy Richard Cordova, Deputy Jody Leberman, Deputy Richard Dunsing, Deputy Adail Thrower, Deputy Mark Dreher, Deputy Steve Rivera, Deputy Gilbert Mendez, Deputy Don Tisher, Deputy Steve Fontes, Deputy Gary Sheridan, Deputy Armondo Mayoya, Deputy Jesse Dubois, Deputy Dave Claypool, Deputy Ken Bassett, Deputy Ken Rohde, Deputy Albert Garcia, and Deputy Dighton Little (killed in action). I am in deep admiration of these fine members of my congressional district, and am pleased to honor them today in the Chamber of the House of Representatives.

IN HONOR OF SERGEANT FIRST CLASS DANA BOWMAN (RET.)

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of SFC Dana Bowman, a courageous and dedicated former soldier in the United States Army.

Sergeant First Class Bowman, a former member of the Army Special Forces and the "Golden Knights"—the Army's elite parachute team—has inspired the world in his recovery and unwavering will to succeed, despite all odds, following his tragic training accident in 1994. At Yuma, Arizona, Sergeant First Class Bowman and his fellow paratrooper, Sergeant First Class Jose Agillon, struck each other midair, severing both of his legs.

Not only did Sergeant First Class Bowman recover and re-enlist in the Army after a mere 9 months, thereby becoming the first double amputee to re-enlist, but he became the United States Parachute Team's recruiting commander and lead speaker, telling others of the great sense of fulfillment and accomplishment such a duty can bring. From his military retirement in 1996 to the present, Sergeant First Class Bowman has encouraged the physically impaired and disabled community to never underestimate their potential to achieve their dreams, succeed in work and thrive in life.

Mr. Speaker, please join me in honor and recognition of SFC Dana Bowman. His positive outlook on life, personal strength, and will to uplift others touches all who come in contact with him.

HONORING THE CONTRIBUTIONS OF PASTOR ANDREW WILSON

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contributions of Pastor Andrew Wilson of the Shiloh Missionary Baptist Church.

A native Texan, Andrew Wilson grew up in San Antonio, Texas. He graduated from Guadalupe Theological Seminary in 1984 and later was named recipient of an Honorary Doctorate of Theology from the Guadalupe District Association College.

Reverend Andrew Wilson has served as Pastor of the Shiloh Missionary Baptist Church for over 12 years. Under his active and passionate guidance, the Shiloh "Missionary Baptist Church has taken on numerous important community projects.

He serves as an active member of the Baptist Ministers Union, the Community Churches for Social Action, and as Spiritual Advisor to the San Antonio Chapter of the Texas Gospel Announcers Guild/Gospel Music Workshop of America. He also participates in the Nolan Street Bridge Program, which helps to feed the homeless in our community.

Pastor Wilson is the husband of Yevette Wilson, and father of Andrenette and the Reverend Leonard Wilson.

Mr. Speaker, Pastor Andrew Wilson is a source of tremendous strength for his community, and his commitment to serving his fellow man serves as a powerful example. I am proud to have the chance to honor him here today.

IN RECOGNITION OF THE MODESTO POLICE DEPARTMENT

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CARDOZA. Mr. Speaker, I rise today to recognize the Modesto Police Department for being awarded full accreditation by the Commission on Law Enforcement Accreditation (CALEA). This accreditation is a significant accomplishment for the Department as only 24 percent of all full-time police officers in the United States are members of agencies officially accredited by CALEA.

The goals of the CALEA are to strengthen crime prevention and control capabilities, formalize essential management procedures, establish fair and nondiscriminatory personnel practices, improve service delivery, solidify inter-agency cooperation and boost citizen and staff confidence in the agency. The Modesto Police Department was recognized with full accreditation for achieving and sustaining these goals.

Under the leadership of Police Chief Roy Wasden, the Modesto Police Department has worked diligently for many years to ensure that high quality professional police services are provided to the community of Modesto. The Department was finally recognized for their longstanding commitment to excellence in law enforcement after a thorough agency-wide evaluation and exacting outside review. The Modesto Police Department became the 13th law enforcement agency in California to achieve accreditation. It is now the largest police department in California to be accredited.

I ask that my colleagues join me in commending the Modesto Police Department for their hard work and commitment to protecting and serving our community. Standing with tradition, the Department can always be counted upon and turned to during times of need. Such outstanding departments are the cornerstones of each member of the Department for their hard work and tireless dedication. They are truly heroes of our community. I am honored to represent such a distinguished police department in the 18th Congressional District of California.

REMEMBERING THE SREBRENICA MASSACRE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. SMITH of New Jersey. Mr. Speaker, I want to bring to the attention of my colleagues House Resolution 199, regarding the 1995 massacre at Srebrenica in eastern Bosnian-Herzegovina. In July, 10 years will have passed since thousands of Bosniaks perished in what was the worst atrocity committed during the 3½ years of conflict in Bosnia. This was an absolute fiasco by the international community, eroding its credibility and principles. Those of us who worked together at the time in urging a more decisive international response can remember the horror associated with that conflict.

Many may ask: why do this? Why focus on what happened 10 years ago in a region that we are encouraging to look forward to a future that includes further European integration? I believe it is impossible to look forward without acknowledging the past and what really happened at Srebrenica. We have many lessons to learn from the past.

First, the very fact that many of those responsible for the Srebrenica massacre—especially Ratko Mladic and Radovan Karadzic and others—not only have evaded justice in The Hague but may be receiving protection and are held almost as folk heroes by some indicates that the past has not been fully understood. Hundreds of people currently holding positions of responsibility are only now being investigated for possible connections to the massacre. Clearly the myths and propaganda originally used to justify a slaughter still hold sway in the minds of too many people.

Second, the international community must learn not to repeat the mistakes it made with horrible consequences in 1995. Some. lessons have been learned. For the first time since World War II, for example, an international tribunal was created to prosecute those responsible for war crimes, crimes against humanity and genocide. That body has borne some results, though its task is not complete.

Intervention in Bosnia-Herzegovina was not some reckless act, as some suggest, but a needed response made increasingly difficult by unnecessary delay. Mutual congratulations will undoubtedly come later this year when commemorating the 10 year anniversary of the Dayton Agreement. We would do well, however, to recall that it was the simple shame of allowing thousands to be massacred within one of the international community's officially designated "safe areas" that finally motivated serious consideration of action against the brazen thugs responsible for these crimes. Unfortunately, it took additional atrocities before effective action was taken.

It is also helpful to listen to some of the words spoken in the aftermath of the Srebrenica massacre. For example, 27 non-governmental organizations—including religious and humanitarian organizations not usually inclined to support the use of force, as well as Muslim and Jewish organizations not known for taking common stands—issued a powerful statement:

> Bosnia is not a faraway land of no concern to our "national interest." At stake is the global commitment to fundamental human values—the right not to be killed because of one's religious or ethnic heritage, and the right of civilians not to be targeted by combatants.

At about the same time, the U.N.'s rapporteur for human rights in the former Yugoslavia, former Polish Prime Minister Tadeusz Mazowiezki, explained why he could no longer "continue to participate in the pretense of the protection of human rights" and chose to resign in response to the events at Srebrenica. Known as a thoughtful, principled man, he said:

> One cannot speak about the protection of human rights with credibility when one is confronted with the lack of consistency and courage displayed by the international community and its leaders. . . . Crimes have been committed with swiftness and brutality and by contrast the response of the international community has been slow and ineffectual.

If, when listening to these words from 10 years ago, we think of subsequent events including Darfur today, we realize how little we have indeed learned.

In Bosnia-Herzegovina we also produced examples of the best in humanity, people in the international community—aid workers, soldiers, diplomats, journalists, monitors and advocates—who risked and sometimes gave their lives to prevent further loss of life. I particularly mention in this connection the American negotiators Robert Frasure, Joseph Kruzel, and Nelson Drew who died while traveling Bosnia's dangerous, war-torn roads. They deserve our gratitude for the efforts to restore peace in Bosnia-Herzegovina.

Finally, Mr. Speaker, we cannot forget the memory of the victims of Srebrenica and those who survived, but were traumatized by the debacle at Srebrenica. Many continue to wonder about the ultimate fate of the missing, even as new mass graves have been unearthed in northeastern Bosnia-Herzegovina. For these people, 10 years is not long ago, and recognizing the pain and anguish they experienced may help bring closure for them. Some of these victims, I should add, have come to our country as refugees and are now Americans. They will no doubt be remembering the tragic events at Srebrenica 10 years ago.

I will not detail here the almost unspeakable horrors that were part of the massacre at Srebrenica in July 1995. Some of the events are mentioned in House Resolution 199. Mr. Speaker, I hope that my colleagues will give this measure their serious consideration and active support.

HONORING THE 2005 DR. NAN S. HUTCHINSON BROWARD SENIOR HALL OF FAME ELECTEES

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. SHAW. Mr. Speaker, I rise today to recognize the 11 electees to the Dr. Nan S. Hutchinson Broward Senior Hall of Fame for 2005. To coincide with the month of May as Older Americans' Month, the Area Agency on Aging of Broward County annually coordinates the Hall of Fame Elections to honor seniors who are dedicated to serving their community.

Mr. Vincent Ciardullo has donated over 7500 hours of community service to the Coral Springs Medical Center Auxiliary, where he holds the elected position of Parliamentarian and Chair of "Ways and Means." Mr. Ciardullo has also raised funds in excess of $250,000 for the facility. In 1997, Mr. Ciardullo initiated the annual Teddy Bear Parade which has collected thousands of teddy bears that local police and EMS departments distribute to children in distress situations.

Mr. Nat Goren has dedicated himself to a number of south Florida medical centers. He has served on the board of directors for the American Cancer Society, is the past president of the Alzheimer's Association of South Florida, and the past chairman of Broward Meals on Wheels. A World War II Naval veteran, Mr. Goren is a devoted and active member of his community.

Ms. Jean Johnson has been involved with numerous charitable organizations including Sunshine Cathedral Board of Directors, the Jail Ministry, the Women's Guild, SAGE, Hollywood Humane Resource Advisory Board, Seniors and Law Enforcement Together, and the American Cancer Society. Ms. Johnson has also been an active volunteer at the Noble A. McArtor Adult Day Care Center, serving on the Sponsorship and Publicity/Advertising Subcommittees of the Advisory Council.

Ms. Betty Kaufman has coordinated fundraising, education and outreach efforts for over 15 years. Ms. Kaufman has been recognized as Volunteer of the Year of the Advisory Council of the Area Agency of Aging. Ms. Kaufman has also been actively involved with the Broward Grandparents program; having worked on the Senior Spring Festival, Foster Grandparents Breakfast, and "Gift of Gold" Distribution. Additionally, her service received statewide attention in 1993, when the late Governor Lawton Chiles proclaimed 2 days in her honor for her leadership role in the marketing industry.

Mrs. Shirley Lewenberg has proven herself as an effective fund-raiser for numerous organizations. For the past several years, Mrs. Lewenberg has been involved with the American Cancer Society's Jail and Bail event, exceeding the nonprofit's fund-raising goals many times. Additionally, she has held the Area Agency on Aging's Fund-raising Co-Chair position, and has been honored as Volunteer of the Year.

Ms. Mary Macomber is involved with a variety of charitable causes which improve the quality of life of all for all Broward County residents. Ms. Macomber is actively involved with the Coordinating Council of Broward (CCB); serving as chair of the Steering Committee, Multicultural Board, and Million Meals Committee. Ms. Macomber also gives her time to the City of Coral Springs Multicultural Advisory Board, South Florida Human Rights Council, and she is the vice chair of the Noble A. McArtor Adult Day Care Advisory Council.

Mr. Matt Meadows is a past president of the Area Agency on Aging's Board of Directors and a has served as member of the Alzheimer Association's Board of Directors since 1996. Mr. Meadows has served on the city of Lauderhill's City Commission for 6 years and has served as a board member for both the Broward and the Florida League of Cities Boards. Mr. Meadows has also worked extensively to benefit south Florida's minority populations through his work with the Florida Commission on Minority Health, the Florida Commission on Minority Economic and Business Development and the Florida Commission of African American Affairs.

Ms. Betty Priscak has been involved with numerous charitable organizations including Sunshine Cathedral Board of Directors, the Jail Ministry, the Women's Guild, SAGE, Hollywood Humane Resource Advisory Board, Seniors and Law Enforcement Together, and the American Cancer Society. Ms. Priscak has also been an active volunteer at the Noble A. McArtor Adult Day Care Center, serving on the Sponsorship and Publicity/Advertising Subcommittees of the Advisory Council.

Ms. Esther Schneiderman has worked with the Hollywood Hills Nursing Home for over 12 years. She has been recognized by the Home as "Volunteer of the Year," and the Miami Herald has awarded her Honorable Mention for its Good Neighbor Award. Ms. Schneiderman has been involved with Hospice and Deborah Heart and Lung Center. She has also been recognized for her 15 years of service to the Retired Senior Volunteer Program (RSVP).

Ms. Shelly Spivak has devoted herself to a variety of charitable causes, while also maintaining a full-time career. Ms. Spivak has volunteered her time for the Governance Council of the United Jewish Community, the West Broward Unit Issues Committee of the American Cancer Society, the Allocation Committee of United Way of Broward, the Unit Board of the Boys and Girls Club of Hollywood, and the Cities in Schools of Broward County School Board.

Mrs. Mary Todd has been an active member of the Broward County Medical Association Auxiliary for over one quarter of a century, while serving as chair, vice chair, secretary and corresponding secretary. Mrs. Todd is also a dedicated Board Member for the Areawide Council on Aging.

Mr. Speaker, for their dedicated service to the community, I wish to once again recognize these eleven outstanding seniors, who have been elected to the Dr. Nan S. Hutchinson Broward Senior Hall of Fame for 2005.

HONORING THE CONTRIBUTIONS OF MAYOR BILL CARROLL OF PLEASANTON, TEXAS

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Mayor Bill Carroll of Pleasanton, Texas for his distinguished record of dedication to his fellow citizens.

Bill Carroll was born and raised in Dilley, Texas. He served his country in Vietnam in 1968 and 1969, where he was a member of the 101st Airborne. He received his bachelor's degree in Spanish from Texas State University, and first came to Pleasanton in 1979.

Mr. Carroll has been married to his wife, Beth, for 38 years, and has two sons. He has been highly active in community volunteer activities; he has been a member of the Knights of Columbus for over 30 years, and currently holds the rank of fifth degree knight and ceremonial delegate in that organization.

In 1998, Mr. Carroll was appointed to represent District 6 in the City Council. He was elected to the same office in 1999, and then rose to the rank of mayor in May 2000. He has been reelected as mayor in every subsequent year, and continues to hold the post today.

Mayor Carroll has distinguished himself as a soldier, a volunteer, a public servant, a husband, and a father. He is the kind of citizen who holds our communities together, through his hard work, energy, and willingness to serve. He is a credit and a blessing to Pleasanton, and I am proud to have the chance to thank him here today.

PERSONAL EXPLANATION

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. LEWIS of Kentucky. Mr. Speaker, I was absent from the House on Tuesday, April 12, attending a funeral for a soldier in my district who died heroically last week in the effort to liberate Iraq. Had I been present, I would have voted the following way:

H.R. 135: To establish the Twenty-First Century Water Commission to study and develop recommendations for a comprehensive water strategy to address future water needs, "yea."

H.R. 541: To direct the Secretary of Agriculture to convey certain land to Lander County, NV, and the Secretary of the Interior to convey certain land to Eureka County, NV, for continued use as cemeteries, "yea."

INTRODUCTION OF THE ABANDONED MINE LANDS RECLAMATION REFORM ACT OF 2005

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. RAHALL. Mr. Speaker, today I am pleased to join our colleague Representative BARBARA CUBIN in introducing the "Abandoned Mine Lands Reclamation Reform Act of 2005" in recognition of the pressing need to make continued progress in restoring the environment in coalfield communities throughout the Nation.

Originally authorized as part of the landmark Surface Mining Control and Reclamation Act of 1977, to date over $5 billion has been appropriated under the Abandoned Mine Reclamation Program in an effort to restore lands and waters adversely affected by past coal mining practices. These restoration projects normally involve threats to the public health and safety from dangerous highwalls, subsidence, refuse piles and open mine portals. They also include the construction of new water supply systems to coalfield communities where water supplies have been contaminated by past coal mining practices. Over the years, funds have also been made available under this program for emergency coal reclamation projects, the Rural Abandoned Mine Program, the Small Operators Assistance Program, certain noncoal mining reclamation projects and the administration of the program.

The primary delivery mechanism for these funds is through annual grants made through the annual appropriations process to 26 eligible States and Indian tribes. This effort is augmented by funds expended by the Interior Department's Office of Surface Mining (OSM) in States and tribes without approved reclamation programs. By most accounts, this effort has been a success achieving far more in real on-the-ground environmental restoration than programs such as the Superfund.

Yet, the mission of this program has not yet fully been accomplished which is the reason for the legislation I am introducing today. As it stands, there currently exists about $3 billion worth of high priority human health and safety threatening abandoned coal mine reclamation costs in this country. There are other costs as well, associated with lower priority abandoned coal mine sites. The fundamental purpose of the "Abandoned Mine Lands Reclamation Act of 2005" is to raise sufficient revenues which, when coupled with the unappropriated balance in the Abandoned Mine Reclamation Fund and the reforms proposed by the legislation, to finance the reclamation of the remaining $3 billion inventory of high priority coal reclamation sites and draw this effort to a successful conclusion.

In this regard, it is essential to note that this program is not financed by the general taxpayer but rather through a fee assessed on every ton of coal mined. The unreclaimed coal sites eligible for expenditures under the program were primarily abandoned prior to the enactment of the Surface Mining Control and Reclamation Act of 1977 which placed stringent mining and reclamation standards in place. The authority to collect these fees was originally for a 15-year period. However, on two prior occasions through legislation I sponsored the Congress extended those fees collections in recognition of the continued need to address health, safety and environmental threats in the Nation's coalfield communities. Those fee collections are currently set to expire at the end of June this year.

A central feature of this legislation then is to extend that fee collection authority through the year to 2020. This is the period the OSM estimates will be necessary to generate the additional revenue to complete the high priority coal site inventory. However, that alone will not allow us to achieve that goal which is the reason for the reforms proposed by this bill.

Simply put, in my view over the years there has been a hemorrhaging of some of the funding made available under this program to lower priority projects. One of the reasons this reduction in focus on health and safety threatening projects has occurred is due to a late 1994 OSM policy shift that corrupted what is known as the general welfare standard in the coal reclamation priority rankings. This new policy has had the affect of allowing States to bootstrap what would normally have been lower priority 3 projects into the higher priority 1 and 2 rankings. To be clear, not all States or even a majority of States have taken advantage of this new policy and I commend them for that. Yet it is a fact that as a result of this new policy the bona fide $3 billion inventory of unfunded priority 1 and 2 projects has swollen to over $6 billion. I do not recognize this $6 billion figure and neither does this legislation.

The reforms proposed by this bill include eliminating the general welfare standard and restricting the use of State/tribal share grants and supplemental federal share grants to bona fide coal priority 1 and 2 projects involving threats to human health and safety. Once those projects are completed and only when those projects are completed, with two minor exceptions, can a State or tribe undertake the lower priority coal projects under the certification program with their State/tribal share grants. The exceptions to this rule involve situations where a priority 3 site is undertaken in conjunction with a priority 1 or 2 site, or where a priority 3 site is addressed in association with a coal remining operation. In effect, this legislation seeks to target the lion's share of available funding to coal priority 1 and 2s keeping faith with the original mission of the program. Among other reforms envisioned are federal approval of any additions made to the official Abandoned Mine Reclamation Inventory and a review of those additions made since the OSM policy shift on the general welfare standard.

The purposes of these reforms are intended, as previously noted, to complete those projects which are necessary to complete for the sake of protecting the health and safety of coalfield residents. At the same time, they are also intended to give the coal industry which finances this program reasonable assurances that the fees it pays will not be squandered but put to good use, and to give the industry a time frame which it can count on when the assessment of those fees will no longer be necessary.

I would like to make note of two additional changes to current law proposed by this bill. As already noted, in the past appropriations were made available from the Abandoned Mine Reclamation Fund to the Rural Abandoned Mine Program (RAMP), an Agriculture Department program. No such appropriations have been forthcoming for 6 fiscal years now. I find this disappointing. While the Interior Department and the States from the very beginning were against RAMP funding, contending it was duplicative of their efforts, this in my view and in that of many others was not the case. RAMP served a distinctly different purpose involving a closer working relationship with landowners and sought to address reclamation projects on a more holistic basis. Another problem that also dogged RAMP was the fact that while it is an Agriculture Department program, its appropriations were being made out of an Interior Department trust fund by the Interior Appropriations bill. Obviously, Interior officials had little interest in this arrangement and so beginning in 1995 we have not been able to obtain funding for RAMP. In my view, this situation will not change if the status quo is maintained. For that reason, the legislation I am introducing today would authorize RAMP for general fund appropriations rather than out of the Abandoned Mine Reclamation Fund so that funding can be pursued through the Agriculture Department's Natural Resources Conservation Service's budget.

Finally, this legislation also seeks to deal in a comprehensive fashion with the problems which have been plaguing the coal miner health care program.

In that regard, the bill would lift the restriction that interest accrued in the Abandoned Mine Reclamation Fund can only be transferred to what is known as the Combined Benefits Fund for unassigned beneficiaries. Under this bill, all accrued interest would be available to keep faith with the promise made by the Federal Government many years ago to guarantee health care benefit for certain retired coal miners. Further, this legislation would also make accrued interest available for what are known as the 1992 and 1993 Plans. Due to a variety of factors, such as the rash of steel company bankruptcies and the Horizon decision of last year, these plans are coming under financial hardship and we must also keep faith with those retired coal miners and their dependents covered by them.

Mr. Speaker, it is time, far past the time, for this Congress to move forward with this legislation.

TRIBUTE TO DR. MARIAN J. HOCKENHULL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. KILDEE. Mr. Speaker, I come before this body today to pay tribute to an outstanding woman, Dr. Marian J. Hockenhull. Dr. Hockenhull has been appointed the National Youth Director of the Young People's Department of the Women's Auxiliary to the National Baptist Convention, USA, Inc. The First Trinity Missionary Baptist Church will hold a reception to celebrate this prestigious appointment on Saturday, April 16 in my hometown of Flint, Michigan.

The list of Dr. Hockenhull's accomplishments is a testament to the energy and hard work she has expended over the years. She has received honor after honor from her sororities, her community and her church. She has received numerous awards at the local, district, state and national level. The leadership of the National Baptist Convention and Baptist World Alliance chose her to represent their organizations on the international level where she was able to bring her inspiration to persons in many nations.

Dr. Hockenhull has spent her life ministering to children. She is committed to improving the lives of the next generation both in the United States and around the world. As a retired educator of the Beecher School District, and in her work at the University of Michigan-Flint, she is a firsthand witness to the power of education to motivate and promote a better life. As an activist for youth, Marian Hockenhull has sought better living conditions, educational opportunities and the improved well being of the young.

This longstanding commitment to children is only underscored by her current appointment as the National Youth Director. The position will allow Dr. Hockenhull to continue her advocacy for children. I ask the Congress of the United States to join with me in congratulating Marian Hockenhull as she assumes her new post with the Women's Auxiliary of the National Baptist Convention.

SECURITY COUNCIL EXPANSION

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. LEACH. Mr. Speaker, one of the most talked-about issues in foreign policy today relates to the nature and possibility of United Nations reform, including the question of whether to expand the number of permanent members of the U.N. Security Council.

Not unexpectedly, the People's Republic of China has expressed great angst about several of the proposed methodologies for expanding the number of permanent members—possibly because of historical friction between China and Japan and, to a lesser extent, India.

My sense is that the issue of the make-up of the Security Council should be the subject of serious review. As a former member of the United States Delegation to the U.N. as well as a former co-Chairman of the U.S. Commission on Improving the Effectiveness of the U.N., I am convinced that constructive reform of the Security Council is in order.

It is in the world's interest and the U.S. national interest to expand the Security Council. The claim of India, Japan and Germany for a permanent seat is compelling. Likewise, there is a credible case that the Security Council could be modestly expanded on a shared cocountry basis as well. For example, Brazil and Mexico might be awarded a seat in which they would alternate terms. In a similar way, Egypt, Nigeria, and South Africa might be given the right to alternate terms with each other, as might the Muslim-majority countries of Indonesia, Pakistan and Bangladesh. Such an approach would expand the Security Council by six seats, involving the granting of new rights to eleven countries.

The case for granting veto power to new full-time members may be credible, but for various reasons one or another of the current five permanent members can be expected to object to the dilution of their own veto authority. Hence, realistically membership but not veto expansion is likely to be the agenda issue subject to serious review at this time.

Expansion of the number of permanent seats under this approach would involve a substantial change in the Security Council, but this change would be more likely to be stabilizing than destabilizing because it would better reflect power balances in the world today and lead to more equitable financial burden-sharing of U.N. actions. It would cause the Council to reflect greater religious and racial diversity and also be composed of a higher percentage of the world's population. Such a new Security Council arrangement would underscore the role of Asia in world affairs as well as reflect a more credible African and Latin American presence.

In any regard, I would hope that the Executive Branch as well as other member countries of the U.N. might give this and other comparable approaches serious consideration.

HONORING SISTER JANET EISNER IN RECOGNITION OF HER 25 YEARS AS PRESIDENT OF EMMANUEL COLLEGE

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CAPUANO. Mr. Speaker, I rise to honor a remarkable woman, constituent, and friend, Sister Janet Eisner, president of Emmanuel College, Later this month, on April 28, Sister Janet will celebrate 25 years as the college's president.

Founded in 1919 by the Sisters of Notre Dame de Namur, a French order established to educate the daughters of the poor, Emmanuel College, under the leadership of Sister Janet, remains true to that mission. Under her leadership, thousands of young women from disadvantaged backgrounds have studied and received degrees from the college. Though today's students are from a more diverse socioeconomic pool, Emmanuel continues to provide need-based financial aid to more than 70 percent of its students.

Herself a graduate, Sister Janet has embraced many of the schools traditions, while at the same time, advocated for programs and policies that have addressed the changing needs of the college and its students. In 1979, she became president of a small private liberal arts women's college. Since then, Sister Janet has transformed Emmanuel into a coeducational institution with a greater emphasis on math and science. As a result of her efforts to have Emmanuel embrace the math and science disciplines, the Merck Pharmaceutical Corporation has recently built a major research facility on campus, greatly expanding laboratory access for the college's faculty and students.

Sister Janet believes, as I do, that the future of the New England region depends upon scientific intellectual capital and biomedical innovation and she is determined to ensure that Emmanuel and its students have a place in that future. With that in mind, Sister Janet serves on the Executive Committee of MASCO, the Medical, Academic, and Scientific Community Organization of the Longwood Medical and Academic Area, and has organized her academic neighbors into a formidable consortium, "the Colleges of the Fenway". This consortium includes Simmons College, Wheelock College, Wentworth Institute, Massachusetts College of Art, and the Massachusetts College of Pharmacy and Allied Health Sciences.

In addition to her efforts to maintain a high level of academic excellence at Emmanuel, Sister Janet has preserved and deepened the college's commitment to community service. Freshman orientation includes an introduction to volunteer opportunities in Boston food pantries, after-school programs, environmental projects, homeless shelters, and hospices. As a result, Emmanuel's students devote countless hours to community service activities such as providing educational tutoring and mentoring to Boston's at-risk children. Last fall, Sister Janet dedicated the Jean Yawkey Center for Community Leadership to focus and support community engagement. The Yawkey Center joins the Carolyn A. Lynch Institute, formed to support urban teachers, in linking Emmanuel students with public and private inner city schools.

Few people have achieved what Sister Janet has achieved, and yet she firmly believes that there is far more to accomplish at the college. Lilies adorn the seal of Emmanuel College, but I think Sister Janet's contributions to Emmanuel are more emblematic of the flower of the Sisters of Notre Dame de Namur: the sunflower. The sunflower is strong, brilliant, and constantly seeking light. I could not think of a more fitting description of Sister Janet's tenure at Emmanuel College. I congratulate Sister Janet for a remarkable 25 years as president of Emmanuel College and wish her continued success in the years to come.

STOP VIOLENCE AGAINST WOMEN WEEK AND INTERNATIONAL WOMEN'S DAY

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Ms. MILLENDER-McDONALD. Mr. Speaker, Stop Violence Against Women week affords us the opportunity to recognize the tremendous strides we have made in the decade since the Violence Against Women Act was passed. We have begun to educate our communities. We are slowly changing attitudes about domestic violence from seeing it as a family problem, a private issue that the government should not interfere with to a public interest issue that affects victims, their families and the nation as a whole. We have put in place nationwide, state and local programs that use a multifaceted approach to eradicating this plague on our society.

Violence against women has decreased in the last ten years in the United States, but it is still at epidemic proportions throughout the developing world. It is projected that in 2005 over 1 million women will be the victims of domestic violence. Domestic violence knows no racial, ethnic or socio-economic boundaries. Its social and economic consequences are incalculable.

Women who are the victims of domestic violence, and nearly one in three women experiences at least one physical assault by an intimate partner in her adult lifetime, are more likely to miss work and under perform, affecting their ability to support themselves and their children. Children exposed to domestic violence are more likely to be the victims themselves and are more likely to perpetuate this behavior when they are grown. The detrimental affects are far-reaching and severe.

Going forward we need to build on the foundation put in place over the past decade. We need to promote awareness. We need to provide viable alternatives. We need to make sure the world knows that in the United States we do not tolerate violence against women.

As we celebrate International Women's Day this week, we focus our attention on the challenges women face abroad. As cultural attitudes about women change across the world, foreign governments must also set the stage and take affirmative steps to protect women from violence. The increasing number of murders and rapes is an especially critical problem in the developing world. We must let our voices be heard: America and the global community will no longer tolerate these crimes against women. We urge foreign governments to hear our call.

We also need to combat the international trafficking of women and children. Between six hundred and eight hundred thousand people are trafficked across international borders. Eighty percent of these victims are women and up to 50 percent are minors. These victims are bought and sold daily and forced to perform unspeakable acts for others' financial gain. They are exposed to torture, sexual violence, fatal sexually transmitted diseases. This is modern-day slavery, this is the epitome of violence against women and it has to stop.

I want to thank Lifetime Television and others involved with Stop Violence Against Women Week. The more we talk about these problems, the closer we get to viable solutions.

A BILL TO ALLOW TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. HERGER. Mr. Speaker, I rise today to introduce legislation entitled the "Public Good IRA Rollover Act." I am introducing this bill to encourage increased charitable giving by correcting certain provisions in the tax code related to Individual Retirement Accounts (IRAs). Americans should have the opportunity to make tax-free charitable contributions directly from their IRA accounts.

This legislation is designed to allow individuals age 59½ or older to contribute amounts currently held in IRA accounts directly to qualified charities without having to first recognize the income for tax purposes and then take a charitable deduction. This legislation will give individuals more freedom to allocate their resources as they see fit while providing badly needed funding for charities, churches, museums, universities, and many other nonprofit organizations.

The IRA was intended to encourage individuals to save for retirement, but due to a strong economy and an increase in asset values, many individuals have more funds in these accounts that they anticipated or now need to retire comfortably. Thus, it is very common for retirees to donate some of their wealth to charities and, in some cases, that wealth is held in an IRA.

Individuals may withdraw funds from an IRA without incurring an early withdrawal penalty once they reach age 59½. Currently, however, these IRA withdrawals are generally taxed as income, even if the individual donates the money to charity. Many donors are reluctant to make charitable contributions from their IRA assets because of the additional tax costs they will incur. Congress has exempted withdrawals from IRA accounts under certain circumstances, such as to finance the purchase of a home or a college education. Congress should also make it possible for older Americans to support charities by allowing withdrawals from their IRA assets without suffering adverse tax consequences.

This legislation also addresses other obstacles to charitable giving created by the current tax code. A taxpayer could readily recognize the IRA withdrawal income for tax purposes and, after making a charitable gift, take a charitable tax deduction. Unfortunately, in many cases under current law such a simple arrangement results in a loss of some portion of the charitable deduction. For example, charitable contributions are subject to the itemized deduction "haircut" under which certain taxpayers lose a portion of their charitable deduction.

It is very difficult to estimate the amount of capital trapped by the current tax and rollover rules, and thus not available to our nation's charities. According to one report, there is over $1 trillion held in IRA accounts. If only 1 percent of this would be donated to charity but for the tax problems associated with charitable rollovers, this represents a $10 billion loss of resources to these organizations that do so much good.

I will give just one example from my state of California, where universities and colleges receive tremendous support from private individuals. These donations and financial gifts are critical to providing the funding needed to maintain quality higher education and keep it available and affordable. In the UC system, private contributions provide more than $369 million for individual university departments, $291 million for research, $225 million for campus improvements, and $84 million for scholarships and student support services. In addition, planned gifts such as charitable remainder trusts, gift annuities, and pooled income funds are a tremendously valuable source of funding for the University of California System. This legislation encourages more charitable gifts such as this, which will greatly benefit universities and many other charities. This is sound and greatly needed legislation. Similar legislation has consistently received strong bipartisan support in both chambers of Congress. This bill was part of the CARE Act that passed the House last year. In addition, President Bush has endorsed this proposal and it was included in the administration's budget request for FY2005 and FY2006.

This legislation is crucial to many local and national charities, including American Red Cross and the YMCA. Associations that represent thousands of our Nation's charities and nonprofit professionals, such as the Council for Advancement and Support of Education, the National Committee on Planned Giving, Independent Sector, and the Association of Fundraising Professionals, hear daily from their members whose donors want to make gifts from their IRA assets.

I look forward to working with my colleagues to advance this legislation to increase private giving to charitable organizations by removing the disincentive currently in the tax code. We must continue to support proposals such as this that strengthen and increase resources for the nonprofit sector, a sector that plays such an important role in lives of millions of Americans every day. I know this legislation is needed in California and in your local communities as well. I hope my colleagues will join me in passing this important legislation.

TRIBUTE TO THE ORDER SONS OF ITALY IN AMERICA ON THEIR 100TH ANNIVERSARY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to the Order Sons of Italy in America in celebration of their 100th anniversary in June 2005. The OSIA is the largest and longest established organization for men and women of Italian heritage in the United States.

Established in 1905 as a mutual aid society for early Italian immigrants, the OSIA has grown to more than 100,000 members nationwide and 2,500 in Maryland. The OSIA is dedicated to preserving Italian-American traditions and culture among the estimated 26 million people of Italian descent living in the United States. I want to commend S. Joseph Avara of Baltimore, past president of the OSIA who did so much to bring financial stability and order to the Maryland Lodge.

The OSIA also is a charitable organization, raising millions of dollars for Alzheimer's Disease and Cooley's Anemia, a severe blood disorder that affects those of Mediterranean descent. In addition, the OSIA has also raised a significant amount of money for the March of Dimes.

Italian-Americans have made enormous contributions to our Nation—from serving in the Armed Forces to achievements in science and medicine to public service. I urge my colleagues in the U.S. House of Representatives to join me in saluting the OSIA for its work to ensure that all Americans appreciate the contributions made to our nation by the Italian-American community.

CONGRATULATING MRS. ASHLEY ROTHBARD BERK, RECIPIENT OF THE 2004 PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING

HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. GARRETT of New Jersey. Mr. Speaker, today I extend congratulations and thanks to Mrs. Ashley Rothbard Berk, a teacher at Travell Elementary School in Ridgewood, New Jersey. Mrs. Berk was selected from among 600 nominees to be a recipient of the prestigious 2004 Presidential Award for Excellence in Mathematics and Science Teaching.

The Presidential Award for Excellence in Mathematics and Science Teaching was established in 1983 to recognize the outstanding science and mathematics teachers, kindergarten through 12th grade, in each State and the four U.S. jurisdictions. Today, the White House award is recognized as the Nation's highest commendation for elementary and secondary math and science teachers.

After an initial selection process at the state level, a national panel of distinguished scientists, mathematicians and educators reviews the extensive application packets of the State finalists and recommends the teachers who will receive a Presidential award. Mrs. Berk is the sole awardee from New Jersey.

Mrs. Berk was recognized for teaching her students fractions, decimals and percentages using a technique to reach different types of learners: the visual, auditory, verbal and kinesthetic. She developed the method in an effort to make sure students in her fifth-grade class were operating at their optimum learning ability.

Mrs. Berk says she fell in love with teaching right away, and her devotion to ensuring her students are learning is evidenced in this award. The award also brings more than prestige to the winner; as an awardee, Mrs. Berk also receives a $10,000 grant for her school.

I want to congratulate Mrs. Berk of Travell Elementary School for being selected for this prestigious honor. She is a credit to New Jersey and a credit to our many outstanding educators.

To paraphrase Oliver Wendell Holmes, the greatest teacher makes others believe in greatness, and they leave a lasting mark on the lives around them. Today, I am proud and honored to join in the applause for one of the nation's great teachers—Mrs. Ashley Berk. We are grateful for your dedication to providing New Jersey children with an outstanding education.

COMMEMORATING THE RETIREMENT OF JOHN W. MACK, PRESIDENT OF THE LOS ANGELES URBAN LEAGUE

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to pay tribute to a national trailblazer and dynamic American public servant, Mr. John W. Mack, who will be retiring as the President of the Los Angeles Urban League.

John W. Mack has served as president of the Los Angeles Urban League since August of 1969. He began his career with the Urban League in Flint, Michigan in 1964 and was appointed executive director in 1965. Prior to heading the Los Angeles Urban League, he served on the Urban League's National staff for 6 months during the Urban League presidency of Whitney Young in Washington, D.C. John was a leader in the 1960 student civil rights movement in Atlanta—co-founder and vice chairperson of the Committee on the Appeal for Human Rights. He earned his bachelor of science degree in applied sociology from North Carolina A&T State University. He holds a master's degree from Atlanta University.

John Mack has been fighting on the frontlines for decades in the battle to secure equal opportunities for all Americans from all walks of life. Under John Mack's leadership, the Los Angeles Urban League has become one of the most successful non-profit community organizations in Los Angeles with an annual budget of $20 million. The Los Angeles Urban League serves over 100,000 individuals each year and operates a number of innovative, result-orientated job training, job placement, education, academic tutorial, growth development and business development programs. Under his leadership, the Los Angeles Urban League has utilized state of the art computer technology to prepare citizens for careers in the 21st century global economy. John Mack understood that in order for America to maintain its standing as the global economic leader, its workforce must be the best trained, best educated and best equipped in order to compete on the world stage.

John Mack has also been a visionary with respect to ensuring that civil and human rights are neither compromised nor violated in Los Angeles, California and across the Nation. He is a highly respected advocate for equal opportunities in education, law enforcement and economic empowerment for all Americans. He has been a drum major for justice and equality and a bridge builder across all racial, cultural, economic, gender and religious lines.

I am proud to call John W. Mack my friend. His demonstrated commitment to improving the quality of life and improving economic opportunities for the citizens of Los Angeles, California and the Nation has been exemplary and noteworthy. I have found his insights to be thoughtful and genuinely compassionate. The Los Angeles Urban League, the National Urban League, California and the Nation have benefited tremendously from the vision, commitment and public service of John W. Mack.

TAX REFORM—CONSTANT CHANGE IN THE TAX CODE AND THE PROBLEMS OF THE "TEMPORARY FIX"

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CROWLEY. Mr. Speaker, I will give the Republicans credit, they have made a lot of noise over the past few years about lowering taxes, lifting the burden off of working and middle class families and improving America's tax structure for businesses and households. But this is blatantly untrue.

I salute Mr. HOYER for organizing this discussion tonight to let the American public know the truth about the Republicans and their tax schemes. For too long Democrats have allowed the Republican deception to continue, until now. Just as the previous speakers have stated, the American Tax Code and the tax policies have failed this country, they have failed working people, middle income families, the working poor. I also want to mention how these flawed Republican tax policies have also weakened the competitiveness of America's small businesses, entrepreneurs and corporations.

These are the people that create the jobs that keep America working. The business community, which represents the true job creators of America, has had to deal with ever constant changes to the Tax Code, and so-called temporary fixes at the last minute. These leave American businesses and employers not able to plan for the future as they have no idea what the Tax Code will look like.

Rather the Republican's business tax code plan is not about reform or simplification but rather can be summed up as the "Full Employment for Accounts Act." Republican leaders repeatedly have talked about the need to make the tax system simpler and fairer. In fact, Speaker HASTERT himself stated in December that America's tax system is quote "too complicated; it also hurts our Nation's competitiveness." He is right—but his Republican caucus has done nothing to address this issue. In fact, their actions show just the opposite.

The Federal income Tax Code has grown from 500 pages in 1913 to 45,662 in 2001 when Mr. Bush was elected to 25 volumes today. The 2001 tax law added 214 million hours alone to the paperwork burden for small business people. They should be creating and investing and producing not figuring out their more and more complicated tax forms.

Individuals, businesses, tax-exempt public and private entities spend nearly 6 billion hours complying with the Tax Code. And they call this simplification and reform. And this burden falls heaviest on our small business people and self-employed.

IRS estimates that the average taxpayer with a self-employed status has the greatest compliance burden in terms of preparation—59 hours. Small businesses overpaid their taxes by $18 billion in 2000 and 2001 because of return errors, a GAO report found in 2002. Tens of thousands of farmers overpaid taxes by an average of more than $500 because they failed to take advantage of income averaging, according to a Treasury Department report in March 2004.

Despite repeated promises, no action was ever taken on fundamental reform of our tax system. Instead, the Republicans enacted legislation that dramatically increased the complexity of our income tax system. The Republican tax legislation used budget gimmicks, such as phase-ins, temporary provisions and overall sunsets, to hide the cost of their tax legislation.

Today, while the Republicans hail their so called "estate tax" victory—in fact, what they have done is increase the estate tax for hundreds of thousands of small businesses by repealing the "step up in basis" and substituting in "carry over basis" rules that preserve the tax on increases in value of estates before death—hence making recipients now pay a capital gains tax on inherited materials, that people are now exempt from. So the death tax actually grows stronger under the sham Republican bill they passed today. And today not only will make their lives more difficult and their taxes more complicated, but it also makes their taxes Increase. As a result, we have a tax system that is quite unstable, leaving taxpayers uncertain about the law in the future.

Business cannot plan for the future. Congress must end these gimmicks. It is time for Congress to make permanent the Research and Development Tax Credit. We must immediately provide a permanent tax credit for the health insurance expenses for the self-employed. We must end these tax loopholes, gimmicks and temporary tax solutions—as these are actually not helpful to businesses and entrepreneurs.

We need real tax reform and real tax simplification. Something that the Republicans haven't been able to deliver 10 years. It's time for a real change in our tax law, by providing a real change in American leadership.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Wednesday, April 13, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 14

9:30 a.m.

Armed Services

To hold hearings to examine implementation by the Department of Defense of the National Security Personnel System.

SR–325

Judiciary

Business meeting to consider S. 378, to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, S. 119, to provide for the protection of unaccompanied alien children, S. 629, to amend chapter 97 of title 18, United States Code, relating to protecting against attacks on railroads and other mass transportation systems, S. 555, to amend the Sherman Act to make oil-producing and exporting cartels illegal, and the nominations of Thomas B. Griffith, of Utah, and Janice R. Brown, of California, each to be a United States Circuit Judge for the District of Columbia Circuit, Terrence W. Boyle, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit,Robert J. Conrad, Jr., to be United States District Judge for the Western District of North Carolina, and James C. Dever III, to be United States District Judge for the Eastern District of North Carolina.

SD–226

Appropriations

Transportation, Treasury, the Judiciary, and Housing and Urban Development, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Housing and Urban Development.

SD–138

Joint Economic Committee

To hold hearings to examine the current economic outlook for April.

2212 RHOB

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the implementation of the Terrorism Risk Insurance Program.

SD–538

Commerce, Science, and Transportation

Business meeting to consider S. 364, to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities, S. 714, to amend section 227 of the Communications Act of 1934 relating to the prohibition on junk fax transmissions, S. 432, to establish a digital and wireless network technology program, the proposed Surface Transportation Safety Improvement Act of 2005, and the nominations of a National Oceanic and Atmospheric Administration Promotion List, Coast Guard Promotion List,and Coast Guard Promotion List.

SR–253

Finance

To hold hearings to examine how to solve the tax gap.

SD–G50

Health, Education, Labor, and Pensions

To hold hearings to examine lifelong education opportunities.

SD–430

Homeland Security and Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold oversight hearings to examine a review of the Unfunded Mandates Reform Act (UMRA), focusing on the impact of the UMRA has had on Federal, state, and local governments and explore if changes are necessary to strengthen the law's procedures, definitions, and exclusions.

SD–342

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America.

345 CHOB

10:30 a.m.

Intelligence

To hold hearings to examine the nomination of Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence.

SH–216

11 a.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine problems experienced by unregistered religious communities operating within the Russian Federation.

2200 RHOB

2 p.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Office of Marketing and Regulatory Programs, the Office of Food, Nutrition, and Consumer Services, and the Office of Food Safety and Inpection Service, all of the Department of Agriculture.

SD–192

Appropriations

Energy and Water, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the National Nuclear Security Administration.

SD–124

Homeland Security and Governmental Affairs

To hold hearings to examine the ongoing need for comprehensive postal reform.

SD–342

2:30 p.m.

Armed Services

Airland Subcommittee

To hold hearings to examine Air Force acquisition oversight in review of the Defense Authorization Request for Fiscal Year 2006.

SR–232A

Judiciary

Immigration, Border Security and Citizenship Subcommittee

Terrorism, Technology and Homeland Security Subcommittee

To hold joint hearings to examine deportation and related issues relating to strengthening interior enforcement.

SD–226

3 p.m.

Intelligence

Closed business meeting to consider pending calendar business.

SH–219

APRIL 19

10 a.m.

Energy and Natural Resources

To hold hearings to examine offshore hydrocarbon production and the future of alternate energy resources on the outer Continental Shelf, focusing on recent technological advancements made in the offshore exploration and production of traditional forms of energy, and the future of deep shelf and deepwater production; enhancements in worker safety, and steps taken by the offshore oil and gas industry to meet environmental challenges.

SD–366

Foreign Relations

To hold hearings to examine the Near East and South Asian experience relating to combating terrorism through education.

SD–419

Health, Education, Labor, and Pensions

To hold hearings to examine S. 334, to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs.

SD–430

10:15 a.m.

Veterans' Affairs

Business meeting to consider the nomination of Jonathan Brian Perlin, of Maryland, to be Under Secretary of Veterans Affairs for Health; to be followed by a hearing on "Back from the Battlefield, Part II: Seamless Transition to Civilian Life".

SR–418

2:30 p.m.

Judiciary

Antitrust, Competition Policy and Consumer Rights Subcommittee

To hold hearings to examine SBC/ATT and Verizon/MCI mergers, focusing on remaking the telecommunication industry.

SD–226

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 166, to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy, S. 251, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Sub-basins in Oregon, S. 310, to direct the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District in the State of Nevada, S. 519, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and S. 592, to extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming.
SD–366

3 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine proposals to reform the regulation of the Housing Government Sponsored Enterprises.
SD–538

Armed Services
SeaPower Subcommittee
To hold hearings to examine the United States Marine Corps ground and rotary wing programs and seabasing in review of the Defense Authorization Request for Fiscal Year 2006.
SR–232A

APRIL 20

9:30 a.m.
Environment and Public Works
To hold hearings to examine the nominations of Gregory B. Jaczko, of the District of Columbia, and Peter B. Lyons, of Virginia, each to be a Member of the Nuclear Regulatory Commission.
SD–406

10 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine proposals to reform the regulation of Housing Government-Sponsored Enterprises.
SD–538

Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine the Federal role in helping parents of young children.
SD–430

Small Business and Entrepreneurship
To hold hearings to examine the small business health care crisis, focusing on alternatives for lowering costs and covering the uninsured.
SR–428A

2 p.m.
Armed Services
Readiness and Management Support Subcommittee
To hold hearings to examine the readiness of military units deployed in support of Operation Iraqi Freedom and Operation Enduring Freedom in review of the Defense Authorization Request for fiscal year 2006.
SR–222

2:30 p.m.
Judiciary
Terrorism, Technology and Homeland Security Subcommittee
To hold hearings to examine a review of the material support to Terrorism Prohibition Improvements Act.
SD–226

APRIL 21

9:30 a.m.
Foreign Relations
To hold hearings to examine the anti-corruption strategies of the African Development Bank, Asian Development Bank and European Bank on Reconstruction and Development.
SD–419

10 a.m.
Budget
To hold hearings to examine structural deficits and budget process reform.
SH–216

Health, Education, Labor, and Pensions
To hold hearings to examine Association Health Plans.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.
345 CHOB

2:30 p.m.
Judiciary
Intellectual Property Subcommittee
To hold hearings to examine the patent system today and tomorrow.
SD–226

APRIL 26

9:30 a.m.
Foreign Relations
To hold hearings to examine the Millennium Challenge Corporation's global impact.
SD–419

10 a.m.
Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine pensions.
SD–430

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine the preparedness of the Department of Agriculture and the Interior for the 2005 wildfire season, including the agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies ability to deal with the upcoming fire season.
SD–366

APRIL 27

9:30 a.m.
Indian Affairs
To hold oversight hearings to examine regulation of Indian gaming.
SR–485

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

APRIL 28

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine Higher Education Act.
SD–430

MAY 11

9:30 a.m.
Judiciary
To hold an oversight hearing to examine the Federal Bureau of Investigation's translation program.
SD–226

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

CANCELLATIONS

APRIL 19

10 a.m.
Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine pensions.
SD–430

APRIL 28

10 a.m.
Foreign Relations
To hold hearings to examine U.S. Assistance to Sudan and the Darfur Crisis.
SH–216

POSTPONEMENTS

APRIL 14

10 a.m.
Energy and Natural Resources
To hold hearings to examine S. 388, to amend the Energy Policy Act of 1992 to direct the Secretary of Energy to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity and to provide credit-based financial assistance and investment protection for projects that employ advanced climate technologies or systems, to provide for the establishment of a national greenhouse gas registry.
SD–366

HOUSE OF REPRESENTATIVES—*Thursday, April 14, 2005*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal Father and Lord of the living, enable us to approach You with humility of heart and poverty of spirit.

The Members of Congress are powerful people. Their words bear weight and their positions before the people deserve respect. Therefore, they need to be steeled from arrogance on one side and casual routine on the other.

Lord, only the two-edged sword of Your Word and Your purity of Spirit can bring freshness to their spirits and confirming hope to their constituents. Strengthen their pledge to uphold the Constitution against blatant and subtle attacks and to serve the people with all their hearts.

Then may their speech, their decisions, and their working together with the pluralism of this democracy give You the glory, honor, and power now and forever.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio (Mr. KUCINICH) come forward and lead the House in the Pledge of Allegiance.

Mr. KUCINICH led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

The message also announced that pursuant to Public Law 101–509, the Chair, on behalf of the Democratic Leader, announces the appointment of the following individual to the Advisory Committee on the Records of Congress: Mr. Guy Rocha of Nevada, vice Stephen Van Buren of South Dakota.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain ten 1-minute speeches on each side.

QUESTIONING THE LEADERSHIP ACROSS THE AISLE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, yesterday the minority leader of this body slammed the good work we did in repealing the death tax. She called it "reverse Robin Hood."

Well, Mr. Speaker, in my opinion, the minority leader owes an apology to all those families that will get to keep the family farm and to all of those small businesses that will survive a second generation because of this tax relief, and she owes an apology to the 42 Democrats who voted with the Republican majority for this very important tax relief.

One has to question the choice of leadership across the aisle. The liberal leadership has opposed repealing the death tax, which is a triple tax on America's working families. They have opposed an energy bill for years now, and they have not supported strengthening our immigration laws. Now they are fighting tooth and nail to prevent Social Security reform.

Mr. Speaker, my constituents are asking what, if anything, do they stand for? In my opinion, they stand for more tax and more spend, everything costs more. I want the American people to know the Republican majority in this House is going to fight to be certain they do not get their way.

SUPPORT RESOLUTION OF INQUIRY REGARDING SOCIAL SECURITY TRUST FUND

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, I am going to be in Columbus, Ohio, tomorrow speaking on education when the President is visiting the Cleveland area to speak on Social Security. Now, the President has alternately asserted there is no Social Security trust fund or it is just IOUs.

Here is a copy of the trust fund report from the Social Security Administration. There is a $1.68 trillion surplus in the trust fund. It will grow to $6.6 trillion by 2028. The IOUs the President speaks about are loans that are backed by the full faith and credit of the United States.

Question: Is the President reneging on repaying the more than $637 billion his administration borrowed from the trust fund?

Question: Is this a scheme for the administration to transfer Social Security wealth from tens of millions of American workers to pay for the tax cuts for the rich?

A few weeks ago, I introduced a Resolution of Inquiry asking the President to produce documents to back up his claim there is no trust fund. If anyone in this House has those documents, make them public. Otherwise, support H. Res. 170, which requires the President to prove his assertion about the trust fund.

This Congress was misled about Iraq. Let us not be misled about Social Security. We do not need a select committee, a Presidential commission, or a Senate investigation. We just need the House to support H. Res. 170.

HONORING THE PASSING OF BILL LEHMAN

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to honor the passing of a good friend, Bill Lehman, retired Member of Congress and a faithful servant of the Great State of Florida.

In 1972, Bill ran for Congress and got the overwhelming majority of the vote and kept getting reelected easily until his retirement. As chairman of the Committee on Appropriations Subcommittee on Transportation, Bill Lehman was a relentless advocate for the needs of the citizens of Miami-Dade County.

Bill was an avid supporter of human rights also, demonstrating his ability to not only fight for the constituents in his district, but also for people throughout the world. He served his country as a Congressman, school board chairman, and was a beloved teacher, husband, father, and grandfather.

During my first term in Congress in 1989, I saw firsthand the tremendous love that Bill had for his constituents and the admiration that the people of south Florida had for him.

Mr. Speaker, I join the people of Miami-Dade, the State of Florida, and our country in honoring the exemplary life of a great statesman, Congressman Bill Lehman. May he rest in peace.

PROTECTING AMERICANS AGAINST ID THEFT

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, another major security breach involving the personal ID theft of 180,000 GM and MasterCard credit card holders should wake up Congress to deliver tough national standards for protecting Americans against ID theft. But this recent outbreak of 180,000 GM and MasterCard credit holders' ID is on the heels of Choice Point, Bank of America and Lexus-Nexus and shows there are too many fraud artists posing as individual businesses and too many individual consumers whose identity is now being stolen and used against them.

According to the Privacy Rights Center, up to 10 million Americans are victims of ID theft each year. They have a right to be notified when their most sensitive health data is stolen.

In response to this problem, there have been bipartisan solutions offered to address it. The gentlewoman from Illinois (Ms. BEAN), the gentleman from Illinois (Mr. GUTIERREZ), the gentlewoman from New York (Ms. SLAUGHTER), and I have introduced the Notification of Risk to Personal Data Act as one piece of legislation. Our legislation requires consumers to be immediately notified when their personal data has been stolen or acquired by an unauthorized person and imposes tough new penalties on violators.

Mr. Speaker, Americans want, need, and rightfully expect Congress to protect them from the prying eyes of identity thieves and give them back control of their Social Security numbers and personal health information.

SUPPORTING LEADERSHIP OF PRESIDENT ON SOCIAL SECURITY

(Mr. CHOCOLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHOCOLA. Mr. Speaker, this morning I rise in support of the leadership of our President as it relates to Social Security.

Just a couple of weeks ago the President was in my district, and he shared with the people of north central Indiana that we have an undeniable challenge with Social Security. The President believes that leadership solves problems and that leaders do not pass problems along to future generations. He also said that all ideas are on the table.

So, Mr. Speaker, I encourage all of my colleagues, especially those on other side of the aisle, to become part of the solution, rather than just part of the problem. If we say what we are against and we only say what we are against, we only add to the problem; but if we say what we are for and we offer constructive solutions, even if we do not agree with all the solutions offered, let us say that we have a better idea.

Mr. Speaker, I think it is imperative for the American people that we all become part of the solution, we all offer good ideas to make sure that we address one of the most serious problems we face as a Nation, because that is exactly what we are elected for. So I encourage all of my colleagues to be part of the solution.

CLARIFICATION ON COMMENTS ON JUDICIARY NEEDED

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, some time ago the majority leader of the House, in response to the Schiavo decision, said, "The time will come for the men responsible for this to answer for their behavior." The majority leader yesterday rightfully apologized for those comments, and I think that we should respect that apology, because we are all capable of saying something that we regret that was misunderstood.

But it is most troubling that at the same time the majority leader again threatened the independence of the judiciary. He threatened them with taking away their jurisdiction, he threatened them with breaking up their districts, and he basically threatened this organ of our government that is responsible for our freedoms, for protecting our freedom of religion and protecting our freedom of speech. We have what Russia did not have, an independent judiciary; and I am most troubled that the majority leader, when it comes to their independence and our freedoms and the importance of both of those things, just does not get it.

Mr. Speaker, I am hopeful that he will reconsider his comments yesterday and follow his first apology, if not with a second, with at least a clarification.

PROTECTING THE AMERICAN DREAM

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, yesterday's passage of the Death Tax Repeal Permanency Act was a victory for American families, farmers, and small business owners.

Since reducing the death tax in 2001, over 3 million new jobs have been created in our country. Unfortunately, Congress provided the American people with a temporary solution to a serious problem. The death tax is scheduled to go back into effect in 2010.

The leadership on this issue of the gentleman from Missouri (Mr. HULSHOF) and the majority leader, the gentleman from Texas (Mr. DELAY), has been essential in protecting the American Dream.

□ 1015

The Death Tax Permanency Act will ensure that our tax system does not continue to penalize family-owned businesses such as dealerships, funeral homes, and beverage distributors. As a former probate attorney, I know firsthand we need to end this unfair devil tax which hurts families.

In conclusion, God bless our troops, and we will never forget September 11.

ACCOUNTABILITY IN THE VALERIE PLAME MATTER

(Mr. HOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLT. Mr. Speaker, nearly 2 years after a columnist disclosed the identity of a CIA employee, the White House and the Department of Justice have yet to find and hold accountable the person or persons who leaked her name to the press.

We know that at least one, and possibly more, executive branch officials violated their oaths to protect classified information and, in doing so, they squandered an important intelligence asset and may have jeopardized the lives of people with whom she has been in contact. American security was harmed.

Some have offered weak excuses for the disclosure, saying the person's identity was already known or her work was not really important. Those are outrageous excuses. More troubling still is the fact that this was leaked in the context of a political vendetta. According to published reports, the leaker was trying to discredit former ambassador Joe Wilson, who was disputing the administration's assertions that Saddam was trying to unleash weapons of mass destruction on the United States. Of course, we now know Wilson was right.

As President George Herbert Walker Bush stated in a speech to CIA employees a few years ago, "Those who leak the identity of intelligence operatives are the most insidious of traitors." What does it say about the ethics and responsibilities of this body and the administration that attempts to find this person have been so anemic?

URGENT NEED TO STRENGTHEN SOCIAL SECURITY

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today to speak about the urgent need to strengthen Social Security.

It is often said the first step to recovery is admitting you have a problem. Well, we have a problem. We have a serious problems.

Analysts predict that Social Security will be bankrupt by 2042. That may seem a far way off but, in reality, it means Social Security will not be around when today's 20-year-olds retire.

Since the 1930s, we have seen medical advances, technological advances, transportation advances, but we have not seen Social Security advances. We have to make this program sustainable for current and future demographics. We cannot do that if we are stuck using a 1935 model.

Let me be clear. When we talk about reforming the system, we are talking about strengthening Social Security for future generations, not weakening today's retirees or near retirees, who will get every single benefit they have been promised. While Social Security will not change for today's seniors, we have to fix the system for tomorrow's seniors.

My colleagues on the other side of the aisle may be content to make Social Security a political issue, but I am not. Our children's future is too important for political posturing. My concern is more about the next generation than the next election.

SOCIAL SECURITY AND AFRICAN AMERICANS

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, the President's very cynical attempt to sell his Social Security privatization scheme to African Americans, quite frankly, is very painful. Thank goodness African Americans are not buying it.

President Bush said that his privatization plan would benefit African Americans because we have a shorter life expectancy. It is truly remarkable that the President would rather exploit African Americans' shorter life expectancy to sell his privatization plan than actually do something to help African Americans live longer.

If the President is truly concerned about African Americans, he should support legislation and funding to address the health disparities that contribute to shorter life expectancy. Sadly, this is just the sort of cynical, divisive move we have come to expect from an administration that is bent on cutting the guaranteed benefit of Social Security and entrusting our seniors' retirement security to Wall Street and a roll of the dice.

Mr. Speaker, Julian Bond, President of the NAACP, and the gentleman from Maryland (Mr. CUMMINGS) were correct to call the President on this earlier this week.

HONORING MARYLAND VETERAN OF THE YEAR ORVILLE HUGHES

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, we cannot live in the land of the free without thanking the brave veterans who secure our liberty. It is my privilege to honor Colonel Orville Hughes from Monkton, Maryland, selected Veteran of the Year by the Joint Veterans' Committee of Maryland.

Colonel Orville Hughes served our country for 27 years in the Army during World War II, Korea, and Vietnam. He was a POW in Germany, earned a Silver Star in Korea, and served as the military attache at the embassy in Vienna, Austria. He earned many other commendations, including the Legion of Merit and the Purple Heart.

After his retirement from the Army, Colonel Orville Hughes continued to serve our country through the DAV, VFW, Military Order of the Purple Heart, American ex-POWs, and the American Legion.

I hope that by honoring the contributions of Colonel Orville Hughes to the country we love, we will appreciate and be inspired by his great example of achievement and service to others.

DEFENDING THE CONSTITUTION AND THE JUDICIARY'S RIGHT TO MAKE DECISIONS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is interesting, as I listened to a colleague at the beginning of our messages to the House who seemingly wanted to shut the lights off in this place and extinguish the Constitution, which reflects that we are not only a republic but we are a democracy. Democrats have a right to disagree with Social Security policies, medicaid, medicare, and educational policies, because this is a democracy.

Proudly so, we represent half of the United States of America, and we will continue to fight for our issues. One of those issues has to be to support this Constitution, the belief that we are a country governed by laws.

The Constitution designates under article 3 that we have a separate, independent judiciary, one that should be safely secured. Therefore, when Members of the opposite side of the aisle begin to attack court systems simply because they do not agree, they have violated the constitutional provisions that we adhere to.

It is a shame that judges are cowering in the corners because Members have decided to speak ugly against their right to make a decision. When conferences are held in Washington, D.C., and ultraconservatives begin to attack the judiciary, it is time for this congressional body to stand up and defend the Constitution.

END THE TYRANNY OF APRIL 15 ANXIETY

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, my late father used to say, you only have to do two things in life: die and pay taxes. Just about 40 minutes ago, I did one of those things, and I will let my colleagues guess which one it was.

Like millions of Americans, before midnight tomorrow night, I managed to fill out all of the forms which, for me, as a man of no significant means, a public servant married to a schoolteacher, there were only forms that I had to file in three States and with one national government. The full total of the pages that I had to fill out and file neared to 100.

Mr. Speaker, the People's House is supposed to resonate with the hearts of the American people. As we approach this tax day and go through our usual spring ritual of arguments in Washington, D.C., I hope the Congress will resonate with the heart of the American people and seize upon the opportunity to simplify this tax system and end the tyranny of anxiety that reigns throughout the land every April 15.

THE WASHINGTON LOBBYISTS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, today is an important day. It is opening day for the Washington Nationals. Baseball is back in Washington. But we ought to come up with a better name than the Washington Nationals, a name that really fits this city.

The new baseball team should be called the Washington Lobbyists. After all, who runs this town? The energy lobbyists that wrote the energy bill last night in committee, the bank lobbyists who wrote the bankruptcy bill today, the pharmaceutical lobbyists who write the medicare legislation, the Wall Street lobbyists who write the Social Security privacy legislation, and they and their Republican allies in Congress play under different rules. "It ain't over 'til it's over," unless we are losing.

At home games, the Washington Lobbyists could hold the game open, adding extra innings if they are losing at the end of the arbitrary nine. Instead of the oh-so-boring ball day and bat day, we could have Halliburton Gasoline Night: a tank of gas for the first thousand fans at the Halliburton patriotic price of $8.95 a gallon. Or, we could have the Enron Double Header: fans get in early with promises of a big win, but then the team kicks you out and takes your pension away. Or, we could have Wal-Mart Kids Day: kids do not actually get to watch the game. Somebody has actually got to work the concession stand, after all.

Mr. Speaker, if we want to change how things work in Washington, we need a new pitching staff, and the Washington Lobbyists have to go.

CELEBRATING THE WASHINGTON NATIONALS

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, as I listened to my colleague talk about baseball, I have to say that when I first came to this town, I was told that there were two things that mattered: number one, the government; number two, the Redskins. I am so gratified that tonight we will have the opportunity to experience the opening game of the Nationals.

Now, I am a loyal Dodger fan. Tommy Lasorda has repeatedly told me that if I want to go to heaven, I must be a Dodger fan. But I want to congratulate the District of Columbia and all who have been involved in putting together this team. It has been 34 years since a baseball game has been played, a National League baseball game has been played in the District of Columbia, and we are very, very fortunate as a community to be able to focus on something other than the government and something other than the Redskins.

REAL SOLUTIONS FOR SOCIAL SECURITY AND THE DEFICIT

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, irresponsible budget and tax policies have squandered the budget surpluses that President Bush inherited and turned them into a legacy of debt and deficits. Now he is trying to do the same thing to Social Security with a private accounts plan that would add trillions to our national debt.

This plan is exactly backwards. Instead of thinking up ways to weaken the Social Security Trust Fund, we should be taking steps to guarantee that the assets in the trust fund are truly there to pay future benefits. We cannot do that if we run up large deficits outside Social Security that weaken our economy and increase our foreign debt.

Anyone looking for a plan to address the Social Security problem can begin with two basic steps. First, take private accounts, privatization off the table; and, second, worry about the real crisis, which is the current budget deficit outside Social Security.

THE "GEORGE W. BUSH BUREAU OF PUBLIC DEBT"

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I am getting increasingly worried because we have named many a building after Ronald Reagan, but we have not yet named anything significant after our existing President, George W. Bush.

In light of the fact that the estate tax bill that passed yesterday will add $290 billion to the national debt, in light of the fact that the President has presented us with a budget deficit of $400 billion this year, not counting what happened yesterday, in light of the fact that he is trying to blow up Social Security by borrowing an extra $1.4 billion to finance those privatization accounts of his, I hope that Members of the House will join me next week in renaming the U.S. Bureau of Public Debt the "George W. Bush Bureau of Public Debt."

I think we ought to honor the President. He has truly earned this award.

PROVIDING FOR CONSIDERATION OF S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 211 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 211

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (S. 256) to amend title 11 of the United States Code, and for other purposes. All points of order against the bill and against its consideration are waived. The bill shall be considered as read. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a closed rule providing for consideration of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

□ 1030

The rule provides for 1 hour debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against the bill and its consideration, and it provides for one motion to recommit with or without instructions.

GENERAL LEAVE

Mr. GINGREY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 211.

The SPEAKER pro tempore (Mr. DUNCAN). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. GINGREY. Mr. Speaker, bankruptcy reform is overdue for passage. Despite its critics, S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, does not exclude anyone from filing for bankruptcy. Instead, it implements a simple means test to shield debtors who make below their State's median income and to determine if a higher income debtor has the ability to partially pay back his or her creditors.

To phrase it simply, bankruptcy reform is financial accountability. It protects our system against fraud and abuse. And it asks those who have the means to repay as much of their debts as they can.

For at least four previous Congresses, members have been trying to reform our "when in doubt, bail out society" in favor of personal responsibility. Bankruptcy should not be a financial planning tool, and it should be available for legitimate emergency situations only. Our bankruptcy system should fit the needs of the individual, no more, no less. With this rule, and passage of the underlying legislation, S. 256 we will finally see some movement in the right direction.

Bankruptcy reform is important to help speed up court hearings, because it only takes a few fraudulent or misdirected cases to stall a court for hundreds of other legitimate bankruptcy filings. Federal bankruptcy filings per judgeship have increased by 71 percent from 2,998 in 1992 to 5,130 in 2003; and it represents the largest case load in our Federal court system. This creates a backlog that slows down the process for those really in need of bankruptcy protection.

Bankruptcy reform provisions found in S. 256 include, but are not limited to: abuse prevention so debtors who have committed crimes of violence or engaged in drug trafficking are no longer able to use bankruptcy to hide their finances;

Needs-based credentials, where if a debtor has the ability to partially repay debts, he or she must either be channeled into a form of bankruptcy relief that requires repayment or risk having the bankruptcy case dismissed as an abusive filing;

Spousal and child support protections to help single parents and their children by closing a loophole used by some spouses currently avoiding their child support responsibilities. This would put child support and alimony payments as a first priority, ahead of credit card debt and attorney's fees. Child support and alimony payments are currently seventh in the priority list of payments;

Closing the mansion loophole require a debtor to live in a State for at least 2 years before he or she can claim that State's homestead exemption. The current requirement is 91 days, allowing some debtors to shield themselves from creditors by putting all of their equity into their homes;

Debtor protections requiring potential debtors to receive credit counseling before they can be eligible for bankruptcy relief, allowing them to make an informed choice about bankruptcy considering all alternatives and consequences;

Further, small business protections to defend against needless bankruptcy lawsuits. Under current law, a business can be sued by a bankruptcy trustee and forced to pay back monies previously paid by a firm that later files for bankruptcy protection;

Additionally, family farm relief by doubling debt eligibility for chapter 12 filing, allowing periodic inflation adjustment of this debt, and lowering the required percentage of a farmer's income that must be derived from farming operations.

There are business privacy protections to prohibit the disclosure of names of a debtor's minor children with privileged information kept in a nonpublic record. Current law allows nearly every item of information supplied by a debtor in connection with his or her bankruptcy case to be made available to the public.

S. 256 passed the Senate with a clear 74 to 25 majority. The House judiciary markup on March 16 included rollcall votes on 11 amendments. The reforms included in this legislation will be very beneficial to our society without ignoring the need of those suffering financial uncertainty. This legislation deserves a clean up-or-down vote. Mr. Speaker, I ask my colleagues to support this rule and pass S. 256 bankruptcy reform.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGREY) for yielding me the time.

Before yielding myself such time as I may consume, I yield to the distinguished gentleman from California (Mr. STARK) for a unanimous consent request.

Mr. STARK. Mr. Speaker, I rise in strenuous opposition to this unfair bill.

Mr. Speaker, I rise in strong opposition to S. 256. This bankruptcy bill is touted as reform, but it is actually a wolf in sheep's clothing intended to allow credit card companies and other lenders to gouge consumers when they are most vulnerable.

Republicans are giving this gift to big credit card companies at a time when many Americans are faced with uncertain job stability, retirement security, and health coverage. In fact, 90% of all bankruptcies are filed due to the common financial emergency of a lost job or lack of medical coverage. This bill makes it harder for working families to seek shelter from these devastating and unavoidable expenses.

The Wall Street Journal recently featured the case of a constituent in my district. Crystal Herndon, a single mom in Haywood, California, earns $15 an hour. Ms. Herndon got sick with pneumonia, causing her to miss six weeks of work and rack up over $5,000 in medical bills. These unforeseen expenses caused her to fall behind on other financial obligations, and before she knew it she was simply unable to make ends meet. Bankruptcy protection was the only way out for Ms. Herndon and her family. It's hard to see the abuse in real instances of need such as these, especially when many Americans live paycheck to paycheck.

Sadly Crystal Herndon is not the only worker to be forced into bankruptcy due to unavoidable medical expenses. According to a recent Harvard University research study 2 million Americans, including filers and their dependents, face the double jeopardy of illness and bankruptcy each year. Most of these medically bankrupt are middle-class homeowners with responsible jobs and health insurance coverage. Once illness strikes, high copayments, deductibles, exclusions from coverage, and other loopholes quickly overwhelm these families' budgets. Loss of income and health insurance often deepen this financial crisis when a breadwinner becomes too sick to work.

To add insult to injury, consumers like Crystal Herndon will potentially face an avalanche of litigation that they can't afford as a result of this bill. The bill requires the debtor in some cases to have to challenge big corporate lenders in court to prove they are eligible to seek relief under Chapter 7 of the bankruptcy code. In addition, this bill also allows creditors to threaten debtors with costly ligitation that will force many families to needlessly give up their legal rights.

In their continuing compassion, the Republicans have crafted this so-called reform so that a parent seeking child support from a bankrupt spouse will have to fight it out with creditors in order to receive payment. Meanwhile, this bill makes it easier for those seeking bankruptcy protection to lose their homes or be evicted by the landlords. Yet, those with million dollar mansions will be able to keep their homes even while seeking the same protection under the law. Nothing like a fair shake for America's working families.

Finally, Mr. Speaker, with all of the perks they've awarded to the big credit card companies, Republicans have done nothing to ensure that they are held accountable for their role in this consumer crisis. There is nothing is this bill that stops the abusive, predatory lending that lands too many Americans in bankruptcy in the first place.

Bankruptcy has always been about giving a fresh start to those who have fallen on hard times. The link between illness, job loss, and health insurance is a harsh reality in our country today. It is morally reprehensible to suggest that we exploit medical tragedies befalling honest, hardworking Americans in order to grant the wishes of the credit card companies.

I urge my colleagues to vote down this merciless legislation. Now is not the time to turn the tables on America's working families. Vote no on S. 256.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to oppose this closed rule and S. 256. Once again, the majority has squelched debate on a controversial piece of legislation for no legitimate reason.

More than 35 Democratic amendments were offered in the Rules Committee yesterday. Yet none have been made in order. Why? There is no reason for limiting the debate in this manner.

The House came into session on Tuesday and Members will leave town later this afternoon after just 2 days of work. Even more, there was only one other bill of substance before the House this week. The time to debate this bill and its offered amendments is available. The willingness to conduct meaningful business, however, is the missing ingredient. A 1-hour debate on legislation containing such sweeping reforms is not the way to conduct the people's business.

The argument will be made that this has been 9 years in the making. But a lot of this measure has been overcome by time, and that will be discussed by others later.

I am particularly disappointed that an amendment I offered is not being allowed to come before this body for consideration. My amendment seeks to prevent the very bankruptcies that are causing this Congress so much consternation and is germane to the discussion. It requires credit card companies to preserve a customer's interest rate prior to incurring medical expenses if the customer is unable to pay off the full medical expenses on time. It also prohibits hospitals from reporting delinquent patients for 5 years, provided that the patient is paying 20 percent of his or her monthly mandated medical expenses.

All the information we have available suggests that medical bills are the second leading cause of personal bankruptcy in the United States. It is, in my opinion, hypocritical to prevent debate on an amendment that could ameliorate some of the issues facing this bankruptcy reform legislation. Is not the whole point of this bill to make bankruptcy less frequent? If Members of Congress have ideas about how to accomplish that, should they not be heard?

Many other Members sought to introduce amendments, but have also been denied their opportunity to be heard. These amendments could have improved this legislation.

For example, the gentleman from Virginia (Mr. SCOTT) offered an amendment to exempt from the means test provision of debtors who have business losses incurred by a spouse who has died or deserted the debtor.

The gentleman from California (Mr. FILNER) offered an amendment that would exempt victims of identity theft. And the ranking member of the Rules Committee, the gentlewoman from New York (Ms. SLAUGHTER), offered an amendment that imposes restrictions on issuing credit cards to college students. But none of those amendments, or the 31 others, will be debated today because the rule on this bill is closed.

At this point, Mr. Speaker, I will insert a list of all 35 amendments which the Republican majority has blocked from being considered in the CONGRESSIONAL RECORD.

Amendments Submitted to the Rules Committee for S. 256 and Denied Consideration by the Rule (H. Res. 211)

1) Emanuel/Delahunt/Dingell—prevents debtors from shielding their funds from bankruptcy liquidation through so-called "asset protection trusts;"

2) Filner—exempts disabled veterans from the bill's means test;

3) Filner—exempts from the bill's means test consumers who are victimized by identity theft;

4) Inslee—exempts from the bill's means test consumers whose debts are the result of serious medical problems;

5) Delahunt—requires debtor corporations to file for bankruptcy where their principal place of business is located;

6) Sanders—establishes a "usury rate" for credit card companies, above which credit card companies cannot charge consumers;

7) Sanders—caps fees credit card companies can impose on consumers at $15;

8) Sanders—prohibits credit card companies from changing interest rates based on changes in consumers' credit information;

9) Sanders—prohibits credit card companies from raising interest rates based on consumer credit reports;

10) Ruppersberger—requires credit card solicitations to be accompanied by a brochure explaining the consequences of the irresponsible use of credit;

11) Schiff—exempts from the bill's means test consumers who are victimized by identity theft, if at least 51% of the creditor claims against them are due to identity theft;

12) Lofgren—exempts from the bill's means test 1) families facing bankruptcy due to a serious medical hardship that drains at least 50% of their yearly income, and 2) families who lose at least one month of needed pay or alimony due to illness;

13) Lofgren—exempt from the bill's means test a single parent who failed to receive child or spousal support totaling more than 50% of her or his household income;

14) Scott (VA)—exempts from the bill's means test provisions: 1) debtors who have business losses incurred by a spouse who has died or deserted the debtor 2) debtors who have had serious illness in their family and 3) debtors who have been laid off;

15) Scott (VA)—exempts from the bill's means test provisions debtors who have business losses incurred by a spouse who has died or deserted the debtor;

16) Scott (VA)—exempts from the bill's means test provisions debtors who have had serious illness in their family;

17) Scott (VA)—exempts from the bill's means test provisions debtors who have been laid off from their jobs through no fault of their own;

18) Nadler—sunsets the bill after 2 years;

19) Watt—prohibits annual credit card rates higher than 75%;

20) Watt—includes the costs of college in the calculation of debtor's monthly expense;

21) Ruppersberger—exempts from the bill's means test debtors who have declared bankruptcy due to high medical expenses;

22) Hastings (FL)—prevents credit card companies from increasing rates on consumers who use their credit cards to pay for extraordinary medical expenses; also prevents hospitals from generating negative credit information on consumers who are paying their bills in good faith;

23) Meehan—Exempts from the means test disabled veterans whose indebtedness occurred primarily as a result of an injury or disability resulting from active duty or homeland defense activities; closes a loophole in S. 256, which exempts only disabled veterans whose indebtedness occurs primarily while on active duty while failing to exempt disabled veterans whose indebtedness occurs after they have left active duty;

24) Jackson Lee—makes debts arising out of state sex offenses non-dischargeable in bankruptcy proceedings;

25) Jackson Lee—clarifies Congress' intent that nuclear liabilities be covered by the Price-Anderson Act, and not by bankruptcy laws;

26) Jackson Lee—makes debts arising out of penalties imposed on businesses for false tobacco claims non-dischargeable;

27) Jackson Lee—strikes the bill's means test provision;

28) Woolsey—requires credit counseling agencies to provide free services to recent veterans of the military who served in combat zones;

29) Slaughter—requires credit card companies to determine, before they approve a credit card, whether a student applicant has the financial means to pay off a credit card balance; it restricts the credit limit to minimum balances if the student has no independent income; and it requires parental approval for credit limit increases in the event that a parent cosigns the account;

30) Slaughter—applies the highest median income of any county or Metropolitan Statistical Area in the state to all residents of the state petitioning for bankruptcy protection;

31) Millender-McDonald—provides the bankruptcy courts a higher percentage of the fees collected when a debtor files for bankruptcy;

32) Maloney—ensures that debtors emerging from bankruptcy make child credit payments first, before payments on credit card debt. The current version of the bill does not ensure that child support payments will have priority over the other types of unsecured debts, such as credit card debt;

33) Meehan and Berman—provides a modest homestead exemption for people who have suffered a major illness or injury;

34) Jackson Lee—provides additional protections to debtors who are the victims of identity theft;

35) Jackson Lee—increases the means test limit on parochial school tuition expenses from $1,500 to $3,000, so that families Chapter 13 bankruptcy can keep their children in schools that conform to their deeply held religious beliefs.

Mr. Speaker, the House has adopted a new modus operandi. We saw it earlier this year with the class action bill, and we are seeing it again today.

It seems that if the Republican leadership deems legislation important, and that is their prerogative, it is willing to push through the other body's version without the opportunity for debate here in the people's House on any amendments. This new method does a great disservice to the people of this Nation. Even more, it stops Members, Democrats and Republican, from serving as thoughtful, effective legislators.

The House of Representatives is the people's House. The Founding Fathers envisioned a forum for lively debate on the issues of the day, not the controlled steering of selected legislation with no opportunity for meaningful change.

What also concerns me is the unworkable means test contained in this legislation. I am greatly disturbed, as I know all the residents of south Florida will be, that this means test includes disaster assistance as a source of revenue.

People forced into dire financial circumstances through natural disasters should find bankruptcy a source of relief. Considering disaster assistance as a source of revenue adds insult to injury and contradicts the government's efforts to help people get back on their feet.

This legislation, masquerading as protection against bankruptcy abuse, is really a protection for credit card companies and their predatory lending practices. This legislation does not protect the American people. This legislation protects the credit industry at the expense of the American people.

Increasingly, credit card companies market their product to riskier consumers, and now they want the Congress to protect them from the losses that are the foreseeable result of this ill-sighted business strategy. Why are we not debating legislation that would address those practices, instead of eviscerating a crucial safety net that Americans rely on when all else fails?

Mr. Speaker, should it pass, this bill will severely curtail the ability of

Americans to obtain relief from bankruptcy without solving any of its underlying causes. Medical bills, unemployment, and predatory lending practices are at the root of this problem. In the long run, the net effect of this legislation will drive more Americans deeper into financial crisis and weaken our social structure and the Nation's economy.

I will not, and cannot, support such an attack on American consumers. I urge my colleagues to vote "no" on this closed rule and "no" on S. 256.

Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

I want to point out, Mr. Speaker, to the gentleman from Florida that medical expenses are specifically covered in the bill, and all other extenuating circumstances are covered in section 102 of the bill allowing judicial latitude.

At this point, I would like to yield 4 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Judiciary Committee.

□ 1045

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Georgia for yielding me time.

I rise in support of the rule for consideration of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This bill consists of a comprehensive package of reform measures that will improve bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system. It will also ensure that the system is fair for both debtors and creditors.

As we now consider this rule, and the legislation later today, I believe it is particularly important to keep in mind bankruptcy reform's extensive deliberative history before the Committee on Rules, the Committee on the Judiciary, and both bodies of Congress, which I would like to briefly summarize.

First, the bill represents the culmination of nearly 8 years of intense and detailed congressional consideration. The House, for example, has passed prior iterations of this legislation on eight separate occasions. Likewise, the other body has repeatedly registered its strong support for bankruptcy reform. Just last month, the bill passed there 74 to 25, marking the fifth time that body has overwhelmingly adopted bankruptcy reform legislation since 1998.

Second, S. 256 has benefited immensely from an extensive hearing and amendment process, as well as meaningful bipartisan and bicameral negotiations. Over the past four Congresses, the Committee on the Judiciary has held 18 hearings on the need for bankruptcy reform, 11 of which focused on S. 256's predecessors. The Senate Judiciary Committee likewise has held 11 hearings on bankruptcy reform, including a hearing held earlier this year.

In the 105th Congress, 4 days were devoted to the Committee on the Judiciary's markup of bankruptcy reform legislation.

In the 106th Congress alone, the Committee on the Judiciary entertained 59 amendments over the course of a 5-day markup on bankruptcy reform legislation, which included 29 recorded votes. On the floor, 11 more amendments were considered.

In the 107th Congress, the Committee on the Judiciary considered 18 amendments during the course of its markup of bankruptcy reform legislation, and the House, thereafter, considered five amendments.

In the last Congress, the Committee on the Judiciary entertained nine amendments to the bill, and five amendments were considered on the House floor. Also in the last Congress, the Committee on Rules made two amendments in order in connection with a similar bill, addressing bankruptcy reform, which was considered on the floor.

Last month, the Committee on the Judiciary entertained 23 more amendments, each of which has been soundly defeated.

Mr. Speaker, I have over here the paper record of the House consideration of bankruptcy reform legislation over the last four Congresses. Here's the committee report on this bill, over 500 pages long. We have a copy of the House version of the bill, which is over 500 pages long. We have the committee report from 2003. We have a conference report from the 107th Congress. We have a committee report from the 107th Congress. We have a committee report from the 106th Congress. We have a committee report earlier in the 106th Congress, one from the 105th Congress, and then we have a committee report from the 105th Congress on the House side. All of these are debates in the CONGRESSIONAL RECORD when this bill has come up, and we have had conference reports filed, amendments filed, original bills filed.

There has been plenty of process on this legislation. The time to pass it is now, and that is why this rule is coming up in the way it is structured the way it is.

Mr. Speaker, I thank the gentleman for yielding again for the time.

Mr. Speaker, I rise in support of this rule for consideration of S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." S. 256 consists of a comprehensive package of reform measures that will improve bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system. It will also ensure that the system is fair for both debtors and creditors.

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First, S. 256 represents the culmination of nearly 8 years of intense and detailed congressional consideration. The House, for example, has passed prior iterations of this legislation on eight separate occasions. Likewise, the other body has repeatedly registered its strong support for bankruptcy reform. Just last month, they passed S. 256 by a vote of 74 to 25, making the fifth time that body has overwhelmingly adopted bankruptcy reform legislation since 1998.

Second, S. 256 has benefitted immensely from an exhaustive hearing and amendment process as well as meaningful bipartisan, bicameral negotiations. Over the past four Congresses, the Judiciary Committee held 18 hearings on the need for bankruptcy reform, 11 of which focused on S. 256's predecessors. The Senate Judiciary Committee, likewise, has held 11 hearings on bankruptcy reform, including a hearing held earlier this year.

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In the 107th Congress, the Judiciary Committee considered 18 amendments during the course of its markup of bankruptcy reform legislation, and the House, thereafter, considered five amendments. In the last Congress, the Judiciary Committee entertained nine amendments to the bankruptcy legislation and 5 amendments were considered on the House floor. Also in the last Congress, the Rules Committee made two amendments in order in connection with a similar bill, addressing bankruptcy reform, which was considered on the floor. Last month, the Judiciary Committee entertained 23 more amendments, each of which was soundly defeated.

Third, it must be remembered that S. 256 is a result of extensive bipartisan and bicameral negotiation and compromise. For example, conferees during the 106th Congress spent nearly 7 months engaged in an informal conference to reconcile differences between the House and Senate passed versions of bankruptcy reform legislation. In the 107th Congress, conferees formally met on three occasions and ultimately agreed—after an 11-month period of negotiations—to a bipartisan conference report. The legislation before us today represents a delicate balance and various compromises that have been struck over the past 7 years.

Fourth, and perhaps most importantly, the need for bankruptcy reform is long-overdue and should not be further delayed. Every day that passes by without these reforms, more abuse and fraud goes undetected.

Mr. Speaker, there simply is no reason to further amend this legislation given its uniquely extensive deliberative record. Those who come to the floor today and complain about lack of process or the need to further refine this legislation—simply oppose bankruptcy reform. Accordingly, I believe this rule is appropriate, and urge Members to support it.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

My respect for the chairman of the Committee on the Judiciary is immense, and he has thrust all of these hearings and all that were in committee where 40 Members of the Committee on the Judiciary had an opportunity to participate.

What we are talking about is today, 35 Members of the House of Representatives, 35 amendments are not being permitted today. So I guess the 40-plus people are the ones who are representing the near 395, 40-plus none for the American people. That would be what I would put on the table from the minority side.

Mr. Speaker, I am delighted to yield 3 minutes to the gentlewoman from California (Ms. MATSUI), our newcomer, who is making her first statement as a Committee on Rules member.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

I rise in opposition to this rule. We have before us a misguided attempt to reform our bankruptcy system. We have heard cries that this system is being abused and is corrupted; and while there is need for reform, the proposal before us today contains a number of unintended consequences, consequences that would deprive consumers of the protection they deserve, hurt children, hurt families and neglect our veterans.

During the Committee on the Judiciary markup, numerous amendments were offered to correct these provisions, yet amendment after amendment was voted down, not on the merits of the amendments but because there was a backroom deal to move this legislation through the House without any changes. The committee held a sham markup.

Again, in the Committee on Rules, a number of amendments were offered to allow a debate on these issues, but not a single one was made in order today. In certain cases, my Republican colleagues acknowledged the merits of the amendments, but maintained it was simply not the time to address the issue. I have to disagree.

I am particularly disappointed that the very reasonable amendment offered by the gentleman from California (Mr. SCHIFF) was not made in order. The amendment is narrowly tailored to exempt from the means test consumers with 51 percent of their debt caused by someone who stole their identity.

This amendment makes sense. I am sure that most everyone at some time in their life has experienced the frustration of losing their wallet. First, you have to call all the credit card companies to cancel service. Then you may have to close and later reopen your checking account. Then you may have to take a trip down to DMV to get a new driver's license. It is an ordeal.

But these days, losing your wallet can even lead to greater problems. To then realize someone racked up thousands of dollars of debt after stealing your identity is just awful. No one should ever have to pay for a crime someone else committed.

Those on the other side of the aisle say they sympathize with the issue and would like to address this matter at some point in the future; but I ask, why do we not do this now? What are we waiting for? What better place to talk about the rights of bankrupted identity theft victims than in the bankruptcy reform bill?

Just yesterday, an article ran in the New York Times about another security breach potentially leaking Social Security numbers, driver's licenses, and addresses of over 300,000 people.

We all see the headlines. Identity theft poses an enormous financial risk to the average American. No one deserves a bill for someone else's crime, but the Republican majority seems to think so. Their legislation would punish the victims of identity theft, and the refusal to adopt this very simple fix raises real questions about who they are fighting for. I believe this amendment is very timely and appreciate the attention the gentleman from California (Mr. SCHIFF) has brought to this issue.

I know this legislation has been around since 1998, but that does not excuse us from being unresponsive to real issues affecting Americans today.

Mr. GINGREY. Mr. Speaker, I yield to myself such time as I may consume.

I want to thank the gentleman from Wisconsin, distinguished chairman of the Committee on the Judiciary, for bringing forth those statistics and that stack of documents that he just went over; and I want to add one more statistic to that, and this is that since the 105th Congress, the House and the Senate have passed bankruptcy reform legislation a dozen times, with a vote tally of 2,455 for and 871 against.

To my distinguished colleague from Florida, in regard to the amendment process in the Committee on Rules, my colleague knows that the other side was offered an amendment in the nature of a substitute. That substitute amendment could have included all 35 Democrats, who my colleagues allege were shut out. Every one of those 35 amendments could have been included in an amendment in the nature of a substitute; but apparently they just could not get their act together, did not have an amendment and passed on that opportunity.

In regard to the gentlewoman from California and the concerns about identity theft, opponents of the means test of the bankruptcy legislation have attempted to claim that a debtor should be except from the means test if the debt is related to identity theft. This is a red herring, Mr. Speaker, because consumers who are victims of identity theft do not owe the debts that result from identity theft; and, therefore, it is not an issue addressed by the bankruptcy court.

We all understand the sentiment of trying to help identity theft victims. Amendments related to identity theft, though, are not necessary. They would inadvertently do serious harm to consumers and create a significant potential for fraud and abuse. A consumer who is victimized when an identity thief establishes credit in the consumer's name is not liable for any of the debts incurred by the identity thief. The maximum amount I think is $50, and that is even waived by the credit card companies if it is proved to be fraudulent. Bankruptcy relief is, therefore, not necessary in regard to identity theft.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume before yielding to the distinguished ranking member to respond to my colleague from Georgia by indicating, the last time I looked at the rules, it allowed that individual Members have a right to make amendments, and we are not required to offer a substitute.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER), my good friend.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for the time.

The rule we are debating, that we have made today is a closed rule which means that the Members of Congress who brought 35 amendments to the Committee on Rules will not have a chance to bring them up.

This closed rule means that the elected representatives of the people will never have the opportunity to consider the amendments and decide for themselves whether or not they would make the bankruptcy bill a better piece of legislation.

I personally think that amendments protecting our men and women returning from military service in Iraq and Afghanistan would be a good idea, and I feel very strongly that the amendment protecting the victims of identity theft from bankruptcy is an important measure that should be debated on the House floor. After all, Americans are and should be very concerned about identity theft. AARP said it is one of the top five issues concerning seniors today.

Just to give my colleagues an idea of how concerned our fellow Americans should be about this, Lexis-Nexis and GM MasterCard are both recovering from wide-scale security breaches which may have placed millions of

Americans at risk for having their identity stolen. In fact, just 2 days ago, Lexis-Nexis identified more than 300.000 Americans that their personal information may have been stolen. In some cases, it will take those people 6 years to get back their identity. It is a very real problem for our country.

But if my colleagues in the majority do not agree that protecting Americans from identity theft is an important issue, why will they not let the body debate it? If they want to, they can always vote against it. That is the way things are supposed to happen here in a democracy. Instead, they have instituted another closed rule and will not allow us to debate the issues.

This is the fifth Congress that we have debated bankruptcy reform, and we have heard that this morning. To be fair, we have not debated this bill under open rules in the past, but we have certainly debated them under rules that allowed amendments.

This chart shows the number of amendments that the Committee on Rules made in order on this bill in every Congress since the 105th, and I insert in the RECORD at this point a list of the rules.

NUMBER OF AMENDMENTS MADE IN ORDER ON BANKRUPTCY BILLS—105TH–109TH CONGRESS

105th Congress (H. Res. 452)—12 amendments made in order.

106th Congress (H. Res. 158)—11 amendments made in order.

107th Congress (H. Res. 71)—6 amendments made in order.

108th Congress (H. Res. 147)—5 amendments made in order.

109th Congress (H. Res. 211)—Closed Rule, 0 amendments made in order.

This chart shows a disturbing pattern, Mr. Speaker, a pattern that has become common practice here in the House.

□ 1100

In every Congress, Republican leaders have allowed fewer and fewer amendments to be debated. We started at 12 amendments in the 105th Congress; and in the 109th Congress, we have a completely closed rule. Zero amendments are in order. There is less and less democracy in this House, and every Congress fewer voices are being heard on the floor.

The Democrats on the Committee on Rules last month issued a report studying the disturbing trend toward less democracy and deliberation in this House. During this last Congress and this closed rule today convinces me we are only getting worse.

So, Mr. Speaker, I say again we have disallowed the amendments that would have let us make this a better bill, a bill that would protect more vulnerable people in this country, including our soldiers who have returned from Iraq, most of those in the National Guard and Reserves, many of whom are losing their houses because they were called back time and again and were to able to maintain their houses. It is a disgrace we were not allowed to bring that amendment to the floor.

Mr. GINGREY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I would like to lay to rest the fact that we have not had a full and complete debate on this.

This year, on March 16, the Committee on the Judiciary had a full markup on this bill. Anybody who wished to offer amendments was allowed to do so. Our committee publishes the complete transcript of markups as a part of the committee report. This transcript goes on for 160 pages in the committee report, which shows that everybody had an opportunity to speak their peace. There were 23 amendments that were offered, and all of them were voted down by overwhelming margins.

Now, amending this bill is what the people who wish no bankruptcy reform have in mind because they know the other body has had difficulty in finding time to debate this bill and vote cloture. The gentlewoman from New York (Ms. SLAUGHTER), whom I greatly respect, has voted against this bill every time it has come up when she has cast a vote in a rollcall. Much of the complaints we are going to be hearing are coming from Members who wish to sink this bill through amendments. They have never supported it in the past. They are against it even if it were amended, and that is why the rule is the way it is.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, while some who file bankruptcy have been financially irresponsible, the overwhelming majority of those who file do so as a result of divorce, major illness, or job loss. Half of those who go into bankruptcy do so because of illness, and most of them had health insurance but still could not pay their bills.

If the purpose of the legislation is to try to deal with those who abuse credit, we ought to be able to distinguish them from the hard-working Americans who unfortunately become ill, those who have an unforeseen loss of a job, or whose spouses desert them after a business failure.

Mr. Speaker, in addition to those who get sick or lose their job, this bill will also hurt small business entrepreneurs. They go into business and consider a risk-benefit ratio that includes the possibility of making a lot of money, but also includes the possibility of losing everything and ending up in bankruptcy. With the passage of this legislation, those entrepreneurs and their families will risk not only losing everything but also being denied a fresh start if the business goes under. They will be stripped down to essentials like food and rent for 5 years, and that is average rent for the area, not what they may have been living in.

Finally, we ought to consider the impact on society of increasing the number of people who conclude that they have nothing to lose. It is ironic that the last time we debated bankruptcy reform on the floor of the House, a farmer had driven his tractor into the pond near the Washington Monument, tying up traffic for a long time. He was quoted as saying, "I am broke. I am busted. I have the rest of my life to stay here."

People who feel they have nothing to lose can become dangerous to society. Denying bankruptcy protection to people who need a fresh start will only increase the number of people in our community who feel they have nothing to lose.

This legislation does not differentiate between those who abuse the system and those who deserve a fresh start. This rule does not allow amendments to fix the bill: and, therefore, the rule should be defeated.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

In the 105th Congress, H.R. 3150, bankruptcy reform, passed 306–118.

In the 106th Congress, H.R. 8333 passed the House, 313–108.

In the 107th Congress, H.R. 333 passed the House 306–108.

In the 108th Congress, H.R. 975 passed the House 315–113.

The gentleman from Virginia (Mr. SCOTT) was not one of those voting in the affirmative on any of those occasions, but I want to point out to the gentleman in regard to his concern over medical and health-related expenses for a debtor, spouse, and dependents, on line 23, page 8, continuing through line 10 page 9, this covers the treatment of medical expenses for the debtor, spouse of the debtor, and dependents of the debtor. It expressly includes not just actual medical expenses but expenses for health insurances, disability insurance, and health savings accounts.

Mr. Speaker, put another way, contrary to misrepresentations by opponents, the needs-based test not only takes into account the full range of medical expenses by the debtors, but it also covers the spouse and dependents. This is just one of three provisions for a member of the household or immediate family. The provision includes for the monthly expense of the debtor, expenses incurred for the care and support of an elderly, chronically ill or disabled member of the debtor's immediate family. This includes parents, grandparents, siblings, children and grandchildren of the debtor, among others.

So medical in any situation, Mr. Speaker, medical or otherwise, no debtor is denied access to bankruptcy relief. All S. 256 says is that, in a limited range of cases, a debtor with meaningful capacity to repay may have to file in chapter 13 as opposed to chapter 7. In no case is a debtor denied access to the bankruptcy system.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. Delahunt).

Mr. DELAHUNT. Mr. Speaker, the chairman of the Committee on the Judiciary is correct when he says 8 years. I dare say we could spend another 8 years, but given the quality of this bill, given the reality that it imposes no responsibility whatsoever on the credit card industry, naturally we will be opposed. Responsibility. We hear personal responsibility. What about corporate responsibility? Responsibility is a two-way street.

To get a fair and balanced bill, we need amendments. We need amendments like the one that the gentleman from North Carolina and myself filed which would have limited the interest on credit cards to 75 percent.

Sure, that might have shifted, if you will, some of us to support the bill. But, no, the credit card industry bought and paid for this legislation. Somewhere north of $40 million was part of that effort. Let us not kid ourselves. This bill was written for and by the credit card industry. It has nothing to do with the consumer. But that is why we needed amendments, to make it fair and to make it balanced. Let us not just use those words.

Mr. GINGREY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Dreier).

Mr. DREIER. Mr. Speaker, this is a great day. Not only are we going to be able to see the Nationals play the first home game in 34 years, but we are going to finally pass bankruptcy reform legislation that can get to the President's desk and be signed.

Also, tomorrow many of us are going to be paying our taxes. We have constituents who are complaining justifiably about the high cost of gasoline.

On average, passage of this legislation will save a family of four $400 a year, and $400 a year is a very important amount of money for an awful lot of people in this country, and that is the price that they are paying because of the abuse that we have seen of our bankruptcy law that has been going on for years and years and years.

I happen to believe that it is essential that we provide that $400 in relief to the American people just as quickly as we can. We know, as the gentleman from Wisconsin (Mr. Sensenbrenner) has said, and I congratulate the gentleman for all of the effort that he has put into this, that we for years and years and years have been going through the amendment process. We have had a wide range of concerns brought to the forefront, and we have been able to address them. I believe that we are doing the right thing by moving ahead with this measure.

Mr. Speaker, any Member who votes no on this rule is voting against bankruptcy reform. They are voting against bankruptcy reform. Why? Because it is true 35 amendments were submitted to us in the Committee on Rules. We made it very clear that one of the things that we offered when we came to majority status was the chance to give the minority an opportunity to offer a substitute. The gentleman from Wisconsin (Chairman Sensenbrenner) came before the Committee on Rules and made it very clear to us. He requested a closed or a modified closed rule.

Let me say, a modified closed rule means that the minority is offered a chance at providing a substitute, cobbling together a package that in fact is an alternative to the measure that we have brought forward.

The minority had an opportunity to do that. What did they choose to do? Members of the minority did not come forward with a substitute. They chose to offer what I describe as cut-and-bite amendments, going through these issues and amending and amending and amending.

Mr. Speaker, we would have made in order a substitute had they given it to us.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I recall yesterday when the death tax repeal was on the floor. It was a similar rule, and the minority was offered a chance to offer a substitute. They offered a substitute which was voted on and debated in the House of Representatives. But that rule passed by voice vote. So the rule under which we considered the death tax repeal yesterday is the same type of rule that we are considering today, except that the minority on this bill decided not to offer a constructive alternative substitute.

Mr. DREIER. Mr. Speaker, reclaiming my time, the chairman of the Committee on the Judiciary is absolutely right. We reported out a modified closed rule that provided the gentleman from North Dakota (Mr. Pomeroy) an opportunity to not only offer his substitute, but he could have offered a motion to recommit. So two bites at the apple. The exact same opportunity existed on this bill which has gone through Congress after Congress with an excess of 300 votes in the past.

We said a substitute would have been made in order if it had been submitted to us in the Committee on Rules.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, the gentleman made a statement, if I understand correctly, that passage of this proposal before us today would translate into a savings of $400 for each family in America.

Mr. DREIER. Mr. Speaker, that is absolutely right. If you look at the cost that exists today because of abuse of bankruptcy law, the abusive filings of bankruptcy, there is, on average, for a family of four of $400 per year.

□ 1115

Mr. DELAHUNT. If the gentleman will yield further, the $400 would actually go back to the American family? Is that what the chairman is suggesting?

Mr. DREIER. If I could reclaim my time, what I am suggesting is that because of abuse of bankruptcy filings that take place today, that is a cost that is imposed on American consumers to the average family of four of in excess of $400.

That is the reason it is absolutely essential, Mr. Speaker, that we pass this legislation.

Mr. DELAHUNT. Will the gentleman yield further?

Mr. DREIER. I have yielded three times. If I could finish my statement, I would like to. We have other people who would like to participate. I know that my dear friend from Florida (Mr. Hastings) will be more than happy to yield further time to the gentleman from Massachusetts.

Mr. Speaker, we have been waiting for years and years and years to get to the point where we could get a measure to the desk of the President of the United States so that he can sign it, so that we can deal with this issue and finally bring about responsible reform of our bankruptcy law.

We happen to believe very passionately that people should be accountable for their actions. We do not want anyone to be deprived of access to file for bankruptcy, but we know full well that this has been abused for such a long period of time. That is why we are here today and that is why I am convinced, Mr. Speaker, that even though we will see opposition to this rule, at the end of the day, we will see very strong bipartisan support to reform our bankruptcy law.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to my good friend, the gentlewoman from Texas (Ms. Jackson-Lee).

Ms. JACKSON-LEE of Texas. Mr. Speaker, with that generous yielding, I would like to yield to the distinguished gentleman from Virginia (Mr. Scott).

Mr. SCOTT of Virginia. I would like to respond very quickly. If medical expenses wipe you out and you cannot pay them, under this bill you cannot get into chapter 7 if you can pay $166 a month on your bills, however much they are. There could be hundreds of thousands of dollars that you could never pay.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman.

Mr. Speaker, I rise today to answer my good friend, the chairman of the Committee on Rules, to simply say the reason why a substitute was not offered is because the bankruptcy code as it now stands addresses the needs of the American people. It is interesting that the Republicans want to tell us what kind of amendment to offer when we had 35 amendments that would have protected the American people.

Mr. Speaker, I am outraged because the bankruptcy bill stabs the American people in the back. The reason why I say that is because we have a bankruptcy code that allows for the discretion of the judiciary in the bankruptcy courts to be able to determine whether your case is frivolous.

But now we have put in place what we call a means test which indicates that hardworking American families, middle-class families who have faced catastrophic illnesses, divorce, loss of job in this horrible economy, these individuals will be barred from entering the bankruptcy court because they do not meet the IRS guidelines. Who wants to meet the IRS guidelines? We already know what the Internal Revenue Service will do to you. All we wanted to do is to give more leeway.

If you listen to Professor Elizabeth Warren of Harvard University, she will tell you that the time for the bankruptcy bill has long passed. It is an 8-year-old bill that was written more than 8 years ago. Now we find that more consumer bankruptcies have declined. There are less consumer bankruptcies. But if you look at what the President is going to do with Social Security and take so much money out of our economy and break the American people, you are going to see an upsurge. But what you are going to see is the American people, because of this bankruptcy bill, losing their house, pulling their children out of school, not being able to make ends meet. It is an outrage. This rule should be defeated because the American people are being stabbed in the back. It is a disgrace.

I ask for a "no" vote on the rule.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

In response to the gentlewoman from Texas, Mr. Speaker, a substitute amendment was offered in every other Congress that bankruptcy reform was considered. Every other Congress in which bankruptcy reform was considered, the minority submitted a substitute amendment. Why not now? I have asked that question several times, and I still have no answer.

In regard to health care expenses, and I am reading from a March 29, 2005, CRS report for Congress titled "Treatment of Health Care Expenses under the Bankruptcy Abuse Prevention and Consumer Protection Act":

"Conclusion. Health care expenses will generally be considered in one of two contexts in a bankruptcy filing. Significant expenses incurred prior to the bankruptcy filing may be calculated as unsecured claims; if the debtor cannot afford to pay 25 percent of unsecured claims or $100 a month, the debtor may be eligible to file under chapter 7.

"Ongoing health care expenses and health insurance premiums may be deducted from the debtor's monthly income. Factoring in these expenses may also reduce the debtor's disposable income under the means test."

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to my good friend, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise in strong opposition to this unfair, undemocratic closed rule and to the underlying bankruptcy bill. This lopsided bill will make it harder for families and seniors with debt problems arising from high medical expenses, job loss, divorce, or other financial hardships to address their problems while doing nothing to rein in the credit card companies whose practices have led to much of the rise in bankruptcies.

S. 256 presumes that bankruptcy filers are simply bankruptcy abusers looking to game the system and avoid paying their bills, ignoring the clear evidence that the overwhelming majority of people in bankruptcy are in financial distress because of job loss, medical expense, divorce, or a combination of these causes.

Mr. Speaker, an important and controversial bill like the bankruptcy bill deserves a real debate. Members deserve the opportunity to consider a wide range of amendments. For the Republican leadership and the Republican members of the Committee on Rules to propose that we consider a bill that is tilted toward the credit card companies and as complex as this bill is without giving Members any opportunity to amend it on the floor with only 30 minutes per side for general debate is a travesty and a gross abuse of power.

When this bill was in the Committee on the Judiciary, we had a pseudo-markup that lasted all day and was a complete embarrassment and a waste of time for all of the members, for the Republicans would not even consider one amendment, no matter how meritorious or beneficial to the American people, even if the amendment addressed issues not previously considered because of the Republican leadership's insistence on reporting out a clean bill in order to avoid a conference committee.

As a result, important, thoughtful amendments on such subjects as protection on domestic violence victims from eviction, disabled veterans, alimony and child support, exemptions for medical emergencies and job loss, underage credit card lending, and a homestead exemption for seniors, predatory lending and payday loans all were rejected by the Committee on the Judiciary.

Shame on you Republicans.

Mr. GINGREY. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to my friend, the gentlewoman from California (Ms. LEE).

Ms. LEE. I thank the gentleman for yielding me this time and for his leadership.

Mr. Speaker, I rise in opposition to this rule and to this morally bankrupt bill that puts corporate greed over fairness for ordinary folks. This bill takes the phrase "kick them when they are down" to a whole new level. What about the fact that half of the people who file for bankruptcy protection are forced to do so because of high medical costs, loss of a job, or scam loan sharks? This bill would say to these people, the answer is, of course, too bad.

Make no mistake, Mr. Speaker, this bill is a big-time corporate payoff that was drafted with one overriding goal in mind, that is, profits, profits, profits.

I am all for curbing abuses in bankruptcy and would suggest that we start by closing bankruptcy loopholes for millionaires and taking steps to address predatory lending and payday loans rather than a one-sided, harsh industry payoff. This bill should include real solutions to address the really hard problems fueling the financial difficulties so many in this Nation are facing. We should focus on the true abusers and not the working families that have played by the rules.

Mr. Speaker, we need to have a bankruptcy bill that addresses the real abusers. This is a morally bankrupt bill.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

The gentlewoman from California brought up the issue about bankruptcy reform harming veterans. In speaking to that, Senate 256 needs-based test includes several safeguards and exceptions for special circumstances, including those of veterans: a specific reference to a debtor who is subject to a call or ordered to active duty in the Armed Forces to the extent that such occurrences substantiate special circumstances.

S. 256 means test has a special exception just for debtors who are disabled veterans if the indebtedness occurred primarily during a period when the debtor was on active duty or performing a homeland security activity. The bill excuses a debtor if he or she is on active military duty in a military combat zone from the mandatory credit counseling and financial management training requirements.

I could go on and on, Mr. Speaker; but we are addressing, as we always have on this side of the aisle, the special needs of our great veterans of this country.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to my good friend, the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I rise in opposition to this rule. There is much that should be law in this bill; but as written, it should not pass. If this bill becomes law, children will have to compete for the first time with credit card companies in State court for the limited assets of debtors emerging from the bankruptcy process.

I believe that there are many good parts of this bill; but as a mother I came to Congress to protect the rights of children, not to make their interests second to those of credit card companies. Congress has always insisted that debtors should take care of their children before their credit cards, and we should not undermine this important family value.

I am a strong supporter of the netting provisions of the bill. These provisions provide for the orderly unwinding of complex financial transactions when one participant becomes insolvent. Alan Greenspan has said these provisions reduce uncertainty for market participants and reduce risk by making it less likely that the default of one financial institution would have a domino effect on others. I support this; and as a New Yorker, I am really concerned that these provisions go into effect to protect the financial sector in the event of another terrorist attack. And I agree we need to build savings.

But these positive aspects of the bill are outweighed by an unacceptable feature that the majority has refused to address, the fact that the bill pits child support claimants against credit card companies in State court for the assets that the debtor has when she or he goes into bankruptcy. In other words, kids will lose.

I offered an amendment to address this, but the Committee on Rules did not make it in order. They did not make other important amendments that would protect victims of medical catastrophes, of identity theft and many others. This is very, very important. The sponsors say that they take care of this, but none of their steps address the new threat created by the bill to protect children from having to fight credit card companies in State court. We have never done this before. We should not leave this as a legacy of this Congress. We can get this right. We should have put children first. We must vote against this rule and the bill.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

In response to the gentlewoman, I have got a letter from the National Child Support Enforcement Association, February 8, 2005, that I will insert for printing in the RECORD.

Let me just read one paragraph, the first and most important:

"The National Child Support Enforcement Association is a membership organization representing the child support community—a workforce of over 63,000 child support professionals. For the past 5 years, it has strongly supported the enactment of bankruptcy reform because the treatment of child support and alimony under present bankruptcy law so desperately needs reform. We applaud your continuing efforts since the mid-1990s to reform the bankruptcy system and welcome your introduction of S. 256. The bankruptcy bill, S. 256, like the reform bills of the last three Congresses and the signed conference report of 2002, includes provisions crucial to the collection of child support during bankruptcy."

NATIONAL CHILD SUPPORT
ENFORCEMENT ASSOCIATION,
Washington, DC, Feb. 8, 2005.

Re Child Support Provisions in S. 256.

Hon. CHUCK GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY: The National Child Support Enforcement Association is the membership organization representing the child support community—a workforce of over 63,000 child support professionals. For the past 5 years it has strongly supported the enactment of bankruptcy reform because the treatment of child support and alimony under present bankruptcy law so desperately needs reform. We applaud your continuing efforts since the mid 1990s to reform the bankruptcy system and welcome your introduction of S. 256. The Bankruptcy Bill, S. 256, like the reform bills of the last three Congresses and the signed conference report of 2002, includes provisions crucial to the collection of child support during bankruptcy.

With each day that passes under current law, countless numbers of children of bankruptcy debtors are subject to immediate interruption of their on-going support payments. In addition, during the lengthy 3 to 5 years duration of consumer bankruptcies as they happen every day under present law, debtors often succeed in significantly delaying or even avoiding repayment of child support and alimony arrearages altogether. Hardest hit by these effects of current bankruptcy law are former recipients of welfare who are owed support arrears but are stuck waiting until the bankruptcy is completed before such debts can be collected. Families who are dependent on obtaining their share of marital property for survival may now find under present bankruptcy law that such debts are discharged. And, worst of all, under present law significant collection tools used to require the payment of current child support needed by the custodial parent to feed and clothe children may be rendered ineffective after a bankruptcy petition is filed. Today, a bankruptcy filing may delay or halt the collection of support debts through the federally mandated earnings withholding and tax refund intercept programs, the license and passport revocation procedures, and the credit reporting mandates.

S. 256 would provide these children with first priority in the collection of support debts, allow the enforcement of medical support obligations, prevent any interruption in the otherwise efficient process of withholding earnings for payment of child support, and insure that during the course of a consumer bankruptcy all support owed to the family would be paid, and paid timely. It will allow state court actions involving custody and visitation, dissolution of marriage, and domestic violence to proceed without interference from bankruptcy court litigation.

We, therefore, urge the members of the Conference Committee and the leadership of Congress to enact this important piece of legislation with its long overdue bankruptcy reforms.

Sincerely,

MARGOT BEAN,
President, National Child
Support Enforcement Association.

☐ 1130

Mr. GINGREY. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 seconds to the gentlewoman from New York (Mrs. MALONEY) for the purpose of making a unanimous consent request.

Mrs. MALONEY. Mr. Speaker, I request permission to place in the RECORD, in response to this statement, statements by Bar Associations across this country, women's organizations, women's legal defense, asserting what I have said that children are put second to credit card companies.

The material referred to is as follows:

NATIONAL WOMEN'S LAW CENTER,
Washington, DC, March 14, 2005.

Re: Oppose H.R. 685, The Bankruptcy Act of 2005

Hon. JOHN CONYERS, Jr.,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN CONYERS: The National Women's Law Center is writing to urge you to oppose H.R. 685, a bankruptcy bill that is harsh on economically vulnerable women and their families, but that fails to address serious abuses of the bankruptcy system by perpetrators of violence against patients and health care professionals at women's health care clinics.

This bill would inflict additional hardship on over one million economically vulnerable women and families who are affected by the bankruptcy system each year: those forced into bankruptcy because of job loss, medical emergency, or family breakup—factors which account for nine out of ten filings—and women who are owed child or spousal support by men who file for bankruptcy. Contrary to the claims of some proponents of the bill, low- and moderate-income filers—who are disproportionately women—are not protected from most of its harsh provisions, and mothers owed child or spousal support are not protected from increased competition from credit card companies and other commercial creditors during and after bankruptcy that will make it harder for them to collect support.

The bill would make it more difficult for women facing financial crises to regain their economic stability through the bankruptcy process. H.R. 685 would make it harder for women to access the bankruptcy system, because the means test requires additional paperwork of even the poorest filers; harder for women to save their homes, cars, and essential household items through the bankruptcy process; and harder for women to meet their children's needs after bankruptcy because many more debts would survive.

The bill also would put women owed child or spousal support who are bankruptcy creditors at a disadvantage. By increasing the rights of many other creditors, including credit card companies, finance companies, auto lenders and others, the bill would set up an intensified competition for scarce resources between mothers and children owed support and these commercial creditors during and after bankruptcy. The domestic support provisions in the bill may have been intended to protect the interests of mothers and children; unfortunately, they fail to do so.

Moving child support to first priority among unsecured creditors in Chapter 7 sounds good, but is virtually meaningless; even today, with no means test limiting access to Chapter 7, fewer than four percent of Chapter 7 debtors have anything to distribute to unsecured creditors. In Chapter 13, the bill would require that larger payments be made to many commercial creditors; as a result, payments of past-due child support would have to be made in smaller amounts and over a longer period of time, increasing the risk that child support debts will not be paid in full. And, when the bankruptcy process is over, women and children owed support would face increased competition from commercial creditors. Under current law, child and spousal support are among the few debts that survive bankruptcy; under this bill, many additional debts would survive. But once the bankruptcy process is over, the priorities that apply during bankruptcy have no meaning or effect. Women and children owed support would be in direct competition with the sophisticated collection departments of commercial creditors whose surviving claims would be increased.

At the same time, the bill fails to address real abuses of the bankruptcy system. Perpetrators of violence against patients and health care professionals at women's health clinics have engaged in concerted efforts to use the bankruptcy system to evade responsibility for their illegal actions. This bill does nothing to curb this abuse.

The bill is profoundly unfair and unbalanced. Unless there are major changes to H.R. 685, we urge you to oppose it.

Very truly yours,

NANCY DUFF CAMPBELL,
Co-President.
MARCIA GREENBERGER,
Co-President.
JOAN ENTMACHER,
Vice President and Director, Family Economic Security.

LEGAL MOMENTUM,
Washington, DC, February 28, 2005.

DEAR SENATOR: Legal Momentum is writing to you today to urge you to oppose S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Legal Momentum is a leading national not-for-profit civil rights organization with a long history of advocating for women's rights and promoting gender equality. Among our major goals is securing economic justice for all. In this regard we have worked to end poverty; improve welfare reform; create affordable, quality childcare and guarantee workplace protections for survivors of domestic violence. The bankruptcy system is another crucial safety net for women, and Legal Momentum is concerned that the changes to the bankruptcy system proposed in S. 256 would be harmful to the economic security of women and families. In addition, the legislation fails to hold perpetrators of violence against workers and patients of women's health care clinics accountable for their actions.

The large majority of women who file for bankruptcy do so because of unemployment, medical bills, divorce, or because they are owed child support by men who file for bankruptcy. And because women are more likely to be caring for dependent children or parents *and* have lower incomes and fewer assets than men, they are more likely to seek bankruptcy as a result of a divorce or a medical problem. In 2001, women represented 39% of households filing for bankruptcy, while men filing independently represented only 29%. Married couples represented 32%. Single mothers are the group most at risk for bankruptcy—in the last 20 years, bankruptcy filings for female-headed households have increased at more than double the rate of bankruptcies in other households. This legislation will make it more difficult for women already struggling to achieve economic independence to access the bankruptcy system. The proposed means test will make filing for bankruptcy more complex, it will be more difficult to keep homes and cars from being repossessed, and even if a bankruptcy is successfully filed, more debts will main.

Even the child support provisions in the legislation will not help women and children. If the parent who owes child support is the debtor, the bill will divert more money to other creditors and allow more non-child support debts to survive bankruptcy. As a result, the custodial parent, usually the mother, will have to compete with other creditors, including credit card companies, for the debtor's limited income.

Legal Momentum is concerned that, unlike in the conference report of last year's bankruptcy legislation, S. 256 does not include a provision to prevent perpetrators of clinic violence from declaring bankruptcy to avoid responsibility for their actions against patients and health care providers. Please include language that would insure that these perpetrators of violence cannot use the bankruptcy system to protect themselves. The pocketbooks of violent offenders are protected, while hardworking women struggling to make ends meet and feed their families are denied access to a system that could help and provide them with hope for the future.

Legal Momentum believes that if S. 256 is enacted, the economic effects on more than 1.2 million women each year will be devastating, and we strongly urge you to oppose the legislation. If you have any questions, please contact Legal Momentum's Policy Office at 202/326-0044.

Sincerely

LISALYN R. JACOBS,
Vice President for Government Relations.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, March 14, 2005.

OPPOSE UNFAIR BANKRUPTCY "REFORM"

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil rights coalition, we write to express our strong opposition to the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005" (H.R. 685). We urge you to oppose H.R. 685 because it poses significant concerns for the economic self-sufficiency of all working people in the United States and will cause substantial financial inequities in the process.

The issue of bankruptcy reform is of profound concern to LCCR because, as a general matter, disadvantaged groups in our society disproportionately find themselves in bankruptcy courts as a result of economic discrimination in its many forms. For example:

Divorced women are 300 percent more likely than single or married women to find themselves in bankruptcy court following the cumulative effects of lower wages, reduced access to health insurance, the devastating consequences of divorce, and the disproportionate financial strain of rearing children alone;

Since 1991, the number of older Americans filing for bankruptcy has grown by more than 120 percent. This age group tends to file after being pushed out of jobs and encountering discrimination in hiring, which could result in loss of health insurance, or victimization by credit scams or home improvement frauds that put their homes and security at risk, and;

African American and Hispanic American homeowners are 500 percent more likely than white homeowners to find themselves in bankruptcy court largely due to discrimination in home mortgage lending and housing purchases, and to inequalities in hiring opportunities, wages, and health insurance coverage.

H.R. 685 proposes a number of changes in current bankruptcy law, and supporters claim that enactment is thereby necessary to stop abuse of bankruptcy laws. Yet a majority of those who file are working families who are not abusing the system; instead, they have experienced financial catastrophe. H.R. 685 would make starting over virtually impossible.

In addition, hundreds of thousands of women and children who are owed child support or alimony would be harmed under H.R. 685, as it forces them to compete with credit card issuers and therefore would make it less likely that support payments will be made to those in need. H.R. 685 will also make it much more difficult for businesses to reorganize, thereby forcing them into bankruptcy and eliminating much needed jobs.

H.R. 685 also fails to address one of the key reasons that bankruptcy filings have increased in recent years—a reason that is the willful doing of many of the financial institutions that are lobbying in support of the bill—the aggressive marketing of credit cards to our most financially vulnerable citizens, such as women, students, seniors, and the working poor. According to a recent article in the Washington Post, credit card companies continue to offer credit in record amounts, in an aggressive campaign to saddle more Americans with debts. (Kathleen Day, Tighter Bankruptcy Law Favored, Washington Post, February 11, 2005 at A-05). Yet these same companies have steadfastly resisted even the most modest reforms to help consumers avoid placing themselves in financial jeopardy in the first place, such as requiring clearer disclosure about late payment fees, interest rates, and minimum payments.

LCCR has opposed bankruptcy reform proposals similar to H.R. 685 every year since 1998. Sadly, bankruptcy reform proponents are now pushing legislation that is every bit as flawed as previous legislation and, given today's slow economy, would lead to even more inequitable results. We strongly urge you to reject H.R. 685 because it would radically alter the bankruptcy system in a way that imposes hardships particularly on the most vulnerable among us.

Thank you for your consideration. If you have any questions, please feel free to contact Rob Randhava, LCCR Counsel, at (202) 466-6058.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

WRITTEN STATEMENT OF MARSHALL WOLF, MAY 13, 1998, ON BEHALF OF THE GOVERNING COUNCIL OF THE FAMILY LAW SECTION OF THE AMERICAN BAR ASSOCIATION

* * * earlier version of this legislation concluded that "child support and credit card obligations could be 'pitted against' one another. . . . Both the domestic creditor and the commercial credit card creditor could pursue the debtor and attempt to collect from post-petition assets, but not in the bankruptcy court."

Outside of the bankruptcy court is precisely the arena where sophisticated credit card companies have the greatest advantages. While federal bankruptcy court enforces a strict set of priority and payment rules generally seeking to provide equal treatment of creditors with similar legal rights, state law collection is far more akin to "survival of the fittest." Whichever creditor engages in the most aggressive tactic—be it through repeated collection demands and letters, cutting off access to future credit, garnishment of wages or foreclose on assets—is most likely to be repaid. As Marshall Wolf has written on behalf of the Governing Counsel of the Family Law Section of the American Bar Association, "if credit card debt is added to the current list of items that are now not dischargeable after a bankruptcy of a support payer, the alimony and child support recipient will be forced to compete with the well organized, well financed, and obscenely profitable credit card companies to receive payments from the limited income of the poor guy who just went through a bankruptcy. It is not a fair fight and it is one that women and children who rely on support will lose."

It is for these reasons that groups concerned with the payment of alimony and child support have expressed their strong opposition to the bill and its predecessors. Professor Karen Gross of New York Law School stated succinctly that "the proposed legislation does not live up to its billing; it fails to protect women and children adequately." Joan Entmacher, on behalf of the National Women's Law Center, testified that "the child support provisions of the bill fail to ensure that the increased rights the bill would give to commercial creditors do not come at the expense of families owed support."

Assertions by the legislation's supporters that any disadvantages to women and children under S. 256 are offset by supposedly pro-child support provisions are not persuasive. It is useful to recall the context in which these provisions were added. In the 105th Congress, the bill's proponents adamantly denied that the bill created any problems with regard to alimony and child support. Although the proponents have now changed course, the child support and alimony provisions included do not respond to the provisions in the bill causing the problem—namely the provisions limiting the ability of struggling, single mothers to file for bankruptcy; enhancing the bankruptcy and post-bankruptcy status of credit card debt; and making it more difficult for debtors * * *

MARCH 11, 2005.

Re The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (H.R. 685/S. 256).

Hon. F. JAMES SENSENBRENNER,
Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.
Hon. JOHN CONYERS, Jr.,
Ranking Democratic Member, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

We are professors of bankruptcy and commercial law. We are writing with regard to The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (H.R. 685/S. 256)(the "bill"). We have been following the bankruptcy reform process for the last eight years with keen interest. The 110 undersigned professors come from every region of the country and from all major political parties. We are not members of a partisan, organized group. Our exclusive interest is to seek the enactment of a fair, just and efficient bankruptcy law. Many of us have written before to express our concerns about earlier versions of this legislation, and we write again as yet another version of the bill comes before you. The bill is deeply flawed, and will harm small businesses, the elderly, and families with children. We hope the House of Representatives will not act on it.

It is a stark fact that the bankruptcy filing rate has slightly more than doubled during the last decade, and that last year approximately 1.6 million households filed for bankruptcy. The bill's sponsors view this increase as a product of abuse of bankruptcy by people who would otherwise be in a position to pay their debts. Bankruptcy, the bill's sponsor says, has become a system "where deadbeats can get out of paying their debt scott-free while honest Americans who play by the rules have to foot the bill."

We disagree. The bankruptcy filing rate is a symptom. It is not the disease. Some people do abuse the bankruptcy system, but the overwhelming majority of people in bankruptcy are in financial distress as a result of job loss, medical expense, divorce, or a combination of those causes. In our view, the fundamental change over the last ten years has been the way that credit is marketed to consumers. Credit card lenders have become more aggressive in marketing their products, and a large, very profitable, market has emerged in subprime lending. Increased risk is part of the business model. Therefore, it should not come as a surprise that as credit is extended to riskier and riskier borrowers, a greater number default when faced with a financial reversal. Nonetheless, consumer lending remains highly profitable, even under current law.

The ability to file for bankruptcy and to receive a fresh start provides crucial aid to families overwhelmed by financial problems. Through the use of a cumbersome, and procrustean means-test, along with dozens of other measures aimed at "abuse prevention," this bill seeks to shoot a mosquito with a shotgun. By focusing on the opportunistic use of the bankruptcy system by relatively few "deadbeats" rather than fashioning a tailored remedy, this bill would cripple an already overburdened system.

1. The Means-test: The principal mechanism aimed at the bankruptcy filing rate is the so called "meanstest," which denies access to Chapter 7 (liquidation) bankruptcy to those debtors who are deemed "able" to repay their debts. The bill's sponsor describes the test as a "flexible . . . test to assess an individual's ability to repay his debts," and as a remedy to "irresponsible consumerism and lax bankruptcy law." While the stated concept is fine—people who can repay their debts should do so—the particular mechanism proposed is unnecessary, over-inclusive, painfully inflexible, and costly in both financial terms and judicial resources.

First, the new law is unnecessary. Existing section 707(b) already allows a bankruptcy judge, upon her own motion or the motion of the United States Trustee, to deny a debtor a discharge in Chapter 7 to prevent a "substantial abuse." Courts have not hesitated to deny discharges where Chapter 7 was being used to preserve a well-to-do lifestyle, and the United States Trustee's office has already taken it upon itself to object to discharge when, in its view, the debtor has the ability to repay a substantial portion of his or her debts.

Second, the new means-test is over-inclusive. Because it is based on income and expense standards devised by the Internal Revenue Service to deal with tax cheats, the principal effect of the "means-test" would be to replace a judicially supervised, flexible process for ferreting out abusive filings with a cumbersome, inflexible standard that can be used by creditors to impose costs on overburdened families, and deprive them of access to a bankruptcy discharge. Any time middle-income debtors have $100/month more income than the IRS would allow a delinquent taxpayer to keep, they must submit themselves to a 60 month repayment plan. Such a plan would yield a mere $6000 for creditors over five years, less costs of government-sponsored administration.

Third, to give just one example of its inflexibility, the means-test limits private or parochial school tuition expenses to $1500 per year. According to a study by the National Center for Educational Statistics, even in 1993, $1500 would not have covered the average tuition for any category of parochial school (except Seventh Day Adventists and Wisconsin Synod Lutherans). Today it would not come close for any denomination. In order to yield a few dollars for credit card issuers, this bill would force many struggling families to take their children from private or parochial school (often in violation of deeply held religious beliefs) for three to five years in order to confirm a Chapter 13 plan.

Fourth, the power of creditors to raise the "abuse" issue will significantly increase the number of means-test hearings. Again, the expense of the hearings will be passed along to the already strapped debtor. This will add to the cost of filing for bankruptcy, whether the filing is abusive or not. It will also swamp bankruptcy courts with lengthy and unnecessary hearings, driving up costs for the taxpayers.

Finally, the bill takes direct aim at attorneys who handle consumer bankruptcy cases by making them liable for errors in the debtor's schedules.

Our problem is not with means-testing per se. Our problem is with the collateral costs that this particular means-test would impose. This is not a typical means test, which acts as a gatekeeper to the system. It would instead burden the system with needless hearings, deprive debtors of access to counsel, and arbitrarily deprive families of needed relief. The human cost of this delay, expense, and exclusion from bankruptcy relief is considerable. As a recent study of medical bankruptcies shows, during the two years before bankruptcy, 45% of the debtors studied had to skip a needed doctor visit. Over 25%

had utilities shut off, and nearly 20% went without food. If the costs of bankruptcy are higher, the privations will increase. The vast majority of individuals and families that file for bankruptcy are honest but unfortunate. The main effect of the means-test, along with the other provisions discussed below, will be to deny them access to a bankruptcy discharge.

2. Other Provisions That Will Deny Access to Bankruptcy Court: The means-test is not the only provision in the bill which is designed to limit access to the bankruptcy discharge. There are many others. For example:

Sections 306 and 309 of the bill (working together) would eliminate the ability of Chapter 13 debtors to "strip down" liens on personal property, in particular their car, to the value of the collateral. As it is, many Chapter 13 debtors are unable to complete the schedule of payments provided for under their plan. These provisions significantly raise the cash payments that must be made to secured creditors under a Chapter 13 plan. This will have a whipsaw effect on many debtors, who, forced into Chapter 13 by the means-test, will not have the income necessary to confirm a plan under that Chapter. This group of debtors would be deprived of any discharge whatsoever, either in Chapter 7 or Chapter 13. In all cases this will reduce payments to unsecured creditors (a group which, ironically, includes many of the sponsors of this legislation).

Section 106 of the bill would require any individual debtor to receive credit counseling from a credit counseling agency within 180 days prior to filing for bankruptcy. While credit counseling sounds benign, recent Senate hearings with regard to the industry have led Senator Norm Coleman to describe the credit counseling industry as a network of not for profit companies linked to for-profit conglomerates. The industry is plagued with "consumer complaints about excessive fees, pressure tactics, nonexistent counseling and education, promised results that never come about, ruined credit ratings, poor service, in many cases being left in worse debt than before they initiated their debt management plan." Mandatory credit counseling would place vulnerable debtors at the mercy of an industry where, according to a recent Senate investigation, many of the "counselors" are seeking to profit from the misfortune of their customers.

Sections 310 and 314 would significantly reduce the ability of debtors to discharge credit card debt and would reduce the scope of the fresh start, for even those debtors who are able to gain access to bankruptcy.

The cumulative effect of these provisions, and many others contained in the bill (along with the means-test) will be to deprive the victims of disease, job loss, and divorce of much needed relief.

3. The Elusive Bankruptcy Tax?: The bill's proponents argue that it is good for consumers because it will reduce the so-called "bankruptcy tax." In their view, the cost of credit card defaults is passed along to the rest of those who use credit cards, in the form of higher interest rates. As the bill's sponsor dramatically puts it: "honest Americans who play by the rules have to foot the bill." This argument seems logical. However, it is not supported by facts. The average interest rate charged on consumer credit cards has declined considerably over the last dozen years. More importantly, between 1992 and 1995, the spread between the credit card interest rate and the risk free six-month t-bill rate declined significantly, and remained basically constant through 2001. At the same time, the profitability of credit card issuing banks remains at near record levels.

Thus, it would appear that hard evidence of the so-called "bankruptcy tax" is difficult to discern. That the unsupported assertion of that phenomenon should drive Congress to restrict access to the bankruptcy system, which effectuates Congress's policies about the balance of rights of both creditors and debtors, is simply wrong.

4. Who Will Bear the Burden of the Means-test? The bankruptcy filing rate is not uniform throughout the country. In Alaska, one in 171.2 households files for bankruptcy. In Utah the filing rate is one in 36.5. The states with the ten highest bankruptcy filing rates are (in descending order): Utah, Tennessee, Georgia, Nevada, Indiana, Alabama, Arkansas, Ohio, Mississippi, and Idaho. The deepest hardship will be felt in the heartland, where the filing rates are highest. The pain will not only be felt by the debtors themselves, but also by the local merchants, whose customers will not have the benefit of the fresh start.

The fastest growing group of bankruptcy filers is older Americans. While individuals over 55 make up only about 15% of the people filing for bankruptcy, they are the fastest growing age group in bankruptcy. More than 50% of those 65 and older are driven to bankruptcy by medical debts they cannot pay. Eighty-five percent of those over 60 cite either medical or job problems as the reason for bankruptcy. Here again, abuse is not the issue. The bankruptcy filing rate reveals holes in the Medicare and Social Security systems, as seniors and aging members of the baby-boom generation declare bankruptcy to deal with prescription drug bills, co-pays, medical supplies, long-term care, and job loss.

Finally, it is crucial to recognize that the filers themselves are not the only ones to suffer from financial distress. They often have dependents. As it turns out, families with children single mothers and fathers, as well as intact families—are more likely to file for bankruptcy than families without them. In 2001, approximately 1 in 123 adults filed for bankruptcy. That same year, 1 in 51 children was a dependent in a family that had filed for bankruptcy. The presence of children in a household increases the likelihood that the head of household will file for bankruptcy by 302%. Limiting access to Chapter 7 will deprive these children (as well as their parents) of a fresh start.

Conclusion: The bill contains a number of salutary provisions, such as the proposed provisions that protect consumers from predatory lending. Our concern is with the provisions addressing "bankruptcy abuse." These provisions are so wrongheaded and flawed that they make the bill as a whole unsupportable. We urge you to either remove these provisions or vote against the bill.

Sincerely,

Richard I. Aaron, S.J. Quinney College of Law, University of Utah.

Peter Alexander, Dean and Professor of Law, Southern Illinois University—Carbondale School of Law.

Thomas B. Allington, Professor of Law, Indiana University School of Law—Indianapolis.

Ralph C. Anzivino, Professor of Law, Marquette University School of Law.

Allan Axelrod, Brennan Professor of Law (emeritus), Rutgers-Newark Law School.

Douglas G. Baird, Professor of Law, University of Chicago Law School.

Patrick B. Bauer, Professor of Law, University of Iowa.

Robert J. Bein, Adjunct Professor of Law, The Dickinson School of Law of the Pennsylvania State University.

Carl S. Bjerre, Associate Professor of Law, University of Oregon School of Law.

Susan Block-Lieb, Professor of Law, Fordham Law School.

Amelia H. Boss, Professor of Law, Temple University School of Law.

Kristin Kalsem Brandser, Associate Professor of Law, University of Cincinnati College of Law.

Jean Braucher, Roger Henderson Professor of Law, University of Arizona.

Ralph Brubaker, Professor of Law and Mildred Van Voorhis Jones, Faculty Scholar, University of Illinois College of Law.

Mark E. Budnitz, Professor of Law, Georgia State University College of Law.

Daniel Bussel, Professor of Law, UCLA School of Law.

Bryan Camp, Professor of Law, Texas Tech University School of Law.

Dennis Cichon, Professor of Law, Thomas Cooley Law School.

Donald F. Clifford, Jr., Aubrey Brooks Professor Emeritus, University of North Carolina School of Law.

Neil B. Cohen, Professor of Law, Brooklyn Law School.

Andrea Coles-Bjerre, Assistant Professor, University of Oregon School of Law.

Corinne Cooper, Professor Emerita of Law, University of Missouri, Kansas City.

Marianne B. Culhane, Professor of Law, Creighton Univ. School of Law.

Susan L. DeJarnatt, Associate Professor of Law, Beasley School of Law of Temple University.

Paulette J. Delk, Associate Professor, Cecil C. Humphreys School of Law, The University of Memphis.

A. Mechele Dickerson, 2004–2005 Cabell Research Professor of Law, William and Mary Law School.

W. David East, Professor of Law, South Texas College of Law.

Thomas L. Eovaldi, Professor of Law Emeritus, Northwestern University School of Law.

Mary Jo Eyster, Associate Professor of Clinical Law, Brooklyn Law School.

Adam Feibelman, Associate Professor, University of North Carolina.

Paul Ferber, Professor of Law, Vermont Law School.

Jeffrey Ferriell, Professor of Law, Capital University School of Law.

Larry Garvin, Associate Professor of Law, Michael E. Moritz College of Law, Ohio State University.

Michael Gerber, Professor of Law, Brooklyn Law School.

S. Elizabeth Gibson, Burton Craige Professor of Law, University of North Carolina at Chapel Hill.

Marjorie L. Girth, Professor of Law, Georgia State University College of Law.

Michael M. Greenfield, Walter D. Coles, Professor of Law, Washington University in St. Louis School of Law.

Karen Gross, Professor of Law, New York Law School.

Steven L. Harris, Professor of Law, Chicago-Kent College of Law.

John Hennigan, Professor of Law, St. John's University School of Law.

Henry E. Hildebrand III, Adjunct Professor, Nashville School of Law.

Margaret Howard, Professor of Law, Washington and Lee University School of Law.

Sarah Jane Hughes, Professor of Law, Indiana University-Bloomington School of Law.

Melissa B. Jacoby, Associate Professor of Law, University of North Carolina at Chapel Hill.

Edward J. Janger, Visiting Professor of Law, University of Pennsylvania Law School and Professor of Law, Brooklyn Law School.

Creola Johnson, Associate Professor of Law, Ohio State Univeristy, Moritz College of Law.

Daniel Keating, Tyrell Williams, Professor of Law, Washington University in Saint Louis School of Law.

Kenneth C. Kettering, Associate Professor, New York Law School.

Jason Kilborn, Assistant Professor, Louisiana State University Law Center.

Don Korobkin, Professor of Law, Rutgers-Camden School of Law.

Robert M. Lawless, Gordon & Silver, Ltd., Professor of Law, University of Nevada, Las Vegas, William S. Boyd School of Law.

Paul Lewis, Professor of Law, The John Marshall Law School.

Jonathan C. Lipson, Visiting Professor of Law, Temple University and Professor of Law, University of Baltimore.

Lynn M. LoPucki, Security Pacific Bank Professor of Law, UCLA Law School.

Ann Lousin, Professor of Law, John Marshall Law School.

Stephen J. Lubben, Associate Professor of Law, Seton Hall University School of Law.

Lois R. Lupica, Professor of Law, University of Maine School of Law.

Ronald J. Mann, Ben H. & Kitty King Powell Chair in Business and Commercial Law, University of Texas School of Law.

Nathalie Martin, Dickason Professor of Law, UNM Mexico School of Law.

James McGrath, Associate Professor of Law, Appalachian School of Law.

Stephen McJohn, Professor of Law, Suffolk University Law School.

Juliet M. Moringiello, Professor of Law, Widener University School of Law.

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James P. Nehf, Professor and Cleon H. Foust Fellow, Indiana University School of Law-Indianapolis, and Visiting Professor, University of Georgia School of Law.

Spencer Neth, Professor of Law, Case Western Reserve University.

Gary Neustadter, Professor of Law, Santa Clara University School of Law.

Scott F. Norberg, Associate Dean for Academic Affairs and Professor of Law, Florida International University College of Law.

Richard Nowka, Professor of Law, Louis D. Brandeis School of Law, University of Louisville.

Rafael I. Pardo, Associate Professor of Law, Tulane Law School.

Dean Pawlowic, Professor of Law, Texas Tech University School of Law.

Christopher Peterson, Assistant Professor of Law, University of Florida Fredric G. Levin College of Law.

Lydie Pierre-Louis, Assistant Professor of Law, Director, Securities Arbitration Clinic, St. John's University School of Law.

John A. E. Pottow, Assistant Professor of Law, University of Michigan Law School.

Lydie Nadia Pierre-Louis, Assistant Professor of Law, St. John's University School of Law.

Thomas E. Plank, Joel A. Katz Distinguished Professor of Law, University of Tennessee College of Law.

Katherine Porter, Visiting Associate Professor of Law, University of Nevada, Las Vegas William S. Boyd School of Law.

Theresa J. Pulley Radwan, Associate Dean of Academics, Stetson University College of Law.

Nancy B. Rapoport, Professor of Law, University of Houston Law Center.

Robert K. Rasmussen, Milton Underwood Chair in Law, FedEx Research Professor of Law, Director, Joe C. Davis Law and Economics Program, Vanderbilt University School of Law.

David Reiss, Assistant Professor, Brooklyn Law School.

Alan N. Resnick, Interim Dean and Benjamin Weintraub, Professor of Law, Hofstra University School of Law.

R. J. Robertson, Jr., Professor of Law, Southern Illinois University School of Law.

Arnold S. Rosenberg, Assistant Professor of Law, Thomas Jefferson School of Law.

Keith A. Rowley, Associate Professor of Law, William S. Boyd School of Law, University of Nevada Las Vegas.

David Wm. Ruskin, Adjunct Professor of Law, Wayne State University Law School.

Michael L. Rustad, Thomas F. Lambert Jr., Professor of Law & Co-Director of Intellectual Property Law Program, Suffolk University Law School.

Milton R. Schroeder, Professor of Law, Arizona State University College of Law.

Steven L. Schwarcz, Stanley A. Star, Professor of Law & Business, Duke University School of Law, Founding Director, Global Capital Markets Center.

Stephen L. Sepinuck, Professor of Law, Gonzaga University School of Law.

Charles Shafer, Professor of Law, University of Baltimore.

Paul Shupack, Professor of Law, Benjamin Cardozo School of Law, Yeshiva University.

Norman I. Silber, Professor of Law, Hofstra University School of Law.

David Skeel, S. Samuel Arsht, Professor of Corporate Law, University of Pennsylvania Law School.

Judy Beckner Sloan, Professor of Law, Southwestern University School of Law.

James C. Smith, Professor of Law, University of Georgia.

Charles Tabb, Associate Dean for Academic Affairs and Alice Curtis Campbell Professor of Law, University of Illinois College of Law.

Walter Taggart, Prof. of Law, Villanova University School of Law.

Bernard Trujillo, Assistant Professor, U. Wisconsin Law School.

Joan Vogel, Professor of Law, Vermont Law School.

Thomas M. Ward, Professor, University of Maine School of Law.

G. Ray Warner, Professor of Law & Director, LL.M. in Bankruptcy, St. John's University School of Law.

Elizabeth Warren, Leo Gottlieb, Professor of Law, Harvard Law School.

Elaine A. Welle, Professor of Law, University of Wyoming College of Law.

Jay Lawrence Westbrook, Benno C. Schmidt, Chair of Business Law, University of Texas School of Law.

Douglas Whaley, Professor Emeritus, Moritz College of Law, Ohio State University.

Michaela M. White, Professor of Law, Creighton University School of Law.

Mary Jo Wiggins, Professor of Law, University of San Diego School of Law.

Lauren E. Willis, Associate Professor of Law, Loyola Law School—Los Angeles.

William J. Woodward, Jr., Professor of Law, Temple University School of Law.

John J. Worley, Professor of Law, South Texas College of Law.

Mary Wynne, Associate Clinical Professor and Director Indian Legal Clinic, Arizona State University.

The SPEAKER pro tempore (Mr. SWEENEY). Is there objection to the request of the gentlewoman from New York?

Mrs. MALONEY. And this is wrong. Where are the family values in this Congress?

The SPEAKER pro tempore. The gentlewoman is not under recognition.

Mrs. MALONEY. Is it just rhetoric or do you really care about children?

Mr. SAM JOHNSON of Texas. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. GINGREY. Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRIES

Mr. HASTINGS of Florida. Parliamentary inquiry, Mr. Speaker. What was the objection about?

The SPEAKER pro tempore. The objection was regarding the placement of extraneous material in the RECORD.

Mr. HASTINGS of Florida. Mr. Speaker, further parliamentary inquiry, what is the ruling of the Chair?

The SPEAKER pro tempore. The Chair heard objection.

Mr. HASTINGS of Florida. Further parliamentary inquiry, so the gentlewoman from New York's request to put in the RECORD the material?

The SPEAKER pro tempore. The material will not be placed in the RECORD. Objection was heard.

Mr. HASTINGS of Florida. Mr. Speaker, there is objection to a Member's placing in the RECORD, a Member who had made a statement supporting the things that she asked to be submitted, that is being denied?

The SPEAKER pro tempore. That is correct.

Mr. NADLER. Parliamentary inquiry, Mr. Speaker. What is the basis for the objection to a request for insertion into the RECORD of material?

The SPEAKER pro tempore. It takes unanimous consent to place extraneous material in the RECORD. An objection was heard to such a request; therefore, unanimous consent was not obtained.

Mr. NADLER. Mr. Speaker, is it not customary as a normal matter of comity in this House to allow all material requested to be placed in the RECORD?

The SPEAKER pro tempore. Unanimous consent was sought. It was not obtained because the gentleman from Texas was on his feet and objected; therefore, the material does not get inserted in the RECORD.

Mr. SENSENBRENNER. Parliamentary inquiry, Mr. Speaker. Is the material asked to be inserted covered under the General Leave that was requested at the beginning of the debate by the gentleman from Georgia (Mr. GINGREY)?

The SPEAKER pro tempore. The general leave was for extension of remarks and not for insertion of extraneous material.

Mr. NADLER. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. There has been no ruling. The Chair merely heard objection.

Ms. WATERS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman from California is recognized.

Ms. WATERS. Mr. Speaker, does the rule not state that the objection must be asked for prior to the speaking of the Member? This Member spoke, and the objection was asked for after the party spoke. My understanding is it should have been done ahead of time.

What is the correct rule?

The SPEAKER pro tempore. The gentlewoman from New York made a unanimous consent request, which was heard in total. At the conclusion of that request, the Chair queried for objection, and the gentleman from Texas rose and objected. Therefore, unanimous consent was not obtained.

Ms. WATERS. I am sorry, Mr. Speaker. I think what I observed was she asked unanimous consent. There was no objection. She proceeded to speak. She spoke, and the objection was not timely. It was asked for after she had completed speaking. That is what I saw.

The SPEAKER pro tempore. The gentlewoman from New York was yielded for the purpose of a unanimous consent request. At the conclusion of that consent request, objection was made by the gentleman from Texas.

Ms. WATERS. Mr. Speaker, I submit that that was not a timely objection. It was not timely.

The SPEAKER pro tempore. It was a contemporaneous objection; when the Chair queried for objection, the gentleman was on his feet. Therefore, it was timely.

Ms. WATERS. Mr. Speaker, I do not think so. And I would oppose that, and I would support my colleague, who again would ask that we have a vote on the ruling by the Chair.

The SPEAKER pro tempore. Does the gentlewoman from California appeal the ruling of the Chair that the objection was timely?

Ms. WATERS. Yes, Mr. Speaker. Based on my statement, he is now again appealing the ruling of the Chair based on that it was untimely.

I ask the gentleman from New York (Mr. NADLER) if that is right.

Mr. NADLER. Yes, it is.

The SPEAKER pro tempore. The question is, shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to table the appeal.

The SPEAKER pro tempore. Would the gentleman kindly withhold that motion.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw for now the motion to table.

Mr. NADLER. Mr. Speaker, in light of new information, I withdraw the appeal.

The SPEAKER pro tempore. Does the gentlewoman from California withdraw her appeal?

Ms. WATERS. Yes. Mr. Speaker. I withdraw; and I thank the gentleman on the opposite side of the aisle.

Mr. HASTINGS of Florida. Mr. Speaker, with the Speaker's permission, I ask unanimous consent that the extraneous material offered by the gentlewoman from New York (Mrs. MALONEY) be made a part of the RECORD following her remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise to oppose this legislation.

After 4 years of record deficits and $2 trillion in new debt, one would think that the Republican majority would have a better understanding of what bankruptcy is. They are lucky this law does not apply to their actions in the last 4 years.

Instead, we have a bill that promotes one bankruptcy code for the wealthy and another for the middle class.

Case in point: The bill preserves the "Millionaires Loophole," used by the wealthy to hide up to $1 million from creditors and courts into offshore accounts known as asset protection. Everyone should be subject to the same law and the same standards, not one set of rules for the wealthy and one for middle-class families. If one can afford a high-priced lawyer to set up an asset protection trust, they are a lot better off in bankruptcy than a middle-class family struggling to pay off large hospital bills. More than half of all bankruptcies result from catastrophic medical bills.

Mr. Speaker, rather than deal with the health care crisis or making college affordable, this legislation protects wealthy deadbeats from the same standard imposed upon every middle-class American. We should have one rule, one standard in the law of bankruptcy law that applies to every American regardless of income and regardless of wealth or position.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

In response to the gentleman from Illinois, the reform bill significantly limits two practices that some wealthy filers use to hide assets from bankrupt creditors. Under the current system, in States with unlimited homestead exemptions, debtors can shield the full value of their residencies from creditors. To discourage debtors from relocating to the State to hide assets prior to a bankruptcy filing, the legislation requires a 3-year residency before a debtor can take advantage of the State's full homestead exemption. Currently, that is 91 days.

In addition, the bill adds a specific provision that prevents filers from shielding funds in an asset protection trust when fraud is involved. In fact, these practices will continue unabated unless this legislation is passed.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for the purposes of making a privileged motion to the gentlewoman from California (Ms. WOOLSEY).

MOTION TO ADJOURN

Ms. WOOLSEY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The motion is not debatable.

The question is on the motion to adjourn offered by the gentlewoman from California (Ms. WOOLSEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. WOOLSEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 49, nays 371, not voting 14, as follows:

[Roll No. 103]

YEAS—49

Allen
Baldwin
Berman
Brady (PA)
Butterfield
Capps
Capuano
Clay
Clyburn
Conyers
Cooper
Delahunt
DeLauro
Dingell
Doggett
Evans
Fattah
Filner
Frank (MA)
Green, Al
Hinchey
Holt
Jackson-Lee (TX)
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick (MI)
Kucinich
Lee
Markey
McDermott
McGovern
McKinney
Miller, George
Nadler
Oberstar
Olver
Owens
Paul
Payne
Rangel
Sánchez, Linda T.
Schakowsky
Stark
Thompson (MS)
Tierney
Waters
Waxman
Woolsey

NAYS—371

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin

Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wasserman Schultz
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Berkley
Bilirakis
Buyer
Davis, Tom
Gillmor
Herger
Istook
Manzullo
McCrery
Serrano
Solis
Thomas
Towns
Wamp

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1208

Messrs. GOODE, FRANKS of Arizona, SHADEGG, BEAUPREZ, SHERMAN, and Ms. GINNY BROWN-WAITE of Florida, Mrs. CAPITO, and Ms. BEAN changed their vote from "yea" to "nay."

Mr. KUCINICH and Mr. PAYNE changed their vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 103 on motion to adjourn I was unavoidably detained. Had I been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The SPEAKER pro tempore. Members are advised that the gentleman from Georgia (Mr. GINGREY) has 2½ minutes remaining; and the gentleman from Florida (Mr. HASTINGS) has 4½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield to the gentlewoman from California (Ms. WOOLSEY) for a unanimous consent request.

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to S. 256 because this bill does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my friend, the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, I rise in opposition to S. 256.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise Members that, as indicated most recently by the Chair on March 24, 2004, although a unanimous consent to insert remarks in debate may embody a simple, declarative statement of the Member's attitude toward the pending measure, it is improper for a Member to embellish such a request with other oratory, and it can become an imposition on the time of the Member who has yielded for that purpose.

The Chair will entertain as many requests to insert as may be necessary to accommodate Members, but the Chair also must ask Members to cooperate by confining such remarks to the proper form.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from New Mexico (Mr. UDALL) for a unanimous consent request.

Mr. UDALL of New Mexico. Mr. Speaker, I rise in opposition to S. 256, because this bill severely hurts a middle-class citizen's ability to get a second chance.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentleman from New Jersey (Mr. PAYNE), for a unanimous consent request.

Mr. PAYNE. Mr. Speaker, I rise in opposition to S. 256 because the bill does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), for a unanimous consent request.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to S. 256 because the bill does nothing to address the epidemic of identity theft or protect its victims.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the ranking member of the Committee on Rules, the gentlewoman from New York (Ms. SLAUGHTER), for a unanimous consent request.

Ms. SLAUGHTER. Mr. Speaker, I rise in opposition to S. 256 because the bill does nothing to address the problem of identity theft or protect its victims.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my friend, the gentlewoman from California (Ms. LEE), for a unanimous consent request.

Ms. LEE. Mr. Speaker, I rise in opposition to S. 256 because it is morally bankrupt and puts credit card companies ahead of children.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from California (Mr. STARK) for a unanimous consent request.

Mr. STARK. Mr. Speaker, I rise in opposition to S. 256 because the bill does not accommodate the 50 million uninsured Americans forced into bankruptcy by health care costs.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the ranking member of the Committee on Transportation and Infrastructure, my good friend, the gentleman from Minnesota (Mr. OBERSTAR), for a unanimous consent request.

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to S. 256.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to S. 256, this bankruptcy bill, because it does nothing to protect the victims of identity theft.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from New York (Mr. OWENS), my good friend, for a unanimous consent request.

Mr. OWENS. Mr. Speaker, I rise in opposition to S. 256 because it protects the risks that credit card companies take, while allowing them to swindle citizens.

Mr. Speaker, as a result of the actions of the Republican led Congress, unscrupulous credit card companies will increase their strong, hard sell tactics pressuring more and more individuals and families to purchase more credit. Credit card hucksters can take more risks because they will now enjoy greater protection from the courts. The taxpayer financed courts will become the debt collectors for the credit card swindlers. A federalized system will now protect the predators. Once again the doctrine of laissez-faire has been turned upside down. The marketplace has chosen to cling to the aprons of government. The banking private sector is demanding governmental interference in a situation where the taxpayers prefer not to pay agents for the work of strong enforcers. To serve the interest of consumer justice I urge a "no" vote on S. 256, the Bankruptcy Reform Bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentlewoman from San Diego, California (Mrs. DAVIS) for a unanimous consent request.

Mrs. DAVIS of California. Mr. Speaker. I rise in opposition to S. 256 because this bill adds to the burden of military families finding basic financial strength.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Ohio (Mrs. JONES), for a unanimous consent request.

Mrs. JONES of Ohio. Mr. Speaker, I rise in opposition to Senate bill 256 because the bill punishes working families and lets large corporations off the hook.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from Washington (Mr. MCDERMOTT) for a unanimous consent request.

Mr. MCDERMOTT. Mr. Speaker, I rise in opposition to S. 256 because this bill puts credit card companies ahead of children in the priorities.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentleman from Massachusetts (Mr. OLVER) for a unanimous consent request.

Mr. OLVER. Mr. Speaker, I rise in opposition to S. 256.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from Vermont (Mr. SANDERS) for a unanimous consent request.

Mr. SANDERS. Mr. Speaker, I rise in opposition to S. 256 because, on a bill of this magnitude, it is undemocratic and an outrage that amendments are not being allowed.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Illinois (Ms. SCHAKOWSKY), for a unanimous consent request.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to S. 256 because this bill puts credit card companies ahead of children.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to S. 256 because this bill puts credit card companies ahead of children and does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from California (Ms. WATSON), for a unanimous consent request.

Ms. WATSON. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to address the epidemic of identity theft or protect its victims.

☐ 1215

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield for a unanimous consent request to my good friend. the gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to protect disabled veterans or to address the epidemic of identity theft.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in opposition to S. 256 because this bill turns its back on middle-class America, continuing an administration that proceeds to reward the wealthy and tax wages.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to protect our heroic Reservists and Guard who are fighting for us every day in war.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in opposition to S. 256. It abuses the people.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise in opposition to S. 256 because the Republicans have sold out to the credit card companies and they are hurting American families.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY). The Chair would remind Members that their statements should be confined to their unanimous consent requests.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield for a unanimous consent request to my good friend, the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I rise in opposition to S. 256, which clearly is a payback and payout to the credit card companies.

Mr. HASTINGS of Florida. Mr. Speaker I am pleased to yield for a unanimous consent request to my good friend, the gentleman from North Carolina (Mr. WATT) from the Judiciary Committee. who had the opportunity to participate in some of those hearings, and is the chairman of the Congressional Black Caucus.

Mr. WATT. Mr. Speaker. I rise in opposition to the rule and in opposition to the bill; the rule because the rule shuts out all amendments to this bill.

The SPEAKER pro tempore. The gentleman from Florida has 3½ minutes remaining. The gentleman from Georgia has 2½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, just previous to the unanimous consent request, I was told by way of the gentleman from Georgia (Mr. GINGREY) that we had 4½ minutes.

The SPEAKER pro tempore. The Chair advises the gentleman from Florida that, during the series of unanimous consent requests. some Members embellished with oratory beyond the proper form. One minute was taken from the time for that.

PARLIAMENTARY INQUIRIES

Mr. CONYERS. Mr. Speaker. parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. CONYERS. Mr. Speaker, did I understand you to tell the leader of the Rules Committee managing the bill today that time would be taken from him because of the unanimous consent request?

The SPEAKER pro tempore. The Chair advised on that earlier, and will amplify the earlier statement. As indicated by previous occupants of the Chair on March 24, 2004; November 21, 2003; July 24, 2003; June 26, 2003; June 22, 2002; and March 24, 1995, although a unanimous consent request to insert remarks in debate may embody a simple declarative statement of the Member's attitude toward the pending measure, it is improper for a Member to embellish such a request with other oratory, and it can become an imposition on the time of the Member who has yielded for that purpose.

Mr. CONYERS. Mr. Speaker, may I point out that the floor manager in no way encouraged anyone to speak contrary to the rule that you have just enunciated.

The SPEAKER pro tempore. Members are yielded to for that purpose. They must confine their remarks to the proper form, or time can be subtracted from the individual yielding.

Mr. CONYERS. And in the judgment of the distinguished Speaker, how much time are you proposing to take from the floor manager?

The SPEAKER pro tempore. One minute was charged.

Mr. CONYERS. Is there some precedent for that, sir?

The SPEAKER pro tempore. Yes, as just cited.

Mr. CONYERS. There is?

Mr. GINGREY. Mr. Speaker, in the interest of comity, I ask unanimous consent that the gentleman from Florida be yielded an additional 1 minute.

The SPEAKER pro tempore. From the gentleman from Georgia's time?

Mr. GINGREY. Not from my time, no, Mr. Speaker. That he be allowed an additional 1 minute.

The SPEAKER pro tempore. Beyond the hour available for debate on the rule?

Mr. HASTINGS of Florida. Parliamentary inquiry, Mr. Speaker.

Mr. GINGREY. Mr. Speaker, I request that we grant by unanimous consent 30 seconds of my time to the gentleman from Florida.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I thank my colleague, but I am confused by the Chair's ruling. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. HASTINGS of Florida. Mr. Speaker, even though there is only 1 hour debate, a unanimous consent request by a Member that is not objected to is not permitted for extension of time?

The SPEAKER pro tempore. Would the gentleman from Georgia like to modify his request?

Mr. GINGREY. Mr. Speaker, I would like to modify that request to extend time by one minute on both sides.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. MURTHA. Objection, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. HASTINGS of Florida. Mr. Speaker, moving right along, I am pleased at this time to yield 3 minutes to the gentleman from California (Mr. SCHIFF), my good friend.

Mr. SCHIFF. Mr. Speaker, on Tuesday night I took an amendment to the Rules Committee asking the committee to permit this body to consider allowing each Member the opportunity to approve that amendment or reject it. The Republican majority on the Rules Committee, however, rejected giving Members that opportunity.

My amendment would have simply provided that if more than one-half of the creditor claims against you in bankruptcy are the result of identity theft, you should not be forced out of the protections of chapter 7. It was similar to an amendment offered by Senator NELSON of Florida, but was even narrower than that amendment.

Mr. Speaker, a few years ago, the manager of the identity theft at the FTC commented on how identity theft was becoming rampant in this country, that it wreaks havoc on the credit of the victim and can even force them into bankruptcy. Since then, the problem has grown even worse, and an estimated 27.3 million Americans have fallen victim to identity theft in the last 5 years.

We have all heard of recent breaches of massive databases holding personal information. On Monday, the parent company of the Lexis-Nexis reported that 310,000 people, nearly 10 times more than the original estimate reported last month, may have had their personal information stolen, including names, addresses, Social Security numbers, and driver's license numbers.

And this is not an isolated incident. Identity thieves have gained access to Choicepoint's database and personal information has been stolen and compromised from a major bank, department of motor vehicles, and a number of universities. Added together, these recent incidents in the last several weeks alone have exposed more than 2 million people to possible ID theft.

During the Judiciary Committee consideration of my amendment, I cited two recent examples of identity theft victims who were forced to declare bankruptcy, one young woman defrauded out of $300,000 and another woman who was wiped out financially when her identity was stolen, forcing her to file for bankruptcy right before Christmas.

When I offered the amendment in the Judiciary Committee it provoked quite a debate as well as a disagreement between the Chair of the full committee and the Chair of the subcommittee. The Chair of the subcommittee argued that my amendment would somehow do harm, while the Chair of the full committee argued that the problem with my amendment was that it did nothing at all. The chairman of the subcommittee then argued that the problem was that this issue had never been explored. However, the chairman of the full committee argued that this issue, and every other, had already been explored.

Well, Mr. Speaker and Members, it cannot be both. The chairman of the subcommittee even pondered what would happen if a person had their identity stolen, but then later became wealthy and had the ability to pay off their debt. While admitting that he was stretching, he still urged his colleagues to reject the amendment because it would "clearly disrupt the whole process of moving forward the bill." Thus prompting a question: When is a markup not really a markup? And the answer is, whenever the bankruptcy bill is in committee.

This is now the third session in a row where essentially no amendments have been entertained in committee and no amendments have been allowed here on the floor.

Mr. Speaker, just to conclude, last year the House supported identity theft legislation cracking down on identity thieves. This amendment gives us the chance to protect some of those who have been victimized by identity theft, and I urge an "aye" vote.

The SPEAKER pro tempore. The gentleman from Florida (Mr. HASTINGS) has 1 minute remaining. The gentleman from Georgia (Mr. GINGREY) has 2 minutes remaining.

Mr. GINGREY. Mr. Speaker, I have the right to close, and I wanted to reserve the balance of my time for that purpose.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the remainder of my time. Mr. Speaker, I will be asking Members to vote "no" on the previous question. If the previous question is defeated, I will amend this rule so we can vote on the Schiff amendment to help victims of identity theft. It will exempt from the bill's means test those consumers who are victimized by identity theft if it means 51 percent of the creditor claims against them are due to identity theft. This is a very reasonable and much-needed amendment, being debated in the Senate I might add, not on the bankruptcy measure, was offered in the Rules Committee last night, but unfortunately was blocked by the Republican majority by a straight party line vote.

Voting "no" on the previous question will not stop the bankruptcy bill from coming to the floor today. S. 256 will still be considered in this House before we leave for the weekend. However, a "yes" vote will preclude the House from addressing one of the most serious consumer issues in this country, identity theft. And I ask for a "no" on the previous question.

We owe it to our constituents to take action on this serious and escalating problem.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GINGREY. Mr. Speaker, I yield myself the remainder of my time. As we come to the end of the debate on the rule for S. 256, I urge my colleagues to support its passage and the underlying bill.

Mr. Speaker, it is time to pass bankruptcy reform. Today we must fix our bankruptcy laws to prevent irresponsible and unnecessary bankruptcies. Bankruptcy affects all American families. It is estimated that the annual cost is $400 to every family in America, and it is time to reform an outdated and broken system.

Despite the objections of a few Members, I know we have followed a fair process to get to this point. The Rules Committee offered to provide the minority with the ability to submit a substitute amendment. Their substitute amendment could have included any provisions they felt necessary. The Democrats rejected this offer, and they have failed to provide any alternative plan.

It is important to note many of the individual amendments they have discussed here today were considered over the past few years. Regardless of the rhetoric, this legislation has been under consideration and amended a number of times. We are now on the final product.

This year alone, S. 256 passed the House Judiciary Committee where 18 amendments were considered. To the substance of the bill, contrary to the claims of some, this legislation is not lining the pockets of wealthy creditors with the savings of the financially challenged.

Mr. Speaker, when casting their vote, I ask my colleagues to consider those constituents the current law harms. This bill gives support to small businesses and financially responsible families. I ask my colleagues to pass this rule and finally end the 8-year debate on bankruptcy reform.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 211, THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

In the resolution strike "and (2)" and insert the following:

"(2) the amendment printed in Sec. 2 of this resolution if offered by Representative Schiff of California or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)"

SEC. 2.

AMENDMENT TO S. 256, AS REPORTED

Offered by Mr. Schiff of California

Page 19, after line 21, insert the following (and make such technical and conforming changes as may be appropriate):

"(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an identity theft victim.

"(B) For purposes of this paragraph—

"(i) the term 'identity theft' means a fraud committed or attempted using the personally identifiable information of another individual; and

"(ii) the term 'identity theft victim' means a debtor with respect to whom not less than 51 percent of the aggregate value of allowed claims is a result of identity theft using the personally identifiable information of the debtor.".

Mr. GINGREY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 227, nays 199, not voting 8, as follows:

[Roll No. 104]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter

Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Berkley
Cooper
Davis, Tom
Gillmor
LaHood
Payne
Solis
Wamp

□ 1253

Mrs. TAUSCHER, Mr. DAVIS of Florida and Mr. PASTOR changed their vote from "yea" to "nay."

Mr. BASS and Mr. HOEKSTRA changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 104 on H. Res. 211, ordering the previous question, I was unavoidably detained. Had I been present, I would have voted, "nay."

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 227, noes 196, not voting 11, as follows:

[Roll No. 105]

AYES—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Berkley
Cooper
Davis, Tom
Feeney
Gillmor
Gordon
Gutknecht
Jenkins
LaHood
Rangel
Solis

□ 1302

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 105, on agreeing to the resolution H. Res. 211, I was unavoidably detained. Had I been present, I would have voted, "no."

PRIVILEGES OF THE HOUSE—RESTORING PUBLIC CONFIDENCE IN ETHICS PROCESS

Ms. PELOSI. Mr. Speaker, pursuant to rule IX, I rise in regard to a question of the privileges of the House, and I offer a privileged resolution that would create a bipartisan task force to return to ethical rules of the House.

The SPEAKER pro tempore (Mr. SIMPSON). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 213

Whereas, the Constitution of the United States authorizes the House of Representatives to "determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the concurrence of two thirds, expel a Member";

Whereas, in 1968, in compliance with this authority and to uphold its integrity and ensure that Members act in a manner that reflects credit on the House of Representatives, the Committee on Standards of Official Conduct was established;

Whereas, the ethics procedures in effect during the 108th congress, and in the three preceding Congresses, were enacted in 1997 in a bipartisan manner by an overwhelming vote of the House of Representatives upon the bipartisan recommendation of the ten-member Ethics Reform Task Force, which conducted a thorough and lengthy review of the entire ethics process;

Whereas, in the 109th Congress, for the first time in the history of the House of Representatives, decisions affecting the ethics process have been made on a partisan basis without consulting the Democractic Members of the Committee or of the House;

Whereas, the Chairman of the Committee, and two of his Republican colleagues, were dismissed from the Committee;

Whereas, in a statement to the press, the departing Chairman of the Committee stated "[t]here is a bad perception out there that there was a purge in the Committee and that people were put in that would protect our side of the aisle better than I did," and a replaced Republican Member, also in a statement to the press, referring to his dismissal from the Committee, noted his belief that "the decision was a direct result of our work in the last session;"

Whereas, the newly appointed chairman of the Committee improperly and unilaterally fired non-partisan Committee staff who assisted in the ethics work in the last session;

Whereas, these actions have subjected the Committee to public ridicule, produced contempt for the ethics process, created the public perception that their purpose was to protect a Member of the House, and weakened the ability of the Committee to adequately obtain information and properly conduct its investigative duties, all of which has brought discredit to the House; now be it

Resolved, that the Speaker shall appoint a bi-partisan task force with equal representation of the majority and minority parties to make recommendations to restore public confidence in the ethics process; and be it further

Resolved, that the task force report its findings and recommendations to the House of Representatives no later than June 1, 2005.

The SPEAKER pro tempore. The resolution does present a question of privilege.

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 218, nays 195, not voting 21, as follows:

[Roll No. 106]

YEAS—218

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Stearns
Sullivan
Sweeney
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—195

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—21

Allen
Berkley
Brown, Corrine
Evans
Gillmor
Gordon
Hayes
Hyde
Johnson, E. B.
LaHood
Lofgren, Zoe
Myrick
Norwood
Olver
Oxley
Rangel
Solis
Souder
Tancredo
Taylor (NC)
Young (AK)

□ 1334

Mr. MORAN of Virginia changed his vote from "yea" to "nay."

Messrs. PRICE of Georgia, SAXTON, KNOLLENBERG, LEWIS of Kentucky, PETERSON of Pennsylvania, COLE of Oklahoma, RADANOVICH, WOLF, KING of New York, INGLIS of South Carolina, ENGLISH of Pennsylvania and HALL changed their vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 106, on motion to table the resolution, H. Res. 215, I was unavoidably detained. Had I been present, I would have voted "nay."

Ms. ZOE LOFGREN of California. Mr. Speaker, on rollcall No. 106, I had turned off my pager during a committee meeting and neglected to turn it back on. When the vote was called, therefore, I did not learn of it. Had I been present, I would have voted, "nay."

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 211, I call up the Senate bill (S. 256) to amend title 11 of the United States Code, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of S. 256 is as follows:

S. 256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.

Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Discouraging abuse of reaffirmation agreement practices.
Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
Sec. 205. GAO study and report on reaffirmation agreement process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
Sec. 230. GAO study.
Sec. 231. Protection of personally identifiable information.
Sec. 232. Consumer privacy ombudsman.
Sec. 233. Prohibition on disclosure of name of minor children.
Sec. 234. Protection of personal information.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Technical amendments.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for exemptions.
Sec. 308. Reduction of homestead exemption for fraud.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Limitations on homestead exemption.
Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.
Sec. 325. United States trustee program filing fee increase.
Sec. 326. Sharing of compensation.
Sec. 327. Fair valuation of collateral.
Sec. 328. Defaults based on nonmonetary obligations.
Sec. 329. Clarification of postpetition wages and benefits.
Sec. 330. Delay of discharge during pendency of certain proceedings.
Sec. 331. Limitation on retention bonuses, severance pay, and certain other payments.
Sec. 332. Fraudulent involuntary bankruptcy.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Adequate protection for investors.
Sec. 402. Meetings of creditors and equity security holders.
Sec. 403. Protection of refinance of security interest.
Sec. 404. Executory contracts and unexpired leases.
Sec. 405. Creditors and equity security holders committees.
Sec. 406. Amendment to section 546 of title 11, United States Code.
Sec. 407. Amendments to section 330(a) of title 11, United States Code.
Sec. 408. Postpetition disclosure and solicitation.
Sec. 409. Preferences.
Sec. 410. Venue of certain proceedings.
Sec. 411. Period for filing plan under chapter 11.
Sec. 412. Fees arising from certain ownership interests.
Sec. 413. Creditor representation at first meeting of creditors.
Sec. 414. Definition of disinterested person.
Sec. 415. Factors for compensation of professional persons.
Sec. 416. Appointment of elected trustee.
Sec. 417. Utility service.
Sec. 418. Bankruptcy fees.
Sec. 419. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 431. Flexible rules for disclosure statement and plan.
Sec. 432. Definitions.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Scheduling conferences.
Sec. 441. Serial filer provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 444. Payment of interest.
Sec. 445. Priority for administrative expenses.
Sec. 446. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
Sec. 447. Appointment of committee of retired employees.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—BANKRUPTCY DATA

Sec. 601. Improved bankruptcy statistics.
Sec. 602. Uniform rules for the collection of bankruptcy data.
Sec. 603. Audit procedures.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Treatment of fuel tax claims.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Priority of tax claims.
Sec. 706. Priority property taxes incurred.
Sec. 707. No discharge of fraudulent taxes in chapter 13.
Sec. 708. No discharge of fraudulent taxes in chapter 11.
Sec. 709. Stay of tax proceedings limited to prepetition taxes.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES
Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Other amendments to titles 11 and 28, United States Code.
TITLE IX—FINANCIAL CONTRACT PROVISIONS
Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 902. Authority of the FDIC and NCUAB with respect to failed and failing institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to master agreements.
Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 907. Bankruptcy law amendments.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.
TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN
Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.
Sec. 1004. Definition of family farmer.
Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1006. Prohibition of retroactive assessment of disposable income.
Sec. 1007. Family fishermen.
TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS
Sec. 1101. Definitions.
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.
TITLE XII—TECHNICAL AMENDMENTS
Sec. 1201. Definitions.
Sec. 1202. Adjustment of dollar amounts.
Sec. 1203. Extension of time.
Sec. 1204. Technical amendments.
Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1206. Limitation on compensation of professional persons.
Sec. 1207. Effect of conversion.
Sec. 1208. Allowance of administrative expenses.
Sec. 1209. Exceptions to discharge.
Sec. 1210. Effect of discharge.
Sec. 1211. Protection against discriminatory treatment.
Sec. 1212. Property of the estate.
Sec. 1213. Preferences.
Sec. 1214. Postpetition transactions.
Sec. 1215. Disposition of property of the estate.
Sec. 1216. General provisions.
Sec. 1217. Abandonment of railroad line.
Sec. 1218. Contents of plan.
Sec. 1219. Bankruptcy cases and proceedings.
Sec. 1220. Knowing disregard of bankruptcy law or rule.
Sec. 1221. Transfers made by nonprofit charitable corporations.
Sec. 1222. Protection of valid purchase money security interests.
Sec. 1223. Bankruptcy Judgeships.
Sec. 1224. Compensating trustees.
Sec. 1225. Amendment to section 362 of title 11, United States Code.
Sec. 1226. Judicial education.
Sec. 1227. Reclamation.
Sec. 1228. Providing requested tax documents to the court.
Sec. 1229. Encouraging creditworthiness.
Sec. 1230. Property no longer subject to redemption.
Sec. 1231. Trustees.
Sec. 1232. Bankruptcy forms.
Sec. 1233. Direct appeals of bankruptcy matters to courts of appeals.
Sec. 1234. Involuntary cases.
Sec. 1235. Federal election law fines and penalties as nondischargeable debt.
TITLE XIII—CONSUMER CREDIT DISCLOSURE
Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to "introductory rates".
Sec. 1304. Internet-based credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
Sec. 1307. Dual use debit card.
Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.
Sec. 1309. Clarification of clear and conspicuous.
TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE
Sec. 1401. Employee wage and benefit priorities.
Sec. 1402. Fraudulent transfers and obligations.
Sec. 1403. Payment of insurance benefits to retired employees.
Sec. 1404. Debts nondischargeable if incurred in violation of securities fraud laws.
Sec. 1405. Appointment of trustee in cases of suspected fraud.
Sec. 1406. Effective date; application of amendments.
TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS
Sec. 1501. Effective date; application of amendments.
Sec. 1502. Technical corrections.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13";

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) in paragraph (1), as so redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking "but not at the request or suggestion of" and inserting "trustee (or bankruptcy administrator, if any), or";

(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title," after "consumer debts"; and

(III) by striking "a substantial abuse" and inserting "an abuse"; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

"(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6.000, whichever is greater; or

"(II) $10,000.

"(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

"(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

"(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

"(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1.500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

"(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

"(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—

"(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

"(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts;

divided by 60.

"(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

"(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

"(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

"(I) documentation for such expense or adjustment to income; and

"(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

"(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

"(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

"(II) $10,000.

"(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that show how each such amount is calculated.

"(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if the debtor is a disabled veteran (as defined in section 3741(1) of title 38), and the indebtedness occurred primarily during a period during which he or she was—

"(i) on active duty (as defined in section 101(d)(1) of title 10); or

"(ii) performing a homeland defense activity (as defined in section 901(1) of title 32).

"(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider—

"(A) whether the debtor filed the petition in bad faith; or

"(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

"(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

"(i) a trustee files a motion for dismissal or conversion under this subsection; and

"(ii) the court—

"(I) grants such motion; and

"(II) finds that the action of the attorney for the debtor in filing a case under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

"(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

"(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

"(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).

"(C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has—

"(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

"(ii) determined that the petition, pleading, or written motion—

"(I) is well grounded in fact; and

"(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

"(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

"(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or.bankruptcy administrator, if any)) under this subsection if—

"(i) the court does not grant the motion; and

"(ii) the court finds that—

"(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

"(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

"(B) A small business that has a claim of an aggregate amount less than $1.000 shall not be subject to subparagraph (A)(ii)(I).

"(C) For purposes of this paragraph—

"(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

"(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

"(II) is engaged in commercial or business activity; and

"(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

"(I) a parent corporation; and

"(II) any other subsidiary corporation of the parent corporation.

"(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

"(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor, including a veteran (as that term is defined in section 101 of title 38), and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

"(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

"(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

"(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

"(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

"(ii) the debtor files a statement under penalty of perjury—

"(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

"(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

"(10A) 'current monthly income'—

"(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

"(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

"(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

"(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;".

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The trustee shall—"; and

(2) by adding at the end the following:

"(b)(1) With respect to a debtor who is an individual in a case under this chapter—

"(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

"(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

"(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

"(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals.".

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.".

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) In this subsection—

"(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

"(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

"(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

"(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.".

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

"(7) the action of the debtor in filing the petition was in good faith;".

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting "to unsecured creditors" after "to make payments"; and

(2) by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(A)(i) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and

"(ii) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.".

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

"(A) such expenses are reasonable and necessary;

"(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

"(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

"(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.".

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking "and 523(a)(2)(C)" each place it appears and inserting "523(a)(2)(C), 707(b), and 1325(b)(3)".

(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

"(39A) 'median family income' means for any year—

"(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

"(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;".

(k) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 11 or 13.".

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

"(1) a brief description of—

"(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

"(B) the types of services available from credit counseling agencies; and

"(2) statements specifying that—

"(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

"(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.".

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) USE.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 106. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

"(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

"(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

"(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

"(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

"(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

"(iii) is satisfactory to the court.

"(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.

"(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).".

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking "or" at the end;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who is a person described in section 109(h)(4) or who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(2) Paragraph (1) shall not apply with respect to a debtor who is a person described in section 109(h)(4) or who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).

"(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.".

(d) Debtor's Duties.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—"; and

(2) by adding at the end the following:

"(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).".

(e) General Provisions.—

(1) In general.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 111. Nonprofit budget and credit counseling agencies; financial management instructional courses

"(a) The clerk shall maintain a publicly available list of—

"(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

"(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.

"(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

"(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

"(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

"(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

"(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

"(A) has met the standards set forth under this section during such period; and

"(B) can satisfy such standards in the future.

"(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

"(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

"(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

"(A) have a board of directors the majority of which—

"(i) are not employed by such agency; and if necessary

"(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

"(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

"(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

"(G) demonstrate adequate experience and background in providing credit counseling; and

"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instruction and services;

"(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

"(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective;

"(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

"(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee.

"(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

"(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

"(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

"(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

"(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

"(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

"(A) any actual damages sustained by the debtor as a result of the violation; and

"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.".

(2) Clerical amendment.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Nonprofit budget and credit counseling agencies; financial management instructional courses.".

(f) Limitation.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

“(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

“(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.”.

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) Reduction of Claim.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

“(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on an unsecured consumer debt by not more than 20 percent of the claim, if—

“(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed on behalf of the debtor by an approved nonprofit budget and credit counseling agency described in section 111;

“(B) the offer of the debtor under subparagraph (A)—

“(i) was made at least 60 days before the date of the filing of the petition; and

“(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

“(C) no part of the debt under the alternative repayment schedule is nondischargeable.

“(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

“(A) the creditor unreasonably refused to consider the debtor’s proposal; and

“(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).”.

(b) Limitation on Avoidability.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

“(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment schedule between the debtor and any creditor of the debtor created by an approved nonprofit budget and credit counseling agency.”.

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

“(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

“(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

“(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

“(2) such act is in the ordinary course of business between the creditor and the debtor; and

“(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.”.

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION AGREEMENT PRACTICES.

(a) In General.—Section 524 of title 11, United States Code, as amended section 202, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;”; and

(2) by adding at the end the following:

“(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with entering into such agreement.

“(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases ‘Before agreeing to reaffirm a debt, review these important disclosures’ and ‘Summary of Reaffirmation Agreement’ may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ must be used where indicated.

“(3) The disclosure statement required under this paragraph shall consist of the following:

“(A) The statement: ‘Part A: Before agreeing to reaffirm a debt, review these important disclosures:’;

“(B) Under the heading ‘Summary of Reaffirmation Agreement’, the statement: ‘This Summary is made pursuant to the requirements of the Bankruptcy Code’;

“(C) The ‘Amount Reaffirmed’, using that term, which shall be—

“(i) the total amount of debt that the debtor agrees to reaffirm by entering into an agreement of the kind specified in subsection (c), and

“(ii) the total of any fees and costs accrued as of the date of the disclosure statement, related to such total amount.

“(D) In conjunction with the disclosure of the ‘Amount Reaffirmed’, the statements—

“(i) ‘The amount of debt you have agreed to reaffirm’; and

“(ii) ‘Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.’.

“(E) The ‘Annual Percentage Rate’, using that term, which shall be disclosed as—

“(i) if, at the time the petition is filed, the debt is an extension of credit under an open end credit plan, as the terms ‘credit’ and ‘open end credit plan’ are defined in section 103 of the Truth in Lending Act, then—

“(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to entering into an agreement of the kind specified in subsection (c) or, if no such periodic statement has been given to the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

“(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

“(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II); or

“(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms ‘credit’ and ‘open end credit plan’ are defined in section 103 of the Truth in Lending Act, then—

“(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the entering into an agreement of the kind specified in subsection (c) with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

“(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

“(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

“(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating ‘The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.’.

“(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the debts the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

"(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

"(i) by making the statement: 'Your first payment in the amount of $_____ is due on but the future payment amount may be different. Consult your reaffirmation agreement or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

"(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount, and due dates or period of payments scheduled to repay the debts reaffirmed to the extent then known by the disclosing party; or

"(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

"(I) The following statement: 'Note: When this disclosure refers to what a creditor "may" do, it does not use the word "may" to give the creditor specific permission. The word "may" is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don't have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement is held.'.

"(J)(i) The following additional statements:

"'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

"'1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

"'2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

"'3. If you were represented by an attorney during the negotiation of your reaffirmation agreement, the attorney must have signed the certification in Part C.

"'4. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, you must have completed and signed Part E.

"'5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

"'6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

"'7. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home.

"'Your right to rescind (cancel) your reaffirmation agreement. You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled).

"'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of that agreement in the future under certain conditions.

"'Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

"'What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A "lien" is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

"(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

"'6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

"(4) The form of such agreement required under this paragraph shall consist of the following:

"'Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts arising under the credit agreement described below.

"'Brief description of credit agreement:

"'Description of any changes to the credit agreement made as part of this reaffirmation agreement:

"'Signature: Date:

"'Borrower:

"'Co-borrower, if also reaffirming these debts:

"'Accepted by creditor:

"'Date of creditor acceptance:'.

"(5) The declaration shall consist of the following:

"(A) The following certification:

"'Part C: Certification by Debtor's Attorney (If Any).

"'I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

"'Signature of Debtor's Attorney: Date:'.

"(B) If a presumption of undue hardship has been established with respect to such agreement, such certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

"(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

"(6)(A) The statement in support of such agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'Part D: Debtor's Statement in Support of Reaffirmation Agreement.

"'1. I believe this reaffirmation agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $, leaving $ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: .

"'2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'I believe this reaffirmation agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(7) The motion that may be used if approval of such agreement by the court is required in order for it to be effective, shall be signed and dated by the movant and shall consist of the following:

"'Part E: Motion for Court Approval (To be completed only if the debtor is not represented by an attorney.). I (we), the debtor(s), affirm the following to be true and correct:

"'I am not represented by an attorney in connection with this reaffirmation agreement.

"'I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, and because (provide any additional relevant reasons the court should consider):

"'Therefore, I ask the court for an order approving this reaffirmation agreement.'.

"(8) The court order, which may be used to approve such agreement, shall consist of the following:

"'Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

"(l) Notwithstanding any other provision of this title the following shall apply:

"(1) A creditor may accept payments from a debtor before and after the filing of an agreement of the kind specified in subsection (c) with the court.

"(2) A creditor may accept payments from a debtor under such agreement that the creditor believes in good faith to be effective.

"(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

"(m)(1) Until 60 days after an agreement of the kind specified in subsection (c) is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that such agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of such agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation that identifies additional sources of funds to make the payments as agreed upon under the terms of such agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove such agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor, and such hearing shall be concluded before the entry of the debtor's discharge.

"(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.".

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

"(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

"(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

"(1) the United States attorney for each judicial district of the United States; and

"(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

"(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

"(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.".

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

"(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2004), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.".

SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

"(14A) 'domestic support obligation' means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

"(A) owed to or recoverable by—

"(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

"(ii) a governmental unit;

"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

"(C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

"(i) a separation agreement, divorce decree, or property settlement agreement;

"(ii) an order of a court of record; or

"(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

"(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt;".

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as so redesignated, by striking "First" and inserting "Second";

(4) in paragraph (3), as so redesignated, by striking "Second" and inserting "Third";

(5) in paragraph (4), as so redesignated—

(A) by striking "Third" and inserting "Fourth"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as so redesignated, by striking "Fourth" and inserting "Fifth";

(7) in paragraph (6), as so redesignated, by striking "Fifth" and inserting "Sixth";

(8) in paragraph (7), as so redesignated, by striking "Sixth" and inserting "Seventh"; and

(9) by inserting before paragraph (2), as so redesignated, the following:

"(1) First:

"(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

"(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

"(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.".

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—.

(1) in section 1129(a), by adding at the end the following:

"(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.";

(2) in section 1208(c)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";

(3) in section 1222(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(4) in section 1222(b)—

(A) in paragraph (10), by striking "and" at the end;

(B) by redesignating paragraph (11) as paragraph (12); and

(C) by inserting after paragraph (10) the following:

"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";

(5) in section 1225(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.";

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan";

(7) in section 1307(c)—

(A) in paragraph (9), by striking "or" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";

(8) in section 1322(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(9) in section 1322(b)—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

"(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and";

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan".

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) under subsection (a)—

"(A) of the commencement or continuation of a civil action or proceeding—

"(i) for the establishment of paternity;

"(ii) for the establishment or modification of an order for domestic support obligations;

"(iii) concerning child custody or visitation;

"(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

"(v) regarding domestic violence;

"(B) of the collection of a domestic support obligation from property that is not property of the estate;

"(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

"(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

"(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

"(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

"(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;".

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

"(5) for a domestic support obligation;"; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking "(6), or (15)" each place it appears and inserting "or (6)"; and

(3) in paragraph (15), as added by Public Law 103-394 (108 Stat. 4133)—

(A) by inserting "to a spouse, former spouse, or child of the debtor and" before "not of the kind";

(B) by inserting "or" after "court of record,"; and

(C) by striking "unless—" and all that follows through the end of the paragraph and inserting a semicolon.

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));";

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or"; and

(3) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;".

SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date of the filing of the petition" after "dependent of the debtor".

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and"; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

"(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d)."; and

(2) by adding at the end the following:

"(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2) or (4) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

"(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

"(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

"(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

"(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;".

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking "or an employee of an attorney" and inserting "for the debtor or an employee of such attorney under the direct supervision of such attorney";

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to—

"(A) sign the document for filing; and

"(B) print on the document the name and address of that officer, principal, responsible person, or partner."; and

(B) by striking paragraph (2) and inserting the following:

"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

"(B) The notice under subparagraph (A)—

"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

"(iii) shall—

"(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

"(II) be filed with any document for filing.";

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and

(ii) by adding at the end the following:

"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer."; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)"; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

"(i) whether—

"(I) to file a petition under this title; or

"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

"(ii) whether the debtor's debts will be discharged in a case under this title;

"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

"(iv) concerning—

"(I) the tax consequences of a case brought under this title; or

"(II) the dischargeability of tax claims;

"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

"(vii) concerning bankruptcy procedures and rights.";

(6) in subsection (f)—

(A) by striking "(f)(1)" and inserting "(f)"; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking "(g)(1)" and inserting "(g)"; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

"(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.";

(C) in paragraph (2), as so redesignated—

(i) by striking "Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a" and inserting "A";

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and

(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";

(D) by striking paragraph (3), as so redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

"(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or

"(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and

(E) in paragraph (4), as so redesignated, by striking "or the United States trustee" and inserting "the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,";

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

"(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—";

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";

(ii) in subparagraph (B)—

(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and

(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any)."; and

(11) by adding at the end the following:

"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

"(B) advised the debtor to use a false Social Security account number;

"(C) failed to inform the debtor that the debtor was filing for relief under this title; or

"(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.

"(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.

"(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

"(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.".

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and";

(iii) by adding at the end the following:

"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and

(iv) by striking "(2)(A) any property" and inserting:

"(3) Property listed in this paragraph is—

"(A) any property";

(B) by striking paragraph (1) and inserting:

"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";

(C) by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding";

(D) by striking "paragraph (2)" each place it appears and inserting "paragraph (3)";

(E) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)";

(F) by striking "Such property is—"; and

(G) by adding at the end the following:

"(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

"(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

"(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

"(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

"(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

"(ii) A distribution described in this clause is an amount that—

"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

"(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount."; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following:

"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

"(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;".

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:

"(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

"(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.".

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

"(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.".

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting "522(n)," after "522(d),".

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "or" at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

"(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

"(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

"(B) only to the extent that such funds—

"(i) are not pledged or promised to any entity in connection with any extension of credit; and

"(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

"(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

"(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

"(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

"(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

"(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;"; and

(2) by adding at the end the following:

"(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

"(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).".

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

"(3) 'assisted person' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;";

(2) by inserting after paragraph (4) the following:

"(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a case or proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;"; and

(3) by inserting after paragraph (12) the following:

"(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

"(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

"(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

"(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

"(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.".

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting "101(3)," after "sections" each place it appears.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 526. Restrictions on debt relief agencies

"(a) A debt relief agency shall not—

"(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

"(A) the services that such agency will provide to such person; or

"(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

"(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

"(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

"(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

"(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

"(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

"(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.

"(d) No provision of this section, section 527, or section 528 shall—

"(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

"(2) be deemed to limit or curtail the authority or ability—

"(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

"(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

"526. Restrictions on debt relief agencies.".

SEC. 228. DISCLOSURES.

(a) Disclosures.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

"§ 527. Disclosures

"(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

"(1) the written notice required under section 342(b)(1); and

"(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

"(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

"(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

"'If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

"'If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"'If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

"'Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

"(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

"(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

"527. Disclosures.".

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) Enforcement.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

"§ 528. Requirements for debt relief agencies

"(a) A debt relief agency shall—

"(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

"(A) the services such agency will provide to such assisted person; and

"(B) the fees or charges for such services, and the terms of payment;

"(2) provide the assisted person with a copy of the fully executed and completed contract;

"(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

"(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

"(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

"(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

"(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

"(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

"(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

"(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

"528. Requirements for debt relief agencies.".

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

", except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

"(A) such sale or such lease is consistent with such policy; or

"(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

"(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

"(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

"(41A) 'personally identifiable information' means—

"(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

"(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

"(ii) the geographical address of a physical place of residence of such individual;

"(iii) an electronic address (including an e-mail address) of such individual;

"(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

"(v) a social security account number issued to such individual; or

"(vi) the account number of a credit card issued to such individual; or

"(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

"(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

"(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;".

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

"§ 332. Consumer privacy ombudsman

"(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

"(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

"(1) the debtor's privacy policy;

"(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

"(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

"(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

"(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.".

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting "a consumer privacy ombudsman appointed under section 332," before "an examiner".

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"332. Consumer privacy ombudsman.".

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

"§ 112. Prohibition on disclosure of name of minor children

"The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

"112. Prohibition on disclosure of name of minor children.".

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting "and subject to section 112" after "section".

SEC. 234. PROTECTION OF PERSONAL INFORMATION.

(a) RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.—Section 107 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property:

"(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

"(B) Other information contained in a paper described in subparagraph (A).

"(2) Upon ex parte application demonstrating cause, the court shall provide access to information protected pursuant to paragraph (1) to an entity acting pursuant to the police or regulatory power of a domestic governmental unit.

"(3) The United States trustee, bankruptcy administrator, trustee, and any auditor serving under section 586(f) of title 28—

"(A) shall have full access to all information contained in any paper filed or submitted in a case under this title; and

"(B) shall not disclose information specifically protected by the court under this title.".

(b) SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE TO CREDITOR.—Section 342(c) of title 11, United States Code, is amended—

(1) by inserting "last 4 digits of the" before "taxpayer identification number"; and

(2) by adding at the end the following: "If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.".

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by striking "subsection (b)," and inserting "subsections (b) and (c),".

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. TECHNICAL AMENDMENTS.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court";

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

"(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

"(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors, if—

"(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

"(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

"(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

"(bb) provide adequate protection as ordered by the court; or

"(cc) perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

"(aa) if a case under chapter 7, with a discharge; or

"(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

"(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.".

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

"(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;".

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(A) in paragraph (4), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in such personal property unless the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee."; and

(2) in section 722, by inserting "in full at the time of redemption" before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362, as amended by section 106—

(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)";

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subsection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

"(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

“(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

“(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

“(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.”; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking “consumer”;

(B) in subsection (a)(2)(B)—

(i) by striking “forty-five days after the filing of a notice of intent under this section” and inserting “30 days after the first date set for the meeting of creditors under section 341(a)”; and

(ii) by striking “forty-five day” and inserting “30-day”;

(C) in subsection (a)(2)(C) by inserting “, except as provided in section 362(h)” before the semicolon; and

(D) by adding at the end the following:

“(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.”.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

“(i) the plan provides that—

“(I) the holder of such claim retain the lien securing such claim until the earlier of—

“(aa) the payment of the underlying debt determined under nonbankruptcy law; or

“(bb) discharge under section 1328; and

“(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and”.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

“For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.”.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

“(13A) ‘debtor's principal residence’—

“(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

“(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;”; and

(2) by inserting after paragraph (27), the following:

“(27A) ‘incidental property’ means, with respect to a debtor's principal residence—

“(A) property commonly conveyed with a principal residence in the area where the real property is located;

“(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

“(C) all replacements or additions;”.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking “180 days” and inserting “730 days”; and

(B) by striking “, or for a longer portion of such 180-day period than in any other place” and inserting “or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place”; and

(2) by adding at the end the following:

“If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).”.

SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting “subject to subsections (o) and (p),” before “any property”; and

(2) by adding at the end the following:

“(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

“(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

“(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

“(3) a burial plot for the debtor or a dependent of the debtor; or

“(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.”.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B)—

(A) by striking “in the converted case, with allowed secured claims” and inserting “only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12”; and

(B) by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(C) with respect to cases converted from chapter 13—

“(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and

“(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.”.

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

“(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

“(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

“(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

“(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(iii) if—

"(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

"(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or".

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

"(A) proposed by the plan to the trustee;

"(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

"(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

"(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

"(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

"(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C)(i) for purposes of subparagraph (A)—

"(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

"(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

"(ii) for purposes of this subparagraph—

"(I) the terms 'consumer', 'credit', and 'open end credit plan' have the same meanings as in section 103 of the Truth in Lending Act; and

"(II) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.".

SEC. 311. AUTOMATIC STAY.

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

"(22) subject to subsection (l), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

"(23) subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property; but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

"(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;".

(b) LIMITATIONS.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

"(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

"(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

"(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

"(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

"(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

"(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

"(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

"(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

"(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

"(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

"(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

"(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

"(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

"(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

"(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

"(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

"(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

"(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

"(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

"(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

"(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

"(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

"(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

"(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.".

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking "six" and inserting "8"; and

(2) in section 1328, by inserting after subsection (e) the following:

"(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

"(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

"(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.".

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) Definition.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

"(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

"(i) clothing;

"(ii) furniture;

"(iii) appliances;

"(iv) 1 radio;

"(v) 1 television;

"(vi) 1 VCR;

"(vii) linens;

"(viii) china;

"(ix) crockery;

"(x) kitchenware;

"(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

"(xii) medical equipment and supplies;

"(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

"(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

"(xv) 1 personal computer and related equipment.

"(B) The term 'household goods' does not include—

"(i) works of art (unless by or of the debtor, or any relative of the debtor);

"(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

"(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

"(iv) jewelry with a fair market value of more than $500 in the aggregate (except wedding rings); and

"(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.".

(b) Study.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by subsection (a), with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact such section 522(f)(4) has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such section 522(f)(4) consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) In General.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);".

(b) Discharge Under Chapter 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) provided for under section 1322(b)(5);

"(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

"(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

"(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.".

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) Notice.—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(C) by adding at the end the following:

"(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

"(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number."; and

(2) by adding at the end the following:

"(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

"(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

"(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

"(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

"(3) A notice filed under paragraph (1) may be withdrawn by such entity.

"(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

"(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

"(1) file—

"(A) a list of creditors; and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

"(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

"(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

"(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

"(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

"(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;"; and

(2) by adding at the end the following:

"(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

"(2)(A) The debtor shall provide—

"(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

"(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

"(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

"(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

"(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—

"(A) at a reasonable cost; and

"(B) not later than 5 days after such request is filed.

"(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

"(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

"(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

"(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

"(4) in a case under chapter 13—

"(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

"(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

"(g)(1) A statement referred to in subsection (f)(4) shall disclose—

"(A) the amount and sources of the income of the debtor;

"(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

"(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

"(2) The tax returns, amendments, and statement of income and expenditures described in subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of section 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

"(h) If requested by the United States trustee or by the trustee, the debtor shall provide—

"(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or

"(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.".

(c)(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

(3) Not later than 540 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

(A) assesses the effectiveness of the procedures established under paragraph (1); and

(B) if appropriate, includes proposed legislation to—

(i) further protect the confidentiality of tax information; and

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

"(i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.

"(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

"(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

"(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.".

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.".

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

"(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

"(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.";

(2) in section 1325(b)(1)(B), by striking "three-year period" and inserting "applicable commitment period"; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

"(4) For purposes of this subsection, the 'applicable commitment period'—

"(A) subject to subparagraph (B), shall be—

"(i) 3 years; or

"(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4; and

"(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period."; and

(4) in section 1329(c), by striking "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)".

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors' attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) such 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.".

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) Property of the Estate.—

(1) In general.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"§ 1115. Property of the estate

"(a) In a case in which the debtor is an individual, property of the estate includes, in addition to the property specified in section 541—

"(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.

"(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.".

(2) Clerical amendment.—The table of sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"1115. Property of the estate.".

(b) Contents of Plan.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) in a case in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.".

(c) Confirmation of Plan.—

(1) Requirements relating to value of property.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

"(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

"(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

"(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.".

(2) Requirement relating to interests in property.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: ", except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section".

(d) Effect of Confirmation.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "The confirmation of a plan does not discharge an individual debtor" and inserting "A discharge under this chapter does not discharge a debtor who is an individual"; and

(2) by adding at the end the following:

"(5) In a case in which the debtor is an individual—

"(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

"(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—

"(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date; and

"(ii) modification of the plan under section 1127 is not practicable; and".

(e) Modification of Plan.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

"(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

"(2) extend or reduce the time period for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

“(f)(1) Sections 1121 through 1128 and the requirements of section 1129 apply to any modification under subsection (a).

“(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.”.

SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) Exemptions.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

“(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

“(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

“(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

“(C) a burial plot for the debtor or a dependent of the debtor; or

“(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

“(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

“(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

“(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

“(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

“(B) the debtor owes a debt arising from—

“(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

“(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

“(iii) any civil remedy under section 1964 of title 18; or

“(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

“(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.”.

(b) Adjustment of Dollar Amounts.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting “522(p), 522(q),” after “522(n),”.

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

“(7) any amount—

“(A) withheld by an employer from the wages of employees for payment as contributions—

“(i) to—

“(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

“(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

“(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

“(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

“(B) received by an employer from employees for payment as contributions—

“(i) to—

“(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

“(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

“(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

“(ii) to a health insurance plan regulated by State law whether or not subject to such title;”.

SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) In General.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking “Notwithstanding” and inserting “Except as provided in subsection (e)(2), and notwithstanding”; and

(2) by striking subsection (e) and inserting the following:

“(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

“(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

“(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.”.

(b) Applicability.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) Actions Under Chapter 7, 11, or 13 of Title 11, United States Code.—Section 1930(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) For a case commenced under—

“(A) chapter 7 of title 11, $200; and

“(B) chapter 13 of title 11, $150.”; and

(2) in paragraph (3), by striking “$800” and inserting “$1000”.

(b) United States Trustee System Fund.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title; and

“(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);”;

(2) in paragraph (2), by striking “one-half” and inserting “75 percent”; and

(3) in paragraph (4), by striking “one-half” and inserting “100 percent”.

(c) Collection and Deposit of Miscellaneous Bankruptcy Fees.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking “pursuant to 28 U.S.C. section 1930(b)” and all that follows through “28 U.S.C. section 1931” and inserting “under section 1930(b) of title 28, United States Code, 31.25 of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title”.

(d) Sunset Date.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

(e) Use of Increased Receipts.—

(1) Judges' salaries and benefits.—The amount of fees collected under paragraphs (1) and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

(2) Remainder.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

“(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.”.

SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting “(1)” after “(a)”; and

(2) by adding at the end the following:

“(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.".

SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) Executory Contracts and Unexpired Leases.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: "other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;"; and

(B) in paragraph (2)(D), by striking "penalty rate or provision" and inserting "penalty rate or penalty provision";

(2) in subsection (c)—

(A) in paragraph (2), by inserting "or" at the end;

(B) in paragraph (3), by striking "; or" at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

(b) Impairment of Claims or Interests.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting "or of a kind that section 365(b)(2) expressly does not require to be cured" before the semicolon at the end;

(2) in subparagraph (C), by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

"(A) the actual, necessary costs and expenses of preserving the estate including—

"(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

"(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;".

SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) Chapter 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking "or" at the end;

(2) in paragraph (11) by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (11) the following:

"(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

"(A) section 522(q)(1) may be applicable to the debtor; and

"(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(b) Chapter 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

"(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

"(i) section 522(q)(1) may be applicable to the debtor; and

"(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(c) Chapter 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",

(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and

(3) by adding at the end the following:

"(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

"(1) section 522(q)(1) may be applicable to the debtor; and

"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(d) Chapter 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",

(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and

(3) by adding at the end the following:

"(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

"(1) section 522(q)(1) may be applicable to the debtor; and

"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

SEC. 331. LIMITATION ON RETENTION BONUSES, SEVERANCE PAY, AND CERTAIN OTHER PAYMENTS.

Section 503 of title 11, United States Code, is amended by adding at the end the following:

"(c) Notwithstanding subsection (b), there shall neither be allowed, nor paid—

"(1) a transfer made to, or an obligation incurred for the benefit of, an insider of the debtor for the purpose of inducing such person to remain with the debtor's business, absent a finding by the court based on evidence in the record that—

"(A) the transfer or obligation is essential to retention of the person because the individual has a bona fide job offer from another business at the same or greater rate of compensation;

"(B) the services provided by the person are essential to the survival of the business; and

"(C) either—

"(i) the amount of the transfer made to, or obligation incurred for the benefit of, the person is not greater than an amount equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees for any purpose during the calendar year in which the transfer is made or the obligation is incurred; or

"(ii) if no such similar transfers were made to, or obligations were incurred for the benefit of, such nonmanagement employees during such calendar year, the amount of the transfer or obligation is not greater than an amount equal to 25 percent of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the calendar year before the year in which such transfer is made or obligation is incurred;

"(2) a severance payment to an insider of the debtor, unless—

"(A) the payment is part of a program that is generally applicable to all full-time employees; and

"(B) the amount of the payment is not greater than 10 times the amount of the mean severance pay given to nonmanagement employees during the calendar year in which the payment is made; or

"(3) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case, including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition.".

SEC. 332. FRAUDULENT INVOLUNTARY BANKRUPTCY.

(a) Short Title.—This section may be cited as the "Involuntary Bankruptcy Improvement Act of 2005".

(b) Involuntary Cases.—Section 303 of title 11, United States Code, is amended by adding at the end the following:

"(*l*)(1) If—

"(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

"(B) the debtor is an individual; and

"(C) the court dismisses such petition.

the court, upon the motion of the debtor, shall seal all the records of the court relating to such petition, and all references to such petition.

"(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) from making any consumer report (as defined in section 603(d) of that Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.

"(3) Upon the expiration of the statute of limitations described in section 3282 of title 18, for a violation of section 152 or 157 of such title, the court, upon the motion of the debtor and for good cause, may expunge any records relating to a petition filed under this section.".

(c) BANKRUPTCY FRAUD.—Section 157 of title 18, United States Code, is amended by inserting ", including a fraudulent involuntary bankruptcy petition under section 303 of such title" after "title 11".

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

"(25) under subsection (a), of—

"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

"(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

"(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;".

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking "10" each place it appears and inserting "30".

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 120 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

"(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.".

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsections (b) and".

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.".

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) A committee appointed under subsection (a) shall—

"(A) provide access to information for creditors who—

"(i) hold claims of the kind represented by that committee; and

"(ii) are not appointed to the committee;

"(B) solicit and receive comments from the creditors described in subparagraph (A); and

"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).".

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection (g) (as added by section 222(a) of Public Law 103-394) as subsection (h);

(2) in subsection (h), as so redesignated, by inserting "and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods" after "consent of a creditor"; and

(3) by adding at the end the following:

"(i)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7-209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, or any successor to such section 7-209.".

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "In"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.".

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (8), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a debt (excluding a consumer debt) against a noninsider of less than $10,000," after "$5,000". Section 1409(b) of title 28, United States Code, is further amended by striking "$5,000" and inserting "$15,000".

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period," and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: "Notwithstanding any local court rule, provision of a State constitution, any otherwise applicable nonbankruptcy law, or any other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and".

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).".

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of the filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.".

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the" and inserting "The"; and

(2) by adding at the end the following:

"(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing fee required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

"(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

"(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.".

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon "and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information"; and

(2) by striking subsection (f), and inserting the following:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

"(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor'—

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);".

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(51D)," after "101(3)," each place it appears.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

"§ 308. Debtor reporting requirements

"(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

"(b) A small business debtor shall file periodic financial and other reports containing information including—

"(1) the debtor's profitability;

"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(4)(A) whether the debtor is—

"(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) a small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help such debtor to understand such debtor's financial condition and plan the such debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

"§ 1116. Duties of trustee or debtor in possession in small business cases

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns and other required government filings; and

"(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

"1116. Duties of trustee or debtor in possession in small business cases.".

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).".

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(7) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

"(i) begin to investigate the debtor's viability;

"(ii) inquire about the debtor's business plan;

"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

"(iv) attempt to develop an agreed scheduling order; and

"(v) inform the debtor of other obligations;

"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor's books and records, and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

"(2) Paragraph (1) does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

"(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

"(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

"(i) for which there exists a reasonable justification for the act or omission; and

"(ii) that will be cured within a reasonable period of time fixed by the court.

"(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

"(4) For purposes of this subsection, the term 'cause' includes—

"(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

"(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

"(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan;

"(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.".

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by striking subparagraph (B) and inserting the following:

“(B) the debtor has commenced monthly payments that—

“(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

“(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or”.

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or a penalty provision, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from an entity other than the debtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);”.

SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) In General.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “; and”; and

(3) by adding after paragraph (6) the following:

“(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.”.

(b) Duties of Trustees.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking “and” at the end; and

(2) by adding at the end the following:

“(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and”.

(c) Conforming Amendment.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

“(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;”.

SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking “appoint” and inserting “order the appointment of”, and

(2) by adding at the end the following: “The United States trustee shall appoint any such committee.”.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) Technical Amendment Relating to Municipalities.—Section 921(d) of title 11, United States Code, is amended by inserting “notwithstanding section 301(b)” before the period at the end.

(b) Conforming Amendment.—Section 301 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “A voluntary”; and

(2) by striking the last sentence and inserting the following:

“(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.”.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting “555, 556,” after “553,”; and

(2) by inserting “559, 560, 561, 562,” after “557,”.

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) In General.—apter 6 of title 28, United States Code, is amended by adding at the end the following:

“§ 159. Bankruptcy statistics

“(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the ‘Director’).

“(b) The Director shall—

“(1) compile the statistics referred to in subsection (a);

“(2) make the statistics available to the public; and

“(3) not later than July 1, 2008, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

“(c) The compilation required under subsection (b) shall—

“(1) be itemized, by chapter, with respect to title 11;

“(2) be presented in the aggregate and for each district; and

“(3) include information concerning—

“(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by debtors;

“(B) the current monthly income, average income, and average expenses of debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

“(C) the aggregate amount of debt discharged in cases filed during the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

“(D) the average period of time between the date of the filing of the petition and the closing of the case for cases closed during the reporting period;

“(E) for cases closed during the reporting period—

“(i) the number of cases in which a reaffirmation agreement was filed; and

“(ii)(I) the total number of reaffirmation agreements filed;

“(II) of those cases in which a reaffirmation agreement was filed, the number of cases in which the debtor was not represented by an attorney; and

“(III) of those cases in which a reaffirmation agreement was filed, the number of cases in which the reaffirmation agreement was approved by the court;

“(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

“(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

“(II) the number of final orders entered determining the value of property securing a claim;

“(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

“(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

“(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

“(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.”.

(b) Clerical Amendment.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

(c) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) Amendment.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

“§ 589b. Bankruptcy data

“(a) Rules.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

“(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

“(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

“(b) Reports.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

“(c) Required Information.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

"(3) appropriate privacy concerns and safeguards.

"(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

"(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005;"; and

(2) by adding at the end the following:

"(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

"(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

"(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.".

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting "or an auditor serving under section 586(f) of title 28" after "serving in the case".

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; andby adding at the end the following:

(4) the debtor has failed to explain satisfactorily—

"(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

"(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), by inserting "(except that such expenses, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)" after "507(a)(1)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of such property.

"(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

"(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

"(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).".

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

"(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.".

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting "at the address and in the manner designated in paragraph (1)" after "determination of such tax";

(2) by striking "(1) upon payment" and inserting "(A) upon payment";

(3) by striking "(A) such governmental unit" and inserting "(i) such governmental unit";

(4) by striking "(B) such governmental unit" and inserting "(ii) such governmental unit";

(5) by striking "(2) upon payment" and inserting "(B) upon payment";

(6) by striking "(3) upon payment" and inserting "(C) upon payment";

(7) by striking "(b)" and inserting "(2)"; and

(8) by inserting before paragraph (2), as so designated, the following:

"(b)(1)(A) The clerk shall maintain a list under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

"(i) designate an address for service of requests under this subsection; and

"(ii) describe where further information concerning additional requirements for filing such requests may be found.

"(B) If such governmental unit does not designate an address and provide such address to the clerk under subparagraph (A), any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of such governmental unit.".

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 511. Rate of interest on tax claims

"(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

"(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"511. Rate of interest on tax claims.".

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting "for a taxable year ending on or before the date of the filing of the petition" after "gross receipts";

(B) in clause (i), by striking "for a taxable year ending on or before the date of the filing of the petition"; and

(C) by striking clause (ii) and inserting the following:

"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

"(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

"(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days."; and

(2) by adding at the end the following:

"An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.".

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking "assessed" and inserting "incurred".

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking "paragraph" and inserting "section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),".

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by sections 321 and 330, is amended by adding at the end the following:

"(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—

"(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

"(B) for a tax or customs duty with respect to which the debtor—

"(i) made a fraudulent return; or

"(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.".

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking "the debtor" and inserting "a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title".

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "deferred cash payments," and all that follows through the end of the subparagraph, and inserting "regular installment payments in cash—

"(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

"(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

"(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).".

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law".

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

"(1) the tax was not incurred by a trustee duly appointed or elected under chapter 7 of title 11; or

"(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.".

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting "whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both," before "except".

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;".

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting "or State statute" after "agreement"; and

(2) in subsection (c), by inserting ", including the payment of all ad valorem property taxes with respect to the property" before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section;" and inserting the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section;".

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting "or equivalent report or notice," after "a return,";

(B) in clause (i), by inserting "or given" after "filed"; and

(C) in clause (ii)—

(i) by inserting "or given" after "filed"; and

(ii) by inserting ", report, or notice" after "return"; and

(2) by adding at the end the following:

"For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.".

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 703, is amended by inserting "the estate," after "misrepresentation,".

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) the following:

"(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.".

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"§ 1308. Filing of prepetition tax returns

"(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

"(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

"(B) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of that meeting; or

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

"(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

"(A) a period of not more than 30 days for returns described in paragraph (1); and

"(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"1308. Filing of prepetition tax returns.".

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: ", and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose amended Federal Rules of Bankruptcy Procedure that provide—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, that an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, that no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case," after "records,"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

"(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);''.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—

(1) SPECIAL PROVISIONS.—Section 346 of title 11, United States Code, is amended to read as follows:

"§ 346. Special provisions related to the treatment of State and local taxes

"(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make such returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

"(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

"(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

"(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

"(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

"(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

"(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

"(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

"(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

"(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the date of the order for relief under this title to the extent that—

"(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

"(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

"(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

"(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

"(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

"(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

"346. Special provisions related to the treatment of State and local taxes.''.

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

"(j)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

"(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.''.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.
"1501. Purpose and scope of application.
"SUBCHAPTER I—GENERAL PROVISIONS
"1502. Definitions.
"1503. International obligations of the United States.
"1504. Commencement of ancillary case.
"1505. Authorization to act in a foreign country.
"1506. Public policy exception.
"1507. Additional assistance.
"1508. Interpretation.
"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT
"1509. Right of direct access.
"1510. Limited jurisdiction.
"1511. Commencement of case under section 301 or 303.
"1512. Participation of a foreign representative in a case under this title.
"1513. Access of foreign creditors to a case under this title.
"1514. Notification to foreign creditors concerning a case under this title.
"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF
"1515. Application for recognition.
"1516. Presumptions concerning recognition.
"1517. Order granting recognition.
"1518. Subsequent information.
"1519. Relief that may be granted upon filing petition for recognition.
"1520. Effects of recognition of a foreign main proceeding.
"1521. Relief that may be granted upon recognition.
"1522. Protection of creditors and other interested persons.
"1523. Actions to avoid acts detrimental to creditors.

"1524. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
"1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
"1527. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"1528. Commencement of a case under this title after recognition of a foreign main proceeding.
"1529. Coordination of a case under this title and a foreign proceeding.
"1530. Coordination of more than 1 foreign proceeding.
"1531. Presumption of insolvency based on recognition of a foreign main proceeding.
"1532. Rule of payment in concurrent proceedings.

"§ 1501. Purpose and scope of application

"(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies where—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

"(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

"(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 1502. Definitions

"For the purposes of this chapter, the term—

"(1) 'debtor' means an entity that is the subject of a foreign proceeding;

"(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

"(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

"(4) 'foreign main proceeding' means a foreign proceeding pending in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

"(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

"(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§ 1503. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

"§ 1504. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

"§ 1505. Authorization to act in a foreign country

"A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§ 1506. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§ 1507. Additional assistance

"(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§ 1508. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§ 1509. Right of direct access

"(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

"(b) If the court grants recognition under section 1517, and subject to any limitations that the court may impose consistent with the policy of this chapter—

"(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

"(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

"(3) a court in the United States shall grant comity or cooperation to the foreign representative.

"(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

"(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

"(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

"(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

"§ 1510. Limited jurisdiction

"The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§ 1511. Commencement of case under section 301 or 303

"(a) Upon recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

"§ 1512. Participation of a foreign representative in a case under this title

"Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

"§ 1513. Access of foreign creditors to a case under this title

"(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

"(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

"(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

"(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§ 1514. Notification to foreign creditors concerning a case under this title

"(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

"(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

"(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—

"(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

"(2) indicate whether secured creditors need to file proofs of claim; and

"(3) contain any other information required to be included in such notification to creditors under this title and the orders of the court.

"(d) Any rule of procedure or order of the court as to notice or the filing of a proof of claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§ 1515. Application for recognition

"(a) A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

"(b) A petition for recognition shall be accompanied by—

"(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;

"(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or

"(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.

"(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

"(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

"§ 1516. Presumptions concerning recognition

"(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

"(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

"(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

"§ 1517. Order granting recognition

"(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

"(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

"(2) the foreign representative applying for recognition is a person or body; and

"(3) the petition meets the requirements of section 1515.

"(b) Such foreign proceeding shall be recognized—

"(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or

"(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

"(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

"(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.

"§ 1518. Subsequent information

"From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

"(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative's appointment; and

"(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

"§ 1519. Relief that may be granted upon filing petition for recognition

"(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

"(1) staying execution against the debtor's assets;

"(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

"(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

"(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

"(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"§ 1520. Effects of recognition of a foreign main proceeding

"(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

"(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

"(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

"(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

"(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

"(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

"(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

"§ 1521. Relief that may be granted upon recognition

"(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

"(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

"(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

"(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

"(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

"(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

"(6) extending relief granted under section 1519(a); and

"(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

"(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"§ 1522. Protection of creditors and other interested persons

"(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

"(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.

"(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

"(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

"§ 1523. Actions to avoid acts detrimental to creditors

"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

"(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

"§ 1524. Intervention by a foreign representative

"Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

"(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.

"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party in interest to notice and participation.

"§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

"(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with a foreign court or a foreign representative.

"(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with a foreign court or a foreign representative.

"§ 1527. Forms of cooperation

"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

"(1) appointment of a person or body, including an examiner, to act at the direction of the court;

"(2) communication of information by any means considered appropriate by the court;

"(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

"§ 1529. Coordination of a case under this title and a foreign proceeding

"If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

"(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

"(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

"(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

"(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

"§ 1530. Coordination of more than 1 foreign proceeding

"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

"§ 1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"15. Ancillary and Other Cross-Border Cases .... 1501".

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(k) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

"(2) section 1509 applies whether or not a case under this title is pending.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking "or 13" and inserting "13, or 15".

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

"§ 1410. Venue of cases ancillary to foreign proceedings

"A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

"(1) in which the debtor has its principal place of business or principal assets in the United States;

"(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

"(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.".

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

"(3)(A) a foreign insurance company, engaged in such business in the United States; or

"(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.";

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking ", 304," each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

"(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and

"(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension."; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking "(b)".

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Board determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union

Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (12)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Board".

SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—

(1) IN GENERAL.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking "other than paragraph (12) of this subsection, subsection (b)(9)" and inserting "other than subsections (b)(9) and (c)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

"(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

"(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A credit union organized by the Board, for which a conservator is appointed either—

"(I) immediately upon the organization of the credit union; or

"(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.".

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the credit union in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) Definitions.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period ", that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) Payment.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) Enforceability of Bilateral Netting Contracts.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) General Rule.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(f) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) Enforceability of Clearing Organization Netting Contracts.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) General Rule.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(d) Enforceability of Contracts With Uninsured National Banks, Uninsured Federal Branches and Agencies, Certain Uninsured State Member Banks, and Edge Act Corporations.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

"SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

"(a) In General.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

"(b) Liability.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) Regulatory Authority.—

"(1) In general.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

"(2) Specific requirement.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal

Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) Definitions.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

SEC. 907. BANKRUPTCY LAW AMENDMENTS.

(a) Definitions of Forward Contract, Repurchase Agreement, Securities Clearing Agency, Swap Agreement, Commodity Contract, and Securities Contract.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

"(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

"(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

"(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;";

(D) in paragraph (48), by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission," after "1934"; and

(E) by amending paragraph (53B) to read as follows:

"(53B) 'swap agreement'—

"(A) means—

"(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

"(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

"(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

"(III) a currency swap, option, future, or forward agreement;

"(IV) an equity index or equity swap, option, future, or forward agreement;

"(V) a debt index or debt swap, option, future, or forward agreement;

"(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

"(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

"(VIII) a weather swap, weather derivative, or weather option;

"(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

"(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

"(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(iii) any combination of agreements or transactions referred to in this subparagraph;

"(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

"(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

"(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;";

(2) in section 741(7), by striking paragraph (7) and inserting the following:

"(7) 'securities contract'—

"(A) means—

"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(ii) any option entered into on a national securities exchange relating to foreign currencies;

"(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(iv) any margin loan;

"(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

"(vi) any combination of the agreements or transactions referred to in this subparagraph;

"(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

"(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

"(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;"; and

(3) in section 761(4)—

(A) by striking "or" at the end of subparagraph (D); and

(B) by adding at the end the following:

"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

"(G) any combination of the agreements or transactions referred to in this paragraph;

"(H) any option to enter into an agreement or transaction referred to in this paragraph;

"(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;".

(b) Definitions of Financial Institution, Financial Participant, and Forward Contract Merchant.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

"(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means—

"(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

"(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);"; and

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;".

(c) Definition of Master Netting Agreement and Master Netting Agreement Participant.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) Swap Agreements, Securities Contracts, Commodity Contracts, Forward Contracts, Repurchase Agreements, and Master Netting Agreements Under the Automatic-Stay.—

(1) In general.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting ", pledged to, under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and".

(2) Limitation.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

"(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) Limitation of Avoidance Powers Under Master Netting Agreement.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(C) by inserting "or financial participant" after "swap participant"; and

(2) by adding at the end the following:

"(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) Fraudulent Transfers of Master Netting Agreements.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) Termination or Acceleration of Securities Contracts.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) Termination or Acceleration of Commodities or Forward Contracts.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract";

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(i) Termination or Acceleration of Repurchase Agreements.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement";

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the third sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(j) Liquidation, Termination, or Acceleration of Swap Agreements.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement";

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements";

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements"; and

(4) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(k) Liquidation, Termination, Acceleration, or Offset Under a Master Netting Agreement and Across Contracts.—

(1) In general.—Title 11, United States Code, is amended by inserting after section 560 the following:

"§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

"(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

"(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.".

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

"§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)";

(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)"; and

(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,".

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";

(2) in sections 362(b)(7) and 546(f), by inserting "or financial participant" after "repo participant" each place such term appears;

(3) in section 546(e), by inserting "financial participant," after "financial institution,";

(4) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";

(5) in section 548(d)(2)(C), by inserting "or financial participant" after "repo participant";

(6) in section 548(d)(2)(D), by inserting "or financial participant" after "swap participant";

(7) in section 555—

(A) by inserting "financial participant," after "financial institution,"; and

(B) by striking the second sentence and inserting the following: "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.";

(8) in section 556, by inserting ", financial participant," after "commodity broker";

(9) in section 559, by inserting "or financial participant" after "repo participant" each place such term appears; and

(10) in section 560, by inserting "or financial participant" after "swap participant".

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.

"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

SEC. 908. RECORDKEEPING REQUIREMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).".

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

"§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

"(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date or dates of such liquidation, termination, or acceleration.

"(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

"(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

"(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

"(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

"562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) Claims Arising From Rejection.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) Exception From Stay.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) Reenactment.—

(1) In General.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and as in effect on June 30, 2005, is hereby reenacted.

(2) Effective Date of Reenactment.—Paragraph (1) shall take effect on July 1, 2005.

(b) Amendments—Chapter 12 of title 11, United States Code, as reenacted by subsection (a), is amended by this Act.

(c) Conforming Amendment.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(18)," after "101(3)," each place it appears.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) Contents of Plan.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(b) Special Notice Provisions.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

(c) Effective Date; Application of Amendments.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50"; and

(2) in subparagraph (B)(ii)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50".

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking "for the taxable year preceding the taxable year" and inserting the following:

"for—

"(i) the taxable year preceding; or

"(ii) each of the 2d and 3d taxable years preceding;

the taxable year".

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) Confirmation of Plan.—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "or" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.".

(b) Modification of Plan.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(d) A plan may not be modified under this section—

"(1) to increase the amount of any payment due before the plan as modified becomes the plan;

"(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

"(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.".

SEC. 1007. FAMILY FISHERMEN.

(a) Definitions.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

"(7A) 'commercial fishing operation' means—

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

"(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;"; and

(2) by inserting after paragraph (19) the following:

"(19A) 'family fisherman' means—

"(A) an individual or individual and spouse engaged in a commercial fishing operation—

"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and "(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) a corporation or partnership—

"(i) in which more than 50 percent of the outstanding stock or equity is held by—

"(I) 1 family that conducts the commercial fishing operation; or

"(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

"(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

"(III) if such corporation issues stock, such stock is not publicly traded;

"(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;".

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "or family fisherman" after "family farmer".

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting "**OR FISHERMAN**" after "**FAMILY FARMER**";

(2) in section 1203, by inserting "or commercial fishing operation" after "farm"; and

(3) in section 1206, by striking "if the property is farmland or farm equipment" and inserting "if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)".

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

"12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income .... 1201".

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

"(27A) 'health care business'—

"(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

"(i) the diagnosis or treatment of injury, deformity, or disease; and

"(ii) surgical, drug treatment, psychiatric, or obstetric care; and

"(B) includes—

"(i) any—

"(I) general or specialized hospital;

"(II) ancillary ambulatory, emergency, or surgical treatment facility;

"(III) hospice;

"(IV) home health agency; and

"(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

"(ii) any long-term care facility, including any—

"(I) skilled nursing facility;

"(II) intermediate care facility;

"(III) assisted living facility;

"(IV) home for the aged;

"(V) domiciliary care facility; and

"(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;".

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

"(40A) 'patient' means any individual who obtains or receives services from a health care business;

"(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"§ 351. Disposal of patient records

"If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

"(1) The trustee shall—

"(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

"(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

"(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

"(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

"(A) if the records are written, shredding or burning the records; or

"(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"351. Disposal of patient records.".

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

"(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

"(A) in disposing of patient records in accordance with section 351; or

"(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and".

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

"§ 333. Appointment of patient care ombudsman

"(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

"(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

"(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

"(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

"(b) An ombudsman appointed under subsection (a) shall—

"(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

"(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

"(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

"(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

"(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

"333. Appointment of ombudsman.".

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting "an ombudsman appointed under section 333, or" before "a professional person"; and

(2) in subparagraph (A), by inserting "ombudsman," before "professional person".

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

"(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

"(A) is in the vicinity of the health care business that is closing;

"(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

"(C) maintains a reasonable quality of care.".

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking "and (11)" and inserting "(11), and (12)".

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

"(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).".

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(1) by striking "In this title—" and inserting "In this title the following definitions shall apply:";

(2) in each paragraph (other than paragraph (54A)), by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A), (38), and (54A), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph and inserting a semicolon;

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;";

(7) in paragraph (54A)—

(A) by striking "the term" and inserting "The term"; and

(B) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) by inserting "101(19A)," after "101(18)," each place it appears;

(2) by inserting "522(f)(3) and 522(f)(4)," after "522(d)," each place it appears;

(3) by inserting "541(b), 547(c)(9)," after "523(a)(2)(C)," each place it appears;

(4) in paragraph (1), by striking "and 1325(b)(3)" and inserting "1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28"; and

(5) in paragraph (2), by striking "and 1325(b)(3) of this title" and inserting "1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28".

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; and

(2) in section 552(b)(1), by striking "product" each place it appears and inserting "products".

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking "attorney's" and inserting "attorneys'".

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking "motor vehicle" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

SEC. 1213. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of" each place it appears;

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1123(d)," after "1123(b),".

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "'document"; and

(B) by striking "this title" and inserting "title 11".

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) CONFIRMATION OF PLAN OF REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:

"(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

"(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "20" and inserting "30".

SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the "Bankruptcy Judgeship Act of 2005".

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judge for the eastern district of California.

(B) Three additional bankruptcy judges for the central district of California.

(C) Four additional bankruptcy judges for the district of Delaware.

(D) Two additional bankruptcy judges for the southern district of Florida.

(E) One additional bankruptcy judge for the southern district of Georgia.

(F) Three additional bankruptcy judges for the district of Maryland.

(G) One additional bankruptcy judge for the eastern district of Michigan.

(H) One additional bankruptcy judge for the southern district of Mississippi.

(I) One additional bankruptcy judge for the district of New Jersey.

(J) One additional bankruptcy judge for the eastern district of New York.

(K) One additional bankruptcy judge for the northern district of New York.

(L) One additional bankruptcy judge for the southern district of New York.

(M) One additional bankruptcy judge for the eastern district of North Carolina.

(N) One additional bankruptcy judge for the eastern district of Pennsylvania.

(O) One additional bankruptcy judge for the middle district of Pennsylvania.

(P) One additional bankruptcy judge for the district of Puerto Rico.

(Q) One additional bankruptcy judge for the western district of Tennessee.

(R) One additional bankruptcy judge for the eastern district of Virginia.

(S) One additional bankruptcy judge for the district of South Carolina.

(T) One additional bankruptcy judge for the district of Nevada.

(2) VACANCIES.—

(A) DISTRICTS WITH SINGLE APPOINTMENTS.—Except as provided in subparagraphs (B), (C), (D), and (E), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) CENTRAL DISTRICT OF CALIFORNIA.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the central district of California—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(B); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of bankruptcy judge in the district of Delaware—

(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the southern district of Florida—

(i) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under paragraph (1)(D); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the district of Maryland—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary office of bankruptcy judges authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years after the date of the enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: "Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the court of appeals of

the United States for the circuit in which such district is located."; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking "2" and inserting "3"; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1".

(e) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) $25; or

"(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this title—

"(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).".

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;".

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

(a) Rights and Powers of the Trustee.—Section 546(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).".

(b) Administrative Expenses.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

"(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.".

SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) Chapter 7 Cases.—The court shall not grant a discharge in the case of an individual who is a debtor in a case under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) Chapter 11 and Chapter 13 Cases.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) Document Retention.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) Sense of the Congress.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) Study Required.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) Report and Regulations.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding after paragraph (7), as added by section 323, the following:

"(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

"(A) the tangible personal property is in the possession of the pledgee or transferee;

"(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

"(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b); or".

SEC. 1231. TRUSTEES.

(a) Suspension and Termination of Panel Trustees and Standing Trustees.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) Expenses of Standing Trustees.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.".

SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking "Subject to subsection (b)," and inserting "Subject to subsections (b) and (d)(2),"; and

(2) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following:

"(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

"(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

"(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

"(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

"(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

"(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

"(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

"(C) The parties may supplement the certification with a short statement of the basis for the certification.

"(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

"(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.".

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting "as to liability or amount" after "bona fide dispute"; and

(B) striking "if such claims" and inserting "if such noncontingent, undisputed claims"; and

(2) in subsection (h)(1), by inserting "as to liability or amount" before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date.

SEC. 1235. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

"(14B) incurred to pay fines or penalties imposed under Federal election law;".

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: __________.' (the blank space to be filled in by the creditor).

"(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: .' (the blank space to be filled in by the creditor).

"(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: __________.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

"(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

"(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

"(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or

(G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

"(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

"(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

"(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

"(H) The Board shall—

"(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

"(ii) establish the table required under clause (i) by assuming—

"(I) a significant number of different annual percentage rates;

"(II) a significant number of different account balances;

"(III) a significant number of different minimum payment amounts; and

"(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

"(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

"(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

"(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

"(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: ______.' (the blank space to be filled in by the creditor).".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the "Board") shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking "CONSULTATION OF TAX ADVISER.—A statement that the" and inserting the following: "TAX DEDUCTIBILITY.—A statement that—

"(A) the"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.".

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking "If any" and inserting the following:

"(1) IN GENERAL.—If any"; and

(B) by adding at the end the following:

"(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

"(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges."; and

(B) in subsection (b), by adding at the end the following:

"(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.".

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

"(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

"(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

"(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

"(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

"(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

"(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(D) DEFINITIONS.—In this paragraph—

"(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

"(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

"(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(7) INTERNET-BASED SOLICITATIONS.—

"(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

"(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the information described in paragraph (6).

"(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

"(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

"(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

"(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

"(B) The amount of the late payment fee to be imposed if payment is made after such date.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended—

(1) in paragraph (4) by striking "90" and inserting "180", and

(2) in paragraphs (4) and (5) by striking "$4,000" and inserting "$10,000".

SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, is amended—

(1) in subsections (a) and (b) by striking "one year" and inserting "2 years",

(2) in subsection (a)—

(A) by inserting "(including any transfer to or for the benefit of an insider under an employment contract)" after "transfer" the 1st place it appears, and

(B) by inserting "(including any obligation to or for the benefit of an insider under an employment contract)" after "obligation" the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking "or" at the end,

(B) in subclause (III) by striking the period at the end and inserting "; or", and

(C) by adding at the end the following:

"(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.".

(4) by adding at the end the following:

"(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

"(A) such transfer was made to a self-settled trust or similar device;

"(B) such transfer was by the debtor;

"(C) the debtor is a beneficiary of such trust or similar device; and

"(D) the debtor made such transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made, indebted.

"(2) For the purposes of this subsection, a transfer includes a transfer made in anticipation of any money judgment, settlement, civil penalty, equitable order, or criminal fine incurred by, or which the debtor believed would be incurred by—

"(A) any violation of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; or

"(B) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l and 78o(d)) or under section 6 of the Securities Act of 1933 (15 U.S.C. 77f).".

SEC. 1403. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

"(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

"(1) modified retiree benefits; and

"(2) was insolvent on the date such benefits were modified;

the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.".

SEC. 1404. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

(a) PREPETITION AND POSTPETITION EFFECT.—Section 523(a)(19)(B) of title 11, United States Code, is amended by inserting ", before, on, or after the date on which the petition was filed," after "results".

(b) EFFECTIVE DATE UPON ENACTMENT OF SARBANES-OXLEY ACT.—The amendment made by subsection (a) is effective beginning July 30, 2002.

SEC. 1405. APPOINTMENT OF TRUSTEE IN CASES OF SUSPECTED FRAUD.

Section 1104 of title 11, United States Code, is amended by adding at the end the following:

"(e) The United States trustee shall move for the appointment of a trustee under subsection (a) if there are reasonable grounds to suspect that current members of the governing body of the debtor, the debtor's chief executive or chief financial officer, or members of the governing body who selected the debtor's chief executive or chief financial officer, participated in actual fraud, dishonesty, or criminal conduct in the management of the debtor or the debtor's public financial reporting.".

SEC. 1406. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—cept as provided in paragraph (2), the amendments made by this title shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 1402(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

SEC. 1502. TECHNICAL CORRECTIONS.

(a) CONFORMING AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.—Title 11 of the United States Code, as amended by the preceding provisions of this Act, is amended—

(1) in section 507—

(A) in subsection (a)—

(i) in paragraph (5)(B)(ii) by striking "paragraph (3)" and inserting "paragraph (4)"; and

(ii) in paragraph (8)(D) by striking "paragraph (3)" and inserting "paragraph (4)";

(B) in subsection (b) by striking "subsection (a)(1)" and inserting "subsection (a)(2)"; and

(C) in subsection (d) by striking "subsection (a)(3)" and inserting "subsection (a)(1)";

(2) in section 523(a)(1)(A) by striking "507(a)(2)" and inserting "507(a)(3)";

(3) in section 752(a) by striking "507(a)(1)" and inserting "507(a)(2)";

(4) in section 766—

(A) in subsection (h) by striking "507(a)(1)" and inserting "507(a)(2)"; and

(B) in subsection (i) by striking "507(a)(1)" each place it appears and inserting "507(a)(2)";

(5) in section 901(a) by striking "507(a)(1)" and inserting "507(a)(2)";

(6) in section 943(b)(5) by striking "507(a)(1)" and inserting "507(a)(2)";

(7) in section 1123(a)(1) by striking "507(a)(1), 507(a)(2)" and inserting "507(a)(2), 507(a)(3)";

(8) in section 1129(a)(9)—

(A) in subparagraph (A) by striking "507(a)(1) or 507(a)(2)" and inserting "507(a)(2) or 507(a)(3)"; and

(B) in subparagraph (B) by striking "507(a)(3)" and inserting "507(a)(1)";

(9) in section 1226(b)(1) by striking "507(a)(1)" and inserting "507(a)(2)"; and

(10) in section 1326(b)(1) by striking "507(a)(1)" and inserting "507(a)(2)".

(b) RELATED CONFORMING AMENDMENT.—Section 6(e) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff(e)) is amended by striking "507(a)(1)" and inserting "507(a)(2)".

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 211, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 256.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield by myself such time as I may consume.

Mr. Speaker, I rise in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This legislation consists of a comprehensive package of reform measures pertaining to consumer and business bankruptcy cases. The current system has created a set of incentives that encourage opportunistic personal filings and the abuse of a bankruptcy system originally intended to strike a delicate balance between debtor and creditor rights. These abuses ultimately hurt debtors as well as creditors, consumers as well as businesses, suppliers as well as purchasers. The only winners in the current bankruptcy system are those who game the system for personal gain.

S. 256 restores personal responsibility and integrity to the bankruptcy system and ensures that the system is fair to both debtors and creditors. This legislation represents the most comprehensive reform of the bankruptcy system in more than 25 years.

As many of us know, bankruptcy reform has been subject to exhaustive congressional review for more than a decade, beginning with the establishment of a National Bankruptcy Review Commission in 1994. It is important to note that over the course of the last four Congresses, the House has passed bankruptcy reform on eight separate occasions by overwhelming and bipartisan margins.

This bill will help stop fraudulent, abusive, and opportunistic bankruptcy claims by closing various loopholes and incentives that have produced steadily cascading claims.

Central to these reforms is a merit-based test that reflects the commonsense proposition that those who are capable of repaying their debts after seeking bankruptcy relief must actually repay their debts. S. 256 will also give the courts greater powers to dismiss abusive bankruptcy cases and to punish attorneys who encourage their clients to file such claims. In addition, the bill prevents violent criminals or drug traffickers from using bankruptcy relief to evade their creditors.

The bill closes the "millionaire's mansion" loophole in the current bankruptcy code that permits corporate criminals to shield their multimillion dollar homesteads from deserving creditors. Of critical importance, the legislation prevents deadbeat parents from abusing the bankruptcy system to shirk their child support obligations. With respect to these reforms, the National Child Support Enforcement Association stated that S. 256 is "crucial to the collection of child support during bankruptcy."

Some might ask why Congress has been so concerned about abuse in the bankruptcy system. The answer to this question should be obvious. It is estimated that every American household bears an annual $400 hidden tax for profligate and abusive bankruptcy filings. That is a $400 tax on every household that no politician has to vote for, but gets paid anyhow.

As a result, every abusive bankruptcy filing impacts hard-working Americans in the form of higher interest rates and increased costs of goods and service. Our economy and the hard-working Americans who sustain it should not suffer any longer from the billions of dollars in losses associated with abusive bankruptcy filings.

Mr. Speaker, this legislation not only deals with abuse in the bankruptcy system; it includes many vital consumer protections as well. S. 256 will provide the tools to crack down on bankruptcy petition mills, which often misrepresent the benefits and risks of bankruptcy relief. It will impose heightened standards of professional responsibility for attorneys who represent debtors. It will require certain credit card solicitations, monthly billing statements, and related materials to include important disclosures and explanatory statements on a broad range of credit terms and conditions, including introductory interest rates and minimum payments.

The bill also helps America's family farmers and fishermen confronting economic hard times by providing more tools to assist in their bankruptcy reorganization. The bill includes protections for medical patients in bankruptcy health care facilities and pro-privacy provisions that protect against the unwanted disclosure of personal information.

There are several other critical reforms contained in this comprehensive legislation, but the limits of time prevent an exhaustive recitation.

Mr. Speaker, the time for bankruptcy reform is long overdue. Bankruptcy reform legislation has been subject to more process, more consideration, more deliberation, more debate, and more voting than virtually any other legislative item in the past decade. We have before us legislation that represents the culmination of a decade of legislative toil and persistence. It is the product of extensive bicameral and bipartisan compromise and was approved by the other body by a vote of 74 to 25.

We also have before us a historic opportunity to return a measure of fairness and accountability to the bankruptcy system in a manner that will curb bankruptcy abuse while rewarding the vast majority of hard-working

Americans who play by the rules and pay their bills as agreed upon.

Mr. Speaker, I urge my colleagues to seize this opportunity to join me in supporting this legislation.

Mr. Speaker, before closing, I include for the RECORD a supplemental statement acknowledging the hard work of many Members and staff who have helped make this legislation possible, as well as a summary of the principal provisions of this bill.

Mr. Speaker, over the many years this legislation has been pending in the Congress, many Members, Senators, and staff members have devoted themselves to making S. 256 a reality. I would like to take this opportunity to recognize these individuals.

Beginning with my colleagues in the House, I would like to mention the many contributions of the Chairman of the Subcommittee on Commercial and Administrative Law (Mr. Cannon) for his hard work on behalf of this legislation. The Chairman of the Financial Services Committee (Mr. OXLEY) has also been a great resource. I also appreciate the contributions of my colleagues on the other side of the aisle, the Ranking Member of the Judiciary Committee (Mr. CONYERS) and the gentleman from Virginia (Mr. BOUCHER). Former Members should also be recognized for their contributions. Bill McCollum is to be commended for being the first to introduce comprehensive bankruptcy reform and George Gekas deserves our gratitude for his tireless efforts.

In addition, I would like to mention the following staff on the Judiciary Committee for their contributions: Phil Kiko, Majority Committee General Counsel and Chief of Staff; Rob Tracci, Chief Legislative Counsel and Parliamentarian; Raymond Smietanka, Chief Counsel, Subcommittee on Commercial and Administrative Law; Perry Apelbaum; David Lachmann; Matt Iandoli, Legislative Director for Representative CANNON; Todd Thorpe, Chief of Staff for Representative CANNON; Laura Vaught, Deputy Chief of Staff for Representative BOUCHER; Jean Harmann, House Legislative Counsel and Dina Ellis, Counsel for the House Financial Services Committee.

Former staffers who should also be recognized, include Will Moschella, Joe Rubin, Alan Cagnoli, and Liz Trainer.

The vital and indispensable efforts of one staff member have uniquely contributed to the bankruptcy reform legislation we consider today. From her service as general counsel on the congressionally-created National Bankruptcy Review Commission to her often behind the scenes work on bankruptcy reform legislation extending to the 105th Congress, Susan Jensen, counsel to the Judiciary Subcommittee on Commercial and Administrative Law, deserves special recognition. Her technical expertise in a complex area of law has resulted in dramatic improvements in successive drafts of bankruptcy reform legislation and helped establish a record of legislative history that elucidates the legislation we consider today. Her professionalism, attention to detail, and commitment to serving the House of Representatives deserves the recognition and commendation of this House.

I would also like to acknowledge the countless contributions of our colleagues in the other body. These include Senators GRASSLEY, HATCH, SESSIONS, SPECTER, BIDEN and LEAHY.

This legislation has also benefitted from the hard work and devoted assistance of numerous Senate staff members. These include, Rita Lari, counsel for Senator GRASSLEY, who has been a wonderful resource for our staff. In addition, the following individuals must also be acknowledged: Harold Kim and Tim Strachan, counsels for Senator SPECTER; Perry Barber, Rene Augustine, and former staffer Makan Delrahim, counsels for Senator HATCH; and Ed Pagano, Chief of Staff for Senator LEAHY.

SUMMARY OF PRINCIPAL PROVISIONS OF S. 256, "THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005"

CONSUMER BANKRUPTCY REFORMS

Abuse prevention: S. 256 instills a greater level of personal responsibility by closing various loopholes and eliminating incentives in the current bankruptcy system that encourage opportunistic consumer bankruptcy filings and abuse. The bill's needs-based provisions target, for example, those debtors who have a demonstrated ability to repay their debts and channels them into a form of bankruptcy relief that requires debt repayment. Courts, under S. 256, are given greater powers to dismiss abusive bankruptcy cases and to punish attorneys who encourage their clients to file such cases. Debtors who have committed crimes of violence or engaged in drug trafficking will no longer be able to use bankruptcy to hide from their creditors. Likewise, deadbeat parents will be prevented from using bankruptcy to shirk their child support obligations. In addition, this legislation prevents debtors from avoiding their responsibility to pay for luxury goods and services purchased on the eve of filing for bankruptcy.

Needs-based reforms: S. 256 implements an income and expense analysis to determine whether a debtor has a demonstrated ability to repay a significant portion of his or her debts. If a debtor has the ability to repay debts, he or she must either be channeled into a form of bankruptcy relief that requires repayment or risk having the bankruptcy case dismissed as an abusive filing. This needs-based test specifies certain expense amounts—derived from IRS expense standards and other specified expenses—that are deducted from the debtor's income. These include expenses for food, clothing, housing, and transportation as well as certain educational expenses for the debtor's children. The debtor may rebut the presumption of abuse by demonstrating special circumstances warranting additional expenses or income adjustment.

Spousal and child support protections: S. 256 prioritizes the collection and payment of spousal and child support in bankruptcy cases by giving these claims the highest payment priority (current law gives these claimants an only 7th level payment priority). The bill requires bankruptcy trustees to give child support claimants important information about the availability of state child support enforcement assistance and to notify the proper state child support enforcement authorities of the deadbeat parent's bankruptcy filing. S. 256 allows various enforcement actions to be brought against a bankrupt deadbeat parent, including the withholding of his or her driver's license, or the suspension of the debtor's professional or occupational license. It also allows state child support enforcement agencies to intercept a debtor's tax refund for nonpayment of spousal or child support. In addition, it ensures that a deadbeat parent do not escape responsibility to pay a child's medical bills. The National Child Support Enforcement Association says S. 256's reforms are "crucial to the collection of child support during bankruptcy."

Closes the "mansion loophole" for greedy corporate culprits: Under current bankruptcy law, debtors living in certain states can shield from their creditors virtually all of the equity in their homes. In light of this, some debtors actually move to these states just to take advantage of their "mansion loophole" laws. S. 256 closes this loophole for abuse by requiring a debtor to reside in the state for at least 2 years before he or she can claim that state's homestead exemption—the current residency requirement is only 91 days! The bill further reduces the opportunity for abuse by requiring a debtor to own the homestead for at least 40 months before he or she can use state exemption law—current law imposes no such requirement. In addition, S. 256 requires a debtor's homestead exemption to be reduced for to the extent attributable to the debtor's fraudulent conversion of nonexempt assets (e.g., cash) into a homestead exemption. Most importantly, the bill stops securities law violators and other culprits from hiding their homestead assets from those whom they have defrauded or injured If a debtor was convicted of a felony, violated a securities law, or committed a criminal act, intentional tort, or engaged in reckless misconduct that caused serious physical injury or death, S. 256 overrides state homestead exemption law and caps the debtor's homestead exemption at $125,000.

Debtor protections: S. 256 requires debtors to receive credit counseling before they can be eligible for bankruptcy relief so that they will make an informed choice about bankruptcy—its alternatives and consequences. The bill also requires debtors, after they have filed for bankruptcy, to participate in financial management instructional courses so they can hopefully avoid future financial distress. S. 256 penalizes creditors who unreasonably refuse to negotiate a pre-bankruptcy debt repayment plan with a debtor. The bill strengthens the disclosure requirements for reaffirmation agreements so that debtors will be better informed about their rights and responsibilities. In addition, S. 256 requires certain monthly credit card billing statements to include specified disclosures regarding the increased interest and repayment time associated with making minimum payments. The bill also requires certain home equity loan and credit card solicitations to include enhanced consumer disclosures. S. 256 prohibits a creditor from terminating an open end consumer credit plan simply because the consumer has not incurred finance charges on the account. Further, the bill cracks down on bankruptcy petition mills and imposes heightened standards of professional responsibility for attorneys who represent debtors.

BUSINESS BANKRUPTCY AND OTHER REFORMS

Protections for small business owners: Under current bankruptcy law, a business can be sued by a bankruptcy trustee and forced to pay back monies previously paid to it by a firm that later files for bankruptcy protection. S. 256 contains provisions making it easier—particularly for small businesses—to successfully defend against these suits.

Promotes greater certainty in the financial market place: S. 256 reduces systemic risk in the banking system and financial marketplace by minimizing the risk of disruption when parties to certain financial transactions become bankrupt or insolvent. Federal Reserve Board Chairman Alan Greenspan says these reforms are "extremely important."

Family farmers: S. 256 helps small family farmers facing financial distress. While current bankruptcy law has a specialized form of bankruptcy relief—Chapter 12—that is specifically designed for family farmers, its benefits for farmers are limited because of its restrictive eligibility requirements. The bill responds to this problem in several key respects: it more than doubles the debt eligibility limit and requires it to be periodically adjusted for inflation; it lowers the requisite percentage of a farmer's income that must be derived from farming operations; and it gives farmers more flexibility with respect to how certain creditors can be repaid. As a result, many more deserving family farmers facing financial hard times will be able to avail themselves of Chapter 12. In addition, S. 256 makes Chapter 12 a permanent component of the bankruptcy laws and extends the benefits of this form of bankruptcy relief to family fishermen.

Small business debtors: S. 256 addresses the special problems presented by small business debtors by instituting firm deadlines and enforcement mechanisms to weed out those debtors who are not likely to reorganize. It also requires the court and other designated entities to monitor these cases more actively.

Transnational insolvencies: In response to the increasing globalization of business dealings and operations, S. 256 establishes a separate chapter under the Bankruptcy Code devoted to transnational insolvencies. These provisions are intended to provide greater legal certainty for trade and investment as well promote the fair and efficient administration of these cases.

Privacy protections: Under current law, nearly every item of information supplied by a debtor in connection with his or her bankruptcy case is made available to the public. S. 256 prohibits the disclosure of the names of the debtor's minor children and requires such information to be kept in a nonpublic record, which can be made available for inspection only by the court and certain other designated entities. In addition, if a business debtor had a policy prohibiting it from selling "personally identifiable information" about its customers and the policy was in effect at the time of the bankruptcy filing, then S. 256 prohibits the sale of such information unless certain conditions are satisfied.

Protections for employees: S. 256 requires certain back pay awards granted as a result of the debtor's violation of Federal or State law to receive one of the highest payment priorities in a bankruptcy case. In addition, S. 256 streamlines the appointment of an ERISA administrator for an employee benefit plan, under certain circumstances, to minimize the disruption that results when an employer files for bankruptcy relief. In light of the disaterous impact that bankruptcy cases like WorldCom and Enron have had on their employees, reforms that more than double current the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code. Other provisions would protect retirees in cases where Chapter 11 debtors unilaterally modify their benefits, such as health insurance. These reforms would also make it easier to recover excessive pre-petition compensation, such as bonuses, paid to insiders of a debtor that can then be used to pay unpaid employee wage claims.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the most special interest-vested bill that I have ever dealt with in my career in Congress. It massively tilts the playing field in favor of banks and credit card companies and against working people and their families. I have never, ever faced such a piece of legislation. That explains to me why it took 8 years to get this thing up here, because they kept fixing it up, making it wrong.

Mr. Speaker, all I want to say as we open this debate is that to those who assert that this bill cracks down on creditor abuse. I would ask them to realize that this bill does absolutely nothing to discourage abusive, underage lending; nothing to discourage reckless lending to the developmentally disabled; nothing to regulate the practice of sub-prime lending to persons with no means or little ability to repay their debts; nothing to crack down on the sharks, the lenders, that charge members of the Armed Forces up to 500 percent interest per year or more. They hang around the bases and lure them in.

What this is is something that we should all be truly embarrassed about. This bill is opposed by every consumer group, by all the bankruptcy judges, the trustees, law professors, by all of organized labor, by the military groups, by the civil rights organizations, and by every major group concerned about seniors, women, and children.

Please, if we do not do anything else in the 109th Congress, let us not let this bill get out of the House of Representatives.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER) to show that this is truly a bipartisan effort.

Mr. BOUCHER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the reform of the nation's bankruptcy laws which our actions today will accomplish is well justified. This reform is strongly in the interests of consumers. It will significantly reduce the annual hidden tax of approximately $400 that the typical consumer pays because others are misusing the bankruptcy laws. That amount represents the increased cost of credit and the increased price of goods and services caused by bankruptcy law misuse. This reform will lower that hidden tax.

The reform also helps consumers by requiring clearer disclosures of the cost of credit on credit card statements, and the reform will be a major benefit to single parents who receive alimony or child support. That person today is fifth in priority for the receipt of payment under the bankruptcy laws. The reform before us today elevates the spouse support recipient to number one in priority.

This reform proceeds from the basic premise that people who can afford to repay a substantial portion of what they owe should do so. The bill requires that repayment while allowing a discharge in bankruptcy of the debts that cannot be repaid. In so doing, it responds to the broad misuse of chapter 7's complete liquidation provisions that we have observed in recent years.

The reform measure sets a threshold for the use of chapter 7. Debtors who can make little or no repayment can use its provisions and discharge all of their debts. Debtors whose annual income is below the national mean of about $50,000 per year are untouched by this reform. They can make full use of chapter 7 and discharge all of their debts, whether or not they can afford to make repayments.

This reform imposes a modest measure of personal responsibility that is well justified, and I urge its approval by the House.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), a distinguished member of the committee.

Mr. DELAHUNT. Mr. Speaker, let me just suggest the following, with all due respect to my friend from Wisconsin and my friend from Virginia.

□ 1345

The figure of $400 is a mythical figure. It is inaccurate.

In addition to that, be rest assured, if you are a consumer, you will not benefit one penny from this bill. Do my colleagues know who is going to benefit? The credit card industry. Anyone familiar with the history of this bill knows that it was written by and for the credit card industry, and they spent north of $40 million to make sure that they got what they wanted.

The American people are the losers here, unless you happen to be a senior executive of a credit card company or an investor in credit card companies, because they are going to make a good score here today, but the American taxpayer is going to pay for it.

According to the CBO, the bill will cost taxpayers $392 million over a 5-year period and simultaneously reduce tax revenue by $456 million, increasing the budget deficit, by the way, that we are all so concerned about. The bill is nothing more than a public subsidy for one of the most profitable businesses in our economy.

What is sad is that we could have produced legislation which would have been fair and balanced. We continue to hear that fair and balanced theme, but the credit card industry would not allow it. They would not tolerate any effort to make them accountable, no matter how minimal.

To cite just one example, myself and the gentleman from North Carolina (Mr. WATT) proposed an amendment to limit the interest charged on a credit card to 75 percent. I said 75 percent. The credit card industry said, no; and, of course, their supporters defeated our amendment; and this amendment is not before us today. I would suggest 75 percent is not bad, even by Mafia standards. Loan sharking used to be a crime in this country. Maybe this bill should be renamed as the Loan Sharking Decriminalization Act of 2000.

We hear the term personal responsibility, but when it comes to the concept of corporate responsibility, silence.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CANNON), the chairman of the Subcommittee on Commercial and Administrative Law.

Mr. CANNON. Mr. Speaker, I rise in support of Senate bill 256 and urge its adoption by the House.

Whether or not we have a cost of $400 per household or some other cost, I think it is clear to all Americans that we pay a cost if we have excessive bankruptcies in America. What we are looking for here is workable markets where consumers have the opportunity to borrow money at the lowest cost. Hopefully, they are not above 18 percent; certainly not at 75 percent. The market does a remarkable job for that purpose.

For more than 7 years now, almost as long as I have been in Congress, we have struggled with the rising tide of bankruptcy abuse which threatens the delicate balance in this country between creditors and debtors. As this reform measure has developed, slowly, inexorably, we have dealt with each issue: framing, debating, considering, and ultimately resolving each controversy. Progressive Congresses have moved toward ultimate resolution, until finally today the House has been presented with a bill that it can send directly to the President for signature.

As chairman of the Subcommittee on Commercial and Administrative Law, I take considerable satisfaction that, through collective effort, we would be able to achieve what many said would never happen. We have crafted fair and balanced legislation dealing in a straightforward manner with a problem that has vexed the Nation for the past decade and threatens economic growth and stability. By the way, the Bankruptcy Act has not been amended for 25 years in a serious way.

The American people will truly be well served by this effort. This bill is a rare achievement of reducing disparity in the bankruptcy system. It establishes more uniform and predictable standards. It strengthens the integrity of the bankruptcy process. It deals with the continuing wave of bankruptcy filings and abuse of State homestead exemptions. It will reinforce the public perception that the system is fair for all participants. It improves the administration of the bankruptcy process. And, finally, it restores a measure of personal responsibility to the bankruptcy system that is spiraling out of control.

Mr. Speaker, my constituents need this legislation, and America needs this legislation, and I urge support today for S. 256.

I would also note that the need for additional bankruptcy judgeships may need to be considered to reflect the numbers submitted by the Judicial Conference's most recent report. Additional judgeships are sorely needed in a number of districts across the country, including my State of Utah. I was heartened by the assurance of the chairman of the Committee on the Judiciary during the markup of Senate 256 that this matter will be considered later this year. In that regard, I would like to thank the gentleman from Georgia (Mr. KINGSTON) who has worked tirelessly on the issue of expanding the number of bankruptcy judges we have to meet this need.

Mr. Speaker, at this point I will place additional information on the bill in the RECORD.

During the course of the Senate Judiciary Committee's consideration of S. 256, a provision was added to deal with excessive retention bonuses, severance payments and other forms of inducements paid by a debtor to retain key personnel or otherwise induce a debtor's management to remain with the debtor.

This provision addresses serious concerns and I support the intent of its drafters. Nevertheless, this provision should not be construed to invalidate all key employee retention programs for companies that may someday wind up in Chapter 11. It is very important that a Chapter 11 debtor be able to retain management that is dedicated to maintaining the company's value for the benefit of its creditors, investors, employees, and other stakeholders. All too often, companies that fail to reorganize successfully are converted to Chapter 7 for liquidation, where creditors receive pennies on the dollar and employees face job dislocation.

Where appropriate, key employee retention programs may be necessary to bring a company in financial distress successfully through the Chapter 11 process. Accordingly, section 331 of S. 256 should not be applied to invalidate such programs where there is no evidence of insider negligence, mismanagement, or fraudulent conduct contributed to a company's insolvency—in whole or in part.

Given the possibility that the intent of the Congress with respect to this provision and the interpretation of Section 331's text may not be consistent, legislation clarifying language may be necessary. If so, I will work with my colleagues in the House and Senate to address any such inconsistencies.

I ask that a letter from the Association of Insolvency and Restructuring Advisors be printed at this point in the RECORD.

ASSOCIATION OF INSOLVENCY,
AND RESTRUCTURING ADVISORS,
Medford, OR, March 1, 2005.
Senator ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The undersigned are financial and legal professionals who serve as the Board of Directors of the Association of Insolvency and Restructuring Advisors (AIRA). As board members we work to further the AIRA's goal of increasing industry awareness of the organization as an important educational and technical resource for professionals in business turnaround, restructuring, and bankruptcy practice, and of the Certified Insolvency and Restructuring Advisor (CIRA) designation as an assurance of expertise in this area.

We write to make you aware of serious concerns we have regarding a provision contained in S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." The provision in question effectively prohibits the use of key employee retention plans in Chapter 11 reorganizations. It was added during the Judiciary Committee mark-up of the bill and elicited little attention at the time. However, we believe this provision will cause considerable harm to a number of companies that will become subject to bankruptcy proceedings, and, most importantly, to their employees, customers, and creditors.

When a company is operating in Chapter 11, a primary responsibility of management is to maintain and grow the company's value for the benefit of all of its stakeholders. A company that is well-managed through its restructuring benefits its creditors, employees, retirees, unions and the local communities of which the company is a part. Companies that fail to successfully reorganize in Chapter 11 are liquidated. Creditors receive pennies on the dollar and employees see their jobs and retirement savings destroyed.

When companies enter Chapter 11, it is critical that they attract and retain top management talent. But Chapter 11 is also the most difficult time to attract and retain such talent. Managers of Chapter 11 companies are faced with intense scrutiny, stress, insecurity, and an enormously complex process. Compensation and incentive tools used by non-bankrupt companies such as equity compensation programs are not available to assist with attracting and retaining the type of management talent necessary to bring the company successfully through the Chapter 11 process—this is because the pre-petition equity is almost always without value. Key employee retention plans ("KERPs") have become common practice since the early 1990's and have been viewed by courts, debtors, and creditors alike as an important and useful way to help reorganization by retaining key employees.

Bankruptcy courts have agreed with this reasoning, and many judges have used their judicial discretion to approve KERPs. For a court to approve a KERP under existing law, however, a debtor must use proper business judgment in formulating the program, and the court must find the program to be reasonable and fair. Creditors have the right to object to proposed KERPs, and judges are presented with a full evidentiary record upon which to make a determination. If a KERP is not appropriate or if it is not in the best interest of the company's creditors, the judge can refuse to approve it.

In the last few years, there has been a trend, with which we agree, towards stricter judicial scrutiny of proposed KERPs by bankruptcy judges. Such a trend seems appropriate in the wake of numerous high profile bankruptcy filings where management's misconduct or mismanagement has led to the Chapter 11 filing. Judges have discretion to deny KERPs in these circumstances, and they do so when the facts and circumstances warrant.

Unfortunately, S. 256 as reported by the Senate Judiciary Committee includes an amendment authored by Senator Edward M. Kennedy (the Kennedy amendment) that places significant limits on retention bonuses and severance payments to employees of companies in Chapter 11. It would prohibit a bankruptcy judge from approving retention bonuses in every Chapter 11 case unless he or she finds that the company in question has proven that the employee has a bona fide job offer at the same or greater rate of compensation; was prepared to accept the job offer; and the services of that employee are "essential to the survival of the business." The amendment also places significant caps on the amount of such bonus and payments.

The Kennedy amendment appears to be motivated by a desire to combat KERPs in Chapter 11 cases where employee-related fraud substantially contributed to the bankruptcy of the company. Yet, by painting with such a broad brush, the Kennedy amendment will, if enacted, effectively eliminate all companies' ability to ever receive court approval for a KERP. Federal bankruptcy judges would have little or no discretion to approve KERPs. In turn, bankrupt companies would have less flexibility in trying to retain or attract necessary employees. This result will cause considerable harm to companies in bankruptcy, their employees, and their creditors.

It is apparent that the Kennedy amendment is designed to prevent abuses of the system, where creditors', employees' and retirees' monies are unnecessarily expended for the enrichment of management. Whether there currently is or is not sufficient judicial scrutiny of KERPs is a valid question, insofar as the overall bankruptcy system allows debtors a fair amount of flexibility in exercising reasonable judgment—but there must be an approach better than handcuffing the judiciary and stakeholders in bankruptcy cases by essentially precluding all use KERPs. The proper use of KERPs requires an analysis of all facts and circumstances of the case, and not what is essentially a blanket proscription of these tools.

Senator Kennedy has advanced an important public policy discussion with his amendment. Managers who have had responsibility for driving a company into bankruptcy should not be paid a bonus to remain. Similarly, if the retention of an employee would not enhance a company's value for its stakeholders, they should not be paid a bonus to stay. Current law provides bankruptcy judges with the discretion necessary to deny a KERP in such circumstances and bankruptcy judges do deny KERP payments in these circumstances. Still, if the Congress wishes to improve the operation of current law while still safeguarding the ability of the courts to approve legitimate KERPs, we would welcome a discussion on how best to achieve that end. Unfortunately, S. 256, as reported by the Committee, goes too far and should be amended so as not to unnecessarily limit the bankruptcy court's ability to determine what is in the best interest of each individual bankruptcy estate.

Mr. Chairman, we thank you for considering our views on this important matter. We would be pleased to address any questions you or other members of the Committee on the Judiciary may have.

Sincerely,

The members of the board and management of the Association of Insolvency and Restructuring Advisors.

Soneet R. Kapila, CIRA, Kapila & Company; President, AIRA.

James M. Lukenda, CIRA, Huron Consulting Group; Chairman, AIRA.

Grant Newton, CIRA, Executive Director, AIRA.

Daniel Armel, CIRA, Baymark Strategies LLC.

Dennis Bean, CIRA, Dennis Bean & Company.

Francis G. Conrad, CIRA, ARG Capital Partners LLP.

Stephen Darr, CIRA, Mesirow Financial Consulting LLC.

Louis DeArias, CIRA, PricewaterhouseCoopers LLP.

James Decker, CIRA, Houlihan Lokey Howard & Zukin.

Mitchell Drucker, CIT Business Credit.

Howard Fielstein, CIRA, Margolin Winer & Evens LLP.

Philip Gund, CIR, Marotta Gund Budd & Dzera LL.

Gina Gutzeit, FTI Palladium Partners.

Alan Holtz, CIRA, Giuliani Capital Advisors LLC.

Margaret Hunter, CIRA, Protiviti Inc.

Alan Jacobs, CIRA, AMJ Advisors LLC.

David Judd, Neilson Elggren LLP.

Bernard Katz, CIRA, JH Cohn LLP.

Farley Lee, CIRA, Deloitte.

Kenneth Lefoldt, CIRA, Lefoldt & Company.

William Lenhart, CIRA, BDO Seidman LLP.

Kenneth Malek, CIRA, Navigant Consulting Inc.

J. Robert Medlin, CIRA, FTI Consulting Inc.

Thomas Morrow, CIRA, AlixPartners LLC.

Michael Murphy, Mesirow Financial Consulting LLC.

Steven Panagos CIRA, Kroll Zolfo Cooper LLC.

David Payne, CIRA, D R Payne & Associates Inc.

David Ringer, CIRA, Eisner LLP.

Anthony Sasso, CIRA, Deloitte.

Matthew Schwartz, CIRA, Bederson & Company LLP.

Keith Shapiro, Esq., Greenberg Traurig LLP.

Grant Stein, Esq., Alston & Bird LLP.

Peter Stenger, CIRA, Stout Risius Ross Inc.

Michael Straneva, CIRA, Ernst & Young LLP.

Mr. Speaker, I urge again the adoption of S. 256.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from North Carolina (Mr. WATT), the ranking member of the Subcommittee on Commercial and Administrative Law.

Mr. WATT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, those of us who started this process 6 years or so ago in the good faith belief that there were problems with the bankruptcy system, in the sense that people were gaming the system, and felt that there needed to be genuine reform cannot help but be disappointed today because, in the process, we have lost sight of the objective of reforming to do away with the sinister influences and the advantageous corruption that is going on in the system.

I have never seen a bill that has violated more principles throughout this process. The first one was that the consumers and the lenders got together and decided that, because the lenders were not sure that they could do bankruptcy reform without reaching a compromise and the consumer groups realized that they might not be able to stop bankruptcy reform, they set up this system called the means test, which effectively exempted from the whole bankruptcy reform system those who fall below the means test threshold. The result is that individuals who fall below the means test threshold can continue with impunity to game the system without any kind of responsibility, and those who fall above the threshold get subjected to a set of arbitrary rules that, even if they are not gaming the system, they are taken advantage of. So we have lost sight of that.

The second thing is we have built in a set of perverse incentives for easy credit now. For people who fall below the means test, there is really no disincentive for them to go out and get as much credit as they can. And for people above the means test there is no incentive for lenders to be responsible in their lending practices, because they know now they have this system that is going to protect them from people that they have made irresponsible loans to.

The third problem is that, as we have gone through this process, the more we have bought into this means test philosophy and debated this, we now get to a point at the end of the process where it has corrupted even our democratic process. Because we are here on the floor with 30 minutes of debate on our side to tell the public the problems with this bill.

This is irresponsible legislating at its worst, and I encourage my colleagues to reject this bill and vote no.

Mr. SENSENBRENNER. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER), the former ranking member of the Subcommittee on Commercial and Administrative Law. This is an 8-year-old bill, and the gentleman has been foremost in this process for all of those years.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this bill is the worst giveaway to special interests, the worst rip-off of the public, of the middle class than I have ever seen in my public life. The people who understand how bankruptcy law functions in the real world, the scholars, judges, trustees and lawyers, whether they represent debtors, creditors, businesses or individuals, have all told us this bill will not work, that it will be costly, and that it will produce unfair and irrational results. But we are ignoring them, trusting instead lobbyists, credit card companies, banks, and anyone else who wants a special favor; and, boy, are there special favors galore.

The credit card companies are the big winners, but so are shopping centers, car lenders, crooked debt collectors, investment bankers, credit unions, and assorted sub-prime lenders.

Those credit counseling operations that we have investigated for dishonest activity, they now get a monopoly on granting access to bankruptcy. Credit card companies that want their debts to survive the bankruptcy and compete with child support claims, they get their wish. Landlords who want to boot tenants out of their apartments, it is easier.

Did you buy a trailer home or a car on credit? Now you will have to pay the lender more than the home or car is worth to keep it.

Are you a tax collector? There is an entire title in the bill just to squeeze more money out of debtors.

Are you a pawnbroker? Section 1230 is for you. You get to keep the pawned property, and it cannot be sold to pay other debts like child support or medical expenses. That is right. Congress is more worried about the rights of pawnbrokers than about the rights of children.

So what is going on here? Why are bankers and bureaucrats telling us this bill is great for single parents with children while children and family advocates are telling us that it is not? Why does Congress believe studies paid for by the credit card industry that label millions of Americans crooks, while ignoring our own Congressional Budget Office, the independent and nonpartisan American Bankruptcy Institute, and the Government Accountability Office, all say these studies are bunk?

The supporters say if we help the banks collect more money from bankrupt families, we will not have to pay that $400 bankruptcy tax. Our interest rates will go down because the banks will be able to collect more money. But the Republican leadership would not allow us to consider an amendment that would sunset the bill in several years if no savings are passed on to consumers, and they will not be. Interest rates have come down over the last 10 years on mortgages, on cars, on everything, but not on credit cards.

Does anyone here trust VISA and MasterCard? Because we are writing them a blank check paid for with taxpayer money and trusting them to share the benefits with American consumers. Trust the banks. Trust the lobbyists. Do not trust the people who do these cases for a living. Do not trust the advocates for women and kids. Do not trust the civil rights community. Do not trust the laboring community. Do not trust disabled veterans and military family advocates. Do not trust crime victims organizations.

Trust the banks. Trust the credit card companies. Trust VISA card. Trust MasterCard. They are the beneficiaries. The public will be the victims, and we will rue the day in a few years when the 60 or 70 different ways in which this bill enables the credit card companies to stick their hands in the pockets of low- and middle-income people and extremists going bankrupt because of a medical emergency, and take more money out of that. Then the voters will know who really owns this place.

Mr. Speaker, this bill is the worst giveaway to special interests, the worst rip-off of the public, of the middle class, I have ever seen in my public life.

Mr. Speaker, it is fitting that this House take up this 512-page goodie bag for every special interest in town. Just yesterday, the Republican majority rammed through a bill that would eliminate the estate tax for the very wealthiest Americans. At least the Republican majority is consistent: more for the very wealthy, no responsibility for big banks, and squeeze the middle class.

This bill, which can only be described as the poster-child for campaign finance reform, will soon shoot through this House and to a President who has vowed that he would sign it.

Mr. Speaker, bankruptcy is notoriously complicated, but the members of this House have certainly never let the complexity of a problem get in the way of a good deal. The people who understand how bankruptcy law functions in the real world: the scholars, judges, trustees, and lawyers—whether they represent debtors, creditors, businesses or individuals—have all told us this bill won't work, that it will be costly, that it will produce unfair and irrational results. But we are ignoring them, trusting instead lobbyists, credit card companies, banks, and anyone else who wants some special favor.

And boy, are there favors galore. The credit card companies are the big winners, but so are shopping centers, car lenders, crooked debt collectors, investment bankers, credit unions, and assorted sub-prime lenders.

Those credit counseling operations that we've investigated for dishonest activity? They now get a monopoly on granting access to bankruptcy. Credit card companies that want their debts to survive the bankruptcy and compete with child support claims? They get their wish?

Landlords who want to boot tenants out of their apartments? This bill makes it easier.

Did you buy a trailer home or a car on credit? Now you will have to pay the lender more than the home or car is worth to keep it.

Are you a tax collector? There is an entire title in this bill just for you to squeeze more money out of debtors.

Are you a pawn broker? Section 1230 is for you! You get to keep the pawned property and it can't be sold to pay other debts, like child support, or medical expenses. That's right, Congress is more worried about the rights of pawn brokers than about the rights of children.

So what's going on here? Why are bankers and bureaucrats telling us that this bill is great for single parents with children while children and family advocates are telling us that it is not? More to the point—why are so many members of Congress so willing to believe bankers over the people who we work with day in and day out to protect the rights of children?

Why does Congress believe studies paid for by the credit card industry that label millions of Americans crooks, while ignoring our own Congressional Budget Office, the independent and non-partisan American Bankruptcy Institute, and the Government Accountability Office, all of whom tell us these studies are bunk?

Why are we willing to spend so much public money to collect private debts for banks? According to the Congressional Budget Office, this bill will cost the government $392 million over the first 5 years, increasing the deficit by $280 million. It will impose new costs on the private sector of more than $123 million per year, in violation of the Unfunded Mandate Reform Act. That number does not include increased costs to debtors.

What are we spending this money on?

Means testing alone will cost the government $150 million over the first 5 years.

The government will be a private collection agency for credit card companies. Government funded audits will cost $66 million. The government will collect and store debtors' tax returns for another $10 million.

Just to administer this whole mess, we will spend another $26 million on extra judges—and no one here thinks that will be enough.

So why should taxpayers spend all these millions to collect private debts for MasterCard and Visa? I asked George Wallace, the representative of the creditor coalition, that question. I asked whether he was aware that current law gives creditors the right to challenge the discharge of debts, examine debtors under oath, demand any documents from the debtors, seek dismissal of a case, and many other legal remedies.

He said "I have done these things and they do take a fair amount of time and I bill my clients for them. They are expensive." So I asked him why the government should pay to collect these debts if the banks think it's too expensive to collect their debts themselves.

His response explains this whole bill. "Because it's a governmental program, sir. Because it is not the job of the creditor."

A governmental program? We need to spend millions of taxpayer dollars to help the nation's biggest banks collect money from bankrupt families? Is this the new welfare?

I want to thank Mr. Wallace for his honesty. He may be the only honest lobbyist left in Washington.

Some will say that if we help the banks collect more money from bankrupt families, then we won't have to pay that $400 "bankruptcy tax." Our interest rates will go down because the banks will be able to collect more money.

The distinguished chairman of the Judiciary Committee has made this the cornerstone of the legislation. He recently told the Financial Times of London, "The responsible thing for the credit card issuers to do would be to reduce interest rates because there is less risk.

If they don't they will play into the hands of the opponents of the bill—it would reduce their credibility."

I agree, but the Republican leadership wouldn't allow us to consider an amendment that would sunset the bill in 2 years if no savings are passed on to consumers. So I guess we're being asked to trust the biggest banks in America not to pocket the extra money. And they won't be. Interest rates have come down. Mortgage rates, car loans, but not credit card rates.

Ask yourself: Where's my $400? Does any one here trust Visa and MasterCard? Because you are writing them a blank check, paid for with taxpayer money, and trusting them to share the benefits with American consumers.

Anyone who really trust them to do this, raise your hand. Anyone?

Go ahead and vote for this. Why not? It's a done deal. Trust the banks. Trust the lobbyists. Don't trust the people who do these cases for a living. Don't trust the advocates for women and kids. Don't trust the civil rights community. Don't trust labor. Don't trust disabled veterans' and military family advocates. Don't trust crime victims organizations. Trust the banks. Trust Visa. Trust MasterCard.

At least the voters will know who really runs this place.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PUTNAM). The Chair reminds Members that they should heed the gavel.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, bankruptcy filings are at an all-time high. When bankruptcy filings increase, every American must pay more for credit, goods, and services through higher rates and charges. It is time that we relieve consumers from the burden of paying for the debts of others.

Since the 105th Congress, the House has passed bankruptcy reform legislation eighty times. S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act, is the culmination of years of work and bicameral as well as bipartisan negotiations.

A key aspect of S. 256 is retention of the income-based means test. The means test applies clear and well-defined standards to determine whether a debtor has the financial capability to pay his or her debts. The application of such objective standards will help ensure that the fresh start provisions of Chapter VII will be granted to those who need them, while debtors that can afford to repay some of their debts are steered toward filing chapter 13 bankruptcies.

S. 256 is good for America's family farmers. As Chairman of the House Committee on Agriculture, I am pleased that we are finally making the chapter 12 provisions of the Bankruptcy Code permanent. Bankruptcy relief for family farmers will be made easier for those to obtain a discharge of their indebtedness. In addition, the bill allows more family farmers to qualify for chapter 12 relief by doubling the debt limit and lowering the percentage of income that must be derived from farming operations.

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In addition, S. 256 prevents fraud. Under the current system, irresponsible people filing for bankruptcy could run up their credit card debt immediately prior to filing knowing that their debts will soon be wind away. What these people may not realize or care about is that these debts do not just disappear. They are passed along in higher charges and rates to hard working people.

Mr. Speaker, I rise in strong support of the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005."

Bankruptcy filings are at an all time high. When Bankruptcy filings increase every American must pay more for credit, goods, and services through higher rates and charges. It is time that we relieve consumers from the burden of paying for the debts of others.

Since the 105th Congress, the House has passed bankruptcy reform legislation eight times. S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005" is the culmination of years of work and bicamerla, as well as bi-partisan negotiations.

A key aspect of S. 256 is the retention of the income-based means test. The means test applies clear and well-defined standards to determine whether a debtor has the financial capability to pay his or her debts. The application of such objective standards will help ensure that the fresh start provisions of Chapter 7 will be granted to those who need them, while debtors that can afford to repay some of their debts are steered toward filing Chapter 13 bankruptcies.

S. 256 is good for America's family farmers, who are the backbone of our agriculture industry. The bill permanently extends Chapter 12 bankruptcy relief for family farmers and makes it easier for family farmers to obtain discharges of their indebtedness. In addition, the bill allows more family farmers to qualify for Chapter 12 relief by doubling the debt limit and lowering the percentage of income that must be derived from farming operations.

In addition, S. 256 prevents fraud. Under the current system, irresponsible people filing for bankruptcy could run up their credit card debt immediately prior to filing, knowing that their debts will soon be wiped away. What these people may not realize or care about is that these debts do not just disappear—they are passed along in higher chargers and rates to hard-working folks who pay their bills on time. S. 256 ends this fraudulent practice by requiring bankruptcy filers to pay back nondischargable debts made in the period immediately preceding their filing.

S. 256 also helps consumers. For example, this legislation helps children by strengthening the protections in the law that prioritize child support and alimony payments. In addition, it protects consumers from "bankruptcy mills" that encourage people to file for bankruptcy without fully informing them of their rights and the potential harms that bankruptcy can cause.

S. 256 also ensures the fair treatment of those that administer our bankruptcy laws. Specifically, this legislation restores fairness and equity to the relationship between the U.S. trustee and private standing bankruptcy trustees by providing that in certain circumstances, after an administrative hearing on the record, private trustees may seek judicial review of U.S. trustee actions related to trustee removal. This compromise, worked out between the U.S. trustee's office and representatives of the private bankruptcy trustees, will ensure fairness for those who dedicate themselves to their duties as private trustees while ensuring that the U.S. trustee is subject to the same checks and balances as other government agencies.

Bankruptcy should remain available to people who truly need it, but those who can afford to repay their debts should repay their debts. S. 256 provides bankruptcy relief for those who truly cannot pay their debts, but also clearly demonstrates to those who would abuse our system that the free ride is over. I believe that S. 256 strikes the appropriate balance between these two important goals. I want to commend Chairmen SENSENBRENNER and CANNON for their tremendous work on this legislation, and I urge each of my colleagues to support this fair and reasonable overhaul of the U.S. bankruptcy system.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), a member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is important as we debate this question that the opponents of this bill not be defined or classified as opposing responsibility and opposing the responsibility of being a good citizen and adhering to the debt that you accrue. I think that is a wrong-headed definition of the opponents.

We have been described as nonpatriot in other debates; in war and peace, scoundrels and socialists. But I think it is important for the American people to understand that we are engaging in a democratic process to be able to allow a voice of opposition to be heard for a tainted, stale and stagnant piece of legislation that has been bought and paid for by special interests.

Our desire is to possibly encourage our colleagues in the House to take a serious and deliberative review of S. 256.

Now, we have heard already that we were refused and denied amendments and one would ask the question why. If we are a deliberative body, why not make a bill that is as dated almost as the Gulf War, not the Iraq war, to make it better.

Now, I hear my colleagues talking about $400 that will go to each household. What a misnomer. Someone said that there was a tax refund a couple of years ago, $350, $400. I can tell you that the constituents in the 18th Congressional District never saw that money. I would like to suggest to you that really what is happening is what Professor

Elizabeth Warren has said, that this is an overreaching problem, the overreaching problem with this bill this time is that the American economy has passed it by.

We are in the depth almost of a deficit that is about to stagnate and stifle us. This bill will close the door to working and middle class persons. Since this bill was written, Mr. Speaker, Enron, WorldCom, Adelphia, United Airlines, LTV Steel, M-Mart, Polaroid, Global Crossing have filed bankruptcy and they did not have to use a means test.

So let me suggest to you as I look at the medical conditions, I would ask my colleagues on the other side of the aisle does their stale old bill, this stack of old papers respond to the medical causes of bankruptcy that shows that because there is death in the family, illness or injury, people who go try to repay their bills and they fall into bankruptcy and this old stale 1998 bill does not respond to that.

My next question, Mr. Speaker, is whether or not this old stale bill deals with the military, the military who is in Iraq right now, does this old stale bill deal with it? Does the old stale bill deal with the loan sharks. That is a travesty and should be defeated.

TESTIMONY OF ELIZABETH WARREN BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

My name is Elizabeth Warren. I teach bankruptcy law. As some of you know, I have followed this issue with interest for some time.

The overarching problem with this bill is that time and the American economy have passed it by. It was drafted—never mind by whom—eight years ago. Even if it had been a flawless piece of legislation then, and it surely was not, the events of the past eight years have dramatically changed the economic and social environment in which you must consider this bill.

In the eight years since this bill was introduced, new cases have burst on the scene. The names are burned in our collective memories: Enron, Worldcom, Adelphia, United Airlines, USAirways and TWA, LTV Steel, K-Mart, Polaroid, Global Crossing.

While the actual number of consumer bankruptcy cases has declined slightly in the past year, many of the largest corporate bankruptcy cases in American history have occurred since the Senate last reevaluated the bankruptcy laws, and some of those cases are already legend for the corporate scandals that accompanied them. Because it was written eight years ago, this bill has nothing to deal with these abuses, with these dangers, with the needs that these cases have made so painfully clear.

Problems not even on the horizon when this bill was written are now front and center.

Companies in Chapter 11 that cancel pension plans and health benefits, leaving thousands of families economically devastated.

Companies that continue to pay executives and insiders tens of millions of dollars, while they demand concessions from their creditors.

Military families targeted for payday loans at 400% interest, insurance scams, and other forms of financial chicanery.

Scandals have rocked the so-called nonprofit credit counseling industry, exposing how tens of thousands of consumers struggling desperately to pay their bills and not file for bankruptcy were cheated.

Sub-prime mortgage companies, financed by some of the best names in American banking, have unlawfully taken millions of dollars from homeowners, then fled to the bankruptcy courts to protect their insiders and bank lenders.

In the eight years since this bill was introduced, there has been a revolution in the data available to us. Unlike eight years ago, we need not have a theoretical debate about who turns to the bankruptcy system. We now know:

One million men and women each year are turning to bankruptcy in the aftermath of a serious medical problem—and three-quarters of them have health Insurance.

A family with children is nearly three times more likely to file for bankruptcy than an individual or couple with no children.

More children now live through their parents' bankruptcy than through their parents' divorce.

Unlike eight years ago, we need not have a theoretical debate about the homestead exemption because we have had example after example of abuse tied directly to the failure of American companies. Millions of jobs have been lost but not the Florida and Texas fortunes of their corporate executives. Others are welcome to use the unlimited homestead exemption as well.

After he lost a $33 million lawsuit in California, O.J. Simpson moved to Florida, explaining to a reporter that the unlimited exemption would permit him to protect a multimillion-dollar house.

Abe Grossman ran up $233 million in debts in Massachusetts and Rhode Island, then fled to Florida to purchase a 64,000 square foot home valued at $55 million.

Some physicians are reportedly dropping their malpractice insurance and putting all their assets in their homes—where they can't be touched by bankruptcy.

Under S. 256, they would still be welcome to file for bankruptcy and to keep their fortunes and properties intact while leaving their creditors with nothing.

Unlike eight years ago, we need not have a theoretical debate about the effects of the proposed legislation on small business.

It takes time to negotiate a reorganization, even for a small company. The timelines in S. 256 would have denied reorganization to more than a third of the small businesses that eventually saved themselves—destroying value for the companies, their creditors, their employees and their communities.

This bill would be the first in American history to discriminate affirmatively against small businesses. For the first time ever, Congress would pass a law that says companies like Enron and Worldcom don't have to file extra forms, Enron and Worldcom don't have to schedule meetings with the Office of the United States Trustee, and Enron and Worldcom don't have to meet fixed deadlines that a judge cannot waive for any reason—but every troubled small business in the Chapter 11 system would have to file those papers, undergo that supervision and meet those deadlines or be liquidated. No exceptions allowed for small companies.

Unlike eight years ago, we need not have a theoretical debate about the economic impact of bankruptcies on credit card company profits.

In the eight years since this bill was introduced, credit has not been curtailed. Minors—under 18 years of age—with no incomes and no credit history are now described as an "emerging market" for the credit industry. Credit card solicitations have doubled to 5 billion a year. Bankruptcy filings have increased 17 percent, while credit card profits have increased 163 percent, from $11.5 billion to $30.2 billion.

Some courts have demanded that credit card companies disclose how much of their claims are the amounts actually borrowed and how much are fees, penalties and interest. Companies have admitted that for every dollar they claim the customer borrowed, they are demanding two more dollars in fees and interest.

With increased fees and universal default clauses that drive up interest rates even for customers paying on time, a growing number of people have no option but to declare bankruptcy. Cases continue to surface like In re McCarthy, in which a woman borrowed $2200, paid back $2010 in the two years before bankruptcy, and was told by her credit card company that she still owed $2600 more. Ms. McCarthy had two choices: She could either declare bankruptcy or she could pay $2000 every year for life—and die owing as much as she owes today.

The means test in this bill, Section 102, has been one of its most controversial provisions. Proponents like to say that the means test will put pressure only on the families that can afford to repay. And yet, the bill has 217 sections that run for 239 pages. The means test aside, virtually every consumer provision aims in the same direction. The bill increases the cost of bankruptcy protection for every family, regardless of income or the cause of financial crisis, and it decreases the protection of bankruptcy for every family, regardless of income or the cause of financial crisis.

There are provisions that will make Chapter 13 impossible for many of the debtors who would file today, provisions that make it easier than ever to abuse the unlimited homestead provisions in some states and yet at the same time hurt people with more modest homesteads in those same states. Other provisions will compromise the privacy of millions of families by putting their entire tax returns in the court files and potentially on the Internet, making them easy prey for identity thieves. Women trying to collect alimony or child support will more often be forced to compete with credit card companies that can have more of their debts declared non-dischargeable. All these provisions apply whether a person earns $20,000 a year or $200,000 a year.

But the means test as written has another, more basic problem: It treats all families alike. It assumes that everyone is in bankruptcy for the same reason—too much unnecessary spending. A family driven to bankruptcy by the increased costs of caring for an elderly parent with Alzheimer's disease is treated the same as someone who maxed out his credit cards at a casino. A person who had a heart attack is treated the same as someone who had a spending spree at the shopping mall. A mother who works two jobs and who cannot manage the prescription drugs needed for a child with diabetes is treated the same as someone who charged a bunch of credit cards with only a vague intent to repay. A person cheated by a subprime mortgage lender and lied to by a credit counseling agency is treated the same as a person who gamed the system in every possible way.

If Congress is determined to sort the good debtors from the bad, then it is both morally and economically imperative that they distinguish those who have worked hard and played by the rules from those who have shirked their responsibilities. If Congress is determined to sort the good from the bad, then begin by sorting those who have been laid low by medical debts, those who lost their jobs, those whose breadwinners have been called to active duty and sent to Iraq, those who are caring for elderly parents and sick children from those few who overspend on frivolous purchases.

This Congress wants to set a new moral tone. Do it with the bankruptcy bill. Don't press "one-size-fits-all-and-they-are-all-bad" judgments on the very good and the very bad. Spend the time to make the hard decisions. Leave discretion with the bankruptcy judges to evaluate these families. Based on the Harvard medical study and other research, I think you will find that most debtors are filing for bankruptcy not because they had too many Rolex watches and Gameboys, but because they had no choice.

You have a choice. It's a choice that you're making for the American people. Adopt new bankruptcy legislation. Establish a means test that targets abuse. But do not enact a proposal written to address myth and mirage more than reality. Do not enact a proposal written for 1997 when the problems of the American corporate economy in 1997 deserve far more attention and the problems of the American middle class can no longer be ignored.

Overwhelmingly, American families file for bankruptcy because they have been driven there—largely by medical and economic catastrophe—not because they want to go there. Your legislation should respect that harsh reality and the families who face it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PUTNAM). The gentlewoman is out of order in defying the gavel.

The gentlewoman's time has expired.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is about great pleasure that I rise today to express my strong support for the Bankruptcy Abuse Prevention and Consumer Protection Act.

A Chinese proverb says, Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime. And that is exactly what this bill before us does today.

There are many reasons to support this bankruptcy reform bill, but I want to focus on one that is important to many of my colleagues, to me, and to the American people.

We should support the bill because it contains important financial literacy provisions. Financial literacy goes hand in hand with helping our citizens of all ages and walks of life to negotiate the complex world of personal finance. Financial literacy can help Americans avoid or survive bankruptcy.

We pass many laws that require the disclosure of the terms and conditions of the rich mix of financial products and services that are available to consumers. Unfortunately for too many Americans, knowing the terms and conditions of financial products and services is challenging enough. However, understanding those terms and conditions is often an even greater challenge.

Recognizing this fact, Congress included provisions in the Fair and Accurate Credit Transactions Act to address the issue of financial literacy. The Bankruptcy Abuse Prevention and Consumer Protection Act also contains important provisions addressing economic education and financial literacy. These provisions are designed to ensure that those who enter the bankruptcy system will learn the skills to more effectively manage their money in an increasingly complicated marketplace.

Last week we passed House Resolution 148, a bill that supports the goals and ideals of Financial Literacy Month, which is this month, April 2005. H. Res. 148 was co-sponsored by 82 Members of this body, and 409 Members of this body voted for it.

Mr. Speaker, the number of bankruptcies remain at a historic high, over 1.6 million bankruptcy cases were filed in Federal courts in 2004. With this in mind, I urge my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. ZOE LOFGREN), a distinguished member of the committee.

Ms. ZOE LOFGREN of California. Mr. Speaker, this bill hurts Americans. One group who will be especially hurt are family forced into bankruptcy because of a medical crisis.

A recent study conducted by professors at Harvard Medical and Law School showed that about half of all personal bankruptcies can be attributed to medical costs.

Among those who cited illnesses as a cause of bankruptcy, the average unreimbursed medical costs totaled nearly $12,000 even though more than three-quarters had health insurance.

How does the bill hurt the families? Under the bill for the first time there will be a presumption that many of these families abuse the bankruptcy system. Under current law, people facing a medical bankruptcy can seek several forms of relief. Chapter 7 is by far the most common. Under 7 debtors are required to forfeit all of their property other than the exempt assets in exchange for having their debts extinguished.

Current law already gives bankruptcy courts discretion to deny chapter 7 relieve where the filing is found to be a substantial abuse. But unlike this bill, current law provides a presumption in favor of granting relief to the debtor.

The other option is chapter 13 where a debtor is required to continue paying creditors. This makes it more difficult for debtors to get back on their feet.

This bill will hurt families facing medical bankruptcy because it will force many of them into chapter 13. That is because it presumes that these families are abusing the bankruptcy system if they fail the means test. The means tests starts with a family's income and then subtracts monthly expenses permitted by IRS guidelines. But instead of using a debtor's actual projected income, the means tests uses the debtor's average income over the prior 6 months. Thus, if a family's bankruptcy was triggered by a loss of income resulting from a serious illness, the means test would still attribute the lost income for the purpose of determining whether the family is abusing the bankruptcy system.

Further, the means test uses the median income for a State. My constituents in Santa Clara County live in a high-cost area. Almost nobody will be able to discharge their debts in bankruptcy from Santa Clara County because of that high cost, no matter how meritorious for their claim for relief.

Similarly, instead of using the debtor's actual expenses, the inflexible guidelines developed by the IRS is used. As a result, more families facing medical bankruptcy will be presumed to be abusing the system, will be forced into chapter 13 and will never be able to stand on their feet again. That is not right.

The Harvard study found that these struggling families did everything they could to pay their medical bills to avoid bankruptcy. One in five skipped meals. One-third had their electricity cut off. Almost half lost their phone service. One in five was forced to move.

Incredibly, they also cut back on needed medications to try to avoid bankruptcy. In fact, half went without needed prescriptions. And a full 60 percent went without a needed doctor appointment.

Please join me in opposing this unfair bill.

[From Market Watch]

ILLNESS AND INJURY AS CONTRIBUTORS TO BANKRUPTCY

(By David U. Himmelstein, Elizabeth Warren, Deborah Thorne, and Steffie Woolhandler)

ABSTRACT: In 2001, 1.458 million American families filed for bankruptcy. To investigate medical contributors to bankruptcy, we surveyed 1,771 personal bankruptcy filers in five federal courts and subsequently completed in-depth interviews with 931 of them. About half cited medical causes, which indicates that 1.9-2.2 million Americans (filers plus dependents) experienced medical bankruptcy. Among those whose illnesses led to bankruptcy, out-of-pocket costs averaged $11,854 since the start of illness; 75.7 percent had insurance at the onset of illness. Medical debtors were 42 percent more likely than other debtors to experience lapses in coverage. Even middle-class insured families often fall prey to financial catastrophe when sick.

"If the debtor be insolvent to serve creditors, let his body be cut in pieces on the third market day. It may be cut into more or fewer pieces with impunity. Or, if his creditors consent to it, let him be sold to foreigners beyond the Tiber."

—Twelve Tables, Table III, 6 (ca. 450 B.C.)

Our bankruptcy system works differently from that of ancient Rome; creditors carve up the debtor's assets, not the debtor. Even so, bankruptcy leaves painful problems in its wake. It remains on credit reports for a decade, making everything from car insurance to house payments more expensive. Debtors' names are often published in the newspaper, and the fact of their bankruptcy may show up whenever someone tries to find them via the Internet. Potential employers who run routine credit checks (a common screening practice) will discover the bankruptcy, which can lead to embarrassment or, worse, the lost chance for a much-needed job.

Personal bankruptcy is common. Nearly 1.5 million couples or individuals filed bankruptcy petitions in 2001, a 360 percent increase since 1980. Fragmentary data from the legal literature suggest that illness and medical bills contribute to bankruptcy. Most previous studies of medical bankruptcy, however, have relied on court records—where medical debts may be subsumed under credit card or mortgage debt—or on responses to a single survey question. None has collected detailed information on medical expenses, diagnoses, access to care, work loss, or insurance coverage. Research has been impeded both by the absence of a national repository for bankruptcy filings and by debtors' reticence to discuss their bankruptcy, in population-based surveys, only half of those who have undergone bankruptcy admit to it.

The health policy literature is virtually silent on bankruptcy, although a few studies have looked at impoverishment attributable to illness. In his 1972 book, Sen. Edward Kennedy (D-MA) gave an impressionistic account of "sickness and bankruptcy." The likelihood of incurring high out-of-pocket costs was incorporated into older estimates of the number of underinsured Americans: twenty-nine million in 1987. About 16 percent of families now spend more than one-twentieth of their income on health care. Among terminally ill patients (most of them insured), 39 percent reported that health care costs caused moderate or severe financial problems. Medical debt is common among the poor, even those with insurance, and interferes with access to care. At least 8 percent, and perhaps as many as 21 percent of American families are contacted by collection agencies about medical bills annually.

Our study provides the first extensive data on the medical concomitants of bankruptcy, based on a survey of debtors in bankruptcy courts. We address the following questions: (1) Who files for bankruptcy? (2) How frequently do illness and medical bills contribute to bankruptcy? (3) When medical bills contribute, how large are they and for what services? (4) Does inadequate health insurance play a role in bankruptcy? (5) Does bankruptcy compromise access to care?

A BRIEF PRIMER ON BANKRUPTCY

"Bankrupt" is not synonymous with "broke." "Bankrupt" means filing a petition in a federal court asking for protection from creditors via the bankruptcy laws. A single petition may cover an individual or married couple. The instant a debtor files for bankruptcy, the court assumes legal control of the debtor's assets and halts all collection efforts.

Shortly after the filing, a court-appointed trustee convenes a meeting to inventory the debtor's assets and debts and to determine which assets are exempt from seizure. States may regulate these exemptions, which often include work tools, clothes, Bibles, and some equity in a home.

About 70 percent of all consumer debtors file under Chapter 7 of the Bankruptcy Code; most others file under Chapter 13. In Chapter 7 the trustee liquidates all nonexempt assets—although 96 percent of debtors have so little unencumbered property that there is nothing left to liquidate. At the conclusion of the bankruptcy, the debtor is freed from many debts. In Chapter 13 the debtor proposes a repayment plan, which extends for up to five years. Chapter 13 debtors may retain their property so long as they stay current with their repayments.

Under both chapters, taxes, student loans, alimony, and child support remain payable in full, and debtors must make payments on all secured loans (such as home mortgages and car loans) or forfeit the collateral.

STUDY DATA AND METHODS

This study is based on a cohort of 1.771 bankruptcy filings in 2001. For each filing, a debtor completed a written questionnaire at the mandatory meeting with the trustee, and we abstracted financial data from public court records. In addition, we conducted follow-up telephone interviews with about half (931) of these debtors.

Sampling strategy. We used cluster sampling to assemble a cohort to households filing for personal bankruptcy in five (of the seventy-seven total) federal judicial districts. We collected 250 questionnaires in each district, representative of the proportion of Chapters 7 and 13 filings in that district. These 1,250 cases constitute our "core sample." For planned studies on housing, we collected identical data from an additional 521 homeowners filing for bankruptcy. We based our analyses on all 1.771 bankruptcies with responses weighted to maintain the representativeness of the sample.

Data collection. With the cooperation of the judges in each district, we contacted the trustees who officiate at meetings with debtors. The trustees agreed to distribute, or to allow a research assistant to distribute, a self-administered questionnaire to debtors appearing at the bankruptcy meeting. Questionnaires (which were available in English and Spanish) included a cover letter explaining the research project and human subjects protections and encouraging debtors to consult their attorneys (who were almost always present) before participating.

The questionnaire asked about demographics, employment, housing, and specific reasons for filing for bankruptcy, it also asked whether the debtor had medical debts exceeding $1.000, had lost two or more weeks of work-related income because of illness, or had health insurance coverage for themselves and all dependents at the time of filing, and whether there had been a gap of one month or more in that coverage during the past two years. In joint filings, we collected demographic information for each spouse.

During the spring and summer of 2001 we collected questionnaires from consecutive debtors in each district until the target number was reached.

Follow-up telephone interviews. The written questionnaire distributed at the time of bankruptcy filing invited debtors to participate in future telephone interviews, for which they would receive $50; 70 percent agreed to such interviews. We ultimately completed follow-up telephone interviews with 931 of the 1,771 debtor families, a response rate of 53 percent. The telephone interviews, conducted between June 2001 and February 2002 using a structured, computer-assisted protocol, explored financial, housing, and medical issues. Many debtors also provided a narrative description of their bankruptcy experience.

Detailed medical questions. Each of the 931 interviewees was asked if any of the following had been a significant cause of their bankruptcy: an illness or injury; the death of a family member; or the addition of a family member through birth, adoption, custody, or fostering. Those who answered yes to this screening question were queried about diagnoses, health insurance during the illness, and medical care use and spending. Interviewers collected information about each household member with medical problems. In total, we collected in-depth medical information on 391 people with health problems in 332 debtor households.

Data analysis. We used data from the self-administered questionnaires (and court records) obtained from all 1.771 filters to analyze demographics, health coverage at the time of filing, and gaps in coverage in the two years before filing.

We also used the questionnaire to estimate how frequently illness and medical bills contributed to bankruptcy. We developed two summary measures of medical bankruptcy. Under the rubric "Major Medical Bankruptcy" we included debtors who either (1) cited illness or injury as a specific reason for bankruptcy, or (2) reported uncovered medical bills exceeding $1,000 in the past years, or (3) lost at least two weeks of work-related income because of illness/injury, or (4) mortgaged a home to pay medical bills. Our more inclusive category, "Any Medical Bankruptcy," included debtors who cited any of the above, or addiction, or uncontrolled gambling, or birth, or the death of a family member.

Data from the 931 follow-up telephone interviews were used to analyze hardships experienced by debtors in the period surrounding their bankruptcy, including problems gaining access to medical care. The in-depth medical interviews regarding 391 people with medical problems are the basis for our analyses of which household members were ill, diagnoses, health insurance at onset of illness, and out-of-pocket spending. Two physicians (Himmelstein and Woolhandler) coded the diagnoses given by debtors into categories for analysis.

SAS and SUDAAN were used for statistical analyses, adjusting for complex sample design. To extrapolate our findings nationally, we assumed that our sample was representative of the 1,457,572 households filing for bankruptcy during 2001. Human subject committees at Harvard Law School and the Cambridge Hospital approved the project.

STUDY FINDINGS

Who files for bankruptcy? Exhibit 1 displays the demographic characteristics of our weighted sample of 1,771 bankruptcy filers. The average debtor was a forty-one-year-old woman with children and at least some college education. Most debtors owned homes; their occupational prestige scores place them predominantly in the middle or working classes.

On average, each bankruptcy involved 1.32 debtors (reflecting some joint filings by married couples) and 1.33 dependents. Extrapolating from our data, the 1.5 million personal bankruptcy filings nationally in 2001 involved 3.9 million people: 1.9 million debtors, 1.3 million children under age eighteen, and 0.7 million other dependents.

Medical causes of bankruptcy. Exhibit 2 shows the proportion of debtors (N = 1,771) citing various medical contributors to their bankruptcy and the estimated number of debtors and dependents nationally affected by each cause. More than one-quarter cited illness or injury as a specific reason for bankruptcy; a similar number reported uncovered medical bills exceeding $1,000. Some debtors cited more than one medical contributor. Nearly half (46.2 percent) (95 percent confidence interval = 43.5, 48.9) of debtors met at least one of our criteria for "major medical bankruptcy." Slightly more than half (54.5 percent) (95 percent CI = 51.8, 57.2) met criteria for "any medical bankruptcy."

A lapse in health insurance coverage during the two years before filing was a strong predictor of a medical cause of bankruptcy (Exhibit 3). Nearly four-tenths (38.4 percent) of debtors who had a "major medical bankruptcy" had experienced a lapse, compared with 27.1 percent of debtors with no medical cause ($p < .0001$). Surprisingly, medical debtors were no less likely than other debtors to have coverage at the time of filing. (More detailed coverage and cost data for the subsample we interviewed appears below.)

Medical debtors resembled other debtors in most other respects (Exhibit 1). However, the "major medical bankruptcy" group was 16 percent ($p < 03$) less likely than other debtors to cite trouble managing money as a cause of their bankruptcy (data not shown).

Privations in the period surrounding bankruptcy. In our follow-up telephone interviews with 931 debtors, they reported substantial problems. During the two years before filing, 40.3 percent had lost telephone service; 19.4 percent had gone without food; 53.6 percent had gone without needed doctor or dentist visits because of the cost, and 43.0 percent had failed to fill a prescription, also because of the cost. Medical debtors experienced more problems in access to care than other debtors did; three-fifths went without a needed doctor or dentist visit, and nearly half failed to fill a prescription.

Medical debt was also associated with mortgage problems. Among the total sample of 1,771 debtors, those with more than $1,000 in medical bills were more likely than others to have taken out a mortgage to pay medical bills (5.0 percent versus 0.8 percent). Fifteen percent of all homeowners who had taken out a second or third mortgage cited medical expenses as a reason. Follow-up phone interviews revealed that among homeowners with high-risk mortgages (interest rates greater than 12 percent, or points plus fees of at least 8 percent), 13.8 percent cited a medical reason for taking out the loan.

Following their bankruptcy filings, about one-third of debtors continued to have problems paying their bills. Medical debtors reported particular problems making mortgage/rent payments and paying for utilities. Although our interviews occurred soon after the bankruptcy filings (seven months, on average), many debtors had already been turned down for jobs (3.1 percent), mortgages (5.8 percent), apartment rentals (4.9 percent), or car loans (9.3 percent) because of the bankruptcy on their credit reports.

Medical diagnoses, spending, and type of coverage. Our interviews yielded detailed data on diagnoses, health insurance coverage, and medical bills for 391 debtors or family members whose medical problems contributed to bankruptcy. In three-quarters of cases, the person experiencing the illness/injury was the debt or spouse of the debtor; in 13.3 percent, a child; and in 8.2 percent, an elderly relative.

Illness begot financial problems both directly (because of medical costs) and through lost income. Three-fifths (59.9 percent) of families bankrupted by medical problems indicated that medical bills (from medical care providers) contributed to bankruptcy; 47.6 percent cited drug costs; 35.3 percent had curtailed employment because of illness, often (52.8 percent) to care for someone else. Many families had problems with both medical bills and income loss.

Families bankrupted by medical problems cited varied, and sometimes multiple, diagnoses. Cardiovascular disorders were reported by 26.6 percent; trauma/orthopedic/back problems by nearly one-third; and cancer, diabetes, pulmonary, or mental disorders and childbirth-related and congenital disorders by about 10 percent each. Half (51.7 percent) of the medical problems involved ongoing chronic illnesses.

Our in-depth interviews with medical debtors confirmed that gaps in coverage were a common problem. Three-fourths (75.7 percent) of these debtors were insured at the onset of the bankrupting illness. Three-fifths (60.1 percent) initially had private coverage, but one-third of them lost coverage during the course of their illness. Of debtors, 5.7 percent had Medicare, 8.4 percent Medicaid, and 1.6 percent veterans/military coverage. Those covered under government programs were less likely than others to have experienced coverage interruptions.

Few medical debtors had elected to go without coverage. Only 2.9 percent of those who were uninsured or suffered a gap in coverage said that they had not thought they needed insurance; 55.9 percent said that premiums were unaffordable, 7.1 percent were unable to obtain coverage because of preexisting medical conditions, and most others cited employment issues, such as job loss or ineligibility for employer-sponsored coverage.

Debtors' out-of-pocket medical costs were often below levels that are commonly labeled catastrophic. In the year prior to bankruptcy, out-of-pocket costs (excluding insurance premiums) averaged $3,686 (95 percent CI = $2,693, $4,679) (Exhibit 5). Presumably, such costs were often ruinous because of concomitant income loss or because the need for costly care persisted over several years. Out-of-pocket costs since the onset of illness/injury averaged $11,854 (95 percent CI = $8,532, $15,175). Those with continuous insurance coverage paid $734 annually in premiums on average over and above the expenditures detailed above. Debtors with private insurance at the onset of their illnesses had even higher out-of-pocket costs than those with no insurance. This paradox is explained by the very high costs—$18,005—incurred by patients who initially had private insurance but lost it. Among families with medical expenses, hospital bills were the biggest medical expense for 42.5 percent prescription medications for 21.0 percent, and doctors' bills for 20.0 percent. Virtually all of those with Medicare coverage, and most patients with psychiatric disorders, said that prescription drugs were their biggest expense.

The human face of bankruptcy. Debtors' narratives painted a picture of families arriving at the bankruptcy courthouse emotionally and financially exhausted, hoping to stop the collection calls, save their homes, and stabilize their economic circumstances. Many of the debtors detailed ongoing problems with access to care. Some expressed fear that their medical care providers would refuse to continue their care, and a few recounted actual experiences of this kind. Several had used credit cards to charge medical bills they had no hope of paying.

The co-occurrence of medical and job problems was a common theme. For instance, one debtor underwent lung surgery and suffered a heart attack. Both hospitalizations were covered by his employer-based insurance, but he was unable to return to his physically demanding job. He found new employment but was denied coverage because of his preexisting conditions, which required costly ongoing care. Similarly, a teacher who suffered a heart attack was unable to return to work for many months, and hence her coverage lapsed. A hospital wrote off her $20,000 debt, but she was nevertheless bankrupted by doctor's bills and the cost of medications.

A second common theme was sounded by parents of premature infants or chronically ill children; many took time off from work or incurred large bills for home care while they were at their jobs.

Finally, many of the insured debtors blamed high copayments and deductibles for their financial ruin. For example, a man insured through his employer (a large national firm) suffered a broken leg and torn knee ligaments, He incurred $13,000 in out-of-pocket costs for copayments, deductibles, and uncovered services—much of it for physical therapy.

DISCUSSION

Bankruptcy is common in the United States, involving nearly four million debtors and dependents in 2001; medical problems contribute to about half of all bankruptcies. Medical debtors, like other bankruptcy filer, were primarily middle class (by education and occupation). The chronically poor are less likely to build up debt, have fewer assets (such as a home) to protect, and have less access to the legal resources needed to navigate a complex financial rehabilitation. The medical debtors we surveyed were demographically typical Americans who got sick. They differed from others filing for bankruptcy in one important respect: They were more likely to have experienced a lapse in health coverage. Many had coverage at the onset of their illness but lost it. In other cases, even continuous coverage left families with ruinous medical bills.

Study strengths and limitations. Our study's strengths are the use of multiple overlapping data sources; a large sample size; geographic diversity; and in-depth data collection. Although our sample may not be fully representative of all personal bankruptcies, the Chapter 7 filers we studied resemble Chapter 7 filers nationally (the only group for whom demographic data has been complied nationally from court records). Several indicators suggest that response bias did not greatly distort our findings.

As in all surveys, we relied on respondents' truthfulness. Might some debtors blame their predicament on socially acceptable medical problems rather than admitting to irresponsible spending? Several factors suggest that our respondents were candid. First, just prior to answering our questionnaire, debtors had filed extensive information with the court under penalty of perjury—information that was available to use in the court records and that virtually never contradicted the questionnaire data. They were about to be sworn in by a trustee (who often administered our questionnaire) and examined under oath. At few other points in life are full disclosure and honesty so aggressively emphasized.

Second, the details called for in our telephone interview—questions about out-of-pocket medical expenses, who was ill, diagnoses, and so forth—would make a generic claim that "we had medical problems" difficult to sustain. Third, one of us (Thorne) interviewed (for other studies) many debtors in their homes. Almost all specifically denied spend-thrift habits, and observation of their homes supported these claims. Most reflected the lifestyle of people under economic constraint, with modest furnishings and few luxuries. Finally, our findings receive indirect corroboration from recent surveys of the general public that have found high levels of medical debt, which often result in calls from collection agencies.

Even when data are reliable, making casual inferences from a cross-sectional study such as ours is perilous. Many debtors described a complex web of problems involving illness, work, and family. Dissecting medical from other causes of bankruptcy is difficult. We cannot presume that eliminating the medical antecedents of bankruptcy would have preventing all of the filings we classified as "medical bankruptcies." Conversely, many people financially ruined by illness are undoubtedly too ill, too destitute, or too demoralized to pursue formal bankruptcy. In sum, bankruptcy is an imperfect proxy for financial ruin.

Trends in medical bankruptcy. Although methodological inconsistencies between studies preclude precise quantification of time trends, medical bankruptcies are clearly increasing. In 1981 the best evidence available suggests that about 25,000 families filed for bankruptcy in the aftermath of a serious medical problem (8 percent of the 312,000 bankruptcy filings that year). Our findings suggest that the number of medical bankruptcies had increased twenty-threefold by 2001. Since the number of bankruptcy filings rose 11 percent in the eighteen months after the completion of our data collection, the absolute number of medical bankruptcies almost surely continues to increase.

Policy implications. Our data highlight four deficiencies in the financial safety net for American families confronting illness. First, even brief lapses in insurance coverage may be ruinous and should not be viewed as benign. While forty-five million Americans are uninsured at any point in time, many more experience spells without coverage. We found little evidence that such gaps were voluntary. Only a handful of medical debtors with a gap in coverage had chosen to forgo insurance because they had not perceived a need for it; the overwhelming majority had found coverage unaffordable or effectively unavailable. The privations suffered by many debtors—going without food, telephone service, electricity, and health care—lend credence to claims that coverage was unaffordable and belie the common perception that bankruptcy is an "easy way out."

Second, many health insurance policies prove to be too skimpy in the face of serious illness. We doubt that such underinsurance reflects families' preference for risk; few Americans have more than one or two health insurance options. Many insured families are bankrupted by medical expenses well below the "catastrophic" thresholds of high-deductible plans that are increasingly popular with employers. Indeed, even the most comprehensive plan available to us through Harvard University leaves faculty at risk for out-of-pocket expenses as large as those reported by our medical debtors.

Third, even good employment-based coverage sometimes fails to protect families, because illness may lead to job loss and the consequent loss of coverage. Lost jobs, of course, also leave families without health coverage when they are at their financially most vulnerable.

Finally, illness often leads to financial catastrophe through loss of income, as well as high medical bills. Hence, disability insurance and paid sick leave are also critical to financial survival of a serious illness.

Only broad reforms can address these problems. Even universal coverage could leave many Americans vulnerable to bankruptcy unless such coverage was much more comprehensive than many current policies. As in Canada and most of western Europe, health insurance should be divorced from employment to avoid coverage disruptions at the time of illness. Insurance policies should incorporate comprehensive stop-loss provisions, closing coverage loopholes that expose insured families to unaffordable out-of-pocket costs. Additionally, improved programs are needed to replace breadwinners' incomes when they are disabled or must care for a loved one. The low rate of medical bankruptcy in Canada suggests that better medical and social insurance could greatly ameliorate this problem in the United States.

In 1591 Pope Gregory XIV fell gravely ill. His doctors prescribed pulverized gold and gems. According to legend, the resulting depletion of the papal treasury is reflected in his unadorned plaster sarcophagus in St. Peter's Basilica. Four centuries later, solidly middle-class Americans still face impoverishment following a serious illness.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, unfortunately what the gentlewoman from California (Ms. ZOE LOFGREN) said is not correct. There is a means test that is contained in this bill, but 11 United States Code, section 1307 which permits the conversion of a chapter 13 case to a chapter 7 case is not amended at all in any respect.

I would just like to read 11 U.S.C. 1307(a): "A debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable."

So if chapter 13 is such a straight jacket, the way out is through the conversion as provided for in section 1307.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker. I rise in strong support for this long overdue legislation. I want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his leadership and his efforts in making this bill a reality. It represent years of work, compromise and what I believe to be necessary reforms.

Our bankruptcy laws have shifted away from what was their original purpose. In 1915 the Supreme Court wrote that our bankruptcy laws were intended to give honest debtors a chance to "start afresh, free from obligations and responsibilities consequent upon business misfortunes."

This view was later reaffirmed in the 1934 case, Local Loan Company v. Hunt, in which the court wrote that "the purpose of the act has been again and again emphasized by the courts in that it gives to the honest but unfortunate debtor a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt."

Over the last several decades, bankruptcy protections have expanded to cover basically anyone and everyone, not just those who truly need it. Statistics reveal that in 2004 approximately 1.5 million individuals sought bankruptcy protection. Increasingly, this protection is being sought for the consumer debt that has skyrocketed out of control as a result of the misuse of credit cards and other credit options. This expansive coverage comes at a price.

Personal bankruptcy filing cost businesses and our economy tens of billions of dollars every year. It is basically a $500 per family annual tax on each and every American family. H.R. 685 the Bankruptcy Abuse and Consumer Protection Act of 2005, the bill that is here before us today, strikes a balance. It requires those who have the means to repay debts to do so while protecting those who truly need the assistance provided by chapter 7, such as those with serious medical conditions, the men and women of our armed services who are on active duty, as well as those disabled veterans who served in years past.

Decisions to seek the protection of bankruptcy should be taken seriously. The consequences of filing are not just personal but impact our economy and society as a whole. As I mentioned, it is $600 per family that we are essentially taxed this year for everybody who is paying their debts from those who are not.

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Personal filings cannot continue at the current rate. This bill represents a long overdue, much necessary first step; and I urge my colleagues to support this legislation.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to my friend, the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, what the gentleman suggested was, if someone has overwhelming medical bills, hundreds of thousands in medical bills, that they can file under Chapter 7. That is not true. If they have a job and they have $100 a month left over after essential expenses, they are going to have to go under a wage earner plan for the next 5 years. Every dime they have got after food and rent will go to all of their bills. They cannot file under Chapter 7.

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from Ohio (Mr. KUCINICH) for a unanimous consent request.

Mr. KUCINICH. Mr. Speaker, almost half of the bankruptcies in the United States are connected to an illness in the family, whether people had health insurance or not. Middle-class Americans, who had the misfortune of either experiencing a medical emergency themselves or watching a family member suffer, were then forced to face the daunting task of pulling themselves out of debt. Bankruptcy law has allowed them to start over. It has given hope. Now this new law will put people on their own. Illness or emergency creates medical bills. We are telling the people that they themselves are to blame. At the same time, we are removing protections that would stay an eviction, that would keep a roof over the head of a working family. We allow the credit industry to trick consumers into using subprime cards, with exorbitant interest rate hikes and fees. Then we hand those same consumers over to an unforgiving prison of debt, to be put on a rack of insolvency and squeezed dry by the credit card industry. We are protecting the profits of the credit card industry instead of protecting the economic future of the American people. Americans are left on their own. That's what this Administration's "Ownership Society" is all about—you're on your own—and your ship is sinking.

Mr. CONYERS. Mr. Speaker, I am now pleased to break the line of members of the committee. I yield 1 minute and 15 seconds to a distinguished friend of mine, the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, you would not even exempt our brothers and sisters coming back from war, and you want me to believe that this is reasonable legislation?

Rising debt levels in turn reflect a shift in our economy away from a time when families could afford to save and into a time when their wages are stagnant. The costs of their health premiums increased 163 percent since 1988. Their tuitions have increased 170 percent. Their mortgages, their child care. This is not a stable economy.

They are not crooks. They are not evil people. The American Bankruptcy Institute says that 96.3 percent of the people filing Chapter 7 just do not have the money. Now we are not saying forget about all of this, but we are saying let us be reasonable.

Who should we help? Who should be first on the list of congressional priorities? The families who are in financial straits or the credit card companies who made a record $30 billion in profits last year and whose profits have soared almost triple in the last decade?

This legislation does nothing to put caps on interest rates or late fees or the overtime limits and other penalties, even those among reasonable people.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I rise today in strong support of S. 256, the Bankruptcy Abuse and Consumer Prevention Act.

Mr. Speaker, we have seen a sharp increase in bankruptcies in the past 25 years. In 2003, consumer filings peaked at over 1.6 million filings, a 465 percent increase from 1980. Those who believe credit card companies, mortgage lenders and other financial institutions are bearing the cost of consumers filing for bankruptcy do not understand how business works. These costs will be shifted to American families who are paying the price for this debt, some studies reflect $400 per year in every household, by higher interest rates on their credit cards, auto loans, school loans and mortgages. When the legislation passes today it will be the American families who are the real winners.

This legislation balances the consumer's challenge of debt repayment with the needs of businesses that collect money rightfully owed to them. In an effort to better educate consumers and improve financial literacy, the legislation requires many filers of bankruptcy to attend financial counseling. This change coupled with congressional encouragement for schools to incorporate personal finance curricula in elementary and secondary education programs are both useful methods of curbing future debt. As chairman of the Subcommittee on Education Reform, which has jurisdiction over K through 12, I feel strongly that educating future spenders can prevent debts incurred as adults.

Again, Mr. Speaker, I want to thank Chairman SENSENBRENNER for his years of strong and tenacious support for this legislation and thank him for not giving up on these important, commonsense changes to our bankruptcy system. I urge my colleagues to support this bipartisan legislation.

Mr. CONYERS. Mr. Speaker, before I recognize the gentleman from Massachusetts, I want to go back and yield 10 seconds to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I want to make sure that everybody quite understands that I will no longer support this legislation. I am changing my vote this year to a no vote. This is terrible legislation, and we have only made it worse.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to my friend, the gentleman from Massachusetts (Mr. MEEHAN), an excellent member of the committee.

Mr. MEEHAN. Mr. Speaker, this bankruptcy bill is but the latest attempt by the Republican Congress to undermine the economic security of the middle class. Health care costs, not spending sprees, are the single largest causes of bankruptcies in America. Health care costs. Medical bankruptcies have gone up by more than 2,000 percent in the last 25 years. Why are we here trying to increase the profits of credit card companies while doing nothing to lower the cost of health care for middle-class American families?

It is disgraceful that this bill is being considered under a closed rule, with just an hour of debate, with no opportunity for amendment.

Supporters of this bill claim to have exempted service members who become disabled on active duty, but to be exempted you have to go into debt while on active duty.

A veteran who returns home from Iraq or Afghanistan and then goes into debt because of the injuries sustained on active duty is still subject to the punitive means test. What a way to treat the men and women in uniform fighting on behalf of the United States. It is an unfair loophole that we should have had the opportunity to close here on the House floor.

Another blatant unfairness is that this bill allows millionaires to shield their assets in estates in Florida and Texas, but no such homestead exemption exists for middle-class families who suffer serious medical expenses. We tried to offer an amendment allowing a limited homestead exemption for families with crushing medical debts. Unfortunately, no amendments were allowed.

It is an outrage that we cannot debate these issues here on the House floor. This bill is simply an attempt to reward credit card companies by removing a last resort available to middle-class families who fall on hard times.

I urge Members to oppose this terrible bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself a minute and a half.

Mr. Speaker, once again the opponents of this legislation are not correct. My friend, the gentleman from Massachusetts, says that someone who is injured in Iraq and comes home is not going to be protected from medical expenses. The United States Government has stood behind everybody who has a service-connected injury or disability and pays for the medical treatment out of taxpayers' money because that is the right thing to do.

Secondly, he says that this bill continues the millionaires' exemption in the eight States that have unlimited exemption. Wrong. It plugs that exemption.

And if this bill goes down, a corporate crook can build a multimillion dollar mansion on the Intercostal waterway in Florida and be able to shield that asset from bankruptcy. What this bill does is it does plug that unlimited exemption and it plugs it in a way that was negotiated out in a bipartisan manner in the conference committee two Congresses ago with a motion that was made in that conference committee by my senior Senator, HERB KOHL, who is a Democrat.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I did not say the bill did not pay for service members' medical expenses who are injured in Iraq or Afghanistan. I said if they incur debt after they come back from serving this country and are forced to bankruptcy, they get the punitive means test. That is wrong. We should not do it to people serving in Iraq and Afghanistan.

Mr. CONYERS. Mr. Speaker, how much time remains on either side?

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Michigan (Mr. CONYERS) has 9 minutes and 20 seconds. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 8 minutes remaining.

Mr. CONYERS. Mr. Speaker, I am now pleased to yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), who is an able member of the committee.

Ms. LINDA T. SANCHEZ of California. Mr. Speaker, I rise in strong opposition to the so-called Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Contrary to its name, this bill does not protect consumers and it certainly does not help honest, hard-working families with financial problems. The only thing that this bill does is distort our bankruptcy laws so that working families are treated more like criminals than people in need of relief.

Our bankruptcy laws must strike a fair and practical balance between debtors and creditors. This means that honest people with financial troubles can make a fresh start by getting creditors off their backs.

But this bill does the exact opposite of that. Instead of helping struggling families in debt, this bill erects harsh legal and monetary roadblocks for people who are trying to file bankruptcy.

The vast majority of people who file for bankruptcy, 9 out of 10, do so because they have either lost their job, suffered a medical emergency, or there has been a divorce or separation in their family. These are not people who are abusing the bankruptcy system.

We are talking about recently divorced, single working mothers trying to support their children who may not be getting their child support. We are talking about young men and women in our Armed Forces returning home after serving their country in Iraq. We are talking about some of the 1.6 million families who have lost their private-sector jobs since 2001 when a Republican administration took over the White House. These are honest, hardworking families who have resorted to bankruptcy to find some relief for their debts and a chance to start their lives anew.

This is a terrible bill. It is harmful to struggling families and goes against the basic policy of our bankruptcy laws, helping families in financial trouble get a fresh start.

I urge every Member of the House to stand by America's working families by voting no for passage of S. 256.

Mr. SENSENBRENNER. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Los Angeles, California (Ms. WATERS), a member of the committee.

Ms. WATERS. Mr. Speaker, the passing of this bill would be a complete detriment to the American people. For many Americans find themselves, usually through no fault of their own, facing bankruptcy. This scenario could happen to almost anyone.

Mr. Speaker, the main reasons Americans file for bankruptcy is not to abuse the system and avoid paying their bills. Americans file for bankruptcy usually due to catastrophic medical expenses, divorce, or the loss of their jobs.

Many important, common-sense amendments on subjects such as alimony, child support, exemptions for medical emergencies, and job loss, underage credit card lending, predatory lending and protection for disabled veterans, just to name a few, were all rejected by the Judiciary Committee.

Mr. Speaker, amendments should have been made to this bill to carve out exemptions for certain basic needs so Americans can still have some equity or resources should they be forced into bankruptcy.

More specifically, one loophole in the bankruptcy bill leaves the victims of domestic violence and their children left with no resources should they file for bankruptcy. This is so unfair. The bill should have been allowed to be modified to secure better protection for domestic abuse victims by granting them relief from summary eviction from their houses.

Please note, this relief would have only been available if a domestic violence debtor is certified, under penalty of perjury, that the debtor was in fact a victim of domestic abuse and that their physical well-being or the physical well-being of the debtor's child would be threatened if this debtor were evicted.

Mr. Speaker, this amendment would have provided a safe harbor for those victims who faced the great threat of more violence and extreme danger if their homes are taken as a result of bankruptcy.

We also tried to do something about this underage credit card lending. It is a travesty. These credit card companies set up on the college campuses. They have vendors from the day these kids walk into college. They send them all of this unsolicited mail, and they telephone them unrelentlessly to get them involved in taking these credit cards.

They do it. They run up the debt. Some of them are now 30, 35 years old, out of college for years, still paying on these credit cards because they allowed their minimum payments that do not even take into account all of the interest on the debt.

□ 1430

It is outright unreasonable that we did not have an amendment allowed by my friends on the opposite side of the aisle to try and protect families and future young families from this kind of exploitation.

Also, I want to point out that the means test includes disaster assistance and veterans benefits. This is a rip-off.

Mr. SENSENBRENNER. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 5 seconds to let the gentlewoman from California know that the credit card companies solicit five billion mailings every year to college kids and others.

Mr. Speaker, may I ask the chairman how many speakers he may have remaining.

Mr. SENSENBRENNER. Mr. Speaker, if the gentleman will yield, just me at the present time.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the dynamic gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, over the last 18 months the House leadership has passed bills that are windfalls for the pharmaceutical industry, big oil, and they have given massive tax breaks to corporations while the deficit in this country continues to grow by records.

Now lining up for their share and licking their lips is the credit card industry who stands to make billions of dollars at the expense of American consumers.

With the hope of helping to protect veterans from these regulations, I offered an amendment to this bill to simply waive any fee charged for credit counseling for any servicemember returning from a combat area for a period of 2 years. Do my colleagues think that was allowed to come down here on the House floor for a vote? Absolutely not.

Many of these men and women have been away from their families, from their homes, their jobs for long periods of time because of unethical procedures that keep them overseas. Many of these individuals have lost their businesses, they have lost their homes and they have bills and are going to suffer. Our veterans, they will suffer because of this bankruptcy bill.

Mr. Speaker, over the last eighteen months, the House leadership has passed bills that are windfalls to the pharmaceutical industry and big oil and, have given massive tax breaks to corporations, while the deficit continues to break records.

Now lining up for their share and licking their lips is the credit card industry, that stand to make billions of dollars at the expense of the American consumer.

With the hope of helping to protect Veterans from these new regulations, I offered an Amendment to this bill to simply waive any fee charged for credit counseling for any service member returning from a combat area, for a period of two years. Unfortunately, the majority didn't allow any.

Many of these men and women have been away from their families, homes and jobs for long periods of time because of unethical procedures that keep them overseas. This is resulting in severe economic hardships, business closures, homes foreclosures and bills unpaid.

We must not penalize our troops for serving our country. It is appalling that any Veteran would face bankruptcy because of their sacrifice.

Mr. Speaker, I urge my colleagues to vote against this bill to protect American families and maintain a core American value to allow people a fresh start.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

We should all be embarrassed that instead of repealing the biggest loophole in the bankruptcy code, we have had 8 years to study it, the homestead exemption, the bill places only weak obstacles in its path. Instead of protecting women and health care providers from those who would terrorize abortion clinics, we lay out a blueprint for them to avoid their debts. Instead of helping individuals who have lost their job or faced a health care emergency, we deny them the chance for a fresh start.

By passing this measure in this form, the majority is telling the American people, Republicans are telling the American people, it is more important to help credit card companies than innocent spouses and children; that it is more important to protect corporate scam artists than workers losing their pension; that it is more important to protect unscrupulous lenders than disabled veterans.

Mr. Speaker, I yield the remainder of my time to the gentlewoman from California (Ms. Pelosi), the distinguished minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and thank him for his distinguished leadership as the ranking member on the Committee on the Judiciary and his important statements on this bankruptcy bill today.

Mr. Speaker, we all agree that every person in our country must be financially responsible, that we take responsibility for our action, for our debts and we do so in a way that is honorable.

In the course of our country's history, our economy, our government has always provided for people to get a fresh start under the bankruptcy law to enable them to go forward to make a contribution to our economy and our society. Recognizing that tradition and recognizing the appreciation that we have for personal responsibility, I regretfully rise in opposition to this bill because this bankruptcy bill seeks to squeeze even more money for credit card companies from the most hard-pressed Americans.

It would bind hardworking and honest Americans to credit card companies and other lenders as modern day indentured servants. I think it is our duty to speak up for those who would be hurt by this bill.

This duty is paramount because we have been shut out of the process here, the legislative process to bring any amendments to the floor. That would have been an amendment on identity theft, which this week's news accounts demonstrate there are real problems of identity theft, and an amendment was rejected.

We tried to take a legislative course of action in our previous question, which is a technicality, is a procedure here on the floor; but we were not able to get any Republican support to address the issue of identity theft and how individuals can be protected from identity theft under the bankruptcy bill.

According to the sponsors of this bill, 1.6 million Americans who filed for bankruptcy last year are deadbeats who are avoiding their debts. That is really the essence of what they are saying with this bill. Proponents claim that there is a bankruptcy tax in which honest Americans are footing the bill for abusive users of credit cards.

We should be vigilant for any abuse of any legal process. There is no evidence, however, of widespread bankruptcy abuse. In fact, a recent study indicated that 45 percent of those filing for bankruptcy had skipped a needed doctor's visit, 25 percent had utilities shut off, 20 percent went without food. They are not using this money that they should be paying in for luxuries. They just simply do not have money to survive.

As a distinguished group of law professors wrote: "Some people do abuse the bankruptcy system, but the overwhelming majority of people in bankruptcy are in financial distress as a result of job loss, medical expense, divorce, or a combination of those causes. This bill attempts to kill a mosquito with a shotgun."

I have a problem with the bill on several counts as to what is contained in the bill. The bankruptcy bill fails miserably, I believe, on its merits. It employs, for the first time, a stringent and unworkable means test that limits access to chapter 7 and forces individuals into payment plans that will fail.

It frustrates a key goal of the bankruptcy code, to give individuals who suffer economic misfortunes through no fault of their own a fresh start. That is an American tradition.

The bill neglects the real causes of bankruptcies, as I just mentioned, medical concerns, divorce, in some cases death, while rewarding irresponsible corporate behavior.

It lets those who truly abuse and game the bankruptcy system, the wealthy debtors who shield their assets in asset trusts and homestead exemptions, keep their loopholes and get off, in some cases, scot-free.

It is wholly unnecessary. Current law already allows a bankruptcy judge to deny a discharge in chapter 7 to prevent abuses. That is why bankruptcy judges are uniformly opposed to the bill.

I just would like to quote Keith Lundin, a Federal bankruptcy judge in Tennessee and an authority on bankruptcy repayment plans. Judge Lundin says, "The folks who brought you 'those who can pay, should pay' are pulling the stuffing out of the very part of the bankruptcy law where debtors do pay." He says, "The advocates aren't trying to fix the bankruptcy law; they're trying to mess it up so much that nobody can use it."

They interviewed dozens of bankruptcy judges, whose names have been suggested by proponents and opponents of this legislation, for their standing on this issue, to speak out; and the reasons why these judges are opposed are several reasons.

One is the judges now have broad discretion to determine how much a debtor must pay to creditors and on what schedule, and the schedule is very important, after declaring bankruptcy under what is known as chapter 13; but under the legislation, that discretion would be substantially curtailed.

The new legislation would bar courts from reducing the amount that many debtors would have to repay on their cars and other big-ticket items. It would also extend the length of time people would have to make repayments and impose repayment schedules that critics describe as so onerous that debtors would fall behind. It just prescribes that they would.

The bankruptcy judges say the result would be the collapse of more repayment plans, forcing debtors out of bankruptcy court protection. Creditors could then force debtors to pay the full amount owed, not the reduced amount, and by moving to repossess their belongings. Many people would have to pay creditors far into the future and thus be unable to restart their economic lives, a long-held aim of bankruptcy.

I will submit this article from the Los Angeles Times for the Record at this point.

[From the Los Angeles Times, Mar. 29, 2005]

Judges Say Overhaul Would Weaken Bankruptcy System

(By Peter G. Gosselin)

For nearly a decade, proponents of overhauling the nation's bankruptcy laws have described their aim as ensuring that Americans who enter bankruptcy court do not escape bills that they can truly afford to pay.

But only weeks before Congress is likely to approve the long-sought overhaul, bankruptcy judges across the country warn that the measure would undermine the very section of the law under which debtors are now repaying more than $3 billion annually to their creditors.

These judges say the effect of the overhaul would be to discourage most forms of personal bankruptcy, which—for nearly two centuries has served as a safety net for people in economic trouble.

"The folks who brought you 'those who can pay, should pay' are pulling the stuffing out of the very part of the bankruptcy law where debtors do pay," said Keith Lundin, a federal bankruptcy judge in the eastern district of Tennessee in Nashville and an authority on bankruptcy repayment plans.

"The advocates aren't trying to fix the bankruptcy law; they're trying to mess it up so much that nobody can use it," Lundin charged.

In interviews, a dozen current or former bankruptcy judges, whose names were suggested by proponents as well as opponents of the overhaul legislation, described what they saw as the problems that could result from key provisions of the new measure.

Judges now have broad discretion to determine how much a debtor must pay to creditors and on what schedule after declaring bankruptcy under what is known as Chapter 13. But under the legislation, that discretion would be substantially curtailed.

The new legislation would bar courts from reducing the amount that many debtors would have to repay on their cars and other big-ticket items. It would also extend the length of time people would have to make repayments and impose repayment schedules that critics describe as so onerous that many debtors would fall behind.

The result, the judges said, would be the collapse of more repayment plans, forcing debtors out of bankruptcy court protection. Creditors then could try to force debtors to pay the full amount owed—not the reduced amount a judge had ordered—by moving to repossess their belongings or bringing legal actions. Many people would have to pay creditors far into the future, the critics said, and thus be unable to restart their economic lives, a long-held aim of bankruptcy.

Repayment plans "are pretty fragile documents to begin with, but they're going to get a lot more fragile under these conditions," said Ronald Barliant, a former bankruptcy judge from the northern district of Illinois in Chicago.

"It's going to take away a lot of the incentives" for people to enter repayment plans, said David W. Houston III, a bankruptcy judge from the northern district of Mississippi in Aberdeen.

Overhaul proponents respond to such criticisms by contending that the current bankruptcy system is rife with fraud and abuse and is stacked against creditors. Many proponents are deeply scornful of bankruptcy judges, who they charge have let the system spin out of control.

"They're part of the . . . problem," declared Jeff Tassey, a Washington lobbyist who heads the coalition of credit card companies, banks and others that has spearheaded the overhaul drive.

"They're not real judges, not Article 3 judges," Tassey said. He was referring to Article 3 of the U.S. Constitution, under which judges in the regular federal court system are appointed for life. Bankruptcy judges are appointed under Article 1 to 14-year renewable terms.

As matters now stand, financially distressed Americans generally have two options in bankruptcy. They can file a Chapter 7 case, in which they forfeit most of their assets in return for cancellation of most debts and a debt-free "fresh start." Or, they can file a Chapter 13 case, in which they get to keep most of their property but must agree to repay a portion of their debts over a period of time.

Some advocates for changing the system have contended that these provisions should be rewritten to address a kind of moral laxness in bankruptcy practices.

"When you have seen a system that has gone from a few hundred thousand cases to 1.5 million last year—most of that increase during the fat years of the Clinton administration—you must conclude something is not right," said Edith H. Jones, a federal appellate court judge in Houston who served on a blue-ribbon panel to review bankruptcy law in the 1990s and is widely believed to be seen as on President Bush's short list for a position on the Supreme Court.

"People have been encouraged to see bankruptcy as an easy way out of uncomfortable situations," Jones said.

Overhaul proponents have also said that the new measure is so narrowly cast that it would affect no more than 15 pecent of bankruptcy filers.

The legislation would require courts to check whether people make more than their state's median income and can pass a "means test," which gauges whether they have enough to cover allowable living expenses, pay secured creditors such as mortgage lenders and still have some left over for unsecured creditors such as credit card companies. Those who are above the median and have the means would no longer be allowed to file under Chapter 7 and wipe out most of their debts, but would have to file Chapter 13 cases and agree to a repayment plan.

Nearly all congressional Republicans, together with many Democrats, support the overhaul measure, which the president has warmly endorsed and said he would sign. The Senate passed the measure this month in a 74-25 vote. Approval from the House is expected next month.

However, largely overlooked in the debate has been a series of proposed changes in Chapter 13 that critics say would make it harder for debtors to stick with repayment plans—the opposite effect of what supporters say they want.

Critics, including bankruptcy judges in California, North Carolina, Massachusetts, and Florida say there is nowhere near the fraud in the system that advocates claim.

They cite a study by the nonpartisan American Bankruptcy Institute, which concludes that only about 3 percent of those who wipe out their debts in Chapter 7 could afford to repay a portion in Chapter 13. Lobbyists for the credit card and banking industries estimate that 10 percent or more would be able to pay.

Those opposed to the changes contend that most people who file for bankruptcy are truly distressed finanacially—and say the success that courts have in collecting as much as they do under Chapter 13 shows the system is working.

According to figures from the U.S. Trustee Program, a Justice Department agency, Chapter 13 debtors repaid almost $3.6 billion in 2003, the latest year for which figures are available.

But critics say the courts' success with Chapter 13 is threatened by several little-noticed elements of the proposed legislation:

Under current law, those who file under Chapter 13 must repay car loans only up to the amount the car is worth at the time they enter court, or they risk losing the vehicle. A debtor who bought a $24,000 sport utility vehicle and filed for bankruptcy two years later, for example, might have to pay far less because the vehicle had depreciated.

By reducing what debtors owe auto lenders in this fashion, the law ensures more money for other creditors. And, according to bankruptcy experts, it means that auto lenders are treated on an equal footing with other "secured" creditors—they are promised repayment only to the value of the item they could repossess.

Under the new measure, debtors would have to pay the full amount on any vehicle purchased within 2½ years of bankruptcy, or risk losing the vehicle. The change may seem minor to an outsider, but not to Chapter 13 debtors or bankruptcy judges. "That's going to be a big deal," predicted A. Thomas Small, a bankruptcy judge for the eastern district of North Carolina in Raleigh. It would mean that many repayment plans that work now would fail under the new measure, he said.

Under current law, the debtor and his lawyer work out a repayment plan that they think represents the most the debtor can pay and still cover basic living expenses. A bankruptcy judge must eventually approve the plan, which usually has reduced or stretched-out payments to creditors. In the meantime, the debtor immediately begins making payments to a court-appointed trustee.

Under the legislation, many debtors would have to make full payments on such big-ticket items as houses, furniture and appliances. They would have to make those payments directly to the lenders. And at the same time, they would have to start paying the court-appointed trustee for debts to doctors, credit card companies and other unsecured creditors.

Many bankruptcy judges say debtors who come before them often do not have enough income to make both sets of payments.

The result, they warned, would be that many debtors' plans would quickly fail.

Under current bankruptcy law, two guiding principles are that debtors should not be required to repay indefinitely, or they effectively become indentured servants to their creditors, and that they should eventually be given a debt-free "fresh start" on their economic lives.

The legislation would require debtors to agree to repayment plans with a five-year minimum repayment schedule, up from the current three-year minimum. It would also boost the chances that debtors would be required to continue paying some debts even after a plan's successful completion.

Todd Zywicki, a law professor at George Mason University in Virginia, said the shift away from the "fresh start" philosophy is justified because another bedrock American value—that people who incur debts should pay them—is being sullied under the current system.

But many bankruptcy judges and independent experts warn that equally compelling values would be lost if the proposed measure becomes law.

Practically, they warn, debtors who would no longer qualify for Chapter 7 and fail to complete Chapter 13 repayment plans would either have to keep paying creditors indefinitely or drop out.

"If you're confronted with a mountain of debt and have no hope of getting out from under it, you're either going to go underground or turn to crime," said Kenneth N. Klee, a former Republican congressional staffer who was one of the chief authors of the last major bankruptcy law change in 1978 and now teaches law at UCLA.

More broadly, say judges and others, the ability to start over after running into financial problems should not be discounted.

"Loads of people have filed bankruptcy—Mark Twain, Buster Keaton, Walt Disney," said Lundin, the Nashville-based bankruptcy judge. "Bankruptcy is a very American safety net.

"It's part and parcel of the American dream."

Mr. Speaker, while this bill fails to improve the bankruptcy system, the bill succeeds in being harsh, punitive and mean-spirited.

The bill is particularly harsh on women who are often the primary care givers for their children or their parents and are the largest single group in bankruptcy; on older Americans who are the fastest growing group in bankruptcy due to medical costs; and on children. Parents seeking child support will compete with credit card companies and other lenders in State courts, but will have little protection and fewer resources than the large credit card companies they are up against.

Finally, the bill does a disservice to those who serve our Nation, especially our National Guard troops and Reservists who are not protected by an amendment passed by the other body.

National Guard and Reservists make up nearly 40 percent of those serving in the Iraqi theater. They often leave behind small businesses and jobs and incur debt, but they do not have the benefits and services offered to active duty Armed Forces.

This bill would not stop abusive creditors who are stalking down military families while their loved ones are serving our Nation bravely and heroically.

I would hope that our Republican colleagues would join us in a bipartisan way to support our motion to recommit that would give some opportunities for the National Guard not to be treated this way under the bankruptcy bill.

As for the bill, instead of addressing real causes of bankruptcy, this bill rewards irresponsible corporate behavior and fattens the already large profits of the credit card industry.

While bankruptcy filings have increased 17 percent in the last 8 years, credit card profits have increased more than 160 percent, from $11 billion to more than $30 billion. There are now 5 billion credit card solicitations a year stuffed into our mail boxes and many targeted at teenagers with no jobs, no income, no visible means of support to pay these credit card bills.

It is an industry with little oversight and loose underwriting that charges enormous fees and unfair interest payments. The legislation does nothing to address these failings. In fact, the other body rejected an amendment to tell customers how much it would cost in additional interest if they make only minimum payments on their credit card bills.

For these and other reasons, Mr. Speaker, I sadly oppose this bill. I say sadly because this is an area where there should not be any major disagreement. If the point is to honor a tradition in our country where people are entitled to a fresh start so they can begin contributing back to our economy and to our society, then we should uphold that; and if people are abusing the system, existing law already covers that.

Instead, we have a situation where it is mean and harsh to those who can least afford to pay back and gives opportunity to the wealthiest, the wealthiest, and corporate abusers of the system.

With that, Mr. Speaker, I am giving my reasons for why I oppose the bill.

□ 1445

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, one does not need to get a good grade in Economics 101 to realize that those who pay their bills as agreed end up having to pay for the cost of debts that are ripped off in bankruptcy. The number of bankruptcy filings has exploded. The number of proven instances of people gaming the system and using bankruptcy as a financial planning tool has gone up, and this bill stops those types of abuses.

I would like to quote from page 4 of the committee report from testimony that was given by Professor Todd Zywicki, and he said, "Like all other business expenses, when creditors are unable to collect debts because of bankruptcy, some of those losses are inevitably passed on to responsible Americans who live up to their financial obligations. Every phone bill, electric bill, mortgage, furniture purchase, medical bill and car loan contains an implicit bankruptcy tax that the rest of us pay to subsidize those who do not pay their bills. Exactly how much of these bankruptcy losses is passed on from lenders to consumer borrowers is unclear, but economics tell us that at least some of it is. We all pay for bankruptcy abuse in higher down payments, higher interest rates and higher costs for goods and services."

The Credit Union National Association, which is a national organization of nonprofit credit unions that are owned by their members, said that, as of 2002, they lost over $3 billion from bankruptcies since Congress started its consideration of bankruptcy reform legislation in 1998; and CUNA estimates that over 40 percent of all credit union losses in 2004 will be bankruptcy related, and those losses will total approximately $900 million.

Now the credit unions are not the big issuers of credit cards. They are owned by their members, and those members have to pay additional costs of the services of their own credit unions because of the huge write-offs that have been described in this report.

Now if my friends on the other side of the aisle were so concerned about bankruptcy abuse and the fact that this bill does not deal with the problem, they could have spent the time drafting an amendment in the nature of a substitute. They were offered by the Committee on Rules and I requested the Committee on Rules to make such a substitute in order, but, no, all they want to do is criticize, attack and come up with no positive alternatives.

If that is their position, then the bankruptcy tax that everybody realizes is passed on to people who pay their bills as agreed to is on their shoulders, because we are trying to stop the abuse.

I have heard an awful lot about the homestead exemption. If this bill goes down, eight States and the District of Columbia will continue to have an unlimited homestead exemption where corporate crooks can hide their assets from bankruptcy in a homestead and, once they get their discharge, sell that mansion and go off on their merry way. They want to keep that. Our bill closes it.

We have heard an awful lot about asset protection trusts that become the law in a number of States. Page 506 of the bill contains a new section on fraudulent transfers and obligations that says that anybody who creates one of these trusts within 10 years of the date of filing can have that transfer voided if such a transfer was made to a self-settled trust or similar device, such transfer was made by the debtor, the debtor is the beneficiary of the trust or similar device, and the debtor made the transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date such transfer was made, indebted. Our bill closes those asset protection trusts. If the other side votes this bill down, they continue on and the blame for that is on their shoulders.

We have heard an awful lot about medical bills. Well, the people who are complaining about medical bills put a tin ear on to the testimony that has been submitted in this extensive hearing record.

The United States trustees program, independent people who administer the Bankruptcy Code, collected data and made findings on medical debt. They drew a random sample and, of 5,203 debtors, 54 percent listed no medical debt. Those that did, medical debt accounted for 5.5 percent of the total general unsecured debt; 90.1 percent reported medical debts of less than $5,000; 1 percent of the cases accounted for 36.5 percent of the medical debt; and less than 10 percent of all cases represented 80 percent of all reported medical debt. This is not the big problem that the people on the minority side have said it is. The data from the United States trustees proves this.

Finally, we have heard about debt that has been run up by service people who are on active duty, whether it is the permanent active duty military service or Guard and Reserve members who have been called up to active duty.

In the last Congress, the Congress enacted the Servicemembers Civil Relief Act, Public Law 108-189, which gives protection to people on active duty from collection of these debts by those that they have become indebted to, and this law puts a cap on interest at an annual rate of 6 percent on debts incurred prior to a person's entry into active military duty service.

Mr. Speaker, this is a good bill. It is not a perfect bill. It is a good bill, but it plugs a lot of loopholes that abuse has been generated under, and it does provide protection for medical debts and to our service people.

Let us not listen to the inaccurate statements that have been made by people who have been opposed to bankruptcy reform beginning 8 years ago, long before the military actions in Iraq and Afghanistan. Let us give some protection to the people who pay their bills that they have agreed to from the hidden bankruptcy tax, and the way we do that is by passing this legislation.

Ms. DELAURO. Mr. Speaker, to listen to this majority, we have a crisis in this country—one brought on by spendthrifts defrauding the public via our bankruptcy system. Indeed, to look at the statistics, we are facing a crisis—but it has nothing to do with ordinary Americans acting irresponsibly or even our bankruptcy system.

Last year, more than a million-and-a-half families resorted to declaring bankruptcy—a full half of which occurred not because of any irresponsible behavior but because of unexpected medical expenses brought on by an illness or death in the family. These families—widows and widowers, mothers and fathers, many in the middle-class—are hardly "gaming the system"—they are doing the best they can under unbelievable circumstances that have left them with no choice but to resort to the only recourse they have: filing bankruptcy, wiping their debt and trying their best to start anew.

If there is any "crisis," it is the skyrocketing cost of health care, which has left more than 14 million Americans spending more than a quarter of their every paycheck on medical costs—that Mr. Speaker, is what I call a crisis. A moral crisis.

We can all agree that individuals should be accountable for living beyond their means, but if anyone is "gaming" our bankruptcy system, it is the credit card companies, who have long been advocating for this bill at the same time they prey on unsuspecting customers. And as with previous incarnations of this legislation, there is virtually nothing in the bill that would require creditors to curb their outrageous predatory lending practices that mislead even the most educated consumers into debt.

This bill is especially bad for women, who are the single largest group currently in bankruptcy. By making it harder for them to file for bankruptcy, we will make it more difficult for them to maintain essential items such as the car that gets them to and from their job. Women who are owed child support will be forced to compete with credit card companies and other lenders for dollars to spend feeding and clothing their children. The bill also allows perpetrators of violence against women at health centers to escape liability for their actions through the bankruptcy courts.

Mr. Speaker, this bill is yet another product of an Administration and majority that taxes work and rewards wealth. It appeals to the worst in all of us, painting honest middle-class families who are working hard and taking personal responsibility for their actions as liars, cheaters and spendthrifts. At the same time it lets off the hook those who do act irresponsibly by preserving loopholes which allow wealthy bankruptcy filers to hide their true wealth in mansions and trust funds. I can hardly imagine a more unfair piece of legislation less concerned with promoting the common good, and I urge my colleagues to oppose it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as I stated with respect to the consideration of the rule, today is a sad day for America, its elderly, its veterans, its bereaved, and its aspirants for a second chance.

This 512-page legislation before the Committee of the Whole simply falls far short of its purported goal of ensuring that every debtor repay as much of her debt as she can reasonably afford. Instead, this bill appeals to special interest groups—mainly credit card companies. The bill's sponsor has said that bankruptcy has become a system "where deadbeats can get out of paying their debt scott-free, while honest Americans who play by the rules have to foot the bill." Given the economic gap as evidenced by the predominance of African American and Hispanic bankruptcy filers, it is clear that these minorities are viewed as the "deadbeats" of society. Given the harmful provisions that are contained within the legislation, it is clear that the Republican Majority wishes to perpetuate this condition.

According to the Democratic Platform: "The heart of the American promise has always been the middle class, the greatest engine of economic growth the world has ever known. When the middle class grows in size and security, our country gets stronger. And when more American families save and invest in their children's future, America grows stronger still . . . Today, the average American family is earning $1,500 less than in 2000. At the same time, health care costs are up by nearly one-half, college tuition has increased by more than one-third, gas and oil prices have gone through the roof, and housing costs have soared. Life literally costs more than ever before—and our families have less money to pay for it. Three million more Americans have fallen into poverty since 2000".

The bankruptcy bill, as it stands, has the potential to crush the dreams and futures of the vast majority of Americans. It will shut the door to the one avenue that is available to those who are eventually overwhelmed by debt.

The proposed bankruptcy bill will lead to a new feudal system. Let me share a few facts with you. Do you know that currently, more that 1 of every 100 adults in America files bankruptcy each year? Families with children are twice as likely to file. Research shows that approximately 50 percent of all families are forced to file bankruptcy due to medical expenses; and other 40 percent of families file bankruptcy due to divorce, job loss or death in the family.

Hispanic homeowners are nearly three times more likely than White homeowners to file, and African American homeowners are nearly six times more likely than White homeowners. African Americans are also twice as likely to lose their homes due to foreclosures, often falling victim to the unscrupulous practices of predatory lenders. Furthermore, African Americans consistently have higher levels of debt. In a study of African American families, the typical family had debt of 30 percent of its assets, while the debt of the typical White family was 11 percent of its assets.

The process by which this bankruptcy bill has made its way to the Floor of the House frustrates both the notion of democracy and of representative government.

I offered amendments to the bill that included: (1) closing a new loophole that threatens to undermine the comprehensive scheme to compensate victims of nuclear accidents, which Congress enacted long ago in the Price-Anderson Act (PAA); (2) increasing the amount of tuition expenses allowed under the Chapter 7 means test; and (3) precluding the discharge of debt arising out of suits against sex offenses; (4) striking the means test; and (5) supporting an amendment by my colleague Mr. SCHIFF to offer relief to those who are victims of identity theft.

Chairman MEL WATT offered substantive amendments including one that would protect consumers from predatory lending tactics, and another that would seek to protect the credit of college students. Similarly, Representative BOBBY SCOTT offered amendments that included proposals to allow debt to be discharged when bankruptcy is caused by unforeseen medical expenses or by the death of a spouse.

However, the Republican Majority did not accept the amendments, and therefore ignored the issues advocated by my constituents and those of my seventeen Democratic colleagues.

The Republican leadership of the Judiciary Committee passed this measure without consideration of a single amendment that was offered by my Democratic colleagues and me. They effectively shut Democrats out of the markup process and thereby ignored the voices of the people's representatives on this very serious policy matter. When the bill was considered in the Senate, the Majority rejected over 25 Democratic amendments, including one that would have helped debtors to keep their homes if they have been driven into bankruptcy by medical expenses. Clearly, the Majority has priorities that do not protect Americans who are victims of circumstances that have nothing to do with creditworthiness.

Of the amendments that my Democratic colleagues and I plan to offer (for our upcoming consideration) before the House is one that would remove the Chapter 7 'means test'. This would sift out debtors who can afford to repay at least a portion of their debts from those who cannot. Debtors who have income above a "state median" would have to plead before a bankruptcy judge.

The egregious provisions of this bankruptcy bill and its name are not unlike many recent bills that have sifted through committee and onto the House Floor. Banks, credit card companies, and retailers have accounted for more than $24.8 million of campaign and partisan contributions since 1999. Commercial banks have given some $76.2 million, according to a study of campaign finance and lobbying disclosure reports and the Center for Responsive Politics. The banking industry has spent $22 million on federal lobbying in the past five years. In fact, according to the New York Times, "The main lobbying forces for the bill—a coalition that included Visa, MasterCard, the American Bankers Association, MBNA America, Capital One, Citicorp, the Ford Motor Credit Company and the General Motors Acceptance Corporation—spent more than $40 million in political fund-raising efforts and many millions more on lobbying efforts since 1989."

Clearly, the Republican Majority has shut Democrats out of the process in order to appease these special interest groups—to the detriment of middle-class and elderly Americans.

As an African American, I am troubled by the fact that both African American and Hispanic families, both of whom are over-represented in bankruptcy, would suffer disproportionately if this bill becomes law.

Proponents of this bankruptcy bill suggest that it will put pressure only on the families that have the ability to repay. In fact, the weight of the evidence demonstrates that this legislation will increase the cost of bankruptcy for every family, and decrease the protection of bankruptcy for every family, regardless of income or the cause of financial crisis. The bill contains provisions that will force many honest debtors unnecessarily out of Chapter 7, make Chapter 13 impossible for many of the debtors who file today, protect significant loopholes for wealthy and well-advised debtors, as well as raise the cost of the system for all parties. It will turn the government into a private collection agency for large creditors, and force women trying to collect child support or alimony to compete with credit card companies that will have more of their debts declared non-dischargeable.

The ability to file for bankruptcy relief and to receive a fresh start is a source of hope for a number of American families that suffer the burden of financial problems. What this Administration proposes with this bankruptcy reform bill is an attack upon minorities. It will make it virtually impossible for many families to extricate themselves from a web of high interest debt—and kill the dream of these families to become homeowners.

Mr. Speaker, I reject this legislation not only because it is flawed in and of itself but also because the process by which it is being considered is severely flawed. Americans deserve and have a right to a better process.

Mr. BLUMENAUER. Mr. Speaker, for as long as I've been in Congress I have supported bankruptcy reform on two simple principles; I believe people should pay their debts, if they are able, and that we should end abuses in the system, whether by people who deliberately run up their bills or by businesses who exploit the gullible and the unfortunate.

My first vote in favor of bankruptcy reform was cast with reservations because some of the provisions of the bill seemed unduly harsh, but I had hoped that the legislative process would ultimately improve the product. Unfortunately, for 8 years we have been unable to see the bill move through the legislative process and improve; it appears as though the bill, if anything, is actually less adequate due to increasing predatory lending by credit card companies and skyrocketing medical costs.

One of my deep concerns has been credit card mills, which send out millions of credit cards to people who are not creditworthy. In 2001 there were 5 billion solicitations by credit card companies. Meanwhile, skyrocketing fees have been coupled with reduced minimum payments. Bait-and-switch techniques have been employed that change the terms and raise the interest rates of cardholders who have never missed a payment.

While S. 256 contains overly harsh punishments for middle class Americans that have been preyed upon by the credit card industry, it preserves loopholes for the very rich. S. 256 maintains a homestead exemption that allows people with lots of money to shield their assets by purchasing multimillion dollar homes in certain states. O.J. Simpson was able to shield many of his assets by doing this in Florida. There are even sophisticated trust arrangements that enable people with substantial sums of money to be protected from the provisions of this bankruptcy bill.

There are some simple, common sense changes that could be made to this bill that would make it more fair to all parties involved. The Senate, however, was unwilling to compromise and approve any of these provisions and the House leadership has prevented any of these proposals from even being debated on the floor. Perhaps the most glaring example of the majority's unwillingness to compromise is the rejection of an amendment that would protect soldiers injured in Iraq and Afghanistan from the unfair "means test" within this bill.

I have had meetings over the years with individuals who represent all sides of this issue: the bankruptcy trustees, judges, and lawyers who represent the debtors, and the people who extend credit to businesses large and small and to individuals rich and poor. As a result of these meetings, it is clear that the loopholes do remain and that the abuses of lending practices are not being reigned in. The bill provides a mandate for unnecessary and burdensome paperwork and the most extreme requirements, including personal certification of the facts by the attorneys assisting the debtor that are not found anyplace else under any other legal provisions. This is going to shut down programs like the legal clinic at Lewis and Clark law school in Portland and will make it harder for legitimate creditors to be able to get their money back in a timely fashion.

The sad fact is that most bankruptcies are due to large medical bills, family breakup, and job loss. This legislation is going to put an unnecessary burden on the vast majority of unfortunate people and still allow too many of the unscrupulous to avoid their responsibilities. It does not have to be this way. I continue to hope that the political process will respond to these problems with sympathy and concern for the unfortunate. Until that point, I cannot support S. 256 in good conscience.

Mr. KIRK. Mr. Speaker, I am proud to vote in favor of S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This important bill brings needed reforms to our nation's bankruptcy system. The legislation reduces the unfair disparity of treatment in the bankruptcy system by establishing more uniform and predictable standards.

I am particularly pleased to note the compromise reached on healthcare and employee benefits. This legislation takes great strides to protect patients' rights, and it encourages debtors and trustees to consider patients' interests when administering healthcare bankruptcy cases. Patients are given a voice through the appointment of an ombudsman, who advocates for the confidentiality of patients' records and ensures patients are transferred to appropriate facilities. These are critical provisions that protect the rights of those with failing health.

I would like to commend a constituent from my district for his contributions to this legislation, Keith J. Shapiro, Esq., of Northbrook, Illinois, and his colleague Nancy A. Peterman, Esq. Mr. Shapiro testified in support of these patient health provisions before the U.S. Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts on June 1, 1998. The passing of this legislation marks the culmination of Mr. Shapiro and Ms. Peterman's tireless efforts to protect patients' interests in bankruptcy cases. On behalf of my colleagues in Congress, I offer my sincere gratitude for their dedication to fair bankruptcy policy.

Mr. HOLT. Mr. Speaker, thank you for allowing me the opportunity to offer my remarks today regarding S. 256, the so-called "Bankruptcy Abuse Prevention and Consumer Protection Act." The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will both ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their reckless lending. Unfortunately, this bill does neither. In fact, the bill before us today overly penalizes working families. In fact, the bill before us today takes no action against reckless and predatory lending. This bill will do nothing to reduce the number of bankruptcy filings or address the problem of record-high consumer debt, which now stands at $2 trillion.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen dramatically over the past few years. In 2001, 1,398,864 people filed for bankruptcy in the United States. According to the Center for American Progress, in 2003 there were a record number of 5.5 personal bankruptcy filings for every 1,000 people living in the United States. In 2003, my own state of New Jersey ranked slightly below the national average at 4.8 filings per every 1,000 residents. This past year, the number of personal bankruptcies had risen to 1,584,170, an increase of over 13 percent. In my own state of New Jersey, citizens have seen a similar increase in bankruptcy filing over the past three years. With those facts in mind, I strongly support the principle of increased personal responsibility of debt.

While there are many problems with S. 256, I'll name just a few of the more egregious provisions to which I strongly object. While the bill purports to elevate the priority of child support payments, in reality credit card companies would receive repayment of debt at the same rate as child support obligations. Children and families will now compete with credit card companies for payment. The bill's homestead-exemption cap does little to address the problem of wealthy debtors shielding their assets from creditors by purchasing million-dollar homes. Sophisticated, wealthy debtors can easily plan ahead and evade the cap. The provision in the bill dealing with "asset protection trusts" also does not adequately address the problem of wealthy individuals stashing millions away in trusts that are protected in bankruptcy proceedings. The bill puts the onus on creditors and the court to prove that the debtor was actively trying to avoid creditors by transferring money into the trust. The bill does nothing to protect people who have medical liabilities.

The bill also imposes artificial deadlines and cumbersome new paperwork requirements on small businesses trying to reorganize, and it unnecessarily limits the discretion of bankruptcy judges in crafting the best possible result for small-business debtors and creditors. The rigid and unrealistic requirements will force many viable small businesses to permanently close their doors.

Mr. Speaker, I recognize that there have been, and likely continue to be, abuses of the bankruptcy law, which was designed to be a safety net. As I've said before, I strongly support increased personal responsibility for debt accrued. However, this should coincide with greater responsibility on the part of the creditors. It is the creditors who often shamelessly target college students and low-income individuals with their credit card applications. It is the creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. In fact, it is estimated that the credit card industry mails out five billion unsolicited credit card offers a year.

I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Sadly, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. MORAN of Virginia. Mr. Speaker, the "Bankruptcy Abuse Prevention and Consumer Act" is long overdue and with House passage later today, it stands a very real prospect of becoming law. It's been an extremely long road to reform.

I originally supported bankruptcy reform in 1998 with former Representative George Gekas. Ironically, the legislation was drawn from the recommendations of the bipartisan National Bankruptcy Review Commission that was established through legislation passed in 1994 by a Democratic-controlled Congress. It enjoyed the same level of bipartisan support as when it passed the Senate last month.

The main component of the commission's recommendations and the legislation we have here today is to establish a means-based test to determine who should work with creditors on a plan to repay their debts and those who cannot afford to do so. Sometimes a market-based capitalist economy can be unforgiving, but Americans are fair and decent people. We want a system that allows a fresh start to those in financial trouble, but also one that promotes personal responsibility and is not susceptible to fraud and abuse.

The means test in this bill carves out a series of exemptions to steer those who can afford to repay at least part of their debt toward a Chapter 13 repayment plan. This test takes into account exemptions for living expenses, health and disability insurance, expenses to care for an elderly or disabled family member, secured debts, and home energy costs among others. It also recognizes situations where individuals face overwhelming medical costs or other debilitating situations. Under the bill, if an individual can demonstrate "special circumstances" that create an overwhelming financial burden, those individuals would not be required to file for Chapter 13. As a final safeguard, those people earning less than their state's median income would automatically be ineligible for Chapter 13.

It is estimated that only a small minority of those already filing for bankruptcy would be affected, perhaps as little as 7 percent. Contrary to some reports, families and individuals facing difficult economic circumstances, people who may have lost their job or family breadwinner or have been devastated by a severe medical condition, will be given a chance to clear their debts and receive a fresh start under this bankruptcy reform legislation.

Back in 1998, I encouraged supporters of the bill to improve its consumer protection provisions. They responded by making child support a priority in a repayment plan, requiring credit counseling prior to filing for bankruptcy, and limiting abuses caused by a few unscrupulous individuals who hide their wealth behind a state's homestead provisions.

At the onset of the 107th Session, I sought and won the House's approval of my pro-consumer amendments that remain a part of today' s bill. These provisions:

Require credit card companies to include a disclosure statement highlighting the number of months necessary to repay a balance if the card holder were to pay only the minimum amount due;

Require credit card companies to inform cardholders on when their low introductory rates expire and new higher rates take effect; and

Prevent deceptive and fraudulent advertising practices by debt relief agencies by making certain that creditors are informed of their rights as debtors.

Could these provisions be perfected? I suspect so. There were several other consumer protections we were unsuccessful in getting included. But perfection should not be an enemy of the good.

Increasingly, bankruptcy has become a tool of first impulse rather than a last option after all other avenues have been exhausted. Last year, 1.6 million consumers filed for bankruptcy, a figure just short of the number of filings in 2003, which represented the most in our nation's history. How is it that during periods of sustained economic growth and prosperity, such as during the Clinton presidency, when all incomes rose, bankruptcies also continued to climb?

S. 256 has been criticized for advancing the interests of the credit card industry on the backs of the poor and the middle class, many of whom are in debt because of circumstances beyond their control. I am sympathetic to this argument, but the flaw is not with this legislation. Those deserving of a fresh start will still be able to do so under this legislation.

The real flaw is with an agenda that the majority continues to advance.

Most families in dire financial straits and filing for bankruptcy will be able to discharge their debts under this legislation. But why are they facing bankruptcy?

One reason is that 41 million Americans are uninsured because the majority party refuses to address this growing crisis.

Another is because 7.3 million Americans live on the minimum wage, more than one-third of whom rely on the $5.15 cents per hour to support their family. They last saw a minimum wage increase in 1997.

It is because during the height of the last recession, the majority party refused to allow any extension of unemployment benefits, because they were too busy falling all over themselves to cut taxes for the wealthiest Americans.

We just passed this week a permanent elimination of the estate tax, helping the wealthiest among us avoid paying any tax on their untaxed earnings, and passed a budget resolution that will cut health care to the indigent.

Mr. Speaker, bankruptcy reform has merit and should become law. It is the majority's overall agenda that is bankrupt and in need of reform.

Mr. CUMMINGS. Mr. Speaker, after eight years of consideration, we are now poised to enact bankruptcy legislation that is deeply flawed. Like so many of the policy priorities pursued by this Congress and the Administration, this bill hurts the most vulnerable among our citizens.

Many of my colleagues have already discussed the terrible provisions that the legislation now before the House would implement. For example, this bill would institute a means test for eligibility to file Chapter 7 bankruptcy that two national commissions have concluded would be counter-productive, difficult to administer, and would yield little revenue to creditors. It would remove critical automatic stay provisions that currently prevent the eviction of those who are seeking to clear arrearages in their rent. S. 256 also would reduce the amount of personal property that those filing for bankruptcy can retain.

The Republican-crafted and credit-industry driven bankruptcy reform bill is inapposite the goals for which bankruptcy was conceived. Bankruptcy is intended to provide a 'fresh start' to those who file—not leave them sinking in financial quicksand.

However, rather than highlight the numerous other misguided provisions of S. 256, I want to look for a moment at the economic policies of which this legislation is just one more disappointing part.

The sponsors of S. 256 claim that the rising number of people filing bankruptcies in our nation is evidence that there is widespread abuse of our current bankruptcy protections. Actually, the rise in bankruptcy filings is a powerful and tragic reminder that our Administration's economic policies are not raising living standards but are instead contributing to the increases in bankruptcy filings. I note that bankruptcy filings actually decreased in 2004.

In the Economic Report of the President delivered to Congress in February of this year, the Administration wrote that the "President's policies are designed to foster rising living standards at home, while encouraging other nations to follow our lead." The President's policies are not worthy of emulation in other nations—and they are not worthy of continuation in our nation.

Job creation in our nation is failing to keep pace with the growth in the labor force. The Brookings Institution has noted that since the year 2000, there has been a 2 percent decrease in workforce participation among young people aged 25–34, which is unprecedented since World War II.

Slow job creation has also put little pressure on businesses to raise wages. As a result, wages for many low- and middle-income workers are now not keeping pace with consumer prices. Perhaps not surprisingly, the Congressional Research Service found that in 2001, 27 percent of families in the lowest one-fifth of household income distributions had debt obligations that exceeded 40 percent of their incomes.

While workers are not seeing increases in their purchasing power, they are also being left without health insurance to cover their medical expenses. A recent Harvard Study published earlier this year found that nearly half of all bankruptcy filings involve some major medical expense. As recently as 1981, medical expenses accounted for less than 10 percent of bankruptcy filings.

Forty-five million Americans are now uninsured—and countless millions more regularly experience lapses in coverage. More than 38 percent of those who filed bankruptcy for medical reasons were found to have experienced some type of lapse in their insurance coverage during the two years preceding their filing.

In fact, 90 percent of the bankruptcies filed are by those who have been injured, are sick, have been laid off, and/or are going through a divorce. Laid-off workers are the fastest growing group of people filing bankruptcy.

All the while, credit card company abuses are mounting in the form of deceptive marketing practices, irresponsible accounting practices and other predatory practices. Negative amortization by credit card companies require minimum payments so low as to allow debt to increase rather than be reduced. These practices are designed to give the debtor a false sense of financial health while incurring more debt. The result is often inevitable. The minute a tragedy strikes and a debtor falls behind in one payment, debtors are often swarmed upon by all of their credit card companies—who want to collect immediately. This is an unfair result for these debtors and a boon for creditors.

And now, Congress is poised to add insult to uninsured injury by destroying the basic protections that our bankruptcy laws have offered to those most in need.

Mr. Speaker, the increase in personal bankruptcy filings in our nation is not proof that our bankruptcy laws need reform. It is, instead, proof that our economic policies need reform—and need reform urgently.

This bill only serves to disadvantage those honest Americans struggling to make ends meet. I urge my colleagues to oppose S. 256.

Ms. SOLIS. Mr. Speaker, I rise in strong opposition to S. 256, legislation that will make it harder for individuals to eliminate their debts after liquidating most of their assets by filing bankruptcy. Thousands of women and their children are affected by the bankruptcy system each year. This bill will only inflict additional hardship on over a million economically vulnerable women and their families. In fact, women are the fastest growing group to file for bankruptcy. More than 1 million women will find themselves in bankruptcy court this year, outnumbering men by about 150,000. Women who lose a job, have a medical emergency, or go through divorce make up more than 90 percent of the women who file for bankruptcy.

This legislation's means test provision would require even the poorest filers—struggling single mothers, elderly women who are victims of scam artists—to meet complicated filing requirements to access the bankruptcy system. In addition, the bill would make it much harder for women to collect child support payments from men who file for bankruptcy because the bill gives credit card companies, finance companies, auto lenders and other commercial creditors rights to a greater share of the debtor's income during and after bankruptcy. This bill pulls the rug out from under economically vulnerable women and children. It increases the rights of creditors while making it harder for single parents and others facing financial crises.

This harsh bankruptcy reform legislation will not help those families that are struggling to get by. This bill will do nothing to reduce the number of bankruptcy filings or address the problem of record-high consumer debt. It is a gift to the credit card and banking industries; but one that will be paid for by those least able to afford it. Instead of giving a handout to credit card companies, we should ensure that Americans losing their jobs or struggling with medical debt have a second chance for economic security. That is what our bankruptcy laws are intended to provide. This bill is terrible for consumers, working families and women, and I urge my colleagues to vote against it.

Mr. CARDIN. Mr. Speaker, I support equitable reform of our nation's bankruptcy laws.

I recognize that there has been abuse of our bankruptcy system, and that reform is needed. I think we can all agree that those who can afford to should pay their creditors back—that they should be responsible for their debt. Those debtors who charge thousands of dollars on luxury items prior to declaring bankruptcy, should be held accountable. It is contrary to our values as Americans—this idea that some people are able to abandon their debts by gaming the system. Their actions are not fair to the vast majority of Americans who work hard to pay their debts in full, and Congress should act to limit irresponsible use of our bankruptcy system.

I have in the past supported reasonable bankruptcy legislation, and although this bill does contain some good provisions, I regret that I cannot vote for the bill before the House today.

S. 256 would make it more difficult for individuals and families who have suffered bona fide financial misfortune to get a fresh start. It does so by establishing a rigid means test to determine if an individual is eligible for Chapter 7 relief. Regardless of the circumstances that led the individual to seek bankruptcy, the court is not permitted to waive the means test. In other words, "one strike, you're out."

I am disappointed that we did not add some reasonable flexibility measures to the "means test." The stated purpose of the bill's means test is to prevent consumers who can afford to repay some of their debts from abusing the system by filing for chapter 7 bankruptcy. It makes sense to require those who are able to repay their debts to do so. However, there are some situations that warrant an exception to the means test.

What are the reasons that individuals seek what we call "bankruptcy protection?"

Harvard Law School recently researched bankruptcies and found that nine out of ten persons filing bankruptcy have faced job loss, severe health problems, divorce or separation. Illness or medical bills drove nearly half of these filings.

Unfortunately, the bill before us does not offer any relief in these or other tragic circumstances. I voted against the rule because it provides the House no opportunity to vote on amendments that would allow a court to consider extreme circumstances that might have led to bankruptcy filings.

I am disappointed that here in the House, the Judiciary Committee failed to close a popular loophole used by the very wealthy to shield millions of dollars by setting up asset protection trusts. If the majority were truly interested in creating a more fair bankruptcy system for all Americans, this would have been included in the bill.

The Judiciary Committee also failed to rein in some of the practices of credit card companies that are in part responsible for the rise in bankruptcy filings. They refused to provide credit card users with more detailed information to assist them in handling debt. Why not help consumers understand the consequences of their financial decisions, such as making only the minimum payment each month, so that they can avoid some of the missteps that can lead to higher debt?

We do need bankruptcy reform, and I wish that we had an opportunity to address many of these valid concerns.

I want to address the concerns of elderly Americans. The number of senior citizens in bankruptcy tripled from 1992 to 2001, representing the largest increase of any group of Americans. According to the Baltimore City Department of Aging, bankruptcies among elderly city residents have increased by nearly 50 percent over the past year.

Their costs of living are increasing steadily, including their rent, food, and heating costs. Many of them routinely use credit cards to cover their daily expenses. They are not spending frivolously—they are just getting by.

During previous Congresses when this bill was considered, employers were less likely to file for bankruptcy to shed health care and pension obligations to their retirees. More than one million Americans have had their pension plans taken over by the Pension Benefit Guarantee Corporation. From 2003 to 2004 alone, 192 plans were taken over by the PBGC. These retirees have seen their benefits reduced and so they must pay more for health care. But they have not had their debts reduced accordingly. An amendment in the other body that would have required companies that dropped retiree health benefits to reimburse each affected retiree for 18 months of COBRA coverage upon reemerging from bankruptcy was defeated.

Many seniors who do not yet qualify for Medicare or who have prohibitively high copays also pay medical bills and prescription drug costs with credit cards. Often they skip dosages or forgo care entirely because they cannot afford it. We know the result, which is that many end up with much more severe conditions and many wind up in nursing homes. That translates into greater burdens on our federal and state budgets, and higher costs for us all.

I am disappointed that the victims of identity theft cannot seek relief under this bill. We have just learned that between ChoicePoint and Lexis-Nexis, thousands of individuals have been the victims of identity theft. In the last few years, the Ways and Means Committee has held fifteen hearings on a bill to reduce Social Security Number theft, and last year, we reported out a responsible bipartisan bill, but it was not brought to the floor. This year, I am again an original cosponsor of this bill, but it is not yet law, and so virtually every American remains at great risk for identity theft. Unfortunately, our vote on the previous question—to allow bankruptcy judges to take into consideration the fact that persons are forced into bankruptcy because of identity theft—was defeated.

Mr. Speaker, I want to vote for an equitable bankruptcy reform bill. So many Americans have been driven into bankruptcy not from a desire to game the system, but because of circumstances beyond their control. This legislation fails to adequately protect their legitimate needs. It is because of them that I must vote against this bill.

Mr. CANTOR. Mr. Speaker, we have before us today a bill that provides a safety net for people who have lost a job, had health problems, or served in the military and cannot repay their debts. It gives them the opportunity for a fresh start while continuing to hold accountable those who are able to repay their debts.

Bankruptcy abuse represents a "hidden tax" on the American people. When businesses have to raise the cost of their products due to unpaid liabilities, that cost is passed unfairly to all of us.

When people file for bankruptcy and cancel out their debts, small businesses suffer major financial setbacks. Bankruptcy to a small business triggers a change in its bottom line. A smaller bottom line means less money to pay employees, which leads to job cuts—something nobody would like to talk about, and certainly nobody would like to encourage.

This legislation will modernize the system and make it more difficult to hide behind the protections of filing for bankruptcy. With this bill we will lessen the impact of the unpaid debt that is a hindrance to thousands of businesses and hurts our ability to create jobs.

Mr. SHAYS. Mr. Chairman, I rise in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act. It is a basic principle of commerce in our country that when a person makes an obligation to pay someone for a good or service, they do so. We ought to address the fact that our nation had over 1.6 million bankruptcy filings last year, and an estimated $44 billion in debts are discharged annually. When creditors are unable to collect money owed to them, we all pay the cost in the form of higher costs, higher interest rates and higher downpayments.

I want to be very clear that this legislation will not prevent those who have incurred oppressive indebtedness from filing. It will apply a means test that weighs whether a debtor has enough disposable income to repay creditors. If, after applying this test, the debtor has little or no disposable income, they will be able to file for straight bankruptcy just as they always have. Those who earn wages and have the ability to repay, however, will be required to file for Chapter 13 bankruptcy, restructure their debt and repay a portion of it.

I have heard from a number of my constituents concerned about high credit card rates, predatory loan practices and identity theft. I share their concern and believe that after passing this legislation today, we must redouble our efforts to pass legislation curbing predatory lending, and we must build on the legislation we passed during the last Congress regarding identity theft.

This is comprehensive legislation and while supporting its passage, this body should pledge strong oversight and the willingness to review its effect on bankruptcy filers and the economy at large.

Mr. HONDA. Mr. Speaker, today, the Republican majority continues its assault on hardworking Americans by ramming through the House of Representatives bankruptcy legislation that harms even the most ethical among us. The legislation before us today is an indefensible gift to the credit card industry, and I urge my colleagues to join me in voting against it.

S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act, purports to introduce a greater level of personal responsibility into the bankruptcy system by eliminating various loopholes and incentives that encourage consumer bankruptcy filings and abuse. The bill's proponents argue that this kind of abuse is rampant, but expert analyses suggest another story. According to a Harvard study, about 50 percent of all families that file for bankruptcy are forced to do so as a result of medical expenses, and three-quarters of those individuals actually have health insurance. Another 40 percent have been driven into bankruptcy, at least in part, after suffering a job loss, divorce, or death in the family. The American Bankruptcy Institute estimates that no more than three percent of filers avoid repayment of debts by gaming the system. The simple truth is that almost all individuals declaring bankruptcy do so as necessity and a last resort!

Sadly, the mechanisms employed by this bill to crack down on bankruptcy abuse will have a disproportionate impact on women, minority communities, the elderly and the unemployed. It will impose a rigid means test that will make it more difficult for debtors to get a "fresh start." The bill also will endanger child support payments, permit landlords to evict tenants, and frustrate efforts by debtors to save homes and cars. It betrays veterans who accumulate debt following an injury or disability sustained on active duty. In a final insult, the Republican leadership denied the opportunity for Democrats to offer amendments that would have protected veterans and other vulnerable communities.

While the Republican majority wishes to hold the average American accountable, it seeks to preserve privileges and loopholes for the financial industry and the rich. The bill does nothing to reign in credit card companies that engage in reckless lending, and it allows wealthy debtors in five states to declare bankruptcy and keep their multimillion-dollar homes without penalty. Once again, the Republican leadership thwarted amendments that would have evened the playing field for debtors and creditors. Amendments to close loopholes for millionaires, discourage predatory lending, and cap interest on extension of credit were flatly rejected by the Republican majority on the Rules Committee.

Reasonable bankruptcy reform may be necessary, but S. 256 is an abuse of the legislative process and a threat to the financial security of all Americans. I urge my colleagues to oppose S. 256.

Mr. ALLEN. Mr. Speaker, I rise in opposition to S. 256. This bill helps big credit card companies at the expense of working families in crisis.

A Harvard University study reports that more than forty-five percent of all bankruptcies are filed because of a health emergency. Approximately ninety percent of all bankruptcies are due to a health care debt, job loss, or a divorce. When this personal crisis happens, families are driven into crushing credit card debt that they ultimately cannot manage.

Working families are being squeezed by skyrocketing health care costs, gas prices, and housing costs. At the same time, this Republican Congress is reducing the social safety net for working families: Medicaid, Social Security, and now, bankruptcy protections.

Mr. Speaker, I know there are people abusing the bankruptcy code. But There are also companies marketing loans to people who cannot afford them. Credit unions and community banks make responsible loans and do responsible underwriting. But this bill does nothing to make big credit card companies curb their abusive marketing strategies or practice responsible underwriting.

Vote "no" on S. 256.

Mr. UDALL of Colorado. Mr. Speaker, I do not support this bill in its present form—and, since the Republican leadership has made it impossible for the House to even consider any amendment, I have no choice but to vote against it.

In recent years, Colorado has been one of the states with the greatest increase in bankruptcy filings. Opinions vary about the causes, but this fact does suggest a need to consider whether the current bankruptcy laws should be revised. So, I am not opposed to any change in the current bankruptcy laws, and in fact I think some of the bill's provisions would make reasonable adjustments in those laws.

But this legislation was first developed years ago and neither its supporters nor the leadership have been willing to give any real consideration to adjusting it to better reflect current conditions.

In particular, I think that the bill should have been amended to more appropriately address the financial problems being encountered by some members of the regular Armed Services as well as by members of the National Guard who have been called to active duty in Iraq or elsewhere.

If the motion to recommit had prevailed, the bill would have been amended to exempt from the means test at least those National Guard and Reservists whose debt resulted from active duty service or was incurred 2 years of returning home from their service. Unfortunately, the motion was not adopted.

For me, this is a very serious matter and the lack of such an amendment is one of the main reasons I cannot support the bill.

Under these circumstances, I am not persuaded that the bill now before us is the right prescription for Colorado or our country. I think it still needs work—and because of both its shortcomings and the refusal of the leadership to permit consideration of any changes, I cannot support it.

Mr. KIND. Mr. Speaker, I rise today in support of this legislation because the current system needs reform to protect those people truly in need of debt relief, while holding accountable those who can repay their debt.

Bankruptcy filings have risen steadily in recent years, an indication that our current system is an ineffective one that discourages consumers from saving and planning responsibly and ultimately isn't good for consumers, families, or a society that values individual responsibility. I believe bankruptcy should be a last resort—one that allows people who need protection to receive it and people who can repay all or some of their debts to do so. The system in place now gives incentives to people in trouble and encourages them to steamroll headfirst into Chapter 7 liquidation of all their debts, even when they could get back on their feet through a reasonable repayment plan or basic credit counseling.

While S. 256 is not a perfect bill, I do believe it goes great lengths in addressing the growing problem of bankruptcy in this country. I believe there is great misunderstanding about what this bill does and who will be affected. Only those earning above the median income and who have the ability to pay will be required to pay back their debt. However, millionaires who use bankruptcy law as a method of financial planning will no longer be able to buy extravagantly and subsequently have all of their debt written off.

It is also important to note that many families and small businesses will benefit because of changes to this law. Bankruptcy costs are passed on to other consumers, and the average family pays hundreds of dollars each year in higher prices. Additionally, small businesses that might otherwise not be paid for their goods or services will have a better chance of gaining compensation as a result of this bill. A very positive aspect of S. 256 is that it makes permanent Chapter 12 of the bankruptcy code. I, along with other members of Congress, have been working for years to make permanent this much-needed source of relief for our family farmers.

There have been accusations that this bill will be detrimental to the most needy; in fact, there are a great deal of safeguards. S. 256 includes protections ensuring that alimony and child support payments are made. I believe single parents and dependent children need our help far more than millionaires who benefit from current bankruptcy laws. Additionally, families who have exorbitant medical bills they cannot afford can still file for Chapter 7, and judges will still have a great deal of discretion when it comes to the issue of means-testing.

In addition, this legislation will create new disclosure requirements for lending institutions to provide better information to consumers about credit cards and debt. This is particularly important for young adults who are bombarded by credit applications and have limited knowledge about the risks that accompany credit card ownership.

It is important to note that this legislation is only the first step in addressing the bigger problems underlying savings in this country. With an over-reliance on credit cards and a lack of saving for retirement, too many Americans find themselves on shaky financial ground. Addressing this problem must be our next goal, and we must encourage more personal responsibility in consumers.

The Bankruptcy Abuse Prevention and Consumer Protection Act will benefit consumers and provide all Americans with better access to credit. It helps prevent abuse of the system while providing debt protection to those who truly need it. I urge my colleagues to support this legislation.

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Action. The title of this bill is a misnomer. It should be titled the "Corporate Protection and Improved Profitability Act". If passed, this Act will be a boon for credit card and financial lending institutions and a nightmare for American families who are struggling to stay strong in an economically depressed society. Essentially, the House is contemplating legislation that is more punitive to individuals seeking bankruptcy protection than corporations that resort to filing for bankruptcy.

I also have concerns about House procedures for S. 256. A closed rule was employed, resulting in thirty-five Democratic amendments being rejected from consideration. Debate on an amendment to the bill was prevented. Thirty-five amendments were submitted before the Rules Committee and not one was accepted. Not only were members of the House prevented from engaging in debate but also the American people have been denied the opportunity to hear legitimate debate regarding this Act we are considering today. I am especially distressed about the majority's refusal to accept amendments that related to identify theft and exemptions for disabled veterans whose indebtedness occurs after active duty.

My review of S. 256 compels me to conclude that the framers of the bill failed or refused to recognize that recent economic policies by the current administration have directly contributed to the proliferation of bankruptcy filings by consumers. Burgeoning deficits, perpetual and high unemployment, and the exportation of jobs overseas are just a few of the by-products of failed and poorly conceived government policies that have contributed and continue to contribute to the need for individuals to seek bankruptcy protection.

I also oppose S. 256 because it does absolutely nothing to stem the predatory practices employed by credit card companies, or the abusive fees and penalties imposed on individuals who make just one late payment. Further, the wealthiest citizens in our country are able to insulate their assets by placing them in trusts that are protected in bankruptcy proceedings.

I staunchly oppose S. 256. Democrats were denied the opportunity to offer amendments, the American people have been denied a full opportunity to determine the full implications of the changes in bankruptcy law, and the Act is fundamentally anticonsumer.

Mr. Speaker, my conscience dictates that I oppose S. 256. I encourage my House colleague to vote No on the Bankruptcy Abuse Prevention and Consumer Protection Act.

Mrs. DAVIS California. Mr. Speaker, I rise to voice my opposition to the bankruptcy reform legislation before us today.

Unfortunately, there are individuals who abuse the credit system and use it for their own gain.

This is wrong and we should be working to stop those who take advantage of the bankruptcy laws.

However, I worry S. 256 will hurt the thousands of Americans who have absolutely no choice but to file bankruptcy as a last resort.

Specifically, I am concerned about the impact on our brave service members and our military families.

The numerous activations and extended tours of duty in Iraq and Afghanistan are causing our military families to face debt and serious financial strain.

Studies show that the incomes of military, families decrease significantly when the service member is deployed.

Four out of 10 Reservists, for example, take a drop in pay once they are deployed overseas.

I have met with military families in San Diego who are facing the realities and the financial strain that come with activation.

I worry about the military spouse whose husband is activated to serve in Iraq for a year and must leave his job or his business.

Somehow, we expect the spouse to care her children, to make the house payment, and to pay the bills on an income that is significantly lower.

Some military families will have no choice but to file for bankruptcy because of the environment we have created for them.

The bankruptcy reform bill before us today does not address the needs of our military families and the realities they are facing.

S. 256 will make it harder for military families to recover from a bankruptcy because of the additional costs and the stricter requirements.

The Senate did include provisions exempting military personnel serving in combat from certain provisions of the bill.

But, unfortunately, the financial impact of an extended deployment could remain long after the service member returns home to his family.

S. 256 does not recognize this reality and does not consider the difficult circumstances facing military families today.

I am against passing legislation only adding to the enormous burden we are already placing on those defending the United States and the families sending a loved one into harm's way.

I urge my colleagues to vote against the Bankruptcy Abuse Prevention and Consumer Protection Act.

Mr. UDALL of New Mexico. Mr. Speaker, thank you for allowing me the opportunity to offer my remarks today regarding S. 256, the so-called "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their irresponsible lending. Unfortunately, this bill does neither. In fact, this bill overly penalizes working families and takes no action against reckless and predatory lending.

Mr. Speaker, in addition to my reservations about the legislation, I also strongly object to the rule under which S. 256 is being debated. The majority has, once again, passed a rule that stifles debate and blocks serious and substantive amendments. There were more than 30 thoughtful amendments brought before the Rules Committee, yet they did not allow a single one to be brought before the full House. These amendments would have addressed the impact that this bill would have on groups such as disabled veterans returning from Iraq, single parents, families experiencing a catastrophic medical event, and people who are victims of identity theft. This continued smothering of the democratic process by the majority is shameful and must stop.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen considerably in the past twenty years. In 1980, there were 330,000 bankruptcies in the United States. In 2003, that number rose to over 1.66 million. The number of filings has dropped 3.8 percent in 2004 down to 1.59 million. Though this is headed in the right direction, I understand that more has to be done. S. 256, however, is not the answer.

S. 256 is full of provisions that I adamantly oppose. It imposes a rigid means test, endangers child support, and allows millionaires to continue to shelter their assets in mansions. These provisions result in an unbalanced and punitive measure that will have a devastating effect on women, the unemployed, and the elderly. Reform in this bill is skewed toward restricting the consumer's access to relief from overwhelming debt, while making it easier on those creditors who encourage additional unwise borrowing.

S. 256 fails to find a middle ground between lenders and borrowers. While it is critical that individuals begin taking greater responsibility for their debt, so too must the credit card industry take greater responsibility for shamelessly targeting individuals with their credit card applications. It is these creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. S. 256 does nothing to help break this vicious cycle.

I would like to reiterate that I strongly support the principle of increased personal responsibility for debt, but I believe this bill does more harm than good. I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Unfortunately, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. SMITH of Texas. Mr. Speaker, it's time for Congress to enact meaningful bankruptcy reform. Unless we take action, people will continue to abuse the system by filing for bankruptcy as an easy out. When people avoid their debts, someone still has to pay. Companies absorb the cost of unpaid debts by passing along these costs to consumers.

Over a million people file for bankruptcy each year. Many of these filings are legitimate attempts by debtors to pay their debts and obtain a fresh start. However, bankruptcy is too often used as a way to avoid responsibilities.

Unnecessary bankruptcy filings continue to increase at dramatic rates. Often, individuals go on spending sprees for luxury goods and services just before filing for bankruptcy, knowing that they can wipe the slate clean and avoid paying for what they bought.

This is bad for consumers and bad for our economy. When individuals avoid their debts when they could be paid off, the costs are passed on to America's businesses and consumers. We must ensure that debtors actually belong in bankruptcy and are not using the system to avoid their obligations.

This bill stops abuse by eliminating incentives in the current bankruptcy system that actually encourage consumer bankruptcy filings and abuse. It requires those who can repay their debts to do so. It also gives courts greater power to dismiss frivolous or abusive bankruptcy filings and punish lawyers who encourage these filings.

This bill also contains provisions I support to address those who abuse state homestead laws and attempt to shelter their wealth in multi-million dollar mansions. It requires a debtor to own their homestead for at least 40 months before he or she can use state exemption law. And, if a debtor has committed an intentional tort, a criminal act, or violated securities laws, their homestead exemption will be capped at $125,000. These provisions will close the loophole that currently allows debtors to abuse the homestead provision.

This legislation will encourage personal responsibility, protect consumers, and ensure that bankruptcy is used only as a last resort and is not abused by those who can afford to repay their debts.

Mr. WELDON of Florida. Mr. Speaker, for years, honest but unfortunate consumers have had the ability to plead their case to come under bankruptcy protection and have their reasonable and valid debts discharged. The way the system is supposed to work, the bankruptcy court evaluates various factors including income, assets and debt to determine what debts can be paid and how consumers can get back on their feet. The bill before us preserves that right for those individuals who simply get in over their heads and have no other way out

Unfortunately, some dishonest individuals have taken advantage of our bankruptcy laws by hiding assets, racking up debt in anticipation of filing for bankruptcy, using bankruptcy as a financial planning tool, and walking away from that which they owe. This hurts our economy because it forces retailers and businesses to simply raise the prices of goods and services for honest Americans. All Americans end up paying the costs for those who have gamed the bankruptcy laws.

I support S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. I am a cosponsor of the House version of this bill. This common sense legislation preserves the right to file bankruptcy for those who truly cannot repay their debts while ensuring that those who do have the ability to repay a portion of their debts do so.

S. 256 provides the same kinds of bankruptcy reforms the House has approved twice before. It restores the principles of fairness and personal responsibility to our bankruptcy system and protects the rights of consumers. S. 256 also requires creditors to help prevent credit card abuse through new disclosures and educational provisions.

This is a good bill for average American consumers, for American businesses, and our economy as a whole.

Mrs. BIGGERT. Mr. Speaker, it is with great pleasure that I rise today to express my strong support for The Bankruptcy Abuse Prevention and Consumer Protection Act.

A Chinese proverb says: "Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime." And that's exactly what this bill before us today will do.

There are many reasons to support this Bankruptcy Reform Bill, but I want to focus on one that is important to many of my colleagues, to me and to the American people. We should support the bill because it contains important financial literacy provisions. Financial literacy goes hand-in-hand with helping our citizens of all ages and walks of life to negotiate the complex world of personal finance. Financial literacy can help Americans avoid or survive bankruptcy.

We have passed many laws that require the disclosure of the terms and conditions of the rich mix of financial products and services that are available to consumers.

Unfortunately, for too many Americans, knowing the terms and conditions of financial products and services is challenging enough. However, understanding those terms and conditions is often an even greater challenge. Recognizing this fact, Congress included provisions in the Fair and Accurate Credit Transactions Act to address the issue of financial literacy.

The Bankruptcy Abuse Prevention and Consumer Protection Act, S. 256, also contains important provisions addressing economic education and financial literacy. These provisions are designed to ensure that those who enter the bankruptcy system will learn the skills to more effectively manage their money in an increasingly complicated marketplace.

Before the House considers S. 256, I want to highlight, for my colleagues, some of the bill's important financial literacy provisions:

First: the bill will facilitate educating future generations. It expresses the "Sense of the Congress" that personal finance curricula be developed for elementary and secondary education programs. If we teach our children, early-on, how to manage money, credit, and debt, they can become responsible workers, and heads of households and keep their parents out of bankruptcy court.

Second: the bill will provide for pre-filing credit counseling. It requires debtors, prior to filing for bankruptcy, to receive credit counseling from a nonprofit counseling agency. The counseling must include a budget analysis and disclosures regarding the possible impact of bankruptcy on a debtor's credit report.

Next: the bill will provide for pre-discharge financial education, requiring debtors to complete an approved instructional course on personal financial management prior to receiving a discharge under Chapter 7 or 13.

The bill will also include important exceptions. It authorizes phone and Internet counseling for both the pre-filing and pre-discharge education requirements to assist debtors in rural and remote areas. In addition, either or both requirements may be waived if services are not available or in exigent circumstances.

Finally, the bill requires the Director of the Executive Office for U.S. Trustees to: (1) develop a financial management training curriculum and materials to educate individual debtors on how to better manage their finances; and (2) evaluate and report to the Congress on the curriculum's efficacy. This will ensure that Congress can evaluate the effectiveness of these financial literacy provisions in the long-term.

Last week, we passed House Resolution 148, a bill that supports the goals and ideals of Financial Literacy Month, which is this month, April 2005. H. Res. 148 was co-sponsored by 82 Members of this body and 409 Members of this body voted for it.

Mr. Speaker, the number of bankruptcies remains at a historic high—over 1.6 million bankruptcy cases were filed in federal courts in 2004. With that in mind and in the spirit of Financial Literacy Month, I urge my colleagues to pass S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act, which contains important financial literacy provisions that will provide Americans with the skills needed to successfully navigate the world of personal finance.

Mr. Speaker, let's help our fellow citizens avoid bankruptcy altogether. "Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime." Vote for S. 256.

Mr. CASTLE. Mr. Speaker, I am submitting for the RECORD the following remarks from Mr. Arkadi Kuhlmann, CEO of ING DIRECT, in opposition to the bankruptcy reform legislation under consideration. I remain a strong supporter of S. 256; however, I believe Mr. Kuhlmann's statement should be made part of the RECORD.

STATEMENT OF ARKADI KUHLMANN, CEO, ING DIRECT

Mr. Speaker. I am Arkadi Kuhlmann. CEO of ING DIRECT, a federally chartered thrift headquartered in Wilmington, Delaware. ING DIRECT launched in the U.S. in September 2000 to challenge traditional banking by touting the high interest, no fee and no minimum Orange Savings Account as its signature product, with a brand vision to lead Americans back to saving.

ING DIRECT has since expanded its product line to include the Orange Mortgage, the Orange Home Equity Line of Credit, Orange CDs and the Orange Investment Account. With over 2.5 million customers and more than $43 billion in assets, ING DIRECT is the fourth largest thrift in the U.S.

The House is now considering consumer bankruptcy legislation that would make major changes to how consumers' debts and obligations are treated in the bankruptcy process. Thank you for this opportunity to submit testimony for the record on this legislation.

Despite the many important and positive changes this bill would make to our bankruptcy laws, this proposal remains seriously flawed. One significant oversight is the bill's failure to consider one of the biggest problems we face in business today: identity theft.

The Washington Post ran a story recently about a woman whose identity was stolen, yet her credit card company forced the fraudster's debt on her by using the arbitration clause in her card agreement.

The Bankruptcy Bill must address the possibility that identity theft could lead to financial devastation through no fault of the person's own. In addition to overlooking the problem of identity theft, this proposal had additional shortcomings. It actually encourages further bad lending decisions by removing an important market discipline—the possibility of a clean bankruptcy.

Without important changes, millions of consumers, who might otherwise be savers, will be encouraged into debt by aggressive credit card and other lending. We believe it is crucial that a serious study of the connection between credit card marketing and personal bankruptcy be completed. The bill as drafted requires such a study. We challenge the Congress to take a very hard look at the results of the study and consider further legislation, if necessary.

Another important issue is the Bill's creation of a "means test." By giving disparate treatment to secured versus unsecured debt. the law would treat secured creditors even more favorably than under current rules. We believe the means test should be applied across the board or not at all.

We at ING DIRECT believe this country is still willing to give working Americans—the engine of our economy—a second chance when debt overwhelms them. This bill seriously limits that second chance.

Thank you for the opportunity to present our views.

Mr. FARR. Mr. Speaker I rise in strong opposition to the misnamed "Bankruptcy Abuse Prevention and Consumer Protection Act," (S. 256). Current bankruptcy law needs some adjustment, but this bill is not the solution. It hurts middle-class consumers in a variety of ways: the bill would allow landlords to evict battered women without bankruptcy court approval, even if the eviction poses a threat to the women's physical well-being; and, it permits credit card companies to reclaim common households goods which are of little value to them, but very important to the debtor's family.

It is very important to note that the bill does absolutely nothing to discourage abusive underage lending, nothing to discourage reckless lending to the developmentally disabled and nothing to crack down on unscrupulous payday lenders that prey on members of the armed forces.

Last year nearly one and a half million middle class individuals filed for bankruptcy. Their average income was less than $25,000 and the principal causes for their filings were layoffs, health problems and divorce. In my judgment, it is a grave mistake to punish these individuals while rewarding credit card companies and business lobbyists at a time when corporate greed has already destroyed the lives of millions of American workers. I will support a balanced bankruptcy reform bill, but S. 256 is in no way balanced and I believe does more harm than good, therefore I strongly oppose this bill.

Mr. GENE GREEN of Texas. Mr Speaker, I rise today in opposition to this bill.

This bill will weaken homestead protections currently in place under state laws, hurting my constituents, the citizens of Texas, and the citizens of any other states that have laws protecting individuals' homes valued over $125,000, which is the limit this bill sets.

Texas, which has the longest and oldest history of homestead protection laws in our country, has no cap on homestead protection, along with Kansas, Iowa, Florida, and South Dakota.

Minnesota, Rhode Island, and Nevada's laws protect home equity of $200,000.

Property values across the nation vary widely. The median resale price of a home in California is $215,000. In Nebraska it's $70,200.

While I understand there must be a sensible cap on exemptible home equity to ensure the law is not protecting million dollar mansions, $125,000 is unreasonable given the skyrocketing price of real estate in Texas and many other parts of the country.

This bill will make bankruptcy even more expensive and burdensome than it already is, on hardworking Americans who have fallen on hard times and seniors on fixed incomes, while doing nothing to address the out of control lending practices by credit card companies.

Mr. Speaker, I cannot support a bill that will hurt hard-working Texans, and I oppose this bill.

Mr. LEVIN. Mr. Speaker, I rise in opposition to the bankruptcy bill before the House.

This legislation has two fundamental flaws. The first problem is that the bill does not distinguish between those individuals who abuse their credit and then seek to wipe the slate clean through Chapter 7, and those who enter bankruptcy as the result of a costly medical emergency or after one of the breadwinners in a family loses their job. We need to make a distinction between a family who is struggling to pay for a medical operation for a child and a person who maxes out their credit cards on a shopping spree at the mall. This bill does not do so.

A recent Harvard University study underscores the fact that the bankruptcy bill's impact will extend well beyond cracking down on people who abuse credit. The study looked at 1771 bankruptcy filers in five states. The results were striking: Half of the people in the study said that illness or medical bills drove them into bankruptcy. Most of these people actually had some health insurance; but high co-payments, deductibles, exclusions from coverages left them liable for thousands of dollars in out-of-pocket costs when serious illness struck. Other people in the study suddenly lost their jobs and therefore their health insurance. In many cases, people were let go from their jobs soon after the onset of a debilitating illness, so the medical bills begin to arrive just as the insurance and paychecks disappear.

The second fundamental problem left unaddressed by the bill is the credit card industry's role in the surge of bankruptcy filings in recent years. The industry hands out credit cards like popcorn, and then loads on extraordinary penalty fees and higher interest rates after a payment is late. The result is that even if someone wants to pay off their credit debts, they are unable to do so because of thousands of dollars of punitive fees and penalty interest rates that can run as high as 40 percent. The lending policies of the credit card companies themselves is a major factor in driving consumers into bankruptcy, yet the legislation before the House does nothing to end these abuses.

I include with my statement an article from the March 6 edition of the Washington Post entitled, "Credit Card Penalties, Fees Bury Debtors; Senate Nears Action on Bankruptcy Curbs."

[From the Washington Post, Mar. 6, 2005]

CREDIT CARD PENALTIES, FEES BURY DEBTORS; SENATE NEARS ACTION ON BANKRUPTCY CURBS

(By Kathleen Day and Caroline E. Mayer)

For more than two years, special-education teacher Fatemeh Hosseini worked a second job to keep up with the $2,000 in monthly payments she collectively sent to five banks to try to pay $25,000 in credit card debt.

Even though she had not used the cards to buy anything more, her debt had nearly doubled to $49,574 by the time the Sunnyvale, Calif., resident filed for bankruptcy last June. That is because Hosseini's payments sometimes were tardy, triggering late fees ranging from $25 to $50 and doubling interest rates to nearly 30 percent. When the additional costs pushed her balance over her credit limit, the credit card companies added more penalties.

"I was really trying hard to make minimum payments," said Hosseini, whose financial problems began in the late 1990s when her husband left her and their three children. "All of my salary was going to the credit card companies, but there was no change in the balances because of that interest and those penalties."

Punitive charges—penalty fees and sharply higher interest rates after a payment is late—compound the problems of many financially strapped consumers, sometimes making it impossible for them to dig their way out of debt and pushing them into bankruptcy.

The Senate is to vote as soon as this week on a bill that would make it harder for individuals to wipe out debt through bankruptcy. The Senate last week voted down several amendments intended to curb excessive fees and other practices that critics of the industry say are abusive. House leaders say they will act soon after that, and President Bush has said he supports the bill.

Bankruptcy experts say that too often, by the time an individual has filed for bankruptcy or is hauled into court by creditors, he or she has repaid an amount equal to their original credit card debt plus double-digit interest, but still owes hundreds or thousands of dollars because of penalties.

"How is it that the person who wants to do right ends up so worse off?" Cleveland Municipal Judge Robert J. Triozzi said last fall when he ruled against Discover in the company's breach-of-contract suit against another struggling credit cardholder, Ruth M. Owens.

Owens tried for six years to pay off a $1,900 balance on her Discover card, sending the credit company a total of $3,492 in monthly payments from 1997 to 2003. Yet her balance grew to $5,564.28, even though, like Hosseini, she never used the card to buy anything more. Of that total, over-limit penalty fees alone were $1,158.

Triozzi denied Discover's claim, calling its attempt to collect more money from Owens "unconscionable."

The bankruptcy measure now being debated in Congress has been sought for nearly eight years by the credit card industry. Twice in that time, versions of it have passed both the House and Senate. Once, President Bill Clinton refused to sign it, saying it was unfair, and once the House reversed its vote after Democrats attached an amendment that would prevent individuals such as anti-abortion protesters from using bankruptcy as a shield against court-imposed fines.

Credit card companies and most congressional Republicans say current law needs to be changed to prevent abuse and make more people repay at least part of their debt. Consumer-advocacy groups and many Democrats say people who seek bankruptcy protection do so mostly because they have fallen on hard times through illness, divorce or job loss. They also argue that current law has strong provisions that judges can use to weed out those who abuse the system.

Opponents also argue that the legislation is unfair because it ignores loopholes that would allow rich debtors to shield millions of dollars during bankruptcy through expensive homes and complex trusts, while ignoring the need for more disclosure to cardholders about rates and fees and curbs on what they say is irresponsible behavior by the credit card industry. The Republican majority, along with a few Democrats, has voted down dozens of proposed amendments to the bill, including one that would make it easier for the elderly to protect their homes in bankruptcy and another that would require credit card companies to tell customers how much extra interest they would pay over time by making only minimum payments.

No one knows how many consumers get caught in the spiral of "negative amortization," which is what regulators call it when a consumer makes payments but balances continue to grow because of penalty costs. The problem is widespread enough to worry federal bank regulators, who say nearly all major credit card issuers engage in the practice.

Two years ago regulators adopted a policy that will require credit card companies to set monthly minimum payments high enough to cover penalties and interest and lower some of the customer's original debt, known as principal, so that if a consumer makes no new charges and makes monthly minimum payments, his or her balance will begin to decline.

Banks agreed to the new rules after, in the words of one top federal regulator, "some arm-twisting." But bank executives persuaded regulators to allow the higher minimum payments to be phased in over several years, through 2006, arguing that many customers are so much in debt that even slight increases too soon could push many into financial disaster.

Credit card companies declined to comment on specific cases or customers for this article, but banking industry officials, speaking generally, said there is a good reason for the fees they charge.

"It's to encourage people to pay their bills the way they said they would in their contract, to encourage good financial management," said Nessa Feddis, senior federal counsel for the American Bankers Association. "There has to be some onus on the cardholder, some responsibility to manage their finances."

High fees "may be extreme cases, but they are not the trend, not the norm," Feddis said.

"Banks are pretty flexible," she said. "If you are a good customer and have an occasional mishap, they'll waive the fees, because there's so much competition and it's too easy to go someplace else." Banks are also willing to work out settlements with people in financial difficulty, she said, because "there are still a lot of options even for people who've been in trouble."

Many bankruptcy lawyers disagree. James S.K. "Ike" Shulman, Hosseini's lawyer, said credit card companies hounded her and did not live up to several promises to work with her to cut mounting fees.

Regulators say it is appropriate for lenders to charge higher-risk debtors a higher interest rate, but that negative amortization and other practices go too far, posing risks to the banking system by threatening borrowers' ability to repay their debts and by being unfair to individuals.

U.S. Bankruptcy Judge David H. Adams of Norfolk, who is also the president of the National Conference of Bankruptcy Judges, said many debtors who get in over their heads "are spending money, buying things they shouldn't be buying." Even so, he said, "once you add all these fees on, the amount of principal being paid is negligible. The fees and interest and other charges are so high, they may never be able to pay it off."

Judges say there is little they can do by the time cases get to bankruptcy court. Under the law, "the credit card company is legally entitled to collect every dollar without a distinction" whether the balance is from fees, interest or principal, said retired U.S. bankruptcy judge Ronald Barliant, who presided in Chicago. The only question for the courts is whether the debt is accurate, judges and lawyers say.

John Rao, staff attorney of the National Consumer Law Center, one of many consumer groups fighting the bankruptcy bill, says the plight consumers face was illustrated last year in a bankruptcy case filed in Northern Virginia.

Manassas resident Josephine McCarthy's Providian Visa bill increased to $5,357 from $4,888 in two years, even though McCarthy has used the card for only $218.16 in purchases and has made monthly payments totaling $3,058. Those payments, noted U.S. Bankruptcy Judge Stephen S. Mitchell in Alexandria, all went to "pay finance charges (at a whopping 29.99%), late charges, over-limit fees, bad check fees and phone payment fees." Mitchell allowed the claim "because the debtor admitted owing it." McCarthy, through her lawyer, declined to be interviewed.

Alan Elias, a Providian Financial Corp. spokesman, said: "When consumers sign up for a credit card, they should understand that it's a loan, no different than their mortgage payment or their car payment, and it needs to be repaid. And just like a mortgage payment and a car payment, if you are late you are assessed a fee." The 29.99 percent interest rate, he said, is the default rate charged to consumers "who don't meet their obligation to pay their bills on time" and is clearly disclosed on account applications.

Feddis, of the banker's association, said the nature of debt means that interest will often end up being more than the original principal. "Anytime you have a loan that's going to extend for any period of time, the interest is going to accumulate. Look at a 30-year-mortgage. The interest is much, much more than the principal."

Samuel J. Gerdano, executive director of the American Bankruptcy Institute, a nonpartisan research group, said that focusing on late fees is "refusing to look at the elephant in the room, and that's the massive levels of consumer debt which is not being paid. People are living right up to the edge," failing to save so when they lose a second job or overtime, face medical expense or their family breaks up, they have no money to cope.

"Late fees aren't the cause of debt," he said.

Credit card use continues to grow, with an average of 6.3 bank credit cards and 6.3 store credit cards for every household, according to Cardweb.com Inc., which monitors the industry. Fifteen years ago, the averages were 3.4 bank credit cards and 4.1 retail credit cards per household.

Despite, or perhaps because of, the large increase in cards, there is a "fee feeding frenzy," among credit card issuers, said Robert McKinley, Cardweb's president and chief executive. "The whole mentality has really changed over the last several years," with the industry imposing fees and increasing interest rates if a single payment is late.

Penalty interest rates usually are about 30 percent, with some as high as 40 percent, while late fees now often are $39 a month, and over-limit fees, about $35, McKinley said. "If you drag that out for a year, it could be very damaging," he said. "Late and over-limit fees alone can easily rack up $900 in fees, and a 30 percent interest rate on a $3,000 balance can add another $1,000, so you could go from $2,000 to $5,000 in just one year if you fail to make payments."

According to R.K. Hammer Investment Bankers, a California credit card consulting firm, banks collected $14.8 billion in penalty fees last year, or 10.9 percent of revenue, up from $10.7 billion, or 9 percent of revenue, in 2002, the first year the firm began to track penalty fees.

The way the fees are now imposed, "people would be better off if they stopped paying" once they get in over their heads, said T. Bentley Leonard, a North Carolina bankruptcy attorney. Once you stop paying, creditors write off the debt and sell it to a debt collector. "They may harass you, but your balance doesn't keep rising. That's the irony."

Mr. LANGEVIN. Today I rise in support of the Pomeroy substitute to H.R. 8, the Estate Tax Repeal Permanency act, and in opposition to the underlying bill. As the son of a small business owner, I know firsthand the tax burden placed on entrepreneurs and working families, and I support efforts to responsibly protect small business owners.

The Pomeroy substitute provides needed relief by eliminating estate taxes for assets totaling $3.5 million per individual or $7 million per married couple. Increasing the exemption to this level would mean that 99.7 percent of all estates will not pay a single penny of the estate tax. Small businesses and farm owners should not be penalized for their success, nor should they need to worry about their ability to pass the family business on to future generations, and the substitute addresses these concerns.

H.R. 8 goes far beyond providing fair tax relief to small businesses and family farms. While the benefits overwhelmingly go to the wealthiest 0.3 percent of estates, Republican leaders fail to mention that their proposal actually raises taxes on thousands of estates, including those not previously affected by the estate tax. This is because their legislation increases capital gain taxes owed on inherited property. The Department of Agriculture estimates that this change will raise taxes on more farms than would benefit from repealing the tax.

The Republicans' call for repealing the estate tax comes at a time when our government is already in fiscal crisis. Ending the estate tax will reduce revenues by $290 billion over ten years, and by 2021, this legislation will have added a total of more than $1 trillion to our debt. With a $400 billion deficit projected this year, now is not the time to add trillions in debt to the tab that future generations must pay. These added costs also come as the President proposes to privatize Social Security at a cost of up to $6 trillion. In addition, the House recently passed a budget that cuts $20 billion from Medicare and underfunds critical priorities including veterans' health care and homeland security. We must work to meet our existing obligations rather than cutting taxes for the wealthiest 0.3 percent of families in America.

Based on Internal Revenue Service data for 2004, out of approximately 10,000 deaths in my home state, only 312 Rhode Island decedents filed estate tax returns. This number would be much lower with the $3.5 million exemption under the Pomeroy substitute. Under our Democratic alternative, most small business owners and family farmers would receive estate tax relief.

I urge my colleagues to join me in supporting permanent reform of the estate tax, but not irresponsibly repealing it. Our small business owners are in need of relief, and we must provide it without leaving future generations to pay the bill.

Mr. ROYCE. Mr. Speaker, today, Congress has the opportunity to finish the task of preventing corporate malfeasance by agreeing to pass S. 256.

Included in this bill is a sensible provision that sharply limits to $125,000 the homestead exemption that many CEOs and corporate officers have used to shield their assets from creditors after they plunder their shareholders' wealth.

By empowering the government to go after the ill-gotten gains that crooked corporate officers tie up in offshore mansions, shareholders and pensioners who have been swindled can have their hard-earned savings returned to them.

In addition, this bill prohibits people convicted of felonies like securities fraud from claiming an unlimited exemption when filing for bankruptcy, protecting taxpayers from having to bear the cost of corporate malfeasance.

It also guards against fraud and abuse by requiring that high-income debtors who have the ability repay a significant portion of their debts do so, preventing them from sticking responsible borrowers with their tab. It accomplishes all of this while preserving the ability of people who truly need to discharge their debts to do so.

For far too long, Americans who work hard and pay their bills have been held accountable for the debts incurred by those who irresponsibly file for bankruptcy.

This long-overdue legislation will reform the critically-flawed bankruptcy process, and prevent affluent filers from gaming the system and passing on their bad debt to hard-working families while preserving the ability of people who truly need to discharge their debt through bankruptcy to do so.

Bankruptcy should be preserved as a last resort for those who truly need the protections that the bankruptcy system has to offer—not a tool for those who could pay their debts but choose to discharge them instead.

By agreeing to this legislation, Congress will make the existing bankruptcy system a needs-based one and correct the flaw in the current system that encourages people to file for bankruptcy and walk away from debts, regardless of whether they are able to repay any portion of what they owe; and it does this while protecting those who truly need protection.

I commend my colleagues for their hard work on this legislation, and I strongly urge my colleagues to vote in favor of this report and help honest taxpayers by closing the loopholes in the current bankruptcy system.

Mr. MACK. Mr. Speaker, I rise today in support of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

I came to Congress to promote the ideals of freedom, security and prosperity. Embodied within these principles is the duty of the American people to take responsibility for their actions—including control of one's personal finances and investments—without undue influence from the federal government.

Under current law, bankruptcy protection has increasingly become a first stop rather than a last resort. Our credit markets have been undermined on a daily basis because of the abuse of the existing laws. All too often, people run to the shelter of bankruptcy to escape the consequences of their actions, all to the detriment of the rest of society. That is fundamentally wrong.

Mr. Speaker, the Bankruptcy Abuse Prevention and Consumer Protection Act reforms existing bankruptcy law to stem the rise in bankruptcy abuse while maintaining its protections for those who really need them. The act places compassionate, coherent, and common-sense reforms on the current system. It ensures that frivolous costs are no longer unfairly passed on to American families.

Mr. Speaker, as a supporter of the Bankruptcy Abuse Prevention and Consumer Protection Act, I encourage my colleagues to vote for this well-balanced measure that will protect those individuals who need a fresh start while cracking down on abuse of the system.

Mr. CASTLE. Mr. Speaker, I rise today in strong support of S. 256, the "Bankruptcy Abuse and Consumer Prevention Act of 2005."

It has been seven years since we made our first attempt to reform the bankruptcy system in the 105th Congress and thanks to the tireless efforts of Chairman SENSENBRENNER's Committee, we can see a real chance for passing a full and comprehensive bill this year.

Mr. Speaker, we have seen a sharp increase in bankruptcies over the past 25 years. In 2003, consumer filings peaked at over 1.6 million filings—a 465 percent increase from 1980. Those who believe credit card companies, mortgage lenders and other financial institutions are bearing the costs of consumer's filing for bankruptcy don't understand how business works. American families are paying the price for this debt—some studies reflect $400 per year in every household—by higher interest rates on their credit cards, auto loans, school loans and mortgages. When the legislation before us passes today it will be the American families that are the real winners.

This legislation balances the consumer's challenge of debt repayment with the needs of businesses to collect money rightfully owed to them. In an effort to better educate consumers and improve financial literacy, the legislation requires many filers of bankruptcy to attend financial counseling. This change, coupled with Congressional encouragement for schools to incorporate personal finance curricula in elementary and secondary education programs, are both useful methods of curbing future debt. As Chairman of the Education Reform Subcommittee, which has jurisdiction over all K–12 programs, I feel strongly that educating future spenders can prevent debts incurred as adults.

I also support the new requirement for lending institutions, which will now have to take additional steps to ensure consumers fully understand the ramifications of credit spending. Credit card billing statements will now reflect the actual time it would take to repay a full balance at a specified interest rate; contain warnings to alert consumers that paying only the minimum will increase the amount of interest; and list a toll-free number for consumer's to call for an estimate of the time it would take to repay the balance if only the minimum is paid. With these steps, lending institutions can improve their chances of repayment while proactively educating consumers of true costs associated with borrowing.

I believe the "Bankruptcy Abuse and Consumer Protection Act" reflects fair solutions to minimizing spending abuse, while protecting those with genuine hardship. Relief is still available for low and moderate income families. However, this legislation will end the protection for those who make obvious attempts to abuse their credit. Those who are able to pay their debts—will now be held to those commitments—through means testing. A means test would be used to determine a debtor's eligibility for Chapter 7 bankruptcy relief, where the majority of debt is excused, or Chapter 13, where a significant portion of debt must be repaid. Importantly, disabled veterans would be exempt from the means test if their debts occurred primarily as a result of being called to active duty or for homeland defense operations.

Lastly, Mr. Speaker, this legislation also includes four additional judges for Delaware's bankruptcy court. This increase is long overdue, as the bankruptcy caseloads in Delaware continue to exceed other districts' caseloads for Chapter 11 businesses cases. Last year alone, weighted filings for Delaware judges were 11,789, while the national average was 1,763—in other words, the Delaware caseload was 10 times the national average. The Delaware District tends to have the largest Chapter 11 business cases, often referred to as the "mega" Chapter 11 cases which are "those involving extremely large assets, unusual public interest, a high level of creditor involvement, complex debt, a significant amount of related litigation, or a combination of such factors." These are complex cases in which the judicial system in Delaware has built a high level of expertise as well as a sound reputation for fair practices. I am pleased the legislation before us today takes a solid step towards alleviating Delaware's heavily burdened bankruptcy court system.

Again, Mr. Speaker, I want to thank Chairman SENSENBRENNER for his years of strong and tenacious support for this legislation and thank him for not giving up on these important, common-sense changes to our bankruptcy system. I urge my colleagues to support this bipartisan legislation.

Mr. TERRY. Mr. Speaker, in pertinent part, section 202 of S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005," amends section 524 of the Bankruptcy Code by making the discharge injunction inapplicable to certain acts by a creditor having a claim secured by a lien on real property that is the debtor's principal residence, so long as the creditor satisfies certain criteria. First, the creditor's act must be in the ordinary course of business between the creditor and debtor. Second, such act is limited to seeking periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.

Section 202 was included because Congress recognized that there are many consumer debtors who, despite filing bankruptcy, desire to repay secured obligations in order to retain their principal residences. Under current law, however, some secured creditors stop sending monthly billing statements or payment coupons for fear of violating the discharge injunction. Section 202 is intended to reassure these secured creditors that if consumer debtors want to continue making voluntary payments so they can keep their principal residences, then secured creditors may take appropriate steps to facilitate such payment arrangements, such as continuing to send monthly billing statements or payment coupons.

Moreover, despite the express reference in this provision to liens on real property, section 202 should not, by negative inference or implication, be construed as limiting any rights that may have developed through existing case law, or otherwise, that permit secured creditors to send, or consumer debtors to request and receive, monthly billing statements or payment coupons for claims secured by real or personal property. See, e.g., Ramirez v. GMAC (In re Ramirez), 280 B.R. 253 (C.D. Cal. 2002); Henry v. Associates Home Equity Services, Inc (In re Henry), 266 B.R. 457 (Bankr. C.D. Cal. 2002).

Mr. KOLBE. Mr. Speaker, after eight years of intense Congressional scrutiny and debate, this long-overdue legislation is now close to becoming law. I will vote in favor of this legislation, just as I have supported similar bills in the past, and I encourage my colleagues to pass S. 256 without amendments so it can go directly to the President for his signature.

Without a doubt, bankruptcy reform is needed. Under current law, it is far too easy for debtors with significant cash resources to declare bankruptcy and walk away from their debts, even when they have the ability to pay a substantial portion of those debts. Bankruptcies cost the rest of us American taxpayers billions of dollars each year. Why? Because commercial institutions have to pass their losses on to everyone else in the form of higher prices and higher interest rates. The Bankruptcy Abuse Prevention and Consumer Protection Act is a well-balanced measure that will permit people with real financial need to get a fresh start, but lessen the burden placed on other working Americans who now must support people who are taking advantage of the system.

This bankruptcy reform bill will force those who have the ability to repay their debts to do so. At the same time, it provides safeguards such as child and spousal protections, debtor education, and mandatory credit counseling before someone files for bankruptcy. The bill also makes common-sense revisions to homestead exemptions to reduce the ability of a wealthy individual shielding his money in an extravagant home just prior to filing bankruptcy.

Put simply, this legislation helps restore the fundamental concept of personal responsibility in the bankruptcy system. I urge my colleagues to adopt.

Mr. ROYCE. Mr. Speaker, I want to address my remarks to an important provision of S. 256, that is a clarification of Section 303 of the Bankruptcy Code. Section 1234 restates and strengthens Congress' long-standing intent that an involuntary bankruptcy action should not be predicated on disputed claims. Otherwise, opportunistic litigants seeking to gain advantage in contract disputes may improperly employ the leverage of the bankruptcy court.

Because bankruptcy courts should not be used to resolve disputed claims in involuntary cases, the clarification in Section 1234 reemphasizes that a person who disputes the amount of, or liability for, a claim should not be disadvantaged by the stigma and expense of an involuntary bankruptcy proceeding. Put simply, the bankruptcy courts in this nation should now uniformly hold that any claim that is subject to a dispute or litigation, or if it is contested, whether as to the amount of the claim, or as to liability for the claim, that claim cannot be used to commence an involuntary bankruptcy case. This is the bright line that Congress intended to create in 1984 because involuntary bankruptcy carries with it, not only a responsibility, but the burden on behalf of petitioning creditors to be accurate and certain that their provable claims are qualified by being without dispute as to either liability or amount before commencing an involuntary bankruptcy case. The consequence of bad faith or even sloppy work here is more disastrous than in garden-variety litigation or through the voluntary use of the bankruptcy laws.

It is incomprehensible that an involuntary bankruptcy petition could be based on claims that are inaccurate as to either liability or amount; the injustice that would result from such a filing is so manifest. Despite this manifest injustice of national significance, judges continue to condone the filing of involuntary petitions brought by creditors using disputed claims. For this reason, section 1234 was made a necessary part of this legislation.

There has never been a vote recorded in opposition to this provision because it clearly expresses the unanimous will of Congress; it is the furthest thing from the mind of any Congressman that an involuntary case could be brought on the basis of claims that are disputed. To the contrary, as expressed by this legislation, it has been the will of Congress since 1984 that any claim used to commence an involuntary case must be without dispute.

The bankruptcy courts should not be enjoyed by involuntary petitioning creditors who cannot then prove up claims as to liability or amount. That party should stand in the most accountable legal position. This clarification is necessary because the intent of Congress has been blurred by judicial decisions that go so far as to split disputed claims into "disputed" and "undisputed" parts, or to describe disputes as "potential disputes." These decisions are wrong and the damage they have caused to the victims of involuntary bankruptcy cases brought using such claims is incalculable. The remedy for such victims rests on an expansive reading of Section 303(i).

Finally, it is the intent of Congress, as expressed through the unique retroactive application of Section 1234, to require the dismissal of any involuntary petition brought by using disputed claims, including any bankruptcy cases that are pending as a result of the misapplication of Section 303.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I am reminded of the words of the first President of the United States, George Washington, whose words are worth repeating at this time: "The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the veterans of earlier wars were treated and appreciated by their country."

Republican priorities:

Many of them talk about protecting veterans and making sure veterans have the support they need when returning from protecting this country's freedom in Iraq and Afghanistan.

Yesterday, the House passed H.R. 8, to make permanent the repeal of the estate tax. This bill will cost the American taxpayer $290 billion over the next ten years. The cost over the first ten years could go to $1 trillion.

Let me repeat that: $1 trillion.

That is a huge cost to all of us.

The bill gives a tax break to the wealthiest $\frac{3}{10}$ of 1 percent of estates, while imposing a new capital gains tax on most, including those of small business owners and farmers.

At the same time, the Republicans passed a budget that calls for $800 million in cuts to the VA over the next five years.

Clearly, the Republicans are attempting to balance the budget on the backs of veterans' health care, and on the backs of the widows and orphans of those who paid the ultimate sacrifice for our country's freedom.

Today, this same house will vote on bankruptcy legislation that does nothing to protect our veterans.

These brave men and women are serving their country in Iraq and Afghanistan, while at home, their lives and livelihoods are going down the drain. Many of these people have gone into debt and the circumstances of their debt occurred either before, during or after their active duty. This bill does not help these people.

Many of our service members—especially, the citizen soldiers of the Guard and Reserve forces, could face terrible financial problems because they do not qualify for a narrow protection of debt incurred while on duty if S. 256 becomes law.

Since 9/11, approximately half a million Reservists and Guardsmen have been called to active duty: Some more than once. Hundreds of thousands of Reservists and National Guardsmen are currently activated in support of ongoing military operations. According to the National Guard, 4 out of 10 members of the National Guard and Reserve forces lose income when they leave their civilian jobs for active duty.

The people of this country need to see what policies the republicans actually vote for. They talk the talk very well, but do not walk the walk or roll the roll for our veterans, who have sacrificed their bodies for this Nation.

Mr. MOORE of Kansas. Mr. Speaker, I rise today in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act.

The bankruptcy bill before us today is the product of years of bipartisan discussions and compromises, and while this legislation is not perfect, it is a serious, good faith effort to reform our bankruptcy laws and reduce the worst abuses in the consumer bankruptcy system. The House has passed substantially similar legislation with strong majorities in each of the last four Congresses, and the Senate followed suit last month when it passed S. 256 by a 3–1 margin. Bankruptcy filings have increased by 70 percent over the last decade, and last year alone Americans filed over 1.6 million consumer bankruptcy petitions. S. 256 will not eliminate bankruptcy filings in our country, but it is a necessary effort to change the status quo and ensure that only those debtors who most need the bankruptcy system will be able to use it.

S. 256 would raise the repayment priority of domestic support obligations, including alimony and child support, from seventh to first, and would make failure to pay domestic support obligations a cause for conversion or dismissal of a debtor's case.

S. 256 would also protect tax-exempt retirement savings accounts from creditors' claims. The bill expressly upholds the Supreme Court's recent ruling that creditors may not seize Individual Retirement Accounts [IRAs] when people file for bankruptcy, ensuring protection for retirement accounts relied upon by millions of Americans. Consequently, IRAs now join 401(k)s, Social Security, and other benefits tied to age, illness or disability that are afforded protection under bankruptcy law.

Further, S. 256 would make non-dischargeable credit card purchases of $500 or more, if made within 90 days of filing for bankruptcy, and all cash advances that total $750 or more, if made within 70 days of filing. Sometimes consumers who know that they will have to file for bankruptcy protection make excessive purchases on credit with the full knowledge that they will never have to repay this debt. Approximately $44 billion in consumer debt is erased each year through bankruptcy, and this discharged debt increases the costs of goods and services for all consumers. Retailers pass on to consumers the costs that are lost to bankruptcy, and the means test included in S. 256 could save between $4 billion and $5 billion of this discharged debt.

Additionally, the bill seeks to tighten the homestead exemption by limiting the amount of equity a homeowner could protect if a piece of property in a homestead exemption state is purchased within the 40-month period prior to a bankruptcy filing. Bankruptcy filers convicted of a range of crimes, including fraud, violations of securities laws, and criminal acts resulting in injury or death would lose the ability to shield their assets in property holdings regardless of when they purchased their property. The bankruptcy bill's homestead exemption provisions attempt to ensure that wealthy debtors with the means to payoff at least some of their debts will no longer be able to hide behind the bankruptcy system.

As some opponents of the bill have noted, some debtors are forced to file for bankruptcy as a result of unmanageable medical bills, divorce, or job loss. These financial hardships unfortunately happen every day, and too often prevent honest, hardworking individuals and families from getting ahead or pulling themselves out of debt. This legislation seeks to protect the ability of these debtors to file for relief under Chapter 7 of the bankruptcy code by creating a means test that will continue to allow low-income debtors who earn less than the median income of the state in which they live to file under Chapter 7. According to the 2000 Census, the median household income in my congressional district is approximately $51,000. The means test recognizes that those in our society who are the least able to repay their debts should have the opportunity to enjoy a fresh start in life. And because many debtors are forced to file for bankruptcy as a result of medical expenses, S. 256 allows bankruptcy filers to challenge the means test by demonstrating "special circumstances," such as a serious medical condition, that justify additional expenses or adjustments to their income. Individuals who are forced to file for bankruptcy due to medical expenses should be able to emerge from bankruptcy with the possibility of a second chance in life.

Finally, S. 256 contains several provisions that seek to improve consumers' financial literacy in an attempt to decrease the total number of future bankruptcy filings. The bill would require debtors to receive credit counseling from a non-profit credit counseling agency prior to filing for bankruptcy, and requires filers to complete an approved instructional course on personal financial management before receiving a discharge under either Chapter 7 or Chapter 13.

Mr. Speaker, while S. 256 is certainly not a perfect piece of legislation, it is my hope that this bill will reduce the number of bankruptcy filings in our country and maintain a fair bankruptcy system for those who need it the most in our society.

Mr. TIAHRT. Mr. Speaker, I rise today in strong support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. I believe passage of this important bill is long overdue, and I congratulate Chairman SENSENBRENNER and Chairman OXLEY for their leadership over the past several years in crafting meaningful bankruptcy reform.

The bill we are voting on today will help foster greater personal responsibility and make it more difficult for those who use bankruptcy as a tool for fraud to cheat their way out of debt.

Bankruptcy filings have escalated in recent years, which have had negative consequences on our economy. Yet, numerous studies have shown many bankruptcy debtors are able to repay a significant portion of their debts. If this alarming trend continues, all Americans will pay the price in the form of higher costs for goods, services and credit. These higher costs not only harm consumers, it also stymies growth for businesses.

By addressing bankruptcy abuses, S. 256 will play a role in creating a better environment to conduct business in America, which means more jobs for those who need them.

Some have expressed concerns S. 256 will limit people from filing under Chapter 7. However, estimates show only a small percent of Chapter 7 bankruptcy filers would have their petitions dismissed or forced into Chapter 13 or Chapter 11 bankruptcy. One study cited by the Committee on the Judiciary suggests as few as 3.6 percent of Chapter 7 filers would be moved into repayment plans under the new means test.

I recognize there are cases where families and individuals need to file for Chapter 7 bankruptcy for very legitimate reasons. Sometimes hardships and unforeseen circumstances happen in life, and bankruptcy is a needed last option to help families survive.

However, the United States cannot afford to continue down the path where high consumer debt is routinely directed toward bankruptcy as a first stop rather than a last resort. I am pleased S. 256 addresses common bankruptcy abuses while continuing to offer Americans who need to file for bankruptcy the means to do so.

The consumer bankruptcy provisions of S. 256 address the needs of both creditors and debtors. With respect to the interests of creditors, this legislation responds to many factors that have contributed to the increase in consumer bankruptcy filings, such as lack of personal financial accountability.

The bill provides many debtor protections such as provisions allowing debtors to exempt certain education IRA plans, fortifying exemptions for certain retirement pension funds, and enhancing the professionalism standards for attorneys and others who assist consumer debtors with their bankruptcy cases.

S. 256 ensures debtors receive notice of alternatives to bankruptcy relief, requires debtors to participate in debt repayment programs, and institutes a pilot program to study the effectiveness of consumer financial management programs.

I am also pleased S. 256 contains several provisions that will help make American businesses more competitive. By cracking down on bankruptcy abuse, we eliminate another obstacle small businesses face as they compete in the global marketplace.

Currently, a business can be sued by a bankruptcy trustee and forced to pay back money previously paid to it by a firm that later filed for bankruptcy protection. Under the reforms of S. 256, small businesses will have an easier time successfully defending against these suits.

The reforms will promote greater certainty in the financial market place as well. S. 256 reduces systemic risk in the banking system and financial marketplace by minimizing the risk of disruption when parties to certain financial transactions become bankrupt or insolvent.

S. 256 addresses the special problems presented by small business debtors by instituting firm deadlines and enforcement mechanisms to weed out those debtors who are not likely to reorganize. It also requires the court and other designated entities to monitor these cases more actively.

Under the current law, nearly every item of information supplied by a debtor in connection with his or her bankruptcy case is made available to the public. S. 256 prohibits the disclosure of the names of the debtor's minor children and requires such information to be kept in a nonpublic record, which can be made available for inspection only by the court and certain other designated entities. In addition, if a business debtor had a policy prohibiting it from selling "personally identifiable information" about its customers and the policy was in effect at the time of the bankruptcy filing, then the sale of such information is prohibited unless certain conditions are satisfied.

These are just a few of the several provisions that make this bill good for American consumers and businesses. I urge my colleagues to join me today in voting for S. 256 so we can limit abuses within our bankruptcy system and promote a stronger America.

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise in opposition to S. 256, a bill to modify our Nation's bankruptcy system. I strongly support holding individuals responsible for paying debts they can reasonably afford. Our banks, credit unions, and other responsible financial institutions should not have to foot the bill for the individuals who take advantage of the system to intentionally avoid their debts. Efforts to curb the number of bankruptcies filed each year, which strain our responsible financial institutions and their ability to provide low-cost services to consumers should be pursued and supported.

But the fact is that millions of Americans face difficult and real financial circumstances that are caused by a personal or family healthcare crisis, unemployment, drastic changes in life situations, such as divorce and family death, and even military service. This legislation makes life much more difficult for hard working families who are already in crisis.

Bankruptcy attorneys from Minnesota whom I have spoken with share my concerns. They believe this bill will be particularly harmful to working families, especially those headed by single parents. Custodial parents will have a more difficult time collecting child support by diverting more of a debtor's money to creditors and allowing other non-child support debts to survive bankruptcy. This bill will also make it easier for landlords to evict families who are in bankruptcy from their homes sending parents and their children on to the streets. This bill strips the authority of bankruptcy judges to consider the special circumstances of working families who have found themselves in overwhelming debt.

While there has been much rhetoric regarding personal responsibility heard on the floor of the House, the bill completely fails to address consumer abuses by the credit card industry. Instead, this bill rewards irresponsible credit card companies who deceive consumers and target vulnerable families with questionable business practices and reckless lending. College students and individuals with already heavy debt loads are especially vulnerable to questionable marketing practices that offer easy credit at low rates that later increase to as much as 20 or 30 percent. Individuals must be responsible, but credit card companies must be held accountable for irresponsible business practices as well.

While credit card companies reap the benefits of this bill, about 50 percent of all families who are forced to file for bankruptcy do so because of expensive medical bills. In another 40 percent of circumstances, a person has suffered a death in the family, lost their job, or have recently divorced their spouse. Almost all who file for bankruptcy do so as a last resort and have other compounding financial challenges. Over 60 percent of bankruptcy filers have gone without medical care. Fifty percent have been unable to fill needed prescriptions. One-third have had their utilities turned off. Twenty-one percent have gone without food.

Numerous amendments that would have made this bill more balanced were rejected by the House Judiciary Committee. These include amendments that would have closed loopholes for millionaires, protected service members and veterans from means testing in bankruptcy, discouraged predatory lending practices, exempted debtors from means testing if their financial situations were caused by identity theft, limited the amount of interest that can be charged on any extension of credit to 30 percent, and, among several others, exempted debtors whose financial problems were caused by serious medical problems from means testing.

We must do something to curb the number of personal bankruptcies that strain our banks, credit unions, and responsible financial institutions. But we must not do so at the expense of children receiving court-ordered child support, our veterans, and college students and others lured by easy, high-interest credit.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PUTNAM). All time for debate has expired.

Pursuant to House Resolution 211, the bill is considered read for amendment, and the previous question is ordered.

The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. SCHAKOWSKY. Yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

Ms. SCHAKOWSKY moves to recommit the bill (S. 256) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Page 14, after line 6, insert the following:

"(E) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case filed under this chapter based on any form of means testing—

"(i)(I) while the debtor is on, and during the 2-year period beginning immediately after the debtor is released from, active duty (as defined in section 101(d)(1) of title 10); or

"(II) while the debtor is performing, and during the 2-year period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32); and

"(ii) if—

"(I) after September 11, 2001, the debtor was called to active duty or to perform a homeland defense activity; and

"(II) a substantial portion of the debts arose on or after September 11, 2001 and resulted from the debtor's service on active duty or the debtor's performance of a homeland defense activity.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes in support of her motion.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise today with the gentleman from Ohio (Mr. STRICKLAND) to offer this motion on behalf of our brave citizen soldiers who are risking their lives for us and then, as a thank you, risking their homes and their businesses, too. Our motion simply shields financially distressed National Guard and Reservists from the means test found in S. 256 while they are in service and for the 2 years after they have transitioned back to civilian life if a substantial portion of their debt is due to their service.

This motion is a narrow protection for those who suffer financial hardship, financial disaster, as a direct result of serving our country. It builds on Senator DURBIN's amendment to the Senate bankruptcy bill which exempts from the bill's means test disabled veterans if their debts were incurred primarily when they were on active duty or performing homeland defense duties.

Regardless of Members' position on the overall bill, we owe it to those who risk their lives and their livelihoods to prevent financial catastrophe caused by their service. This motion is the least we can do to ease their pain.

According to the National Guard, 4 out of 10 members of the guard and reserve forces lose income when they leave their civilian jobs for active duty. Many left for the war thinking they would be deployed for 6 months and have ended up staying for a year or even longer and may be shipped out again. There is no reasonable way they could have financially anticipated and prepared for those extensions of their service. Their families struggle to pay the bills. Some face the reality of losing their homes, as this cartoon depicts: Tie a yellow ribbon around the old oak tree, and for some of those returning from Iraq, it is a foreclosure sign around their house.

Many Guard and Reservists are self-employed or run small businesses and face the daunting task of reestablishing their businesses after their release from active duties. The 2 years after they return from service are the most difficult, and we owe it to them to provide a safe harbor from the means test.

Since 9/11, approximately 470,000 Guard and Reservists have been called to active duty, tens of thousands more than once. Some of these patriotic Americans are facing financial crisis not because they are exploiting loopholes in the bankruptcy law, they are not scheming to avoid paying their debts, they are in a financial hole their country dug for them.

Some will argue we do not need this motion because our solders are already covered by the Servicemembers' Civil Relief Act, but that is not true. Even with that minimal help, many are forced to file for bankruptcy and the relief act provides no assistance once they file. It is hard enough under current law for them to pick up the pieces. The special circumstances and sacrifices of Guard and Reserve forces require that we not make recovery even harder for them. Soldiering is not their livelihood, but they take it on. They leave their day-to-day lives and jobs behind because their country asks them to do so. Exemption from the means test is the least we can do to tell our citizen soldiers and their families not only do we appreciate the physical and emotional risks they have taken, we recognize their financial risk.

To do any less than this simple, narrow protection would be morally bankrupt.

DISABLED AMERICAN VETERANS,
Washington, DC, April 1, 2005.

Hon. JOHN CONYERS, Jr.,
Ranking Minority Member, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE CONYERS: The Disabled American Veterans (DAV) is a non-profit organization of more than one million veterans disabled during time of war or armed conflict. The DAV is the official voice of our nation's service-connected disabled veterans, their families, and survivors.

On behalf of the DAV, I ask you please keep in mind the sacrifices of the brave men and women of our Armed Forces as you consider S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Returning service members often experience financial difficulties during their transition back to civilian life. They should be afforded protections to ensure that the already significant burdens upon military members and their families are not compounded by unintended consequences from this bill. Specifically, disabled veterans who incur debt during the initial 24 months following completion of active duty should not be subject to the bankruptcy means test. Such heroic citizens deserve the utmost consideration with regard to bankruptcy laws.

Thank you for your consideration. I look forward to continuing to work with you to ensure better lives for America's service-connected disabled veterans and their families.

Sincerely,

JOSEPH A. VIOLANTE,
National Legislative Director.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND), a champion for our service men and women.

Mr. STRICKLAND. Mr. Speaker, I support this motion to recommit because it provides added financial protections for veterans, military personnel and their families who are enduring financial hardships as a direct result of serving this country.

Additionally, this motion to recommit offers help to members of the Reserves and National Guard who all too often must leave behind their family jobs and businesses. It provides protection not just during service but also for the 2 years after service when our veterans make the transition back to civilian life. This measure will guarantee what the Servicemembers Relief Act does not. It will provide exemptions from the means test, financial assistance and time, something our servicemembers selflessly give to the Nation and something we should give to them.

The Servicemembers Civil Relief Act does not provide substantial bankruptcy protections. Rather, it provides a simple, temporary 90-day delay in bankruptcy proceedings once a servicemember is released from active duty.

☐ 1500

Let us be clear. No bankruptcy safe harbor or exemption exists for our citizen soldiers under the Servicemembers Civil Relief Act currently. This motion is not an attempt to kill the bill. It is simply a reaction to a real problem that has been highlighted in countless news stories, by the National Military Families Association, Disabled Veterans of America, and individual servicemembers. These are people experiencing real and difficult financial situations. I support this motion to provide this narrow protection for those men and women who have served our country, and I urge my colleagues to do the same.

I thank my dear colleague for her efforts in this behalf.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, the motion to recommit creates a blanket exemption from the bill's needs-based test, and I do not think that that is necessary because it would exempt a wealthy debtor from the needs-based test solely based on the debtor's military service. People who fall behind the lines of the needs-based test will continue to have bankruptcy protection under chapter 7 as is provided in the current law. The bill also contains an exception from the needs-based test for disabled veterans who incurred indebtedness while on active duty.

CRS and even the New York Times recognized that the Servicemembers Civil Relief Act of 2003 provides a broad spectrum of protection to servicemembers, their spouses and their dependents; and the revised statute, according to the New York Times, is clearer and more protective than the old one. The Times also recognized that the news was apparently slow in reaching those who would have to interpret and enforce the law, which apparently includes the people who are offering this motion to recommit.

Let me summarize. Already there is in law, signed by President Bush in 2003, we have responded to the special financial burdens that members of the military may encounter. CRS has said the Servicemembers Civil Relief Act provides protection for servicemembers in the event their military service impedes their ability to meet financial obligations incurred before their entry into active military service, as well as during that service. There is a cap on the interest rates of 6 percent. It clarifies that the balance of interest for the period of the servicemember's military service is to be forgiven by the lender.

There are protections against evictions from rental property or foreclosures on mortgaged property. There are restrictions on cancellation of life insurance and more flexible options to allow servicemembers on active duty to terminate residential and automobile leases.

We do not need this motion to recommit. Congress has already passed a law that provides those types of protections. The motion to recommit should be defeated, and the bill should be passed.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SCHAKOWSKY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 200, nays 229, not voting 6, as follows:

[Roll No. 107]

YEAS—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—229

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Berkley
Gillmor
Gutierrez
LaHood
Solis
Weldon (FL)

□ 1529

Messrs. TURNER, TANCREDO, CRENSHAW, and BRADLEY of New Hampshire changed their vote from "yea" to "nay."

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. RUSH, BOREN, and JOHNSON of Illinois changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 107 on motion to recommit with instructions (S. 256) I was unavoidably detained. Had I been present, I would have voted "yea."

The SPEAKER pro tempore (Mr. PUTNAM). The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 302, nays 126, not voting 7, as follows:

[Roll No. 108]

YEAS—302

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—126

Abercrombie
Ackerman
Allen
Baldwin
Barrow
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Green, Gene
Grijalva
Hastings (FL)
Hinchey
Holt
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kucinich
Langevin
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Rangel
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Stark
Stupak
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—7

Berkley
Gillmor
Gutierrez
LaHood
Lantos
Solis
Weldon (FL)

☐ 1539

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 108 on final passage (S. 256) I was unavoidably detained. Had I been present, I would have voted "nay."

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING H.R. 6, ENERGY POLICY ACT OF 2005

Mr. DREIER. Mr. Speaker, I know that our colleagues, the gentleman from Maryland (Mr. HOYER) and the gentleman from Texas (Mr. DELAY), will be engaged in a colloquy in just a moment; and the announcement that I have will, I believe, relate to the colloquy that they are about to engage in.

Mr. Speaker, the Committee on Rules may meet next week to grant a rule which could limit the amendment process for floor consideration of the Energy Policy Act of 2005, which is expected to be introduced Monday, April 18, as H.R. 6. Any Member wishing to offer an amendment should submit 55 copies of the amendment, one written copy of a brief explanation of the amendment, and one electronic copy of the same to the Committee on Rules up in H-312 of the Capitol by 12 noon on Tuesday, April 19, 2005.

Members are advised that the combined text from the committees of jurisdiction should be available for their review on the committees' Web sites as well as on the Committee on Rules Web site by tomorrow, Friday, April 15. Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to talk with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

Mr. Speaker, I would like to say, Go Nationals.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader the schedule for the coming week.

Mr. Speaker, I yield to the distinguished majority leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. I thank the distinguished whip for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 2 p.m. for legislative business. We will consider several measures under the suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday and Thursday, the House will convene at 10 a.m. for legislative business. We will likely consider additional legislation under the suspension of the rules, as well as H.R. 6, the Energy Policy Act of 2005.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for informing us of that schedule.

Mr. Leader, tomorrow is a day on which the conference report on the budget is supposed to be adopted, as you well know. However, the House is yet to appoint conferees. When might we appoint conferees, given the fact that we are already behind schedule?

Mr. DELAY. Mr. Speaker, if the gentleman will yield further, obviously we would have liked to have met the statutory deadline of April 15, but, unfortunately, we will not. I am advised that the Speaker has not yet decided when he would like to appoint the conferees to meet with the Senate, but it could occur as early as next week.

Hopefully, within the next few weeks we will have a conference report for the House to consider that provides for the extension of the pro-growth tax policies enacted in 2001 and 2003, reduces non-security discretionary spending, and provides for important reforms of entitlement programs.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman. Obviously he articulates reasons that he believes this bill is an important piece of legislation.

In light of the fact that the Speaker has not yet decided who he wants to appoint as conferees, does the gentleman have any thought as to when we might contemplate having the conference committee meet and then, of course, the conference report on the floor? I ask that from two perspectives: one, as the representative of the party who would like to know what is going on, as I am sure the gentleman would as well; and, secondly as an appropriator.

As the gentleman knows, until the conference committee report is adopted, it has the appropriations committees somewhat in limbo as it relates to allocations to the committees and then allowing us to make the 302(b) allocations.

Mr. Speaker, I yield further to my friend in terms of what expectations he might have as to timing from this point to when we might adopt a budget, in light of the fact it is my understanding from the staff of the gentleman from California (Mr. LEWIS) that there is hope that we will start to mark up bills sometime in mid-May. I do not know whether the majority leader has the same understanding or not.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman continuing to yield. The gentleman has touched on many points. I am advised, and I stand to be corrected, but having served on the Committee on Appropriations, the rules allow that once we pass the April 15 deadline for having a budget, the Committee on Appropriations is allowed to start their work without a budget.

I am advised also by the gentleman from California (Chairman LEWIS) of the Committee on Appropriations, who is walking in front of me right now and hopefully will correct me if I am wrong, that the gentleman from California (Chairman LEWIS) has begun the appropriations process in earnest and he has a very ambitious schedule. In fact, I am told that we will have the opportunity to schedule appropriations bills for the floor by the middle of May, and I anticipate, not anticipate, we have set as a schedule, another way of putting it, we have turned over the schedule to the Committee on Appropriations to get their work done. It will be a very ambitious appropriations schedule starting the middle of May.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I would be pleased to yield to my friend, the gentleman from California, the distinguished chairman of the Committee on Appropriations.

☐ 1545

Mr. LEWIS of California. Mr. Speaker, I appreciate my Appropriations colleague yielding me a moment just to say that my colleague, the gentleman from Wisconsin (Mr. OBEY), and I have spent a lot of time together discussing these questions and the schedule and otherwise. The relationship is extremely positive, and I believe he and I this week, before the week is out, will have a chance to sit down and talk about 302(b)s, for example. We are going to move forward very expeditiously, and I think it will benefit, one more time, my colleague and I, who are Appropriations members together, and it will benefit our committee greatly.

I very much appreciate the gentleman yielding.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the gentleman's observation.

My presumption is then, Mr. Chairman, before he leaves the floor, my presumption would be, for the Members of the House and also for the members of the Committee on Appropriations, that the Committee on Appropriations will proceed as if the House numbers were the numbers? Am I correct on that? I yield to the gentleman.

Mr. LEWIS of California. Mr. Speaker, we have come to the conclusion, by looking at some recent history, that we can, within pretty close margins, measure what our likely allocations will be. The subcommittees are proceeding as though there are numbers, recognizing full well that we will have to respond to the final budget package as they have given it to us and as we have talked between subcommittee chairmen, but we can pretty well guesstimate.

In the past, I believe that we have tended to delay our process because we decided we had to wait until the budget process was already complete, and we let supplementals interfere with that process, et cetera. So, in the past, we found ourselves sending our product to the other body just as we go past the end of the fiscal year, hardly giving them the time to do the kind of work that they would like to do, thus the omnibus, et cetera.

The cooperation between the two bodies, I must say to my colleague, is better than I could ever have imagined. It is a fabulous, growing relationship, and I think it will benefit both of the bodies.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

The gentleman's original question was when will we see a conference report for the budget come to the floor. I am hoping as soon as possible, obviously. I have no idea when the negotiations with the House and the Senate will start in earnest, when we will appoint the conference committee. There is very little difference, quite frankly, from the House bill and the Senate bill, and I would assume that the major issues will be taken care of in a matter of days, if not a couple of weeks.

So I would assume that we could have a conference report on a budget hopefully by the first of May. At least that is what we would like to see happen.

Mr. HOYER. Mr. Speaker, I thank the gentleman.

Reclaiming my time, the business that the gentleman from Texas has set forth for next week is the energy business. Given the schedule the gentleman has just announced, would the gentleman expect the bill to be on the floor both Wednesday and Thursday?

Mr. DELAY. Mr. Speaker, if the gentleman will yield, that is correct, both Wednesday and Thursday. This is a major, major piece of legislation, as the gentleman from Maryland knows. This bill has passed this House before. It required lengthy debate. It also required time to consider amendments, and we anticipate it taking all of Wednesday and most of Thursday to complete.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the leader.

Given the time that is allocated to this bill, I presume, as the Leader has apparently indicated, that it is the expectation of the Committee on Rules to have a full amendatory process. My expectation is you are not going to have a fully open rule but that you would have some modified open rule. Am I correct on that?

I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding. Obviously, I cannot anticipate what the Committee on Rules may do on this bill.

Mr. HOYER. Mr. Speaker, reclaiming my time, some of us do not believe that is quite as obvious as the gentleman does.

I yield back to the gentleman.

Mr. DELAY. I appreciate the gentleman yielding.

I do recall that in the last Congress when we approached the energy bill there was I think at least 20, if not more, amendments allowed on the bill. I would anticipate that the same approach, because the bill is very similar to the bill we passed in the last Congress, would be taken.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the Leader's observation. I know that, on our side, we had a discussion on that bill this morning. All of us believe the energy bill is a very, very important piece of legislation. All of us are concerned about the gas prices that are confronting all of our constituents. I have a number of employees who commute significant distances. Although they live relatively close by, it is a 45-minute commute in traffic and a lot of gas, and they spend a lot of money on gasoline. In addition to that, energy independence, of course, is part of our national security. So we are hopeful that we will fashion a bill in a bipartisan way that we can see passed and signed by the President.

Mr. Speaker, the last item I would ask the Majority Leader about is, as the gentleman knows, the ethics process in the House is essentially at a standstill. The gentleman has made that observation, obviously; and we have made that observation as well. Efforts to move the ethics process forward have failed so far, both in committee and on the floor, when virtually all of the Members on the gentleman's side of the aisle, now twice, have voted to table motions that would have provided for the appointment of a bipartisan task force to make recommendations to restore public confidence in the ethics process.

As the gentleman knows, the gentleman from Maryland (Mr. CARDIN), he was sitting to my left here, although he is now to my right; maybe he is running for office and wants to position himself; but the gentleman from Maryland (Mr. CARDIN) and Mr. Livingston performed an outstanding service for this House in coming together and adopting and presenting, proposing a bipartisan ethics process. We had that in place, as the gentleman knows, and it was changed, we believe, in a partisan fashion.

We oppose that change, as the gentleman knows, as does the former chairman of the Committee on Standards of Official Conduct, the gentleman from Colorado (Mr. HEFLEY). He and the gentleman from West Virginia (Mr. MOLLOHAN) have a bill, and that bipartisan resolution has now 207 cosponsors, and that would simply return the ethics rules to where they were, adopted bipartisanly, proposed bipartisanly by the Livingston-Cardin Committee, and it would return to a place where we believe the Committee on Standards of Official Conduct would not be at impasse.

We are also concerned about, as the gentleman knows, the chairman's proposition that we have a partisan division now of the ethics staff, which heretofore has been a bipartisan, I might even say nonpartisan, staff.

I would respectfully inquire, given that background, which the gentleman knows, of course, if and when we might see House Joint Resolution 131 on the floor. As I say, it has 207 cosponsors. It reflects the bipartisan agreement of the Livingston-Cardin committee and the bipartisan vote of this House some years ago in adopting the Livingston-Cardin option.

In the alternative, of course, when we might find an opportunity to support a bipartisan commission that could again look at this and try to get us off the dime.

I know I have mentioned a number of points, Mr. Leader, but I know that the gentleman believes it is important personally and institutionally. I have worked with the gentleman institutionally. We want to see this institution not mired in ethical questions of our side or of the gentleman's side. I think that either direction might get us there.

Mr. Speaker, I ask the Leader respectfully if he thinks that we might proceed in either direction, or perhaps both, and I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding.

This is a very, very important issue that upholds the integrity of the House, that has to do with the image of the House in making sure that the House can enforce its own rules in a bipartisan way. I would just remind the gentleman, with all the work that the gentleman from Maryland (Mr. CARDIN) and Mr. Livingston did, which is excellent work, unfortunately, we cannot anticipate unintended consequences; and once we start implementing that wonderful work, we find out that there are some flaws that need to be corrected.

The Speaker of the House looked at the last few years and decided that the rules allowed the use of the Committee on Standards of Official Conduct for partisan purposes, and its ability to act in a bipartisan way was seriously hindered. Most importantly, there were some due-process issues to protect Members of their due-process rights.

I will give my colleagues one example. The committee, on its own, decided to change the way they operated from the past. In the past, when the committee wanted to warn a Member about certain actions that were not in violation of the rules, they used to send a private letter to that Member. This committee and the last committee had decided on their own that, without consulting with the affected Member, to send a public letter and release the underlying documents to support their position, without the opportunity for a Member to face the committee and discuss those letters of warning, the Speaker felt very strongly that that undermines the rights of every Member, both Democrat and Republican, to due process.

The Speaker, in his office, looked at the standing rules of the 108th Congress in this regard and felt that some minor changes needed to be made; one, to protect the committee from being politicized; and, two, to protect Members' rights of due process. That suggestion by the Speaker, as the gentleman knows, was brought to this House and debated extensively on this House floor, and those amendments to the rules were passed by the entire House, with some nay votes, I understand.

I think it is unfortunate that we have found ourselves in this position, particularly when the Speaker was trying to protect the rights of the Members and certainly, more importantly, protect the integrity of the institution that we have reached this point. I am advised through the Speaker that the chairman of the Committee on Standards of Official Conduct is working with his Ranking Member, and I would hope that they would come to some sort of agreement in how we get past this impasse. Otherwise, the rights of Members will not be protected, and I find that extremely unfortunate.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the Leader for his thoughtful response. We have a difference of view on the change that was made from the Livingston-Cardin and House-adopted ethics rules which provided for an investigation of any Member to go forward unless a majority of the committee disposed of it. That meant, as the gentleman knows, that it would have to be bipartisan, because the committee is equally divided, so we would have to have at least one other Member, assuming one party was united on either side, one other Member of the other party to join in the disposition of a case. And if that disposition did not occur, an investigation would go forward.

Unfortunately, it is our perception, I say to the gentleman, that what the Speaker, because the gentleman said the Speaker wanted to protect the Members, what the Speaker has done from our perspective and, we think, from the perspective of many is created a process where on the inaction of the committee, based upon a tie vote so that a partisan group can stop an investigation, that the investigation will thereby be dismissed. So it turned the process 180 degrees, from having a bipartisan vote to dismiss to now having a partisan vote or a bipartisan vote necessary to proceed.

We believe that undermines the protection of the institution. We believe that that was not necessary in order to protect individuals and Members, which we think is an appropriate due-process protection.

□ 1600

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. I certainly will, but let me make one additional point. Every previous change that I know of, and you and I have been here about the same time. I have been here perhaps a couple of years longer than you. Every change that I know of in the ethics rules have been affected by a bipartisan agreement until this one. There were only a few votes, I think we were almost unanimous on our side, which is not unusual, which is why the ethics rules has historically been separate and apart, perhaps in the rules package, but agreed to in a bipartisan fashion. And that is my concern.

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. And I will be glad to yield my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's concerns. The gentleman has raised two issues: one is process and one is substance. On the process side, the gentleman is correct. And the gentleman would have to ask the Speaker about the process of bringing the rules to the floor in a bipartisan way. And I do not want to second-guess the Speaker, and the gentleman may well have a good argument on process.

But in the substance, the gentleman is correct. And I hope all Members are watching this because they need to consider this very strongly, that the gentleman cannot have it both ways. The gentleman wants a bipartisan process. The Speaker was bringing a bipartisan process, which means that in order to proceed to an investigative subcommittee you would have to have a majority vote, which would be bipartisan, a bipartisan vote to proceed to the investigative committee.

What some partisans had found, that if there was no agreement and charges brought against a Member, the Member would be hung out to dry. There would be no action, or there could be automatic action without a majority vote of the committee. That is the problem. That is what allows people to use it for partisan politics is that if one side or the other decides to deadlock the ethics committee, then the Member that has been charged can be held out and held up for many days, if not months, before a resolution of that charge comes.

The Speaker came up with a way to make sure that the committee is bipartisan because it requires a bipartisan vote to move forward.

The gentleman is suggesting that he would like to change, for the House and the rights of the Members, something that is so different than the rules of procedures in courts of law. If a grand jury is deadlocked in an indictment, there is no process that goes forward. If there is a full jury in a trial that is deadlocked, there is no process that goes forward. It has to be clear, without a reasonable doubt, with no reasonable doubt that the offense is right and needs to proceed. And that is why the Speaker created a bipartisan process for that to proceed. And it can work for both sides politically. It can work for Democrats as well as Republicans. And that is why I say the Speaker was trying and worked very hard to protect the rights of the accused, and more important than that, the rights of each and every Member of this House.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank again the gentleman for his thoughtful remarks. We see it differently, Mr. Leader. What we have created is the ability of both sides to stop investigations in their tracks. Both sides. Our side, if we block up, and our five say you are not going to investigate STENY HOYER, they can do it. Formerly they could not do that. And I believe your analogy is not apt, and I want to tell you why I think so, Mr. Leader.

The investigation is the gathering of facts, not the charging, not the finding of involvement. We do not use the term "guilt," but the finding of involvement. It is an investigation to gather the facts from which the decision-makers, whether it be a grand jury or a petit jury, whether it be a judge or whether it be a prosecutor who determines whether to bring an indictment. Once those decision-makers have the facts, they can then make a rational decision, we hope.

What we have done, however, in changing the rules, which were adopted in a bipartisan fashion, is to allow either side to preclude the investigator from gathering the facts. That is as if we could preclude the police or the FBI or others from gathering facts that they would then, in turn, submit to a decision-maker, whether a grand jury to bring an indictment, a prosecutor to bring a charge, a petit jury to bring a conviction. I think that is inaccurate

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. I certainly will yield to the leader, but before I do, do you see my point, Mr. Leader? Either one of us could protect ourselves. Either one of us, your side could protect yourselves by your five holding firm. Our side could protect ourselves by holding firm. That may protect us individually, but our position is it does not protect the institution, and that is what our concern is. I yield to my friend.

Mr. DELAY. If the gentleman will yield, the gentleman has made my point. Under the old rules, both sides could protect themselves.

Mr. HOYER. No, sir. Reclaiming my time, Mr. Leader.

Mr. DELAY. If the gentleman is not going to let me respond and interrupt me, then this colloquy can end.

Mr. HOYER. I want to apologize to the gentleman.

Mr. DELAY. Thank you. I appreciate that.

Mr. HOYER. I will yield back to him.

Mr. DELAY. As I was saying before I was interrupted, and I appreciate the gentleman yielding, the point is that both sides, in the old rules, both sides could shut the process down. The difference is, and it is a huge difference, the Members would be hanging out there and with no resolution.

And the gentleman is incorrect and misrepresents the process. The process starts with the ranking member and the chairman looking at the facts as presented to them by the person charging the Member. And then they decide whether to submit a recommendation to the full committee to proceed further and what action should be taken. So the facts the gentleman is talking about start with the ranking member and the chairman. Then a recommendation is submitted, just like a DA would submit a recommendation to a grand jury. And this is the grand jury process, to the committee, and the committee makes a decision whether they go forward.

Now, what happens in practice is, if that Member that has been charged receives from the committee that they are moving towards an investigative subcommittee, that is a huge hit on that Member, whether he is guilty or not. The press run with it and all kinds of things happen, as the gentleman perfectly knows. So that step to go to an investigative subcommittee is a very, very important step. And that is why the Speaker thought it was really important that a bipartisan vote be made in order to get to that step. It starts with his own ranking member making a decision, in concert, one vote to one vote, with the chairman, whether to submit the recommendation to the committee to proceed. And that is where the gentleman's concerns can be taken care of as to whether it is going to be blocked one way or another.

Then once they have made that recommendation, if they make a strong recommendation to proceed to an investigative subcommittee, I guarantee you, because you have a Republican chairman and a Democrat ranking member, the committee is going to follow their recommendation more times than not, and you will have a bipartisan, and in many cases, a unanimous vote to proceed to the next step.

The problem is, and it is a real problem that was used, where you come to a deadlock, then there is no resolution for the Member that has been charged. And the Speaker felt very strongly that that undermines the rights of every Member of this House.

Mr. HOYER. Mr. Speaker, reclaiming my time.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I will be glad to yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, let me thank the distinguished whip for yielding. And I have listened to this colloquy. And let me try to add a little bit to it, if I might.

First, I appreciate the leader's acknowledgment on process because the process is very important. I think the debate that we are having on the floor should have been had prior to the rule being brought under a very partisan environment for passage on the first day of session. I think if we would have had a chance, Democrats and Republicans, to review the rules changes, some of the problems that are now being brought out by these rules changes would have been understood.

So let me get to the policy issue that the leader brings up. And that is, yes, the chairman and ranking member can proceed to bring a matter before the full committee. But they do not have the investigative power in order to understand what is involved in the particular matter.

I served on the Ethics Committee for over 6 years, during some very difficult times, including the bank issues, including a charge against the Speaker of the House. And I can tell you this, that if we would have had a 45-day deadline considering an investigation of this matter, there would have been no way that we could have gotten the necessary votes to proceed.

In my entire time on the Ethics Committee we never had a partisan division. We always were able to work out our issues. It was not easy. It took time. We had to sit down and listen to each other, get the facts.

In reality, when you look at the rules that we are bound by and the facts, generally you will reach consensus and agreement within the Ethics Committee, and that is exactly what happens. But if the clock is running and there are only 45 days, and after that time there is an automatic dismissal, and that is what is in these rules now, it encourages a partisan division. It works counterintuitive to trying to work out what a consensus would bring out which is in the best interest of the institution. And I regret we did not have the opportunity to debate that during the process of the adoption of the rules.

It is interesting to point out that the investigation and the charges that were held against Speaker Gingrich brought about a lot of controversy on this floor. And the majority leader and the minority leader at that time recognized that the only way that we could resolve rules changes was to set up a bipartisan task force, and that is when Mr. Livingston and myself were the cochairs. And we listened to the debate. And due process for the Member was a very important consideration. And we did change the rules in order to provide for that, but we did it in a bipartisan deliberation, and that was missing this time. And I regret that.

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. Mr. Speaker, I would reclaim my time and certainly yield to the leader.

Mr. DELAY. Mr. Speaker, I appreciate the comments by the gentleman who worked so hard on that bipartisan ethics reform taskforce that made recommendations to the House. And I appreciate that the gentleman is trying to protect those rules that he worked on.

But I remind the gentleman that when those rules were voted on, both gentlemen from Maryland voted against the rules they are trying to protect today. And then I might say your comments are well taken. The length of time is a problem. We have recognized that is a problem and I am told, I have not talked to the ethics chairman, but I am told through the Speaker that the ethics chairman has offered to negotiate the time problem with the ranking member. I do not know what the result of that has been, but I know that the Speaker has been informed by the chairman that he is more than willing to work on those issues, and I know the Speaker told me that he is open to fixing that time problem that the gentleman brings up and is concerned about.

Mr. CARDIN. Would the gentleman yield?

Mr. HOYER. Mr. Speaker, reclaiming my time, just for 1 minute.

Mr. CARDIN. Very briefly?

Mr. HOYER. Very briefly.

Mr. CARDIN. Let me just put out that when that issue was before the House, the former rules changes, we added a 180-day automatic dismissal that was rejected in a bipartisan vote by this body, just to point out to the distinguished leader.

Mr. DELAY. If the gentleman would yield, I appreciate that.

Mr. HOYER. I would be glad to yield to the leader.

Mr. DELAY. I yield back.

Mr. HOYER. Mr. Leader, we obviously have a disagreement in the perceptions as to what the rule does and does not do. I think both you and I are very concerned about the reputation and integrity of this House. I think you share that view and I share that view. It is my suggestion that resolving this in a way that is bipartisan will be productive for the House.

□ 1615

Mr. HEFLEY, the former chairman, I do not agree with Mr. HEFLEY on a lot of things, but I do agree with his perception of how we protect the integrity of the House. There may be people on my side of the aisle who agree with your perception and not mine. I understand that. The fact is, though, that it would be in the best interest of this House and this country for us to resolve these matters in a bipartisan way either through, as our leader has proposed, a commission to be a joint commission equally divided, as was the Livingston-Cardin commission, or, in the alternative, to consider H.R. 131.

The leader is absolutely right, and I made that aside, as you recall. We did vote against the rules package, but we had agreed to the components, and there was no controversy about the ethics component in the rules package. There were other things with which we disagreed, obviously, but that was an agreement, and it was reached in a bipartisan fashion.

This was not reached in a bipartisan fashion. And, yes, as both parties usually did, I can remember, it is getting more difficult to remember, but I can remember when we were in charge and your side used to vote unanimously against our rules package and we pretty much do the same because we have some disagreements. But there was agreement on the rules package as it related to the Committee on Standards of Official Conduct, and the reason for that is because both sides felt it to be very important.

Mr. DELAY. If the gentleman would yield.

I have to remind the gentleman, and I know going back to 1997 is very difficult, but this was not part of the rules package. This was voted on September 18, 1997, and it was on the recommendations for reforming the Committee on Standards of Official Conduct, and the gentleman that worked on the recommendation and the gentleman speaking voted against the recommendations, not on the House rules package.

My point, and I do not want to belabor that for the gentleman, I think it is very important that if the gentleman is protecting a package and a rules ethics reform that he voted against, I think that is one thing. But the other thing is we are working in a bipartisan way, I hope. The chairman and ranking member are dealing with this. A commission would just open up the whole recommendations that the gentleman from Maryland worked on and the gentleman from Louisiana worked on.

I do not think we need a complete overhaul of the ethics process, but there are certain problems that were found in practice that the Speaker felt needed to be done in order to protect the Members. And I have got to tell you, the Members on your side of the aisle as well as my side of the aisle better think about this very seriously because we do want to protect the integrity of the institution. But, as important as that is, we also want to protect the rights of the Members.

Mr. HOYER. Reclaiming my time, I think we both agree on that.

The gentleman from Maryland (Mr. CARDIN) wanted to say something, but I wanted to say you were right on the process. I was incorrect on the process. It was a separate vote on a separate package, and you are right that I and the gentleman from Maryland (Mr. CARDIN) and others voted against it. It was not on these provisions as you know because a change was made, not in a partisan sense, according to the gentleman from Maryland (Mr. CARDIN).

Mr. Speaker, I yield to the gentleman from Maryland (Mr. CARDIN) to explain his perception and recollection of the process.

Mr. CARDIN. Just to correct the record, and the leader is correct. We did vote against the package. The package was developed in a very bipartisan manner through the task force. There were some votes that took place on the floor of the House that were recommended against by the task force that changed some of the recommendations, and we had a motion to recommit to try to clarify that.

The gentleman is correct on the final vote, but the package itself was very much developed in a bipartisan manner through the task force in a way that it should have been done, contrary to the process that was used on this rules package.

Mr. HOYER. Reclaiming my time, Mr. Leader, I thank you for taking the time. I know you did not have to, and you have been considerate of this discussion because you and I know it is an important discussion. Because it is an important discussion, I would hope that we could move forward to try to get us off this impasse that we have for whatever reasons. And whatever is right or wrong, it needs to be resolved.

There are two suggestions here of how to resolve it. There may be other ways to resolve it. But I would hope that in the coming days we could move towards, in a bipartisan fashion, move towards resolving this issue.

ADJOURNMENT TO MONDAY, APRIL 18, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. PUTNAM). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 19, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 18, 2005, that it adjourn to meet at 12:30 p.m. on Tuesday, April 19, 2005 for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF MEMBER TO BOARD OF VISITORS TO THE UNITED STATES COAST GUARD ACADEMY

The SPEAKER pro tempore. Pursuant to 14 USC 194(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Coast Guard Academy:

Mr. SIMMONS of Connecticut.

APPOINTMENT OF MEMBER TO THE BOARD OF VISITORS TO THE UNITED STATES MERCHANT MARINE ACADEMY

The SPEAKER pro tempore. Pursuant to 46 USC 1295b(h), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Merchant Marine Academy:

Mr. KING of New York.

APPOINTMENT OF MEMBERS TO THE BOARD OF VISITORS TO THE UNITED STATES MILITARY ACADEMY

The SPEAKER pro tempore. Pursuant to 10 USC 4355(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Military Academy:

Mrs. KELLY of New York;

Mr. TAYLOR of North Carolina.

APPOINTMENT OF MEMBERS TO THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 USC 276h, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Mexico-United States Interparliamentary Group:

Mr. KOLBE of Arizona, Chairman;

Ms. HARRIS of Florida, Vice Chairman.

PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1134) to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SEC. 1. PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

"(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

"(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

"(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster mitigation payment' means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

"(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

"(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking "a qualified disaster relief payment" and inserting "qualified disaster relief payments and qualified disaster mitigation payments".

(B) Subsection (e) of section 139 of such Code is amended by striking "and (f)" and inserting ", (f), and (g)".

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.".

(c) EFFECTIVE DATE.—

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Florida?

Mr. CARDIN. Mr. Speaker, reserving the right to object, I do so not for the purposes of objecting but to give the gentleman from Florida (Mr. FOLEY) an opportunity to explain the legislation that is extremely important to people who have suffered disaster as a result of hurricanes in our country.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I appreciate the gentleman for yielding and certainly for his help in supporting this important measure.

Mr. Speaker, I am pleased to call up H.R. 1134, as amended by the other body, and with the bill's many supporters urge its adoption.

I remind my colleagues that the House passed this bill by voice vote 1 month ago. It was a bipartisan effort. We worked with the administration to develop a bill that makes disaster mitigation grants tax free. The bill also extended tax-free treatment to outstanding grants, as the administration's budget clearly provided for.

The amendment gilds the lily by making the relief in outstanding grants more explicit. During the past month, there has been some discussion in the other body of raising taxes and of adding unrelated tax breaks. I am pleased and thrilled that neither of those ideas was added to the bill and that this amendment is acceptable.

As I said when the bill was considered on this floor on March 14, H.R. 1134 will make disaster mitigation grants attractive to those we want to help avoid loss of life and property. These grants have saved Americans $2.9 billion in property losses during the past 15 years. Passing this bill today will clarify a difficult tax issue just in time, and I must underline just in time, for our April 15 filing and help those Americans who are even now struggling with their tax returns. And I hope all here will join me in passing the bill.

Of course, I thank the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), and the ranking member, the gentleman from New York (Mr. RANGEL), for their quick consideration of this important bill and, of course, the gentleman from Maryland (Mr. CARDIN), a member of the committee, for his excellent work on this as well.

Mr. COLE of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. Further reserving the right to object, I yield to the gentleman from Oklahoma.

Mr. COLE of Oklahoma. Mr. Speaker, I thank the gentleman for yielding. It is very gracious of him.

Mr. Speaker, I come from a part of the country, Oklahoma, where disasters are not uncommon. Sometimes they are the awful man-made disasters of the Oklahoma City Bombing, something we will talk about next week, but more frequently they are the disasters associated with tornados.

In my home community in 1999 we had an F-5 tornado that destroyed in my community and the adjacent community 6,000 homes and killed 40 people. Four years later, another tornado, traveling almost in the identical path, destroyed another 500 homes and injured many people.

Each time we got superb help from the Federal Government and from FEMA, both in the immediate disaster and in the aftermath, to mitigate the consequences of future events of this type; and we were very, very grateful for that help as Americans.

It came then as an enormous surprise to the constituents that I represent years later that this help turned into potentially a taxable event. That is, there was talk at the Internal Revenue Service of going back, taking the grant and actually levying a tax on them years after they have been given.

I want to commend the gentleman from Florida (Mr. FOLEY), who has had similar circumstances dealing with hurricanes in his home State, for working with our delegation in Oklahoma on a bipartisan basis, the gentleman from Oklahoma (Mr. ISTOOK), the gentleman from Oklahoma (Mr. LUCAS), the gentleman from Oklahoma (Mr. SULLIVAN), the gentleman from Oklahoma (Mr. BOREN) and myself and for working across the aisle with our good friends who have this problem in common.

On this floor we sometimes do have partisan disagreements, but when the good of the country is at stake, it is amazing how often we do come together. And certainly we come together regardless of party to help people that have been hurt through no fault of their own in the course of disaster and to help them prepare so that those disasters never threaten their well-being again.

So I want to thank again my friend, the gentleman from Florida (Mr. FOLEY), for his outstanding work. I commend our colleagues in the Senate for working with him in getting this bill done just in time. Literally, I had a couple of town meetings last week when we were on break where I had constituents come and ask who had benefited from these mitigation grants, would the taxation problem be taken care of? And at that time I could not actually assure that it would be.

A number of them filed extensions rather than turn their taxes in. They were not sure what their liability was going to be. If it were not for the action of the gentleman from Florida (Mr. FOLEY), if it were not for the action of the people on both sides of the aisle, if it were not for the action of the other body, they would potentially be facing a tax bill that they never anticipated.

Again, I want to thank the gentleman from Florida (Mr. FOLEY) for his extraordinary work in this regard. I want to tell him if he wants to run for office next time, come to Oklahoma. We remember our friends. And we appreciate very much his remarkable efforts.

I thank so much my good friend, the gentleman from Maryland (Mr. CARDIN).

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I certainly appreciate that invitation, but I am quite proud of serving Florida.

I think it is important to thank the gentleman from Louisiana (Mr. JINDAL) has been a prime sponsor, as have been Democrats and Republicans. That is one of the joys of the process when we actually get something done with bipartisan support.

I want to thank the staff on the Committee on Ways and Means but specifically Elizabeth Nicholson from my staff, my deputy chief of staff who has labored very long, hard hours on trying to get this to fruition. We are here on the floor and I am very excited and pleased that we will be able to provide this relief for our taxpayers. And, of course, the gentleman from Oklahoma (Mr. COLE) clearly stated without their help and the entire delegation that this effort would have been for naught.

□ 1630

So we appreciate all involvement and all support.

Mr. CARDIN. Mr. Speaker, further reserving the right to object, I want to just conclude by acknowledging the work of the gentleman from Florida (Mr. FOLEY). He really does deserve the credit for being persistent to get this legislation passed prior to April 15.

I also want to thank the gentleman from California (Mr. THOMAS), our chairman, and the gentleman from New York (Mr. RANGEL), our ranking member, for arranging this process.

It has been a pleasure to work with the gentleman. As the gentleman knows the problems we have had in Maryland with Hurricane Isabel and the hardship that that caused, I got to see firsthand the damage and devastation to families in my own State. This bill will help. It has been my pleasure to join my colleague from Florida in sponsoring and supporting this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FORTENBERRY). Is there objection to the original request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1134, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRESS AND THE JUDICIARY: RESTORING COMITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, 174 years ago, Supreme Court Justice John Marshall warned: "The greatest scourge in angry heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent judiciary."

Despite Marshall's warning, quite remarkably, nearly 200 years later the very independence of the judiciary, a matter so fundamental to our separation of powers, is still a matter of contention for some, particularly in this Congress.

For 2 years in a row now, Chief Justice Rehnquist has used his year-end report to highlight the deteriorating relationship between the judicial branch and the legislative branch, the result of a recent systematic congressional attack on the independence of the judiciary. Since I arrived in Congress, I have been quite surprised by the dreadful state of relations between our branches and the absence of the comity that historically existed between the two.

The Federal caseload continues to rise at a record pace, reaching new levels. Courthouse funding is woefully inadequate, failing to meet the needs of our Federal courts in order to carry out their mission and to make necessary improvements in priority areas such as court security. Judicial confirmations continue to be mired in political brinksmanship. Judicial compensation has not kept pace with inflation and congressional inaction on an annual basis has led to delays in important adjustments, despite the President's admonition for Congress to act.

The House Committee on the Judiciary, on which I sit, has initiated investigations of judges charged with judicial misconduct, matters that were previously left to circuit judicial councils, and the word "impeachment" has been used quite loosely and frequently as a threat.

A few weeks ago, these threats reached a fever pitch with talk, from the highest leadership levels of this body, of intentions to "look at an unaccountable, arrogant, out-of-control judiciary that thumbed their nose at Congress and the President" and a warning that "the time will come for the men responsible for this to answer for their behavior, but not today."

The Congress has also renewed its appetite for legislation that would strip the Federal courts of jurisdiction on a piecemeal basis from areas in which some are not pleased with the results that have been reached from the courts, or in areas where some are worried about potential outcomes down the road.

We have considered one bill which would remove Federal court jurisdiction over issues concerning the free exercise or the establishment of religion or over marriage. Should any Federal judge take up any issue involving that, the free exercise or the establishment of religion, he is subject to impeachment under the bill.

We had another proposal to remove jurisdiction of the courts over the Ten Commandments, another over the Pledge of Allegiance, and yet another to remove jurisdiction over any issue affecting the acknowledgement of God as the sovereign source of law. Again, the penalty for a judge who inquires or exercises jurisdiction is impeachment, removal from office.

Perhaps we should simply remove the jurisdiction of the Federal courts over the entire first amendment and be done with it.

After moving to strip jurisdiction, we recently moved to provide jurisdiction, where the Federal courts should not have it, in the Schiavo matter; and the only common denominator seems to be the desire to obtain the preferred result from the bench, regardless of the constitutionally enshrined principles of the separation of powers and of federalism itself.

Congress has not stopped here, but has pursued proposals to split appellate court jurisdiction and even considered legislation that would decide for the judiciary what they may look at or include in their judicial opinions.

Does anyone in Congress believe that we can undermine the courts without belittling the Congress itself?

Some Supreme Court rulings, such as the decision with regard to the sentencing guidelines, remind us that sometimes there will be judicial decisions that we believe are poorly reasoned and others we just do not like. However, efforts by the Congress to force the courts to look at our transient wishes, rather than the Constitution, would only serve to undermine the very institution in which we serve.

As a Member of Congress with a strong interest in improving the relationship between the legislative and judicial branches, I have formed, with the gentlewoman from Illinois (Mrs. BIGGERT), a bipartisan congressional caucus dedicated to this goal. Our caucus consists of some 30 Members from both sides of the aisle, and I encourage my colleagues who share our goal to join our efforts to restore the historic comity between our two branches.

One hundred and seventy-four years ago, Mr. Speaker, Chief Justice Marshall warned of the great scourge of a dependent judiciary to be inflicted upon an ungrateful and sinning people. Let us not forget his wise admonition.

IN SUPPORT OF LIEUTENANT PANTANO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I have spoken several times about Second Lieutenant Ilario Pantano, a Marine who served our Nation bravely in both Gulf Wars and who now stands accused of murder for defending himself and this country.

During his service in Iraq last year, Lieutenant Pantano was faced with a very difficult situation that caused him to make a split-second decision to defend his life. He felt threatened by the actions of two insurgents under his watch; and in an act of self-defense, he had to resort to force; 2½ months later, a sergeant under his command, who never saw the shooting, accused him of murder. Lieutenant Pantano now faces two counts of murder.

Mr. Speaker, what is happening to this young man is an injustice. Lieutenant Pantano has served this Nation with great honor. My personal experiences with him and his family convince me that he is a dedicated family man and a man who loves his corps and his country.

But I am not the only one who believes he is innocent. Yesterday, I read excerpts of pieces from the Washington Times and respected journalist Mona Charen defending Lieutenant Pantano.

I have received letters and e-mails from Vietnam veterans who sympathize with him and ask that I do something to help him. They know what it is like to be in battle with an unconventional enemy. One second can make the difference between life and death.

I have read excerpts from his combat fitness report in which his superiors praised his leadership and talent, even recommended him for promotion.

Mr. Speaker, Lieutenant Pantano was, by all accounts, an exceptional Marine.

Yesterday, Lieutenant Pantano and his attorneys waived his right to have an article 32 hearing and had decided that they want to go straight to trial. They are so convinced that he will be proven innocent that they want to speed the process along.

In a letter yesterday, Lieutenant Pantano's mother wrote: "My son, our family, and millions of concerned citizens, Marines and soldiers were assured that the article 32 pretrial hearing would bring everything out in the wash, and we have been patient with a process that has been grueling for my son's family. The problem is that if the government is the machine and my son is the laundry, they are not adding any water."

Thus far, the prosecution has not presented the witnesses and the evidence that they claim to have, and Lieutenant Pantano had no reason to believe that they would do so at the hearing. No such evidence appears to exist.

Mr. Speaker, I have put in a resolution, House Resolution 167, to support Lieutenant Pantano as he faces trial. I hope that my colleagues in the House will take some time to read my resolution, look into this situation for themselves. Lieutenant Pantano's mother also has a Web site that I encourage people to visit. The address is www.defendthedefenders.org.

Mr. Speaker, as I close, I ask the good Lord in heaven to please bless our men and women in uniform whether in Iraq or Afghanistan, to bless them and their families across this country, and also I ask the good Lord to please be with the family of Lieutenant Pantano and that I believe he will be exonerated, and he is a great man, a great Marine; and God bless America.

EXCHANGE OF SPECIAL ORDER TIME

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to address the House and take the time of the gentleman from Ohio (Mr. BROWN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

BANKRUPTCY REFORM LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, the word "bankrupt" as we know it today comes from the 16th century Italian banca rotta, which literally means broken bench. It refers to a legend that said when a money trader became insolvent, the bench or table which he used in the market was literally broken. The Latin root of the word includes "corrupt" in the meaning.

The bankruptcy bill that the Republicans forced on the American people in this House today is as broken a bench and as corrupt a piece of legislation as I have seen in this House.

Republicans are providing nothing less than money tribute of, by and for credit card companies; and just like the tribute demanded by the corrupt leaders in ancient times, this money will be extracted from the American people, even if it means children will go hungry.

Do not let the Republicans mislead my colleagues for one money-grubbing, greed-pandering minute. The Republican bill threatens single mothers and children who rely on child support from a spouse who files for bankruptcy.

Credit card companies demanded, and the Republicans caved in, on a provision that says credit card debt will survive bankruptcy and compete on an even basis with kids and moms for the limited dollars left in bankruptcy. One of the Republican Members said, well, we have to do that. What if all the money went to the mothers and kids? Well, now, what kind of family values are those? They ought to go to the children and the mothers.

The Republicans shout family values, but they just sold the women and the children down the river. Single mothers and children will have to fight the credit card companies in court for whatever meager assets remain after bankruptcy. It will not be any just division. They will have to go in and arm wrestle with the credit card companies to make sure that they get food and shelter for their kids.

One credit card company television commercial says, "Don't leave home without it." Maybe they can make a new commercial that says: You might not have home, or food, with it.

Protecting children is more important than satisfying the insatiable greed of credit card companies. Any person who supports this bill opposes our responsibility as a Congress and as a Nation to protect our most vulnerable population, the children.

The line must be drawn. The vote should have been the other way in this House, but the American people must know who is willing to feed corporate greed ahead of feeding vulnerable kids.

My distinguished colleague, the gentlewoman from New York (Mrs. MALONEY), had proposed an amendment which would ensure that the debtors make child support payments ahead of credit card payments. The Republicans would not even allow it to be heard in this House. They had their marching orders, and these orders come directly from the credit card companies.

Banca rotta, the bench is corrupt, the bench is broken.

We are a Nation of laws, but we are also a Nation that legislates on a foundation of religious and spiritual values.

□ 1645

Nothing in Christianity or Judaism or Islam supports the concept of usury against the defenseless, but that is exactly what this corrupt, broken bench does: It pits women and children against credit card companies. Corporate lawyers will get their money regardless of whether women and children get their dinner. Shame on the credit card companies for demanding this, and shame on the Republican majority for caving in. Republicans are enslaving the American people to credit card companies.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FORTENBERRY). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

ORDER OF BUSINESS

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

AMERICA NEEDS COMPREHENSIVE ENERGY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of Georgia. Mr. Speaker, tomorrow is April 15, an important day. It is tax day. Today, millions of Americans are in the process of filing their taxes. When all is said and done, many will get a refund from Uncle Sam. Hopefully, these refunds will not be needed to pay to fill up their gas tank.

At every town hall meeting I have held, the price of gasoline has been a significant issue. Last weekend when I was at home in my district, I saw gas costing $2.15 and $2.24 and even higher per gallon. The prices do not seem to be coming down any time soon.

If we had a comprehensive energy plan in place, we might not have seen these massive price increases. The time to act is now.

What are the facts? Well, since 2001, the average price of gasoline increased 86 percent, from $1.23 to $2.29 a gallon. U.S. imports of oil over that period of time have increased by more than 10 percent, and the price of a barrel of oil has more than doubled from just over $23 to over $50 a barrel today.

Many remember the early 1970s when we sat in lines to get our gasoline, and those lines often stretched for blocks and blocks. That gave us a lot of time to think, and most of us vowed that our Nation should never be dependent on foreign oil again.

Today, however, the sad truth is we are actually more dependent on foreign oil than we were then. So, as tax day arrives, let us be certain that we adopt an energy policy so comprehensive that future tax refunds will do more than just get spent on a tank of gas.

HONORING JOSIE GRAY BAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I rise to honor the life of Josie Gray Bain, a brilliant woman who was a dedicated wife, mother, and pioneer educator, who I had the distinct honor to work with closely when I served on the Los Angeles School Board.

Josie Gray Bain was born in Atlanta, Georgia, where she attended elementary and high school. Shortly after graduation from high school, she met and married Reverend John C. Bain of Los Angeles. In the fall of 1930, Josie Bain relocated to Spring Hill, Tennessee, where she and her husband began their first ministerial appointment. Their son, John David, was born soon thereafter. Both Josie and her husband enrolled at Drake University, where Josie received her B.S. degree with honors and continued to do graduate work there.

In 1942, Josie Bain moved with her husband to Los Angeles, California. She completed her graduate studies at California State College in Los Angeles, Immaculate Heart College, and the University of Southern California.

In 1948, she began her career in education with the Los Angeles Unified School District as an elementary schoolteacher at Marianna Avenue Elementary School. After teaching several years, she was promoted to positions of ever-increasing responsibility. Josie ended her brilliant career as Associate Superintendent of Instruction, the first African American in the history of the Los Angeles Unified School District to be appointed to the position.

Josie Bain was an active member of several professional and civic organizations, including Delta Kappa Gamma, Education Sorority; Delta Sigma Theta, Education Sorority; National Council of Negro Women; the Urban League; United Methodist Women; and the National Association for the Advancement of Colored People. She founded and served as president of the Interchange For Community Action, which provided scholarships for many disadvantaged minorities for more than two decades.

Josie Bain devoted her life to her family, God, community, and her church. She lived her life with style, grace, integrity, and vitality. Her dedication to helping children was recognized by all those whom she touched, and her accomplishments were evidenced by numerous awards and honors bestowed upon her throughout her life.

REAUTHORIZE AMTRAK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, today we introduced a bipartisan Amtrak reauthorization bill that will truly serve America's traveling public. I want to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Ohio (Mr. LATOURETTE), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for joining me in this effort. This is truly a bipartisan effort and shows the strong support Amtrak has within the Committee on Transportation and Infrastructure and the Congress.

The current funding issues concerning Amtrak brings up a fundamental question of where this Nation stands on public transportation. We have an opportunity to improve a system that serves our need for passenger rail service, or we can just let it fall apart and leave this country's travelers and businesses with absolutely no alternative form of public transportation.

Without the funding Amtrak needs to keep operational, we will soon see people that rely on Amtrak to get to work each day waiting for a train that is not coming. We continue to subsidize highways and aviation, but when it comes to passenger rail service we refuse to provide the money Amtrak needs to survive.

This issue is bigger than just transportation. This is about safety and national security. Not only should we be giving Amtrak the money it needs to continue to provide service, we should be providing security money to upgrade their tracks and improve safety and security measures in the entire rail system.

Once again, we see the Bush administration paying for its failed policy by cutting funds to public service and jeopardizing more American jobs. This administration sees nothing wrong with taking money from the hard-working Amtrak employees who work day and night to provide top-quality service to their passengers. These folks are trying to make a living for their families, and they do not deserve such shabby treatment from this administration.

We spend $1 billion a week in Iraq, $4 billion a month, but this administration zeros out funding for Amtrak. Just one week's investment in Iraq would significantly improve passenger rail for the entire country for an entire year.

I just want someone to explain to the American public why investing in transportation in Iraq is so much more important than investing in passenger rail service right here in the U.S.

Mr. Speaker, it is time for this administration to step up to the plate and make a decision about Amtrak based on what is in the best interest for the traveling public, not what is best for the right ring or the Republican Party or the European counters over at OMB.

Today in America, we have 50 million people without health care. We have the highest trade deficit in the history of this country. We have a $477 billion Federal deficit. We have a $375 billion shortfall in transportation funding, and we still do not know what happened to the weapons of mass destruction or who at the White House outed one of the CIA agents. Yet this President's top priority is bankrupting Amtrak. I do not understand that.

I represent central Florida, which depends on tourists for its economic development; and we need people to be able to get to our State to enjoy it. Ever since September 11, more and more people are turning from the airlines to Amtrak, and they deserve safe and dependable services.

This is just one example of Amtrak's impact on my State. Amtrak runs four long-distance trains from Florida, employs 990 residents with wages totaling over $43 million, and purchased over $13 million in goods and services last year alone, and they are doing the same thing in every State they run in.

Some people think the solution to the problem is to privatize the system. If we privatize, we will see the same thing we saw when we deregulated the airline industry.

Shortly after 9/11, I was in New York when the plane leaving JFK Airport crashed immediately after takeoff. I, along with many of my colleagues in both the House and Senate, took Amtrak back to Washington. I realized once again just how important Amtrak is to the American people and how important it is for this Nation to have more than one form of transportation.

I encourage everyone that uses Amtrak to get to work or to travel to call their Congressman or Senator and let them know how important Amtrak is to them. This is not about fiscal policy. This is about providing a safe and reliable public transportation system that the citizens of this Nation need and deserve.

ENERGY POLICY DESPERATELY NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I heard a colleague just a few moments ago refer to tomorrow being the day that is known as the filing day for our taxes. Some might call it a rainy day in April. The gentleman is so right. It is the day that so many Americans are filing their returns and are hoping to pay for the governance of this Nation. Many Americans in this time frame are facing some very difficult times.

Mr. Speaker, I would like to put before this body a challenge that I think is enormously important. What do you say to Americans who are filing their tax forms and who are facing $2 plus and growing price per gallon on gas? This is an indistinguishable amount, meaning you can be a multi-billionaire or a person who is simply trying to make ends meet, keeping the doors open, paying the rent, providing for four or five members of their family, working in a blue collar or hourly job, and in order to get to a job across town, across county, or into the next State, we are asking Americans to pay $2 plus per gallon for gas.

Internationally, gasoline is quite high. The United States has always had the opportunity to experience a better quality of life. This is a hardship on Americans. And as the committee of jurisdiction has marked up energy legislation, I frankly believe it is not soon enough and it will not move soon enough. I think it is important for the President of the United States to announce an energy relief policy that deals specifically with the high price of gas for those who are now suffering under that burden.

I do not want to leave industry out. As I have traveled through the airports, I am delighted to see that the numbers have gone up after 9/11. But, frankly, representing Houston's Intercontinental Airport and the fourth largest city in the Nation, realizing the traveling public has many needs to travel by airplane, the cost of jet fuel is killing our airline industry. In fact, my hometown airline, their employees have taken an actual cut in salary so the airline can survive. But as they have done that, the jet fuel prices continue to go up and up and up.

□ 1700

Any legislation that we pass next week or the following week will not address that crisis, so I call upon the administration to acknowledge this as an economic crisis and establish some immediate relief, whether or not it is going into those petroleum reserves on a temporary basis, a 60-day basis, to bring some relief because there is going to be a point when those airlines that equate to a sizable proportion of our GNP are going to collapse under the burden of jet fuel cost; and there will be a time when whole communities, urban areas and rural areas, will have a population of employees who on an hourly basis are working and cannot afford to get to work.

That is why, Mr. Speaker, I rise today to talk about and to add to the discussion what I think was an unfortunate legislative initiative that was passed today. We all would hope to run away from bankruptcy. That is not the direction that the American people desire to go. I find the American people innovative, hardworking, desirous of a better quality of life, desirous of giving their children a better quality of life.

And so I am offended by a bankruptcy bill that suggests that we represent a bunch of ne'er-do-wells and those who are running away from their legitimate debts. That is what we did today. Frankly, we passed a bankruptcy bill, Mr. Speaker, that puts in place a provision that clearly is not needed. We have a bankruptcy code and a series of bankruptcy judges and each and every day they make a decision when a frivolous litigant comes through the door and looks in all the raging color, this is certainly a person who is just simply trying to avoid paying their debts, has the resources, and that person, if you will, is dismissed or their case is not allowed to proceed in the bankruptcy court.

Now, in the backdrop of a number of corporate filings of bankruptcy, my own constituent, Enron, that filed bankruptcy and put 4,000 people out of work, some of whom lost their lives because of the tragedy, when we allow all of these major corporations to file bankruptcy, now we are going to stand in the door of the courthouse and tell hardworking Americans and middle-class Americans, if you don't pass a litmus test, you get back out there and fall under the crunch and the concrete of your debts. If you have a medical emergency, if there is death in the family, if you have lost your job or if you happen to be active duty Reservists whose families have lost the income of that breadwinner, who now are in Iraq and Afghanistan not for 6 months but for 1 year or 2 years and some who are forced to re-enlist again because of the shortage of personnel, these individuals now will have to pass a means test in order to be able to file bankruptcy because they are burdened by the responsibilities that they cannot pay.

Mr. Speaker, we voted on a bankruptcy bill, and we defeated the motion to recommit that would help these Reservists. It is a shame on us and a shame on this House. Mr. President, I beg of you not to sign this bankruptcy bill until we take care of the active duty Reservists and National Guard. That is the least we can do for those who are offering their lives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PRICE of Georgia). The Chair reminds Members to address their remarks to the Chair.

APPOINTMENT OF HON. TOM PRICE OF GEORGIA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH APRIL 19, 2005

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 14, 2005.

I hereby appoint the Honorable TOM PRICE to act as Speaker pro tempore to sign enrolled bills and joint resolutions through April 19, 2005.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, it is once again a pleasure to address the

House of Representatives and also to talk about a very important issue to all Americans, which is Social Security. I would also like to thank the Democratic leader for allowing the 30-something Working Group to come to the floor once again to talk about issues that are facing not only young Americans but Americans in general.

Through her leadership and through others that are in the Democratic Caucus, the Democratic whip, the gentleman from Maryland (Mr. HOYER); the chairman, the gentleman from New Jersey (Mr. MENENDEZ); and also the vice chairman, the gentleman from South Carolina (Mr. CLYBURN), we have been able to come to the floor to share facts, not fiction, to bring accuracy to the Social Security debate as it stands now.

First of all, Mr. Speaker, I would like to just share a few things as relates to Social Security. We encourage the Members to continue to keep an open mind. First of all, I want to commend Members on the Democratic side of the aisle for having so many town hall meetings, a number of town hall meetings, hundreds of town hall meetings in their own districts and that have traveled outside of their districts to share with Americans the truth about Social Security and how we protect Social Security and how we continue to have the benefit structure that so many, 48 million Americans, are celebrating now today.

I must also add that I would like to commend some of my Republican colleagues that have the courage to stand up to the forces of leadership, to say that they are willing to make sure that their constituents are able to celebrate and to be able to survive in a program that they have been promised that will be there for them in their time of retirement.

I would also like to thank those Members on both sides of the aisle who see the benefit of protecting Social Security, not coming up with a privatization scheme, not because someone said it is a way that we can be innovative, not subscribing to saying that there is some sort of Federal emergency as it relates to the protection of Social Security, not the fact that the President is flying around the country some 60 days burning Federal jet fuel at taxpayers' expense, higher than at any other time in the history of this country since Presidents have been flying, to persuade Americans that there is some Federal emergency. We will try to address that a little later. We are going to celebrate not only within the moment but within the future.

I want to just share a few things, Mr. Speaker, as it relates to how many Americans that are not only beneficiaries of Social Security but also Americans who look forward to benefiting from Social Security.

Social Security is the foundation of all retirement for the American worker. Like I mentioned earlier, 48 million Americans celebrate and take part in the benefits that Social Security has to provide. Retirees receiving Social Security benefits are 33 million. That is a great number of Americans that have served our country well. Seniors who live within the poverty line, 48 percent of those individuals, of the 48 million, receive those benefits. The average monthly benefit is $955. That is making ends meet for so many Americans, some 48 million Americans.

The size of the average benefit, like I mentioned, is $955; but the real issue is the fact that the benefits will be there for almost 50 years. Some may say 48, some may say 49, but for almost 50 years, the present benefit structure as we see it now for Social Security recipients, including those individuals that are receiving survivor benefits that I must add, Mr. Speaker, those survivor benefits is the legacy of the commitment that their parents made that have passed on, that have gone on to glory. The only thing that they were able to leave for their child are survivor benefits. And the benefits will be here until 2052; 2052, Mr. Speaker. That is not tomorrow. That is not next week. That is not even 2 years. 2052.

And so many of the individuals that are running around here saying that we need to call the fire department because Social Security is on fire are not really telling the truth. One may say that the administration has a plan or the majority side leadership has a plan for Social Security. That is also not true. One may say that the President, like I said, the administration, has a plan. That is not true. Is there posturing on the majority side about the fact that they are going to come up with a plan? Yes, there is some conversation going on, but Washington is known for conversation. There is nothing wrong with conversation as long as it is bipartisan. And that is not happening. Leadership is about a bipartisan dialogue to improve Social Security. So if it is going to be addressed in this Congress, for us to move in a productive way, we are going to have to work together. And there is no leadership from the majority side for us to work together.

Some may say, well, where is the Democratic plan? Well, I think the Democratic plan is celebrated by 48 million Americans today, not fiction, not something that may happen in the future: and in the 1980s it was a Democratic Congress that came together with Speaker Tip O'Neill and Ronald Reagan and saved Social Security. A supermajority of Democrats voted for it, and even the creation of it.

So when one starts to argue about, well, where is the Democratic plan, the Democratic plan is in the wallets of 48 million Americans. And those Americans that are walking around working now with a Social Security card can say, wow, I am glad we have Social Security in the way we have it. And for those retirees that take their card out with those digits on them, they can thank the leadership of the Democratic Congress when it was created and also the Democratic Congress that saved Social Security to make sure that every American can have the maximum amount of benefits possible to them to help that 48 percent of the 48 million Americans that without Social Security would be living in poverty, to help 33 million of those retirees that are now, this is fact, not fiction, able to receive Social Security because, let us say, for instance, in that 33 million Americans, I am sure, Mr. Speaker, a number of their companies have gone back on their commitment on retirement. But Social Security is there for them. For those individuals that have passed on and gone on to glory, they were able to leave legacy benefits for their children.

Let us talk a little bit about the private accounts, because I think it is important that we talk about the privatization scheme that some people in this town have in store or would like to put forth to the American people. Before I get into that, I would also like to add, since we are talking about the positive points of Social Security, that Social Security is important to stabilize the American way of life. If we start having benefits cut back, especially in this era of no health care. I must add, one may want to talk about health care accounts or special savings accounts and all of those things that are talked about from time to time.

Forty-seven million Americans are working without health care. These are not individuals that are sitting at home cracking their toes, saying the job situation looks sad. These are individuals that go to work every day. So if we start getting along with our friends in Wall Street and saying we are going to have private accounts and we are going to shore up some more money for Wall Street, then that is a gamble that I am not willing to take.

On the majority side, they are talking about, we need to privatize these accounts. Let me tell you, it is going to make it harder for everyone to achieve financial security, and I do mean everyone. Not just Democrats, not just Republicans, not just independents, not just people of color, not just Asian Americans. Every American will suffer under it. The size of the benefit cuts proposed in the philosophy that the majority side has is 46 percent. The average reduction of benefits a retiree would see over their lifetime would be $152,000. The amount that Wall Street would profit from the private accounts would be $940 billion. That is the only real bright spot here for some. The issue as it relates to our risk as it relates to this risky plan for private accounts, $2 trillion. The amount of government tax on private accounts would be 80 percent.

If the Republican proposal to cut Social Security benefits were in place today, the average senior monthly benefit would be $516. This is very real, ladies and gentlemen. Remember, I said right now, as in the present, today. If we look at the clock right now, if we look at today's date right now, the average benefit is $955.

□ 1715

Under the proposed philosophy that the majority side has, it would be $516. That is not something to be proud of.

There are a lot of other things that were mentioned recently in the media, and we will talk a little bit about that. But as we start, as we continue to talk about the issue as it relates to the price tag of privatization, it is staggering. It is a lose-lose proposition, as presently presented, the philosophy that the President has. More than a 40 percent cut in benefits, adds nearly $5 trillion in additional debt over a 20-year period; 70 percent privatization tax, which on average takes back 70 cents on every dollar in private accounts. Some argue 80 percent. I mentioned this a minute a ago: $152,000 in benefit cuts for young people is based on the price index.

So I think it is important that we look at this, especially as Americans are forced to start thinking about this, something that is 50 years away of being a problem. And I must say, after 50 years, Mr. Speaker, 80 percent of the benefits that are now offered in Social Security will still be intact. In 2052, 2053, people will still be able to receive 80 percent of the benefits. So I am wondering, where is the fire?

I can tell the Members what is the fire right now, if we can use that as a metaphor, or the emergency. The emergency now is the fact that we have Americans working without health care. Emergency is the fact that we are not able to provide benefits to our veterans that are now paying more for health care that they were promised that would be free. Emergency is the fact that we have a Department of Homeland Security, that we are rated as an F as it relates to protecting our information technology. Those are true emergencies.

Emergency is the fact that we cannot protect our borders. Those are true emergencies. Emergency is the fact that we have local districts, local cities, counties and State governments that are suffering through the acts of this Congress in what we call devolution of taxation. We will cut taxes, but we are going to make them raise them on the local level. Those are emergencies. Those are right now pocketbook, wallet issues that are facing Americans right now.

I am glad the gentleman from Ohio (Mr. RYAN) joined me. I am starting to think that some people in this town may want us to say that something is an emergency, and it is actually not, while we are not looking at the ever-growing federal debt, the highest in the history of the republic; the fact that we are not looking at the fact that Americans do not have health care; the fact that we really do not have anything going on as it relates to making the dollar stronger; the fact that we do not want to address gas prices. Maybe this is the reason why we are spending all of this Federal jet fuel that the President is using flying around the country to try to persuade people to believe in a philosophy of privatization of Social Security when he himself has said privatization of Social Security alone will not save Social Security.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio, my good friend.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding to me.

I think he makes a great point, and I think the phrase that he has used in the past that is applicable to the Social Security debate is the "Potomac two-step." They want us looking at Social Security over here and having this debate and flying around the country and talking about what needs fixing and a crisis that really does not exist, and we have numbers that say it does not exist, but we still want to have this debate over here.

Meanwhile, on this end, we are cutting Medicaid. Health care costs have gone up 50 percent over the last 5 years; education costs of college tuition up 36 percent. No one wants to talk about these issues. No one wants to talk about the fact that Youngstown city schools, the district that I represent, 85 percent of the kids who go to that school qualify for free and reduced lunch.

We do not want to have that debate. We want to have a manufactured debate. And I think the gentleman is exactly right. That is exactly what is happening here, and I think it becomes more and more important on us to fight this on a couple of different fronts. One is to make the argument that Social Security is solid up until 2041 and that we need to make some corrections maybe on a bipartisan way but make sure that the benefits are guaranteed, make sure that no American is going to get a reduction in their benefits, especially the 50 percent of the people who qualify for Social Security, in which Social Security lifts them out of poverty. So I think it is very important for us to broaden this debate over here and not just talk about Social Security but to talk about all these other issues.

One of the issues that I have been working on with Members of the other side, trying to somehow get the attention of the administration, is the issue of China, manipulating their currency up to 40 percent. We had a hearing today in the Committee on Armed Services.

Mr. MEEK of Florida. A joint hearing, I must add, Mr. Speaker.

Mr. RYAN of Ohio. A joint hearing with the Committee on International Relations and the Committee on Armed Services. I appreciate the gentleman's correcting me.

Mr. MEEK of Florida. I just want to make sure that we are factual, sir.

Mr. RYAN of Ohio. Constructive criticism. I appreciate that.

We had a discussion about the Europeans wanting to lift the arms embargo on China, which has been the Europeans cannot sell all these different types of military arms to the Chinese. The ban has been on since Tiananmen Square in 1989. Now the Europeans are saying we want to sell to the Chinese. So here we have this huge country that is growing at a rapid rate, and now we have even some of our allies wanting to sell arms to a rapidly growing Chinese government.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I think it is important that we realize the urgency of so many issues that are before us. And the issue as it relates to Social Security, as the majority side or as the administration would like for us Americans to see it, is that it is not rocket science. It is not a Federal emergency. Forty-eight million Americans celebrate Social Security right now. Thirty-three million of those Americans would be living in poverty if it was not for it. We have a number of young people that are going to school solely on survivor benefits because their family members have moved on.

And I can tell the Members what is even further appalling is the President saying to the African American that I am pushing private accounts because African American males do not live as long as Anglos.

Mr. RYAN of Ohio. Unbelievable.

Mr. MEEK of Florida. In my opinion, Mr. Speaker, that is very wrong. But it goes to show us the desperation that some majority leaders on the majority side have to try to do this because they can.

But I can tell the gentleman the reason why we do not have a bill on this floor yet is not because we have staff or Members here that are lazy and do not want to write a bill. The reason why it is not here is that Americans are not with the administration and some Members of the majority side on messing with Social Security, especially as it comes down to private accounts on a risky scheme, because if not the number one, it is one of the main reasons why so many Americans appreciate this Federal Government, that we will keep our word, that we will stand by what we said we will do.

So when we start looking at these issues, the American people are not necessarily with the administration and some Members on the majority side as it relates to trying to change Social Security on a scheme of private accounts. That is why there is not a bill here. That is the reason why we hear some posturing here and there and an article saying we are going to start marking some up pretty soon.

I am going to tell the gentleman right now that discussion has been going on since 1978, and the reason why that discussion has been going on as it relates to private accounts since 1978 is the fact that the American people are not marching up and down the street saying, "We want a reduction in our benefits; we want to gamble on our retirement." They are not saying that. What they are saying is that "I have a Social Security card and guess what. When I reach the age I should be able to receive Social Security, I look forward to it. I want you to stand next to your word."

So earlier I commended not only all of my Democratic colleagues but even some of the Members on the majority side that have the courage to stand up and say, I am here on behalf of my constituents, I am not here on behalf of myself, on being accepted by those who are trying to persuade them to do otherwise.

So when we start looking at it in a nutshell, Mr. Speaker, I am starting to believe more and more it is one of these things, look over here and think Social Security is Social Security. Meanwhile, we have the highest deficit in the history of the Republic. In Florida, that is a real issue; and I guarantee the reason why there are a number of Members of the Florida delegation that are not necessarily with the administration and the majority side and even some of those Members on the majority side are not with the majority side on the issue of privatization of Social Security, because eventually many of the gentleman from Ohio's constituents will be my constituents in the end in Florida.

Mr. RYAN of Ohio. If the gentleman would further yield, Mr. Speaker, the gentleman is absolutely right. Maybe one day I will even be his constituent, that one day I will move to Florida.

But I think the point that the gentleman from Florida brought up is the issue of the perennial budget deficits that we are having it seems every year in this Chamber, $400 to $500 billion a year, and I think when we talk in the 30-something group that we have established here, the reason we like to talk about and highlight the deficit is because long term that is going to have the most detrimental effect on members of the 30-something generation, 20-something, teenagers, born today.

We have huge numbers. Our debt is rising. Our deficit is going up and up and up every single year. And now to implement the Social Security plan, $5 trillion to implement the President's version of his privatization, $5 trillion over the next 20 years. We already have almost an $8 trillion national debt. Let me move this over.

Mr. MEEK of Florida. And those are as-of-today numbers.

Mr. RYAN of Ohio. These are today's numbers. And this clock is ticking by the second. But $7.7 trillion is the national debt today and ticking. Maybe we will be able to get the technology here where this will keep moving, $7.79 trillion national debt today.

And I think this is the most staggering number. Someone sitting at home watching this or sitting up in the gallery, their individual share of the national debt is $26,300. So if one is born today, welcome to being born in the United States of America, they have a $26,000 tag on their head.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I think it is important for the Members to understand and also for many Americans to understand that we did not just draw that number up in the back, that we were back there drinking a bottle of water, saying can we come up with a number that is a big number?

I know some of the Members are in their offices, and I think it is important that they know that national debt number as of today, and Americans and Members can go to the official Website of the U.S. Treasury. They have to go a couple of clicks, but I am going to share with the Members how they can get directly to that number and that ticker. Because if I am in the Treasury Department, I am going to have people go into two or three different clicks once they go to my home page and maybe, just maybe, they will get to the ticker because it is nothing that we can be proud of.

□ 1730

Also, as it relates, we need to talk a little bit about those countries that have bought our debt and we are beholding to foreign countries. The gentleman does that better than me. But the Web site is www.ustreas.gov. That is the Department of Treasury Web site. Www.ustreas.gov. Or you can go directly to when you go on the page, because we are trying to share with the Members and educate the Members and make sure the American people understand exactly what is happening here, because it is not a badge of honor to be a Member of the 109th Congress and for history to reflect that we made the decisions to have the highest deficit in the history of the Republic. That is just not something that one can be proud of. But you can go if you want directly to www.house.gov/budget_democrats. That is www.house.gov/budget_democrats.

It is important, because our Democratic budget committee has really worked hard in making sure that we can pull this information out, that not only it should be useful to the Members on both sides of the aisle, but also to the American people.

Mr. RYAN of Ohio. If the gentleman will yield, I appreciate the gentleman sharing that information.

The real question is, we have to agree on this, and it is not a Democrat or Republican thing. This baby that is born with a $26,000 debt on their head, we do not know if that baby is a Democrat or a Republican. We have an obligation here for the next generation. And for many, many, many years our colleagues were standing in the well on that side talking about a balanced budget amendment, talking about fiscal discipline, talking about tax and spend. Now we are borrowing and spending.

This is worse. It is bad to tax and spend, and I do not think any of us advocate that. But to borrow and spend, because you are borrowing, you are spending and then you are paying interest on the money that you borrow, primarily from the Japanese and the Chinese banks. That is reckless. It is bad foreign policy, it is bad domestic policy, it is not conducive to providing opportunity for the next generation, your kids and the young kids that are coming up.

When you talk about funding health care, Medicare, Medicaid, education, tuition costs, Pell grants, No Child Left Behind, how are we going to compete with 1.3 billion Chinese, how are we going to compete with over 1 billion Indians in the next couple of decades, when we have kids, students, that are unhealthy and not getting the proper education that they need, and at the same time we are leaving this kind of burden on their backs?

Now, I have to excuse myself. I have a meeting I have to be at 3 minutes ago. But I want the gentleman to carry on here because this is important. I think the best thing we can do in our 30-something Caucus and our 30-something Working Group that our leader, the gentlewoman from California (Ms. PELOSI), has helped us establish, is talk about this, because if there is one thing I hope that I can say in my tenure in Congress and the gentleman's is that somehow we were able to fix this and make the kind of investments that the young students need and that they deserve and that will lead to the kind of opportunity that the gentleman and I have had.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, before the gentleman leaves for his meeting, that I am pretty sure is very, very important, the gentleman is going to have to not only give the information on the Web site, because we want to hear from Members, we want to hear from Americans, to make sure that we get the information from them on how they feel, especially as it relates to Social Security, the Federal deficit and other issues, because it is important that we share this, not only with young people.

We have the 30-something Working Group. But in our age range, I say to the gentleman, there are a number of young parents that are out there, and so many times here in Washington, people say, well, we are doing this for the future generation.

Well, the future generation has $26,000 in debt right now and climbing. So I do not know. I do not feel good about my daughter and my son having to worry about college and all these other things, and then worry about the Federal debt at the same time.

Mr. RYAN of Ohio. If the gentleman will yield further, exactly. When you add on it the $26,000 that you are born with that is going to keep accumulating every day, especially when we are running $500 billion annual deficits, and you add on to that, just picture the baby born today, and this clock ticking, 18 to 22 years out, say 22 years out, that number keeps going up and up and up, and maybe next week we will have the math and figure out what it will be based on inflation. And then add on to that college costs rising at the rate they have been over the past 4 years.

I know in Ohio alone they have doubled, and I think average college students graduates with a $20,000-some debt, and that is not even if they go after a masters or Ph.D. or law degree. It is about $22,000 for the average college student's debt.

So you take the 26, you add on the 22, now you are talking close to $50,000; and then project that out 22 years. So your baby born today, if you want them to go to college or get a masters degree or law degree or Ph.D., you are talking at least $100,000, if not hundreds of thousands of dollars in debt. That is not providing opportunity. At the same time, they are competing with billions, over 1 billion Chinese workers and over 1 billion Indians. So this is becoming very dangerous for the long-term prospects of our country.

If you want to e-mail us, 30somethingdemocrats@mail.house.gov. 30somethingdemocrats@mail.house.gov.

I have enjoyed this. I look forward to us coming back next week. I hope this in some way has broadened the discussion and deepened the discussion on the issues facing the country.

I yield back to my very good friend from Florida.

Mr. MEEK of Florida. Mr. Speaker, I thank the gentleman. I want to thank the gentleman for co-chairing this 30-something Working Group that consists of 16 or 18 Members on the Democratic side of Members of the House. We, like I said earlier, try to come together and share this information, not only with Members of the Congress on what is important to the American people, but also what is important to young people that are trying to raise their families and have a good future for their children.

I think that it is important once again to know that on the Democratic side when we start talking about Social Security or we start talking about Social Security reform, I think it is important that the American people understand that we want to strengthen Social Security without slashing the benefits that Americans have earned. I think that is important.

I think that when you start talking about what Americans have earned, I believe that is paramount in this debate. And I think when they earn something, I think we need to make sure that we stand by our promise.

Now, when we have a forecast for the present benefit structure that will for almost 50 years be in place, and then beyond those 50 years 80 percent of those benefits will be provided, I think that is standing next to our promise.

I think there are some things that we need to do to make sure that the Social Security trust fund is solvent for years to come. One is to stop deficit spending in such a large amount of money every Congress; every budget that is passed, deficit spending. The whole philosophy of pay-as-you-go is no longer a philosophy as it relates to the majority. It is putting it on the credit cards. It is saying it is okay for foreign countries to buy our debt. It is saying that we will forestall it off to future generations.

I do not believe that that is something that we should subscribe to. I think we should work hard in bringing the debt down and paying back into the Social Security trust fund. That will have us continue to provide the kind of benefits that we look forward to, that many Americans look forward to.

When the President starts off in saying it is going to be $5 trillion to put forth his philosophy, I think that is problematic at the beginning, saying we are going to save you money, but we are going to borrow money to help you save money. It sounds like the Potomac Two-Step once again. And so it is important that we realize the gravity of this situation, knowing that there are issues that are greater than an emerging problem in 50-some-odd years.

So it is important that we do as we always do as Americans, come together to save great programs and to be able to help our elderly and frail, to be able to help those individuals that have worked all their lives, the 48 million Americans I speak of that are already receiving Social Security benefits and that are counting on them.

So, Mr. Speaker, I look on the bright end of things as I start heading towards a close here. The 48 million Americans that are celebrating Social Security right now, that are receiving on average $550 a month right now, which we know as of today if the majority side and the President's philosophy was in force, because there is no plan, that those benefits would be $516. That is easy math. That makes a world of difference to someone that is on a fixed income.

We know that 33 million of those 48 million are retirees. So when the 30-something Working Group starts to look at priorities, we want to watch out for our parents, we want to watch out for our future and for our children's future.

So when we were here in the state of the union and the President started talking about, well, people over 55 do not worry about it, my proposal will not affect your benefits, are we promoting two Americas, or are we promoting unity? I am glad my mom did not call me up and say, Kendrick, guess what? I am okay. You are not. Good luck. That is not what Social Security is about. It is not the "Kendrick Meek Report." This is what took place here in this Chamber, in the state of the union, with both Houses coming together at that time.

So it is important that we realize what is being said and what is being done. Forty-eight percent of those individuals, of the 48 million, would be living in poverty if it was not for Social Security. That is important to the 30-something Working Group, especially for those young professionals that the gentleman from Ohio (Mr. RYAN) talked about when they leave their higher educational experience on average $20,000 in debt.

For those individuals, I mean, I thank God for the ability to have had the opportunity to go to school on a football scholarship and I left college without being in debt. But, guess what? Everyone is not an athlete. Every student going to college did not go on a scholarship. Some people had to get a student loan. And even for those that went on scholarships that had parents that could not afford it, Mr. Speaker, the money that it takes to buy books and other things that scholarships do not provide, they leave college or a post-graduate degree $20,000 in debt.

So if we start messing around with the benefit structure under the privatization scheme, guess what? We are going to have to take care of our parents and our grandparents. We are going to have to subsidize their income. We do now, but it will be greater. So that is the reason why this is important, that the facts are put forth. Forty-seven years of solvency, the way Social Security is right now will continue.

So, Mr. Speaker, I look forward, as long as there are those that are in this Chamber and outside of this Chamber that are sharing with the Americans inaccurate information and saying that privatization is good and it is going to be a really nice thing for all Americans and we all should do it, the 30-something Working Group will continue to work not only with the Democratic leader, the gentlewoman from California (Ms. PELOSI), and the gentleman from Maryland (Mr. HOYER), who is our whip, and the gentleman from New Jersey (Mr. MENENDEZ), who is our chairman of the Democratic Caucus, and the gentleman from South Carolina (Mr. CLYBURN), who is our vice chair of the Democratic Caucus, and sharing accurate information with the American people and staying in the fight of informing them on the truth about what is happening right now; not what might happen, what is happening right now and what is going to happen for years to come.

□ 1745

Because, remember, I say to my colleagues, Social Security in the 1980s was saved by a Democratic House, working along with Ronald Reagan in the White House, doing what we had to do on behalf of individuals that were carrying Social Security cards to keep our promise to them. We did the right thing, and we will continue to do the right thing. But the right thing is not increasing the Federal debt, and it is not taking a gamble on private accounts.

So we will continue to share this information. I want to thank the Democratic leader for allowing the 30-something Working Group to have this hour. We look forward to being back next week, sharing good and accurate information, and the topic will be Social Security, with the Members of the House.

SOCIAL SECURITY AND U.S. ENERGY POLICY

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 60 minutes as the designee of the majority leader.

Mrs. BLACKBURN. Mr. Speaker, I appreciate the opportunity to be here on behalf of the Republican leadership in the House. It has been so interesting listening over the past hour as my colleagues from across the aisle have talked about various and sundry issues, as they have gotten around to talking about Social Security.

I am here to talk about energy tonight, but before I do that, I want to spend just a few moments and dispel some of the myths that we have been listening to for the last hour.

I think that possibly my colleagues do not intentionally mean to misrepresent the facts. I think, though, that they are just sadly misinformed many times and have a misunderstanding of some of the facts. I would like to, if I can, clarify a few of these, dispel a couple of myths.

We have heard that Social Security is fine until 2052. Then we have turned around and heard that benefits are going to be cut immediately, and that is of concern to me.

I think we all know that there is a date, 2018, and 2018 is the date when the Social Security system will stop running a surplus. Now, this is important to us, because it is at that point in time when those IOUs that the government has been writing, the Social Security system, the Social Security fund, those are going to come due in 2018. Now, 2042 is the date that the IOUs run out. The question for us to answer is this: what are we going to do? How are we going to pay it from 2018 until 2042.

My colleagues have come against the President for raising this issue. I would like to commend the President for having this discussion with the American people, for encouraging us to talk about how we go about addressing Social Security. It is important for those of us, the Members of the House elected from 435 districts around this great Nation, to decide what is going to be the best way to address Social Security.

With my constituents, we look at it as two tracks. One, the stabilization and solvency, how are we going to address this? The other we look at is the enhancements. That is where we begin talking about the personal accounts.

Mr. Speaker, one of my colleagues today has called it a privatization scheme, and I find that very sad. Because the money that men and women, each and every one of us, pay into Social Security is money we have earned, and that is something that we deserve to have, that our children deserve to have as a nest egg to build from as they get ready to retire. It is not a scheme. It is called working and earning a living and setting aside, and that is money that you have earned and you deserve to have, to be able to pass on to your heirs.

Personal accounts is your own personal lockbox to be certain that that money is going to be there at the time that you get ready to retire.

I have also heard them talk about we need to stop deficit spending. Well, lo and behold, I would just love it if they would join us as we as the majority try to work on deficit spending. But do my colleagues know what happens? Every single time we talk about reducing a program, every single time we talk about eliminating a program that has outlived its usefulness, every single time we talk about government efficiencies, what do they want to do? They want to grow the program. They do not want to cut a program.

Mr. Speaker, Ronald Reagan said the closest thing to eternal life on earth is a Federal Government program, and he was right. Because once you got it, it is so incredibly difficult to get rid of it. So I invite our colleagues from across the aisle to join us.

We passed a budget this year. We have done some great things this year, and I commend our Republican leadership for some of the steps that we have made, such as the budget. Our budget chairman, the gentleman from Iowa (Mr. NUSSLE), did a great job working with the committee bringing forward a budget that has a reduction in nondiscretionary, nonhomeland security defense spending. Many of our colleagues wanted to vote against that and did vote against that, because it was not spending enough.

Mr. Speaker, you cannot have it both ways. You cannot have it both ways. So we invite our colleagues to work with us to get the spending down.

We also want to be certain that we take a look at some of the things that need to be addressed as we talk about Social Security, as we talk about the future, as we talk about education for our children, as we talk about opportunity. One of my colleagues said they went to college on a scholarship and talked about scholarship and loans and ways to get through college. A lot of us did like me: worked, worked hard, worked hard selling books door to door to get through college. And for many, many American men and women and young people today, they are working and they are striving to get that education so that they can enjoy hope, opportunity, and benefits of this great Nation, so they can build a nest egg and have a great retirement and a solid future, not only for them but for their children and for their grandchildren.

So we invite our colleagues from across the aisle to join with us to reduce this spending and to address the solvency of the Social Security system, to join with us as we talk about passing a budget that is going to reduce spending, cut the deficit in half in 5 years.

One of the reasons we are here talking about this deficit, and Mr. Speaker, I just cannot let this go by, they say you have to cut it, you have to stop spending. We have this national debt.

Do my colleagues know how we got here? We got here because of 40 years, 40 years of Democrat control, Democrat spending, programs that were growing and growing and growing and were not being called into accountability; 40 years of just taking that credit card and running those numbers off, swiping them away, run it up, run it up, run it up. Pass that debt on. Let future generations worry about it. Live for today. Enjoy it. It is the Federal Government's money. Spend it all before you get to the end of the year.

I commend our Republican leadership here in the House: our Speaker, the gentleman from Illinois (Mr. HASTERT); our leader, the gentleman from Texas (Mr. DELAY); our whip, the gentleman from Missouri (Mr. BLUNT); our conference chair, the gentlewoman from North Carolina (Ms. PRYCE); and I commend the President and our administration for working with us to say, let us begin to turn this ship around. We did not get here overnight. We did not. And we are working diligently every single day to turn this around. I think we are seeing great success.

As I mentioned a moment earlier, we have had a busy agenda. Despite what my colleagues from across the aisle would like to say, we have had a busy agenda this year. We have gotten a few good things done. We have passed class action reform, which has been a long time in coming. Greedy lawyers, greedy trial lawyers have just had their way too often for too many years with the American court system.

As I said, we have passed a budget that puts us on the path to fiscal responsibility. It is not going to be done overnight. It is not going to be done today or tomorrow. It is going to take us some time.

We are having a national discussion on the issue of Social Security. Yesterday, we passed a permanent repeal of the death tax, which is a triple tax on many farmers, on many small businesses in my district in Tennessee. Today, we passed bankruptcy reform.

All of these are steps in the right direction. They are good things. At the same time, we have been talking about reducing taxes and cutting spending. We have to have that discussion one with the other. You cannot leave it unattended.

At my town halls over the past couple of weeks, we have heard a lot about Social Security. We have heard a lot about immigration, also; and, Mr. Speaker, I hope that at some point we will be able to come back to the floor and address that. But we are also hearing about energy and about the price.

One of my colleagues earlier this afternoon said, we need immediate relief from $2 a gallon plus gas, and we need to do something right now. There is something that we can do, and it is called passing an energy bill, because it is a step in the right direction; and there are few issues that are more central to our economy and to our national security than energy and having a good, solid energy policy. There truly is no single American whose livelihood, whose standard of living, whose security as a citizen of this great Nation does not depend on our access to a stable and abundant energy supply.

Now one would think, given the absolute critical nature of this issue, that we would have been able to easily pass a national energy policy bill several years ago, but, Mr. Speaker, that has not been the case. I commend our chairman, the gentleman from Texas (Chairman BARTON), for the great work he has done on this issue this year.

We are going to hear over the next week as we bring this bill to the floor that, oh, my goodness, it was passed in haste. Well, let me tell my colleagues what. We started a hearing on April 6 with opening statements. We finished in committee last night, which was April 13. And I would remind my colleagues that during the 107th Congress, from 2001 to 2002, the Republican-led Committee on Energy and Commerce held 28 hearings related to the comprehensive national energy bill. Mr. Speaker, in 2002, the Committee on Energy and Commerce spent 21 hours marking up an energy bill and considering 79 amendments. In 2003, they spent 22 total hours and 80 amendments. In 3 years, House Republicans have held 80 public hearings, with 12 committee markups and 279 amendments. Senate Republicans have held 37 public hearings and 8 markups.

What is the common theme here?

The common theme is that conservatives keep pushing for reform, and conservatives keep pushing for a national energy policy. We get it. Republicans in Congress have dedicated hundreds, if not thousands, of hours over the past several years making energy policy for this Nation a priority. During the 107th Congress, we proposed the Securing America's Future Energy Act. In the 108th Congress, it was called the Energy Policy Act of 2003. And while many across the aisle opposed this effort, we are not giving up.

This week at the Committee on Energy and Commerce we met for nearly 28 hours and considered almost 70 amendments. Thanks to the leadership of the gentleman from Texas (Chairman BARTON), we were able to pass this bill out of committee; and it is a tremendous step toward a goal of national energy policy. It is a big step toward having a national energy bill, and I do commend all of my colleagues on the Committee on Energy and Commerce and our chairman for their diligent work and tremendous efforts.

Time and again, we face Democrats in the House and the Senate who put their pet projects over this matter of national security and economic security, this energy bill. Mr. Speaker, part of the hold-up on this issue has been a group of extremely liberal ideologues who think we should require half the Nation to give up their cars and bike to work. They have made every attempt to halt progress on this bill because the bill will help open new domestic sources of oil, domestic oil that will ease some of our reliance on foreign sources.

I want to say that one more time, to be certain that everyone gets that. They have opposed it because this bill will help open new domestic sources of oil, domestic oil that will help ease our reliance on foreign sources.

□ 1800

And that must be a priority. And I agree there has to be a balance between efforts to develop alternative energy sources, but that cannot come at the expense of our current need for access to oil and gas supplies. And I believe the bill that the gentleman from Texas (Chairman BARTON) has put together meets all these needs, and it should have the support of every single Member of this body.

I would like to spend a few moments with this poster right now and go through some of the things that we have covered in our Energy Committee this week and things that the American people and the Members of this House are going to become very familiar with over the next week as we look at energy policy.

At the top we have got a quote from our chairman, the gentleman from Texas (Mr. BARTON), who said, I agree with our President, 4 years is long enough for an energy bill. That is how long we have been working on this. And for individuals who will say we have not spent enough time on it, I do not think there is ever going to be enough time spent on it. And the reason for that is this, because they are just not getting everything they want; and so therefore, they are going to try to keep the bill from moving forward. Four years is enough.

The Energy Policy Act of 2005, this is what you are going to find in that bill. It improves our Nation's electricity transmission capability and reliability.

Mr. Speaker, this Nation has suffered a series of blackouts over the past decade. All of us remember the August 2003 blackout that affected the Northeast. And that is what we are trying to prevent with this legislation.

We are providing incentives for transmission grid improvement and for strengthening reliability standards. It is important to do that. It is important to be proactive, to provide those incentives for the grid improvements. This is about providing the resources our economy needs so that it can grow and about protecting ourselves from future blackouts.

We have heard some discussion today about needing jobs, needing to grow the economy. One of the ways we can do that is having a stable, safe, secure, dependable energy supply. One way we can do that is by reducing our reliance on foreign oil sources.

Number two, the bill will also encourage development of new fuels, of hydrogen fuel cell cars, and give State and local governments access to grants that will support acquisition of alternative-fueled vehicles. And that program with the alternative-fueled vehicles is the Clean Cities program. This is something that will provide those communities that are dealing with transportation the opportunity to look at alternative-fueled vehicles. We are going to see some of these alternative fuels come about. It is important to Tennessee, my State. It is important to others.

We are hearing a lot about biodiesel, about ethanol, about the hybrids that some of the auto manufacturers are producing. And of course in Tennessee we have a Nissan plant. We have a Saturn plant, and we know that research and development and new design for hydrogen cell cars is there. It is on the drawing board. We need to do what we can do to encourage that. This bill will do that.

Number three, we have also made sure this effort does not ignore clean coal technology, renewable energies like biomass, wind and solar hydroelectricity.

Number four, the Federal Government is going to help lead the effort in energy conservation through this legislation by requiring Federal buildings to comply with efficiency standards. We can help set the example, and we should be setting the example, and we are going to do that with this piece of legislation.

We are targeting those high utility bills. When it comes to liquefied natural gas, we are clarifying the government's role in the process of choosing sites for natural gas facilities. By streamlining the approval process for this important energy sector's facility construction, we can provide some stability to those large segments of our country that depend on natural gas for fuel.

Mr. Speaker, every American knows our country is dependent on oil. It is essential to our economy. By increasing oil and gas exploration and development on nonpark Federal lands, and by authorizing the expansion of the strategic petroleum reserves capacity to a billion barrels, we are doing everything we can to meet our domestic demand and to protect ourselves from future shortages.

Both nuclear and hydropower have a significant role in providing energy for millions of Americans, and our legislation will allow the Department of Energy to accelerate programs for the production and supply of electricity and set the stage for construction of new nuclear plants and improving current procedures for hydroelectric project licensing, looking to the future, and looking to the nuclear and the hydropower and the role that they will supply.

Mr. Speaker, all of this is good for our economy, and it is good for our national security. We know that. We know it is important that we continue to have a ready energy supply for manufacturing.

One of my colleagues earlier today was talking about, my goodness, you know, China, and dealing with China and the currency there, it concerns us. It concerns us when we see jobs leave. It concerns everyone. And one of the ways that we make sure manufacturing continues to grow as it has done over the past 2 years, and I will remind my colleagues this past quarter we had the best manufacturing numbers we have had in this country in about 2 decades. We give this Republican leadership in the House and the Senate and the Republican leadership and the administration a little bit of credit for working to create the environment that the private sector needed to do what, go create jobs, two million new jobs, and also, to increase the productivity and the output in manufacturing and also, as that has happened, to increase the capital investment. It will become a little bit better, a little bit more affordable for the private sector to create those jobs and to increase that manufacturing output when we have a stable, a dependable, an affordable energy supply. And that is one of the things that the Energy Policy Act of 2005 will help to do.

Now, I heard one of our colleagues earlier talking about the gas shortages of the 1970s. And I think that many of us can remember those. And everyone who does agrees that economic security and national security, when it comes to energy, certainly go hand in hand. And for those across the aisle, many, like the minority leader across the aisle, who have worked against our effort to secure America's energy sources, I hope that now, after the Republican leadership has made the case for this bill and legislation, and after 4 years, 4 full years of work, that they will join us, that they will vote for and support this legislation.

And if the liberal leadership in Congress does not really see the light on this issue, let me help to clarify this. I would like to show our second chart.

Mr. Speaker, this is where we have been over the past two Congresses, the 107th, the 108th, and the 109th Congress. On the left, you will see that you have the Congress and the energy legislation that the Republicans tried to pass, but were unable to get through because of Democrat opposition.

And on the right you have the national average prices of a gallon of regular unleaded gasoline for the second week of April each year that this legislation was going through the floor, and each time the Democrat leadership was fighting passage of an energy bill. And I hope that the individuals that are watching are going to see a trend here, because we have had a lot of inaction since the 107th Congress. And with that inaction, guess what has happened? Higher prices. Democrat obstructionism means a bigger bill at the pump. And for my colleagues that earlier today were saying you have got to do something, gas is over $2 a gallon, well here is the something to do. It is called vote "yes" on the energy bill. Let us move this process along. There are Members that have been obstructionists for too, too long. Let us vote "yes" and let us move the process along.

Now, during the 107th Congress, in 2001 and 2002, we pushed a comprehensive energy bill. And at that time the gas prices averaged $1.46 a gallon. During the 108th Congress, in 2003 and 2004, Republicans in the House were again supporting a national energy policy. Gas prices had increased by an average of 20 cents, and they were at $1.69 a gallon.

Mr. Speaker, now the 109th Congress, we are facing $2.28 a gallon. My question is, how can the Democrats continue to say no? They need to join us and show some support for the energy bill.

This bill is a bill about options. It is a bill about options for today, more affordable oil and gas. It is about options for the future as we look at research and development, as we look at new technologies. And it is important for our Nation's economy and for our Nation's security that we move this along.

So I hope that next week, as we take up the national energy policy act on the floor of the House, that Democrats will enthusiastically and finally join Republicans in passing this legislation. Time for inaction has long passed.

Mr. Speaker, I think it is time we passed this bill next week and that we answer that question that some of our constituents are asking: What are you going to do about it? We are going to do what we have been trying to do for 4 years. We are going to pass an energy bill.

We hope that the Democrats across the aisle will join us in passing this bill, helping to secure our Nation's energy supply and helping us plan for the future.

VICTIMS OF CRIME ACT

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. POE) is recognized for 60 minutes.

Mr. POE. Mr. Speaker, I rise today to speak for a group that live in the silent storm of stressful sadness. They live with the vicious wounds of being a victim of crime in America. To be a victim, to be chosen to be the prey by a predator, to have a life stolen or broken by criminal conduct, Mr. Speaker, it is a terrible and tragic travesty. But to have your own government desert you, abandon you, too, is an injustice. It is an injustice to the injured, to the innocent, to the victims.

Mr. Speaker, the Victims of Crime Act, VOCA, the VOCA fund was created in 1984 by President Ronald Reagan to provide the most consistent stable source of funding for services to crime victims. It included counseling, victim advocacy programs, safety planning, State victim compensation funds that would help crime victims recover the costs associated with being a victim. Yet the current budget proposes to rescind the over $1.2 billion presently in this fund and redirect its resources to the Department of the Treasury, where it will be treated in the general revenue. It would go to the greater business of the general fund.

Mr. Speaker, VOCA funds, these funds that we are talking about, are not derived from taxpayers paying dollars to the Treasury of the United States. But these funds come from fines and forfeitures and fees paid by convicted Federal offenders. This is an offender's accountability for the harm they have caused when they committed the crimes against citizens. It is a wonderful, successful idea. It makes outlaws pay for the damage they have caused; makes them pay for the system that they have created. It makes them financially pay the victims for these crimes.

In fact, there are over 4,400 programs that provide vital victim assistance services to nearly 4 million victims a year because of these funds that are contributed by criminals.

□ 1815

Half of these victims receiving these services are victims of domestic violence. Other victims are victims of sexual assaults, child abuse, drunk driving, elder abuse, robbery, assault, and old-fashioned stealing. They receive this type of assistance through shelters and rape crisis centers, child abuse treatment programs. Prosecutors' offices received help, law enforcement agencies and victim advocates. All of these agencies received funds paid into this fund by criminals.

State crime victims compensation funds with VOCA funds help crime victims to pay for out-of-pocket expenses that they incurred while the criminal committed a crime against them. These expenses include medical care, counseling, lost wages, funeral costs, and many, many more.

You see, when a crime occurs, the victim has no recourse financially against a criminal, even though the criminal may be convicted and sent to our Federal penitentiaries. Criminals just do not have any money. So victims are compensated through this fund through fees paid by other criminals.

Many victims, when they suffer criminal conduct against them, have no insurance. This is what they look to to save their livelihood and their lives. Without victims' compensation funds in the United States, funded by VOCA programs, paid by the defendants, victims have two choices, live without this aid or ask taxpayers to pay in some form of taxation what defendants are now paying for and what defendants should pay for in the future.

Mr. Speaker, as the founder of the Victims Rights Caucus along with the gentlewoman from Florida (Ms. HARRIS) and on the other side of the aisle the gentleman from California (Mr. COSTA), all of us are united in this decision that reducing VOCA funding is an injustice to the people of the United States, the good people, the people who never asked to be victims of crime but yet they were chosen by some criminal to be a victim.

It is ironic, Mr. Speaker, this is Victims Rights Week, the week that we proclaim in the United States the worth and value of victims, and yet it is the week that the budget is considering to reduce these funds, take these funds donated by criminals and put it in the general fund. How ironic this is.

Mr. Speaker, in all of my career I have been involved in the political process, I have been involved in the justice system. First in the District Attorneys Office where I served as a chief felony prosecutor in Houston, Texas, for about 8 years and then a judge in Texas for 22 years where I saw 25,000, 25,000 defendants come to court charged with crimes against an equal number of victims. And during all of that time I have witnessed in the United States the victims' movement, how victims have been treated in the system. And sometimes we have forgotten as a people in 2005 how victims have been treated over the past.

Things have not always been as good for victims after the crime as it is now; and I think a history lesson is due, Mr. Speaker.

I tried numerous cases as a prosecutor, numerous defendants, death penalty cases, but I would like to talk about one person who really showed me the way of how victims continue to be victims after the crime was committed. And I have changed her name because her family still lives in Houston, Texas.

Back in the late seventies there was a young lady who was married and had a couple of sons that lived in Houston, Texas. She worked in the daytime. At night, she went to school working on a masters degree at one of our universities.

She left the school one evening. Her name was Lisa. And she was driving down one of our freeways and she had car trouble so she exited the freeway, Mr. Speaker, came into a gas station that she thought was open. It was not open. It was closed, but she did not know that. And she got out of the vehicle and started talking to an individual that she thought was a service station attendant.

Luke Johnson was not the service station attendant. He was just hanging around. One thing led to another, and Luke Johnson pulled out a pistol. He kidnapped Lisa, took her and her vehicle to a remote area of East Texas that we call the Piney Woods. He sexually assaulted her and pistol-whipped her. In fact, he beat her so bad that he thought he had killed her. Later, when he was arrested, he was mad that he had not killed her.

Lisa was a remarkable woman. She survived that brutal attack. She was found about 2 days after she was abandoned in the woods by a hunter that was going through that area. He stopped, rescued her and made sure that her medical needs were met.

After she recovered from this vicious attack, Luke Johnson was arrested and charged with aggravated rape. I prosecuted him for this conduct. A jury of 12 citizens in Houston, Texas, heard the case, heard Lisa testify in this case. Luke Johnson was convicted and received the maximum sentence of 99 years in the Texas State penitentiary as he earned and as he deserved.

Now we would have hoped as a people, as a culture that justice would have been done, that we would go on, that life would be good, but that is not, Mr. Speaker, the world that we live in. Because we live in a world far different from that.

As Luke Johnson is shipped off to the penitentiary where he belonged, Lisa could not quite cope with that crime. The first thing that happened was she never went back to school, never wanted to go on that campus again. The next thing that occurred was she lost her job. In fact, she was fired. She could not focus, and she bounced around from job to job. She started abusing drugs, first alcohol and then everything else.

Her husband, the sort that he was, decided he no longer wanted her. He sued her for divorce, convinced a judge in Texas that she was not mentally capable of raising those children that she had, and he got custody of both of them. He moved out of the State of Texas where he is somewhere else in this country today.

Then not long after all of this occurred, Lisa's mother gave me a phone call and told me that Lisa had taken her own life and she left a note that I still have in my office today and that note says, "I am tired of running from Luke Johnson in my nightmares."

You see, Lisa faced this entire crime alone. There was no VOCA. There were no funds for victim advocates that could sit and be with Lisa through the trial. There were no funds for therapy and counseling after this crime and after the trial. Lisa was on her own when she testified, and she was on her own after the crime was over, and she received the death penalty for being a victim of crime. Luke Johnson, he just spent a few years in the Texas penitentiary for that crime, and he is running loose somewhere in Texas.

Times did change from this type of conduct where victims were abandoned by the process, and we have progressed. When I was a judge, to show you the example of how people through VOCA make a difference, I will tell you about a second case.

This case involved a little girl named Susie. A first grader in Houston, Texas, she walked to school every day and walked home. You know, in the big city we do not normally like our kids walking to school or walking home. It is not safe. Susie's case proves the point.

One afternoon, she is walking home from school, a 7-year-old first grader in Houston. This individual, who had been stalking her for some time, pulled up beside her, rolled down the window of his pickup truck, yelled out the window, Hey, little girl. I lost my dog. Can you help me find my dog?

She stopped long enough for this perpetrator, this predator to jump out of his vehicle, grab Susie, kidnap her and take off. He left Houston, Texas, and went down to the Gulf Coast down to the beach area of Galveston, Texas, about 50 miles from Houston. He took her to a secluded portion of that beach area, and he did to that little girl, that 7-year-old, exactly what he wanted to for as long as he wanted to do it. After he was through having his way with Susie, he abandoned her in the darkness of the night and fled. Before he left, however, he took all of her clothes away from her.

About the time the sun was coming up, Susie, in shock, walking up and down the beach, was rescued by a sheriff's deputy that was patrolling the area. She received medical aid and the attention that she needed.

The person that committed this crime was arrested out of State, extradited back to Texas to stand trial for this crime of aggravated sexual assault of a child, a 7-year-old girl.

The case was tried in my courtroom. It was sort of a high publicity case because of who the defendant was. But when Susie took the witness stand, sat next to me on the witness stand, the prosecutor started asking her questions and she turned and saw the perpetrator in the courtroom, she could not say anything. She did not say anything. All she did was stare at the offender. Eventually, she started to cry. And, Mr. Speaker, she has cried a long time. She probably thought she was alone. She was alone, but she could not testify.

Well, what do you do? Well, this was the main witness. Without this witness, the State did not have a case. The prosecutor asked for a postponement of the trial. I quickly granted that. We recessed. We came back a day or two later, and we started up the trial again.

Susie testified, sat next to me and testified. And that day she was able to testify in detail, graphic detail what happened to her when she left school one afternoon and what this perpetrator did to her.

The difference, the difference was there was another person in the courtroom, seated on the back row looking at her, telling her in her own way, you can testify. You can do this. I believe in you.

Who was it? It was the victim advocate that worked with the District Attorney's Office that walked that little girl through that case. And because that woman was in the courtroom and because she had worked with this victim before and Susie saw her, it gave her the courage to testify. And that predator, that child predator was convicted of that case because one person, a victim advocate, was present in the courtroom.

See, there was a time there were no victim advocates in the courtroom, and that time has passed, and part of the reason is that VOCA funds are used to fund advocates of victims in our courtrooms.

One of cases that I tried where I met my first victim advocate was a case that was called the choker rapist. What this individual did, he assaulted co-eds from the University of Texas, choked them and sexually assaulted them. He did this numerous times. He was sent to the Texas penitentiary. By some error or mistake, having been sentenced to about 700 years in the penitentiary, he was released after a short period of time. He came to Houston, and he continued these ways of assaulting co-eds from the University of Houston. He was captured again, and this case was tried. The victim in that case was similar to Susie in that it was difficult for her to testify. She was older. She was a college student.

The first victim advocate that I ever laid eyes on in 1984 was sitting in the courtroom, helping this witness keep with the trial and the crime and testifying. That person's name was Anne Seymour, and that was many years ago. But yet Anne Seymour and many like her work with victims on a daily basis, and part of the way they are able to take care of victims is by funding that they get from VOCA each year.

Mr. Speaker, many people do not realize that when the Oklahoma City bombing occurred, now 10 years ago, that travesty, that assault on American citizens, VOCA funds were available and used to help those victims cope with that emergency. And those funds were available immediately so that victims and their families could be helped.

I would like to read a letter from Marsha Kite. Marsha Kite's daughter was killed in the Oklahoma City bombing, and her letter states how she feels as the mother of a murder victim about the VOCA funding.

□ 1830

She says: We are only days away from the 10th anniversary of the Oklahoma City bombing and I hear that there is consideration for emptying out our Federal crime victims fund.

Number 1, this critical fund that is paid for by criminals and not taxpayers.

Two, the fund helped thousands of families and survivors of the Oklahoma City bombing, including my own family. The administration needs to take a hard look at what they are contemplating and realize the devastating impact it will have on programs that provide direct services to crime victims, including crisis intervention, emergency shelters, emergency transportation, counseling and the criminal justice advocacy programs, all of which were provided to Oklahoma City families.

Number 3, no person, regardless of life choices or situations, should be met with the harmful or inadequate services. Each victim should be provided with the opportunity to access services based on their needs and not be further traumatized by a system that is neither prepared nor underfunded.

So, Mr. Speaker, these funds have helped numerous victims and their families, and it would be a total injustice to cut these funds and put them in the abyss of the general revenue.

Other examples of VOCA funding go to domestic violence shelters. Domestic violence shelters are a necessary requirement in our culture, and good people throughout this United States organize and establish these shelters to protect victims of domestic violence.

We have such a one in my hometown of Humble, Texas. It is called Family Time, and Family Time is available on a 24-hour basis for victims of domestic violence where they can go and find safety when they have to flee their own homes. If they do not go to these domestic violence shelters, where will they go?

If it was not for these shelters, many of these abused women would go directly back to that house and be victimized and abused again. These shelters are saving their lives. Many of these shelters rely on VOCA funding, and they would close down without the help of these funds, and these women and these children would be sent back to an environment of violence, domestic violence.

These are just a few examples, Mr. Speaker, of how these funds are spent.

It is interesting how we, as a Nation, are very concerned about the victims in lands far, far away across the seas, the recent tsunami crisis, where we have President Bush and President Clinton raising money in the United States to help these victims. While it is very important that we show that we are compassionate to peoples all over the world, Mr. Speaker, charity begins at home, and we need to take care of our American families first and then the world families, if necessary.

So we must do both, but we must never neglect our own people, our victims for some other Nation.

Mr. Speaker, I would like to just continue this history lesson talking about children, children in the criminal justice system, specifically children who are the victims of sexual assault.

There was a time, Mr. Speaker, when a child that was sexually assaulted would have to go through a long process in the criminal justice system. It in itself was a crime. The victim would be interviewed, usually by a police officer, a stranger. Another police officer would instruct the victim to go to the county hospital. They would wait in the emergency room along with everybody else that goes to the emergency room. They would be seen by a doctor that may or may not know anything about sexual assault cases, a doctor that sometimes was not even available to testify at the trial because they had been sent to some other hospital in the Nation.

After being seen by this doctor, then the child would have to go to the police station to be interviewed again, and there were occasions in my home city of Houston that these victims would sometimes get on the elevator to go to be interviewed by the homicide detective, and the perpetrator would be on the elevator as well going to be interviewed by another detective.

Then, after this was over with, they would have to go to the district attorney's office and be interviewed for the trial by a prosecutor, sometimes a prosecutor that has never tried a sexual assault case, and eventually the trial would come and those traumas would continue.

Mr. Speaker, we are fortunate to say that those days are over. Those are no longer the days of children that are sexually assaulted in the United States because of groups like the National Children's Alliance here in Washington, D.C., where I am a board member. That alliance has over 400 children advocacy centers throughout the United States, and what those centers do is this.

When a child is sexually assaulted, rather than be bounced from place to place, agency to agency, they are taken to one location, a child friendly location, and probably the best example of this center is in Houston, Texas, Children's Assessment Center, that is a privately funded, publicly funded establishment, and here is what happens.

When a child is sexually assaulted, they go to this center. It is a very friendly, child friendly center, and they are interviewed only by child experts. They are interviewed about the crime and what took place. Their medical needs are met there by qualified doctors and nurses that deal with child sexual assault victims. The child, after this occurs, is allowed to talk to a prosecutor that deals only with child assault cases. The child then, before and after they testify, are provided therapy and counseling by child psychiatrists and experts, and they do all of this at the center. Every time they need to be involved in the case, they go to this one place, very child friendly, and because of centers like the Children's Assessment Center in Houston, Texas, and 59 others in Texas, 400 or more in the United States, child victims are able to cope and recover from the tragedy of sexual assault against them.

Children's Assessment Center in Houston sees 350 children a month that have been sexually abused and assaulted. They receive VOCA funds, as well as funds from the community, from private foundations and the county government. The funds at the Children's Assessment Center go for a therapist, a bilingual therapist, that is able to talk to children that do not speak just English. That therapist, along with other therapists, will disappear if VOCA funds are cut.

Just to show an impact on these centers, they constantly help kids cope with the crime. It is more important to help the child recover than even to have the perpetrator convicted, but they do many things with these kids to help them realize what has occurred in their own lives and how they can vent by even writing a letter to the perpetrator.

I have one such letter that was written by a little girl to the person who sexually assaulted her that I have received from the Children's Assessment Center in Houston today, and she starts out her letter this way.

These are some of the things that I have been wanting to say to you. I used to think that you were a nice person and that you would never hurt me. Then things changed. After you began touching me, I thought that you were not a nice person, and I wondered if you were hurting Mommy, too. When I think of you touching me, I get very mad, and I sometimes am sad. You are a jerk and a child molester. Sometimes when I think of you, I am mad at you for hurting me. I want to tell you that I am glad you are in jail and you cannot hurt me anymore. If I ever, or when I see you again I will tell Mommy and call the cops, and I will make a mad face at you. Ha, ha, you thought I would never tell but now everyone knows. I also know you did this to my sister, too. It is signed by a little girl.

Letters such as this help victims, children cope with the crime that has been committed against them. These Children's Assessment Centers all over the country, God bless them, are doing a work to save America's greatest resource, our children. VOCA funds go to these centers, and without this funding, many of these centers would not be able to open the doors.

So, Mr. Speaker, I urge my colleagues in the House on both sides of the aisle to join me and the other 50 Members and counting who have signed a letter to the Committee on Appropriations chairman to save the VOCA funds.

Grassroots victims organizations across the Nation have been flooding congressional offices with phone calls and pleading for their representatives to save VOCA and for them to sign this letter that 50 have already signed. Fourteen national victim advocacy organizations have partnered in support of saving the crime victims fund. And they are, Mr. Speaker, these organizations that work victims: Justice Solutions, Incorporated; Mothers Against Drunk Driving; the National Alliance to End Sexual Violence; the National Association of Crime Victim Compensation Boards; the National Association of VOCA Assistance Administrators; the National Center For Victims of Crime; the National Children's Alliance; the National Coalition Against Domestic Violence; the National Crime Victim Research and Treatment Center; the National Network to End Domestic Violence; the National Organization for Victim Assistance; National Organization of Parents of Murdered Children; the Pennsylvania Coalition Against Rape; the Victim Assistance Legal Organization; and even way down in Midland, Texas, the Midland County, Texas, Sheriff's Crisis Intervention Center which has 35 volunteers. That organization will cease to exist if these funds are cut.

We all are concerned, Mr. Speaker, about the budget, about the deficit, about Federal spending. We all are in agreement about that, but maybe we need to reprioritize how we spend money. Maybe we should reconsider some of the foreign giveaway programs that this country is involved in, giving away money, and maybe we should think about victims here at home, remembering that the victims fund, VOCA, is not funded by taxpayers, but it is funded by criminals, as it ought to be, and they should continue to pay, pay for the crimes that they have brought upon the good people of our community.

Mr. Speaker, victims pay. They always pay. They continue to pay after the crime is over with, and we need to be compassionate and sensitive about them because the same Constitution that protects defendants of crime protects victims of crime as well.

Lastly, Mr. Speaker, I would like to talk about a person that I never met. He was an individual that did not have much going for him. He was born the same year that my son Kurt was born in the 1970s, and my son now is a big, old strapping kid in his twenties, and sometimes when I look at Kurt, I think about Kevin Wanstrath and the people I prosecuted that killed him.

Kevin Wanstrath was born in Mississippi. His mother did not want him. So she dumped him off to some charity. The charity, though, found a home for him, and the home was in Houston, Texas. The people who adopted Kevin Wanstrath, John and Diana Wanstrath, could not have children of their own. They were middle-class folks, and so they found Kevin, they adopted him, and they made him their son, and they were happy as a family could be.

But unbeknownst to this family, Diana Wanstrath's brother, Markum was his name, was plotting to kill this entire family. While he was plotting to kill the family, Markum Duffsmith, along with three other henchmen years before, had murdered Markum's own mother, and because of the way that crime was committed, he was able to convince law enforcement that it was a suicide, and he was not prosecuted until after he had murdered his nephew Kevin.

He collected the estate of his mother, and he spent it, and when he was through spending the money, he needed more money. So he then plotted this other murder, the murder of John Wanstrath, Diana Wanstrath and Kevin Wanstrath.

One evening while John and Diana were watching Channel 13 news in Houston, Texas, two people that Markum had hired, posing to be real estate agents, forced their way into the Wanstrath home and first shot John, then shot Diana and then, while Kevin Wanstrath, a 14-month-old baby, was asleep in his baby bed curled up to his favorite Teddy bear, clothed in blue terry cloth pajamas, dreaming about whatever those babies dream about, he was murdered. He was shot in the head. He was sacrificed on the altar of greed.

☐ 1845

Because of the work of a couple of Houston police officers, all those killers were brought to justice. Two of them received the death penalty and were later executed, and two received long prison terms.

Over the years, I have kept a photograph of Kevin Wanstrath on my desk, as a prosecutor, as a judge for 22 years, and now as a fortunate Member of Congress representing the Second Congressional District of Texas. You see, Kevin Wanstrath never made it to his second birthday. He was denied the right to live. He was a victim of criminal conduct.

Our Nation, Mr. Speaker, needs to be concerned about the Kevin Wanstraths in our culture because they have the right to live as well. Kevin Wanstrath will never grow up, he will never be in the backyard playing catch with his father, will never play football, never have a date, never get married, all because he was chosen to be prey, the victim of a crime.

So our Nation, Mr. Speaker, during this Victims' Rights Week, needs to be determined. It needs to be reinforced as a culture that we will not stand idly by while people are maimed and hurt in our culture, that we will support them, that we will be compassionate toward them, and we will make sure that criminals who commit crimes against them will pay, and they will financially pay in the funding of VOCA.

Mr. Speaker, we as a people will never be judged the way we treat the rich, the famous, the important, the wealthy, the special folks. We will be judged by the way we treat the innocent, the weak, the elderly, the children. I hope when we are judged, Mr. Speaker, we are judged favorably.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. SOLIS (at the request of Ms. PELOSI) for today on account of official business.

Ms. BERKLEY (at the request of Ms. PELOSI) for today.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. PRICE of Georgia) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, April 18 and 19.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. PRICE of Georgia, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

ADJOURNMENT

Mr. POE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 48 minutes p.m.), under its previous order, the House adjourned until Monday, April 18, 2005, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1594. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Acetamiprid; Pesticide Tolerance [OPP-2005-0029; FRL-7705-7] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1595. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Buprofezin; Pesticide Tolerance [OPP-2004-0412; FRL-7691-8] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1596. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Paecilomyces lilacinus strain 251; Exemption from the Requirement of a Tolerance [OPP-2004-0397; FRL-7708-4] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1597. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Triflumizole; Pesticide Tolerance for Emergency Exemptions [OPP-2005-0054; FRL-7701-6] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1598. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus thuringiensis Modified Cry3A Protein (mCry3A) and the Genetic Material Necessary for its Production in Corn; Temporary Exemption From the Requirement of a Tolerance [OPP-2005-0073; FRL-7704-4] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1599. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Texas; Low-Emission Diesel Fuel Compliance Date [R06-OAR-2005-TX-0020; FRL-7895-9] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1600. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Locally Enforced Idling Prohibition Rule [R06-OAR-2005-TX-0007; FRL-7896-7] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1601. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Coke Oven Batteries [OAR-2003-0051; FRL-7895-8] (RIN: 2060-AJ96) received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1602. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; State of Iowa [R07-OAR-IA-0001; FRL-7892-1] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1603. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Maryland: Revised Definition of Volatile Organic Compounds [R03-OAR-2005-MD-0003; FRL-7891-3] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1604. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska [R07-OAR-2005-NE-0001; FRL-7894-1] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1605. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia, and Pennsylvania; Revised Carbon Monoxide Maintenance Plans for Washington Metropolitan, Baltimore, and Philadelphia Areas [RME Docket Number R03-OAR-2005-DC-0001, R03-OAR-2005-MD-0001, R03-OAR-2005-PA-0010; FRL-7890-9; FRL-7894-4] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1606. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Revisions and Notice of Resolution of Deficiency for Clean Air Act Operating Permit Program in Texas [TX-154-2-7609; FRL-7892-6] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1607. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington [Docket No. OAR-2004-0067; FRL-7893-8] (RIN: 2012-AA01) received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1608. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Limited Approval and Promulgation of Implementation Plans; Texas; Excess Emissions During Startup, Shutdown and Malfunction Activities [TX-162-1-7598; FRL-7892-7] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1609. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1610. A letter from the Solicitor, Federal Labor Relations Authority, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1611. A letter from the Secretary, Postal Rate Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2004, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

1612. A letter from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1613. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes [Docket No. FAA-2004-19022; Directorate Identifer 2004-2004-NM-122-AD] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1614. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D and E Airspace; Olive Branch, MS and Amendment of Class E Airspace; Memphis, TN [Docket No. FAA-2003-16534; Airspace Docket No. 03-ASO-19] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1615. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland Ltd. & Co KG (formerly Rolls-Royce plc), Model TAY 611-8, 620-15, 650-15, and 651-54 Turbofan Engines [Docket No. 2002-NE-37-AD; Amendment 39-13962; AD 2005-03-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1616. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revocation of Class D Airspace; South Lake Tahoe, CA [Docket No. FAA-2004-19478; Airspace Docket No. 04-AWP-10] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1617. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Nevada, MO [Docket No. FAA-2005-20062; Airspace Docket No. 05-ACE-4] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1618. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company 90, 99, 100, 200, and 300 Series Airplanes [Docket No. 2000-CE-38-AD; Amendment 39-13928; AD 2005-01-04] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1619. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Ozark, MO [Docket No. FAA-2005-20061; Airspace Docket No. 05-ACE-3] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1620. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes [Docket No. FAA-2004-19681; Directorate Identifier 2003-NM-184-AD; Amendment 39-13999; AD 2005-05-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1621. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters [Docket No. 2004-SW-07-AD; Amendment 39-13963; AD 2005-03-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1622. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes [Docket No. FAA-2004-19446; Directorate Identifier 2004-NM-130-AD; Amendment 39-13967; AD 2005-03-11] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1623. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada Model 222, 222B, 222U and 230 Helicopters [Docket No. 2003-SW-23-AD; Amendment 39-13966; AD 2005-03-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1624. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes and Model Avro 146-RJ Series Airplanes [Docket No. FAA-2004-19765; Directorate Identifier 2002-NM-72-AD; Amendment 39-13971; AD 2005-03-15] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1625. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Model DH.125, HS-125, and BH.125 Series Airplanes; BAe.125 Series 800A (C-29A and U-125) and 800B Series Airplanes; and Hawker 800 (including Variant U-125U) and 800XP Airplanes; Equipped with TFE731 Engines [Docket No. FAA-2004-19561; Directorate Identifier 2004-NM-50-AD; Amendment 39-13972; AD 2005-03-16] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1626. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. 2003-NM-256-AD; Amendment 39-13968; AD 2005-03-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1627. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes [Docket No. 2003-NM-16-AD; Amendment 39-13970; AD 2005-03-14] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1628. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France

Model EC 155B, EC155B1, SA-360C, SA-365C, SA-365C1, SA-365C2, SA-365N, SA-365N1, AS-365N2, AS 365 N3, and SA-366G1 Helicopters [Docket No. FAA-2005-20294; Directorate Identifier 2004-SW-39-AD; Amendment 39-13965; AD 2005-03-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1629. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, D1, and EC130 B4 Helicopters [Docket No. FAA-2004-19038; Directorate Identifier 2004-SW-24-AD; Amendment 39-13964; AD 2005-03-08] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1630. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3-60 Series Airplanes [Docket No. FAA-2005-20108; Directorate Identifier 2005-NM-006-AD; Amendment 39-13985; AD 2005-04-13] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1631. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab SF340A and SAAB 340B Series Airplanes [Docket No. FAA-2004-19752; Directorate Identifier 2004-NM-170-AD; Amendment 39-13984; AD 2005-04-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1632. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. Model HC-B3TN-5( )T10282( ) Propellers [Docket No. 2003-NE-50-AD; Amendment 39-13980; AD 2005-04-08] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1633. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CT58 Series and Surplus Military T58 Series Turboshaft Engines [Docket No. 2003-NE-59-AD; Amendment 39-13982; AD 2005-04-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1634. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes and Model CL-600-1A11 (CL-600), CL-600-2A12 (CL-601), and CL-600-2B16 (CL-601-3A, CL-601-3R, and CL-604) Series Airplanes [Docket No. FAA-2005-20276; Directorate Identifier 2005-NM-023-AD; Amendment 39-13979; AD 2005-04-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1635. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2003-NM-237-AD; Amendment 39-13977; AD 2005-04-05] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1636. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 707-100, -100B, -300, -300B (Including -320B Variant), -300C, and -E3A (Military) Series Airplanes; Model 720 and 720B Series Airplanes; Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes; and Model 747 Airplanes [Docket No. FAA-2004-18759; Directorate Identifier 2003-NM-280-AD; Amendment 39-13973; AD 2005-04-01] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1637. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2004-19763; Directorate Identifier 2004-NM-187-AD; Amendment 39-13969; AD 2005-03-13] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1638. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model GV-SP Series Airplanes [Docket No. FAA-2005-20280; Directorate Identifier 2004-NM-254-AD; Amendment 39-13978; AD 2005-04-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1639. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-400, -400D, and -400F Series Airplanes [Docket No. FAA-2004-18999; Directorate Identifier 2003-NM-259-AD; Amendment 39-13975; AD 2005-04-03] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1640. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. FAA-2004-19447; Directorate Identifier 2004-NM-97-AD; Amendment 39-13976; AD 2005-04-04] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1641. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 10 Series Airplanes [Docket No. FAA-2004-19177; Directorate Identifier 2002-NM-202-AD; Amendment 39-13974; AD 2005-04-02] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1642. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters [Docket No. FAA-2005-20107; Directorate Identifier 2005-SW-02-AD; Amendment 39-13981; AD 2005-04-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1643. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Point Lay, AK [Docket No. FAA-2004-19813; Airspace Docket No. 04-AAL-26] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1644. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Ketchikan, AK [Docket No. FAA-2004-19415; Airspace Docket No. 04-AAL-15] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1645. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Annette Island, Metlakatla, AK [Docket No. FAA-2004-19357; Airspace Docket No. 04-AAL-17] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1646. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Badami, AK [Docket No. FAA-2004-19358; Airspace Docket No. 04-AAL-18] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1647. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Red Dog, AK [Docket No. FAA-2004-19362; Airspace Docket No. 04-AAL-22] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1648. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Haines, AK [Docket No. FAA-2004-19359; Airspace Docket No. 04-AAL-19] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1649. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 Series Airplanes [Docket No. FAA-2004-19943; Directorate Identifier 2004-NM-76-AD; Amendment 39-14010; AD 2005-06-02] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1650. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Kulik Lake, AK [Docket No. FAA-2004-19360; Airspace Docket No. 04-AAL-20] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1651. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Coffeyville, KS [Docket No. FAA-2004-19583; Airspace Docket No. 04-ACE-73] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1652. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Prospect

Creek, AK [Docket No. FAA-2004-19361; Airspace Docket No. 04-AAL-21] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Transportation and Infrastructure.

1653. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Seward, AK [Docket No. FAA-2004-19363; Airspace Docket No. 04-AAL-23] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1654. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; Lawrence, KS [Docket No. FAA-2004-19578; Airspace Docket No. 04-ACE-68] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1655. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Restricted Areas 5103A, 5103B, and 5103C, and Revocation of Restricted Area 5103D; McGregor, NM [Docket No. FAA-2004-17773; Airspace Docket No. 04-ASW-11] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1656. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Independence, KS [Docket No. FAA-2004-19577; Airspace Docket No. 04-ACE-67] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1657. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; Wichita Colonel James Jabara Airport, KS [Docket No. FAA-2004-19504; Airspace Docket No. 04-ACE-64] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Transportation and Infrastructure.

1658. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Lexington, MO [Docket No. FAA-2004-19575; Airspace Docket No. 04-ACE-65] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1659. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Boone, IA [Docket No. FAA-2004-19576; Airspace Docket No. 04-ACE-66] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1660. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla/Vichy, MO [Docket No. FAA-2005-20059; Airspace Docket No. 05-ACE-1] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1661. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla, MO [Docket No. FAA-2005-20060; Airspace Docket NO. 05-ACE-2] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1662. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Colored Federal Airway; AK [Docket No. FAA-2004-18734; Airspace Docket No. 03-AAL-03] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1663. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of VOR Federal Airway V-623 [Docket No. FAA-2004-19422; Airspace Docket No. 03-AEA-11] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 804. A bill to exclude from consideration as income certain payments under the national flood insurance program (Rept. 109–44). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TOM DAVIS of Virginia (for himself, Ms. Norton, and Mr. Waxman):

H.R. 1629. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on Appropriations, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. Oberstar, Mr. LaTourette, and Ms. Corrine Brown of Florida):

H.R. 1630. A bill to authorize appropriations for the benefit of Amtrak for fiscal years 2006 through 2008, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Alaska (for himself, Mr. Oberstar, Mr. LaTourette, and Ms. Corrine Brown of Florida):

H.R. 1631. A bill to provide for the financing of high-speed rail infrastructure, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. Cardin, Ms. Hart, Mr. Wilson of South Carolina, Mr. Towns, Mr. Sessions, Mr. Pickering, Mr. Peterson of Minnesota, Mr. Clyburn, Mr. McNulty, Mr. Israel, and Mr. Cummings):

H.R. 1632. A bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEY (for himself, Mr. Capuano, Mr. Smith of New Jersey, Mr. Davis of Illinois, Mr. Pallone, Mr. Weldon of Florida, Mrs. Christensen, Mr. Alexander, Mrs. Wilson of New Mexico, Mr. Bradley of New Hampshire, Mrs. Capito, Mr. McGovern, Mr. Frank of Massachusetts, Mr. Taylor of North Carolina, Mr. English of Pennsylvania, and Mr. Renzi):

H.R. 1633. A bill to amend the Public Health Service Act to extend Federal Tort Claims Act coverage to all federally qualified community health centers; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAMP (for himself, Mr. Udall of Colorado, Mr. Boehlert, Mr. Moran of Virginia, Mr. McGovern, Mr. Frank of Massachusetts, Mr. Schiff, and Mrs. Bono):

H.R. 1634. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Ways and Means.

By Mr. McCOTTER (for himself, Mrs. Miller of Michigan, Mr. Pearce, Mr. Manzullo, Mr. Sweeney, Mr. English of Pennsylvania, Mr. Renzi, Mr. Reyes, Mr. Sullivan, Mr. Shuster, and Mr. Jones of North Carolina):

H.R. 1635. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for hiring military service personnel who served in a combat zone or a hazardous duty area; to the Committee on Ways and Means.

By Mr. FARR (for himself, Mr. Shays, Mr. Abercrombie, Mr. Andrews, Mrs. Capps, Mr. Case, Mr. Grijalva, Mr. Holt, Mr. Honda, Mr. Lantos, Ms. Lee, Mr. McGovern, Mr. George Miller of California, Mr. Moran of Virginia, Mr. Pallone, Mrs. Tauscher, Mr. Weiner, Ms. Woolsey, Mr. Thompson of California, Mr. Udall of New Mexico, Ms. Carson, Mr. Stark, Ms. Schakowsky, Ms. Eshoo, Ms. DeLauro, and Ms. Linda T. Sánchez of California):

H.R. 1636. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. Baker, Mr. Conyers, Ms. Corrine Brown of Florida, Mr. Nadler, Mr. Cummings, Mr. Blumenauer, Mr. Matheson, Ms. Millender-McDonald, Mr. McIntyre, Ms. Norton, and Mr. Filner):

H.R. 1637. A bill to improve intermodal transportation; to the Committee on Transportation and Infrastructure.

By Mr. GRAVES (for himself and Mr. Barrow):

H.R. 1638. A bill to reinstate regulation under the Commodity Exchange Act of futures contracts, swaps, and hybrid instruments involving natural gas, to require review and approval by the Commodity Futures Trading Commission of rules applicable to transactions involving natural gas, to provide for the reporting of large positions in natural gas, to provide for cash settlement for certain contracts of sale for future delivery of natural gas, to temporarily prohibit members of the Commodity Futures Trading Commission from going to work for organizations subject to regulation by the Commission, and for other purposes; to the Committee on Agriculture.

By Ms. DELAURO (for herself, Mr. EVANS, Ms. BORDALLO, Mr. GRIJALVA, Mr. OBERSTAR, Mr. FILNER, Mr. MCDERMOTT, Mr. CASE, Mrs. CAPPS, Mr. GUTIERREZ, Mrs. LOWEY, Mr. EMANUEL, Mr. LARSON of Connecticut, Ms. HOOLEY, Mr. STARK, Mr. KENNEDY of Rhode Island, Mr. SERRANO, Mr. HINCHEY, and Mr. SANDERS):

H.R. 1639. A bill to require pre- and post-deployment mental health screenings for members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. BARTON of Texas (for himself, Mr. HALL, Mr. UPTON, Mr. STEARNS, Mrs. CUBIN, Mr. SHIMKUS, Mr. PICKERING, Mr. BLUNT, Mr. BUYER, Mr. RADANOVICH, Mr. PITTS, Mr. TERRY, and Mr. ROGERS of Michigan):

H.R. 1640. A bill to ensure jobs for our future with secure and reliable energy; to the Committee on Energy and Commerce, and in addition to the Committees on Science, Resources, Education and the Workforce, Transportation and Infrastructure, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FLAKE:

H.R. 1641. A bill to make the internal control requirements of the Sarbanes-Oxley Act of 2002 voluntary; to the Committee on Financial Services.

By Mr. FLAKE (for himself, Mr. GUTKNECHT, Mr. PENCE, Mr. HENSARLING, Mr. MARCHANT, Mr. WESTMORELAND, Mr. SAM JOHNSON of Texas, Mr. ROHRABACHER, Mr. TANCREDO, Mr. JONES of North Carolina, Mr. WILSON of South Carolina, Mr. HOSTETTLER, and Mr. MILLER of Florida):

H.R. 1642. A bill to prohibit Federal agencies from obligating funds for appropriations earmarks included only in congressional reports, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORD:

H.R. 1643. A bill to amend various banking laws to combat predatory lending, particularly in regards to low and moderate income individuals, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORTUÑO:

H.R. 1644. A bill to protect the critical aquifers and watersheds that serve as a principal water source for the Commonwealth of Puerto Rico, to protect the tropical forests of the Karst Region of the Commonwealth, and for other purposes; to the Committee on Resources.

By Mr. GERLACH (for himself, Mr. BRADY of Pennsylvania, Mr. HOLDEN, Mr. PETERSON of Pennsylvania, Mr. PLATTS, Ms. HART, Mr. ENGLISH of Pennsylvania, and Mr. GENE GREEN of Texas):

H.R. 1645. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin; to the Committee on Resources.

By Ms. HARMAN (for herself, Mr. WELDON of Pennsylvania, Mr. FRELINGHUYSEN, Mrs. TAUSCHER, Mr. SHAYS, Mr. ISRAEL, Mr. WILSON of South Carolina, Ms. LORETTA SANCHEZ of California, Mr. FORD, Mr. PASCRELL, Ms. MILLENDER-MCDONALD, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Ms. NORTON, Mr. BERMAN, Mr. GEORGE MILLER of California, Mr. ANDREWS, Mrs. LOWEY, Mr. ABERCROMBIE, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 1646. A bill to provide for the expedited and increased assignment of spectrum for public safety purposes; to the Committee on Energy and Commerce.

By Mr. HASTINGS of Florida (for himself, Mr. HONDA, Mr. ABERCROMBIE, Ms. LEE, Mr. JACKSON of Illinois, Mrs. CHRISTENSEN, Mr. STARK, and Mr. JEFFERSON):

H.R. 1647. A bill to require that general Federal elections be held during the first consecutive Saturday and Sunday in November, and for other purposes; to the Committee on House Administration.

By Mr. HASTINGS of Florida (for himself, Mr. OWENS, Mrs. CHRISTENSEN, Mr. SERRANO, Ms. JACKSON-LEE of Texas, Mr. MCDERMOTT, Mr. NADLER, Ms. LEE, Mr. GRIJALVA, Ms. CORRINE BROWN of Florida, Mr. SANDERS, Mr. HONDA, Mr. MENENDEZ, Mr. WEXLER, Mr. RANGEL, Mr. PAYNE, Mr. MARKEY, Ms. DEGETTE, Mr. DOGGETT, Mr. STARK, Mr. JACKSON of Illinois, Ms. NORTON, Mr. HINCHEY, Mr. PALLONE, Mr. KUCINICH, Mr. MCGOVERN, Mrs. JONES of Ohio, Mr. CONYERS, Ms. SOLIS, Ms. WASSERMAN SCHULTZ, and Mr. MEEK of Florida):

H.R. 1648. A bill to require Executive Order 12898 to remain in force until changed by law, to expand the definition of environmental justice, to direct each Federal agency to establish an Environmental Justice Office, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT (for himself, Mr. SMITH of New Jersey, Mr. PAYNE, Mr. SAXTON, Mr. OWENS, Mr. ANDREWS, Mr. TOWNS, Mr. MENENDEZ, Mr. JEFFERSON, and Mr. PALLONE):

H.R. 1649. A bill to amend title XIX of the Social Security Act to require staff working with developmentally disabled individuals to call emergency services in the event of a life-threatening situation; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. CASTLE, Mr. BOSWELL, Mrs. CHRISTENSEN, Ms. LEE, Mr. RAMSTAD, Ms. LORETTA SANCHEZ of California, Mr. SHAYS, and Mr. SIMMONS):

H.R. 1650. A bill to amend the Internal Revenue Code of 1986 to allow tax credits to holders of stem cell research bonds; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. KANJORSKI, Ms. HOOLEY, Mrs. KELLY, Mr. HENSARLING, and Mr. SAM JOHNSON of Texas):

H.R. 1651. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Financial Services.

By Mrs. MALONEY (for herself, Mr. BROWN of Ohio, Mr. DEFAZIO, Ms. WASSERMAN SCHULTZ, Mrs. JONES of Ohio, Mr. SHAYS, Mr. GEORGE MILLER of California, Mr. GUTIERREZ, Ms. BALDWIN, Mr. MORAN of Virginia, Mr. CROWLEY, Mr. KENNEDY of Rhode Island, Mrs. CAPPS, Mr. MCGOVERN, Ms. CARSON, Mrs. DAVIS of California, Mr. BRADY of Pennsylvania, and Ms. ZOE LOFGREN of California):

H.R. 1652. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARKEY:

H.R. 1653. A bill to prohibit the transfer of personal information to any person outside the United States, without notice and consent, and for other purposes; to the Committee on Energy and Commerce.

By Miss MCMORRIS (for herself, Mr. MCDERMOTT, Mr. HASTINGS of Washington, Mr. DICKS, Mr. SMITH of Washington, Mr. REICHERT, Mr. LARSEN of Washington, Mr. INSLEE, Mr. BAIRD, and Mr. YOUNG of Alaska):

H.R. 1654. A bill to provide for the establishment of demonstration programs to address the shortages of health care professionals in rural areas, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MICHAUD (for himself, Mr. ALLEN, Mr. BERRY, Mr. BROWN of Ohio, Mr. CASE, Mr. CROWLEY, Ms. DELAURO, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. HINCHEY, Mr. HOLDEN, Mr. LARSON of Connecticut, Mr. MEEHAN, Mr. MCDERMOTT, Mr. PALLONE, Mr. REYES, Mr. ROSS, Mr. SANDERS, Mr. STARK, Ms. WOOLSEY, and Mr. WYNN):

H.R. 1655. A bill to establish an America Rx program to establish fairer pricing for prescription drugs for individuals without access to prescription drugs at discounted prices; to the Committee on Energy and Commerce.

By Mr. ORTIZ:

H.R. 1656. A bill to correct maps depicting Unit T-10 of the John H. Chafee Coastal Barrier Resources System; to the Committee on Resources.

By Mr. PAUL:

H.R. 1657. A bill to ensure financial regulations do not harm economic competitiveness, nor deprive Americans of due process of law, by repealing provisions of Federal law that hold corporate chief executive officers criminally liable for the content and quality of their companies' financial report, even when the chief executive officers had no intention to engage in criminal behavior, and had taken all reasonable steps to assure the accuracy of the statement; to the Committee on Financial Services.

By Mr. PAUL:

H.R. 1658. A bill to ensure that the courts interpret the Constitution in the manner that the Framers intended; to the Committee on the Judiciary.

By Mr. RENZI (for himself, Mr. MATHESON, and Mr. UDALL of New Mexico):

H.R. 1659. A bill to fulfill the United States Government's trust responsibility to serve the educational needs of the Navajo people; to the Committee on Education and the Workforce.

By Mr. RUSH:

H.R. 1660. A bill to amend the Consumer Credit Protection Act and other banking laws to protect consumers who avail themselves of payday loans from usurious interest rates and exorbitant fees, perpetual debt, the use of criminal actions to collect debts, and other unfair practices by payday lenders, to encourage the States to license and closely regulate payday lenders, and for other purposes; to the Committee on Financial Services.

By Mr. RUSH:

H.R. 1661. A bill to amend the Small Business Act and the Communications Act of 1934 to increase participation by small businesses in spectrum auctions conducted by the Federal Communications Commission; to the Committee on Small Business, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF (for himself and Ms. ROS-LEHTINEN):

H.R. 1662. A bill to require an annual Department of State report on information relating to the promotion of religious freedom, democracy, and human rights in foreign countries by individuals, nongovernmental organizations, and the media in those countries, and for other purposes; to the Committee on International Relations.

By Mr. SHAW (for himself, Mr. JEFFERSON, Mr. FOLEY, Mr. FORD, Mr. ENGLISH of Pennsylvania, Mr. BOEHNER, Mr. BLUNT, Mr. ABERCROMBIE, Mr. SIMMONS, Mr. HOLT, and Mr. GARY G. MILLER of California):

H.R. 1663. A bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for the depreciation of certain leasehold improvements; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mrs. MALONEY, Mr. GRIJALVA, Mr. ABERCROMBIE, Mr. PAUL, Mr. HOLDEN, Mrs. JOHNSON of Connecticut, Mr. SHIMKUS, Mr. MCGOVERN, Mr. GERLACH, Mr. MCHUGH, Ms. HART, Mr. MICHAUD, Mr. MCNULTY, Mr. PLATTS, Ms. SCHAKOWSKY, and Mr. TIERNEY):

H.R. 1664. A bill to ensure that amounts in the Victims of Crime Fund are fully obligated; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mr. DUNCAN, Ms. WATSON, Mr. HINCHEY, Mr. MCDERMOTT, Ms. LEE, Ms. CARSON, Mr. GRIJALVA, Mr. KUCINICH, Mr. OWENS, Mr. PALLONE, Ms. SCHAKOWSKY, Mrs. JONES of Ohio, Mrs. JO ANN DAVIS of Virginia, and Mr. GEORGE MILLER of California):

H.R. 1665. A bill to shorten the term of broadcasting licenses under the Communications Act of 1934 from 8 to 3 years, to provide better public access to broadcasters' public interest issues and programs lists and children's programming reports, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. TAUSCHER (for herself, Mr. SKELTON, Mr. HOYER, Mr. LARSON of Connecticut, Mr. EDWARDS, Mr. TAYLOR of Mississippi, Mr. MCINTYRE, Mr. KIND, Mr. DAVIS of Alabama, Mr. GEORGE MILLER of California, Mr. SMITH of Washington, Ms. MILLENDER-MCDONALD, Mr. BISHOP of Georgia, Mr. ETHERIDGE, Mr. MEEK of Florida, Mr. EVANS, Mr. REYES, Mr. BUTTERFIELD, Mr. SCOTT of Georgia, Mr. CARDOZA, Mr. TANNER, Mr. COOPER, Mr. CRAMER, Mr. BOSWELL, Mr. PETERSON of Minnesota, Mr. MELANCON, Ms. HERSETH, Mr. ORTIZ, Mr. ANDREWS, Mr. MEEHAN, Mr. ABERCROMBIE, Mr. ISRAEL, Mr. ACKERMAN, Mr. DICKS, Mrs. DAVIS of California, and Mr. SPRATT):

H.R. 1666. A bill to amend title 10, United States Code, to provide a temporary five-year increase in the minimum end-strength levels for active-duty personnel for the Armed Forces, to increase the number of Special Operations Forces, and for other purposes; to the Committee on Armed Services.

By Mr. UDALL of New Mexico:

H.R. 1667. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN (for himself, Mr. PALLONE, Mr. DINGELL, Mr. BROWN of Ohio, Mr. RANGEL, Mr. STARK, Mr. MARKEY, Mrs. CAPPS, Mr. CONYERS, Mr. RUSH, Mr. DOGGETT, Ms. SCHAKOWSKY, Mr. MEEK of Florida, Ms. MILLENDER-MCDONALD, Ms. SCHWARTZ of Pennsylvania, Mr. GENE GREEN of Texas, and Mr. ALLEN):

H.R. 1668. A bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER (for himself and Mr. MORAN of Kansas):

H.R. 1669. A bill to ensure integrity in the operation of pharmacy benefit managers; to the Committee on Energy and Commerce.

By Mr. WEINER (for himself, Mr. CROWLEY, and Mr. BLUMENAUER):

H.R. 1670. A bill to prohibit United States military assistance for Egypt and to express the sense of Congress that the amount of military assistance that would have been provided for Egypt for a fiscal year should be provided in the form of economic support fund assistance; to the Committee on International Relations.

By Mr. WEINER (for himself and Mr. MORAN of Kansas):

H.R. 1671. A bill to ensure and foster continued patient safety and quality of care by making the antitrust laws apply to negotiations between groups of independent pharmacies and health plans and health insurance issuers in the same manner as such laws apply to collective bargaining by labor organizations under the National Labor Relations Act; to the Committee on the Judiciary.

By Ms. WOOLSEY:

H.R. 1672. A bill to provide protection and victim services to children abducted by family members; to the Committee on the Judiciary.

By Mr. SNYDER (for himself and Mr. SHAYS):

H.J. Res. 42. A joint resolution proposing an amendment to the Constitution of the United States to permit persons who are not natural-born citizens of the United States, but who have been citizens of the United States for at least 35 years, to be eligible to hold the offices of President and Vice President; to the Committee on the Judiciary.

By Mr. PAUL (for himself, Mr. GOODE, Mr. SAM JOHNSON of Texas, Mr. FLAKE, and Mr. MANZULLO):

H. Con. Res. 132. Concurrent resolution expressing the sense of the Congress that the United States should formally withdraw its membership from the United Nations Educational, Scientific, and Cultural Organization (UNESCO); to the Committee on International Relations.

By Mr. SPRATT (for himself, Mr. LEACH, Mr. MARKEY, Mr. SKELTON, Mr. SHAYS, and Mrs. TAUSCHER):

H. Con. Res. 133. Concurrent resolution stating the policy of the Congress concerning actions to support the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on the occasion of the Seventh NPT Review Conference; to the Committee on International Relations.

By Ms. PELOSI:

H. Res. 213. A resolution raising a question of the privileges of the House.

By Mr. KING of Iowa (for himself, Mr. CHABOT, Mr. BARTLETT of Maryland, Mr. NORWOOD, Mr. PITTS, Mr. WESTMORELAND, Mrs. BLACKBURN, Ms. FOXX, Mr. GINGREY, Mr. HOSTETTLER, Mr. GOODE, and Mr. ALEXANDER):

H. Res. 214. A resolution directing the Speaker of the House of Representatives to provide for the display of the Ten Commandments in the chamber of the House of Representatives if the Supreme Court of the United States rules against religious freedom by holding that the display of the Ten Commandments in public places by State and local governments constitutes a violation of the establishment clause of the first amendment to the Constitution of the United States; to the Committee on House Administration.

By Mr. PRICE of Georgia:

H. Res. 215. A resolution recognizing the need to move the Nation's current health care delivery system toward a defined contribution system; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHWARZ of Michigan (for himself, Mr. DINGELL, Mr. FORD, Mr.

KILDEE, Mr. CONYERS, Mr. EHLERS, Ms. KAPTUR, Mr. LEVIN, Mr. PRICE of Georgia, and Mr. UPTON):

H. Res. 216. A resolution to honor the late playwright Arthur Miller and the University of Michigan for its intention of building a theatre in his name; to the Committee on Education and the Workforce.

By Mr. WEXLER (for himself and Ms. GINNY BROWN-WAITE of Florida):

H. Res. 217. A resolution supporting the rights of individuals to make medical decisions as guaranteed by the Fourteenth Amendment of the Constitution and encouraging all Americans to set forth their wishes in living wills that designate health care surrogates and in other advance directives; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 3 of rule XII,

18. The SPEAKER presented a memorial of the House of Representatives of the State of Ohio, relative to House Resolution No. 16 supporting the Defense Supply Center Columbus, and notice of joining "Team DSCC"; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FORTUÑO introduced a bill (H.R. 1673) for the relief of Laura Maldonado Caetani; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. MCCOTTER, Mr. GORDON, and Mr. JINDAL.

H.R. 21: Mr. GILCHREST.

H.R. 22: Mr. SOUDER, Mr. BISHOP of New York, Mr. ISSA, Mr. GUTIERREZ, and Mr. WELLER.

H.R. 34: Mr. BOREN, Mr. GRIJALVA, Mr. CARDOZA, and Mr. SHAW.

H.R. 36: Mr. POMEROY.

H.R. 64: Mr. ISTOOK.

H.R. 111: Mr. ADERHOLT, Mr. BERRY, and Mr. WELDON of Pennsylvania.

H.R. 112: Mr. DEFAZIO and Mr. BERMAN.

H.R. 136: Mr. ISTOOK and Mr. GALLEGLY.

H.R. 156: Mr. EMANUEL and Mr. OWENS.

H.R. 161: Mr. PAYNE and Mr. OWENS.

H.R. 162: Mr. OWENS, Mr. TOWNS, and Mr. PAYNE.

H.R. 164: Mr. CONYERS, Mrs. JONES of Ohio, and Ms. LEE.

H.R. 166: Mr. WYNN, Mr. GRIJALVA, Mr. OWENS, Mr. CASE, Ms. MOORE of Wisconsin, Mr. CUMMINGS, and Mr. PAYNE.

H.R. 175: Mr. RUPPERSBERGER, Mr. PAYNE, and Mr. OWENS.

H.R. 206: Mr. CARDOZA.

H.R. 211: Mr. YOUNG of Alaska.

H.R. 230: Ms. ZOE LOFGREN of California.

H.R. 278: Mrs. MYRICK.

H.R. 282: Mr. INGLIS of South Carolina, Mr. BRADLEY of New Hampshire, Mr. RUSH, Mrs. MALONEY, Mr. FILNER, Mr. KENNEDY of Minnesota, Mr. FITZPATRICK of Pennsylvania, Mrs. DRAKE, and Ms. HARMAN.

H.R. 303: Ms. LEE, Mr. ISRAEL, Mr. CARDOZA, Mr. MCNULTY, Mr. YOUNG of Florida, Mr. LEWIS of Georgia, Mr. KOLBE, Mr. AL GREEN of Texas, and Mr. MCCOTTER.

H.R. 311: Mr. JACKSON of Illinois, Mr. WEXLER, Mr. KOLBE, and Mr. TAYLOR of Mississippi.

H.R. 341: Mr. SMITH of Washington and Mr. NEY.

H.R. 356: Mr. RYAN of Wisconsin and Mr. SHADEGG.

H.R. 376: Mr. AL GREEN of Texas, Mr. NEAL of Massachusetts, Mr. PALLONE, and Mr. LARSON of Connecticut.

H.R. 377: Mr. CARDOZA.

H.R. 389: Mr. YOUNG of Florida.

H.R. 427: Mr. HASTINGS of Florida.

H.R. 460: Mr. MENENDEZ.

H.R. 463: Mr. CARDOZA.

H.R. 478: Mr. MCDERMOTT, Mr. CONYERS, Mr. ABERCROMBIE, Ms. JACKSON-LEE of Texas, Mr. LARSEN of Washington, Mr. MCNULTY, Mr. JEFFERSON, and Mr. PAYNE.

H.R. 503: Mr. PLATTS, Mr. CASTLE, and Ms. VELÁZQUEZ.

H.R. 517: Mr. HOLDEN, Mr. RENZI, Mrs. CAPITO, Mr. FORTUÑO, and Mr. DOOLITTLE.

H.R. 547: Mr. CROWLEY, Mr. CUMMINGS, and Mr. LARSON of Connecticut.

H.R. 558: Mr. DAVIS of Illinois and Mr. GRIJALVA.

H.R. 583: Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. TERRY, and Mr. EMANUEL.

H.R. 596: Mr. PLATTS, Mr. BAKER, Mr. GOODLATTE, and Mr. BROWN of South Carolina.

H.R. 602: Mr. MURPHY and Mr. ROSS.

H.R. 615: Mr. GREEN of Wisconsin.

H.R. 616: Mr. STARK.

H.R. 627: Mr. SHAYS.

H.R. 653: Mr. KANJORSKI, Ms. HOOLEY, Mr. STICKLAND, Mr. ETHERIDGE, Mrs. MCCARTHY, Mr. PASCRELL, and Ms. CARSON.

H.R. 691: Mr. BOUCHER.

H.R. 699: Mr. PLATTS, Mr. KILDEE, Mr. WELDON of Florida, Mr. DINGELL, Mr. ROSS, Mr. LAHOOD, Ms. WASSERMAN SCHULTZ, and Mr. WAXMAN.

H.R. 703: Mr. SHADEGG.

H.R. 712: Mr. TERRY.

H.R. 719: Mr. CONYERS and Mr. ALLEN.

H.R. 745: Mr. ALEXANDER and Mr. MCCRERY.

H.R. 761: Ms. SCHAKOWSKY, Ms. CORRINE BROWN of Florida, Mr. LARSON of Connecticut, and Ms. BORDALLO.

H.R. 764: Mr. PAYNE.

H.R. 765: Mr. TANCREDO, Mr. DAVIS of Alabama, and Mr. FEENEY.

H.R. 783: Ms. SCHAKOWSKY and Mr. CARDOZA.

H.R. 792: Mr. BISHOP of New York, Mr. WALSH, Mr. BRADY of Pennsylvania, Mr. HOLDEN, and Ms. CARSON.

H.R. 793: Ms. DEGETTE, Mr. NEAL of Massachusetts, and Mr. KLINE.

H.R. 800: Mr. CUNNINGHAM, Mr. BROWN of South Carolina, and Mr. SODREL.

H.R. 801: Mr. KILDEE.

H.R. 810: Mr. MCNULTY, Ms. GRANGER, Mr. CLYBURN, Mr. COSTA, and Mr. WHITFIELD.

H.R. 815: Mr. NEAL of Massachusetts.

H.R. 817: Mr. DEFAZIO, Mr. CAPUANO, Mr. BOSWELL, Mr. CARDOZA, Mr. FARR, Ms. WATERS, Mr. ALLEN, Mr. HOLT, Mr. DICKS, Mr. GERLACH, Ms. SCHAKOWSKY, Ms. LEE, Mr. FRANKS of Arizona, Mrs. CAPPS, Mr. FRANK of Massachusetts, Mr. JONES of North Carolina, Mr. WHITFIELD, Mr. MENENDEZ, Mr. GRIJALVA, Mr. PRICE of North Carolina, Mr. STARK, Mr. SHAYS, Mr. KILDEE, and Mr. MICHAUD.

H.R. 839: Mr. MCDERMOTT, Mr. LARSON of Connecticut, Mr. OWENS, Mr. KUCINICH, Mr. MARKEY, Ms. WOOLSEY, Mr. PRICE of North Carolina, and Mr. SCHIFF.

H.R. 844: Mrs. DAVIS of California.

H.R. 864: Mr. KILDEE and Mr. DOGGETT.

H.R. 877: Mr. TURNER, Mr. PAUL, Mr. CUMMINGS, and Mr. MENENDEZ.

H.R. 887: Mr. SMITH of Washington and Mr. CARDOZA.

H.R. 896: Mr. NORWOOD, Mr. RADANOVICH, Mr. HOEKSTRA, Mr. SIMMONS, and Mr. GRAVES.

H.R. 899: Mr. MCHUGH.

H.R. 908: Mr. GENE GREEN of Texas.

H.R. 924: Mr. YOUNG of Florida.

H.R. 925: Mr. BILIRAKIS, Mr. OTTER, Mr. MCCAUL of Texas, Mr. WILSON of South Carolina, Mr. SHADEGG, Mr. DEAL of Georgia, Mr. SHAW, and Mr. FRANKS of Arizona.

H.R. 926: Mr. FORTUÑO and Mr. BRADLEY of New Hampshire.

H.R. 930: Mr. BOEHLERT and Mrs. CAPITO.

H.R. 934: Mr. PETERSON of Minnesota, Mr. ENGEL, Mr. CONYERS, and Mr. GENE GREEN of Texas.

H.R. 939: Mr. TOWNS and Mr. CUMMINGS.

H.R. 942: Mr. FORD.

H.R. 968: Mr. SERRANO, Mr. JENKINS, Mr. MCCOTTER, Mr. MCDERMOTT, Mr. PORTER, Mr. BERRY, and Mr. ROSS.

H.R. 972: Ms. ZOE LOFGREN of California, Mr. SCHIFF, Mr. BASS, and Mr. BUYER.

H.R. 976: Mr. NORWOOD, Mr. PORTER, and Mr. TANCREDO.

H.R. 983: Mr. GRIJALVA and Mr. NADLER.

H.R. 985: Mr. LUCAS, Mr. LATOURETTE, Mr. MURTHA, Mr. BOEHLERT, Mrs. BIGGERT, Mr. MANZULLO, Mr. ANDREWS, and Mr. MCCOTTER.

H.R. 988: Mr. BAIRD, Mr. BOEHLERT, and Mr. Matheson.

H.R. 995: Mr. FORTUÑO.

H.R. 997: Mr. BRADLEY of New Hampshire.

H.R. 998: Mr. HOLDEN.

H.R. 1049: Mr. LATHAM, Mr. WELLER, and Mr. CHOCOLA.

H.R. 1053: Mr. SNYDER.

H.R. 1059: Mr. ALLEN and Ms. MOORE of Wisconsin.

H.R. 1063: Mr. KLINE.

H.R. 1070: Mr. SODREL.

H.R. 1071: Mr. MCGOVERN, Ms. ROYBAL-ALLARD, Mrs. NAPOLITANO, Mr HAYWORTH, Mr. CALVERT, Mr. BROWN of South Carolina, Mr. FOLEY, Ms. GINNY BROWN-WAITE of Florida, Mr. CASE, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. HASTINGS of Florida, and Mr. FILNER.

H.R. 1078: Ms. MCCOLLUM of Minnesota, Ms. SLAUGHTER, Mr. LANTOS, Mr. MCGOVERN, and Mr. GORDON.

H.R. 1079: Mr. ROGERS of Michigan.

H.R. 1080: Ms. MCCOLLUM of Minnesota, Mr. DEFAZIO, Mr. LANTOS, Mr. MCGOVERN, and Mr. GORDON.

H.R. 1088: Mrs. MCCARTHY.

H.R. 1091: Mr. SHAYS.

H.R. 1093: Mr. KUHL of New York and Mr. OWENS.

H.R. 1096: Mr. PASCRELL.

H.R. 1100: Mr. PETERSON of Pennsylvania and Mr. EVERETT.

H.R. 1105: Mr. BOUCHER, Mr. MENENDEZ, Mr. ROTHMAN, and Mr. LATOURETTE.

H.R. 1116: Mr. TOWNS.

H.R. 1120: Ms. KILPATRICK of Michigan, Mr. FILNER, Mr. VAN HOLLEN, Ms. BALDWIN, Mr. ALEXANDER, and Mrs. JOHNSON of Connecticut.

H.R. 1124: Ms. SCHAKOWSKY, Mr. COSTA, Mr. STARK, and Mr. NADLER.

H.R. 1130: Mr. BUTTERFIELD.

H.R. 1131: Mrs. JOHNSON of Connecticut and Mrs. KELLY.

H.R. 1136: Mr. TOWNS, Mr. MENENDEZ, and Mr. MEEKS of New York.

H.R. 1145: Mr. BUTTERFIELD.

H.R. 1150: Mrs. CAPITO.

H.R. 1153: Mr. HOYER, Ms. VELÁZQUEZ, Mr. CASE, and Mr. LARSEN of Washington.

H.R. 1170: Mr. SNYDER.

H.R. 1184: Mr. GONZALEZ.

H.R. 1195. Mr. CONYERS, Mrs. LOWEY, Mr. MCDERMOTT, Mr. MEEHAN, Mr. PASCRELL, Mr. RANGEL, Mr. SHAYS, Mr. THOMPSON of Mississippi, and Mr. WYNN.

H.R. 1202: Mr. GREEN of Wisconsin.

H.R. 1204: Ms. SLAUGHTER, Mr. RANGEL, Mr. LEACH, and Ms. WATSON.

H.R. 1235: Mr. REHBERG.

H.R. 1242: Mr. VAN HOLLEN, Mr. BROWN of Ohio, Mr. KUCINICH, Mr. MCDERMOTT, Mr. BISHOP of Georgia, Mr. MCGOVERN, Mr. SALAZAR, Mr. EMANUEL, and Mr. YOUNG of Florida.

H.R. 1243: Mr. PETERSON of Minnesota, Mr. PEARCE, Mr. PETERSON of Pennsylvania, Mrs. JO ANN DAVIS of Virginia, Mr. NORWOOD, Mr. BILIRAKIS, Mr. ROGERS of Kentucky, Mr. PLATTS, Mr. GARRETT of New Jersey, Mr. GOODLATTE, and Mr. NEY.

H.R. 1245: Mr. MARIO DIAZ-BALART of Florida, Mrs. MALONEY, Mr. WEINER, Mr. BERMAN, Mr. OWENS, Mr. BUTTERFIELD, Mr. REYES, Mr. ACKERMAN, and Ms. WASSERMAN SCHULTZ.

H.R. 1246: Mr. GOHMERT and Ms. GRANGER.

H.R. 1264: Mr. DUNCAN.

H.R. 1272: Mr. FOLEY

H.R. 1277: Ms. SCHAKOWSKY and Mr. WEXLER.

H.R. 1293: Mr. COSTELLO.

H.R. 1299: Mr. ROSS, Mr. SCOTT of Georgia, Mr. REICHERT, and Mr. FLAKE.

H.R. 1306: Mr. BISHOP of New York, Mr. KUHL of New York, Mr. HASTINGS of Washington, Mr. BACHUS, Mr. MANZULLO, Mr. GARY G. MILLER of California, and Mr. AKIN.

H.R. 1312: Ms. JACKSON-LEE of Texas and Mr. SHERMAN.

H.R. 1339: Mr. BOUSTANY.

H.R. 1350: Mr. LEWIS of Kentucky.

H.R. 1352: Mr. HOLT, Mr. JONES of North Carolina, Mrs. MCCARTHY, Mr. BRADY of Pennsylvania, Mr. MURTHA, Mr. KANJORSKI, Mr. EMANUEL, Mr. EVANS, Ms. LORETTA SANCHEZ of California, Mr. WYNN, Mr. THOMPSON of California, Mr. BROWN of Ohio, Mr. RYAN of Ohio, Mr. ISRAEL, Mr. MOORE of Kansas, Mr. ANDREWS, Mrs. TAUSCHER, Mr. PASCRELL, Mr. SPRATT, Mr. PEARCE, Mr. DENT, Mr. GOHMERT, Mr. DAVIS of Kentucky, Mr. DAVIS of Alabama, Mr. AL GREEN of Texas, Mr. CLEAVER, Mr. CHANDLER, Mr. WELDON of Pennsylvania, Mr. SALAZAR, Mr. BOREN, Mr. RUPPERSBERGER, Mr. COSTELLO, Mr. GENE GREEN of Texas, Mr. SCHIFF, Mrs. DAVIS of California, and Mr. BISHOP of New York.

H.R. 1356: Mr. TIERNEY.

H.R. 1365: Mr. STARK and Mr. FATTAH.

H.R. 1366: Mr. CARDOZA.

H.R. 1370: Mr. OTTER, Mr. SIMPSON, Mrs. CUBIN, Mrs. BLACKBURN, Mr. DOOLITTLE, Mr. WESTMORELAND, Mr. HOSTETTLER, and Mr. REHBERG.

H.R. 1375: Mr. EDWARDS and Mr. ORTIZ.

H.R. 1376: Mr. OBERSTAR and Mr. ALLEN.

H.R. 1380: Mr. HOLDEN, Mr. BARTLETT of Maryland, Mr. GONZALEZ, Mr. LANTOS, Mr. LEWIS of Kentucky, and Mr. ALEXANDER.

H.R. 1388: Mrs. MUSGRAVE.

H.R. 1393: Mr. KENNEDY of Minnesota, Mr. BOSWELL, Mr. PETERSON of Minnesota, and Mr. BARTLETT of Maryland.

H.R. 1405: Mr. GRIJALVA.

H.R. 1406: Mr. EDWARDS.

H.R. 1409: Mr. SHIMKUS, Mr. RUSH, and Mr. OBERSTAR.

H.R. 1415: Mr. SHERMAN.

H.R. 1426: Mr. DICKS, Ms. CORRINE BROWN of Florida, Mr. RYAN of Wisconsin, Mr. ROSS, and Mr. MCGOVERN.

H.R. 1498: Mr. FRANKS of Arizona, Mr. HOLDEN, Mr. TAYLOR of Mississippi, Mr. LIPINSKI, and Mr. BUTTERFIELD.

H.R. 1500: Mr. HALL and Mr. GREEN of Wisconsin.

H.R. 1505: Mr. PUTNAM, Ms. KILPATRICK of Michigan, Mr. WILSON of South Carolina, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 1517: Mr. MCCOTTER, Mr. GOODE, Mr. BAKER, Mr. SOUDER, Mr. KUHL of New York, Mr. WILSON of South Carolina, Mr. LAHOOD, Mr. HOSTETTLER, Mr. FLAKE, Mr. GOODLATTE, Mr. MCCAUL of Texas, Ms. GINNY BROWN-WAITE of Florida, Mr. MILLER of Florida, Mr. WICKER, Mr. AKIN, Mr. KLINE, and Mr. TERRY.

H.R. 1521: Mr. RANGEL.

H.R. 1526: Mr. ABERCROMBIE, Ms. HARMAN, Mr. BARTLETT of Maryland, Mr. GUTIERREZ, Mr. YOUNG of Alaska, Mr. FRANK of Massachusetts, Mr. OWENS, Mr. STARK, and Mr. ALLEN.

H.R. 1540: Mr. TAYLOR of Mississippi.

H.R. 1545: Mr. DUNCAN.

H.R. 1554: Mr. ANDREWS, Mr. MCDERMOTT, Ms. BALDWIN, Mr. MCNULTY, and Mr. TERRY.

H.R. 1575: Mr. BURTON of Indiana, Mr. JONES of North Carolina, Mr. GOODE, Mr. MCCOTTER, Mr. BROWN of Ohio, Mr. MCINTYRE, and Mr. GENE GREEN of Texas.

H.R. 1582: Mr. WAXMAN, Mr. BACHUS, Mr. SOUDER, Mr. SHAYS, Mr. PAUL, Mr. PETERSON of Minnesota, and Mr. DAVIS of Illinois.

H.R. 1588: Mr. SERRANO.

H.R. 1595: Ms. ROS-LEHTINEN, Mr. GILCHREST, Mr. PALLONE, Mr. FILNER, Mr. HINOJOSA, Mr. LARSEN of Washington, Mr. FRANK of Massachusetts, Mrs. CAPPS, Mr. ISRAEL, Mr. LARSON of Connecticut, Mrs. MALONEY, Ms. LORETTA SANCHEZ of California, and Ms. KAPTUR.

H.R. 1598: Ms. GINNY BROWN-WAITE of Florida, Mr. SHAW, and Mr. GORDON.

H.R. 1608: Mr. REHBERG and Mr. HULSHOF.

H.R. 1624: Mr. FARR and Ms. LORETTA SANCHEZ of California.

H.J. Res. 10: Mr. PUTNAM.

H.J. Res. 23: Mr. STUPAK, Mr. MCDERMOTT, and Mr. GRIJALVA.

H. Con. Res. 24: Mr. LYNCH, Mr. HONDA, Mr. MCNULTY, Mr. NEAL of Massachusetts, Ms. KILPATRICK of Michigan, Mr. OWENS, and Mr. THOMPSON of Mississippi.

H. Con. Res. 41: Mr. GONZALEZ and Mr. SNYDER.

H. Con. Res. 65: Mr. MILLER of North Carolina and Mr. CHABOT.

H. Con. Res. 90: Mr. SHAYS.

H. Con. Res. 99: Mr. DAVIS of Illinois and Mr. DOGGETT.

H. Con. Res. 108: Ms. SCHWARTZ of Pennsylvania, Mr. RANGEL, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. PASTOR, and Mr. DOGGETT.

H. Con. Res. 123: Ms. ESHOO, Mr. LANTOS, Mr. HOLT, Ms. ROYBAL-ALLARD, Mr. ANDREWS, and Mr. GRIJALVA.

H. Con. Res. 125: Mrs. JONES of Ohio, Mr. GENE GREEN of Texas, Mr. FRANKS of Arizona, Ms. HERSETH, and Mr. GUTIERREZ.

H. Con. Res. 127: Mr. ISSA, Mr. WEXLER, Ms. WATSON, Ms. MCCOLLUM of Minnesota.

H. Res. 137: Mr. CARTER, Mr. SESSIONS, and Mr. LATOURETTE.

H. Res. 158: Mr. MOORE of Kansas and Mr. KENNEDY of Rhode Island.

H. Res. 170: Ms. MCCOLLUM of Minnesota.

H. Res. 184: Ms. NEUGEBAUER, Ms. HARRIS, and Mr. ALEXANDER.

H. Res. 186: Mr. SHAW.

PETITIONS, ETC.

Under clause 3 of rule XII.

17. The SPEAKER presented a petition of the Office of the Mayor and City of Lauderdale Lakes Commission, Florida, relative to Resolution No. 05-47 petitioning the Congress of the United States to preserve the Community Development Block Grant Program, to restore funds lost by virtue of the Administration's FY06 budget and to enhance levels of funding previously provided in order to assist local communities in their continued efforts to develop their communities; which was referred to the Committee on Financial Services.

SENATE—*Thursday, April 14, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who can test our thoughts and examine our hearts, look within our leaders today and remove anything that will hinder Your Providence. Replace destructive criticism with kindness and humility. Give to our Senators a wisdom that will bring unity and respect. Help them to commit the labors of this day to You, knowing they can trust You to provide help when they need it most.

Be merciful and bless each of us. May Your face shine with favor upon those who love You, as You unleash Your saving power in our world.

Help us to do with our might that which lies to our hands so that we may fight the good fight and at the end receive the crown which You will award to those who have been faithful.

This we ask in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 14, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, once again today, the Senate will be in a period for morning business for 60 minutes. Following that time, the Senate will resume debate on the emergency supplemental appropriations bill. We have several amendments pending from yesterday that are currently under review, and Members may want to speak to those amendments.

Much of the day yesterday we spent—both on the floor and off the floor—discussing the immigration issue. The issues surrounding immigration are critically important to our economy, to equity, and to security and fairness. They are all vital to this country. The leadership has encouraged those who want to participate in a comprehensive debate on immigration to postpone consideration of their amendments from this standpoint because this is an emergency supplemental spending bill to support our troops in Iraq and Afghanistan and to have appropriate funding for tsunami relief.

There will be a time later, before the end of the year, when we will address immigration in a comprehensive way. In spite of that, we have respected the rights of individual Senators who feel they absolutely must address specific issues, but I continue to encourage those who want to address immigration in a comprehensive way to do so at a more appropriate time.

I know we can work out a process to keep moving forward on the emergency supplemental bill, but we have to address specifically the range of immigration issues that have been brought forth to the managers.

The managers will continue to consider the amendments that are brought forward. Amendments that are brought forward, I encourage they relate to the supplemental emergency spending bill as much as possible. We expect votes over the course of today, and we will have, I expect, a very busy schedule over the course of the day.

Mr. President, I have a few other remarks to make, but I will be happy to turn to the Democratic leader.

Mr. REID. Mr. President, I thank the leader. I say through the Chair to the majority leader, we have worked—even started working last week—on the immigration amendments. We have a finite list now. We have 12 amendments. I think that can be whittled down, for lack of a better word, to even less than that, considerably less than that.

What we should do is lock in these amendments as a finite list. Within a very short period of time, we can find out how many really have to be offered.

The pending amendment, the one Senator MIKULSKI offered, will have nearly—in fact, it may have—60 votes. So that will be adopted with ease.

I hope we do not have to file cloture on this bill. I acknowledge this is important legislation. The money for the funding of the troops is absolutely necessary. All one has to do is read the paper every morning to understand how badly our troops need it. I was just there, and they need all the resources they can get. We want to make sure they do not have to wait a second for what they need.

I will work with the leader through the morning and early afternoon, and see if we can get this number whittled down. Also, the majority leader has a few on his side.

I hope we can limit the immigration amendments to very few—I would say, at the most, three on each side, or four at most, and have the others set aside until a time the majority leader has indicated he will give, sometime before we finish work this year, so there can be a full debate on those immigration matters.

As the leader knows, the problem—and he had nothing to do with it—is in this bill. There is immigration material in this bill. They have so-called REAL ID which came about as a result of our trying to get other legislation done last year. An arrangement was made by the House leadership that they would allow, on the first moving vehicle to come along, the chairman of the Judiciary Committee to put his legislation in the bill. It is in this bill. That is the problem we have.

The Republican leader did not want it in this bill, I did not want it in this bill, but it is in the bill. As a result, we do not have the normal objection that is available when we legislate on an appropriations bill.

I will work with the leader. We will get staff working on this, as they have, to see if we can narrow this considerably. The amendments that deal with the subject matter at hand, the funding of this bill, are just a few in number. We dealt with some of the most important ones yesterday.

I hope we can finish this bill in a reasonably good period of time, and maybe, if we are fortunate, we can get something such as the highway bill or something such as that before we finish our work period—maybe the TANF bill, whatever is out there for us to do.

I understand the problems the leader has, and I will be happy to work with him to alleviate his load as much as possible.

Mr. FRIST. Mr. President, I have a few other comments.

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

H2N2 FLU VIRUS

Mr. FRIST. Mr. President, there is one issue I talked about initially Monday and want to bring forth once again.

Nothing is more important than the safety of the American people, and we have a lot of work to do in a particular area. Yesterday we learned that samples of the deadly H2N2 flu virus were accidentally shipped to 5,000 laboratories all over the world. Thankfully, nearly all of the samples have been destroyed.

The H2N2 virus is lethal. It is fatal. Back in 1957, it killed over 70,000 people just here in the United States and as many as 1 million to 4 million people around the world.

This latest news underscores, once again, just how vulnerable we are as an American people, as a world people, because viruses know no borders, they know no geography. There are no barriers.

On Monday, 3 days ago, I spoke of the need to bolster State preparedness and Federal preparedness in this arena. I mentioned that exotic and deadly viruses, such as the Marburg virus that at this very moment is racking all of northern Angola—the Marburg virus being a virus which is an Ebola-like virus, a hemorrhagic-fever-type virus—those viruses that are racking that country which we do not understand, for which we have no cure, for which we have no vaccine, are literally just a plane ride away from this room or from whoever is listening to me now through the media around the country. It is just a plane ride away.

Avian flu has already killed 50 people. Some say, 50 people, that is not thousands of people. But it is 50 people from a virus that not too long ago we did not know anything about, that began to be harbored in birds, and now is being harbored in other animals and now has killed and jumped to kill 50 people; with just a tiny drift and ultimately a shift in a mutation, it becomes transmissible.

Once again, we have no vaccine for avian flu. It is something for which we have no cure. We only have to look back to 1917, another type of avian flu, but very similar, which killed a half a million Americans, 50 million people around the world.

Meanwhile, as all this goes on, there are only five major vaccine manufacturers worldwide that have production facilities in the United States. That is for all vaccines. Only two of those are actually United States companies. Our manufacturing base for vaccines is woefully inadequate for any of the threats I have just mentioned.

Over the past 2 decades, the number of manufacturers who make vaccines for children has dwindled from 12 down to now just 4, and only 2 of the 4 manufacturers that make lifesaving vaccines for children are here in the United States.

I spoke, as I mentioned, on this topic on Monday. I spoke on Monday because it was the 50th anniversary of the polio vaccine. Yesterday's news about the H2N2 virus is just one more reason why we need to take action. It is imperative we strengthen our domestic vaccine supply, we offer appropriate legal protections, and we encourage and incentivize collaboration between public and private sectors. We need to advance research and development. We need to put all these initiatives together to protect us from a deadly viral outbreak that scientific experts warn could come to our shores any day.

America has been the engine of countless lifesaving discoveries and global health efforts. Once again, we are called upon to lead for the safety of our fellow citizens and, indeed, citizens around the world.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

Mr. FRIST. Mr. President, under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from North Dakota.

IMPORTANT ISSUES TO BE FACED

Mr. DORGAN. Mr. President, I wish to make a couple of comments today on some very important issues we will face in the days ahead.

We have the supplemental appropriations bill on the floor of the Senate asking for just over $80 billion for the cost of the war in Iraq and Afghanistan.

Most of it is to replenish military accounts. A number of amendments have been offered. Immigration amendments are now pending. I intend to offer a couple of amendments as well.

I will describe one of those amendments this morning. It deals with the establishment of a special committee of the Senate, modeled after the Truman Commission, to investigate the waste, fraud, and abuse that is happening with respect to contracting in Iraq.

I also wish to address another amendment I will offer, that would shut down the investigation that has been going on now 10 years by Mr. Barrett, an independent counsel. He started in 1995 to investigate allegations against Henry Cisneros, who was a Cabinet Secretary, allegations that he had given payments to a former mistress and then lied about it.

That independent counsel investigation started in 1995 and has been going on ever since. But Mr. Cisneros pled guilty in 1999. And he was pardoned in 2001 by a Presidential pardon. Yet here it is 2005 and the independent counsel is still spending money, $1.3 million, I believe, for the previous 6 months. I believe it is time for this Congress to say stop, enough is enough. Stop wasting the taxpayers money. What on Earth could you be thinking about? Four years after the person was pardoned and 7 years after the person pled guilty, the independent counsel is still spending money? If ever there were an example of Government waste and lack of common sense, this is it.

I also wish to mention briefly this country's trade deficit. I wanted to come to the floor the day before yesterday, but I was not able to do that.

There was a small announcement the day before yesterday that in February our trade deficit was $61 billion in 1 month. This is an example of what is happening to this country's trade deficits: We are choking on red ink. This is serious. It is a crisis, and nobody seems to care. The White House is snoring its way through this issue. The Congress is sleeping through it. Nobody gives a rip about this at all. Nearly $2 billion a day is the amount we purchase from abroad from other countries in goods and services in excess of the amount we sell to them. That means every single day foreign countries and foreign investors own $2 billion more of our country, claims against our country, stocks, bonds, assets, or real estate.

This is a crisis that will have a profound impact on future economic growth in this country. It will have a profound impact, and does, on the wholesale export of American jobs all across the world.

Yesterday, I read a piece that General Motors called in its subcontractors and said: You need to start moving your jobs to China to be more competitive.

Evidence is all around us that this trade strategy we have is unsound. It does not work. It injures our country. It is hollowing out our manufacturing sector, and it is moving American jobs overseas. This country had better take notice. This Congress had better sit up and start caring about this, and this President had better start parking Air Force One and providing some leadership on things that are a crisis.

No, Social Security is not in crisis. Social Security will be fully solvent until George Bush is 106 years old. That is hardly a crisis. But the announcement that in February of this year we had a $61 billion 1-month trade deficit ought to provoke this White House and this Congress, Republicans and Democrats, to take action in support of this country's economic interests for a change.

What do we hear about trade? We do not hear anybody wanting to do anything about this, and I will speak later on about what we should do in some detail. What we hear is we want another trade agreement to be passed by the Congress called the Central American Free Trade Agreement, CAFTA. To me, it is an acronym that means careless and foolish trade agreement.

Along with my colleague from Georgia, Senator LINDSEY GRAHAM, we are going to lead the opposition, and I hope we can round up the votes in this Congress to defeat this trade agreement. The message ought to be to those folks who are negotiating these agreements and then sending them to Congress under fast track, please fix some of the problems that have been created in past trade agreements before negotiating new ones and before asking the Congress to approve new ones. Fix a few of the problems that have been created.

Do my colleagues think this is not a problem? This comes from NAFTA. This comes from GATT. This comes from all of the distant cousins of the trade agreements that we brought to the Senate floor, almost all of which I have voted against, because I believe they pull the rug out from under the interests of this country. They pull the rug out from under our workers and our businesses. So I hope very much that we can finally get someone's attention. If $61 billion a month in trade deficits is not a wake-up call that gets someone's attention, my guess is they are permanently asleep.

Now, I wish to speak about the issue of contracting in Iraq. There is massive waste, fraud, and abuse going on in contracting in Iraq, as is the case in many circumstances where a lot of money is being poured out to prosecute a war. If one does not watch carefully, people are going to fleece the taxpayers, and that is what is happening. Nobody seems to care about that, either.

We cannot get aggressive hearings in the Congress about oversight. Why is that? I do not know. So as chairman of the Democratic Policy Committee, we have held four hearings on these abuses.

In a moment, I will read a few newspaper headlines about this waste, and yes, these headlines mention the word Halliburton, and I know that when the word Halliburton is mentioned people think, okay, now this is political, it is partisan, now we are going after Vice President CHENEY because he used to head that corporation. This has nothing to do with Vice President CHENEY. He has been long gone from Halliburton. This has nothing to do with the Vice President, nothing to do with partisan politics. It has everything to do with the American taxpayers being cheated.

So to the extent that Halliburton is in these headlines, it is because they were given very large sole-source contracts without any competitive bidding. Billions of dollars have gone into the pockets of Halliburton and here is the result, with a substantial lack of oversight.

First, let me describe this picture. This does not deal with Halliburton, by the way. This deals with a company called Custer Battles, two guys named Custer and Battles. This picture shows $2 million in cash wrapped in Saran wrap. This fellow, incidentally, was the guy who was turning over the $2 million because the company that was owed the $2 million showed up with a bag. Why did they show up with a bag to collect cash wrapped in Saran wrap? Because they were told in Iraq: When you are contracting, bring a bag, you are going to get cash, by the bagful.

Now, these people got a lot of cash. This is their first $2 million. They have been accused of substantial fraud. Doing security at airports, they allegedly confiscated the forklift trucks, took them off the airport property, repainted them, and then sold them back to the Coalition Provisional Authority, which was the U.S. taxpayer.

So here is the first delivery of $2 million in cash in a bag to a company that is now widely accused of fraud.

Now, here are some of the stories of waste that I mentioned, involving Halliburton. I will read some of these headlines. This was a former Halliburton employee who testified before our committee: "Halliburton Manipulated Purchase Orders to Avoid Oversight"—that is a newspaper headline. For purchase orders under $2,500 buyers only needed to solicit one quote from a vendor. To avoid competitive bidding, requisitions were quoted individually and later combined into the $2,500 and more. They were told to do that in order to cheat.

In fact, this particular guy held up a towel, and he said: This was a towel we were supposed to order because we were buying towels for U.S. soldiers.

They paid nearly double the price for the towels because instead of ordering the towel that was the plain towel, they ordered one embroidered with their company's logo on it so the American taxpayer could pay nearly double.

"Halliburton Discouraged Full Disclosure to Auditors." "Halliburton Overcharged for Oil." This is from the fellow who used to run the portion of the Defense Department that would purchase oil, yes, even in areas where we were at war, and he said: During my tenure at the Defense Department, we were occasionally forced to pay sole-source prices in some locations, but not even in remote central Asia did we pay close to a gallon for jet fuel of what Halliburton was charging in Iraq. He said that overcharging for oil was simply out of control. This is a former Defense Department official.

By the way, Halliburton ordered 25 tons of nails—that is 50,000 pounds of nails. Do my colleagues know where they are today? They are laying in the sand of Iraq because they came in the wrong size. Somebody made a mistake on the order. If someone wants 50,000 pounds of nails, they are laying in the sands of Iraq someplace. The American taxpayer paid for them, and Halliburton got reimbursed for it.

We had testimony of people driving $85,000 trucks in Iraq, and those trucks were abandoned just because they had a flat tire or because they had a clogged fuel pump. They were abandoned and torched, and they went and bought new trucks. So much for oversight. Nobody cares because it is a war and because there are sole-source contracts. These are pieces of testimony from whistleblowers, from former employees, who said: Here is what is going on. The truck piece was from a truck-driver in Iraq who worked for Halliburton.

It is just unbelievable when one listens to what is happening: Bags of cash, billions of dollars. We say we are going to put air-conditioning in a building near Baghdad, and so our contractor hires a subcontractor, who hires a couple of workers, and we get charged for air-conditioning and they put in a ceiling fan that does not work. Does anybody care? Can we get anybody in this Congress, any committee, to hold oversight hearings to care about the massive fraud, waste, and abuse? Not on one's life, not a chance. God forbid that we should be critical of anything that is going on around here, despite the fact that the American taxpayer is getting fleeced wholesale.

I offered an amendment in the Appropriations Committee that would have set up a Truman-style investigating committee. Senator Harry Truman from Missouri, at a time when there was a Democrat in the White House, decided there was substantial abuse by contractors at the start of World War II, and he persuaded a Democratic Congress to set up an investigative committee. Yes, a Democratic Congress and a Democrat in the White House set up an investigative committee, and they saved a massive amount of money by uncovering a dramatic amount of fraud and waste.

Now we have one party control, and nobody wants to embarrass anyone else, so they do not look at anything. It is see no evil, hear no evil, speak no evil. Meanwhile, the American taxpayers are completely getting fleeced by massive waste, fraud, and abuse.

We have done four hearings. I mentioned Halliburton, but I also can mention Custer Battles. I can mention other companies. Obviously, Halliburton is the poster child because they received giant contracts without bidding, and then we see that they are charging the American taxpayer to feed 42,000 soldiers a day when, in fact, they are only feeding 14,000 soldiers a day. So they are charging us for 28,000 meals that are not served. Fraud? I would think so. But what happens these days? First, it does not even get investigated. If it does get investigated, they get a slap on the wrist and a pat on the back with another contract.

This Congress needs to start facing up to these issues and getting tough. No, this is not partisan. If we are going to shove $81 billion out the door in a supplemental defense funding bill, should we not, along with it, provide the appropriate approach to investigate these? That is what my amendment will do.

I offered my amendment in the Appropriations Committee. It was turned down on a partisan vote, regrettably. This is not a partisan amendment. My hope is that perhaps I will see a different result on the Senate floor.

How much time remains on our 30 minutes?

The PRESIDING OFFICER (Mr. COLEMAN). There is 15½ minutes remaining.

Mr. DORGAN. Mr. President, I believe the Senator from Connecticut is going to be coming over to claim parts of our 30 minutes, but the time is running. I see the Senator from Kentucky is on the floor. I know that by previous consent we have established 30 minutes on our side followed by 30 minutes on the other side. At this point, I will relinquish the floor if I could ask that we would reserve the remaining time for Senator LIEBERMAN from Connecticut because he is not here. If the other side would like to continue to take some of their time and then provided that when Senator LIEBERMAN comes, he would have reserved the additional 15½ minutes? I will make that a unanimous consent request and see if the Senator from Kentucky would agree to that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The majority whip.

FILIBUSTERING OF JUDICIAL NOMINEES

Mr. McCONNELL. Mr. President, we as senators have an enormous amount of work to do for the American people. For example, while our economy is strong, unfortunately gas prices are way too high. People are feeling those costs every time they fill up at the pump. This Senate needs to seriously address a long-term energy policy for this country, and reduce our dependence on foreign oil.

We have serious work to do to reform America's tax code, so it is fairer for all Americans, and leads to a more robust economy.

We have undertaken a debate on how to reform Social Security so it is stronger and more secure for future generations, as it has served millions so well already over the last 70 years.

Our road system needs improving. Millions of Americans take to the roads everyday to get to work and keep this country moving. It's critical the Senate pass a highway bill. In short, we have a formidable agenda before us. We welcome that challenge. I think that our constituents sent us here to get things done, not just to sit in these fancy chairs. But the Nation's business may soon come to an abrupt halt.

In the face of so much important work to be done, sadly, my Democratic friends on the other side of the aisle are promising to pull the plug on this chamber, and thus shut down the Government. Just because a majority of Senators want to restore the 200-year-old norms and traditions of the Senate, by granting a President's judicial nominees who have majority support the simple courtesy of an up-or-down vote, my colleagues on the other side of the aisle are threatening to stop this Senate dead in its tracks.

An energy bill to begin to address the high cost of gasoline and reduce our dependence on foreign oil? They would say: Forget it.

A highway bill, to begin desperately needed repairs on bridges and roads across the country? They would say: Not a chance.

These and other priorities will not happen if the Democrats shut down the Government. Because they cannot have what no Senate minority has ever had in 200 years—the requirement of a supermajority for confirmation—they threaten to shut the Government down.

The American people by now must rightly be asking, "How did we get in such a mess?"

It was not by accident. The Democrats did not stumble into this position. It was carefully conceived.

Four years ago, in May of 2001, the New York Times reported that 42 of the Senate's then-50 Democrats attended a private weekend retreat in Farmington, PA. to discuss a plan of attack against the President's judicial nominees.

According to this article, the unprecedented obstruction by the other side is not based on checks and balances, or the rights of the minority. It is about ideology. The Democrats invited speakers to their retreat who warned them that President Bush was planning to, "pack the courts with staunch conservatives."

Now, here's the clincher. According to the New York Times, one participant said:

> It was important for the Senate to change the ground rules, and there was no obligation to confirm someone just because they are scholarly or erudite.

Let me make sure that last part came through loud and clear. The Democrats are accusing the Republicans, who merely want to restore the 200-year-tradition of giving judicial nominees with majority support an up-or-down vote, of some kind of power grab. Yet here is a 4-year-old admission that it is the Democrats who are clearly out to "change the ground rules." They knew what they were doing. This was thoroughly premeditated.

That quote says it all. If a minority of the Senate does not get its way in obstructing judges from serving on our Nation's Federal courts, they will "change the ground rules." They will shut down the Government. I say to my friends, I wouldn't take the extreme step of shutting the government down.

I ask unanimous consent to have this New York Times article of May 1, 2001 printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 1, 2001]

DEMOCRATS READYING FOR JUDICIAL FIGHT

(By Neil A. Lewis)

President Bush has yet to make his first nominee to a federal court and no one knows whether anyone will retire from the Supreme Court this summer, an event that would lead to a high-stakes confirmation battle.

Nonetheless, the Senate's Democrats and Republicans are already engaged in close-quarters combat over how to deal with the eventual nominees from the Bush White House. Democrats in particular are trying to show some muscle as they insist that they will not simply stand aside and confirm any nominees they deem right-wing ideologues.

"What we're trying to do is set the stage and make sure that both the White House and the Senate Republicans know that we expect to have significant input in the process," Senator Charles E. Schumer, New York's senior Democrat, said in an interview. "We're simply not going to roll over."

Forty-two of the Senate's 50 Democrats attended a private retreat this weekend in Farmington, Pa., where a principal topic was forging a unified party strategy to combat the White House on judicial nominees.

The senators listened to a panel composed of Prof. Laurence H. Tribe of Harvard Law School, Prof. Cass M. Sunstein of the University of Chicago Law School and Marcia R. Greenberger, the co-director of the National Women's Law Center, on the need to scrutinize judicial nominees more closely than ever. The panelists argued, said some people who were present, that the nation's courts were at a historic juncture because, they said, a band of conservative lawyers around Mr. Bush was planning to pack the courts with staunch conservatives.

"They said it was important for the Senate to change the ground rules and there was no obligation to confirm someone just because they are scholarly or erudite," a person who attended said.

Senator Tom Daschle of South Dakota, the Democratic leader, then exhorted his colleagues behind closed doors on Saturday morning to refrain from providing snap endorsements of any Bush nominee. One senior Democratic Senate staff aide who spoke on the condition of anonymity said that was because some people still remembered with annoyance the fact that two Democratic senators offered early words of praise for the nomination of Senator John Ashcroft to be attorney general.

Senators Robert G. Torricelli of New Jersey and Joseph R. Biden Jr. of Delaware initially praised the Ashcroft selection, impeding the early campaign against the nomination. Both eventually acceded to pressure and voted against the nomination.

The current partisan battle is over a parliamentary custom that Republicans are considering changing, which governs whether a senator may block or delay a nominee from his home State. Democrats and Republicans on the Judiciary Committee have not resolved their dispute over the "blue-slip policy" that allows senators to block a nominee by filing a blue slip with the committee.

On Friday, Senator Patrick J. Leahy of Vermont, the ranking Democrat on the Judiciary Committee, and Mr. Schumer sent a letter to the White House signed by all committee Democrats insisting on a greater role in selecting judges, especially given that the Senate is divided 50–50 and that the Republicans are the majority only because Vice President Dick Cheney is able to break any tie.

Senator Trent Lott of Mississippi, the Republican leader, told reporters today that he believed "some consideration will be given to Democratic input, but I don't think they should expect to name judges from their State."

Mr. Lott said he expected that Democrats might slow the process but, in the end, would not block any significant number of nominees.

Behind all the small-bore politics is the sweeping issue of the direction of the federal courts, especially the 13 circuit courts that increasingly have the final word on some of the most contentious social issues. How the federal bench is shaped in the next 4 or 8 years, scholars say, could have a profound effect on issues like affirmative action, abortion rights and the lengths to which the government may go in aiding parochial schools.

Mr. Bush is expected to announce his first batch of judicial nominees in the next several days, and it is likely to include several staunch conservatives as well as some women and members of minorities, administration officials have said. Among those Mr. Bush may put forward to important Federal appeals court positions are such conservatives as Jeffrey S. Sutton, Peter D. Keisler, Representative Christopher Cox of California and Miguel Estrada.

The first group of nominees, which may number more than two dozen, is part of an effort to fill the 94 vacancies on the Federal bench while the Republicans still control the Senate.

But it remains unclear if there will be a Supreme Court vacancy at the end of the court's term in July. Speculation on possible retirements has focused on Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor and John Paul Stevens. But in recent days, associates of Justice O'Connor have signaled that she wants it known that she will not retire after this term.

Mr. MCCONNELL. the record about who is out to change what is not merely confined to the statements from this article. No, we have 4 years of behavior to corroborate these statements.

Soon after that Democrat retreat, and continuing to this day, we have seen our Democratic friends make major changes in the Senate's ground rules for confirming qualified judicial nominees.

For example, almost immediately the Democrats began to litmus-test judges in order to strain out the ones they considered too conservative. When they controlled the Judiciary Committee in the 107th Congress, they even held hearings on using ideology in the confirmation process in an effort to legitimize their practice of litmus-testing judges.

The Democrats have widely-applied their litmus tests. They have filibustered almost 1 circuit court nominee for every 3 they have confirmed. As a result, in his first term, President George W. Bush had only 69 percent of his circuit-court nominees confirmed. That is the lowest confirmation percentage of any President since World War II.

In addition, the Democrats began to demand that they in effect get to co-nominate judges along with the President. The Constitution clearly provides in Article II, Section 2, that the President, and the President alone, nominates judges. The Senate is empowered to give "advice" and "consent." The Democrats, however, have sought to redefine "advice and consent" to mean "co-nominate."

President Bush, rightly so, has not acceded to this attempt to upset our Constitution's separation of powers. Unfortunately, the administration of justice is suffering. In the case of the Sixth Circuit, for example, Democratic Senators are willing to let one-fourth of the circuit seats sit empty in order to enforce their demands. As a result, the Sixth Circuit—which includes Tennessee, Kentucky, Ohio and Michigan—is far and away the slowest circuit in the Nation. My constituents and the other residents of the Sixth Circuit are the victims. Thanks to the other side's obstruction, Kentuckians know too well that justice delayed means justice denied.

The Democrats have changed other ground rules in the confirmation process. But all these changes were just precursors to what happened in the last Congress. In 2003, Democrats instituted the ultimate change in the Senate's ground rules: they began to obstruct, via the filibuster, on a systematic and partisan basis, well-qualified nominees who commanded majority support. That is unprecedented in over 200 years of Senate history.

Republicans did not filibuster judicial nominees, even though it would have been easy for us to do so. Let me give you the names of some very controversial Democratic judicial nominees whom we could have easily filibustered, during the Clinton and Carter years: Richard Paez, William Fletcher, Susan Oki Molloway, Abner Mikva. None of these nominees had 60 votes for confirmation.

Other controversial Democratic nominees, like Marsha Berzon, barely had 60 votes for confirmation, but we did not whip our caucus to try to filibuster them either. Indeed, just the opposite occurred: Senators LOTT and HATCH, to their great credit, argued that we ought not to set such a precedent, no matter ow strongly we oppose the nominee. I remember voting for cloture myself, voting to shut off debate on Paez and Berzon both, and then voting against them when they got their up-or-down vote, which they were entitled to get.

Our friends, the Democrats, are driving a double standard: The nominees of a Democratic President only had to garner majority support, as had every other judicial nominee in history until Democrats sought to change the ground rules. But nominees of a Republican President have to get a much higher level of support. That is the ultimate in hypocrisy.

Because the majority may seek to restore the norms and traditions of the Senate—norms and traditions that my Democratic friends have upset—the Democrats are now threatening to shut down the Government. That is not right.

We need to recommit ourselves to the 200 year principle that in a democracy an up-or-down vote should be given to a President's judicial nominees. It is simple. It is fair. It has been that way for over 2 centuries. And it's served us well.

I yield the floor.

Mr. COCHRAN. Mr. President, the continual controversy over Senate confirmation of Federal judges needs to be resolved. It promises to hang as a cloud over the Senate unless we reach an understanding of the appropriate role of the Senate.

I had been hopeful that the Senate leadership would be able to resolve this issue by reaching an agreement that would be acceptable to both sides. However, that does not now appear likely.

Therefore, I have advised the distinguished majority leader, Mr. FRIST, that I will support him in his effort to bring this confrontation over judicial filibusters to an end.

There should be no question in anyone's mind about my intentions. I will work in concert with our leader, and with the distinguished majority whip, Mr. MCCONNELL, to end filibusters of judicial nominations in the Senate.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. There remains 14 minutes 20 seconds.

Mr. DORGAN. My colleague from Connecticut is here. Let me take a couple of minutes and then yield to my colleague for the remaining time.

I must confess, it is hard sometimes to listen on the floor of the Senate without a big broad smile at the irony of this debate. Restoring the normal traditions of the Senate? There is a debate going on in the Senate, but that is not what it is about. This is about changing the rules in the middle of a game because one party in control doesn't get everything they want on every issue all the time.

We have confirmed 205 judges for this President and opposed the confirmation of only 10 of them. Because of that, the other side has an apoplectic seizure and decides they want to turn this Senate into the House, where there is no unlimited debate and one party can treat the other party like a piece of furniture they can sit on.

The Framers of this Constitution did not consider the Senate should be a compliant body during one-party rule. The minority has rights. One of those rights is unlimited debate.

I think it is very interesting to hear on the floor of the Senate how generously the Republicans treated nominees under the Presidency of President Clinton, when they—in 50 cases of people who were notified by the President they were nominated for a lifetime appointment on the Federal court—did not even have the courtesy of giving them 1 day of hearings. Not even a day of hearings. They didn't get to see the light of day in this Congress, let alone a filibuster.

What a shameful thing to do to someone to whom the President says, I am going to nominate you for a lifetime appointment on the court. They didn't give them 1 day of hearings.

Now they complain because we approved 204 and didn't approve 10. Now they complain the President didn't get every single judgeship he wanted. Have they ever heard of the words "checks and balances"? Did they take a course at least in high school to understand what it means?

No. If this nuclear option, as it is called in this town, is employed by the majority party, with an arrogance that I have never seen in the years I have served in the Congress—if they do that, they will rue the day because they, one day, will be in the minority and they, one day, will wonder what on Earth did we do, to eliminate the unlimited debate provision in the United States Senate that George Washington and Thomas Jefferson said represents the cooling of the passions in this country, represents the one location of reasoned debate in this Government of ours.

I hear all these discussions about how this is about traditions and norms. Nothing could be further from the truth. What the majority is trying to do is change the rules of the Senate because the minority didn't approve 10 out of 215 judges. What an arrogant attitude and what damage they will do to this institution if they employ a tactic to change the rules at this point and turn this Senate into another House of Representatives. They will have done damage for the long term and damage I believe they themselves will regret because one day they, too, will be in the minority. Then they will again understand what this Constitution provides with respect to minority rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

DEATH BENEFITS IN THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. LIEBERMAN. Mr. President, I rise to speak in morning business about the provision of this supplemental appropriations bill before us that rights a wrong done with regard to death benefits of those who served the United States in uniform. I begin my remarks by thanking my friend and colleague from Alabama, Senator SESSIONS, and acknowledge his leadership on this very important humanitarian reform. I also thank the Senate Appropriations Committee, under the leadership of Senator COCHRAN and Senator BYRD, for bringing forward this emergency supplemental in a way that includes an important provision to improve the financial benefits for families of our fallen soldiers.

I am grateful that this supplemental uses the so-called HEROES bill, S. 77, which Senator SESSIONS and I cosponsored and introduced in January as the basis for the reforms to enhance the death benefit and the level of coverage under the Servicemen's Group Life Insurance Program.

Yesterday, the Senate amended this provision and voted to increase eligibility for the expanded death benefit to $100,000, which was in our HEROES bill, to include all active-duty service men and women.

These reforms honor the brave men and women wearing America's uniform who have made the ultimate sacrifice to defend our liberty by giving them and their families what we the American people owe them. Obviously, nothing can replace the loss of life. But a decent death benefit and adequate life insurance can provide our service members and their loved ones with a sense of security about their future which they deserve. For too long, they have not gotten that peace of mind, and indeed not the respect they deserve.

Senator SESSIONS and I have worked together for some time as members of the Senate Armed Services Committee to investigate and then to react to this wrong. We began looking at the question of what survivor benefits were in place for our men and women in uniform as we were concerned that the benefits being provided to families of those who lose their lives in the service of this country lagged behind benefits provided for public service employees in high-risk occupations, namely policemen and firefighters. The families of fallen policemen and firefighters deserve those higher benefits. But so, too, of course, do the families of fallen military personnel.

When Senator SESSIONS and I began this review, the death benefit paid to the families of service men and women who were killed in action was $6,000, an embarrassing sum. A small step forward was taken last year when the death benefit was increased to $12,000, but obviously that was still woefully inadequate.

Two studies, one done by the Department of Defense and the other done by the Government Accountability Office, documented that survivor benefits provided to some of the public employee groups I have mentioned in high-risk positions were greater than those provided for our soldiers killed in combat. That was evidently unfair, and that is why our legislation, the HEROES bill, was worked on for over 2 years with the Pentagon's service member group and veterans groups which resulted in a bill to correct that imbalance by adjusting military survivor benefits to more equitably reflect today's world.

I am very gratified that idea has taken hold, and it is reflected in the emergency supplemental before the Congress today.

With the changes adopted, if soldiers buy the servicemen's group life insurance, their families will receive $250,000, for which the soldier pays, and then an additional $150,000 of insurance the U.S. Government will pay for. In addition to that will be the $100,000 death benefit. That is half a million dollars, which in these times is not a lot when we consider families left behind, a parent or a spouse and children who will need to go to college and all the expenses related to it. These families who have lost a family member have a terrible void. All of us who have visited with them in our respective States or elsewhere have felt that void and have tried to the extent we could to let them know we share it with them. But, of course, it is uniquely and singularly theirs as they go through their life. Nothing can fill that void. But the least we can do is what we do in this bill—give them some sense of financial security as they go forward, with a kind of security in a much more fundamental sense that their loved one's service has given each and every American.

Theodore Roosevelt once said:

> A man who was good enough to shed blood for his country is good enough to be given a square deal afterward.

Of course, in our time we say a man and a woman.

T.R. was right, and the men and women who are shedding blood for our Nation today in the cause of liberty and doing so in a way that has fundamentally improved the security of the American people here at home should know their families will be taken care of no matter what happens to them.

I can't think of a piece of legislation which I have been involved in my over

17 years in the Senate that I have felt better about. This is one of those occasions that doesn't get celebrated quite enough where we forget the party labels. Republican and Democrat, and act in a higher calling, which is our status as Americans which unites us all. I am glad to see we are about to put these reforms in place.

We all recognize we have to keep faith with our service men and women. We have to give them a square deal. They are doing their duty to protect us, and it is our duty to protect their families, should they give their lives in defense of our liberty. That is what the provisions in the supplemental do. I am proud to have been a part of it. I am grateful to my colleagues for supporting it. I urge its adoption.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I associate myself with the comments of Senator LIEBERMAN and say how he expressed my feelings about this important legislation. It has been a pleasure to work with him in a bipartisan way. He has demonstrated time and again his interest in matters of national defense and national security and his commitment to those who serve us. I, too, believe, as was discussed not too long ago at one of the hearings, there is a bond between the American people and those we send out to defend our interests in dangerous areas of the world. We as American people need to honor that bond.

One of the commitments I think we must make as a people is to say to those who go in harm's way to execute the just policies of the United States that if something happens to you, we are going to try to take care of your family. That is one thing you don't need to worry about.

I believe the HEROES bill, as we named it, honoring every requirement of exemplary service, is the legislation that moves us a long way in that regard. I couldn't be more excited. I thank the Appropriations Committee Chairman, Senator COCHRAN, and the ranking member, Senator BYRD, for their support of making this a part of the supplemental.

We certainly have worked hard in trying to gain support from the military community and the Department of Defense which understands exactly how and what we should do to better support those who lose their lives in the service to their country. We did a number of things.

Two years ago, as part of the Defense bill I asked that we put in language to study this. Senator LIEBERMAN and I talked about it. And they put that language in. We have gotten some studies back. We began to figure and think about what we could do to make families more secure in the case of the loss of a loved one. Last year, they completed the study and we began to look at it. The President and the Secretary of Defense responded to our request promptly and, I believe, honestly and objectively.

The Senate report that is before us today recommended increasing the death gratuity benefit from $12,420 to $100,000 for our service members who die on active duty in a combat theater, and then we amended the bill to include those who serve on active duty who lose their lives. It also allows, as I have proposed, for every member of the military to raise the level of coverage under the servicemen's group life insurance which is capped out at $250,000 to $400,000. I believe that is a more legitimate sum for a family suffering this kind of loss.

Additionally, for those serving in the combat zone or a designated contingency, the Department of Defense will pay the member's premium for the first $150,000 of insurance to guarantee they are participants in that program.

The report before us also makes these changes retroactive to cover those who lost their lives since the beginning of the global war on terrorism which began October 7, 2001. Families of our service members who have died since October 7, 2001, will receive a one-time cash payment of $238,000 which is a sum of the added coverage of life insurance, $150,000 more life insurance, coupled with proposed increase of the death gratuity of $88,000.

Finally, the report will place language in the law to require service members to inform their spouses of the level of coverage that may be enacted.

As I conclude my remarks, let me be clear on this issue. There is no amount of compensation that can replace the loss of a loved one. Not for a soldier, not for a police officer, not for a teacher, or a fireman. However, our military service members volunteer to leave their families and engage in a very difficult and dangerous campaign to defeat terrorists and secure peace and prosperity not only for America but for countless millions around the world. The training and operations conducted to ready them for combat are also dangerous and will also be included in the death gratuity section of the report. The enhancements of the death gratuity and SGLI outlined in this bill reflect the risks and dangers faced by our service men and women as they serve us around the world.

The language stays true to what our President requested in the supplemental and what Senator LIEBERMAN and I put in S. 77, the HEROES bill. This report and the death benefits enhancements offered are based on a sound analysis of this highly important and emotional issue. We can never do enough to thank these brave Americans. Each and every one of them who serves us in our military today is a national treasure.

I am thankful and grateful that the Senate has included the HEROES provision in this report, and I look forward to voting on this bill and seeing it enacted into law.

I note that not too many months ago I flew from Baghdad to Kuwait in a C-130 late at night, and there were two flag-draped coffins of soldiers who had given their lives in service to our country. Yesterday, I talked with the daughter, 25 years old, of Sergeant Major Banks. Her mother, a sergeant major in the Army, was one of the soldiers who died in the tragic helicopter crash in Afghanistan recently. I talked to her about her mother, and how much she admired her mother, and to think how she had risen through the ranks to become a sergeant major, growing up in a poor area of Alabama, African American, who inspired her daughter, Shante Banks, as she described her mother's influence on her life. She gave her life serving our country, as many have.

I believe we have done the right thing here. I think it is going to be a good step forward. I have enjoyed the opportunity to work with Senator LIEBERMAN as we have moved this legislation forward.

I thank the President and yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from South Dakota is recognized.

Mr. THUNE. I thank the Senator from Alabama and the Senator from Connecticut for the great work they have done in recognizing the sacrifice of our men and women who are fighting for freedom's cause in Iraq and Afghanistan and other places around the world. This is important legislation. I am pleased to be able to support their efforts and to see it becomes a matter of law.

(The remarks of Mr. THUNE pertaining to the introduction of S.J. Res. 12 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORZINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski Amendment No. 387, to revise certain requirements for H-2B employers and require submission of information regarding H-2B nonimmigrants.

Feinstein Amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh Amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I was about to call up amendment No. 366, which I am going to pull back from at this point. We are working with a number of subcommittees to get exact language, but I would like to go ahead and frame the debate. Senator BROWNBACK will be joining me.

This is actually the Darfur Accountability Act which we had introduced on the floor at an earlier point. We have 30 cosponsors of the amendment. We will continue to work with the appropriate subcommittees and others to refine the language before we bring it back.

This amendment we will be offering is one that parallels the importance which is now being placed on moving this supplemental, which is absolutely essential to support our men and women in uniform. They deserve our support. We all know that. It is most certain that I will be voting positively with regard to making sure that our deeds and words match in our support of the troops and that we allocate our resources accordingly. That is what the debate on the supplemental is about. I look forward to working on that.

But so, too, there are those the Congress and the administration have already acknowledged are being subjected to acts of genocide, the Black Muslim villagers of Darfur, Sudan. This genocide is being committed by their own countrymen with the support of their Government. It is time for action. Here, too, we need to put our words and deeds into a match. They need to be congruent. This amendment is intended to deal with the emergency, the urgently needed response to this ongoing genocide taking place in Darfur as I stand here, a place where there have been killings of up to 10,000 people every month, 300 to 350 human beings almost every day.

Never have we been so aware of mankind's horrible history, and yet so reluctant to act on its lessons as it applies to this situation in Darfur. This month we are commemorating the 11th anniversary of the Rwandan genocide. "Hotel Rwanda," the movie, is showing on thousands of screens in homes across the country, and we continue to recall our shameful failure to prevent the slaughter of 800,000 people. Do we need to have a play 5 years from now or 10 years from now called "Hotel Darfur"?

April 17 marks the 30th anniversary of the Khmer Rouge takeover in Cambodia, the beginning of a genocide that killed between 1 and 2 million people. Do we need to revisit the killing fields? In January, the liberation of Auschwitz was commemorated by the Congress and by a special session of the United Nations General Assembly. Throughout all of these commemorations and remembrances, we hear the same words: Never again. Never again will we accept the slaughter of our fellow human beings. Never again will we stand by and let this happen.

As Vice President CHENEY said eloquently at the Holocaust commemorations in Poland:

> [We] look to the future with hope—that He may grant us the wisdom to recognize evil in all its forms . . . and give us courage to prevent it from ever rising again.

There is perhaps no more powerful moral voice over the last half century than author and Holocaust survivor Elie Wiesel. Last year he spoke to the Darfur issue.

He said:

> How can a citizen of a free country not pay attention? How can anyone, anywhere not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent? That is what the issue in Darfur, Sudan, is about. That is why this Darfur Accountability Act—this amendment that we are speaking to today—is so important.

I ask unanimous consent that the full remarks by Mr. Wiesel on Darfur be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Remarks delivered at the Darfur Emergency Summit, New York, July 14, 2004]

ON THE ATROCITIES IN SUDAN

(By Elie Wiesel)

Sudan has become today's world, capital of human pain, suffering and agony. There, one part of the population has been—and still is—subjected by another part, the dominating part, to humiliation, hunger and death. For a while, the so-called civilized world knew about it and preferred to look away. Now people know. And so they have no excuse for their passivity bordering on indifference. Those who, like you my friends, try to break the walls of their apathy deserve everyone's support and everyone's solidarity.

This gathering was organized by several important bodies. The U.S. Holocaust Memorial Museum's Committee on Conscience (Jerry Fowler), the Graduate Center of the City University of New York, the American Jewish World Service (Ruth Messinger) and several other humanitarian organizations.

As for myself, I have been involved in the efforts to help Sudanese victims for some years. It was a direct or indirect consequence of a millennium lecture I had given in the White House on the subject, "The Perils of Indifference". After I concluded, a woman in the audience rose and said: "I am from Rwanda." She asked me how I could explain the international community's indifference to the Rwandan massacres. I turned to the President who sat at my right and said: "Mr. President, you better answer this question. You know as well as we do that the Rwanda tragedy, which cost from 600,000 to 800,000 victims, innocent men, women and children, could have been averted. Why wasn't it?" His answer was honest and sincere: "It is true, that tragedy could have been averted. That's why I went there to apologize in my personal name and in the name of the American people. But I promise you: it will not happen again."

The next day I received a delegation from Sudan and friends of Sudan, headed by a Sudanese refugee bishop. They informed me that two million Sudanese had already died. They said, "You are now the custodian of the President's pledge. Let him keep it by helping stop the genocide in Sudan."

That brutal tragedy is still continuing, now in Sudan's Darfur region. Now its horrors are shown on television screens and on front pages of influential publications. Congressional delegations, special envoys and humanitarian agencies send back or bring back horror-filled reports from the scene. A million human beings, young and old, have been uprooted, deported. Scores of women are being raped every day, children are dying of disease, hunger and violence.

How can a citizen of a free country not pay attention? How can anyone, anywhere not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent?

As a Jew who does not compare any event to the Holocaust, I feel concerned and challenged by the Sudanese tragedy. We must be involved. How can we reproach the indifference of non-Jews to Jewish suffering if we remain indifferent to another people's plight?

It happened in Cambodia, then in former Yugoslavia, and in Rwanda, now in Sudan. Asia, Europe, Africa: Three continents have become prisons, killing fields and cemeteries for countless innocent, defenseless populations. Will the plague be allowed to spread?

"Lo taamod al dam réakha" is a Biblical commandment. "Thou shall not stand idly by the shedding of the blood of thy fellow man." The word is not "akhikha," thy Jewish brother, but "réakha," thy fellow human being, be he or she Jewish or not. All are entitled to live with dignity and hope. All are entitled to live without fear and pain.

Not to assist Sudan's victims today would for me be unworthy of what I have learned from my teachers, my ancestors and my friends, namely that God alone is alone: His creatures must not be.

What pains and hurts me most now is the simultaneity of events. While we sit here and discuss how to behave morally, both individually and collectively, over there, in Darfur and elsewhere in Sudan, human beings kill and die.

Should the Sudanese victims feel abandoned and neglected, it would be our fault—and perhaps our guilt.

That's why we must intervene.

If we do, they and their children will be grateful for us. As will be, through them, our own.

Mr. CORZINE. Tragically, since that speech by Mr. Wiesel, we have seen precious little actionable courage in preventing the genocide that rages in Darfur. Last July, the Congress recognized that genocide is taking place and voted on it here on the floor of the Senate. In September, the Bush administration did the same. Yet, since then, the situation has only deteriorated.

Estimates of the death toll in Darfur now range from between 250,000 to over 300,000 human beings. Killings, torture, destruction of villages, rape and other forms of sexual violence all continue. More than 1.8 million persons have been forced from their homes, and unless the attacks subside and access by humanitarian organizations improves, as many as 3 million Sudanese people could be displaced by the end of the year.

Let me say that these displaced individuals are going into camps strategically. We need to understand that this is not breeding a community of good will to the rest of the world. These are people who are disenfranchised, dislocated, and will pose a strategic threat, potentially, as a breeding ground of terrorism for the future.

This tragedy is that the Government of Sudan remains deeply complicit in this genocide, supporting jingaweit militias and participating in attacks on civilians. Helicopter gunships strafe villages, spraying nail-like flachettes unsuitable for anything other than killing.

International monitors of all kinds have been attacked, including members of the African Union force deployed to Darfur to try to bring about a monitoring of the peace agreements that have been set forth. Government-backed militias have threatened foreigners and U.N. convoys.

In recent weeks, an American aid official was shot and wounded, and the U.N. was forced to withdraw its international staff in west Darfur to the provincial capital. Other NGOs are uneasy about their people and are talking about withdrawal.

Even today, we get reports of a new rampage—an attack on a village in Darfur by 350 armed militia. The report by the UN and the AU called it a "senseless and premeditated savage attack." The militia "rampaged through the village, killing, burning and destroying everything in their paths and leaving in their wake total destruction, with only the mosque and the school spared."

I have a U.N. report, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From UN News Service, Apr. 8, 2005]

UN, AFRICAN UNION CONDEMN "SAVAGE ATTACK" ON DARFUR VILLAGE BY ARMED MILITIA

United Nations and African Union representatives today condemned a "senseless and pre-meditated savage attack" Thursday on a town in the western Darfur area of Sudan by more than 350 armed militia while the Government dragged its heels in designating land for the AU monitoring force meant to deter such incidents.

Having learnt "with utter shock and disbelief" of the relentless daylong attack on Khor Abeche by armed militia of the Miseriyya tribe of Niteaga, "we condemn this senseless, and pre-meditated savage attack," Jan Pronk, the Special Representative of UN Secretary-General Kofi Annan, and AU Ambassador Baba Gana Kingibe said in a joint statement.

Nasir Al Tijani Adel Kaadir was identified as having commanded the initial force of over 200 on horses and camels and they were later reinforced by a further 150, also from Niteaga, they said in a statement.

His name and those of his collaborators would be sent to the UN Security Council sanctions committee to be brought to justice and they expected the Sudanese Government to take appropriate action, the two said.

The attackers "rampaged through the village, killing, burning and destroying everything in their paths and leaving in their wake total destruction with only the mosque and the school spared," their statement said.

"This attack, the savagery of which has not been seen since the sacking of Hamada in January 2005, was apparently in retaliation for the alleged theft of 150 cattle whose tracks were supposedly traced to Khor Abeche village," Mr. Pronk and Mr. Kingibe said.

They noted that since 3 April the AU had prepared to deploy troops in Niteaga and Khor Abeche to deter precisely this kind of attack, "but was prevented from acting by what can only be inferred as deliberate official procrastination over the allocation of land for the troops' accommodation."

Mr. CORZINE. Mr. President, how has the international community responded to these issues? In recent weeks, the U.N. Security Council passed three resolutions. To be sure, to give them credit, there has been some progress. One resolution referred the situation in Darfur to the International Criminal Court. Another established a U.N. committee to recommend targeted sanctions against those responsible for human rights abuses.

But much has not been done. There have been no efforts to impose, or even seriously threaten, sanctions against the Government of Sudan. In fact, the Security Council promised significant assistance as a reward for the welcomed implementation of the January peace agreement, the north-sought agreement between Khartoum and the south, without any conditions related to Darfur. Our amendment, which Senator BROWNBACK and I will be proposing, supports the peace agreement and allows assistance to implement that agreement. But we should not be rewarding the Government of Khartoum while thousands upon thousands of civilians in Darfur are dying.

This amendment will call for military no-fly zones over Darfur. Neither the Bush administration nor our NATO allies have addressed this critical issue. We need to act so that the kinds of tragedies we see in this picture to my right are no longer permitted.

This amendment calls for accelerated assistance to the African Union. A retired Marine colonel, Brian Steidle, who worked alongside the AU, has described the AU's effectiveness where it has been deployed. But there are currently only 2,200 African Union troops on the ground. Over 3,400 are authorized, and we hope it can grow to over 6,000 in the next year. We need to increase their numbers and provide whatever assistance they need. Therefore, I am offering a second amendment later in the debate on this underlying supplemental with Senators DEWINE, BROWNBACK, and others. It is a money appropriation or allocation for the AU to accelerate the deployment of boots on the ground.

But money alone will not bring security to Darfur. The Darfur Accountability Act calls for an expansion of the AU's mandate to include the protection of civilians. Ultimately, we will have to be realistic about what it takes to police an area the size of Texas. It will take many thousands of troops, more than the AU will be able to field. The 10,000 new U.N. troops authorized by the Security Council are therefore a welcome development. But, again, their role in Darfur is virtually undefined, certainly vague and uncertain as to whether they can be involved in this.

Mr. President, the people of Darfur will not be saved unless stopping genocide becomes a priority. Words and deeds need to match. This amendment will call on the administration to raise Darfur in all relevant bilateral and multilateral meetings. I hope we can get it raised.

I am pleased that Deputy Secretary of State Zoellick is going to Sudan this week. But unless we mobilize an international effort, this engagement will be insufficient. We have already seen a lot of lost opportunities. I will leave that for the record where President Bush, Secretary of Defense Rumsfeld, and the Secretary of State have been in international areas where we can mobilize that kind of support. We simply cannot just keep calling it genocide and labeling it and talking about it; we need to do something about it. Stopping this evil is an urgent and highly moral issue for all of us to take on. That is why there is so much bipartisan focus on this issue.

We want to evoke the culture of life. We ought to be protecting those 10,000 people a month who are dying. How can we claim to be learning the lessons of history when we fail to act? How can we do that? We cannot continue to talk about moral responsibilities and then not act on them.

In his remarks in the piece that I put in the RECORD, Elie Wiesel put this clearly:

> What pains and hurts most now is the simultaneity of events. While we sit here and discuss how to behave morally, both individually and collectively, over there, in Darfur and elsewhere in Sudan, human beings kill and die.

Mr. President, we must act. The United States must lead a coalition of conscience to stop the genocide. That is what this amendment calls for. I urge my colleagues to support it. We will be back with the exact details. I am very appreciative of the leadership of Senator BROWNBACK, Senator DEWINE, and a number of individuals on both sides of the aisle. We need to make that coalition of conscience real. It is time to act. I believe this is an appropriate amendment on the supplemental.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I am delighted to join my colleague from New Jersey on this amendment. I think by definition a supplemental is about emergency needs and emergency spending. I don't know of a bigger one taking place right now in the world than in Darfur. So it is my hope that within this supplemental we will be able to deal with this issue of Darfur, both in funding and in some language to be able to stop this. This is a completely manmade genocide; it is a completely manmade disaster. It is one that can be stopped with a reasonable number of troops on the ground, with a reasonable engagement strategy.

This can stop. Instead of the 300,000 deaths going on up, this can and will stop. They need food aid, and they need allocation of funds for African Union forces. We will have Assistant Secretary Zoellick on the ground in Khartoum. He is going to go to the south, and then to the western part of Sudan after that, to look and to press the situation. The administration is engaged and is pushing. We need to do this in the supplemental. It is important for it to take place.

Lest people think this was last year's disaster that we are just putting forward more now and saying wasn't that terrible then, we should have acted, I want to show you pictures from this year. Senator CORZINE showed pictures earlier. This is of a village; it was taken by African Union monitors. It is completely burned out, razed. You can still see the smoke smoldering. This was taken by monitors, and they got there just after the village was burned.

I have some very graphic pictures I am going to be showing. If people don't want to see them, please turn away. It is the face of genocide. Genocide, by definition, involves the killing of one group of people by another. That is taking place and is taking place now. This is a young child who was shot in the upper right portion of the torso, and it exits here. You can see the gash here. We don't know if this child lived or died. He probably died given the state of health care there. This happened after a raid that took place. This is a child shot in a raid because he was an African child.

This is a gentleman who was killed and burned.

This is a village that is on fire. Someone in a helicopter took this picture, supported by the African Union.

These are all current pictures.

This one I believe my colleague showed as well. It is of a gentleman who was tied up, killed, and probably brutalized in Darfur.

These are the faces, and this is the picture of genocide. It is continuing to occur, and it is occurring now. I encourage my colleagues to vote for the passage of the amendment Senator CORZINE and I and others are putting forward. It is an amended version of the Darfur Accountability Act. It has the wide bipartisan support of 30 members. The amendment calls for several steps to be taken, which my colleague outlined: a new U.N. Security Council resolution with sanctions against the Government of Sudan; an extension of the current arms embargo to cover the Government of Sudan; military no-fly zone over Darfur; expansion of the U.N. mission in the Sudan; and a mandate to protect civilians in all of Sudan, which includes Darfur. It calls on the United States to appoint a Presidential envoy to Sudan and to raise this issue at the highest diplomatic levels in bilateral relations with Sudan, the Chinese, and other governments that can be of assistance. This calls for accelerated assistance to the African Union mission in Darfur and an expansion of the size and mandate of the mission necessary to protect civilians.

In addition, I hope the administration will push for a coalition of conscience. My colleagues mentioned a coalition of willing nations to join the efforts and demand an end to the genocide by making a declaration of conscience and backing it by actions if the U.N. Security Council fails to do so.

Last week was the 11th-year anniversary of the genocide in Rwanda, when we declared and the world declared "never again." We are now seeing it take place yet again. Can we learn from that? This is stoppable, and it is not by a huge commitment. We are not asking for 100,000 U.S. troops to go there. We are not asking for any U.S. troops. We are asking for financial support for the African Union and food aid to be able to maintain the villagers who have been run out of their village. With that, we believe firmly that this can and will stop and that people will be able to return to their villages.

Time is of the essence. Every day in this harsh climate in this region is a day that more people die. There simply are not the resources in the area to be able to support the individuals who are involved.

My colleague covered most of the points. I plead with my colleagues to pass this amendment in the supplemental. It is an emergency need. It is an emergency that is taking place. With this, we will be able to save lives. Keep it in the conference report so it gets to the President, it gets implemented and the help does come, so when Secretary Zoellick returns from the region, he will have this level of resources to work with, he will have this commitment from the Congress to work with, and we will be able to move forward.

If the U.N. fails to act—and I am terribly disappointed in what the U.N. is doing in this situation; they are not doing anything at all—the United States must press forward with those willing to act so the genocide can stop, so the killing will stop, so we can move forward with peace and people can go back to their lives.

I hope people can start to feel and see some of that pain in front of our very eyes that we can stop. We can stop this. I plead with my colleagues to please stop it and support this amendment.

I do believe we will get this passed. We need to pass it. I hope it is kept in the bill through the entire process.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I add one postscript on this Darfur Accountability Act. The House has language dealing with Darfur. We did not have as much of it in here. It is two parts: food and military assistance. We are working closely with the committee to try to get this worked through. It will not go over the amount that is in it. It will be offset in other places within the budget. I want to make sure that is clear to my colleagues who are interested in this. They are supportive, but they do not want to bust the supplemental caps. This will be taken from other places we are working on right now.

Senator MCCONNELL, Senator COCHRAN, and other of our colleagues are working diligently with us. It is in two places as far as food aid and its assistance to peacekeepers. These will be African Union peacekeepers. So I want to get the practicalities of it out.

I also admonish my colleagues that where we sit as the most powerful Nation on the face of the Earth, we are called on to remember those who are in bondage as if we were in bondage ourselves. That may seem a strange concept, but when others are free, we are free. If others are in bondage, we are going to feel those chains and it will constantly rub against our souls. This is something that is important and it is also historic for us.

When we fought against slavery in this country, the issue was that the bondage of others was our bondage and people felt it, they fought against it. It is in the great heritage of this country to fight for freedom for other people, so that when they are in bondage we feel that, but when we can help break that, we will also break bondages on ourselves and make us use the greatness of America for the goodness of the world. It is that goodness that keeps us moving toward greatness.

This is not a large sum of money we are talking about, but it is critically important.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I salute the Senator from Kansas. I know he and the Senator from New Jersey have demonstrated extraordinary leadership on many issues that have come before this Senate, but certainly on the Darfur Accountability Act. I am an original cosponsor of that bipartisan measure and a strong supporter.

The latest estimates tell us more than 300,000 people have died in Darfur. The world has let this happen. In spite of all of our anguished promises after Rwanda that this would never happen again, it is happening again. Reports from aid workers back from Sudan state that attacks on the ground are still taking place. Villages are still being burned. Much of Darfur is still in a climate of terror. People are still afraid to go out for basics, to venture out for water, for wood, or the necessities of life.

Early this week, Human Rights Watch released a new report that Sudanese security forces, including police deployed to protect displaced persons, and allied jingaweit militias continue to commit rape and sexual violence on a daily basis. Refugee camps are no refuge. Women who fled Darfur to refugee camps in Chad have been imprisoned by Chadian authorities for trying to collect firewood outside their camps. Many of them were raped while in jail.

This has become a charnel house. This is an inferno. This is one of the rings of hell, and it is happening on our watch.

In some areas of Sudan, women who are raped by the jingaweit militia are now being threatened with prosecution. In short, Darfur still cries out for action. If these conditions do not constitute an emergency, I do not know what does.

Do we want to return to the Senate 6 months from now and lament the fact that another 300,000 victims have been added to the death tolls in this area? The amendment which will be offered later seeks a new U.N. Security Council resolution with sanctions, concerted United States diplomacy, an extension of the current arms embargo to cover the Government of Sudan, the freezing of assets and denial of visas to those responsible for genocide, crimes against humanity and war crimes, accelerated assistance of the African Union Mission, and a military no-fly zone in Darfur.

One of the other components of this amendment is the appointment of a new special envoy to seek peace in Sudan to fill the role Ambassador Danforth played so well. As in many things, Pope John Paul II was ahead of this. He sent a special envoy last year so that voices of the people of Darfur might be heard.

The Bible tells us: Blessed be the peacemaker. We need to be peacemakers today. Let us hold the Government of Sudan accountable for its crimes and for these atrocities. Let us help the people of Darfur, and in doing so let us help to end this genocide.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THUNE). Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I have requests to make on behalf of the managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 422

Mr. COCHRAN. I send an amendment to the desk, on behalf of Mr. LEAHY and Mr. OBAMA, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY and Mr. OBAMA, proposes an amendment numbered 422.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 194, line 14, delete "should" and insert in lieu thereof "shall".

On page 194, line 16, delete "Avian flu" and insert in lieu thereof "avian influenza virus, to be administered by the United States Agency for International Development".

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 422) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 370, AS MODIFIED

Mr. COCHRAN. Mr. President, I call up amendment No. 370, as modified, on behalf of Mr. SALAZAR, concerning democracy assistance for Lebanon.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SALAZAR, proposes an amendment numbered 370, as modified.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide assistance to promote democracy in Lebanon)

On page 175, on line 24, strike "$1,631,300,000" and insert "$1,636,300,000". On page 176, line 12 after the colon insert the following: "*Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for programs and activities to promote democracy, including political party development, in Lebanon and such amount shall be managed by the Bureau of Democracy, Human Rights, and Labor of the Department of State:".

On page 179, line 24, strike "$30,500,000" and insert "$25,500,000".

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 370), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 423

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on behalf of Mr. LEAHY, providing reprogramming authority for certain State Department accounts. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 423.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide reprogramming authority for certain accounts in the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act, 2005)

On page 183, after line 23, insert the following new general provision:

SEC. —. The amounts set forth in the eighth proviso in the Diplomatic and Consular Programs appropriation in the FY 2005 Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (P.L. 108–447, Div. B) may be subject to reprogramming pursuant to section 605 of that Act.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 423) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 361

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on behalf of Mr. REID and Mr. LEVIN, regarding retired pay and veterans disability compensation, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. REID, for himself, and Mr. LEVIN, proposes an amendment numbered 361.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate that veterans with a service-connected disability rated as total by virtue of unemployability should be treated as covered by the repeal of the phase-in of concurrent receipt of retired pay and veterans disability compensation for military retirees)

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON TREATMENT OF CERTAIN VETERANS UNDER REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS DISABILITY COMPENSATION

SEC. 1122. It is the sense of the Senate that any veteran with a service-connected disability rated as total by virtue of having been deemed unemployable who otherwise qualifies for treatment as a qualified retiree for purposes of section 1414 of title 10, United States Code, should be entitled to treatment as qualified retiree receiving veterans disability compensation for a disability rated as 100 percent for purposes of the final clause of subsection (a)(1) of such section, as amended by section 642 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1957), and thus entitled to payment of both retired pay and veterans' disability compensation under such section 1414 commencing as of January 1, 2005.

Mr. REID. Mr. President, I rise today to speak on the issue of concurrent receipt and the Bush administration's unfair attempt to continue to restrict some of our Nation's veterans from receiving the full pay and benefits they have earned.

We have debated the ban on concurrent receipt for many years. It is an unfair and outdated policy that I and many others in this Chamber have worked hard to end.

Over the years, we have made some progress.

In 2003, the Congress passed my legislation which allowed disabled retired veterans with at least a 50-percent disability rating to become eligible for full Concurrent Receipt benefits over a 10-year period. This was a significant victory, and as a result of the legislation, hundreds of thousands of veterans today are on the road to receiving both their retirement and disability benefits.

And we made further progress last year, with the help of Senator LEVIN and others, when we were able to eliminate the 10-year phase-in period for the most severely disabled veterans—those who were 100 percent disabled. A 10-year waiting period was particularly harsh for these veterans, some of whom would not live to see their full benefits restored over the 10-year period, and others who could not work a second job and were in fact considered "unemployable." So we passed legislation to end the waiting period and provide some relief to these deserving, totally disabled veterans.

Unfortunately, the administration's implementation of this legislation has created a new inequity by discriminating between two categories of totally disabled retirees.

There are those veterans who have been awarded a 100 percent disability rating by the VA and those whom the VA has rated "totally disabled". The veterans considered totally disabled are paid at the 100 percent disabled rate. This is because the VA has certified that their service-connected disabilities have left them unemployable.

I ask unanimous consent to have printed in the RECORD a letter sent by the Defense Department to the Office of Management and Budget on this issue last December.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. REID. The letter indicates clearly the Defense Department General Counsel's opinion that both of these groups should be paid their full retired pay and disability compensation under the law Congress passed last year, and it requested permission from OMB to execute the payments to unemployables.

That permission apparently was not forthcoming, since the Pentagon is still withholding payments for the "unemployable" group after all these months—contrary to its own General Counsel's legal review.

For all other purposes, both the VA and the Defense Department treat unemployables exactly the same as those with 100 percent disability ratings.

In fact, these unemployables must meet a criterion that not even the 100 percent-rated disability retirees have to meet. They are certified as unable to work because of their service-connected disability. The administration pays equal combat-related special compensation to both categories. Yet the administration is discriminating unemployables and 100 percent disabled retirees with noncombat disabilities in flagrant disregard for the letter of the law as interpreted by its own legal counsel.

The time to act is now.

As we stated last year, these veterans do not have 10 years to wait for the full phase-in of their benefits. The administration needs to act quickly.

Hopefully, the expression of the Senate contained in this bill will clarify the intent of the Congress so those most severely disabled veterans will begin to reap the benefits of last year's legislation.

EXHIBIT 1

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, DC, Dec. 21, 2004.

Dr. KATHLEEN PEROFF,
Deputy Associate Director for National Security, Office of Management and Budget, Washington, DC.

DEAR MS. PEROFF: This letter is to advise your office of how the Department intends to compensate members for full concurrent payment of military retired pay in addition to their Veterans' Affairs (VA) disability compensation under the provisions of section 1414 of title 10, United States Code, as amended by section 642 of the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375). Section 642 eliminated the phase-in period for those retirees/veterans determined by the Department of Veterans Affairs to have a disability or combination of disabilities rated as 100 percent disabled.

An issue has arisen as to whether this change in the law includes those who are rated as less than 100 percent disabled, but for whom a rating of 100 percent (total) disability is assigned by the VA because the individual is deemed unemployable. Based on a legal review of the relevant statutory authority and legislative intent language (10 U.S.C. 1414; H. Rept. 108–767), we intend to consider these unemployable retirees/veterans covered by the exemption to the phase-in period and grant them full concurrent payments beginning January 1, 2005.

The determination to include these unemployable retirees/veterans will result in an added cost of about $1.3 billion in Military Retirement Fund (MRF) outlays over the course of the phase-in period. It will not affect costs after the phase-in period or carry any added increase in accrual costs. Further, all the added cost of full concurrent receipt is passed directly to the Treasury for payments to the MRF. While verbal communication with relevant congressional committee staff suggests that Congress may not have intended to exempt from the phase-in period those unemployable retirees/veterans compensated for 100 percent disability, neither the amended stature nor legislative intent language support this position.

We plan to issue guidance to the Defense Finance and Accounting System and the Services on the matter as quickly as possible. Please advise us if the Administration has any differing views.

Sincerely,

CHARLES S. ABELL.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 361) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 424

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on my own behalf, to make a technical correction to the bill. I ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 424.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 219 of the bill, line 16, strike "or" and insert "and";

On page 219 of the bill, line 17, after "and" insert "seismic-related".

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment

The amendment (No. 424) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 387

Mr. LEAHY. Mr. President, I notice we have been in a quorum call and realize I am not taking time from others. I thought this might be a good time to note that I am a cosponsor of the Mikulski amendment.

We all know, from the discussion we had yesterday with the distinguished Senator from Maryland and others, that the amendment makes additional visas available for aliens who wish to perform seasonal work in the United States. We are well aware of that in my State of Vermont. We are also aware of the fact that for the second year in a row the statutory cap on so-called H–2B visas was met before businesses that needed additional summer employees were even eligible to apply for visas.

This is kind of a catch-22. They are told they have to wait for a period of time to be eligible to apply for the visas, and then when the time comes, the visas are already used. It has hurt businesses across the country. This amendment would provide needed relief.

In Vermont, many hotels and inns and resorts that have a busy summer season use these visas. I have heard from dozens of these businesses in Vermont over the past year. They have struggled mightily to manage without temporary foreign labor. I know the Lake Champlain Chamber of Commerce, the Vermont Lodging & Restaurant Association, and many small businesses in Vermont are vitally concerned, and I expect similar associations and businesses in the other States are as well.

It is interesting, one of the places I have heard from is a summer business where I worked when I was working my way through college. I know even then, in our little State, to keep it open, to go forward, they needed those foreign workers.

You have a wide range of industries that use these visas. This is not a parochial issue. It is not just Vermont. I suspect the same argument, one way or the other, could be made in virtually every State. I would be surprised if there is any Senator who has not heard from a constituent who has been harmed by the sudden shortage of H–2B visas. Many of them fear they are going to go out of business altogether if Congress does not make these visas available.

Now, the amendment would not raise the cap on the program but would allow those who had entered the United States in previous years through the H–2B program to return. It seems to be a very fair, very reasonable compromise. After all, these are people, by definition, who came to the United States legally. Then, after coming to the United States legally, they returned to their own countries legally, as they are required to do. The amendment also addresses those concerns some Members have expressed about fraud.

I have been working to solve this crisis for more than a year. I joined, last year, with a very substantial coalition of both Republican and Democratic Senators in introducing S. 2252, the Save Summer Act of 2004. This was going to increase the cap on the H–2B program. Unfortunately, there was a small number of Republican Senators who opposed it, so they put a hold on it. It was never allowed to have a vote. Our constituents suffered the consequences.

This year, I have urged the Mikulski-Gregg bill, on which this amendment is based, S. 352, be considered by the Judiciary Committee without delay. It is a bipartisan bill. It deserves to win a broad majority in this body. But this is not one of these things we can talk about and delay and delay and delay on throughout the spring and summer. Many of these businesses, if they are even going to open their doors, if they are going to stay in business this year, need the relief today.

Most of them are small businesses. An awful lot of them—I know the owners in my State; I suspect Senator GREGG from New Hampshire knows them in his State—are people who work very hard, with 80- and 90-hour weeks. They are sort of mom-and-pop operations. They own their businesses, and they need this seasonal help or they go out of business. If they go out of business, the other people they hire year-round are out of a job, and the local community has lost a significant place.

We should move forward. These are people relying on us. I do not know the politics of any of these people. I do not care. They are relying on us to help keep their businesses afloat.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 427

Mr. DURBIN. Mr. President, those following the debate on the floor understand we are considering the supplemental appropriations bill that deals with the war in Iraq and Afghanistan, the tsunami relief, and some other very important elements. I understand there are pending amendments and also an effort to reach an agreement about how future amendments will be offered. So even though I will not be offering an amendment at this time, I would like to say a few words about an amendment which I plan to offer as soon as an agreement is reached and to alert my colleagues and those following the debate what we are seeking to achieve.

This amendment, which I am proud to cosponsor with Senator KENNEDY and Senator LEVIN, relates to troop training in Iraq. I thank the chairman and ranking member for their hard work on the bill. I believe it is imperative we continue to support our troops and address other emergencies in the world, including the devastating tsunami that swept across the Pacific right after Christmas.

We fully support our troops. We also want to see them come home. Training

Iraqi troops to take the lead in Iraq is critical to our success in that country and to getting our service men and women back where they belong—with their families at home. Therefore, we are offering an amendment today to measure our progress toward that goal.

In this bill, the Senate is appropriating $5.7 billion for the Iraqi Security Forces Fund. The accompanying committee report states:

> The funds shall be available to train, equip, and deploy Iraqi security forces as well as provide increased counterinsurgency capabilities.

That is certainly very good. Our troops cannot come home until Iraqi forces can hold their own.

When I was in Iraq just a few weeks ago, General Petraeus took us from the Baghdad airport to a training field nearby, where we saw about 12 Iraqi soldiers who were masked to hide their identity for fear of retribution from their fellow Iraqis as they went through training drills.

I have not been in the military. I can't grade these troops as to their progress. It certainly appeared that they were learning important skills. How many troops in Iraq are reaching that level of competence, I can't say. That is the purpose of the amendment.

Iraqi forces and police must be able to take the lead in conducting counterinsurgency operations. They must be able to protect their own borders, safeguard civilian populations, uphold and enforce the rule of law. When I met with General Petraeus, he said he believed he was making progress toward that goal, but I think we need to have a better metric to evaluate. We have received mixed messages and mixed information and statistics from the administration about how many Iraqis are trained and what their training really means.

Recent figures we received from the Department of Defense tell us that 136,000 Iraqis have been officially trained and equipped, but it is still not clear what that means. Does it mean that 136,000 Iraqi police, military, and border personnel are ready to defend their country, to protect its citizens and borders? Are they ready to take on and defeat the serious insurgent threat against American troops and Iraqis?

A March GAO study was very skeptical about the numbers. Joseph Christoff, Director of the GAO, testified before the House Government Reform Committee that:

> Data on the status of Iraqi security forces is unreliable and provides limited information on their capabilities.

That was a result of a GAO report of the progress being made by our Department of Defense. We need answers to basic questions. That is why we are offering the amendment—Senator KENNEDY, Senator LEVIN, and I—requiring the Department of Defense to assess unit readiness of Iraqi forces and evaluate the effectiveness and status of training of police forces.

Our amendment is straightforward. It is a reporting requirement asking for regular assessments of both the military forces and the police who are being trained with our tax dollars. This is simply accountability. As American tax dollars go into Iraq for the training of forces, American taxpayers have the right to know whether we are making progress. Are we meeting our goals? The GAO report indicated, for example, substantial desertions from the ranks of police in Iraq, the number in perhaps the tens of thousands. That is something we need to know if it continues. We need to know how many battalions of soldiers are trained, how effectively they can operate. They face a fierce insurgency. Are they ready for battle? We want to give them the tools to successfully confront it.

Finally, we also ask for an assessment of how many American forces will be needed in 6, 12, and 18 months. We are not imposing a deadline. What we are doing is saying to the administration: Tell us on the one hand the level of success which you are experiencing in training Iraqis to defend their own country and tell us what it means in terms of American forces. When can we expect troops to start returning if this Iraqi training is successful?

As Iraqi troop training expands and improves, we certainly hope American troops will come home. We all want to see progress in Iraq. I want to be able to measure it in a way that everyone in Congress—and certainly everyone across the country—knows we are making meaningful progress.

Mr. KENNEDY. Mr. President, will the Senator from Illinois yield for a question?

Mr. DURBIN. Yes, I am happy to.

Mr. KENNEDY. The Senator points out the part of the amendment which is asking for an estimate of the number of troops. I am a member of the Armed Services Committee. This issue has come up in a number of different contexts. We are talking about an estimate. We are looking for an estimate in 6 months and 12 months and 18 months. I am just wondering whether the Senator from Illinois saw the New York Times on April 11 where General Casey, top commander in Iraq, told CNN a week ago that if all went well, "we should be able to take some fairly substantial reductions in the size of our forces." And another senior military official said American forces in Iraq could drop to around 105,000 by early next year from 142,000 now.

Clearly, there are estimates that are being considered. It seems that the American people would like to know what these numbers are rather than reading them in the paper. I believe that is what the purpose of the amendment is—to try to communicate to the American people what the best judgment is in terms of the troops. Estimates can vary. As authors of the amendment, we understand that. But I do thank the Senator for referring to the GAO report, the fact that the GAO report of March 14 said that U.S. Government agencies do not report reliable data on the extent to which the security forces are trained and equipped. The number of Iraqi police is unreliable, and the data does not exclude police absent from duty.

All we are trying to do is to get estimates for the American people. Am I correct?

Mr. DURBIN. The Senator from Massachusetts is correct. He makes a valuable point. When we in Congress ask the Department of Defense, how are we doing in terms of training troops for the Iraqi side, what are your guesses and best estimates in terms of when American troops can come home, many times they tell us, we can't share that information. They give us widely different numbers.

The Senator from Massachusetts makes the point that spokesmen for the U.S. military apparently speak to the media frequently, volunteering information about how quickly troops can come home to the United States. If it is good enough for CNN, should it not be good enough for the USA; should not American taxpayers be given this information? I think we want to know that.

I understand that we have to stay the course and finish our job. I am committed to that, even though I shared Senator KENNEDY's sentiments about the initiation of the invasion. One of the problems with the insurgency is the question of whether we are a permanent occupying force. I hope we make it clear to the Iraqis that we are there to finish the job, to stabilize their country, and come home. As we start moving down the line on this amendment, which the Senator from Massachusetts and Senator LEVIN have cosponsored, we are going to be moving toward that goal and delivering the right message.

Mr. KENNEDY. I thank the Senator. I agree with his conclusions. Many of us believe this will be enormously helpful in trying to establish the independent Iraq that all of us would like to see. But I thank the Senator for bringing up this matter.

This follows other evidence that we have had at other times in Defense appropriations legislation, basically to provide this kind of information to the parents, to the military. We are looking for a best judgment, best estimate. Clearly, today the military is thinking in those terms. I believe we ought to have some opportunity to share that information.

I thank the Senator from Illinois for offering this amendment.

Mr. DURBIN. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER (Mr. MARTINEZ). Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, and Mr. LEAHY, proposes an amendment numbered 427.

Mr. DURBIN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require reports on Iraqi security services)

On page 169, between lines 8 and 9, insert the following:

REPORTS ON IRAQI SECURITY FORCES

SEC. 1122. Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit an unclassified report to Congress, which may include a classified annex, that includes a description of the following:

(1) The extent to which funding appropriated by this Act will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq.

(2) The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqi fighters, and any changes over the previous 90-day period.

(3) A description of all militias operating in Iraq, including their number, size, strength, military effectiveness, leadership, sources of external support, sources of internal support, estimated types and numbers of equipment and armaments in their possession, legal status, and the status of efforts to disarm, demobilize, and reintegrate each militia.

(4) The extent to which recruiting, training, and equipping goals and standards for Iraqi security forces are being met, including the number of Iraqis recruited and trained for the army, air force, navy, and other Ministry of Defense forces, police, and highway patrol of Iraq, and all other Ministry of Interior forces, and the extent to which personal and unit equipment requirements have been met.

(5) A description of the criteria for assessing the capabilities and readiness of Iraqi security forces.

(6) An evaluation of the operational readiness status of Iraqi military forces and special police, including the type, number, size, unit designation and organizational structure of Iraqi battalions that are—

(A) capable of conducting counterinsurgency operations independently;

(B) capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers; or

(C) not ready to conduct counterinsurgency operations.

(7) The extent to which funding appropriated by this Act will be used to train capable, well-equipped, and effectively led Iraqi police forces, and an evaluation of Iraqi police forces, including—

(A) the number of police recruits that have received classroom instruction and the duration of such instruction;

(B) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(C) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(D) a description of the field training program, including the number, the planned number, and nationality of international field trainers;

(E) the number of police present for duty;

(F) data related to attrition rates; and

(G) a description of the training that Iraqi police have received regarding human rights and the rule of law.

(8) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by the Coalition Forces, including defending Iraq's borders, defeating the insurgency, and providing law and order.

(9) The extent to which funding appropriated by this Act will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(10) The estimated total number of adequately trained, equipped, and led Iraqi battalions expected to be capable of conducting counterinsurgency operations independently and the estimated total number expected to be capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers by the end of 2005 and of 2006.

(11) An assessment of the effectiveness of the chain of command of the Iraqi military.

(12) The number and nationality of Coalition mentors and advisers working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(13) A list of countries of the North Atlantic Treaty Organisation ("NATO") participating in the NATO mission for training of Iraqi security forces and the number of troops from each country dedicated to the mission.

(14) A list of countries participating in training Iraqi security forces outside the NATO training mission and the number of troops from each country dedicated to the mission.

(15) For any country, which made an offer to provide forces for training that has not been accepted, an explanation of the reasons why the offer was not accepted.

(16) A list of foreign countries that have withdrawn troops from the Multinational Security Coalition in Iraq during the previous 90 days and the number of troops withdrawn.

(17) A list of foreign countries that have added troops to the Coalition in Iraq during the previous 90 days and the number of troops added.

(18) For offers to provide forces for training that have been accepted by the Iraqi government, a report on the status of such training efforts, including the number of troops involved by country and the number of Iraqi security forces trained.

(19) An assessment of the progress of the National Assembly of Iraq in drafting and ratifying the permanent constitution of Iraq, and the performance of the new Iraqi Government in its protection of the rights of minorities and individual human rights, and its adherence to common democratic practices.

(20) The estimated number of United States military forces who will be needed in Iraq 6, 12, and 18 months from the date of the report.

Mr. DURBIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank Senator DURBIN for bringing up this matter on the supplemental. I welcome the opportunity to join with him and our colleague from Michigan, Senator LEVIN, and others who support the amendment. As we have outlined, this amendment basically requires periodic reports on the progress we are making in training Iraqi security forces.

The Senate is currently debating an appropriations bill that would provide $81 billion, primarily for our ongoing war effort in Iraq. This funding will bring the total U.S. bill for the war in Iraq to $192 billion—and still counting.

All of us support our troops. We obviously want to do all that we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives as they carry out their mission. It is scandalous that the administration has kept sending them into battle in Iraq without proper equipment. No soldier should be sent into battle unprotected. No parents should have to go in desperation to the local Wal-Mart to buy armored plates and mail them to their sons and daughters serving in Iraq.

Our military is performing brilliantly under enormously difficult circumstances. But they don't want—and the American people don't want—an open-ended commitment. After all the blunders that took us into war, we need to be certain that the President has a strategy for success.

The $5.7 billion in this bill for training Iraqi security forces is a key element of a successful strategy to stabilize Iraq and withdraw American military forces.

The administration has spoken frequently about the need for these funds. But there has been no accountability. It is time to put some facts behind our policy, and that is what this amendment does.

The administration has never really given us a straight answer about how many Iraqi security forces are adequately trained and equipped. We're obviously making progress, but it is far from clear how much. The American people deserve an honest assessment that provides the basic facts.

But that is not what we're being given. According to a GAO report in March:

> U.S. government agencies do not report reliable data on the extent to which Iraqi security forces are trained and equipped.

It goes on to say:

> The Departments of State and Defense no longer report on the extent to which Iraqi security forces are equipped with their required weapons, vehicles, communications, equipment, and body armor.

It is clear from the administration's own statements that they are using the notorious "fuzzy math" tactic to avoid an honest appraisal.

On February 4, 2004, Secretary Donald Rumsfeld said:

> We have accelerated the training of Iraqi security forces, now more than 200,000 strong.

Then, a year later, on January 19, 2005, Secretary Condoleezza Rice said that:

> We think the number right now is somewhere over 120,000.

On February 3, 2005, in response to questions from Senator LEVIN at a Senate Armed Services Hearing, General Richard Myers, chairman of the Joint Chiefs of Staff, conceded that only 40,000 Iraqi security forces are really capable. He said:

> 48 deployable (battalions) around the country, equals about 40,000, which is the number that can go anywhere and do anything.

Obviously, we need a better accounting of how much progress is being made to train and equip effective and capable Iraqi Security forces.

I am encouraged by reports from our commanders in Iraq that we are making enough progress in fighting the insurgents and training the Iraqi security forces to enable the Pentagon to plan for significant troop reductions by early next year.

On March 27, General Casey, our top commander in Iraq, said, if things go well in Iraq, "by this time next year . . . we should be able to take some fairly substantial reductions in the size of our forces."

According to the New York Times, on Monday, senior military officials are saying American troop levels in Iraq could "drop to around 105,000" by early in 2006.

These reports are welcome news after 2 years of war in Iraq.

April 9 marked the second anniversary of the fall of Baghdad, and in these last 2 years we have paid a high price for the invasion of Iraq.

America went to war in Iraq because President Bush insisted that Iraq had strong ties to al-Qaida. It did not. We went to war because President Bush insisted that Saddam Hussein was on the verge of acquiring a nuclear capability. He was not. Long after the invasion of Iraq began, our teams were scouring possible sites for weapons of mass destruction. Finally, last January, 21 months after the invasion, the search was called off all together.

As Hans Blix, the former chief U.N. weapons inspector, said in a lecture last month, the United States preferred "to believe in faith based intelligence."

Today, American forces continue to serve bravely and with great honor in Iraq. But the war in Iraq has made it more likely—not less likely—that we will face terrorist attacks in American cities, and not just on the streets of Baghdad. The war has clearly made us less safe and less secure. It has made the war against al-Qaida harder to win.

As CIA Director Porter Goss told the Senate Intelligence Committee on February 16, we have created a breeding ground for terrorists in Iraq and a worldwide cause for the continuing recruitment of anti-American extremists.

He said:

> The Iraq conflict, while not a cause of extremism, has become a cause for extremists . . . Islamic extremists are exploiting the Iraqi conflict to recruit new anti-U.S. jihadists . . . These jihadists who survive will leave Iraq experienced in and focused on acts of urban terrorism. They represent a potential pool of contacts to build transnational terrorist cells, groups, and networks in Saudi Arabia, Jordan and other countries.

Three and a half years after the 9/11 attacks, al-Qaida is still the gravest threat to our national security, and the war in Iraq has ominously given al-Qaida new incentives, new recruits, and new opportunities to attack us.

According to CIA Director Goss, "al-Qaida is intent on finding ways to circumvent U.S. security enhancements to strike Americans and the homeland."

Admiral James Loy, Deputy Secretary of Homeland Security, also warned the Intelligence Committee about the threat from al-Qaida. He said, "We believe that attacking the homeland remains at the top of al-Qaida's operational priority list . . . We believe that their intent remains strong for attempting another major operation here."

The danger was also emphasized by Robert Mueller, the FBI Director, who told the Intelligence Committee, "The threat posed by international terrorism, and in particular from al-Qaida and related groups, continues to be the gravest we face." He said, "al-Qaida continues to adapt and move forward with its desire to attack the United States using any means at its disposal. Their intent to attack us at home remains—and their resolve to destroy America has never faltered."

In addition to taking the focus off the real war on terror—the war against al-Qaida—the war in Iraq has cost us greatly in human terms.

Since the invasion began, we have lost more than 1500 servicemen and women. More than 11,500 have been wounded. That's the equivalent of a full Army division, and we only have 10 active divisions in the entire army. Despite recent progress, since the Iraqi elections in January we have still lost more than one soldier a day.

We need to train the Iraqis for the stability of Iraq. But we also need to train them because our current level of deployment is not sustainable. Our military has been stretched to the breaking point, with threats in other parts of the world ever-present.

As the Defense Science Board told Secretary Rumsfeld last September, "Current and projected force structure will not sustain our current and projected global stabilization commitments."

LTG John Riggs said it clearly: "I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today." A full 32 percent of our military has already served two or more tours of duty in Iraq or Afghanistan. That fact makes it harder for us to respond to threats elsewhere in the world.

The war has also undermined the Guard and Reserve. Forty percent of the troops in Iraq are Guard or Reservists, and we are rapidly running out of available soldiers who can be deployed.

The average tour for reservists recalled to active duty is now 320 days, close to a year. In the first Gulf War, it was 156 days; in Bosnia and Kosovo, 200 days. In December, General James Helmley, the head of the Army Reserves warned that the Reserve "is rapidly degenerating into a 'broken' force" and "is in grave danger of being unable to meet other operational requirements."

The families of our military, Guard and Reserves are also suffering. Troops in Iraq are under an order that prevents them ever from leaving active duty when their term of service is over.

A survey by the Defense Department last May found that reservists, their spouses, their families, and their employers are less supportive now of their remaining in the military than they were a year ago.

The war has clearly undermined the Pentagon's ability to attract new recruits and retain those already serving. In March, the active duty Army fell short of its recruiting goal by a full 32 percent. Every month this year, the Marines have missed their recruiting goal. The last time that happened was July 1995.

The Army Reserves are being hit especially hard. In March, it missed a recruiting goal by almost half, falling short by 46 percent.

To deal with its recruiting problems, the Army National Guard has increased retention bonuses from $5,000 to $15,000 and first-time signing bonuses from $6000 to $10,000. The Pentagon has raised the maximum age for Army National Guard recruits from 34 to 39. Without these changes, according to General Steven Blum, Chief of the Army National Guard, "The Guard will be broken and not ready the next time it's needed, either here at home or for war."

We all hope for the best in Iraq. We all want democracy to take root firmly and irrevocably.

Our men and women in uniform, and the American people deserve to know that the President has a strategy for success. They want to know how long it will take to train the Iraqi security forces to ably defend their own country so American men and women will no longer have to die in Iraq. They want to know when we will have achieved our mission, and when our soldiers will be able to come home with dignity and honor.

At a March 1 hearing in the Senate Armed Services Committee, General Abizaid, the leader of the Central Command, gave the clearest indication so far about when our mission might end.

General Abizaid said, "I believe that in 2005, the most important statement that we should be able to make is that in the majority of the country, Iraqi security forces will take the lead in fighting the counterinsurgency. That is our goal."

Speaking about the capabilities of the Iraqi security forces, General Abizaid said, "I think in 2005 they'll take on the majority of the tasks necessary to be done." That's this year.

On March 27, General Casey, commanding General of the Multi-National Force in Iraq said, "By this time next year . . . assuming that the political process continues to go positively . . . and the Iraqi army continues to progress and develop as we think it will, we should be able to take some fairly substantial reductions in the size of our forces."

Our troops are clearly still needed to deal with the insurgency. Just as clearly, we need an effective training program to enable the Iraqis to be self-reliant.

But there is wide agreement that the presence of American troops fuels the insurgency. If the Iraqis make significant progress this year, it is perfectly logical to expect that more American troops will be able to return home.

Shortly after the elections in Iraq in January, the administration announced that 15,000 American troops that were added to provide security for the elections would return.

Additional reductions in our military presence, as Iraqis are trained to take over those functions, would clearly help take the American face off the occupation and send a clearer signal to the Iraqi people that we have no long-term designs on their country.

In US News and World Report in February, General Abizaid emphasized this basic point. He said "An overbearing presence, or a larger than acceptable footprint in the region, works against you . . . The first thing you say to yourself is that you have to have the local people help themselves."

Deputy Secretary Wolfowitz stated in a hearing at the Senate Armed Services Committee on February 3, "I have talked to some of our commanders in the area. They believe that over the course of the next six months you will see whole areas of Iraq successfully handed over to the Iraqi army and Iraqi police." Today 2 of those 6 months have passed, and all of us hope that we are on track to meet his goal.

Before the election in Iraq in January, the administration repeatedly stated that 14 of the 18 provinces in Iraq are safe. We heard a similar view in a briefing from Ambassador Negroponte earlier this year.

If some areas can soon be turned over to the Iraqis, as Secretary Wolfowitz indicated, it should be done. It would be a powerful signal to the Iraqi people that the United States is not planning a permanent occupation of their country. If entire areas are being turned over to the Iraqis, we should be able to bring more American troops home.

We know the road ahead will be difficult, because the violence is far from ended.

The President's commitment to keeping American troops in Iraq as long as it takes and not a day longer is not enough for our soldiers and their loved ones. They deserve a clearer indication of what lies ahead, and so do the American people.

President Bush should be able to tell us how much progress—how much real progress—we are making in training the Iraqi security forces. Our amendment asks for specific information on that progress, if it's happening.

President Bush should be able to tell us how many American soldiers he expects will still be in Iraq 6 months from now, 12 months from now, 18 months from now.

General Abizaid and other military officials have begun to provide clarification of that very important issue, and I hope the President will as well.

Our amendment contributes significantly to that goal, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I rise to support the amendment Senator KENNEDY has addressed, which was introduced by Senator DURBIN. It represents an effort to obtain information that is critically important to the American people in reaching a judgment, critically important to the Congress in reaching a judgment, critically important, I believe, to our military leaders, first and foremost, in reaching a judgment as to how quickly we can remove forces from Iraq.

It is in everybody's interest that we succeed in Iraq. Some of us who were highly critical of the way we went into Iraq—more unilaterally than we should have, without the support of any Muslim nations, making our presence a Western occupation of a Muslim nation, with all of the problems that unleashes, and many of us who have been critical of the way in which the Iraqi army was disbanded unilaterally, without much thought, and the way in which we did not have a plan for a violent aftermath when we went in, the way in which we didn't listen to our military leaders in terms of the need to prepare for the possibility of the violent aftermath. All of us, those of us who were critics and those of us who were supporters, now have a common interest in Iraq and have had, once the decision was made to go into Iraq, and that is that we succeed in Iraq.

Success in Iraq requires that the Iraqis take over their own defense and their own security. This amendment will help give us a roadmap toward understanding how long it will take, what is necessary, what the cost will be for the Iraqis to take over their own security, the key to our exit, first reductions in our American forces, and then to our ultimate departure from Iraq, and the key to it is how quickly we can turn over to Iraq their own security.

This amendment sets forth a number of reporting requirements, which will help us to make a judgment as to how quickly that can be done, which will help the American people to understand there is a strategy here, there are markers along the road we are on which will tell us whether we are achieving that essential security and, more importantly, whether the Iraqis are achieving that essential security for themselves.

Two things are going to be necessary here for success to be achieved. One is to secure the area and the other is a political accommodation between the people in Iraq—people who have different religious beliefs, different ethnic backgrounds, people who are now going to have to put themselves together to form a nation.

In terms of the training of Iraqi troops, we have very different estimates over the months, and it is very difficult for us in Congress and for the American people to make a judgment as to how quickly we are going to be able to reduce our presence in Iraq—a presence which has fueled the insurgency against us, which is used as a propaganda tool against us, because we are characterized as Western occupiers in a Muslim nation. The longer we stay there, the more troops we have there, the more we play into the hands of those who want to destroy us and destroy the hopes of Iraqis for a nation.

I want to give a few examples of the discrepancies in the characterization of the ability of the Iraqis to protect and defend themselves. Back in September of last year, President Bush said the following:

> Nearly 100,000 fully trained—

I emphasize fully trained.

> —and equipped Iraqi soldiers, police officers, and other security personnel are working today.

But then George Casey, our commander of the multinational force in Iraq, in January said the following:

> When Prime Minister Allawi took office in June of 2004, he had one deployable battalion. Today, he has 40. When you multiply 40 battalions that are deployable with the number of people in each battalion, it comes out to approximately 30,000 personnel.

So when General Casey spoke in January, months after President Bush told us there were 100,000 fully trained and equipped Iraqi soldiers, there were still but 30,000 personnel in Iraq who were deployable.

This is what General Myers said in February: That there are about 40,000 Iraqis in the police and military battalions, 40,000 that can "go anywhere in the country and take on almost any threat."

That is a very different impression than is given by the weekly status reports we get from the administration. This is the State Department's most recent weekly status report as to what they call trained-and-equipped Iraqi forces—152,000 this week.

There are not 152,000 Iraqi forces capable of taking on insurgents. If we are lucky, the number is about one-third of that. But we have to know two numbers, not just one, not just the weekly State Department number as to how many people are trained and equipped, but how many of those people are sufficiently trained and equipped so they can take on the insurgency. That is the critical number—how many are capable militarily of taking on insurgents.

I will give one other example of the discrepancy of the characterization of the capability of Iraqi forces.

When this supplemental in front of us was provided to us in February, this is what the supplemental represented to us: That 89 of the 90 battalions of Iraqi security forces that have been fielded—89 of 90—are "lightly equipped and armed and have very limited mobility and sustainment capabilities." That is about 95 percent plus of the Iraqi security forces today, according to the supplemental request; 95 percent are lightly equipped and armed and have limited mobility and sustainment. How different that is from the most recent weekly report we just received of 152,000 troops.

It is essential, it is critically important, no matter what one's views of the war are—the wisdom of going in, how well run it has been since we went in—no matter how pessimistic or optimistic one is, no matter how critical or positive one is, in terms of the operations and the way they were planned or not planned and the decision to go in as we did, we must have numbers, we must have estimates, which this amendment would require in regular reports, as to what the capabilities are of the Iraqi forces.

We need two numbers. We need that total number, 152,000, but we need the number of Iraqi forces that are capable of taking on the insurgents: How many are deployable? how many have real mobility and sustainment capabilities? How many are well trained and equipped so they can take on the insurgents?

That number is critical to Iraq. It is critical to Americans. Americans have the right to know the information this amendment requires be provided in regular reports.

I have one other comment before I yield the floor. In addition to the security requirements that must be met so we can say that our involvement in Iraq has been a success, there must be a political accommodation. That political accommodation, in many ways, is more complicated than the military situation. We need people who now distrust each other, people who have attacked each other over the decades, to now come together politically and to work out a new constitution which will protect the rights of minorities in Iraq.

We have a major group in Iraq, the Shi'a, who feel, and properly so, that a small minority of Sunni Baathists, particularly in the leadership of the Baathist political movement, attacked the Shi'as with gas and with other means. These are Iraqis who were destroyed by Iraqis, by Saddam Hussein and the henchmen who were around Saddam Hussein. So the Shi'a community needs to accommodate themselves to a significant protection for a Sunni minority, and that Sunni minority must get used to the fact, the reality, the Shi'as are the majority of Iraqis, and they have elected a majority of members who are going to be present in the Iraqi Assembly. Of course, there is the yearning of the Kurds for significant autonomy. All that needs to be put together.

It is a very complicated equation for that to happen. As we hopefully achieve some success on the security side, we must keep a very wary eye open as to what is happening or not happening on the political side of the challenge in Iraq.

The constitution will be written by a commission which will be selected by an assembly which is now in place. That assembly will have its Prime Minister within the next few days and will then be able to select a constitutional commission which will write a constitution. That commission needs to reflect the Iraqi people, not the makeup of the assembly which has much too small a percentage of Sunnis, given the fact they did not vote. But the Shi'a majority needs to be wise enough, in selecting the commission that will write the constitution, to have a broadly representative commission that will write a constitution that is protective of the minorities in Iraq, that will guarantee majority rights, of course, but that in any decent nation will protect the minority as well.

That is the challenge they face. They are supposed to meet that challenge by August. They will not do that, obviously. They have a 6-month extension beyond that where they must write a constitution. Getting that constitution written is a major challenge, and anything we can do to facilitate that, it seems to me, would be very wise, indeed.

We have two challenges, one of which is addressed in the amendment before us relative to Iraqi security and the progress they are hopefully making, to give us the information that is important for a judgment to which the American people, the Congress, and our uniformed military are entitled from this administration. I hope this has broad support and the Senate adopts the Durbin amendment.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 387

Mr. ALLEN. Mr. President, I rise today to speak in support of an amendment that my good friend from Maryland, Senator MIKULSKI, and I and a number of other Senators have offered and which does have bipartisan support. It has to do with the H-2B visa program.

Small businesses all over our Nation count on the H-2B visa program to keep their businesses operating. Many use this program year after year because it is the only way they can legally hire temporary or seasonal positions when no American workers are available. These companies hire all the American workers they can find, and they do look for American workers. But if they cannot find them, they need to get additional seasonal help, they need to find workers to meet the demands of their businesses and, indeed, to stay in business. These businesses are in construction, seafood, yard services, tourism and other season enterprises.

Congress has capped the H-2B visa program at 66,000 visas per year. That has not been adjusted since this visa category was initially capped in 1990. So since 1990 the visa cap has been 66,000. However, during those years, and here we are 15 years later, there are a variety of factors that have hampered U.S. employers from having the ability to find and hire more willing American workers for short-term positions. The shortages occur for a variety of reasons. It is actually getting much worse because Americans are unwilling to engage in low-skilled, semi-skilled short-term employment. In most instances, Americans are unwilling to relocate to a new location for several months out of a year, a move that many of these short-term jobs require. That is logical. People aren't going to want to move for 3 or 4 months and then move back to another place.

According to the Department of Homeland Security, the H-2B cap of 66,000 was reached a few months into the fiscal year. This is the second year in a row the cap has been reached this early. You may wonder why we are reaching the cap at such an early stage. What is the problem? Under current law employers cannot file an H-2B application until 120 days before they need the employee. Therefore, the H-2B program puts businesses whose peaks are in the summer and in the autumn at a disadvantage because the Citizenship and Immigration Services cannot process their applications until at least January or February, since these jobs generally start around Memorial Day. Therefore, if the cap is reached in January and February, as it was in the last several years, these employers who rely on seasonal workers are clearly put at a disadvantage.

I have heard from these employers. One of our most important jobs that I have as a Senator is to listen to people out there in the real world, to see what are the effects of certain laws and see if there are ways to allow those in the free enterprise system, particularly small businesses, to continue to operate. I do listen to my constituents. My constituents have clearly voiced their concerns about the H-2B program and have asked for help. I think it is important that we respond.

I will give some examples of what is going on. There is a company called WEMOW. WEMOW is a landscaping design and lawn maintenance company in Blacksburg, VA. This company relies heavily on the H-2B program, and sadly they have had to cut back on services they can provide because of the lack of a workforce to meet that demand. Christopher Via, who is the president of WEMOW, wrote me. I will quote from his letter. He said:

> While my company spends considerable time and money to recruit U.S. workers, the positions we need to fill are hot, labor intensive, physically exhausting low- and semi-skilled jobs that many Americans do not want to fill. Therefore, our ability to meet seasonal demand and stay in business relies on finding temporary workers. H-2B workers have proven critical in filling this need.

Of course, they are late in the season, so therefore they do not get the workers they could to meet those needs.

Another letter I received is from a company in Yorktown. Yorktown is a very famous tourism area. Stephen C. Barrs, the president of C.A. Barrs Contractor, Inc., wrote:

> While our company recruits U.S. workers, our company and our industry as a whole have been unable to find American workers. We have presented evidence to the Department of Labor that there are no U.S. workers available to fill our vacant positions. Our company employs approximately 100 people, and we specialize in road construction. The H-2B program provides foreign employees who have proven tremendous employees. We have relied on the H-2B program for 6 years and find this program invaluable. Once our season ends, our H-2B workers return home. This is more a small business issue than an immigration issue. We fear this program is in jeopardy, and if it is cut in any way, our small businesses will sustain a very damaging loss.

These are two of hundreds of letters I have received from small businesses all across Virginia, asking for our immediate help. Our amendment does that. It provides an immediate legislative remedy that helps these businesses get part-time seasonal workers.

Before I get into the details of what this amendment does, I want to clearly outline what this amendment does not do. I first want to stress that this amendment in no way changes the existing requirements for applying for an H-2B visa. U.S. employers must demonstrate to State and Federal departments of labor that there are no available U.S. workers to fill vacant seasonal positions. Subsequently, they must obtain an approved labor certification from the U.S. Department of Labor, file a visa petition application with the Citizenship and Immigration Service for H-2B workers, and obtain approved H-2B visas for workers in their home countries.

With that understanding, I would like to outline what this amendment does effectuate. Specifically, our amendment would exempt temporary seasonal workers who have participated in the H-2B visa program, and have completely followed the law during the past 3 fiscal years from counting toward the statutory cap of 66,000.

Second, this amendment has a number of new antifraud provisions. One such provision requires employers to pay an additional fee of $150 on each H-2B petition, and those fees are placed into the fraud and prevention detection account of the U.S. Treasury.

Third, this amendment creates new sanctions for those who misrepresent facts on a petition of an H-2B visa. This provision is designed to further strengthen the Department of Homeland Security's enforcement power to sanction those who violate our Nation's immigration laws. If an employer violates this section, the Department of Homeland Security will have the power to fine the individual employer and/or not approve, of course, their H-2B petitions.

Fourth, moreover, the amendment divides the cap more equitably, giving half of the visas to fall and winter businesses and half to spring and summer businesses. So you do not get into this whole gaming situation of when do the applications get in, and end up with a frustrating disruption at the end of the year.

Finally, this amendment adds some simple, commonsense reporting requirements that will allow Congress to get more information on the H-2B program users as we in Congress move toward a more comprehensive, long-term solution to this problem.

Our amendment provides the needed temporary addressing and the fix that is needed to a problem that, if left unresolved, will ultimately harm our economy. Jobs will be lost, whether they are in landscaping, whether they are in seafood, whether they are in contracting, whether they are in tourism. These are all small businesses. They are good, law-abiding citizens. They are trying to use and will use this program lawfully, but we need to bring some common sense into this program.

We need to act as soon as possible. Many of these businesses are family businesses, and they need to stay in operation. They provide services which their customers and the people in their communities desire.

I strongly and respectfully urge my colleagues to vote in favor of this amendment. It is not solely an immigration issue. As my friend and constituent from Yorktown said, this is a small business issue as well.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 351

Mr. SALAZAR. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes an amendment numbered 351.

Mr. SALAZAR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families)

At the appropriate place, insert the following:

SEC. __. SENSE OF THE SENATE ON THE EARNED INCOME TAX CREDIT.

(a) FINDINGS.—The Senate makes the following findings:

(1) In an effort to provide support to military families, this Act includes an important increase in the maximum payable benefit under Servicemembers' Group Life Insurance from $150,000 to $400,000.

(2) In an effort to provide support to military families, this Act includes an important increase in the death gratuity from $12,000 to $100,000.

(3) In an effort to provide support to military families, this Act includes an important increase in the maximum Reserve Affiliation bonus to $10,000.

(4) The Federal earned income tax credit (EITC) under section 32 of the Internal Revenue Code of 1986 provides critical tax relief and support to military as well as civilian families. In 2003, approximately 21,000,000 families benefitted from the EITC.

(5) Nearly 160,000 active duty members of the armed forces, 11 percent of all active duty members, currently are eligible for the EITC, based on analyses of data from the Department of Defense and the Government Accountability Office.

(6) Congress acted in 2001 and 2004 to expand EITC eligibility to more military personnel, recognizing that military families and their finances are intensely affected by war.

(7) With over 300,000 National Guard and reservists called to active duty since September 11, 2001, the need for tax assistance is greater than ever.

(8) Census data shows that the EITC lifted 4,900,000 people out of poverty in 2002, including 2,700,000 children. The EITC lifts more

children out of poverty than any other single program or category of programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should take steps necessary to support our troops and their families;

(2) it is not in the interests of our troops and their families to reduce the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

(3) the conference committee for H. Con. Res. 96, the concurrent resolution on the budget for fiscal year 2006, should not assume any reduction in the earned income tax credit in the budget process this year, as provided in such resolution as passed by the House of Representatives.

Mr. SALAZAR. Mr. President, before commenting on this amendment, I wish to take a minute to thank the chairman and ranking member, Senators COCHRAN and BYRD, for all their hard work on this important bill. I am especially appreciative of the help and support they have offered this Senator on two amendments.

They and their staffs have been helpful as we try to ensure that the brave Lebanese people who stood up to their Syrian occupiers know we are here to support them. Earlier today we made a down payment on a commitment to help ensure they have the free and fair elections and strong and vibrant democracy they have earned. I want especially to thank the staffs of Senators McCONNELL and LEAHY for the help on the Lebanon amendment.

I am also hopeful that we will be able to fix something that I have considered an injustice since I came to the Senate earlier this year. The assistance we provide to military families in the event of a loss of their family member is referred to as the "death gratuity." That is a misnomer, and I am hopeful that we will be able to correct that by renaming this assistance as something more fitting, namely, "Fallen Hero Compensation."

Regarding the amendment I have just sent to the desk, it is quite simple. It clearly states our support for the earned income tax credit, especially because this program benefits working families and a large amount of our active duty military personnel.

Given that we are considering a bill that provides critical support to our troops and their families and that later this week many millions of Americans will be filing their taxes, I believe this amendment needed to be heard on this bill this week.

The EITC was first enacted in 1975 to aid the working poor. According to an analysis released just this week by a highly respected, non-partisan institute in Denver, the Bell Policy Center, in the past year, more than 150,000 active military personnel nationwide qualified for the EITC. In my State of Colorado alone, over 3,000 members of the military qualified for the EITC.

The EITC has long enjoyed bipartisan support because the credit is extended only to families that have work income. Most recently, under the leadership of Senator MARK PRYOR, this body overwhelmingly approved the expansion of the EITC to more military families.

That is as it should be . . . given all that these families give for our country, it is the least the country can do for them.

Now, however, it appears that this effective program that has lifted over 2.7 million children above the poverty level is coming under attack.

Recently the House of Representatives indicated that it is considering cutting the EITC in its budget reconciliation. Such cuts, if enacted by the full Congress, could lead to higher taxes for many of our military families.

This is not fair and this is not right.

At a time when many of our military personnel are overseas and when our national guard reserves have been called up at historic rates, we should be providing for our men and women in uniform. We should not be taking away from them and placing them at a greater financial disadvantage.

I hope the Senate will be heard loudly and clearly that this is not the right thing to do. Our troops and their families deserve no less.

I urge my Senate colleagues to reject any cuts to the EITC.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Colorado. In fact, I rise to discuss an individual who the Senator from Colorado and I met when we were part of a bipartisan delegation led by the Democratic leader, HARRY REID, a couple of weeks ago. On that trip, we visited a number of countries—Kuwait, Iraq, Israel, France, Georgia, Ukraine, and the Palestinian territory. We saw a number of emerging democracies. It made me think of what our own country might have been like more than 200 years ago. We visited with two men who were named Prime Minister and Speaker of the Iraqi Parliament a week later. In Georgia, we saw the young government. Many of them were educated here in the United States as students. When we went to Ukraine, we met Mr. Yuschenko and some of the students who had been part of this revolution. What we saw was very impressive, as were those people we were introduced to.

But from my way of thinking, there was no one more impressive than the Finance Minister of the Palestinian Authority, Salam Fayyad, who instituted a number of reforms to fight corruption and bring transparency to the finances of that Authority.

This remarkable individual was born Palestinian, and his family fled the West Bank for Jordan in 1968. He studied at the American University in Beirut. He later received a Ph.D. in economics from the University of Texas at Austin. He worked for the Federal Reserve in St. Louis and the International Monetary Fund in Washington, DC. He became the IMF representative to the Palestinian Authority and moved to Jerusalem in 1995. Then, in 2002, he was named Finance Minister of the Palestinian Authority.

What is remarkable is that all of us either know or suspect that when Arafat was in power, there was gross corruption with the moneys that came into Palestine. Mr. Fayyad has done the following things: He centralized control of the Palestinian Authority's finances. Previously, agencies had collected the money and kept it. That meant, for example, that education was poorly funded since it collected little money. Mr. Fayyad forced all the incoming funds to be put into the general treasury and disbursed by the Finance Minister.

The next thing he did was direct deposits for Palestinian security forces. Previously, money was given in plastic bags to commanders for them to distribute. Obviously, this led to what might generously be called a lot of mismanagement of those funds. Now soldiers are much happier because they get their pay on time, and the government is sure the money is going where it should. The soldiers and the government both know the money is not going to somebody who didn't earn it.

Public budgeting: He issued the first publicly detailed budget for the Authority, which totaled about $1.28 billion. The Ministry now issues public monthly reports of the government's financial status.

Eliminating graft: Due to his efforts, revenue of the Palestinian Authority is up from $45 million to $75 million, largely because money that was skimmed off the top in the past is going into the treasury where it belongs. I am not just saying this today because I want to give a pat on the back to Mr. Fayyad, who, in taking these steps, has shown a great deal of courage. I am sure there are a good number of people in the Palestinian territory who were skimming money off the top before who are not going to be happy with him now. I am bringing this up today because it has to do with a vote we are about to take here in the Senate.

The bill before us, the supplemental appropriations bill, provides $200 million of the President's request for aid to the Palestinian territories. There is another $150 million in the normal budgeting process. Unlike the House version of this supplemental appropriations bill, our version—the Senate version as it is coming to us—preserves the President's waiver authority that would allow him to designate a portion of those funds as he sees fit by the use of the Palestinian Authority. I believe that policy—the Senate policy—is the right policy. In other words, our policy would permit our President, President Bush, to decide that Mr. Fayyad and the government of the Palestinian Authority could properly spend this money. Some people are saying they stole money over there before. Yes they did. Yasser Arafat is dead and buried. It is time to make a new start.

The Finance Minister has made great strides to ensure that funds are publicly accountable. We will be able to keep track of where our taxpayer money goes. The Palestinian Authority needs some money. There is no poorer part of the world than the Gaza Strip. Someone has to provide security in the Gaza Strip. We look to the Palestinian Authority to do that if the Israelis pull out. Someone has to provide a social services safety net for these poor people so they are not tempted to join with the terrorists. We look to the Palestinian Authority to do that.

Why in the world would we keep our President from making the decision that would give the money to the Palestinian Authority, which is the group we are counting on to provide security and to provide the social safety net?

Nongovernment agriculture organizations can provide valuable help in support of what the Palestinian Authority is doing. If we are going to do business with the Palestinian Authority, and are going to expect them to be accountable for keeping things safe and providing a basic level of social services so people are able to eat, we should deal directly with them. At the very least we should give the President of the United States the authority, as the Senate bill does, to deal directly with the Palestinian Authority.

I am happy with what our Committee on Appropriations has done. I disagree with what the House of Representatives has done, and I suppose the matter will go to conference. I hope in the conference the Senators will insist on the Senate provision, and I hope our House Members will see the wisdom of giving our President the discretion to give the money to the Government that we are going to hold accountable.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, my colleague from South Carolina, Senator LINDSEY GRAHAM, and I come to the floor this afternoon to speak about the necessity of expanding TRICARE for National Guard members and reservists. I especially thank Senator GRAHAM for his hard work and advocacy on behalf of this legislation.

Almost 2 years ago exactly, in the spring of 2003, Senator GRAHAM and I joined at the Reserve Officers Association building to announce the first version of this legislation. In the intervening years, we have made a great deal of progress in expanding access to TRICARE, the military health program. But we agree there is still a long way to go.

We recently discovered our proposed legislation to ensure that National Guard and Reserve members have access to the military health program known as TRICARE does not have a cost this year, so it was not appropriate for us to attempt to attach this to the supplemental appropriations bill that is currently on the floor. But we are extremely hopeful we will be able to include legislation in this year's Department of Defense authorization bill.

Because Senator GRAHAM and I serve on the Armed Services Committee, we have heard firsthand, as have many of my colleagues, about the extraordinary strain being placed on our Guard and Reserve Forces. We are well aware that a major part of our military success in Iraq and Afghanistan has been because of the role played by reservists and Guard members who heeded the call to serve their country—for some, not once, not twice, but three times in Iraq and/or Afghanistan.

Since September 11, our reservists and National Guard members have been called upon with increasing frequency. From homeland security missions where they were absolutely essential in New York after 9/11, National Guard men and women patrolled and guarded our subways, the Amtrak lines in Penn Station, other places of importance. We have seen in so many other instances where they were called to duty here in our own homeland. We also know they have paid the ultimate sacrifice, losing their lives in serving the missions they were called to fulfill in Iraq and Afghanistan or being grievously wounded and returning home, having given their all to our country.

In New York we have over 30,000 members of the Guard and Reserves, and over 4,000 are currently deployed in support of Operation Iraqi Freedom. When I have visited with our activated reservists and National Guard in New York, I have been greatly impressed by their willingness and even eagerness, in some cases, to serve. But I have also heard about the strains they face, that their families have borne, that their businesses have endured. It is abundantly clear we are having some difficulty in recruitment and retention of the Guard and Reserve because of the extraordinary stresses being placed on these very dedicated individuals. Now more than ever, we need to address the needs of our Guard and Reserve members. The general of the Army Reserves, General Helmly, has expressed concern about whether we are going to be able to meet our needs for the Reserve component.

The legislation Senator GRAHAM and I have been working on for 2 years is bipartisan. It is not a party issue. It is a core American issue. Our TRICARE legislation allows Guard and Reserve members the option of enrolling full time in TRICARE, getting the family health insurance coverage that is offered to active-duty military personnel. The change would offer health care stability to families who lose coverage under their employers' plans when a family member is called to active duty. In fact, one of the most shocking statistics was that about 25 percent of our active-duty Guard and Reserve had some medical problems, but the numbers were particularly high for the Guard and Reserve because so many of these—primarily but not exclusively—young people either had jobs which didn't offer health insurance or worked for themselves and could not afford health insurance. So when they were activated and reported, they were not medically ready to be deployed. This is not simply the right thing to do; this is part of our military readiness necessity.

The legislation addresses these critical issues. I am very grateful for Senator GRAHAM's leadership and the support of so many in this body. He and I will be working with Chairman WARNER and Ranking Member LEVIN and the rest of the Armed Services Committee to get our TRICARE legislation authorized in this year's Department of Defense authorization bill.

Finally, I know there are questions of cost that obviously have to be addressed. I don't think you can put a price on the military service these men and women have given our country. When I was in Iraq a couple of weeks ago, I was struck by how many men I saw with white hair. I think I was surprised there were so many people in their fifties, late fifties, who had been called back to active duty, members of the Individual Readiness Reserve. The men I spoke with had flown combat missions in Vietnam. There they were again, having left their families, left their employment, their homes, and doing their duty in Baghdad or Fallujah or Kirkuk and so many other places of danger.

We have an all-volunteer military. That all-volunteer military has to be given not only the respect it so deserves but the support and the resources it has earned.

I am hopeful we will have unanimous support in the Armed Services Committee to add this legislation, that we will have support from the administration and, in an overwhelming vote in both Houses of Congress, not give lip-service and rhetorical pats on the back to our Guard and Reserve members but show them in a tangible way that we appreciate and respect their service and we understand the strains they are living under and often their families are suffering under. One small way to show our appreciation as a nation is to make sure once and for all they and their families have access to health care.

It is a great pleasure to be working with Senator GRAHAM, and I look forward to successfully ensuring that this legislation is once and for all enacted, first in the Armed Services Committee and then on the floor of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will take up where my colleague left off. Before she leaves the floor, I acknowledge what a pleasure it has been to work with her and other members of the Democratic Party and the Republican Party to do something for our Guard and Reserve Forces. She has outlined very well what we are trying to do. It shows what can happen when the body will come together on an issue that should never divide us. Whether you are Republican or Democrat or independent, this war affects us all. No one asked the young men and women fighting the war their party identification or affiliation or their political background when they went off to serve our Nation.

The least we can do as a body is stand behind them and their families to provide a benefit they need.

We had a hearing yesterday, to build upon what Senator CLINTON said. We had the chief of the Army, Air Force, Marine Corps, Reserve components, and the Naval Reserve, and we talked about the stress on the force in terms of the Reserve community. We have 175,000 people today who have experienced duty in this war from the Guard and Reserve. Forty percent of the people in Iraq and Afghanistan are guardsmen and reservists. We could not fight without them.

This is the biggest utilization of the Guard and Reserve since World War II. The skill set they bring to the fight is indispensable. There are civil affairs people helping Afghan and Iraqi officials set up a democracy. We have medical personnel and many others who are indispensable. The military police are predominantly guardsmen and reservists, and they are indispensable in Iraq and Afghanistan. They have done a terrific job.

The reason we are involved in this legislation and we have so much bipartisan support for what we are trying to do is the Guard and Reserve is the only group of part-time Federal employees—and as a guardsman or reservist, you work for the Federal Government. You also work for the State government, but you have a dual status. Reservists are part of the Federal military, the DOD. They are the only group in the whole Federal Government that is not eligible for some form of health care from the Federal Government.

A temporary employee in your office or my office, somebody working in a temporary capacity, is able to sign up for Federal health care benefits that we enjoy. They have to pay a premium. A part-time worker is able to sign up for Federal health care benefits. The only group that works part time and doesn't get any benefits is the Guard and Reserve. The one thing we found from the hearing is that is a mistake. At least 10 percent of the people being called to active duty from the Guard and Reserve are unable to be deployed because of health care problems. About 30 percent of the people in the Guard and Reserve have no private health care insurance. So from a ratings point of view, about 10 percent of the force is taken out of the fight without a shot being fired. That makes no readiness sense. The health care network for the Guard and Reserve today is not doing the job in terms of making the force fit and ready to serve.

When a person is deployed from the Guard and Reserve, they leave behind a family more times than not. Half of the people going into the fight from the Guard and Reserve suffer a pay reduction, having no continuity of health care or predictability of what the benefits will be in a continuous fashion. How long you will be gone and when you are coming home matters in terms of recruiting and retention. Sixty-eight percent of the Army Reserve's goal is being met in recruiting. The Guard and Active Forces are suffering in recruiting because this war has taken a toll. The more attractive the benefit package is, the more we can appreciate the service, the more likely we are to get the good people and recruit patriotic Americans.

What this legislation is designed to do is fill in that gap and solve the problem that faces the Guard and Reserve families, and that is lack of health care. Every Reserve component chief says that when they talk to the troops, the one thing that means the most to them, on top of every other request, is continuity of health care. So we are proposing a benefit for the Guard and Reserve that they will have to pay for, but we will allow, for the first time, Guard and Reserve members to sign up for TRICARE, the military health care system, like their Active-Duty counterparts have, with one major difference: they will have to pay a premium, unless they are called to active duty, similar to what we pay as Federal employees.

I believe that is a fair compromise. It will allow uninsured guardsmen and reservists to have health care at an affordable price. It will allow people who have uneven health care in the private sector to get constant health care. We will have a system where people, when they are called to active duty, will have the same set of doctors and hospitals that service the family as when they are in the Guard and Reserve status. We think it desperately will help recruiting and retention and readiness, and it will make people ready for the fight.

We have worked on the costs. We are looking at cutting the cost of the program in half by requiring a slightly higher premium from the force and offering TRICARE standard versus TRICARE prime. I believe it fiscally makes sense but still achieves the goal of the original legislation of providing continuity of health care.

The reason we are not offering the amendment on the supplemental is that because of the cost saving we have achieved in redesigning the program, there is no cost to be incurred in 2005. We are working in a bipartisan manner with the chairman of the Armed Services Committee to go ahead and offer a full-time military health care benefit to guardsmen and reservists that they can sign up for, to give them continuity of care at a fair premium. It is a good deal for all concerned. The reason we are doing this is obvious: We are utilizing the Guard and Reserve in a historic fashion. If we don't change the benefit structure, we are going to drive the men and women away from wanting to serve. After a while, it gets to be too onerous. I hope we will be able to produce a product in committee in the authorization bill that will allow this program to be offered to the entire force.

Here is what we did last year. I will end on this note. The body reached a compromise last year. Last year, we came up with a program that for every person in the Guard and Reserve who was mobilized for 90 days or more, from September 11, 2001, forward to today, for every 90 days they served on active duty, they would get a year of TRICARE for themselves and their families. That program goes into effect April 26 of this year, a few days from now. I have the brochure called TRICARE Reserve Select. About a third of the force would be eligible. It will cover the Selective Reserve, drilling reservists. That is one change we made.

I am still in the Reserves, but I am in an inactive status. I do my duty over at Bolling Air Force Base. I am not subject to deployment, so I will not be included. The bill we are designing covers people subject to being deployed and being sent to the site. The compromise of last year will allow a year of TRICARE for every 90 days you are being called to active duty.

There are thousands of reservists who will be eligible for this program, and this brochure called TRICARE Reserve Select will be available to your unit, and you need to inquire as to whether you and your family would be eligible to join TRICARE because of your 90-day-plus deployment. The goal this year is to build upon what we did last year by offering the program to the entire drilling force.

The other two-thirds of the Select Reserves who are subject to being deployed, who drill and prepare for combat-related duties so that when they get called, if they do, they will be ready to go to the fight, it will be a benefit for their families that I think most Americans would be glad to provide.

So we have a program in place for those who have been called to active duty for 90 days or more since September 11, 2001. It goes into effect in a week. It will make you and your family eligible for TRICARE a year for every 90 days you serve. So if you serve a year in Iraq, you get 4 years. The goal this year is expanded to total drilling Selected Reserve force. We cut the program in half by increasing the benefit payment required of the Guard and Reserve member and reshaping the benefit package. I think it is more affordable than ever, but the cost of having 10 percent of the force unable to go to the fight is financially and militarily very large. The cost of lack of continuity of health care for Guard and Reserve families is emotionally devastating.

With about two-tenths of 1 percent of the military budget, we can fix this problem and reward Americans who are doing a great job for their country. The likelihood of the Guard and Reserve being involved in a deep and serious way in the war on terror is probably unlimited.

The last fact I will leave with you is this: We talked to the Reserve commander yesterday about the utilization of the Air Reserves. Fifty percent of the people flying airplanes in terms of transport into the theater of operation and servicing the theater of operation with a C–130 are Reserve or Guard crews. I have been to Iraq 3 times now, and I have flown about 16 or 17 flights on a C–130 from Kuwait into Iraq and Afghanistan. Every crew except one has been a Reserve or Guard crew.

There is a rule in the military that a Guard or Reserve member cannot be deployed involuntarily for more than 24 months. That rule has served the force well because it takes stress off the force, it keeps people gainfully employed because if you are gone all the time, it is hard to keep a civilian job. So we put a cap of 24 months of involuntary service into the theater of operations, into the war zone.

What astonished me was that two-thirds of the pilots and the aircrews in the Guard and Reserve have already reached that mark. Two-thirds of those who serve in the Guard and Reserve have already met their 2-year involuntary commitment.

One fact that keeps this war afloat is that they are volunteering to go back. Legally we cannot make them go back, but they are volunteering to keep flying. And God bless them because two-thirds of 50 percent statutorily do not have to go to this fight. They choose to go to this fight. This benefit package is a recognition of that commitment.

I am very optimistic—to all those Guard and Reserve families who may be listening today—that help is on the way, that this body is going to rise to the occasion, and we are going to improve your health care benefits because you earned it.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 430

Mr. BYRD. Mr. President, in every year since 1951, Congress has included a provision in the General Government Appropriations Act which states the following:

> No part of any appropriation contained in this or in any other act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress.

I am quoting from section 624 of Public Law 108–447.

This is the law of the land, and yet despite the law, the Congress and the American people continue to hear about propaganda efforts by executive branch agencies. On more than one occasion, this administration has provided tax dollars to well-known conservative talk show hosts to promote its agenda. One was paid a hefty fee to promote the No Child Left Behind Act. Another talk show host was paid to promote the administration's welfare and family policies.

If those examples are not bad enough, in an effort to blur the line between independent media and administration propaganda, some agencies have produced prepackaged news stories designed to be indistinguishable from news stories produced by free market news outlets.

According to the Government Accountability Office, the GAO, which is an arm of the Congress, in an opinion dated February 17, 2005, the administration has violated the prohibition on publicity and propaganda. In a memorandum sent to executive branch agencies, the GAO stated:

> During the past year, we found that several prepackaged news stories produced and distributed by certain Government agencies violated this provision.

So very simply, according to the GAO, the administration broke the law. The GAO specifically cited the Office of National Drug Control Policy and the Department of Health and Human Services for violating the antipropaganda law. But these are not the only agencies pretending to be a credible news outlet.

On March 13, 2005, the New York Times wrote about the administration's approach in an article entitled "Under Bush a New Age of Prepackaged TV News."

I ask unanimous consent that the entire article be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. The Times article spotlighted three new segments that each looked the same as any other 90-second segment on the local news. But these are not new. The Federal Government produced all three of these. The Times told of a news segment produced by the State Department featuring a jubilant Iraqi American telling a news crew in Kansas City: "Thank you, Bush. Thank you, USA."

The Department of Homeland Security apparently produced a so-called news report on the creation of the Transportation Security Administration. The reporter called the establishment of TSA "one of the most remarkable campaigns in aviation history." But what the American people, the viewers, did not know was that the so-called reporter was actually a public relations professional working under a false name for the Transportation Security Administration. How about that?

A third segment broadcast in January was based on a news report produced by the Department of Agriculture. The Agriculture Department apparently employs two full-time people to act—listen now—to act as reporters. They travel the country and create their own so-called news, distributing their work via satellite and mail, always pushing the White House line.

What are things coming to?

In the January report, these U.S. Department of Agriculture employees, claiming to be independent journalists, called President Bush "the best envoy in the world."

I am not here to argue whether George W. Bush is America's best envoy to the world, but I would rather leave that discussion to independent analysts, not to administration employees or on-the-payroll journalists pushing the White House line.

Yes, the administration should explain its ideas and positions to the American people. No one argues that fact. Educating the public about issues affecting their lives is an essential role of the Government. But the administration should not engage in a blatant manipulation of the news media. Leave the work of manipulation to the Rush Limbaughs of the world. Keep the job of Government focused on the people. Manufacturing propaganda is a blatant misuse of taxpayer dollars, and it is your money, your money, Mr. and Mrs. Taxpayer.

The administration has disputed GAO's views. The administration takes the view that it is OK to mask the source as long as the ads are "purely informational."

The White House Office of Management and Budget, with the support of the Justice Department, went so far as to issue a memorandum to agency heads dated March 11, 2005, specifically contradicting the conclusions of the Government Accountability Office. The Justice Department concluded that the Government Accountability Office's:

> . . . conclusion fails to recognize the distinction between covert propaganda and purely informational Video News Reports, which do not constitute propaganda within the common meaning of the term and therefore are not subject to the appropriations restriction.

If paying national columnists and talk show hosts, faking news segments, hiring actors to pretend to be reporters "do not constitute propaganda," what does? What does constitute propaganda? It is time for the administration to back off.

We, the American people, trust the media to provide us with independent sources of information, not biased news stories produced by the administration at the taxpayers' expense. It is time for the White House to be upfront with the American people: no propaganda, no manipulation of the press. The administration should tell the people its position on issues, yes, but should do so honorably and without such deliberate manipulation of the free press. Propaganda efforts such as these are not the stuff for a Republic such as ours. The American people must be able to rely on the independence of the news media. The constitutionally guaranteed freedom of the press is not for sale. The country must know that reporters—real reporters—are presenting facts honestly, presenting facts fairly, presenting facts without bias. Democracy should not be built on deception.

Just yesterday, the Federal Communications Commission, on a unanimous vote—on a unanimous vote of 4 to 0—approved a public notice that directs—that directs, hear me—that directs television broadcasters to disclose to viewers the origin of video news releases produced by the Government or corporations when the material runs on the public airwaves. The Commission acknowledged the critical role that broadcast licensees and cable operators play in providing information to the audiences they serve. This information is an important component of a well-functioning democracy. Along with this role comes a responsibility, the responsibility that licensees and operators make the sponsorship announcements required by the foregoing rule and obtain the information from all pertinent individuals necessary for them to do so. The public notice goes on to stress that the Commission may impose sanctions, including fines, including imprisonment, for failure to comply with the ruling. You better watch out. So the FCC, by a unanimous vote, I say, made clear, crystal clear, as clear as the noonday Sun in a cloudless sky, what their rules are. They made clear to the broadcasters what their rules are.

Now Congress should make clear what the rules are for Federal agencies. Just yesterday, the Federal Communications Commission, on a unanimous vote, 4 to 0, approved this public notice, I am saying it again, that directs television broadcasters to disclose to viewers the origin of video news releases produced by the Government or corporations—I will say this a third time—when the material runs on the public airwaves.

So this is a warning. We, in the Congress, ought to do our best in support of the ruling and to enforce it.

Let me say now that my amendment prevents any agency from using taxpayer dollars to produce or distribute prepackaged news stories intended to be viewed, intended to be heard, intended to be read, which do not clearly identify the so-called news was created by a Federal agency or funded with taxpayer dollars. That is plain common sense.

I urge Senators to back the law that we, Congress, have passed each year since 1951:

> No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress.

Back it up. My amendment simply makes it clear, I say again, that Congress does mean what Congress says. I urge adoption of the amendment. I will yield the floor, but I want to send my amendment to the desk.

EXHIBIT 1

[From the New York Times, Mar. 13, 2005]

UNDER BUSH, A NEW AGE OF PREPACKAGED TV NEWS

(By David Barstow and Robin Stein)

It is the kind of TV news coverage every president covets.

"Thank you, Bush. Thank you, U.S.A.," a jubilant Iraqi-American told a camera crew in Kansas City for a segment about reaction to the fall of Baghdad. A second report told of "another success" in the Bush administration's "drive to strengthen aviation security"; the reporter called it "one of the most remarkable campaigns in aviation history." A third segment, broadcast in January, described the administration's determination to open markets for American farmers.

To a viewer, each report looked like any other 90-second segment on the local news. In fact, the federal government produced all three. The report from Kansas City was made by the State Department. The "reporter" covering airport safety was actually a public relations professional working under a false name for the Transportation Security Administration. The farming segment was done by the Agriculture Department's office of communications.

Under the Bush administration, the federal government has aggressively used a well-established tool of public relations: the prepackaged, ready-to-serve news report that major corporations have long distributed to TV stations to pitch everything from headache remedies to auto insurance. In all, at least 20 federal agencies, including the Defense Department and the Census Bureau, have made and distributed hundreds of television news segments in the past four years, records and interviews show. Many were subsequently broadcast on local stations across the country without any acknowledgement of the government's role in their production.

This winter, Washington has been roiled by revelations that a handful of columnists wrote in support of administration policies without disclosing they had accepted payments from the government. But the administration's efforts to generate positive news coverage have been considerably more pervasive than previously known. At the same time, records and interviews suggest widespread complicity or negligence by television stations, given industry ethics standards that discourage the broadcast of prepackaged news segments from any outside group without revealing the source.

Federal agencies are forthright with broadcasters about the origin of the news segments they distribute. The reports themselves, though, are designed to fit seamlessly into the typical local news broadcast. In most cases, the "reporters" are careful not to state in the segment that they work for the government. Their reports generally avoid overt ideological appeals. Instead, the government's news-making apparatus has produced a quiet drumbeat of broadcasts describing a vigilant and compassionate administration.

Some reports were produced to support the administration's most cherished policy objectives, like regime change in Iraq or Medicare reform. Others focused on less prominent matters, like the administration's efforts to offer free after-school tutoring, its campaign to curb childhood obesity, its initiatives to preserve forests and wetlands, its plans to fight computer viruses, even its attempts to fight holiday drunken driving. They often feature "interviews" with senior administration officials in which questions are scripted and answers rehearsed. Critics, though, are excluded, as are any hints of mismanagement, waste or controversy.

Some of the segments were broadcast in some of nation's largest television markets, including New York, Los Angeles, Chicago, Dallas and Atlanta.

An examination of government-produced news reports offers a look inside a world where the traditional lines between public relations and journalism have become tangled, where local anchors introduce prepackaged segments with "suggested" lead-ins written by public relations experts. It is a world where government-produced reports disappear into a maze of satellite transmissions, Web portals, syndicated news programs and network feeds, only to emerge cleansed on the other side as "independent" journalism.

It is also a world where all participants benefit.

Local affiliates are spared the expense of digging up original material. Public relations firms secure government contracts worth millions of dollars. The major networks, which help distribute the releases, collect fees from the government agencies that produce segments and the affiliates that show them. The administration, meanwhile, gets out an unfiltered message, delivered in the guise of traditional reporting.

The practice, which also occurred in the Clinton administration, is continuing despite President Bush's recent call for a clearer demarcation between journalism and government publicity efforts. "There needs to be a nice independent relationship between the White House and the press," Mr. Bush told reporters in January, explaining why his administration would no longer pay pundits to support his policies.

In interviews, though, press officers for several federal agencies said the president's prohibition did not apply to government-made television news segments, also known as video news releases. They described the segments as factual, politically neutral and useful to viewers. They insisted that there was no similarity to the case of Armstrong Williams, a conservative columnist who promoted the administration's chief education initiative, the No Child Left Behind Act, without disclosing $240,000 in payments from the Education Department.

What is more, these officials argued, it is the responsibility of television news directors to inform viewers that a segment about the government was in fact written by the government. "Talk to the television stations that ran it without attribution," said William A. Pierce, spokesman for the Department of Health and Human Services. "This is not our problem. We can't be held responsible for their actions."

Yet in three separate opinions in the past year, the Government Accountability Office, an investigative arm of Congress that studies the federal government and its expenditures, has held that government made news segments may constitute improper "covert propaganda" even if their origin is made clear to the television stations. The point, the office said, is whether viewers know the origin. Last month, in its most recent finding, the G.A.O. said federal agencies may not produce prepackaged news reports "that conceal or do not clearly identify for the television viewing audience that the agency was the source of those materials."

It is not certain, though, whether the office's pronouncements will have much practical effect. Although a few federal agencies have stopped making television news segments, others continue. And on Friday, the Justice Department and the Office of Management and Budget circulated a memorandum instructing all executive branch agencies to ignore the G.A.O. findings. The memorandum said the G.A.O. failed to distinguish between covert propaganda and "purely informational" news segments made by the government. Such informational segments are legal, the memorandum said, whether or not an agency's role in producing them is disclosed to viewers.

Even if agencies do disclose their role, those efforts can easily be undone in a broadcaster's editing room. Some news organizations, for example, simply identify the government's "reporter" as one of their own and then edit out any phrase suggesting the segment was not of their making.

So in a recent segment produced by the Agriculture Department, the agency's narrator ended the report by saying "In Princess Anne, Maryland, I'm Pat O'Leary reporting for the U.S. Department of Agriculture." Yet AgDay, a syndicated farm news program that is shown on some 160 stations, simply introduced the segment as being by "AgDay's Pat O'Leary." The final sentence was then trimmed to "In Princess Anne, Maryland, I'm Pat O'Leary reporting."

Brian Conrady, executive producer of AgDay, defended the changes. "We can clip 'Department of Agriculture' at our choosing," he said. "The material we get from the U.S.D.A., if we choose to air it and how we choose to air it is our choice."

SPREADING THE WORD: GOVERNMENT EFFORTS AND ONE WOMAN'S ROLE

Karen Ryan cringes at the phrase "covert propaganda." These are words for dictators and spies, and yet they have attached themselves to her like a pair of handcuffs.

Not long ago, Ms. Ryan was a much sought-after "reporter" for news segments produced by the federal government. A journalist at ABC and PBS who became a public relations consultant, Ms. Ryan worked on about a dozen reports for seven federal agencies in 2003 and early 2004. Her segments for the Department of Health and Human Services and the Office of National Drug Control Policy were a subject of the accountability office's recent inquiries.

The G.A.O. concluded that the two agencies "designed and executed" their segments "to be indistinguishable from news stories produced by private sector television news organizations." A significant part of that execution, the office found, was Ms. Ryan's expert narration, including her typical sign-off—"In Washington, I'm Karen Ryan reporting"—delivered in a tone and cadence familiar to television reporters everywhere.

Last March, when The New York Times first described her role in a segment about new prescription drug benefits for Medicare patients, reaction was harsh. In Cleveland, The Plain Dealer ran an editorial under the headline "Karen Ryan, You're a Phony," and she was the object of late-night jokes by Jon Stewart and received hate mail.

"I'm like the Marlboro man," she said in a recent interview.

In fact, Ms. Ryan was a bit player who made less than $5,000 for her work on government reports. She was also playing an accepted role in a lucrative art form, the video news release. "I just don't feel I did anything wrong," she said. "I just did what everyone else in the industry was doing."

It is a sizable industry. One of its largest players, Medialink Worldwide Inc., has about 200 employees, with offices in New York and London. It produces and distributes about 1,000 video news releases a year, most commissioned by major corporations. The Public Relations Society of America even gives an award, the Bronze Anvil, for the year's best video news release.

Several major television networks play crucial intermediary roles in the business. Fox, for example, has an arrangement with Medialink to distribute video news releases to 130 affiliates through its video feed service, Fox News Edge. CNN distributes releases to 750 stations in the United States and Canada through a similar feed service, CNN Newsource. Associated Press Television News does the same thing worldwide with its Global Video Wire.

"We look at them and determine whether we want them to be on the feed," David M. Winstrom, director of Fox News Edge, said of video news releases. "If got one that said tobacco cures cancer or something like that, I would kill it."

In essence, video news releases seek to exploit a growing vulnerability of television news: Even as news staffs at the major networks are shrinking, many local stations are expanding their hours of news coverage without adding reporters.

"No TV news organization has the resources in labor, time or funds to cover every worthy story," one video news release company, TVA Productions, said in a sales pitch to potential clients, adding that "90 percent of TV newsrooms now rely on video news releases."

Federal agencies have been commissioning video news releases since at least the first Clinton administration. An increasing number of state agencies are producing television news reports, too; the Texas Parks and Wildlife Department alone has produced some 500 video news releases since 1993.

Under the Bush administration, federal agencies appear to be producing more releases, and on a broader array of topics.

A definitive accounting is nearly impossible. There is no comprehensive archive of local television news reports, as there is in print journalism, so there is no easy way to determine what has been broadcast, and when and where.

Still, several large agencies, including the Defense Department, the State Department and the Department of Health and Human Services, acknowledge expanded efforts to produce news segments. Many members of Mr. Bush's first-term cabinet appeared in such segments.

A recent study by Congressional Democrats offers another rough indicator: the Bush administration spent $254 million in its first term on public relations contracts, nearly double what the last Clinton administration spent.

Karen Ryan was part of this push—a "paid shill for the Bush administration," as she self-mockingly puts it. It is, she acknowledges, an uncomfortable title.

Ms. Ryan, 48, describes herself as not especially political, and certainly no Bush diehard. She had hoped for a long career in journalism. But over time, she said, she grew dismayed by what she saw as the decline of television news—too many cut corners, too many ratings stunts.

In the end, she said, the jump to video news releases from journalism was not as far as one might expect. "It's almost the same thing," she said.

There are differences, though. When she went to interview Tommy G. Thompson, then the health and human services secretary, about the new Medicare drug benefit, it was not the usual reporter-source exchange. First, she said, he already knew the questions, and she was there mostly to help him give better, snappier answers. And second, she said, everyone involved is aware of a segment's potential political benefits.

Her Medicare report, for example, was distributed in January 2004, not long before Mr. Bush hit the campaign trail and cited the drug benefit as one of his major accomplishments.

The script suggested that local anchors lead into the report with this line: "In December, President Bush signed into law the first-ever prescription drug benefit for people with Medicare." In the segment, Mr. Bush is shown signing the legislation as Ms. Ryan describes the new benefits and reports that "all people with Medicare will be able to get coverage that will lower their prescription drug spending."

The segment made no mention of the many critics who decry the law as an expensive gift to the pharmaceutical industry. The G.A.O. found that the segment was "not strictly factual," that it contained "notable omissions" and that it amounted to "a favorable report" about a controversial program.

And yet this news segment, like several others narrated by Ms. Ryan, reached an audience of millions. According to the accountability office, at least 40 stations ran some part of the Medicare report. Video news releases distributed by the Office of National Drug Control Policy, including one narrated by Ms. Ryan, were shown on 300 stations and reached 22 million households. According to Video Monitoring Services of America, a company that tracks news programs in major cities, Ms. Ryan's segments on behalf of the government were broadcast a total of at least 64 times in the 40 largest television markets.

Even these measures, though, do not fully capture the reach of her work. Consider the case of News 10 Now, a cable station in Syracuse owned by Time Warner. In February 2004, days after the government distributed its Medicare segment, News 10 Now broadcast a virtually identical report, including the suggested anchor lead-in. The News 10 Now segment, however, was not narrated by Ms. Ryan. Instead, the station edited out the original narration and had one of its reporters repeat the script almost word for word.

The station's news director, Sean McNamara, wrote in an e-mail message, "Our policy on provided video is to clearly identify the source of that video." In the case of the Medicare report, he said, the station believed it was produced and distributed by a major network and did not know that it had originally come from the government.

Ms. Ryan said she was surprised by the number of stations willing to run her government segments without any editing or acknowledgement of origin. As proud as she says she is of her work, she did not hesitate, even for a second, when asked if she would have broadcast one of her government reports if she were a local news director.

"Absolutely not."

LITTLE OVERSIGHT: TV'S CODE OF ETHICS, WITH UNCERTAIN WEIGHT

"Clearly disclose the origin of information and label all material provided by outsiders."

Those words are from the code of ethics of the Radio-Television News Directors Association, the main professional society for broadcast news directors in the United States. Some stations go further, all but forbidding the use of any outside material, especially entire reports. And spurred by embarrassing publicity last year about Karen Ryan, the news directors association is close to proposing a stricter rule, said its executive director, Barbara Cochran.

Whether a stricter ethics code will have much effect is unclear; it is not hard to find broadcasters who are not adhering to the existing code, and the association has no enforcement powers.

The Federal Communications Commission does, but it has never disciplined a station for showing government-made news segments without disclosing their origin, a spokesman said.

Could it? Several lawyers experienced with F.C.C. rules say yes. They point to a 2000 decision by the agency, which stated, "Listeners and viewers are entitled to know by whom they are being persuaded."

In interviews, more than a dozen station news directors endorsed this view without hesitation. Several expressed disdain for the prepackaged segments they received daily from government agencies, corporations and special interest groups who wanted to use their airtime and credibility to sell or influence.

But when told that their stations showed government-made reports without attribution, most reacted with indignation. Their stations, they insisted, would never allow their news programs to be co-opted by segments fed from any outside party, let alone the government.

"They're inherently one-sided, and they don't offer the possibility for follow-up questions—or any questions at all," said Kathy Lehmann Francis, until recently the news director at WDRB, the Fox affiliate in Louisville, Ky.

Yet records from Video Monitoring Services of America indicate that WDRB has broadcast at least seven Karen Ryan segments, including one for the government, without disclosing their origin to viewers.

Mike Stutz, news director at KGTV, the ABC affiliate in San Diego, was equally opposed to putting government news segments on the air.

"It amounts to propaganda, doesn't it?" he said.

Again, though, records from Video Monitoring Services of America show that from 2001 to 2004 KGTV ran at least one government-made segment featuring Ms. Ryan, 5 others featuring her work on behalf of corporations, and 19 produced by corporations and other outside organizations. It does not appear that KGTV viewers were told the origin of these 25 segments.

"I thought we were pretty solid," Mr. Stutz said, adding that they intend to take more precautions.

Confronted with such evidence, most news directors were at a loss to explain how the segments made it on the air. Some said they were unable to find archive tapes that would help answer the qustion. Others promised to look into it, then stopped returning telephone messages. A few removed the segments from their Web sites, promised greater vigilance in the future or pleaded ignorance.

AFGHANISTAN TO MEMPHIS: AN AGENCY'S REPORT ENDS UP ON THE AIR

On Sept. 11, 2002, WHBQ, the Fox affiliate in Memphis, marked the anniversary of the 9/11 attacks with an uplifting report on how assistance from the United States was helping to liberate the women of Afghanistan.

Tish Clark, a reporter for WHBQ, described how Afghan women, once barred from schools and jobs, were at last emerging from their burkas, taking up jobs as seamstresses and bakers, sending daughters off to new schools, receiving decent medical care for the first time and even participating in a fledgling democracy. Her segment included an interview with an Afghan teacher who recounted how the Taliban only allowed boys to attend school. An Afghan doctor described how the Taliban refused to let male physicians treat women.

In short, Ms. Clark's report seemed to corroborate, however modestly, a central argument of the Bush foreign policy, that forceful American intervention abroad was spreading freedom, improving lives and winning friends.

What the people of Memphis were not told, though, was that the interviews used by WHBQ were actually conducted by State Department contractors. The contractors also selected the quotes used from those interviews and shot the video that went with the narration. They also wrote the narration, much of which Ms. Clark repeated with only minor changes.

As it happens, the viewers of WHBQ were not the only ones in the dark.

Ms. Clark, now Tish Clark Dunning, said in an interview that she, too, had no idea the report originated at the State Department. "If that's true, I'm very shocked that anyone would false report on anything like that," she said.

How a television reporter in Memphis unwittingly came to narrate a segment by the State Department reveals much about the extent to which government-produced news accounts have seeped into the broader news media landscape.

The explanation begins inside the White House, where the president's communications advisers devised a strategy after Sept. 11, 2001, to encourage supportive news coverage of the fight against terrorism. The idea, they explained to reporters at the time, was to counter charges of American imperialism by generating accounts that emphasized American efforts to liberate and rebuild Afghanistan and Iraq.

An important instrument of this strategy was the Office of Broadcasting Services, a State Department unit of 30 or so editors and technicians whose typical duties include distributing video from news conferences. But in early 2002, with close editorial direction from the White House, the unit began producing narrated feature reports, many of them promoting American achievements in Afghanistan and Iraq and reinforcing the administration's rationales for the invasions. These reports were then widely distributed in the United States and around the world for use by local television stations. In all, the State Department has produced 59 such segments.

United States law contains provisions intended to prevent the domestic dissemination of government propaganda. The 1948 Smith-Mundt Act, for example, allows Voice of America to broadcast progovernment news to foreign audiences, but not at home. Yet State Department officials said that law does not apply to the Office of Broadcasting Services. In any event, said Richard A. Boucher, a State Department spokesman: "Our goal is to put out facts and the truth. We're not a propaganda agency."

Even so, as a senior department official, Patricia Harrison, told Congress last year, the Bush administration has come to regard such "good news" segments as "powerful strategic tools" for influencing public opinion. And a review of the department's segments reveals a body of work in sync with the political objectives set forth by the White House communications team after 9/11.

In June 2003, for example, the unit produced a segment that depicted American efforts to distribute food and water to the people of southern Iraq. "After living for decades in fear, they are now receiving assistance—and building trust—with their coalition liberators," the unidentified narrator concluded.

Several segments focused on the liberation of Afghan women, which a White House memo from January 2003 singled out as a "prime example" of how "White House-led efforts could facilitate strategic, proactive communications in the war on terror."

Tracking precisely how a "good news" report on Afghanistan could have migrated to Memphis from the State Department is far from easy. The State Department typically distributes its segments via satellite to international news organizations like Reuters and Associated Press Television News, which in turn distribute them to the major United States networks, which then transmit them to local affiliates.

"Once these products leave our hands, we have no control," Robert A. Tappan, the State Department's deputy assistant secretary for public affairs, said in an interview. The department, he said, never intended its segments to be shown unedited and without attribution by local news programs. "We do our utmost to identify them as State Department-produced products."

Representatives for the networks insist that government-produced reports are clearly labeled when they are distributed to affiliates. Yet with segments bouncing from satellite to satellite, passing from one news organization to another, it is easy to see the potential for confusion. Indeed, in response to questions from The Times, Associated Press Television News acknowledged that they might have distributed at least one segment about Afghanistan to the major United States networks without identifying it as the product of the State Department. A spokesman said it could have "slipped through our net because of a sourcing error."

Kenneth W. Jobe, vice president for news at WHBQ in Memphis, said he could not explain how his station came to broadcast the State Department's segment on Afghan women. "It's the same piece, there's no mistaking it," he said in an interview, insisting that it would not happen again.

Mr. Jobe, who was not with WHBQ in 2002, said the station's script for the segment has no notes explaining its origin. But Tish Clark Dunning said it was her impression at the time that the Afghan segment was her station's version of one done first by network correspondents at either Fox News or CNN. It is not unusual, she said, for a local station to take network reports and then give them a hometown look.

"I didn't actually go to Afghanistan," she said. "I took that story and reworked it. I had to do some research on my own. I remember looking on the Internet and finding out how it all started as far as women covering their faces and everything."

At the State Department, Mr. Tappan said the broadcasting office is moving away from producing narrated feature segments. Instead, the department is increasingly supplying only the ingredients for reports—sound bites and raw video. Since the shift, he said, even more State Department material is making its way into news broadcasts.

MEETING A NEED: RISING BUDGET PRESSURES, READY-TO-RUN SEGMENTS

WCIA is a small station with a big job in central Illinois.

Each weekday, WCIA's news department produces a three-hour morning program, a noon broadcast and three evening programs. There are plans to add a 9 p.m. broadcast. The staff, though, has been cut to 37 from 39. "We are doing more with the same," said Jim P. Gee, the news director.

Farming is crucial in Mr. Gee's market, yet with so many demands, he said, "It is hard for us to justify having a reporter just focusing on agriculture."

To fill the gap, WCIA turned to the Agriculture Department, which has assembled one of the most effective public relations operations inside the federal government. The department has a Broadcast Media and Technology Center with an annual budget of $3.2 million that each year produces some 90 "mission messages" for local stations—mostly feature segments about the good works of the Agriculture Department.

"I don't want to use the word 'filler,' per se, but they meet a need we have," Mr. Gee said.

The Agriculture Department's two full-time reporters, Bob Ellison and Pat O'Leary, travel the country filing reports, which are vetted by the department's office of communications before they are distributed via satellite and mail. Alisa Harrison, who oversees the communications office, said Mr. Ellison and Mr. O'Leary provide unbiased, balanced and accurate coverage.

"They cover the secretary just like any other reporter," she said.

Invariably, though, their segments offer critic-free accounts of the department's policies and programs. In one report, Mr. Ellison told of the agency's efforts to help Florida clean up after several hurricanes.

"They've done a fantastic job," a grateful local official said in the segment.

More recently, Mr. Ellison reported that Mike Johanns, the new agriculture secretary, and the White House were determined to reopen Japan to American beef products. Of his new boss, Mr. Ellison reported, "He called Bush the best envoy in the world."

WCIA, based in Champaign, has run 26 segments made by the Agriculture Department over the past three months alone. Or put another way, WCIA has run 26 reports that did not cost it anything to produce.

Mr. Gee, the news director, readily acknowledges that these accounts are not exactly independent, tough-minded journalism. But, he added: "We don't think they're propaganda. They meet our journalistic standards. They're informative. They're balanced."

More than a year ago, WCIA asked the Agriculture Department to record a special sign-off that implies the segments are the work of WCIA reporters. So, for example, instead of closing his report with "I'm Bob Ellison, reporting for the U.S.D.A.," Mr. Ellison says, "With the U.S.D.A., I'm Bob Ellison, reporting for 'The Morning Show.'"

Mr. Gee said the customized sign-off helped raise "awareness of the name of our station." Could it give viewers the idea that Mr. Ellison is reporting on location with the U.S.D.A. for WCIA? "We think viewers can make up their own minds," Mr. Gee said.

Ms. Harrison, the Agriculture Department press secretary, said the WCIA sign-off was an exception. The general policy, she said, is to make clear in each segment that the reporter works for the department. In any event, she added, she did not think there was much potential for viewer confusion. "It's pretty clear to me," she said.

THE 'GOOD NEWS' PEOPLE: A MENU OF REPORTS FROM MILITARY HOT SPOTS

The Defense Department is working hard to produce and distribute its own news segments for television audiences in the United States.

The Pentagon Channel, available only inside the Defense Department last year, is now being offered to every cable and satellite operator in the United States. Army public affairs specialists, equipped with portable satellite transmitters, are roaming war zones in Afghanistan and Iraq, beaming news reports, raw video and interviews to TV stations in the United States. All a local news director has to do is log on to a military-financed Web site, www.dvidshub.net., browse a menu of segments and request a free satellite feed.

Then there is the Army and Air Force Hometown News Service, a unit of 40 reporters and producers set up to send local stations news segments highlighting the accomplishments of military members.

"We're the 'good news' people," said Larry W. Gilliam, the unit's deputy director.

Each year, the unit films thousands of soldiers sending holiday greetings to their hometowns. Increasingly, the unit also produces news reports that reach large audiences. The 50 stories it filed last year were broadcast 236 times in all, reaching 41 million households in the United States.

The news service makes it easy for local stations to run its segments unedited. Reporters, for example, are never identified by their military titles. "We know if we put a rank on there they're not going to put it on their air," Mr. Gilliam said.

Each account is also specially tailored for local broadcast. A segment sent to a station in Topeka, Kan., would include an interview with a service member from there. If the same report is sent to Oklahoma City, the soldier is switched out for one from Oklahoma City. "We try to make the individual soldier a star in their hometown," Mr. Gilliam said, adding that segments were distributed only to towns and cities selected by the service members interviewed.

Few stations acknowledge the military's role in the segments. "Just tune in and you'll see a minute-and-a-half news piece and it looks just like they went out and did the story," Mr. Gilliam said. The unit, though, makes no attempt to advance any particular political or policy agenda, he said.

"We don't editorialize at all," he said.

Yet sometimes the "good news" approach carries political meaning, intended or not. Such was the case after the Abu Ghraib prison scandal surfaced last spring. Although White House officials depicted the abuse of Iraqi detainees as the work of a few rogue soldiers, the case raised serious questions about the training of military police officers.

A short while later, Mr. Gilliam's unit distributed a news segment, sent to 34 stations, that examined the training of prison guards at Fort Leonard Wood in Missouri, where some of the military police officers implicated at Abu Ghraib had been trained.

"One of the most important lessons they learn is to treat prisoners strictly but fairly," the reporter said in the segment, which depicted a regimen emphasizing respect for detainees. A trainer told the reporter that military police officers were taught to "treat others as they would want to be treated." The account made no mention of Abu Ghraib or how the scandal had prompted changes in training at Fort Leonard Wood.

According to Mr. Gilliam, the report was unrelated to any effort by the Defense Department to rebut suggestions of a broad command failure.

"Are you saying that the Pentagon called down and said, 'We need some good publicity?'" he asked. "No, not at all."

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY, proposes an amendment numbered 430.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

Mr. BYRD. I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds by any Federal agency to produce a prepackaged news story without including in such story a clear notification for the audience that the story was prepared or funded by a Federal agency)

At the appropriate place, insert the following:

SEC.   . None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged

> news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

Mr. KENNEDY. Mr. President, I applaud the Senator from West Virginia for his amendment. We have to put a stop to all of the taxpayer-financed propaganda put out by our government to influence the American people.

Over the last year, we have found out that the Bush administration has used taxpayer funds to finance "fake news reports" by actors posing as reporters, not actual journalists, who read the administration's script on prescription drugs and the No Child Left Behind education program. Even more recently, we have found out that a number of actual real-life journalists have been secretly paid by the Bush administration to promote its political agenda. This is dangerous to our democracy. It's an unethical misuse of taxpayer funds.

Senator LAUTENBERG and I have generated a series of investigations by the Government Accountability Office critical of the Bush administration's propaganda efforts. We have introduced legislation, the Stop Government Propaganda Act, that the Byrd amendment complements. Our legislation, like the Byrd amendment, specifically prevents the administration—any administration, Democratic or Republican—from paying actors to pose as legitimate journalists in order to push for a political agenda.

I urge my colleagues to support the Byrd amendment. Congress cannot sit still while the administration corrupts the first amendment and freedom of the press.

Mr. GREGG. Mr. President, I am intrigued by the amendment of the Senator from West Virginia. I do not believe taxpayers should be funding propaganda. I think it is totally inappropriate, other than in an attempt to promote American policy overseas, for example, where we should be funding communication with other people around the Earth, as we do through Radio Free America, Radio Liberty, and other radio stations that have been developed over the years for the purposes of presenting the American position in regions of the world where our access is limited.

But here in the United States, clearly, if the Government wishes to make a point, that should be disclosed. If taxpayers' dollars are being used to make a point, that should be disclosed. I agree with the basic concept of the theme of the Senator's amendment. So I expect that this amendment must apply to National Public Radio. National Public Radio, of course, receives a large amount of tax subsidy. It presents views which one could argue are propaganda, in many instances. If I read this amendment correctly, I believe, and I would hope the record would reflect, this amendment will apply to National Public Radio so that when they put out a newscast it will have to be announced that this newscast is put out at the expense of the American taxpayer and that the American taxpayer has paid for this report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I see my colleague from Maryland is also seeking the floor. We both have important meetings at 3 o'clock. I wondered how long the Senator from Maryland will take?

Ms. MIKULSKI. Less than a minute.

Mr. BOND. I am happy to yield to my colleague from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask for the regular order with respect to my amendment.

The PRESIDING OFFICER. That amendment is now pending.

CLOTURE MOTION

Ms. MIKULSKI. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Mikulski amendment No. 387 to H.R. 1268.
>
> B.A. Mikulski, J. Lieberman, J. Corzine, Jeff Bingaman, Byron Dorgan, Ron Wyden, Ken Salazar, Hillary Clinton, Mark Pryor, Dick Durbin, Bill Nelson, Chuck Schumer, Barack Obama, Frank Lautenberg, Patrick Leahy, Debbie Stabenow, Chris Dodd.

Ms. MIKULSKI. Mr. President, I understand that negotiations are ongoing on all of the immigration provisions. I am sorry I have to do this, and I will be very glad to withdraw this cloture motion if we are able to come to an understanding.

AMENDMENT NO. 430

I now ask unanimous consent that the Senate resume consideration of the Byrd amendment.

The PRESIDING OFFICER (Mr. ENSIGN). Is there objection?

Without objection, it is so ordered.

The Senator from Missouri.

Mr. BOND. Mr. President, I appreciate the comments raised by the Senator from New Hampshire.

As chairman of the new Appropriations Subcommittee on Transportation, Treasury, Judiciary, and HUD, I understand this measure would fall within the general government provisions of this bill. While I think all of us share concerns that have been expressed by the distinguished Senator from West Virginia, I urge my colleagues to oppose this amendment. We appreciate what the Senator is trying to do, but I don't believe his amendment provides the appropriate remedy to the problems he has described.

Using Federal funds for the purpose of propaganda is already unlawful under section 1913 of title 18 of the United States Code, and the governmentwide general provisions title of the Transportation, Treasury Appropriations Act includes further restrictions from using appropriated funds for propaganda.

Section 624 of the 2005 Transportation, Treasury Appropriations Act states:

> No part of any appropriations contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

The distinction between educating the public about an issue and advocating a policy is not always obvious. If the Senator's amendment better defined appropriate communications by Federal agencies from publicity or propaganda, I would join with the Senator in support. The Senator's amendment, however, does not add any clarity to the murky waters of advocacy and does not make the line between education and advocacy any brighter, and in fact may have some untoward consequences that I feel are sufficient to kill the amendment.

The uniform practice of the Federal Government is and has been to provide full disclosure that video news releases or other matters are prepared or funded by a Federal agency. The sponsoring Government agency identifies itself at the beginning of a video news release.

Just as newspaper reporters and editors parse through their press releases issued by Federal agencies, television news rooms make editorial and content decisions about how to use video news releases. It is, in fact, an editorial decision of the broadcast station to air or not to air the agency identification.

The Senator's amendment, however, would begin the practice of allowing the Federal Government to make editorial decisions and dictating broadcast content of news reports.

Alternatively, it would require that any use of material supplied by the Federal Government must be disclosed in a manner that I believe would have a chilling impact on the freedom of speech and on the freedom of press. Such mandate on the broadcast media may in fact be unconstitutional.

If this amendment were adopted, it may have the unintended consequence of reducing the use of this important tool, thereby undermining the ability of the Federal Government to meet its obligation to inform the public of important information.

I believe the impact would be felt in rural areas, especially as broadcasters in small and medium markets rely on video news releases more than their big-city colleagues.

If we go back and look at the history, we see that video news releases have been used by Government agencies since the beginning of video. The USDA produced some of the first footage of the Wright brothers' early flight tests in the early 1919s, as well as the highly acclaimed Dust Bowl documentary, "The Plow That Broke the Plains," 1935.

In the 1980s, to respond to a changing broadcast environment, USDA established a weekly satellite feed of material for news and farm broadcasters. This included ready-to-air feature stories, sometimes called video news releases. The information includes where there are signups for commodity or disaster programs; promoting producer participation in county committee elections; new farming practices or technologies; or important crop reports and surveys.

From the Department of Health and Human Services, there has been a long list of video news releases such as the Surgeon General's Osteoporosis and Bone Health Report: educating the public health officials on how to recognize anthrax; CDC in post 9/11, educating the public on CDC's capabilities; healthy baby news releases, which I have been very interested in. The Health Resource Services Administration put out a video news release educating parents and parents-to-be on the health care of their newborns.

There have been efforts to educate women of childbearing age about the absolute necessity of including 400 micrograms of the appropriate vitamins in their diets to prevent tooth defects.

The CDC has educated public and health communities about the proper use of antibiotics and the potential problems of overuse of antibiotics.

The IRS has produced VNRs on two topics: how to file electronically, and the earned income tax credit. The goal was to generate coverage of the e-filing to help Americans understand qualifications for claiming the EITC.

These news releases were produced by an advertising agency, and pitched in the media outlets by our IRS media specialists who provided full disclosure to the media outlets if they were from the IRS.

This amendment goes further, however, and says the entity using this information must include a clear notice that it was prepared or funded by a Federal agency. That is a requirement on not only broadcasters but on newspapers, which I think steps over the line.

As the distinguished Senator from West Virginia pointed out, the FCC yesterday unanimously clarified the rules applying to broadcasters, saying they must disclose to the viewer the origin of video news releases, though the agency does not specify what form that disclosure must take.

Commissioner Adelstein, a Democrat, said:

> We have a responsibility to tell broadcasters that they have to let people know where the material is coming from. Viewers would think it was a real news story when it might be from government or a big corporation trying to influence how they think. This would be put them in a better position to decide for themselves what to make of it.

The FCC has already acted in this area.

I am very much concerned that the amendment proposed by the distinguished Senator from West Virginia would go even further in attempting to dictate by congressional action what should be reported, not only in video or electronic news stories but in print media stories as well. That is objectionable. That would cause many problems for media of all types.

I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I rise in support of the Byrd amendment. This amendment is important. It is offered at an important time, and it is offered during a period when we have seen so many examples of fake news, or propaganda, to use another word.

I don't think this is partisan. I think it would apply to a Republican or Democratic administration.

The question is, Should the Federal Government be involved in propaganda? Should we be observant of fake news and do nothing about it?

The Senator from West Virginia offers an amendment that is filled with common sense. Let me describe a fake news program. A report narrated by a woman who speaks in glowing terms about an administration's plan and concludes by saying: "In Washington, this is Karen Ryan reporting."

The Department of Health and Human Services spent $44,000 in taxpayer dollars on this type of propaganda. Is this what we want to pass for news?

I have talked often in the Senate on a subject very important to me, the concentration of broadcasting in this country. Fewer and fewer people owning more and more broadcast properties, controlling what people see, hear, and think by what is presented to them. As more and more companies are bought, they hollow out the newsrooms, get rid of the newsroom staff, and just have a shell left. Then they are interested in filling that shell with cheap media feeds.

If you read the discussion about what has prompted these television stations to run these prepackaged fake news items, they are looking for fillers for a news script because they got rid of their news people. So this, now, passes as news when, in fact, it is fake news.

In my judgment, it ought to be labeled exactly what it is. That is what the Senator is offering with respect to this amendment. This is not an amendment that is in any way radical. It is an amendment that is filled with common sense.

A few minutes ago my colleague who talked about Public Broadcasting or National Public Radio was clever and funny—and good for him—but this has nothing to do with the issue at hand. Winning debates that we are not having is hardly a blue ribbon activity in this Chamber. This debate is not about National Public Radio or anything of the sort. It is about the specific subject that my colleague from West Virginia brings to the Senate.

The subject, incidentally, has more tentacles attached to it. We learned in January a syndicated columnist, Armstrong Williams, had been paid a quarter of a million dollars, actually $240,000, to promote the No Child Left Behind Program on his television show and to urge other African-American journalists to do the same. That contract was not disclosed to the public. It was taxpayers' dollars offered to a journalist, commentator, television personality, and we only learned about it because USA Today obtained the document through a Freedom of Information request.

That, incidentally, was part of a $1 million deal with the Ketchum public relations firm which was contracted to produce video news releases designed to appear like real news reports.

So there is more to do on this issue than just the Byrd amendment. That is why I say this amendment is modest in itself. It is not, as some would suggest, a big deal. It is a modest amendment that addresses a problem in a very specific way. We really do have more to do dealing with some of the other tentacles—the hiring of public relations firms to the tune of tens of millions of dollars.

We found out in late January the Department of Health and Human Services paid $21,500 to another syndicated columnist to advocate a $300 million Presidential proposal encouraging marriage. That contract was not disclosed either.

The list goes on. Fake news. We discovered a while back the White House had allowed a fake journalist, using a fake name, to get a daily clearance to come into the Presidential news conference and daily news briefings and to ask questions. Another part of fake news, I guess, a different tentacle and a different description.

The Byrd amendment is simple on its face. The question is, Do we want fake news being produced with taxpayers' dollars with no disclosure at all; that it is, in fact, propaganda, not news?

I support the Byrd amendment. I hope we will address other parts of this issue at some future time. This amendment is modest enough, and my hope is to engage a majority of the Senate to be supportive of it.

While I have the floor, I might indicate a second time that I intend to offer an amendment that would cease or discontinue funding for the independent counsel who is still active, an independent counsel who was impaneled to investigate the payment of money to a mistress by a former Cabinet official, Mr. Cisneros. That independent counsel has spent now $21 million over 10 years. The particular Cabinet official admitted the indiscretion. He pled guilty in Federal court and he since left office and has since been pardoned by a President in 2001. Yet the independent counsel investigating this is still investigating it, still spending money.

The most recent report showed this independent counsel spent $1.26 million in Federal funds over the previous 6 months, which brings it to $21 million by an independent counsel's office that was launched nearly 10 years ago to investigate a Cabinet official who left the Government very soon thereafter, who then pled guilty, who then was pardoned. In 1995, the independent counsel was named. That was 10 years ago. In 1999, the Cabinet official pled guilty. In 2001, 4 years ago, the Cabinet official was given a Presidential pardon. Yet we have an independent counsel's office that is still spending money.

We ought to shut off that money. I will offer an amendment to do that, telling that independent counsel the money dries up on June 1. Finish your report and leave town—at least if your home is elsewhere—but finish up the report and get off the public payroll after 10 years, 4 years after the subject in question received a Presidential pardon, 6 years after the subject in question pled guilty in court.

Some things need addressing on an urgent basis. This one does. I understand it, too, will not be, perhaps, germane to this bill, but it is one that I hope every Senator would understand we ought to shut down.

With that, I appreciate the amendment offered by Senator BYRD. I am pleased to come over in support of that amendment this afternoon.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the very distinguished Senator for his support and for his statement. It is a very pertinent statement. In the FCC Public Notice 05-84, dated April 13, 2005, on page 2, it says:

> This Public Notice is confined to the disclosure obligations required under Section 317 and our rules thereunder, and does not address the recent controversy over when or whether the government is permitted to sponsor VNRs, which is an issue beyond the Commission's jurisdiction.

My amendment is simple and clear. Here is what it says:

> None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

Mr. President, it does not create confusion, as a Senator said a moment ago. It creates clarity.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I notice that the distinguished Senator from New Jersey is on the floor. He is a cosponsor of this amendment. I assume he is here to talk on the amendment. I was going to try to bring the discussion to a close so we could vote on the amendment or vote in relation to the amendment, but I am happy to withhold because I do not want to cut off anyone who wants to talk on this subject.

Mr. LAUTENBERG. Mr. President, I am not sure I heard precisely what the manager was asking. I would help bring this to a close by giving my remarks very quickly. I appreciate the opportunity and thank the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I salute my colleague and friend, the Senator from West Virginia. Senator BYRD is someone I greatly respect and admire. I have now been here a long time, even though, according to the rules, I am a freshman or just above a freshman, maybe a sophomore—I don't think so—but whenever Senator ROBERT C. BYRD speaks, it is always worth listening. And I find more often than not it is very much worth following the idea that the Senator from West Virginia puts forward.

So I am pleased to support the Byrd amendment on propaganda. It is an issue that has disturbed me over time and something I have worked on. The Byrd amendment is an important step toward preventing the Government from delivering messages that are, if I can call them, kind of incognito. They are hidden from identifying as to what they really are. It is a step toward accomplishing a goal that is not clearly defined as being presented as a neutral observer. So we want to stop the spread of covert Government propaganda.

By the way, I want it to be understood that this is not brand new. This is not something that has only happened since this administration took over; it happened in years past.

I was asked the question at a hearing this morning: Well, then why didn't we talk about it in years past? Because there has been a proliferation of these things. As a consequence, I think for all parties but particularly for the American people, it is a good idea to use this opportunity to clear up the situation.

As a result of a request I made with Senator KENNEDY, the Government Accountability Office ruled that fake television news stories, produced by the administration, or produced, period, were illegal propaganda. The fake news accounts that were produced, known as "prepackaged news stories," featured a report by Karen Ryan. The news story extolled the benefits of the new Medicare law and ended with a statement:

> This is Karen Ryan, reporting from Washington.

But Karen Ryan is not a reporter. She is a public relations consultant working for a firm hired by the Government. So it is designed to fool people into believing that this news reporter had come on to something really great and wanted to add her view of the efficacy of the program.

Now, that fake news story made its way onto local news shows on 40 television stations across the country. Once again, people thought they were watching news. Americans watched Karen Ryan's report and thought they were hearing the real deal, but what they were watching was Government-produced propaganda.

Think about that for a second. Our Government is sending out news reports to television stations across the country by satellite. Many of these news stations had no way of knowing that the reports were Government propaganda. News stations across the country have run Government news stories without realizing what they had. This is not aimed at the broadcasters; it is aimed at clarifying the fact that we do not think the Government should be doing this. The stations that had this story and did not realize it was not fresh news included a station in Memphis, TN, WHBQ; KGTV in San Diego; WDRB in Louisville, KY. The list goes on and on about producers who were fooled by the fact that they were getting a propaganda piece and did not recognize that it was not news.

If the news stations did not know the story was produced by the Government, how would the viewer ever know that? How would a family, let's say, in Covington, TN, watching WHBQ, know that Karen Ryan, the person in this case, is not a reporter? How would they know the news story they just watched was concocted to sell something, actually Government propaganda? The reality is, they would not know.

We had a situation of similar character with a reporter named Armstrong Williams. Mr. Williams had a program, a news program, and he was paid a couple hundred thousand dollars, as I remember the number, to take this story and talk about it as news when, in fact, it was a paid-for story designed to deceive, very frankly. So we have seen it.

The GAO said that this practice is not only wrong but illegal. The GAO said the fake news stories were illegal because they did not disclose the fact that the Government was behind it. GAO is right. We cannot allow covert propaganda to be done by our Government, continued by a practice that has been condemned by GAO.

The Byrd amendment will give Federal agencies clear direction on this issue. It is a simple proposition: The Government needs to disclose its role. I do not think that is a lot to ask; otherwise, every ad that goes on the air has a disclosure on it. It identifies the product, uses a trademark, all kinds of things. But they make sure people know it is being done for a mission.

For whatever reason, the administration has refused to go along with the GAO ruling. They have said so: Yes, we know it. But so what? The Office of Management and Budget recently sent out a memo saying that agencies could continue to produce fake news stories and hide the Government's role.

That is their opinion, but I don't agree with it. Certainly, the Byrd amendment challenges that view. We need to be straight with the American people. When we are running ads, it has to say, ad run by the United States Government. We need to reject covert government propaganda. We can do it today with this amendment. The Byrd amendment will make the rules on this matter crystal clear. I hope we can get the support to do this, to say to the American people, when you see a piece of news, don't let it be biased by Government ads that pay for it. Why would the Government pay for it? Once again, when an ad is run, it is to sell someone a bill of goods. That doesn't mean it is a bad piece of goods, but it is designed to sell something. We ought not let that be the product of the United States Government when talking to the people across the country.

I hope we will be able to pass this. I commend the Senator from West Virginia for offering it. I hope our colleagues will support it.

I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Jersey for his comments and support. I thank him profusely.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak on the pending Mikulski amendment.

Mr. COCHRAN. Reserving the right to object—I, of course, will not object—it is my hope that we can continue to deal with the Byrd amendment and dispose of the Byrd amendment. Then the Senator can talk about the Mikulski amendment or any other amendment he wants to talk about.

I do not have an objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 387

Mr. JEFFORDS. Mr. President, I would like to take a moment to talk about the amendment offered by the Senator from Maryland. As a cosponsor of that amendment, I rise in support of this amendment to the supplemental appropriations bill.

The Save Our Small and Seasonal Business Act, on which this amendment is based, is very important to my State of Vermont. This amendment will ensure the seasonal businesses in our country have the workers they need to support their company, our local economics, and to help the U.S. economy flourish. Action on this critical issue is long overdue.

In March of last year, the United States Citizenship and Immigration Services announced they had received enough petitions to meet the cap on the H-2B visas. As a result, they stopped accepting petitions for these temporary work visas halfway through the Federal fiscal year. This announcement was a shock to many businesses throughout the country that depend on foreign workers to fill their temporary and seasonal positions.

Tourism is the largest sector of Vermont's economy and, as a result, many Vermont businesses hire seasonal staff during their summer, winter, or fall seasons. Last year, I heard from many Vermont businesses that were unable to employ foreign workers for their summer and fall seasons because the cap had been reached. Not only was this unexpected, but many of the individuals were people who had been returning to the same employer year after year. These employers lost essential staff and, in many cases, well-trained, experienced employees.

While I am proud to say that Vermont businesses have risen to this challenge with hard work and creativity in the past, the need for these workers has not, and will not, diminish. Congress must act and must act now. The companies I have heard from are proud of the work their staffs have done under these circumstances. Yet they believe their businesses and their personnel will suffer if they are not able to employ seasonal foreign workers again this year. Many foresee a devastating effect on their businesses if they are not able to bring in foreign workers soon.

I have also heard from Vermont businesses that they had to lay off or not hire American workers because they could not find enough employees to round out their crews. Without having the sufficient number of workers to complete projects, they could not hire or maintain their year-round staff. They also could not bid on projects and many had to scale back their operations. In these instances, the lack of seasonal workers had a detrimental effect on our economy and on the employment of American workers.

As many may know, I strongly believe American workers must be given the opportunity to fill jobs and that this Nation's strength is in its own workforce. However, the companies that have contacted me did their utmost to find Americans for positions available. Efforts to find American workers included working closely with the State of Vermont's Employment and Training Office, increasing wages and benefits, and implementing aggressive, year-round recruiting.

We are lucky in Vermont to count tourism among our chief industries, and we have our beautiful rural landscape to thank for the visitors who flock to our small State each year. While many Vermont businesses were able to survive last year, thanks to that old Yankee ingenuity, I am not optimistic about this year. It is imperative we immediately address this problem in order to prevent further harm to this Nation's small businesses and the economy.

I urge my colleagues to support this amendment by Senator MIKULSKI.

I yield the floor.

AMENDMENT NO. 430

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, I rise in support of the Byrd-Lautenberg amendment. I would like to say a few words. I know we may be moving close to a vote, and the chairman of the committee has been patiently awaiting that possibility.

Tonight you are going to turn on your nightly news and try to get some information. People do it all the time. You expect when you turn on your television and turn on a newscast, the information being given to you is objective; at least as objective as people can make it. It isn't a paid advertisement; it is the news. If you are running a paid advertisement, you would know it. It would have laundry detergent on it or some new pharmaceutical drug or a political ad with a disclaimer at the bottom.

When you turn on your newscast, you don't expect to get hit by an ad that doesn't look like an ad. That is what the Byrd amendment is all about. The General Accounting Office took a look at some of the ads that were being sent out by the Bush administration for their policies and programs and said they went too far. They didn't identify the videos they were sending to these television stations were actually produced by the Bush administration, by these agencies, to promote a particular point of view. They basically said these ads deceived the American people. They were propaganda from the Government.

We decided a long time ago you couldn't do that. If you were going to put that kind of information up to try to convince the American people, one way or the other, you have an obligation to tell them so. The basic rule in this country is people want to hear both sides of the story, then make up their own minds. They want to know what is a fact and what is an opinion. Make up your own mind. You can't do it when there is a deception involved.

It is that deception that Senator BYRD is addressing. The Byrd amendment is so brief and to the point, it is worth repeating:

> None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

That is pretty simple. Tell us who prepared it. If it was prepared at taxpayer expense by the Senate, it should disclose that. If it was prepared by an agency of the Bush administration, disclose it. Then the American people decide. They watch the show. They say: That is a pretty interesting point of view. That happens to be what the official Government point of view is. I wonder what the other side of the story is.

You have a right to ask that question. But what if it wasn't disclosed? What if what you thought was a news story turned out to be an ad, propaganda? That is a deception. It is a deception Senator BYRD is trying to end.

We sent the General Accounting Office out and we said: Take a look at two or three Government agencies in the Bush administration. See how they are using these videotapes. According to the GAO, the Office of National Drug Control Policy violated the publicity and propaganda prohibition in our law when it produced and distributed fake news stories called video news releases as part of its National Youth Anti-Drug Media Campaign. There is nothing wrong with fighting drugs.

We want to protect our children from that possibility. We want to end the scourge of drug abuse in America. But be honest about it. If it is a Government-produced program, then identify it. That is all Senators BYRD and LAUTENBERG say in their amendment. In a separate report, the GAO found that the Centers for Medicare and Medicaid Services violated publicity and propaganda prohibition by sending out more fake news stories about the benefits of the new prescription drug law for seniors. I was on the Senate floor when that was debated. There are pros and cons—people who are against it and who are for it. There are two sides to the story. Here came the official Government press release suggesting: Here are the facts for you, Mr. and Mrs. America. It turns out they didn't identify that that official news release came from an agency of the Bush administration.

They used phony reporters, phony news stories, and they told the viewers certain things they hoped they would believe. It turns out they were deceiving the American people.

Remember the case of Armstrong Williams? Interesting fellow. He was hired by the Federal Department of Education to promote the new No Child Left Behind law on his nationally syndicated television show and urged other journalists to do the same. We paid him taxpayer dollars of $240,000 to go on his talk show and say nice things about the Bush administration's No Child Left Behind law. Well, is that fair? Is that where you want to spend your tax dollars? Would it not have been worth a few bucks to put the money into the classroom for children, instead of putting on contract this man who never disclosed his conflict of interest and went about talking on his syndicated TV show as if he were an objective judge? He was so embarrassed by this that the Department stopped paying him and he issued something of an apology. The fact is, he used our Federal taxpayer dollars as an incentive to promote a point of view and didn't tell the American people, deceiving them in the process.

The Social Security Administration has gone through the same thing when it comes to the President's privatization plan. They will be producing these fake news stories and video press releases that mislead people about the nature of the challenge of the problem.

I have an example. One of the things that went out in the Social Security Administration's phony news story was the following statement: "In 2041, the Social Security trust funds will be exhausted." That was put out as an official Government statement—not identified but sent out. It turns out it is not true. In 2041, the Social Security trust fund will not be exhausted. If we don't touch the Social Security trust fund, it will make every single payment to every single retiree, every single month of every single year until 2041. Then if we do nothing to change it after 36 years, it will continue to pay up to 75 to 80 percent. The trust fund is not going to be exhausted. That is a misstatement put out by this administration without identifying the fact that they are trying to promote a point of view which, sadly, is not correct and not honest.

So what Senator BYRD said is simple. If you want to put out something as a Federal Government agency, trust the American people. Tell them who you are. Let them decide whether it is worth believing. Don't pull the wool over their eyes. America is entitled to hear both sides of the story. We are entitled to know what is fact, what is fiction, what is basically news, and what is opinion. I think we can trust the American people to make that judgment. If Members of the Senate cannot trust the American people to make a judgment, how do they submit their own names for election? That is what we do regularly in an election year. I trust their judgment. I trust Senator BYRD's amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I appreciate very much the Senator from West Virginia offering the amendment and bringing this issue to the attention of the Senate and making the suggestion that is included in this amendment, which would "prohibit the use of funds by any Federal agency to produce a prepackaged news story without including in such a story notification for the audience that the story was prepared or funded by a Federal agency."

That is what the amendment says the purpose is, and that looks totally OK to me—harmless, no reason we should not support it. Then if you read down in the body of the amendment itself as to what it actually would provide in law, it says:

> None of the funds provided in this act or any other act may be used by a Federal agency to produce any prepackaged news story, unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

This creates a new obligation—not one that is enforced now by the FCC, not one that is embraced by Members of Congress or Senators when they send news releases out to news organizations about their activities or their views on a subject, it includes an obligation on anyone sending such a news story or statement or video release to communicate to the audience—the person looking at the television show or listening to the radio or reading the newspaper—that it is prepared by a Federal agency, or it uses funds to prepare it that are given to a Federal agency. It creates a new requirement, one that is almost impossible to meet.

Think about it. When we send a news release to a newspaper back home, we don't send it to all of the readers or subscribers of that newspaper. We send it to the newspaper, the address, the name of the newspaper in the town where it does business. So that is the defect in the amendment. That is why Senator BOND, speaking as chairman of the subcommittee that has jurisdiction over the funding and the laws under the jurisdiction of the subcommittee that would be involved and affected by this, spoke against the amendment. That is why the Senate should not adopt the amendment.

We all agree you need to include a disclaimer. We have to do that and we do that. Federal agencies do that. We cannot make the news editor or the producer of the news show include the disclaimer in the broadcast though. Nor should we be held responsible personally or criticized if that news agency didn't disclaim or print or announce where they got the news story. That is an entirely different obligation and one that the FCC will enforce now and that we all support.

So what I am suggesting is that these are great speeches. This is a good political issue—to accuse the administration of trying to fool the American people by creating the impression that some of their news stories that are produced for the news media are produced by them and not the radio station or the television station or the newspaper that published it or broadcasted it. That is nothing new. But it is not up to the agency or the person who writes the story to communicate it to the audience.

That is the problem. We cannot support it. So it would be my intention to move to table the amendment because of that—not because it is not motivated by the right reasons or doesn't carry with it the sentiment that is appropriate. Of course, it does. But the wording of the amendment itself—not just the purpose of the amendment—is defective in that it imposes an obligation that should not be imposed on Federal agencies, the Government, or individual Members of Congress.

I am hopeful that—and I am sure the Senator from West Virginia will, if he can—the Senator will modify his amendment so it can be accepted. But if that cannot be done, I am prepared to move to table the amendment. I will not do that and cut off the right of any other person to talk about the subject.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his willingness to not move to table at this point. I hope we can take a little time and see if we might reach a meeting of the minds on language that might accomplish the purposes that we hoped to accomplish.

For that reason, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I wonder if I might ask my colleague, the chairman of the committee, my understanding is the pending amendment is the Byrd amendment. But I heard my colleague Senator BYRD indicate he was trying to see whether there was some language that could be changed so this amendment would be acceptable. I have an amendment I had previously announced I would like to offer. It is an amendment dealing with the independent counsel expenditure of $21 million. I twice before mentioned this.

I ask the Senator from Mississippi whether it would be appropriate at this point to offer an amendment. My understanding is we would have to set aside the Byrd amendment to do so. I ask the chairman and also Senator BYRD whether that is possible at this moment.

Mr. COCHRAN. Mr. President, I have no objection.

Mr. BYRD. Mr. President, I have no objection. We can reach an understanding if I am unable to come up with language that is capable of being a workable and effective compromise that we might go ahead and have a vote on the Byrd amendment. Might we have a time limit on the Senator's proposal?

Mr. DORGAN. I will be mercifully brief. This is not an amendment that will take a long time to explain, and I do not intend to delay the proceedings of the Senate at all.

AMENDMENT NO. 399

Mr. DORGAN. Mr. President, with that in mind and with the cooperation of the Senator from Mississippi, the chairman of the committee, and my colleague Senator BYRD, as well, I offer an amendment on behalf of myself and Senator DURBIN has asked to be a cosponsor as well. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN], for himself and Mr. DURBIN, proposes an amendment numbered 399.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO)
>
> At the end of the bill, add the following:
>
> SEC. ____. (a) None of the funds appropriated or made available in this Act or any other Act may be used to fund the independent counsel investigation of Henry Cisneros after June 1, 2005.
>
> (b) Not later than July 1, 2005, the Government Accountability Office shall provide the Committee on Appropriations of each House with a detailed accounting of the costs associated with the independent counsel investigation of Henry Cisneros.

Mr. DORGAN. Mr. President, this matter deals with something I was quite surprised to read about, frankly, in the newspaper, and I have since done some research about it. It was a rather lengthy newspaper article disclosing that an independent counsel who had been appointed 10 years ago in 1995, a Mr. David Barrett, was still in business and was involved in an investigation that has now cost the American taxpayers $21 million.

That was an investigation dealing with a Cabinet Secretary who was alleged to have lied, I believe, to the FBI, to authorities, about a payment he gave to a mistress. So an independent counsel was impaneled and began investigating that charge.

That independent counsel has been working for some 10 years, in fact. But the Cabinet officer who was the subject of the investigation pled guilty in 1999. That was 6 years ago. That Cabinet officer was also subsequently pardoned in the year 2001.

In the most recent 6-month report, the independent counsel who was appointed for investigating this transgression is still in business, and had spent $1.26 million in just that period. And the costs are trending upward, 10 years after he started, 6 years after the subject pled guilty, and 4 years after the subject was pardoned. It is unbelievable.

I do not know anything about the case. I do not really know the Cabinet official in question. I guess I met him some years ago. But this is not about that official any longer. He has pled guilty, been pardoned, and here we are years later with an independent counsel's office still spending money.

I quote Judge Stanley Sporkin, the presiding judge over Mr. Cisneros' trial:

> The problem with this case is that it took too long to develop and much too long to bring to judgment day . . . [the matter] should have been resolved a long time ago, perhaps even years ago.

That was a quote from 1999. It is now 2005. The independent counsel is still spending money.

David Barrett, the independent counsel, said in 1999:

> We are just glad to have this over and done with. That was following the plea agreement of Mr. Cisneros. Here it is 6 years later and the independent counsel is still in business.

Mr. Barrett said in July 2001:

> I want to conclude this investigation as soon as possible.

It is now 4 years later, with the counsel spending $1.26 million in the last 6 months.

The three-judge panel that is providing oversight to the independent counsel said:

> Whether a cost-benefit analysis at this point would support Mr. Barrett's effort is a question to which I have no answer.

Judge Cudahy, a member of the three-judge oversight panel said:

> Mr. Barrett can go on forever. A great deal of time has elapsed and a lot of money spent in pursuing charges that on their face do not seem of overwhelming complexity.

Again, this is someone who is accused of lying to the FBI about paying money to a mistress. In the year 1995, the investigation began with Mr. Barrett and the independent counsel. In 1999, the individual pled guilty. In the year 2001, the individual was pardoned. And the independent counsel is still in business spending money. What on Earth is going on?

A former Federal prosecutor following the plea agreement, Lawrence Barcella, said this:

> This is a classic example of why this independent counsel statute was a problem. You give this person all the resources to go after one person, and the first thing that is lost is perspective.

Joseph DiGenova, a Republican lawyer and former independent counsel himself, said in the April 1, 2005, Washington Post:

> If this does not prove [the independent counsel's] worthlessness as a governmental entity, I don't know what does.

I do not come here as a partisan, a member of a political party. I come here as someone outraged to wake up in the morning and read a report about an independent counsel impaneled 10 years ago to investigate a subject who pled guilty 6 years ago and was pardoned 4 years ago, and the independent counsel is still spending the taxpayers' money, $1.26 million over the last 6 months.

My amendment is painfully simple. I propose we stop the spending on June 1 and tell this independent counsel: Finish your report, finish up, move on, and give the taxpayers a break.

That is what the amendment is. It is very simple. I hope it might be considered and supported by my colleagues.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

AMENDMENT NO. 430, AS MODIFIED

Mr. BYRD. Mr. President, I have a proposed modification to the amendment which I have discussed with the distinguished manager of the bill, the chairman of the committee, Mr. COCHRAN.

I send the modification to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 430, as modified:
>
> At the appropriate place, insert the following:
>
> SEC.   . Unless otherwise authorized by existing law, none of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification within the text or audio of the prepackaged news that the prepackaged news story was prepared or funded by that Federal agency.

The PRESIDING OFFICER. Is there objection to the modification of the amendment at this time?

Without objection, the amendment is so modified.

Mr. BYRD. Mr. President, I am prepared now to go to a vote, if the distinguished chairman is also prepared. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, may I just be sure that we are clear on this language.

I understand that the language as read by the clerk is agreed to on both sides.

Mr. COCHRAN. Mr. President, we have no objection to the modification.

The PRESIDING OFFICER. The amendment has been so modified. The question is on agreeing to the amendment, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

Mr. DURBIN. I announce that the Senator from Maryland (Mr. SARBANES) is necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—98

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—2

Inhofe
Sarbanes

The amendment (No. 430), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair wishes to clarify for the record that Senator MURRAY did not sign the cloture motion on amendment No. 387, and Senator LEAHY did sign that motion.

Mr. COCHRAN. Mr. President, what is the regular order?

The PRESIDING OFFICER. The pending amendment is amendment No. 399 by Senator DORGAN. There are other amendments which are, however, the regular order with respect to that amendment.

Mr. COCHRAN. The Dorgan amendment is the pending amendment.

The PRESIDING OFFICER. That is correct.

Mr. COCHRAN. I thank the Chair.

Mr. President, for the information of Senators, I have been asked and others have been asking the leadership about the intention of the Senate to proceed to votes on other amendments tonight. That is certainly up to the Senate. We are here open for business. We have an emergency supplemental appropriations bill pending before the Senate, and we need to move with dispatch to complete action on this bill to get the money to the Departments of Defense and State for accounts that have been depleted and that we need in the war on terror, that we need for our troops in Iraq and Afghanistan. So I hope we can proceed to further consideration of amendments that are pending. There are amendments pending. I hope Senators can cooperate with the managers and the leadership in moving this bill ahead.

I thank all Senators. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask that the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 390

Mr. OBAMA. Mr. President, I call up amendment No. 390 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Illinois [Mr. OBAMA], for himself, Mr. GRAHAM, Mr. BINGAMAN and Mr. CORZINE, proposes an amendment numbered 390.

The amendment is as follows:

> (Purpose: To provide meal and telephone benefits for members of the Armed Forces who are recuperating from injuries incurred on active duty in Operation Iraqi Freedom or Operation Enduring Freedom)
>
> At the appropriate place, insert the following:
>
> **SEC.   . BENEFITS FOR MEMBERS OF THE ARMED FORCES RECUPERATING FROM INJURIES INCURRED IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.**
>
> (a) PROHIBITION ON CHARGES FOR MEALS.—

(1) PROHIBITION.—A member of the Armed Forces entitled to a basic allowance for subsistence under section 402 of title 37, United States Code, who is undergoing medical recuperation or therapy, or is otherwise in the status of "medical hold", in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom shall not, during any month in which so entitled, be required to pay any charge for meals provided such member by the military treatment facility.

(2) EFFECTIVE DATE.—The limitation in paragraph (1) shall take effect on January 1, 2005, and shall apply with respect to meals provided members of the Armed Forces as described in that paragraph on or after that date.

(b) TELEPHONE BENEFITS.—

(1) PROVISION OF ACCESS TO TELEPHONE SERVICE.—The Secretary of Defense shall provide each member of the Armed Forces who is undergoing in any month medical recuperation or therapy, or is otherwise in the status of "medical hold", in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom access to telephone service at or through such military treatment facility in an amount for such month equivalent to the amount specified in paragraph (2).

(2) MONTHLY AMOUNT OF ACCESS.—The amount of access to telephone service provided a member of the Armed Forces under paragraph (1) in a month shall be the number of calling minutes having a value equivalent to $40.

(3) ELIGIBILITY AT ANY TIME DURING MONTH.—A member of the Armed Forces who is eligible for the provision of telephone service under this subsection at any time during a month shall be provided access to such service during such month in accordance with that paragraph, regardless of the date of the month on which the member first becomes eligible for the provision of telephone service under this subsection.

(4) USE OF EXISTING RESOURCES.—In carrying out this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private organizations, or other private entities offering free or reduced-cost telecommunications services.

(5) COMMENCEMENT.—

(A) IN GENERAL.—This subsection shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

(B) EXPEDITED PROVISION OF ACCESS.—The Secretary shall commence the provision of access to telephone service under this subsection as soon as practicable after the date of the enactment of this Act.

(6) TERMINATION.—The Secretary shall cease the provision of access to telephone service under this subsection on the date this is 60 days after the later of—

(A) the date, as determined by the Secretary, on which Operation Enduring Freedom terminates; or

(B) the date, as so determined, on which Operation Iraqi Freedom terminates.

Mr. OBAMA. Mr. President, today I am offering an amendment to the fiscal year 2005 emergency supplemental which I am pleased to announce is being cosponsored by Senators CORZINE, BINGAMAN, and GRAHAM. This amendment would meet certain needs of our injured service members in recognition of the tremendous sacrifice they have made in defense of our country.

The other day I had the opportunity to visit some of our wounded heroes at Walter Reed Army Medical Center. I know many of you have made the same trip. I heard about their visits, but there is nothing that can fully prepare you for what you see when you take that first step into the physical therapy room.

These are kids in there, our kids, the ones we watched grow up, the ones we hoped would live lives that were happy, healthy, and safe. These kids left their homes and families for a dangerous place halfway around the world. After years of being protected by their parents, these kids risk their lives to protect us. Now some of them have come home from that war with scars that may change their lives forever, scars that may never heal. Yet they sit there in the hospital so full of hope and still so proud of their country. They are the best that America has to offer, and they deserve our highest respect, and they deserve our help.

Recently, I learned that some of our most severely wounded soldiers are being forced to pay for their own meals and their own phone calls while being treated in medical hospitals. Up until last year, there was a law on the books that prohibited soldiers from receiving both their basic subsistence allowance and free meals from the military. Basically, this law allowed the Government to charge our wounded heroes for food while they were recovering from their war injuries. Thankfully, this body acted to change this law in 2003 so that wounded soldiers would not have to pay for their meals. But we are dealing with a bureaucracy here and, as we know, nothing is ever simple in a bureaucracy. So now, because the Department of Defense does not consider getting physical rehabilitation or therapy services in a medical hospital as being hospitalized, there are wounded veterans who still do not qualify for the free meals other veterans receive. After 90 days, even those classified as hospitalized on an outpatient status lose their free meals as well.

Also, while our soldiers in the field qualify for free phone service, injured service men and women who may be hospitalized hundreds or thousands of miles from home do not receive this same benefit. For soldiers whose family members are not able to take off work and travel to a military hospital, hearing the familiar voice of mom or dad or husband or wife on the other side of the phone can make all the difference in the world. Yet right now our Government will not help pay for these calls, and it will not help pay for these meals.

Now, think about the sacrifices these young people have made for their country, many of them literally sacrificing life and in some cases limb. Now, at $8.30 a meal, they could end up with a $250 bill from the Government that sent them to war, and they could get that bill every single month. This is wrong, and we have a moral obligation to fix it. The amendment I am offering today will do this.

The amendment will expand the group of hospitalized soldiers who cannot be charged for their meals to include those service members undergoing medical recuperation, therapy, or otherwise on "medical hold." The number of people affected by this amendment will be small. Only about 4,000 service members are estimated to fall under the category of non-hospitalized. The amendment is retroactive to January 1, 2005, in an effort to provide those injured service members who may have already received bills for their meals with some relief from these costs.

The amendment will also extend free phone service to those injured service members who are hospitalized or otherwise undergoing medical recuperation or therapy. I am very proud this amendment is supported by the American Legion, and I hope my colleagues will join them in that support. I ask all of my colleagues to join me in supporting this amendment. It should be something that is very simple for us to do. These are our children and they risked their lives for us. When they come home with injuries, we should be expected to provide them the best possible service and the best possible support. This is a small price to pay for those who have sacrificed so much for their country.

I want to mention and extend my thanks to the senior Senator from Alaska and my colleague from Mississippi for working with me on this issue. I am hoping that we can reach an agreement on this bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the Senator for the explanation of his amendment. There is one thing, in looking at the amendment, that I am not sure of, and I am wondering if he could advise the Senate. Does the Senator have an estimate from anyone at the Department of Defense or in the Hospital Services Agency of the Department of Defense as to what the costs of the amendment would be during the balance of this fiscal year?

Mr. OBAMA. Yes, I do. DOD currently charges soldiers $8.30 per day for meals at the nondiscounted rate. So if all the eligible soldiers ate all of their meals at military facilities through the end of this fiscal year, the amendment would cost about $10.2 million. Now, that is probably a high estimate because my expectation would be these wounded soldiers would not be eating all of their meals at the hospital. So it would probably end up being lower, but the upper threshold would be $10.2 million.

Mr. COCHRAN. I thank the Senator. I think the Senator certainly hits upon a subject that we are very sensitive about at this time. We are following very closely the situation of the servicemen who are participating in the war against terror in Iraq, Afghanistan, and elsewhere. We are proud of them. We are sorry that any of them have to be in the hospital or have to have access to services that are provided under the terms of this amendment. I would be happy to take the suggestion that is embodied in this amendment to the conference committee and try to work out an acceptable provision to be included in the final conference report and bring it back to the Senate.

So I recommend the Senate accept the amendment.

The PRESIDING OFFICER. Is there further debate?

The Senator from Illinois.

Mr. OBAMA. I thank my colleague, the Senator from Mississippi, for that offer, and I believe all of us feel the same way. These are the soldiers that are most severely wounded. We want to take the very best care of them, and I very much appreciate the consideration of the Senator from Mississippi.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 390) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. I thank the Senator and thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President. I have requests to make, on behalf of the managers of the bill, with respect to amendments that have been cleared on both sides of the aisle.

AMENDMENT NO. 352

I now call up amendment No. 352, on behalf of Mr. SALAZAR, regarding the renaming of the death gratuity.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SALAZAR, for himself and Mr. ALLARD, proposes an amendment numbered 352.

Mr. COCHRAN. Mr. President. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection. it is so ordered.

The amendment is as follows:

(Purpose: To rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation. and for other purposes)

On page 162, between lines 22 and 23, insert the following:

SEC. 1113. RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES AS FALLEN HERO COMPENSATION.

(a) IN GENERAL.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking "have a death gratuity paid" and inserting "have fallen hero compensation paid".

(2) In section 1476(a)—

(A) in paragraph (1), by striking "a death gratuity" and inserting "fallen hero compensation"; and

(B) in paragraph (2), by striking "A death gratuity" and inserting "Fallen hero compensation".

(3) In section 1477(a), by striking "A death gratuity" and inserting "Fallen hero compensation".

(4) In section 1478(a), by striking "The death gratuity" and inserting "The amount of fallen hero compensation".

(5) In section 1479(1), by striking "the death gratuity" and inserting "fallen hero compensation".

(6) In section 1489—

(A) in subsection (a), by striking "a gratuity" in the matter preceding paragraph (1) and inserting "fallen hero compensation"; and

(B) in subsection (b)(2), by inserting "or other assistance" after "lesser death gratuity".

(b) CLERICAL AMENDMENTS.—(1) Such subchapter is further amended by striking "**Death gratuity:**" each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting "**Fallen hero compensation:**".

(2) The table of sections at the beginning of such subchapter is amended by striking "Death gratuity:" in the items relating to sections 1474 through 1480 and 1489 and inserting "Fallen hero compensation:".

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 352) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 438

Mr. COCHRAN. I send to the desk an amendment on behalf of Mr. SPECTER that is technical in nature and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SPECTER, proposes an amendment numbered 438.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make a technical correction to cite the proper section intended to repeal the Department of Labor's transfer authority)

On page 220, line 12, strike "Section 101" and insert "Section 102" in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 438) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 354

Mr. COCHRAN. Mr. President, I call up amendment No. 354 on behalf of Mr. GRAHAM regarding functions of the general counsel and judge advocate general of the Air Force.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. GRAHAM, proposes an amendment numbered 354.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the implementation of certain orders and guidance on the functions and duties of the General Counsel and Judge Advocate General of the Air Force)

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON IMPLEMENTATION OF CERTAIN ORDERS AND GUIDANCE ON FUNCTIONS AND DUTIES OF GENERAL COUNSEL AND JUDGE ADVOCATE GENERAL OF THE AIR FORCE

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to implement or enforce either of the following:

(1) The order of the Secretary of the Air Force dated May 15, 2003, and entitled "Functions and Duties of the General Counsel and the Judge Advocate General".

(2) Any internal operating instruction or memorandum issued by the General Counsel of the Air Force in reliance upon the order referred to in paragraph (1).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 354) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 393

Mr. COCHRAN. Mr. President, I now call up amendment No. 393, on behalf of

Mr. KENNEDY, regarding the Veterans Health Administration facilities.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. KENNEDY, proposes an amendment numbered 393.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the limitation on the implementation of mission changes for specified Veterans Health Administration Facilities)

At the appropriate place, insert the following:

SEC. ___. IMPLEMENTATION OF MISSION CHANGES AT SPECIFIC VETERANS HEALTH ADMINISTRATION FACILITIES.

(a) IN GENERAL.—Section 414 of the Veterans Health Programs Improvement Act of 2004, is amended by adding at the end the following:

"(h) DEFINITION.—In this section, the term 'medical center' includes any outpatient clinic.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Veterans Health Programs Improvement Act of 2004 (Public Law 108-422).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 393) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 394

Mr. COCHRAN. Mr. President, I now call up amendment No. 394, on behalf of Mr. WARNER, regarding a reporting requirement.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. WARNER, proposes an amendment numbered 394.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a report on the re-use and redevelopment of military installations closed or realigned as part of the 2005 round of base closure and realignment)

On page 169, between lines 8 and 9, insert the following:

RE-USE AND REDEVELOPMENT OF CLOSED OR REALIGNED MILITARY INSTALLATIONS

SEC. 1122 (a) In order to assist communities with preparations for the results of the 2005 round of defense base closure and realignment, and consistent with assistance provided to communities by the Department of Defense in previous rounds of base closure and realignment, the Secretary of Defense shall, not later than July 15, 2005, submit to the congressional defense committees a report on the processes and policies of the Federal Government for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for re-use and redevelopment decisions.

(b) The report under subsection (a) shall include—

(1) a description of the processes of the Federal Government for disposal of property at military installations proposed to be closed or realigned;

(2) a description of Federal Government policies for providing re-use and redevelopment assistance;

(3) a catalogue of community assistance programs that are provided by the Federal Government related to the re-use and redevelopment of closed or realigned military installations;

(4) a description of the services, policies, and resources of the Department of Defense that are available to assist communities affected by the closing or realignment of military installations as a result of the 2005 round of base closure and realignment;

(5) guidance to local communities on the establishment of local redevelopment authorities and the implementation of a base redevelopment plan; and

(6) a description of the policies and responsibilities of the Department of Defense related to environmental clean-up and restoration of property disposed by the Federal Government.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 394) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. REID. Is there a pending amendment?

The PRESIDING OFFICER. There are amendments pending.

Mr. REID. I ask unanimous consent that the amendments be set aside and I be allowed to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 445

Mr. REID. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 445.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations to do their fair share to secure and rebuild Iraq)

On page 183, after line 23, add the following new section:

INTERNATIONAL EFFORTS FOR RECONSTRUCTION IN IRAQ

SEC. 2105. (a) Congress makes the following findings:

(1) The United States Armed Forces have borne the largest share of the burden for securing and stabilizing Iraq. Since the war's start, more than 500,000 United States military personnel have served in Iraq and, as of the date of the enactment of this Act, more than 130,000 such personnel are stationed in Iraq. Though the Department of Defense has kept statistics related to international troop contributions classified, it is estimated that all of the coalition partners combined have maintained a total force level in Iraq of only 25,000 troops since early 2003.

(2) United States taxpayers have borne the vast majority of the financial costs of securing and reconstructing Iraq. Prior to the date of the enactment of this Act, the United States appropriated more than $175,000,000,000 for military and reconstruction efforts in Iraq and, including the funds appropriated in this Act, the amount appropriated for such purposes increases to a total of more than $250,000,000,000.

(3) Of such total, Congress appropriated $2,475;000,000 in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559) (referred to in this section as "Public Law 108–11") and $18,439,000,000 in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1209) (referred to in this section as "Public Law 108–106") under the heading "IRAQ RELIEF AND RECONSTRUCTION FUND" for humanitarian assistance and to carry out reconstruction and rehabilitation in Iraq.

(4) The Sixth Quarterly Report required by section 2207 of Public Law 108–106 (22 U.S.C. 2151 note), submitted by the Secretary of State in April 2005, stated that $12,038,000,000 of the $18,439,000,000 appropriated by Public Law 108–106 under the heading "IRAQ RELIEF AND RECONSTRUCTION FUND" had been obligated and that only $4,209,000,000, less than 25 percent of the total amount appropriated, had actually been spent.

(5) According to such report, the international community pledged more than $13,500,000,000 in foreign assistance to Iraq in the form of grants, loans, credits, and other assistance. While the report did not specify how much of the assistance is intended to be provided as loans, it is estimated that loans constitute as much as 80 percent of contributions pledged by other nations. The report further notes that, as of the date of the enactment of this Act, the international community has contributed only $2,700,000,000 out of the total pledged amount, falling far short of its commitments.

(6) Iraq has the second largest endowment of oil in the world and experts believe Iraq has the capacity to generate $30,000,000,000 to $40,000,000,000 per year in revenues from its oil industry. Prior to the launch of United States operations in Iraq, members of the Administration stated that profits from Iraq's oil industry would provide a substantial portion of the funds needed for the reconstruction and relief of Iraq and United Nations Security Council Resolution 1483 (2003) permitted the coalition to use oil reserves to finance long-term reconstruction projects in Iraq.

(7) Securing and rebuilding Iraq benefits the people of Iraq, the United States, and the world and all nations should do their fair share to achieve that outcome.

(b) Notwithstanding any other provision of law, not more than 50 percent of the previously appropriated Iraqi reconstruction funds that have not been obligated or expended prior to the date of the enactment of this Act may be obligated or expended, as the case may be, for Iraq reconstruction programs unless—

(1) the President certifies to Congress that all countries that pledged financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora since March 2003, for the relief and reconstruction of Iraq, including grant aid, credits, and in-kind contributions, have fulfilled their commitments; or

(2) the President—

(A) certifies to Congress that the President or his representatives have made credible and good faith efforts to persuade other countries that made pledges of financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora to fulfill their commitments;

(B) determines that, notwithstanding the efforts by United States troops and taxpayers on behalf of the people of Iraq and the failure of other countries to fulfill their commitments, revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the Government of Iraq may not be used to reimburse the Government of the United States for the obligation and expenditure of a significant portion of the remaining previously appropriated Iraqi reconstruction funds;

(C) determines that, notwithstanding the failure of other countries to fulfill their commitments as described in subparagraph (A) and that revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the government of Iraq shall not be used to reimburse the United States government as described in subparagraph (B), the obligation and expenditure of remaining previously appropriated Iraqi reconstruction funds is in the national security interests of the United States; and

(D) submits to Congress a written notification of the determinations made under this paragraph, including a detailed justification for such determinations, and a description of the actions undertaken by the President or other official of the United States to convince other countries to fulfill their commitments described in subparagraph (A).

(c) This section may not be superseded, modified, or repealed except pursuant to a provision of law that makes specific reference to this section.

(d) In this section:

(1) The term "previously appropriated Iraqi reconstruction funds" means the aggregate amount appropriated or otherwise made available in chapter 2 of title II of Public Law 108-106 under the heading "IRAQ RELIEF AND RECONSTRUCTION FUND" or under title I of Public Law 108-11 under the heading "IRAQ RELIEF AND RECONSTRUCTION FUND".

(2)(A) The term "Iraq reconstruction programs" means programs to address the infrastructure needs of Iraq, including infrastructure relating to electricity, oil production, public works, water resources, transportation and telecommunications, housing and construction, health care, and private sector development.

(B) The term does not include programs to fund military activities (including the establishment of national security forces or the Commanders' Emergency Response Programs), public safety (including border enforcement, police, fire, and customs), and justice and civil society development.

AMENDMENT NO. 395

Mr. LEAHY. Mr. President, I rise in support of amendment 395. There are many Members on both sides of the aisle with strong objections to the REAL ID Act. Those of us who value our Nation's historic commitment to asylum do not want to see severe restrictions placed on the ability of asylum seekers to obtain refuge here. Those of us who value states rights side with the National Governors Association, the National Conference of State Legislatures, and the Council of State Governments in opposing the imposition of unworkable Federal mandates on State drivers license policies. Those of us who value the environment and the rule of law object to requiring the DHS Secretary to waive all laws, environmental or otherwise, that may get in the way of the construction of border fences, and forbidding judicial review of the Secretary's actions.

To include the REAL ID Act in the conference report for this supplemental would also deprive the Judiciary Committee and the Senate as a whole of the opportunity to consider and review these wide-ranging provisions.

The majority leader has indicated in recent days that the Senate will be considering immigration reform this year. The provisions in the REAL ID Act should be considered at that time and in conjunction with a broader debate about immigration. They should not be forced upon the Senate by the leadership of the other body.

I urge my colleagues to vote in favor of this resolution, which I am proud to cosponsor with Senators FEINSTEIN, BROWNBACK, ALEXANDER, and many others.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

BURMA

Mr. McCONNELL. Madam President, the United Nations Human Rights Commission adopted a resolution expressing concern with the "ongoing systematic violation of human rights" of the Burmese people. These violations include: extrajudicial killings, rape and other forms of violence persistently carried out by members of the armed forces, the continued use of torture, political arrests, forced and child labor, and systematic use of child soldiers.

While the Commission's action is welcomed, it is not enough. The United Nations Security Council must discuss and debate the immediate regional threats that country poses to its neighbors—whether from illicit narcotics, HIV/AIDS, trafficked and internally displaced persons, or refugees.

I am dismayed that both China and India reportedly objected to an "unbalanced approach" in the Commission's action against Burma.

In my view, India can—and should—play a catalytic role in fostering change in Burma. I would remind India that such objections serve only to tarnish its image as the world's largest democracy, and send the wrong message to Daw Aung San Suu Kyi, Nobel Peace Laureate and recipient of India's Jawaharlal Nehru Award for International Understanding. India should, as it did in the past, stand firmly with Burma's democrats and work to foster reconciliation between the National League for Democracy, ethnic nationalities and the illegal military junta.

On a separate matter, I want to recognize Ms. Cindy Chang in the State Department's Bureau of Legislative Affairs. Cindy works closely with the State/Foreign Operations Subcommittee, which I chair, and I want the Secretary of State to know how ably Cindy represents that Department's—and the President's—interests on the Hill. She is a star in that Bureau.

NATIONAL ASSOCIATED ALUMNAE AND ALUMNI OF THE SACRED HEART

Mr. DURBIN. Madam President, I rise today to recognize the National Associated Alumnae and Alumni of the Sacred Heart during their 35th biennial conference.

The theme of the conference is "St. Madeleine Sophie's vision of service—living our legacy," and a panel discussion will be hosted by Barat College. St. Madeleine Sophie Barat was the foundress of the Society of the Sacred Heart, and she still is a true inspiration to all who seek to follow the call of service.

The late Senator Paul Simon was my mentor when I began my political career in downstate Illinois. His wife, Jean Hurley Simon, graduated from Barat College in 1944. Since I first met Jean, I have had a special admiration for those educated in the Sacred Heart tradition.

The Associated Alumnae and Alumni of the Sacred Heart includes over 51,000 women and men educated in the Sacred Heart schools. Recently, Sacred Heart alumni have led efforts to provide relief for people in Indonesia effected by the devastating tsunami. Funds raised by Sacred Heart alumni have allowed for much-needed health and education programs in the region, including interfaith projects to house and lead activities for orphaned children.

Like Senator Simon before me, I have strongly supported higher education initiatives and access to professional development training for our elementary and secondary teachers. After all, teachers have the ability to influence, impact, and shape the citizens of tomorrow.

I know that my fellow Senators will join me in commending the Sacred Heart alumni for their legacy of service. I am confident that this proud history and tradition will continue in the spirit of St. Madeleine Sophie for years to come.

PROTECT OUR COMMUNITIES, NOT THE GUN INDUSTRY

Mr. LEVIN. Madam President, it has been reported that the Senate may consider the misnamed Protection of Lawful Commerce in Arms Act in the near future. I was pleased that this legislation was defeated during the 108th Congress, and I continue to oppose its passage.

This bill would rewrite well-accepted principles of liability law, providing the gun industry legal protections not enjoyed by other industries. It would grant broad immunity from liability even in cases where gross negligence or recklessness led to someone being injured or killed. Enactment of this special interest legislation for the gun industry would also lead to the termination of a wide range of pending and prospective civil cases, depriving gun violence victims with legitimate cases of their day in court.

It would be all the more irresponsible for the Senate to pass the gun industry immunity legislation while also continuing to ignore many gun safety issues that are critically important to the law enforcement community. Recent editorials in major newspapers around the country have highlighted Congress' inability to enact common sense gun safety legislation. An editorial from Monday's edition of the Los Angeles Times stated: Over the last four years, the president and his congressional allies have repudiated or quietly eviscerated key gun laws and regulations. Now they are poised to shield firearms makers and sellers from nearly all damage claims when their products kill or maim.

Thus far, Congress has failed to act to reauthorize the assault weapons ban that expired on September 13, 2004. This inaction allowed criminals and terrorists potential easy access to many of the most powerful and deadly firearms manufactured. In addition, Congress has failed to close a loophole that allows individuals on terrorist watch lists to buy these weapons and has failed to pass legislation that would, at the very least, require a background check for individuals attempting to buy the previously banned assault weapons at gun shows.

Rather than considering a bill to protect members of the gun industry from liability, we should help protect our families and communities by addressing the loopholes that potentially allow known and suspected terrorists to legally purchase military style firearms within our own borders. I again urge my colleagues to take up and pass common sense gun safety legislation that will address these loopholes and the threats they pose.

I ask unanimous consent that the April 11, 2005 Los Angeles Times editorial titled "Remember Gun Control?" be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Apr. 11, 2005]

REMEMBER GUN CONTROL?

After four years of George W. Bush, the notions that some people might be too dangerous or unstable to trust with a firearm or that assault weapons do not belong in civilized society are deader than a wild turkey in hunting season.

During Bush's first campaign, a National Rifle Assn. leader quipped, "If we win, we'll have a president where we work out of their office." How right he was.

Over the last four years, the president and his congressional allies have repudiated or quietly eviscerated key gun laws and regulations. Now they are poised to shield firearms makers and sellers from nearly all damage claims when their products kill or maim. Not only is this a gift no other industry enjoys, it's a truly bad idea that even gun owners have reason to oppose.

Last year, Republican congressional leaders simply ran out the clock on the 10-year-old federal assault gun ban, refusing to even call a vote on renewing it despite steady popular support for the law. Bush, who once claimed that he supported the ban, refused to make so much as a phone call to his House or Senate allies to keep it alive. With it died the ban on domestically made ammunition clips with more than 10 rounds, a boon for any disgruntled employee, terrorist or high school student who wants to mow down a crowd. The president also signed a bill that requires the destruction within 24 hours of all records from background checks of gun buyers. And Congress required the Bureau of Alcohol, Tobacco, Firearms and Explosives to keep secret the data that tracks weapons used in crimes.

Meanwhile, a Government Accountability Office study examining FBI and state background-check records found that 35 people whose names appeared on terrorism watch lists were able to buy a gun. Incredibly, a would-be buyer's presence on a watch list does not disqualify him or her from buying a firearm. Because background-check data now must be promptly destroyed, it is impossible to know how many more terrorism suspects might be lawfully armed.

The immunity bill, introduced by Sen. Larry E. Craig (R-Idaho) and Rep. Cliff Stearns (R-Fla.), would protect gun manufacturers and sellers from damage suits by victims of gun violence. It would even block injury suits from gun owners. That means gun owners can't sue if poorly made handguns explode in their hands or fire unintentionally. In many instances, the bill would shield gun dealers who allow criminals to buy a firearm, by severely weakening the ATF's ability to shut down unscrupulous dealers.

This reckless measure, long on the NRA's wish list, has come before Congress before, but enough lawmakers balked. This time, emboldened by last November's GOP victories, there looks to be less resistance. Senate Majority Leader Bill Frist (R-Tenn.) says he's ready to call for a floor vote any time. Unless voters speak up.

TRIBUTE TO DR. MAURICE HILLEMAN

Mr. BAUCUS. Madam President, I rise today to memorialize the life and accomplishments of Dr. Maurice Hilleman, a renowned microbiologist and native son of Montana.

Dr. Maurice R. Hilleman dedicated his life to developing vaccines for mumps, measles, chickenpox, pneumonia, meningitis and other diseases, saving tens of millions of lives. He died on Monday at a hospital in Philadelphia at the age of 85.

Raised on a farm in Montana, Dr. Hilleman credited much of his success to his boyhood work with chickens, whose eggs form the foundation of so many vaccines. Much of modern preventive medicine is based on Dr. Hilleman's work, though he never received the public recognition of Salk, Sabin or Pasteur. He is credited with having developed more human and animal vaccines than any other scientist, helping to extend human life expectancy and improving the economies of many countries.

According to two medical leaders, Dr. Anthony S. Fauci, director of the National Institute of Allergy and Infectious Diseases, and Dr. Paul A. Offit, chief of infectious diseases at Children's Hospital in Philadelphia, Dr. Hilleman probably saved more lives than any other scientist in the 20th century. "The scientific quality and quantity of what he did was amazing," Dr. Fauci is quoted as saying. "Just one of his accomplishments would be enough to have made for a great scientific career. One can say without hyperbole that Maurice changed the world with his extraordinary contributions in so many disciplines: virology, epidemiology, immunology, cancer research and vaccinology."

Dr. Hilleman developed 8 of the 14 vaccines routinely recommended: measles, mumps, hepatitis A, hepatitis B, chickenpox, meningitis, pneumonia and Haemophilus influenzae bacteria. He also developed the first generation of a vaccine against rubella, also known as German measles. The vaccines have virtually vanquished many of the once common childhood diseases in developed countries.

In addition, Dr. Hilleman overcame immunological obstacles to combine vaccines so that one shot could protect against several diseases, like the MMR vaccine for measles, mumps and rubella. He developed about 40 experimental and licensed animal and human vaccines, mostly with his team from Merck of Whitehouse Station, NJ His role in their development included lab work as well as scientific and administrative leadership.

And as a sign of his humility, Dr. Hilleman routinely credited others for their roles in advances, according to his colleagues.

Vaccine development is complex, requiring an artistry to safely produce large amounts of weakened live or dead microorganisms. Dr. Offit once said, "Maurice was that artist: no one had the green thumb of mass production that he had." The hepatitis B vaccine, licensed in 1981, is credited as the first to prevent a human cancer: a liver cancer, known as a hepatoma, that can develop as a complication of infection from the hepatitis B virus.

One of Dr. Hilleman's goals was to develop the first licensed vaccine against any viral cancer. He achieved it in the early 1970s, developing a vaccine to prevent Marek's disease, a lymphoma cancer of chickens caused by a member of the herpes virus family. Preventing the disease helped revolutionize the economics of the poultry industry. Dr. Hilleman's vaccines have also prevented deafness, blindness and other permanent disabilities among millions of people, a point made in 1988 when President Ronald Reagan presented him with the National Medal of Science, the Nation's highest scientific honor.

Because scientific knowledge about viruses was so limited when he began his career, Dr. Hilleman said that trial and error, sound judgment and luck drove much of his research. Luck played a major role in the discovery of adenoviruses. Dr. Hilleman flew a team to Missouri to collect specimens from troops suffering from influenza. But by the time his team arrived, influenza had died out. Fearing that he would be fired for an expensive useless exercise, Dr. Hilleman seized on his observation of the occurrence of a fresh outbreak of a different disease. His team discovered three new types of adenoviruses among the troops.

In the early 1950s, he made a discovery that helps prevent influenza. He detected a pattern of genetic changes that the influenza virus undergoes as it mutates. The phenomenon is known as drift—minor changes—and shift—major changes. Vaccine manufacturers take account of drift in choosing the strains of influenza virus included in the vaccines that are freshly made each influenza season. Shifts can herald a large outbreak or pandemic of influenza, and Dr. Hilleman was the first to detect the shift that caused the 1957 Asian influenza pandemic. He read an article in the New York Times on April 17, 1957, about influenza among infants in Hong Kong—cases that had escaped detection from the worldwide influenza surveillance systems. At the time, he directed the central laboratory for worldwide military influenza surveillance and was sure that the cases represented the advent of an influenza pandemic. So he immediately sent for specimens from Hong Kong and helped isolate a new strain of influenza virus. He also demanded that breeders keep roosters that would otherwise have been slaughtered so they could fertilize enough eggs to prepare 40 million doses of influenza to protect Americans against the 1957 influenza strain.

Standing tall at six-foot-one and wearing reading glasses that rested on the tip of his nose, Dr. Hilleman described himself as a renegade. He often participated in scientific meetings, where he could be irascible while amusing his colleagues with profane asides. At one of many meetings with this physician-reporter, a Thanksgiving Day dinner during a conference at the World Health Organization in Geneva in the 1980s, Dr. Hilleman said he was driven by a goal to get rid of disease and by a belief that scientists had to serve society.

Maurice Ralph Hilleman was born on Aug. 30, 1919, in Miles City, MT. His mother and twin sister died during his birth. In 1937, he went to work in the local J. C. Penney's store where he helped cowpokes, as he described his customers, pick out chenille bathrobes for their girlfriends, and he was well on the way to a career in retailing until his oldest brother suggested that he go to college. After graduating from Montana State University in 1941, he received his Ph.D. in microbiology from the University of Chicago and then joined E. R. Squibb & Sons. There, he developed a vaccine against Japanese B encephalitis to protect American troops in the World War II Pacific offensive. In 1948, he moved to the Walter Reed Army Medical Center and stayed until 1957, when Vannevar Bush, then chairman of Merck and a former director of the Federal Office of Scientific Research and Development in World War II, persuaded him to direct a virus research program for the drug company.

After retiring as senior vice president for Merck research laboratories in 1984, Dr. Hilleman continued to work on vaccines, saying they were needed for at least 20 diseases, including AIDS. Dr. Hilleman is survived by his wife, Lorraine, a retired nurse; two daughters, Jeryl Lynn of Palo Alto, CA., and Kirsten J. of New York City; two brothers, Victor, of Fontana, CA., and Norman, of Santa Barbara, CA.; and five grandchildren. His daughter Jeryl Lynn is at least in part responsible for the mumps vaccine. In 1963, when her salivary glands started to swell with the disease, Dr. Hilleman swabbed her throat and went on to isolate the virus. He then weakened it and within 4 years had produced the now-standard mumps vaccine. The weakened strain bears her name.

Mr. President, it is an honor for me to pay my respects to such a great and accomplished man as Dr. Maurice Hilleman. And it is an honor for me to call him a fellow Montanan.

ADDITIONAL STATEMENTS

100 YEARS OF EXEMPLARY SERVICE

• Mr. INOUYE. Mr. President, on April 15, the U.S. Army Corps of Engineers, Honolulu Engineer District, HED, will celebrate 100 years of exemplary service to Hawaii, the Pacific region, the U.S. military and the Nation.

For an entire century, the District has served with pride and distinction. I have personally witnessed their hard work and dedication to improve the lives of our fellow citizens in many ways. They have never failed to answer the call.

The District has had a significant impact on the ability of our servicemen and women to fight the global war on terror; it has bolstered the region's economy and worked to enhance the safety of communities in and about waterways and the functionability of the many major harbors in my home State of Hawaii. In everything they do they safeguard the environment.

From civil works projects navigation, flood control and shore protection to building and maintaining the infrastructure for our military personnel, the Honolulu District is proud of its service.

The U.S. Army Corps of Engineers' missions in the Pacific region have expanded exponentially since the unit's conception in 1905 when LT John Slattery was designated as Honolulu District Engineer on the Island of Oahu.

The mission of the Twelfth Lighthouse District was to design and construct lighthouses for navigation, acquire land for military fortifications, improve the harbors and expand the Corps' services to other Pacific islands.

In its first 100 years, the Honolulu District has supported the military in peace and in war, helped protect the island from enemies and forces of nature, protected the environment and wetlands, and added to Hawaii's economic growth.

HED's legacy includes: the creation of Sand Island; the acquisition of Fort DeRussy area in Waikiki; the expansion of Honolulu Harbor; the repair of Hickam, Wheeler and Pearl Harbor airfields after the December 1941 attack; the construction of the National Memorial Cemetery of the Pacific at Punchbowl, the Tripler Army Medical Center, the Hale Koa Hotel and numerous military and federal construction projects; and the creation of the Kaneohe-Kailua Dam, as well as a host of disaster mitigation and assistance measures.

At the beginning of the 20th century, HED constructed six deep-draft harbors on the five major Hawaiian Islands and three crucial lighthouses for navigation.

Under Slattery's command, the District began transforming the swampy coral reef used as a quarantine station in Honolulu Harbor into what is now known as Sand Island. Lt. Slattery's contributions are honored today with the Lt. John R. Slattery Bridge which connects Sand Island with the City of Honolulu.

He later purchased the 74-acre Fort DeRussy area in Waikiki for just $2,700 an acre for use as a military fortification. At the time, the land was little more than a swampy parcel. Today the area provides a valuable green oasis in the heart of Waikiki.

Throughout the 20th century, HED supported Oahu's defense by building a multitude of coastal fortifications including Pearl Harbor, Forts Ruger, Armstrong, Weaver, Barrette and Kamehameha as well as Batteries Randolph, Williston, Hatch, and Harlow.

Changes in technology and the approach of World War I changed HED's missions. Batteries and forts were supplemented with artillery fire control and submarine mine defense systems.

As cars began replacing horse-drawn wagons, HED built new roads and tunnels to transport equipment and troops. The District enlarged Honolulu Harbor to 1,000 feet long and 800 feet wide—a critical project because the newly-created Panama Canal had transformed Honolulu into a major port-of-call for ships needing coal and supplies.

The District's role in the Pacific increased dramatically during World War II. At the height of the war, HED employed more than 26,000 people. Not only was the District creating the new airfield ferry routes and repairing the damaged airfields at Hickam, Wheeler and Pearl Harbor, but the District was also tasked with additional responsibilities beyond its normal realm.

The District was suddenly responsible for determining shipping priorities in the harbor; converting sugarcane and pineapple plantations to vegetable farms; organizing a rationing program for oil and other consumer goods; camouflaging equipment and landmarks; building trenches and air raid shelters; erecting radar stations and excavating extensive underground rooms and tunnels for ammunition storage.

Before war was declared, the District had been creating a new Airfield Ferry Route System. The original route from the Philippines, Marianas, Wake Island, Midway, Hawaii to California was considered vulnerable to Japanese attack. New air ferry routes to the east and south were necessary to the war effort and the military buildup in Australia.

Building seven runways and support facilities on small, remote islands presented a number of challenges involving materials, manpower and water shortages, communication, transportation and geographical topography. The southern route, from California, Hawaii, Christmas, Canton, Fiji, New Caledonia to Australia and the eastern route, from Christmas, Penrhyn, Aitutaki, Tongatabu, Norfolk to Sydney, were finished by the 1-year anniversary of the attack on Pearl Harbor—an impressive accomplishment by any standard.

When the war ended, HED had constructed 69 miles of runways and taxiways, and 2,700,000 square yards of aircraft parking area.

Although the District's workload diminished after the war, the post-war years were anything but quiet as HED continued to supply engineering troops overseas and to dispose of real estate on the islands.

The Corps was also busy with major endeavors including construction of Tripler Army Medical Center, the National Memorial Cemetery of the Pacific at Punchbowl, and flood control and shore protection projects critical to the safety and future enjoyment of many communities.

Tripler Army Medical Center, commonly known as the "Pink Lady," was completed in 1948 at a cost of $40 million. The 14-story, 1,500-bed hospital was an extensive project featuring 12 separate buildings—each constructed separately to make the Medical Center earthquake-resistant. Today, Tripler continues serving military members and their families from around the Pacific, as well as Hawaii's veterans and military retirees.

During the 1960s and 1970s, new Federal policies further expanded HED's duties. The National Environmental Policy Act of 1969 required the Corps to prepare environmental impact statements, EIS, on all proposed federal actions affecting the environment. The Clean Water Act of 1977 brought changes to the Corps' regulatory mission and required the Corps to issue permits for all dredged or fill material. The Corps was now responsible for all the nation's water and wetlands—a scope that now stretches far beyond navigable waters. This began the Corps' mission as "Stewards of the Environment."

The 1970s were also a time of internal change for the District. In 1973, the functions of the Pacific Ocean Division and the Honolulu Engineer District were merged to form a single operating division. The Division moved from Fort Armstrong to its present location at Fort Shafter on Oahu.

Civil works and capital improvement programs expanded to Guam, American Samoa, Kwajalein and the Commonwealth of the Northern Mariana Islands. Main projects on Oahu included building military housing and improving facilities at Hickam AFB, Wheeler, Schofield, Aliamanu and Fort Shafter.

In 1973, HED began construction of the Hale Koa Military Rest and Recreational Hotel at Fort DeRussy in Waikiki. The original highrise hotel tower has 416 rooms, 15 floors and was built for $15.7 million.

Nearby Battery Randolph was transformed into the U.S. Army Museum. The second floor of the museum today houses the U.S. Army Corps of Engineers Pacific Regional Visitors Center.

The Corps' responsibilities were further expanded in 1980 with the addition of an Emergency Management Division. In July 2002, HED disaster recovery specialists provided support in the wake of Typhoon Chataan. Just 6 months later, HED responded swiftly in December 2002 when Pacific Ocean Division disaster recovery specialists were called upon and arrived 2 days after Super Typhoon Pongsona devastated Guam with 184-mph winds. Within 2 weeks, more than 100 members from all eight Corps of Engineers divisions were on the ground to execute a $20 million in disaster cleanup.

In the fall of 2004, HED sent emergency management teams and manpower to Florida, Louisiana, Alabama and South Carolina in response to the devastation by Hurricanes Ivan, Charley, and Frances.

HED today continues to serve a variety of missions in a region of 12 million square miles from Hawaii to Micronesia an area of operations spanning five time zones, the equator and the international dateline. This they have done with the utmost of professionalism, integrity and an unwavering commitment to service.

I am truly honored to have the Honolulu Engineer District in my home State. They serve as "America's Engineers in the Pacific." I have no doubt that they will continue their service and legacy with pride and aloha for the next hundred years and beyond. Happy Birthday. Congratulations on a job well done. On behalf of a grateful Nation, thank you for your service.•

MR. RALPH DREES

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. Ralph Drees of Northern KY, who was recently honored with one of the "Movers and Shakers" awards for the Greater Cincinnati area. Mr. Drees' life accomplishments and dedication to Commonwealth of Kentucky have given me reason to be proud.

Mr. Drees was born in 1934 and grew up in Wilder, KY. After graduating from Newport Catholic High School in 1952, he was drafted and went on to serve in the Army Corps of Engineers. At the age of 23 he returned home to Kentucky to join his father and brother in the family business. This business, the Drees Company, has grown to become the largest privately held company within the greater Cincinnati area.

Throughout his life, Mr. Drees has always been active in civic affairs in Northern Kentucky. He's served as an Erlanger councilman, president of Home Builders Association of Northern Kentucky and member of the Northern Kentucky Area Planning Commission. In 1990, he was named the Northern Kentucky Chamber of Commerce's Business Person of the year.

The "Movers and Shakers" award of Northern Kentucky is an annual award presented to honor those within the Greater Cincinnati region who stand as an example for all. It is presented by the Kentucky Enquirer, the Sales and Marketing Council of Northern Kentucky, The Home Builders Association of Northern Kentucky and The Kentucky Post.

As a U.S. Senator from Kentucky, I appreciate the devotion Mr. Drees has shown over the years to the citizens of Kentucky. I commend his efforts and hope his example of dedication and hard work will serve as an inspiration to the entire State.•

HONORING DR. PATRICK J. SCHLOSS

• Mr. JOHNSON. Mr. President, I rise today to publicly recognize the inauguration of Dr. Patrick J. Schloss as the 15th President of Northern State University in Aberdeen, SD.

A dedicated scholar, diligent educator and attentive family man, Dr. Schloss certainly deserves this great honor and responsibility. After obtaining both his bachelors degree in special education and his masters degree in counseling from Illinois State University, Patrick went on to earn his doctorate in rehabilitation psychology from the University of Wisconsin.

Dr. Schloss is a man of great scholarship and knowledge. A prolific writer and frequent contributor to professional literature, his writings about special education methods relating to vocational education and community integration are studied in colleges and universities throughout the Nation.

Prior to joining the faculty of Bloomsburg University in Pennsylvania, Dr. Schloss held numerous administrative and academic positions at the University of Missouri and Pennsylvania State University. While at Bloomsburg, he served as assistant vice president and dean of graduate studies from 1994 until 2000, when he was appointed provost and vice president for academic affairs. Under Patrick's direction, Bloomsburg's enrollment not only increased 12 percent, but the university launched its undergraduate engineering and doctoral programs, as well.

In addition to his passion for education, Dr. Schloss served as president of the Pennsylvania Association of Graduate Schools, and also held board, committee, and task force appointments on behalf of the Council for Exceptional Children and the Association for Retarded Citizens.

It is an honor for me to share Dr. Schloss's accomplishments with my colleagues and to publicly commend him for his extraordinary academic career. Serving as president of Northern State University is an honor he richly deserves, and I am certain he will prove to be a tremendous asset to the university and the entire Aberdeen community. On behalf of all South Dakotans, I would like to congratulate Dr. Schloss and wish him all the best.•

HONORING THE SPEARFISH HIGH SCHOOL PARTICIPANTS IN THE "WE THE PEOPLE" COMPETITION

• Mr. JOHNSON. Mr. President, on April 30–May 2, 2005, more than 1,200 students from across the United States will visit Washington, DC, to compete in the national finals of We the People: The Citizen and the Constitution Program. This is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from Spearfish High School will represent the state of South Dakota in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience, they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The 3-day We the People national competition is modeled after hearings in the U.S. Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, develop, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges, who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

The class from Spearfish High School is currently preparing for their participation in the national competition in Washington, DC. It is inspiring to see these young people advocate the fundamental ideals and principles of our Government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles that we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. Congratulations to Bethany Baker, Brandon Bentley, Hannah Bucher, Meghan Byrum, Joe Cooch, Jenna Eddy, Elise Foltz, Amber Ginter, Meggan Joachim, Frankelly Martinez Garcia, Lauren Meyers, Jason Nies, Emily Oldekamp, Aly Oswald, Jessica Richey, Lauren Schempf, Lindsay Senden, Janette Sigle, Nick Smith, Brent Swisher, Calli Tetrault, Kaysie Tope, and their teacher, Patrick Gainey. I wish these young constitutional scholars the very best at the We the People national finals.•

RECOGNIZING THE 50TH ANNIVERSARY OF THE DENVER REGIONAL COUNCIL OF GOVERNMENTS (DRCOG)

• Mr. SALAZAR. Mr. President, I rise today to recognize a model of intergovernmental cooperation from my home State of Colorado: the Denver Regional Council of Governments, known as DRCOG.

DRCOG is a nonprofit, cooperative effort of the 51 county and municipal governments in the Denver metropolitan area, representing two and a half million residents, with another million expected by 2030, across eight counties: Adams, Arapahoe, Boulder, Broomfield, Clear Creek, Denver, Douglas, Gilpin and Jefferson. It was founded 50 years ago as the Inter-County Regional Planning Association, conceived as a place where local officials could work cooperatively to solve the region's problems. And it is a voluntary organization—the members are choosing to work together for mutual benefit.

DRCOG champions efforts in a number of areas, including services for seniors, transportation and commuter solutions, public safety training and testing, where it has repeatedly benefited from the highly successful COPS Program, as well as regional growth and water quality plans. It has focused on long-term plans to solve these issues, including developing understandable, fair and objective project selection processes for regional projects eligible for Federal, State and local funds and a long-term regional growth plan.

Last night was DRCOG's Annual Awards Dinner, where it will hand out a number of awards, including the John V. Christensen Memorial Award. Named after one of DRCOG's cofounders, the late John Christensen was a county commissioner for Arapahoe County and one of the Denver area's biggest proponents of cooperative problem solving for the metro area. The Christensen award will go tonight to a regionalist who has displayed outstanding commitment to working for the region's common good. Past award recipients have included Colorado State legislators, mayors, county commissioners, as well as county planners, regional leaders, and others during the award's 32-year history.

DRCOG has strived to speak, as its motto says, "With One Voice." Its members have eschewed partisanship and ideological bickering to focus on a single goal: Cooperative problem solving that benefits all of the people of the Denver metro area. By coming to the table with the commitment to work towards a common solution, DRCOG has exemplified what we seek in our leaders: Thoughtful consideration and deliberate action.

DRCOG is exactly the kind of effort to which we all aspire, a place for ideas and insight, for working in a nonpartisan fashion across jurisdictional lines. I applaud the accomplishments and efforts of the Denver Regional Council of Governments and look forward to its continued success.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 8. An act to make the repeal of the estate tax permanent.

H.R. 483. An act to designate a United States courthouse in Brownsville, Texas, as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

H.R. 787. An act to designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse".

H.R. 1463. An act to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building".

At 3:41 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

ENROLLED BILLS SIGNED

At 4:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bill:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 5:25 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 483. An act to designate a United States courthouse in Brownsville, Texas, as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse"; to the Committee on Environment and Public Works.

H.R. 1463. An act to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building"; to the Committee on Environment and Public Works.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1697. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "CORRECTION: Modification of Restricted Areas 5103A, 5103B, and 5103C, and Revocation of Restricted Area 5103D; McGregor, NM" ((RIN2120–AA66) (2005–0054)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Colored Federal Airway; AK" ((RIN2120–AA66) (2005–0045)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of VOR Federal Airway 623" ((RIN2120–AA66) (2005–0044)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D and E Airspace; Olive Branch, MS and Amendment of Class E Airspace; Memphis TN" ((RIN2120–AA66) (2005–0043)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revocation of Class D Airspace; South Lake Tahoe, CA" ((RIN2120–AA66) (2005–0042)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; Wichita Colonel James Jabara Airport, KS" ((RIN2120–AA66) (2005–0050)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Independence, KS" ((RIN2120–AA66) (2005–0051)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1704. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; Lawrence, KS" ((RIN2120–AA66) (2005–0052)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1705. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, IA " ((RIN2120–AA66) (2005–0067)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1706. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, KS" ((RIN2120–AA66) (2005–0073)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1707. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Point Lay, AK" ((RIN2120–AA66) (2005–0063)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1708. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Ames, IA" ((RIN2120–AA66) (2005–0072)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1709. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Ankeny, IA" ((RIN2120–AA66) (2005–0071)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1710. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E, E2, and E4 Airspace; Columbus Lawson AAF, GA, and Class E5 Airspace; Columbus, GA: CORRECTION" ((RIN2120–AA66) (2005–0074)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1711. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Ketchikan, AK" ((RIN2120–AA66) (2005–0062)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1712. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Presque Isle, ME" ((RIN2120–AA66) (2005–0079)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1713. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The Cessna Aircraft Company Models C208 and C208B Airplanes; REQUEST FOR COMMENTS" ((RIN2120–AA64) (2005–0172)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1714. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aging Aircraft Safety; DISPOSITION OF COMMENTS" ((RIN2120–AE42) (2005–0001)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1715. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park" (RIN2120–AG34) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1716. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Repair Stations; DELAY OF EFFECTIVE DATE" (RIN2120–AI60) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1717. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Passenger Facility Charge Program, Non–Hub Pilot Program and Related Changes" (RIN2120–AI15) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1718. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice in FAA Civil Penalty Actions; technical amendment" (RIN2120–ZZ72) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1719. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Emergency Medical Equipment" (RIN2120–AI55) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1720. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice in FAA Civil Penalty Actions; technical amendment" ((RIN2120–ZZ72) (2005–0002)) received on April 7, 2005 ; to the Committee on Commerce, Science, and Transportation.

EC–1721. A communication from the Executive Director, Air Transportation Stabilization Board, transmitting, pursuant to law , the report of a rule entitled "14 CFR Chapter VI, Subchapter B, Air Transportation Stabilization Board, PART 1310, Air Carrier Guarantee Loan Program Administrative Regulations and Amendment or Waiver of a Term or Condition of a Guaranteed Loan" (RIN1505–AA98) received March 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1722. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Amendments Affecting the Country Scope of the End-User/End-Use Controls in Section 744.4 of the Export Administration Regulations (EAR)" (RIN0694–AD15) received on April 11, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1723. A communication from the Director, Industry Programs , International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Steel Import Monitoring and Analysis System" (RIN0625–AA64) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1724. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NMFS is Prohibiting Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska (GOA)" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1725. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Yellowfin Sole by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1726. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Pacific Cod to Catcher/Processors Using Trawl Gear in Bering Sea and Aleutian Islands Management Area" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1727. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Pacific Cod to Catcher Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1728. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Pacific Cod by Specified Sectors in the Western and Central Regulatory Areas of the Gulf of Alaska (GOA)" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1729. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Pacific Cod by Catcher/Processor Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1730. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Notice of Fishing Season Dates for the Sablefish Fixed Gear Individual Fishing Quota (IFQ) Program" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1731. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NMFS is Prohibiting Directed Fishing for Pacific Cod by Catcher Vessels Less than 60 ft (18.3 meters (m)) length overall (LOA) Using Jig or Hook-

and-Line Gear in the Bogoslof Pacific Cod Exemption Area of the Bering Sea and Aleutian Islands Management Area" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1732. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Groundfish by Vessels Using Non-Pelagic Trawl Gear in the Red King Crab Savings Subarea" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1733. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NMFS is Prohibiting Directed Fishing for Pacific Cod by Catcher Vessels 60 Feet (18.3 Meters (m)) Length Overall and Longer Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area (BSAI)" received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1734. A communication from the Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications, General Category Effort Controls, and Catch-and-Release Provision" ((RIN0648) (I.D. No. 072304B)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1735. A communication from the Secretary, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled "Update of Existing and Addition of New Filing Fees (Docket No. 04–11) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1736. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Angling Category Closure" (I.D. No. 030405B) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1737. A communication from the Secretary of the Commission , Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "16 CFR Parts 801, 802 and 803 Premerger Notification: Reporting and Waiting Period Requirements; Final Rule and Confirming Changes to HSR Formal Interpretations (Issuance of Formal Interpretation 18 and Repeal of Formal Interpretation 15)" (RIN3084-AA91) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1738. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Evergreen, Alabama, and Shalimar, Florida" (MB Docket No. 04-219) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1739. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Chillicothe, Dublin, Hillsboro, and Marion, Ohio)" (MB Docket No. 02-266, RM-10557) received on April 7, 2005 ; to the Committee on Commerce, Science, and Transportation.

EC–1740. A communication from the Acting Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278 Second Order on Reconsideration" (FCC 05–28) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1741. A communication from the Acting Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order on Reconsideration" (FCC 05–48) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1742. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Gunnison, Crawford, and Olathe, Breckenridge, Eagle, Fort Morgan, Greenwood Village, Loveland, and Stasburg, CO, and Laramie, WY" (MB Docket No. 03-144) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1743. A communication from the Secretary of Commerce, transmitting, a report of proposed legislation relative to the U .S. Ocean Action Plan; to the Committee on Commerce, Science, and Transportation.

EC–1744. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Administration's 2005 annual report entitled "Atlantic Highly Migratory Species"; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment:

S. 119. A bill to provide for the protection of unaccompanied alien children, and for other purposes.

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 555. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the Records on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nominations beginning with Curtis L. Sumrok and ending with Jed R. Boba, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005.

Coast Guard nominations beginning with Michael T. Cunningham and ending with David K. Young, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005.

National Oceanic and Atmospheric Administration nominations beginning with Paul Andrew Kunicki and ending with Lindsey M. Vandenberg, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

By Mr. SPECTER for the Committee on the Judiciary.

Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia Circuit.

James C. Dever III, of North Carolina, to be United States District Judge for the Eastern District of North Carolina.

Robert J. Conrad, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

By Mr. ROBERTS for the Select Committee on Intelligence.

*John D. Negroponte, of New York, to be Director of National Intelligence.

*Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENSIGN (for himself, Mr. AKAKA, and Mr. VOINOVICH):

S. 780. A bill to amend title 10, United States Code, to establish the position of Deputy Secretary of Defense for Management, and for other purposes; to the Committee on Armed Services.

By Mr. CRAPO:

S. 781. A bill to preserve the use and access of pack and saddle stock animals on land administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S. 782. A bill to amend title 37, United States Code, to authorize travel and transportation for family members of members of the Armed Forces hospitalized in the United States in connection with non-serious illnesses or injuries incurred or aggravated in a contingency operation, and for other purposes; to the Committee on Armed Services.

By Mr. KYL (for himself, Mr. CORNYN, and Mr. COBURN):

S. 783. A bill to repeal the sunset on the 2004 material-support enhancements, to increase penalties for providing material support to terrorist groups, to bar from the

United States aliens who have received terrorist training, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMAS (for himself and Mrs. Lincoln):

S. 784. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for himself and Mrs. Lincoln):

S. 785. A bill to amend the Internal Revenue Code of 1986 to modify the small refiner exception to the oil depletion deduction; to the Committee on Finance.

By Mr. SANTORUM:

S. 786. A bill to clarify the duties and responsibilities of the National Weather Service, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER (for himself, Mr. Kennedy, Mrs. Clinton, Mr. Levin, Mr. Durbin, Mr. Sarbanes, Mr. Kerry, Mr. Carper, Mrs. Feinstein, Ms. Mikulski, Mr. Lautenberg, and Mr. Salazar):

S. 787. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 788. A bill to suspend temporarily the duty on Liquid Crystal Device panel assemblies for use in Liquid Crystal Device direct view televisions; to the Committee on Finance.

By Mr. SANTORUM:

S. 789. A bill to suspend temporarily the duty on Liquid Crystal Device panel assemblies for use in Liquid Crystal Device projection type televisions; to the Committee on Finance.

By Mr. SANTORUM:

S. 790. A bill to suspend temporarily the duty on electron guns for high definition cathode ray tubes; to the Committee on Finance.

By Mr. SANTORUM:

S. 791. A bill to suspend temporarily the duty on flat panel screen assemblies for use in televisions; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. Specter, Mr. Dayton, Mr. Coleman, Mr. Conrad, Mr. Johnson, Mr. Lugar, and Mr. Durbin):

S. 792. A bill to establish a National sex offender registration database, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN:

S. 793. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN:

S. 794. A bill to amend title 23, United States Code, to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself and Mr. Warner):

S. 795. A bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements; to the Committee on Environment and Public Works.

By Ms. MURKOWSKI:

S. 796. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into law; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. MURKOWSKI (for herself and Mr. Stevens):

S. 797. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the status of certain communities in the western Alaska community development quota program; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself, Mr. Corzine, Mr. Dayton, Mr. Durbin, Mr. Lautenberg, Ms. Mikulski, and Mrs. Murray):

S. 798. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 799. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself, Mr. Lieberman, Mr. Voinovich, Mr. Akaka, Ms. Landrieu, and Mr. Durbin):

S. 800. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Florida:

S. 801. A bill to designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the "John Milton Bryan Simpson United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself, Mr. Baucus, Mr. Burns, Mr. Johnson, Mr. Roberts, Mr. Bingaman, Mr. Allard, Mr. Wyden, Mr. Smith, Mr. Hagel, and Mr. Brownback):

S. 802. A bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry .

By Mr. COLEMAN (for himself and Mrs. Clinton):

S. 803. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 804. A bill to amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts, and for other purposes; to the Committee on Finance.

By Mr. VITTER:

S. 805. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the area of a Presidentially declared disaster to include the outer Continental Shelf; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CRAIG (for himself and Mr. Akaka):

S. 806. A bil to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title; to the Committee on Veterans' Affairs.

By Mr. CRAIG (for himself, Mr. Crapo, and Mr. Smith):

S. 807. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Ms. Collins):

S. 808. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. Corzine, and Mrs. Boxer):

S. 809. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 810. A bill to regulate the transmission of personally identifiable information to foreign affiliates and subcontractors; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mrs. Feinstein, Mr. Thune, Mr. Talent, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Baucus, Mr. Brownback, Mr. Burns, Mr. Burr, Mr. Chambliss, Mr. Coburn, Mr. Coleman, Ms. Collins, Mr. Cornyn, Mr. Craig, Mr. Crapo, Mr. DeWine, Mr. Domenici, Mr. Ensign, Mr. Enzi, Mr. Frist, Mr. Graham, Mr. Grassley, Mr. Inhofe, Mr. Kyl, Mrs. Lincoln, Mr. Lott, Mr. Lugar, Mr. McCain, Mr. Roberts, Mr. Santorum, Mr. Sessions, Mr. Shelby, Mr. Thomas, Mr. Vitter, Mr. Warner, Mr. Bond, Mr. Bunning, Mr. DeMint, Mrs. Dole, Mr. Gregg, Mr. Hagel, Mrs. Hutchison, Mr. Johnson, Mr. Martinez, Mr. Nelson of Nebraska, Ms. Snowe, Mr. Specter, and Mr. Stevens):

S.J. Res. 12. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself and Mr. Inhofe):

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States relative to marriage; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Mr. DURBIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. VOINOVICH, Mr. AKAKA, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, Mr. DEWINE, Ms. LANDRIEU, and Mr. LAUTENBERG):

S. Res. 107. A resolution commending Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, for her public service; to the Committee on Homeland Security and Governmental Affairs.

By Mr. AKAKA (for himself, Mr. VOINOVICH, Ms. COLLINS, Mr. LIEBERMAN, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, and Mr. CARPER):

S. Res. 108. A resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 2 through 8, 2005; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INHOFE (for himself and Mr. COBURN):

S. Res. 109. A resolution commending the University of Oklahoma Sooners men's gymnastics team for winning the National Collegiate Athletic Association Division I Mens' Gymnastics Championship; considered and agreed to.

By Mr. INHOFE (for himself and Mr. COBURN):

S. Res. 110. A resolution commending Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association Division I Wrestling Championship; considered and agreed to.

By Mr. KENNEDY (for himself, Mr. FRIST, Mr. LEVIN, Mr. KERRY, Ms. MIKULSKI, Mr. BOND, Mr. BAYH, Mr. AKAKA, Mr. REID, Mr. JOHNSON, Mrs. MURRAY, and Mrs. DOLE):

S. Con. Res. 27. A concurrent resolution honoring military children during "National Month of the Military Child"; considered and agreed to.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 78

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 78, a bill to make permanent marriage penalty relief.

S. 172

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 172, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 267

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 268

At the request of Mr. HARKIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 268, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 285

At the request of Mr. BOND, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 300

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 300, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 352, a bill to revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants, and for other purposes.

S. 359

At the request of Mr. CRAIG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 408

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 408, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 420

At the request of Mr. KYL, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 420, a bill to make the repeal of the estate tax permanent.

S. 432

At the request of Mr. ALLEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 432, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 461

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 461, a bill to amend title 37, United States Code, to require that a member of the uniformed services who is wounded or otherwise injured while serving in a combat zone continue to be paid monthly military pay and allowances, while the member recovers from the wound or injury, at least equal to the monthly military pay and allowances the member received immediately before receiving the wound or injury, to continue the combat zone tax exclusion for the member during the recovery period, and for other purposes.

S. 473

At the request of Ms. CANTWELL, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 473, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 484

At the request of Mr. WARNER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 495

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 495, supra.

S. 548

At the request of Mr. CONRAD, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Iowa (Mr. HARKIN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 555

At the request of Mr. DEWINE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 555, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 579

At the request of Mr. LIEBERMAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 579, a bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children.

S. 593

At the request of Ms. COLLINS, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maine (Ms. SNOWE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 593, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 614

At the request of Mr. SPECTER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 614, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 638

At the request of Mrs. MURRAY, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 638, a bill to extend the authorization for the ferry boat discretionary program, and for other purposes.

S. 642

At the request of Mr. FRIST, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 662

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 666

At the request of Mr. DEWINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 666, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 772

At the request of Mr. CORNYN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. CON. RES. 4

At the request of Mr. NELSON of Florida, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of the Congress that the Department of Defense should continue to exercise its statutory authority to support the activities of the Boy Scouts of America, in particular the periodic national and world Boy Scout Jamborees.

AMENDMENT NO. 316

At the request of Mr. NELSON of Florida, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 316 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 338

At the request of Ms. SNOWE, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Maine (Ms. COLLINS) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of amendment No. 338 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 342

At the request of Mr. DEWINE, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 342 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 387

At the request of Ms. MIKULSKI, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 387 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 393

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 393 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 399

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 399 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 400

At the request of Mr. JEFFORDS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 400 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 409

At the request of Mr. JEFFORDS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 409 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. CORNYN, and Mr. COBURN):

S. 783. A bill to repeal the sunset on the 2004 material-support enhancements, to increase penalties for providing material support to terrorist groups, to bar from the United States aliens who have received terrorist training, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Material Support to Terrorism Prohibition Improvements Act of 2005.

Mr. Barry Sabin, the Chief of the Counterterrorism Section of the Justice Department's Criminal Division, testified as to the importance of the material support statute at a September 13 hearing before the Terrorism Subcommittee last year. He emphasized that:

> a key element of the [Justice] Department's strategy for winning the war against terrorism has been to use the material support statutes to prosecute aggressively those individuals who supply terrorists with the support and resources they need to survive. The Department seeks to identify and apprehend terrorists before they can carry out their plans, and the material support statutes are a valuable tool for prosecutors seeking to bring charges against and incapacitate terrorists before they are able to cause death and destruction.

The bill that I introduce today expands current law's exclusion from the United States of persons who give material support to terrorism by training at a terrorist camp. The bill makes such persons inadmissible to the United States, they now only are deportable, and applies these exclusions to pre-enactment terrorist training. Mr. Sabin described at last year's hearing the threat posed by persons who have receive training at a terrorist camp:

> A danger is posed to the vital foreign policy interests and national security of the United States whenever a person knowingly receives military-type training from a designated terrorist organization or persons acting on its behalf. Such an individual stands ready to further the malicious intent of the terrorist organization through terrorist activity that threatens the security of United States nationals or the national security of the United States.

My bill would ensure that such persons not only are removed from the United States once they are found here, but also are prevented from entering this country in the first place.

Today's bill also repeals a 2006 sunset on several recent clarifications that were made to the material-support statute in order to address vagueness concerns expressed by some courts. At the September 13 Terrorism Subcommittee hearing, George Washington University law professor Jonathan Turley said of the original legislative proposal to clarify the statute: "[t]his proposal would actually improve the current federal law by correcting gaps and ambiguities that have led to recent judicial reversals. In that sense, the proposal can be viewed as a slight benefit to civil liberties by removing a dangerous level of ambiguity in the law."

There is no reason why this important provision, and other improvements to the material-support statute made in last year's 9/11 Commission bill, should be allowed to expire at the end of this Congress. This bill would make these improvements permanent.

I ask unanimous consent that the text of the bill and a section by section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Material Support to Terrorism Prohibition Improvements Act of 2005".

SEC. 2. REPEAL OF SUNSET ON 2004 MATERIAL-SUPPORT ENHANCEMENTS.

Section 6603(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (18 U.S.C. 2332b note) is repealed.

SEC. 3. BARRING ENTRY TO THE UNITED STATES FOR REPRESENTATIVES AND MEMBERS OF TERRORIST GROUPS AND ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST GROUPS.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (IV), by amending item (aa) to read as follows:

"(aa) a terrorist organization as defined in clause (vi), or".

(B) by striking subclause (V) and inserting the following:

"(V) is a member of a terrorist organization—

"(aa) described in subclause (I) or (II) of clause (vi); or

"(bb) described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization,".

(C) in subclause (VI), by striking "or" at the end;

(D) in subclause (VII), by inserting "or" at the end; and

(E) by inserting after subclause (VII) the following:

"(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from, or on behalf of, any organization that, at the time the training was received, was a terrorist organization,"; and

(2) in clause (vi), by striking "clause (i)(VI)" and inserting "subclauses (VI) and (VIII) of clause (i)".

SEC. 4. EXPANDED REMOVAL FROM THE UNITED STATES OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST GROUPS.

Section 237(a)(4)(E) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(E)) is amended to read as follows:

"(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi)), is deportable.".

SEC. 5. BARRING ENTRY TO AND REMOVING TERRORIST ALIENS FROM THE UNITED STATES BASED ON PRE-ENACTMENT TERRORIST CONDUCT.

The amendments made by sections 3 and 4 of this Act shall apply to—

(1) all aliens subject to removal, deportation, or exclusion at any time; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after the date of enactment of this Act.

SEC. 6. INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT TO TERRORIST GROUPS.

(a) PROVIDING MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended by striking ", imprisoned not more than 15 years," and all that follows through "life." and inserting "and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for not less than 15 years or for life.".

(b) Providing Material Support or Resources to Designated Foreign Terrorist Organizations.—Section 2339B(a) of title 18, United States Code, is amended by striking "or imprisoned not more than 15 years," and all that follows through "life." and inserting "and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for not less than 15 years or for life.".

(c) Receiving Military-type Training From a Foreign Terrorist Organization.—Section 2339D of title 18, United States Code, is amended by striking "or imprisoned for ten years, or both." and inserting "and imprisoned for not less than 3 years and not more than 15 years.".

Section 1. Bill Title. "Material Support to Terrorism Prohibition Improvements Act of 2005."

Section 2. Repeal of Sunset on 2004 Material-Support Enhancements. Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (the 9/11 Commission Act) includes important provisions that expand and clarify the material-support statutes (18 U.S.C. §§ 2339A & 2339B). These provisions clarify the definitions of the terms "personnel", "training", and "expert advice or assistance," in order to correct void-for-vagueness problems identified by the Ninth Circuit; expand the jurisdictional bases for material-support offenses; clarify the definition of "material support;" and clarify that the United States need only show that a defendant knew that the organization to which he gave material support either engaged in terrorism or was designated as a terror group—thus overruling the Ninth Circuit's conclusion that the United States also must show that the defendant knew of the particular terrorist activity that caused an organization to be designated as a terror group. All of these changes are set to expire on December 31, 2006, pursuant to subsection 6603(g) of the 9/11 Commission Act. This section of this Act repeals subsection (g), making the 2004 material-support enhancements permanent.

Section 3. Barring Entry to the United States for Representatives and Members of Terrorist Groups and Aliens Who Have Received Military-Type Training from Terrorist Groups. This section bars entry to the United States for any alien who has received military-type training from a either a terrorist group that is designated as such by the Secretary of State, or from an undesignated terrorist group. (These groups are defined in 8 U.S.C. § 1182(a)(3)(B)(vi). An undesignated terrorist group is a group that commits or incites terrorist activity with the intent to cause serious bodily injury, prepares or plans terrorist activity, or gathers information on potential targets for terrorist activity.) This section would correct a deficiency in current law, which makes aliens who receive military-type terror training deportable but does not make them inadmissible. Aliens who receive training in violent activity from a terrorist group are not allowed to remain in the United States—they should not be permitted to enter the United States in the first place. This section also bars entry to the United States for aliens who are representatives or members of either designated or undesignated terrorist organizations, though members of undesignated terror groups may avoid exclusion if they can show by clear and convincing evidence that they did not know, and should not reasonably have known, that the organization to which they belonged was a terrorist organization.

Section 4. Expanded Removal from the United States of Aliens Who Have Received Military-Type Training from Terrorist Groups. Under current law, an alien is deportable if he has received military-type training from a terrorist group that is designated as such by the Secretary of State. See 8 U.S.C. § 1227(a)(4)(E). This section also makes deportable an alien who has received military-type training from an undesignated terrorist group. (See Section 3 above for definition of undesignated terror group.)

Section 5. Barring Entry to and Removing Terrorist Aliens from the United States Based on Pre-Enactment Terrorist Conduct. This section makes clear that the terrorist-alien deportation and exclusion provisions in sections 3 and 4 of this Act apply to terrorist activity that the alien engaged in before the enactment of this Act. Congress indisputably has the authority to bar and remove aliens from the United States based on past terrorist conduct. See Lehmann v. U.S. ex rel. Carson, 353 U.S. 685, 690 (1957) ("It seems to us indisputable, therefore, that Congress was legislating retrospectively, as it may do, to cover offenses of the kind here involved." (emphasis added; citations omitted)). Under this section, an alien who received military-type training from a terrorist group in Afghanistan in 2001 would be barred from entering or remaining in the United States.

Section 6. Increased Penalties for Providing Material Support to Terrorist Groups. Under current law, providing material support to a terrorist group is a criminal offense that is punishable by zero to 15 years' imprisonment, or zero to life if death results. Receiving military-type training from a terrorist group is punishable by zero to 10 years in prison. Under the Supreme Court's recent decision in United States v. Booker, 125 S.Ct. 738 (January 12, 2005), the federal sentencing guidelines' prescriptions no longer are mandatory—district judges now have discretion to impose little or no jail time for material-support offenses. Booker/Fanfan also limits the appellate courts' ability to correct a district judge's failure to impose jail time for a material-support offense. This section increases the penalties for material-support offenses to 5-25 years' imprisonment, with 15 years to life if death results, and raises the military-type-training penalty to 3-15 years' imprisonment. These enhanced penalties reflect both the gravity of the offense of providing material support to a terrorist group, and the heightened importance, since the terrorist attacks of September 11, 2001, of deterring individuals from providing aid and comfort to terrorist organizations.

By Mr. THOMAS (for himself and Mrs. Lincoln):

S. 784. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the "Seniors Mental Health Access Improvement Act of 2005" with my distinguished colleague from Arkansas, Mrs. Lincoln. Specifically, the "Seniors Mental Health Access Improvement Act of 2005" permits mental health counselors and marriage and family therapists to bill Medicare for services provided to seniors. This will result in an increased choice of mental health providers for seniors and enhance their ability to access mental health services in their communities.

This legislation is especially crucial to rural seniors who are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns, a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law—as it exists today—compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

It is time the Medicare program recognized the qualifications of mental health counselors and marriage and family therapists as well as the critical role they play in the mental health care infrastructure. These providers go through rigorous training, similar to the curriculum of masters level social workers, and yet are excluded from the Medicare program.

Particularly troubling to me is the fact that seniors have disproportionally higher rates of depression and suicide than other populations. Additionally, 75 percent of the 518 nationally designated Mental Health Professional Shortage Areas are located in rural areas and one-fifth of all rural counties have no mental health services of any kind. Frontier counties have even more drastic numbers as 95 percent do not have a psychiatrist, 68 percent do not have a psychologist and 78 percent do not have a social worker. It is quite obvious we have an enormous task ahead of us to reduce these staggering statistics. Providing mental health counselors and marriage and family therapists the ability to bill Medicare for their services is a key part of the solution.

Virtually all of Wyoming is designated a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 174 psychologists, 37 psychiatrists and 263 clinical social workers for a total of 474 Medicare eligible mental health providers. Enactment of the "Seniors Mental Health Access Improvement Act of 2005" will more than double the number of mental health providers available to seniors in my State with the addition of 528 mental health counselors and 61 marriage and family therapists currently licensed in the State.

I believe this legislation is critically important to the health and well-being of our Nation's seniors and I strongly urge all my colleagues to become a cosponsor.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Seniors Mental Health Access Improvement Act of 2005".

SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (Y), by striking "and" after the semicolon at the end;

(B) in subparagraph (Z), by inserting "and" after the semicolon at the end; and

(C) by adding at the end the following new subparagraph:

"(AA) marriage and family therapist services (as defined in subsection (bbb)(1)) and mental health counselor services (as defined in subsection (bbb)(3));".

(2) DEFINITIONS.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

"(bbb)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

"(2) The term 'marriage and family therapist' means an individual who—

"(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

"(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

"(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

"(3) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

"(4) The term 'mental health counselor' means an individual who—

"(A) possesses a master's or doctor's degree in mental health counseling or a related field;

"(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

"(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.".

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

"(v) marriage and family therapist services and mental health counselor services;".

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and (V)" and inserting "(V)"; and

(B) by inserting before the semicolon at the end the following: ", and (W) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(AA), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)".

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting "marriage and family therapist services (as defined in section 1861(bbb)(1)), mental health counselor services (as defined in section 1861(bbb)(3))," after "qualified psychologist services,".

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

"(vii) A marriage and family therapist (as defined in section 1861(bbb)(2)).

"(viii) A mental health counselor (as defined in section 1861(bbb)(4)).".

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "or by a clinical social worker (as defined in subsection (hh)(1))," and inserting ", by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (bbb)(2)), or by a mental health counselor (as defined in subsection (bbb)(4)),".

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) of the Social Security Act (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting "or one marriage and family therapist (as defined in subsection (bbb)(2))" after "social worker".

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting "marriage and family therapist (as defined in subsection (bbb)(2))," after "social worker,".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2006.

By Mr. SANTORUM:

S. 786. A bill to clarify the duties and responsibilities of the National Weather Service, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SANTORUM. Mr. President, I rise to introduce the National Weather Services Duties Act of 2005 to clarify the responsibilities of the National Weather Service (NWS) within the National Oceanic and Atmospheric Association, NOAA. This legislation modernizes the statutory description of NWS roles in the national weather enterprise so that it reflects today's reality in which the NWS and the commercial weather industry both play important parts in providing weather products and services to the Nation.

Back in 1890 when the current NWS organic statute was enacted, and all the way through World War II, the public received its weather forecasts and warnings almost exclusively from the Weather Bureau, the NWS's predecessor. In the late 1940s, a fledging weather service industry began to develop. From then until December 2004, the NWS has had policies sensitive to the importance of fostering the industry's expansion, and since 1948 has had formal policies discouraging its competition with industry. Fourteen years ago the NWS took the extra step of carefully delineating the respective roles of the NWS and the commercial weather industry, in addition to pledging its intention not to provide products or services that were or could be provided by the commercial weather industry. This longstanding non-competition and non-duplication policy has had the effect of facilitating the growth of the industry into a billion dollar sector and of strengthening and extending the national weather enterprise, now the best in the world.

Regrettably, the parent agency of the NWS, NOAA, repealed the 1991 non-competition and non-duplication policy in December 2004. Its new policy only promises to "give due consideration" to the abilities of private sector entities. The new policy appears to signal the intention of NOAA and the NWS to expand their activities into areas that are already well served by the commercial weather industry. This detracts from NWS's core missions of maintaining a modem and effective meteorological infrastructure, collecting comprehensive observational data, and issuing warnings and forecasts of severe weather that imperils life and property.

Additionally, NOAA's action threatens the continued success of the commercial weather industry. It is not an easy prospect for a business to attract advertisers, subscribers, or investors when the government is providing similar products and services for free. This bill restores the NWS non-competition policy. However, the legislation leaves NWS with complete and unfettered freedom to carry out its critical role of preparing and issuing severe weather warnings and forecasts designed for the protection of life and property of the general public. I believe it is in the best interest of both the government and NWS to concentrate on this critical role and its other core missions. The beauty of a highly competent private sector is that services that are not inherently involved in public safety and security can be carried out with little or no expenditure of taxpayer dollars. At a time of tight agency budgets, the commercial weather industry's increasing capabilities offer the Federal Government the opportunity to focus its resources on the governmental functions of collecring and distributing weather data, research and development of atmospheric models and core forecasts, and on ensuring that NWS meteorologists provide the most timely and accurate warnings and forecasts of life-threatening weather.

The National Weather Service Duties Act also addresses the potential misuse of insider information. Currently, NOAA and the NWS are doing little to safeguard the NWS information that could be used by opportunistic investors to gain unfair profits in the weather futures markets, in the agriculture and energy markets, and in other business segments influenced by government weather outlooks, forecasts, and warnings. No one knows who may be taking advantage of this information. In recent years there have been various examples of NWS personnel providing such information to specific TV stations and others that enable those businesses to secure an advantage over their competitors. The best way to address this problem is to require that NWS data, information, guidance, forecasts and warnings be issued in real time and simultaneously to all members of the public, the media and the commercial weather industry. This bill imposes just such a requirement, which is common to other Federal agencies. The responsibilities of the commercial weather industry as the only private sector producer of weather information, services and systems deserve this definition to ensure continued growth and investment in the private sector and to properly focus the government's activities.

We have every right to expect these agencies to minimize unnecessary, competitive, and commercial-type activities, and to do the best possible job of warning the public about impending flash floods, hurricanes, tornadoes, tsunamis, and other potentially catastrophic events. I encourage my colleagues to support this important piece of legislation.

By Mr. DURBIN:

S. 793. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Cruise Ship Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Prohibitions and conditions regarding the discharge of sewage, graywater, or bilge water.
Sec. 5. Effluent limits for discharges of sewage and graywater.
Sec. 6. Inspection and sampling.
Sec. 7. Employee protection.
Sec. 8. Judicial review.
Sec. 9. Enforcement.
Sec. 10. Citizen suits.
Sec. 11. Alaskan cruise vessels.
Sec. 12. Ballast water.
Sec. 13. Funding.
Sec. 14. Effect on other law.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) cruise vessels carry millions of passengers each year, and in 2001, carried 8,400,000 passengers in North America;

(2) cruise vessels carry passengers to and through the most beautiful ocean areas in the United States and provide many people in the United States ample opportunities to relax and learn about oceans and marine ecosystems;

(3) ocean pollution threatens the beautiful and inspiring oceans and marine wildlife that many cruise vessels intend to present to travelers;

(4) cruise vessels generate tremendous quantities of pollution, including—

(A) sewage (including sewage sludge);

(B) graywater from showers, sinks, laundries, baths, and galleys;

(C) oily water;

(D) toxic chemicals from photo processing, dry cleaning, and paints;

(E) ballast water;

(F) solid wastes; and

(G) emissions of air pollutants;

(5) some of the pollution generated by cruise ships, particularly sewage discharge, can lead to high levels of nutrients that are known to harm and kill coral reefs and which can increase the quantity of pathogens in the water and heighten the susceptibility of many coral species to scarring and disease;

(6) laws in effect as of the date of enactment of this Act do not provide adequate controls, monitoring, or enforcement of certain discharges from cruise vessels into the waters of the United States; and

(7) to protect coastal and ocean areas of the United States from pollution generated by cruise vessels, new Federal legislation is needed to reduce and better regulate discharges from cruise vessels, and to improve monitoring, reporting, and enforcement of discharges.

(b) PURPOSES.—The purposes of this Act are—

(1) to prevent the discharge of any untreated sewage or graywater from a cruise vessel entering ports of the United States into the waters of the United States;

(2) to prevent the discharge of any treated sewage, sewage sludge, graywater, or bilge water from cruise vessels entering ports of the United States into the territorial sea;

(3) to establish new national effluent limits and management standards for the discharge of treated sewage or graywater from cruise vessels entering ports of the United States into the exclusive economic zone of the United States in any case in which the discharge is not within an area in which discharges are prohibited; and

(4) to ensure that cruise vessels entering ports of the United States comply with all applicable environmental laws.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMANDANT.—The term "Commandant" means the Commandant of the Coast Guard.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(3) TERRITORIAL SEA.—The term "territorial sea"—

(A) means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation number 5928, dated December 27, 1988; and

(B) includes the waters lying seaward of the line of ordinary low water and extending to the baseline of the United States, as determined under subparagraph (A).

(4) EXCLUSIVE ECONOMIC ZONE.—The term "exclusive economic zone" means the Exclusive Economic Zone of the United States established by Presidential Proclamation number 5030, dated March 10, 1983.

(5) WATERS OF THE UNITED STATES.—The term "waters of the United States" means the waters of the territorial sea, the exclusive economic zone, and the Great Lakes.

(6) GREAT LAKE.—The term "Great Lake" means—

(A) Lake Erie;

(B) Lake Huron (including Lake Saint Clair);

(C) Lake Michigan;

(D) Lake Ontario; and

(E) Lake Superior.

(7) CRUISE VESSEL.—The term "cruise vessel"—

(A) means a passenger vessel (as defined in section 2101(22) of title 46, United States Code), that—

(i) is authorized to carry at least 250 passengers; and

(ii) has onboard sleeping facilities for each passenger; and

(B) does not include—

(i) a vessel of the United States operated by the Federal Government; or

(ii) a vessel owned and operated by the government of a State.

(8) PASSENGER.—The term "passenger"—

(A) means any person on board a cruise vessel for the purpose of travel; and

(B) includes—

(i) a paying passenger; and

(ii) a staffperson, such as a crew member, captain, or officer.

(9) PERSON.—The term "person" means—

(A) an individual;

(B) a corporation;

(C) a partnership;

(D) a limited liability company;

(E) an association;

(F) a State;

(G) a municipality;

(H) a commission or political subdivision of a State; and

(I) an Indian tribe.

(10) CITIZEN.—The term "citizen" means a person that has an interest that is or may be adversely affected by any provision of this Act.

(11) DISCHARGE.—The term "discharge"—

(A) means a release of any substance, however caused, from a cruise vessel; and

(B) includes any escape, disposal, spilling, leaking, pumping, emitting or emptying of any substance.

(12) SEWAGE.—The term "sewage" means—

(A) human body wastes;

(B) the wastes from toilets and other receptacles intended to receive or retain human body wastes; and

(C) sewage sludge.

(13) GRAYWATER.—The term "graywater" means galley, dishwasher, bath, and laundry waste water.

(14) BILGE WATER.—The term "bilge water" means wastewater that includes lubrication oils, transmission oils, oil sludge or slops, fuel or oil sludge, used oil, used fuel or fuel filters, or oily waste.

(15) SEWAGE SLUDGE.—The term "sewage sludge"—

(A) means any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage;

(B) includes—

(i) solids removed during primary, secondary, or advanced waste water treatment;

(ii) scum;

(iii) septage;

(iv) portable toilet pumpings;

(v) type III marine sanitation device pumpings (as defined in part 159 of title 33, Code of Federal Regulations); and

(vi) sewage sludge products; and

(C) does not include—

(i) grit or screenings; or

(ii) ash generated during the incineration of sewage sludge.

(16) INDIAN TRIBE.—The term "Indian tribe" has the meaning given in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. PROHIBITIONS AND CONDITIONS REGARDING THE DISCHARGE OF SEWAGE, GRAYWATER, OR BILGE WATER.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and section 11, no cruise vessel entering a port of the United States may discharge sewage, graywater, or bilge water into the waters of the United States.

(2) EXCEPTION.—A cruise vessel described in paragraph (1) may not discharge sewage, graywater, or bilge water into the exclusive economic zone but outside the territorial sea, or, in the case of the Great Lakes, beyond any point that is 12 miles from the shore unless—

(A)(i) in the case of a discharge of sewage or graywater, the discharge meets all applicable effluent limits established under this Act and is in accordance with all other applicable laws; or

(ii) in the case of a discharge of bilge water, the discharge is in accordance with all applicable laws;

(B) the cruise vessel meets all applicable management standards established under this Act; and

(C) the cruise vessel is not discharging in an area in which the discharge is otherwise prohibited.

(b) SAFETY EXCEPTION.—

(1) SCOPE OF EXCEPTION.—Subsection (a) shall not apply in any case in which—

(A) a discharge is made solely for the purpose of securing the safety of the cruise vessel or saving a human life at sea; and

(B) all reasonable precautions have been taken for the purpose of preventing or minimizing the discharge.

(2) NOTIFICATION OF COMMANDANT.—

(A) IN GENERAL.—If the owner, operator, or master, or other individual in charge, of a cruise vessel authorizes a discharge described in paragraph (1), the individual shall notify the Commandant of the decision to authorize the discharge as soon as practicable, but not later than 24 hours, after authorizing the discharge.

(B) REPORT.—Not later than 7 days after the date on which an individual described in subparagraph (A) notifies the Commandant of an authorization of a discharge under the safety exception under this paragraph, the individual shall submit to the Commandant a report that includes—

(i) the quantity and composition of each discharge made under the safety exception;

(ii) the reason for authorizing each discharge;

(iii) the location of the vessel during the course of each discharge; and

(iv) such other supporting information and data as are requested by the Commandant. .

SEC. 5. EFFLUENT LIMITS FOR DISCHARGES OF SEWAGE AND GRAYWATER.

(a) EFFLUENT LIMITS.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Commandant and the Administrator shall jointly promulgate effluent limits for sewage and graywater discharges from cruise vessels entering ports of the United States.

(2) REQUIREMENTS.—The effluent limits shall—

(A) require the application of the best available technology that will result in the greatest level of effluent reduction achievable, recognizing that the national goal is the elimination of the discharge of all pollutants in sewage and graywater by cruise vessels into the waters of the United States by 2015; and

(B) require compliance with all relevant water quality criteria standards.

(b) MINIMUM LIMITS.—The effluent limits under subsection (a) shall require, at a minimum, that treated sewage and graywater effluent discharges from cruise vessels shall, not later than 3 years after the date of enactment of this Act, meet the following standards:

(1) IN GENERAL.—The discharge satisfies the minimum level of effluent quality specified in section 133.102 of title 40, Code of Regulations (or a successor regulation).

(2) FECAL COLIFORM.—With respect to the samples from the discharge during any 30-day period—

(A) the geometric mean of the samples shall not exceed 20 fecal coliform per 100 milliliters; and

(B) not more than 10 percent of the samples shall exceed 40 fecal coliform per 100 milliliters.

(3) RESIDUAL CHLORINE.—Concentrations of total residual chlorine in samples shall not exceed 10 milligrams per liter.

(c) REVIEW AND REVISION OF EFFLUENT LIMITS.—The Commandant and the Administrator shall jointly—

(1) review the effluent limits required by subsection (a) at least once every 3 years; and

(2) revise the effluent limits as necessary to incorporate technology available at the time of the review in accordance with subsection (a)(2).

SEC. 6. INSPECTION AND SAMPLING.

(a) DEVELOPMENT AND IMPLEMENTATION OF INSPECTION PROGRAM.—

(1) IN GENERAL.—The Commandant, in consultation with the Administrator, shall promulgate regulations to implement an inspection, sampling, and testing program sufficient to verify that cruise vessels calling on ports of the United States are in compliance with—

(A) this Act (including regulations promulgated under this Act);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (including regulations promulgated under that Act);

(C) other applicable Federal laws and regulations; and

(D) all applicable requirements of international agreements.

(2) INSPECTIONS.—The program shall require that—

(A) regular announced and unannounced inspections be conducted of any relevant aspect of cruise vessel operations, equipment, or discharges, including sampling and testing of cruise vessel discharges; and

(B) each cruise vessel that calls on a port of the United States shall be subject to an unannounced inspection at least annually.

(b) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Commandant, in consultation with the Administrator, shall promulgate regulations that, at a minimum—

(1) require the owner, operator, or master, or other individual in charge, of a cruise vessel to maintain and produce a logbook detailing the times, types, volumes, and flow rates, origins, and locations of any discharges from the cruise vessel;

(2) provide for routine announced and unannounced inspections of—

(A) cruise vessel environmental compliance records and procedures; and

(B) the functionality and proper operation of installed equipment for abatement and control of any cruise vessel discharge (which equipment shall include equipment intended to treat sewage, graywater, or bilge water);

(3) require the sampling and testing of cruise vessel discharges that require the owner, operator, or master, or other individual in charge, of a cruise vessel—

(A) to conduct that sampling or testing; and

(B) to produce any records of the sampling or testing;

(4) require any owner, operator, or master, or other individual in charge, of a cruise vessel who has knowledge of a discharge from the cruise vessel in violation of this Act (including regulations promulgated under this Act) to immediately report that discharge to the Commandant (who shall provide notification of the discharge to the Administrator); and

(5) require the owner, operator, or master, or other individual in charge, of a cruise vessel to provide to the Commandant and Administrator a blueprint of each cruise vessel that includes the location of every discharge pipe and valve.

(c) EVIDENCE OF COMPLIANCE.—

(1) VESSEL OF THE UNITED STATES.—

(A) IN GENERAL.—A cruise vessel registered in the United States to which this Act applies shall have a certificate of inspection issued by the Commandant.

(B) ISSUANCE OF CERTIFICATE.—The Commandant may issue a certificate described in subparagraph (A) only after the cruise vessel has been examined and found to be in compliance with this Act, including prohibitions on discharges and requirements for effluent limits, as determined by the Commandant.

(C) VALIDITY OF CERTIFICATE.—A certificate issued under this paragraph—

(i) shall be valid for a period of not more than 5 years, beginning on the date of issuance of the certificate;

(ii) may be renewed as specified by the Commandant; and

(iii) shall be suspended or revoked if the Commandant determines that the cruise vessel for which the certificate was issued is not in compliance with the conditions under which the certificate was issued.

(D) SPECIAL CERTIFICATES.—The Commandant may issue special certificates to certain vessels that exhibit compliance with this Act and other best practices, as determined by the Commandant.

(2) FOREIGN VESSEL.—

(A) IN GENERAL.—A cruise vessel registered in a country other than the United States to which this Act applies may operate in the waters of the United States, or visit a port or place under the jurisdiction of the United States, only if the cruise vessel has been issued a certificate of compliance by the Commandant.

(B) ISSUANCE OF CERTIFICATE.—The Commandant may issue a certificate described in subparagraph (A) to a cruise vessel only after the cruise vessel has been examined and found to be in compliance with this Act, including prohibitions on discharges and requirements for effluent limits, as determined by the Commandant.

(C) ACCEPTANCE OF FOREIGN DOCUMENTATION.—The Commandant may consider a certificate, endorsement, or document issued by the government of a foreign country under a treaty, convention, or other international agreement to which the United States is a party, in issuing a certificate of compliance under this paragraph. Such a certificate, endorsement, or document shall not serve as a proxy for certification of compliance with this Act.

(D) VALIDITY OF CERTIFICATE.—A certificate issued under this section—

(i) shall be valid for a period of not more than 24 months, beginning on the date of issuance of the certificate;

(ii) may be renewed as specified by the Commandant; and

(iii) shall be suspended or revoked if the Commandant determines that the cruise vessel for which the certificate was issued is not in compliance with the conditions under which the certificate was issued.

(d) CRUISE OBSERVER PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commandant shall establish, and for each of fiscal years 2006 through 2008, shall carry out, a program for the placement of 2 or more independent observers on cruise vessels for the purpose of monitoring and inspecting cruise vessel operations, equipment, and discharges to ensure compliance with—

(A) this Act (including regulations promulgated under this Act); and

(B) all other relevant Federal laws and international agreements.

(2) RESPONSIBILITIES.—An observer described in paragraph (1) shall—

(A) observe and inspect—

(i) onboard environmental treatment systems;

(ii) use of shore-based treatment and storage facilities;

(iii) discharges and discharge practices; and

(iv) blueprints, logbooks, and other relevant information;

(B) have the authority to interview and otherwise query any crew member with knowledge of vessel operations;

(C) have access to all data and information made available to government officials under this section; and

(D) immediately report any known or suspected violation of this Act or any other applicable Federal law or international agreement to—

(i) the Coast Guard; and

(ii) the Environmental Protection Agency.

(3) REPORT.—Not later than January 31, 2008, the Commandant shall submit to Congress a report describing the results, and recommendations for continuance, of the program under this subsection.

(e) ONBOARD MONITORING SYSTEM PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator and the Commandant, shall establish, and for each of fiscal years 2006 through 2011, shall carry out, with industry partners as necessary, a pilot program to develop and promote commercialization of technologies to provide real-time data to Federal agencies regarding—

(A) graywater and sewage discharges from cruise vessels; and

(B) functioning of cruise vessel components relating to pollution control.

(2) TECHNOLOGY REQUIREMENTS.—Technologies developed under the program under this subsection—

(A) shall have the ability to record—

(i) the location and time of discharges from cruise vessels;

(ii) the source, content, and volume of those discharges; and

(iii) the state of components relating to pollution control at the time of the discharges, including whether the components are operating correctly; and

(B) shall be tested on not less than 10 percent of all cruise vessels operating in the territorial sea of the United States, including large and small vessels.

(3) PARTICIPATION OF INDUSTRY.—

(A) COMPETITIVE SELECTION PROCESS.—Industry partners willing to participate in the program may do so through a competitive selection process conducted by the Administrator of the National Oceanic and Atmospheric Administration.

(B) CONTRIBUTION.—A selected industry partner shall contribute not less than 20 percent of the cost of the project in which the industry partner participates.

(4) REPORT.—Not later than January 31, 2008, the Administrator of the National Oceanic and Atmospheric Administration shall submit to Congress a report describing the results, and recommendations for continuance, of the program under this subsection.

SEC. 7. EMPLOYEE PROTECTION.

(a) PROHIBITION OF DISCRIMINATION AGAINST PERSONS FILING, INSTITUTING, OR TESTIFYING IN PROCEEDINGS UNDER THIS ACT.—No person shall terminate the employment of, or in any other way discriminate against (or cause the termination of employment of or discrimination against), any employee or any authorized representative of employees by reason of the fact that the employee or representative—

(1) has filed, instituted, or caused to be filed or instituted any proceeding under this Act; or

(2) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) APPLICATION FOR REVIEW; INVESTIGATION; HEARINGS; REVIEW.—

(1) IN GENERAL.—An employee or a representative of employees who believes that the termination of the employment of the employee has occurred, or that the employee has been discriminated against, as a result of the actions of any person in violation of subsection (a) may, not later than 30 days after the date on which the alleged violation occurred, apply to the Secretary of Labor for a review of the alleged termination of employment or discrimination.

(2) APPLICATION.—A copy of an application for review filed under paragraph (1) shall be sent to the respondent.

(3) INVESTIGATION.—

(A) IN GENERAL.—On receipt of an application for review under paragraph (1), the Secretary of Labor shall carry out an investigation of the complaint.

(B) REQUIREMENTS.—In carrying out this subsection, the Secretary of Labor shall—

(i) provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation;

(ii) ensure that, at least 5 days before the date of the hearing, each party to the hearing is provided written notice of the time and place of the hearing; and

(iii) ensure that the hearing is on the record and subject to section 554 of title 5, United States Code.

(C) FINDINGS OF COMMANDANT.—On completion of an investigation under this paragraph, the Secretary of Labor shall—

(i) make findings of fact;

(ii) if the Secretary of Labor determines that a violation did occur, issue a decision, incorporating an order and the findings, requiring the person that committed the violation to take such action as is necessary to abate the violation, including the rehiring or reinstatement, with compensation, of an employee or representative of employees to the former position of the employee or representative; and

(iii) if the Secretary of Labor determines that there was no violation, issue an order denying the application.

(D) ORDER.—An order issued by the Secretary of Labor under subparagraph (C) shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

(c) COSTS AND EXPENSES.—In any case in which an order is issued under this section to abate a violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of the proceedings, shall be assessed against the person committing the violation.

(d) DELIBERATE VIOLATIONS BY EMPLOYEE ACTING WITHOUT DIRECTION FROM EMPLOYER OR AGENT.—This section shall not apply to any employee that, without direction from the employer of the employee (or agent of the employer), deliberately violates any provision of this Act.

SEC. 8. JUDICIAL REVIEW.

(a) Review of Actions by Administrator or Commandant; Selection of Court; Fees.—

(1) Review of actions.—

(A) In general.—Any interested person may petition for a review, in the United States circuit court for the circuit in which the person resides or transacts business directly affected by the action of which review is requested—

(i) of an action of the Commandant in promulgating any effluent limit under section 5; or

(ii) of an action of the Commandant in carrying out an inspection, sampling, or testing under section 6.

(B) Deadline for review.—A petition for review under subparagraph (A) shall be made—

(i) not later than 120 days after the date of promulgation of the limit or standard relating to the review sought; or

(ii) if the petition for review is based solely on grounds that arose after the date described in clause (i), as soon as practicable after that date.

(2) Civil and criminal enforcement proceedings.—An action of the Commandant or Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(3) Award of fees.—In any judicial proceeding under this subsection, a court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party in any case in which the court determines such an award to be appropriate.

(b) Additional Evidence.—

(1) In general.—In any judicial proceeding instituted under subsection (a) in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and demonstrates to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the Commandant or Administrator, the court may order the additional evidence (and evidence in rebuttal of the additional evidence) to be taken before the Commandant or Administrator, in such manner and on such terms and conditions as the court determines to be appropriate.

(2) Modification of findings.—On admission of additional evidence under paragraph (1), the Commandant or Administrator—

(A) may modify findings of fact of the Commandant or Administrator, as the case may be, relating to a judicial proceeding, or make new findings of fact, by reason of the additional evidence so admitted; and

(B) shall file with the return of the additional evidence any modified or new findings, and any related recommendations, for the modification or setting aside of any original determinations of the Commandant or Administrator.

SEC. 9. ENFORCEMENT.

(a) In General.—Any person that violates section 4 or any regulation promulgated under this Act may be assessed—

(1) a class I or class II penalty described in subsection (b); or

(2) a civil penalty in a civil action under subsection (c).

(b) Amount of Administrative Penalty.—

(1) Class I.—The amount of a class I civil penalty under subsection (a)(1) may not exceed—

(A) $10,000 per violation; or

(B) $25,000 in the aggregate, in the case of multiple violations.

(2) Class II.—The amount of a class II civil penalty under subsection (a)(1) may not exceed—

(A) $10,000 per day for each day during which the violation continues; or

(B) $125,000 in the aggregate, in the case of multiple violations.

(3) Separate violations.—Each day on which a violation continues shall constitute a separate violation.

(4) Determination of amount.—In determining the amount of a civil penalty under subsection (a)(1), the Commandant or the court, as appropriate, shall consider—

(A) the seriousness of the violation;

(B) any economic benefit resulting from the violation;

(C) any history of violations;

(D) any good-faith efforts to comply with the applicable requirements;

(E) the economic impact of the penalty on the violator; and

(F) such other matters as justice may require.

(5) Procedure for class I penalty.—

(A) In general.—Before assessing a civil penalty under this subsection, the Commandant shall provide to the person to be assessed the penalty—

(i) written notice of the proposal of the Commandant to assess the penalty; and

(ii) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed penalty.

(B) Hearing.—A hearing described in subparagraph (A)(ii)—

(i) shall not be subject to section 554 or 556 of title 5, United States Code; but

(ii) shall provide a reasonable opportunity to be heard and to present evidence.

(6) Procedure for class II penalty.—

(A) In general.—Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(B) Rules.—The Commandant may promulgate rules for discovery procedures for hearings under this subsection.

(7) Rights of interested persons.—

(A) Public notice.—Before issuing an order assessing a class II civil penalty under this subsection, the Commandant shall provide public notice of and reasonable opportunity to comment on the proposed issuance of each order.

(B) Presentation of evidence.—

(i) In general.—Any person that comments on a proposed assessment of a class II civil penalty under this subsection shall be given notice of—

(I) any hearing held under this subsection; and

(II) any order assessing the penalty.

(ii) Hearing.—In any hearing described in clause (i)(I), a person described in clause (i) shall have a reasonable opportunity to be heard and to present evidence.

(C) Rights of interested persons to a hearing.—

(i) In general.—If no hearing is held under subparagraph (B) before the date of issuance of an order assessing a class II civil penalty under this subsection, any person that commented on the proposed assessment may, not later than 30 days after the date of issuance of the order, petition the Commandant—

(I) to set aside the order; and

(II) to provide a hearing on the penalty.

(ii) New evidence.—If any evidence presented by a petitioner in support of the petition under clause (i) is material and was not considered in the issuance of the order, as determined by the Commandant, the Commandant shall immediately—

(I) set aside the order; and

(II) provide a hearing in accordance with subparagraph (B)(ii).

(iii) Denial of hearing.—If the Commandant denies a hearing under this subparagraph, the Commandant shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for the denial.

(8) Finality of order.—

(A) In general.—An order assessing a class II civil penalty under this subsection shall become final on the date that is 30 days after the date of issuance of the order unless, before that date—

(i) a petition for judicial review is filed under paragraph (10); or

(ii) a hearing is requested under paragraph (7)(C).

(B) Denial of hearing.—If a hearing is requested under paragraph (7)(C) and subsequently denied, an order assessing a class II civil penalty under this subsection shall become final on the date that is 30 days after the date of the denial.

(9) Effect of action on compliance.—No action by the Commandant under this subsection shall affect the obligation of any person to comply with any provision of this Act.

(10) Judicial review.—

(A) In general.—Any person against which a civil penalty is assessed under this subsection, or that commented on the proposed assessment of such a penalty in accordance with paragraph (7), may obtain review of the assessment in a court described in subparagraph (B) by—

(i) filing a notice of appeal with the court within the 30-day period beginning on the date on which the civil penalty order is issued; and

(ii) simultaneously sending a copy of the notice by certified mail to the Commandant and the Attorney General.

(B) Courts of jurisdiction.—Review of an assessment under subparagraph (A) may be obtained by a person—

(i) in the case of assessment of a class I civil penalty, in—

(I) the United States District Court for the District of Columbia; or

(II) the United States district court for the district in which the violation occurred; or

(ii) in the case of assessment of a class II civil penalty, in—

(I) the United States Court of Appeals for the District of Columbia Circuit; or

(II) the United States circuit court for any other circuit in which the person resides or transacts business.

(C) Copy of record.—On receipt of notice under subparagraph (A)(ii), the Commandant, shall promptly file with the appropriate court a certified copy of the record on which the order assessing a civil penalty that is the subject of the review was issued.

(D) Substantial evidence.—A court with jurisdiction over a review under this paragraph—

(i) shall not set aside or remand an order described in subparagraph (C) unless—

(I) there is not substantial evidence in the record, taken as a whole, to support the finding of a violation; or

(II) the assessment by the Commandant of the civil penalty constitutes an abuse of discretion; and

(ii) shall not impose additional civil penalties for the same violation unless the assessment by the Commandant of the civil penalty constitutes an abuse of discretion.

(11) COLLECTION.—

(A) IN GENERAL.—If any person fails to pay an assessment of a civil penalty after the assessment has become final, or after a court in a proceeding under paragraph (10) has entered a final judgment in favor of the Commandant, the Commandant shall request the Attorney General to bring a civil action in an appropriate district court to recover—

(i) the amount assessed; and

(ii) interest that has accrued on the amount assessed, as calculated at currently prevailing rates beginning on the date of the final order or the date of the final judgment, as the case may be.

(B) NONREVIEWABILITY.—In an action to recover an assessed civil penalty under subparagraph (A), the validity, amount, and appropriateness of the civil penalty shall not be subject to judicial review.

(C) FAILURE TO PAY PENALTY.—Any person that fails to pay, on a timely basis, the amount of an assessment of a civil penalty under subparagraph (A) shall be required to pay, in addition to the amount of the civil penalty and accrued interest—

(i) attorney's fees and other costs for collection proceedings; and

(ii) for each quarter during which the failure to pay persists, a quarterly nonpayment penalty in an amount equal to 20 percent of the aggregate amount of the assessed civil penalties and nonpayment penalties of the person that are unpaid as of the beginning of the quarter.

(12) SUBPOENAS.—

(A) IN GENERAL.—The Commandant may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection.

(B) REFUSAL TO OBEY.—In case of contumacy or refusal to obey a subpoena issued under this paragraph and served on any person—

(i) the United States district court for any district in which the person is found, resides, or transacts business, on application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Commandant or to appear and produce documents before the Commandant; and

(ii) any failure to obey such an order of the court may be punished by the court as a contempt of the court.

(c) CIVIL ACTION.—The Commandant may commence, in the United States district court for the district in which the defendant is located, resides, or transacts business, a civil action to impose a civil penalty under this subsection in an amount not to exceed $25,000 for each day of violation.

(d) CRIMINAL PENALTIES.—

(1) NEGLIGENT VIOLATIONS.—A person that negligently violates section 4 or any regulation promulgated under this Act commits a Class A misdemeanor.

(2) KNOWING VIOLATIONS.—Any person that knowingly violates section 4 or any regulation promulgated under this Act commits a Class D felony.

(3) FALSE STATEMENTS.—Any person that knowingly makes any false statement, representation, or certification in any record, report, or other document filed or required to be maintained under this Act or any regulation promulgated under this Act, or that falsifies, tampers with, or knowingly renders inaccurate any testing or monitoring device or method required to be maintained under this Act or any regulation promulgated under this Act, commits a Class D felony.

(e) REWARDS.—

(1) PAYMENTS TO INDIVIDUALS.—

(A) IN GENERAL.—The Commandant or the court, as the case may be, may order payment, from a civil penalty or criminal fine collected under this section, of an amount not to exceed ½ of the civil penalty or fine, to any individual who furnishes information that leads to the payment of the civil penalty or criminal fine.

(B) MULTIPLE INDIVIDUALS.—If 2 or more individuals provide information described in subparagraph (A), the amount available for payment as a reward shall be divided equitably among the individuals.

(C) INELIGIBLE INDIVIDUALS.—No officer or employee of the United States, a State, or an Indian tribe who furnishes information or renders service in the performance of the official duties of the officer or employee shall be eligible for a reward payment under this subsection.

(2) PAYMENTS TO STATES OR INDIAN TRIBES.—The Commandant or the court, as the case may be, may order payment, from a civil penalty or criminal fine collected under this section, to a State or Indian tribe providing information or investigative assistance that leads to payment of the penalty or fine, of an amount that reflects the level of information or investigative assistance provided.

(3) PAYMENTS DIVIDED AMONG STATES, INDIAN TRIBES, AND INDIVIDUALS.—In a case in which a State or Indian tribe and an individual under paragraph (1) are eligible to receive a reward payment under this subsection, the Commandant or the court shall divide the amount available for the reward equitably among those recipients.

(f) LIABILITY IN REM.—A cruise vessel operated in violation of this Act or any regulation promulgated under this Act—

(1) shall be liable in rem for any civil penalty or criminal fine imposed under this section; and

(2) may be subject to a proceeding instituted in the United States district court for any district in which the cruise vessel may be found.

(g) COMPLIANCE ORDERS.—

(1) IN GENERAL.—If the Commandant determines that any person is in violation of section 4 or any regulation promulgated under this Act, the Commandant shall—

(A) issue an order requiring the person to comply with the section or requirement; or

(B) bring a civil action in accordance with subsection (b).

(2) COPIES OF ORDER, SERVICE.—

(A) CORPORATE ORDERS.—In any case in which an order under this subsection is issued to a corporation, a copy of the order shall be served on any appropriate corporate officer.

(B) METHOD OF SERVICE; SPECIFICATIONS.—An order issued under this subsection shall—

(i) be by personal service;

(ii) state with reasonable specificity the nature of the violation for which the order was issued; and

(iii) specify a deadline for compliance that is not later than—

(I) 30 days after the date of issuance of the order, in the case of a violation of an interim compliance schedule or operation and maintenance requirement; and

(II) such date as the Commandant, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, determines to be reasonable, in the case of a violation of a final deadline.

(h) CIVIL ACTIONS.—

(1) IN GENERAL.—The Commandant may commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Commandant is authorized to issue a compliance order under this subsection.

(2) COURT OF JURISDICTION.—

(A) IN GENERAL.—A civil action under this subsection may be brought in the United States district court for the district in which the defendant is located, resides, or is doing business.

(B) JURISDICTION.—A court described in subparagraph (A) shall have jurisdiction to grant injunctive relief to address a violation, and require compliance, by the defendant.

SEC. 10. CITIZEN SUITS.

(a) AUTHORIZATION.—Except as provided in subsection (c), any citizen may commence a civil action on his or her own behalf—

(1) against any person (including the United States and any other governmental instrumentality or agency to the extent permitted by the eleventh amendment of the Constitution) that is alleged to be in violation of—

(A) the conditions imposed by section 4;

(B) an effluent limit or management standard under this Act; or

(C) an order issued by the Administrator or Commandant with respect to such a condition, effluent limit, or performance standard; or

(2) against the Administrator or Commandant, in a case in which there is alleged a failure by the Administrator or Commandant to perform any nondiscretionary act or duty under this Act.

(b) JURISDICTION.—The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties—

(1) to enforce a condition, effluent limit, performance standard, or order described in subsection (a)(1);

(2) to order the Administrator or Commandant to perform a nondiscretionary act or duty described in subsection (a)(2); and

(3) to apply any appropriate civil penalties under section 9(b).

(c) NOTICE.—No action may be commenced under this section—

(1) before the date that is 60 days after the date on which the plaintiff gives notice of the alleged violation—

(A) to the Administrator or Commandant; and

(B) to any alleged violator of the condition, limit, standard, or order; or

(2) if the Administrator or Commandant has commenced and is diligently prosecuting a civil or criminal action on the same matter in a court of the United States (but in any such action, a citizen may intervene as a matter of right).

(d) VENUE.—

(1) IN GENERAL.—Any civil action under this section shall be brought in—

(A) the United States District Court for the District of Columbia; or

(B) any other United States district court for any judicial district in which a cruise vessel or the owner or operator of a cruise vessel are located.

(2) INTERVENTION.—In a civil action under this section, the Administrator or the Commandant, if not a party, may intervene as a matter of right.

(3) PROCEDURES.—

(A) SERVICE.—In any case in which a civil action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on—

(i) the Attorney General;

(ii) the Administrator; and

(iii) the Commandant.

(B) CONSENT JUDGMENTS.—No consent judgment shall be entered in a civil action under this section to which the United States is not a party before the date that is 45 days after the date of receipt of a copy of the proposed consent judgment by—

(i) the Attorney General;

(ii) the Administrator; and

(iii) the Commandant.

(e) LITIGATION COSTS.—

(1) IN GENERAL.—A court of jurisdiction, in issuing any final order in any civil action brought in accordance with this section, may award costs of litigation (including reasonable attorney's and expert witness fees) to any prevailing or substantially prevailing party, in any case in which the court determines that such an award is appropriate.

(2) SECURITY.—In any civil action under this section, the court of jurisdiction may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) STATUTORY OR COMMON LAW RIGHTS NOT RESTRICTED.—Nothing in this section restricts the rights of any person (or class of persons) under any statute or common law to seek enforcement or other relief (including relief against the Administrator or Commandant).

(g) CIVIL ACTION BY STATE GOVERNORS.—A Governor of a State may commence a civil action under subsection (a) of this section, without regard to the limitation under subsection (c), against the Administrator or Commandant in any case in which there is alleged a failure of the Administrator or Commandant to enforce an effluent limit or performance standard under this Act, the violation of which is causing—

(1) an adverse effect on the public health or welfare in the State; or

(2) a violation of any water quality requirement in the State.

SEC. 11. ALASKAN CRUISE VESSELS.

(a) DEFINITION OF ALASKAN CRUISE VESSEL.—In this section, the term "Alaskan cruise vessel" means a cruise vessel—

(1) that seasonally operates in water of or surrounding the State of Alaska;

(2) in which is installed, not later than the date of enactment of this Act (or, at the option of the Commandant, not later than September 30 of the fiscal year in which this Act is enacted), and certified by the State of Alaska for continuous discharge and operation in accordance with all applicable Federal and State law (including regulations), an advanced treatment system for the treatment and discharge of graywater and sewage; and

(3) that enters a port of the United States.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), an Alaskan cruise vessel shall not be subject to this Act (including regulations promulgated under this Act) until the date that is 15 years after the date of enactment of this Act.

(2) EXCEPTIONS.—An Alaskan cruise vessel—

(A) shall not be subject to the minimum effluent limits prescribed under section 5(b) until the date that is 3 years after the date of enactment of this Act;

(B) shall not be subject to effluent limits promulgated under section 5(a) or 5(c) until the date that is 6 years after the date of enactment of this Act; and

(C) shall be prohibited from discharging sewage, graywater, and bilge water in the territorial sea, in accordance with this Act, as of the date of enactment of this Act.

SEC. 12. BALLAST WATER.

It is the sense of Congress that action should be taken to enact legislation requiring strong, mandatory standards for ballast water to reduce the threat of aquatic invasive species.

SEC. 13. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commandant and the Administrator such sums as are necessary to carry out this Act for each of fiscal years 2006 through 2010.

(b) CRUISE VESSEL POLLUTION CONTROL FUND.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the "Cruise Vessel Pollution Control Fund" (referred to in this section as the "Fund").

(2) APPROPRIATION OF AMOUNTS.—There are appropriated to the Fund such amounts as are deposited in the Fund under subsection (c)(5).

(3) USE OF AMOUNTS IN FUND.—The Administrator and the Commandant may use amounts in the fund, without further appropriation, to carry out this Act.

(c) FEES ON CRUISE VESSELS.—

(1) IN GENERAL.—The Commandant shall establish and collect from each cruise vessel a reasonable and appropriate fee, in an amount not to exceed $10 for each paying passenger on a cruise vessel voyage, for use in carrying out this Act.

(2) ADJUSTMENT OF FEE.—

(A) IN GENERAL.—The Commandant shall biennially adjust the amount of the fee established under paragraph (1) to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor during each 2-year period.

(B) ROUNDING.—The Commandant may round the adjustment in subparagraph (A) to the nearest ⅒ of a dollar.

(3) FACTORS IN ESTABLISHING FEES.—

(A) IN GENERAL.—In establishing fees under paragraph (1), the Commandant may establish lower levels of fees and the maximum amount of fees for certain classes of cruise vessels based on—

(i) size;

(ii) economic share; and

(iii) such other factors as are determined to be appropriate by the Commandant and Administrator.

(B) FEE SCHEDULES.—Any fee schedule established under paragraph (1), including the level of fees and the maximum amount of fees, shall take into account—

(i) cruise vessel routes;

(ii) the frequency of stops at ports of call by cruise vessels; and

(iii) other relevant considerations.

(4) COLLECTION OF FEES.—A fee established under paragraph (1) shall be collected by the Commandant from the owner or operator of each cruise vessel to which this Act applies.

(5) DEPOSITS TO FUND.—Notwithstanding any other provision of law, all fees collected under this subsection, and all penalties and payments collected for violations of this Act, shall be deposited into the Fund.

SEC. 14. EFFECT ON OTHER LAW.

(a) UNITED STATES.—Nothing in this Act restricts, affects, or amends any other law or the authority of any department, instrumentality, or agency of the United States.

(b) STATES AND INTERSTATE AGENCIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act precludes or denies the right of any State (including a political subdivision of a State) or interstate agency to adopt or enforce—

(A) any standard or limit relating to the discharge of pollutants by cruise ships; or

(B) any requirement relating to the control or abatement of pollution.

(2) EXCEPTION.—If an effluent limit, performance standard, water quality standard, or any other prohibition or limitation is in effect under Federal law, a State (including a political subdivision of a State) or interstate agency described in paragraph (1) may not adopt or enforce any effluent limit, performance standard, water quality standard, or any other prohibition that—

(A) is less stringent than the effluent limit, performance standard, water quality standard, or other prohibition or limitation under this Act; or

(B) impairs or in any manner affects any right or jurisdiction of the State with respect to the waters of the State.

By Mr. HARKIN:

S. 794. A bill to amend title 23, United States Code, to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN. Mr. President, I am pleased to introduce the "Safe and Complete Streets Act of 2005."

This legislation helps put this Nation on the path to a safer and, importantly, healthier America, by making some very modest adjustments in how State transportation departments and regional and local transportation agencies address the safety needs of pedestrians and bicyclists.

This proposal is being introduced today to ensure greater attention to the "SAFETEA" elements of the surface transportation renewal bill that will come before the Senate in the coming weeks. With some selected, but modest, adjustments to this surface transportation legislation, we can improve the safety of pedestrians and bicyclists. And with that improved safety, we make it easier for Americans to walk and use bicycles to meet their transportation needs, whether to work, for errands or for simple exercise and enjoyment.

Currently, safety concerns reduce the comfort of many people to move by foot and bicycle. Many roadways simply do not have sidewalks. And it is a particular problem for our growing elderly population. In many cases, the timing of lights makes it difficult for the elderly and those with a disability to simply get from one side of a busy intersection to another.

There is clearly a need for further progress in this area. Consider that nearly 52,000 pedestrians and more than 7,400 bicyclists were killed in the most recent 10-year period, ending 2003. And, we know that many of these deaths, and thousands of more injuries, are avoidable, if we commit ourselves to doing those things that make a difference.

This bill proposes three important changes to current law. First, it insists that Federal, State and local agencies receiving billions of dollars in federal transportation funds modernize their processes—how they plan, what they study and how they lead—so that the safety of pedestrians and bicyclists are more fully considered. Second, it ensures that investments we make today don't add to the problems we already have, which is the burden of retrofitting and reengineering existing transportation networks because we forgot about pedestrians and bicyclists. Finally, it commits additional resources to a national priority need—getting our children to schools safely on foot and bicycles through a stronger funding commitment to Safe Routes to School.

The Senate will soon take up a surface transportation renewal plan that already includes key provisions to help us make further progress on the safety needs of nonmotorized travelers. The "Safe and Complete Streets Act of 2005" is specifically designed and developed to complement the efforts in the committee passed measure. Only in two areas, pertaining to the Safe Routes to School initiative and a small nonmotorized pilot program, does this legislation propose any additional funding commitments. All other aspects of the legislation before you today build upon existing commitments and existing features of current law.

Let me speak briefly to the issues of the Safe Routes to School program specifically. This legislation proposes to raise the Senate's commitment to increased safety for our school age kids by slightly more than $100 million annually over the level in the surface transportation bill that the Senate will soon consider.

I am proposing this modest increase in spending because there is a crtical need for us to accelerate what we are doing to protect our most exposed citizens, our school age children. This Nation has spent the last two generations getting kids into cars and buses, rather than on foot or bicycles.

Now, we are reaping the harvest. Billions more in added transportation costs for our schools districts to bus our kids to schools. Added congestion on our roadways as families transport their kids to school by I private automobile, clogging traffic at the worst time possible, during the morning commute. In Marin County, CA, a pilot program has demonstrated substantial success in reducing congestion by shifting children to walking and riding their bikes to school.

In addition, we see rising obesity in our children and looming public health challenges over the next several generations, and even shortened life expectancy. We need to promote walking for both health and transportation purposes.

The "Safe and Complete Streets Act of 2005" will not only promote the safety of pedestrians and bicyclists, it also will provide benefits to society from smarter use of tax dollars, and by focusing on safety first. I urge my Senate colleagues to join with me in supporting this important legislation.

I am pleased to announce that it has the support of the following eleven national organizations: AARP, American Bikes, American Heart Association, American Public Health Association, American Society of Landscape Architects, American Planning Association, League of American Bicyclists, National Center for Bicycling & Walking, Paralyzed Veterans of America, Rail-to-Trails Conservancy and the Surface Transportation Policy Project.

By Mr. DODD (for himself and Mr. WARNER):

S. 795. A bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements; to the Committee on Environment and Public Works.

Mr. DODD. Mr. President, I rise with my colleague from Virginia, Senator WARNER, to introduce the Safe Teen and Novice Driver Uniform Protection (STAND UP) Act of 2005—an important piece of legislation that seeks to protect and ensure the lives of the 20 million teenage drivers in our country.

We all know that the teenage years represent an important formative stage in a person's life. They are a bridge between childhood and adulthood—the transitional and often challenging period during which a person will first gain an inner awareness of his or her identity. The teenage years encompass a time for discovery, a time for growth, and a time for gaining independence—all of which ultimately help boys and girls transition successfully into young men and women.

As we also know, the teenage years also encompass a time for risk-taking. A groundbreaking study to be published soon by the National Institutes of Health concludes that the frontal lobe region of the brain which inhibits risky behavior is not fully formed until the age of 25. In my view, this important report implies that we approach teenagers' behavior with a new sensitivity. It also implies that we have a societal obligation to steer teenagers towards positive risk-taking that fosters further growth and development and away from negative risk-taking that has an adverse effect on their well-being and the well-being of others.

Unfortunately, we see all too often this negative risk-taking in teenagers when they are behind the wheel of a motor vehicle. We see all too often how this risk-taking needlessly endangers the life of a teenage driver, his or her passengers, and other drivers on the road. And we see all too often the tragic results of this risk-taking when irresponsible and reckless behavior behind the wheel of a motor vehicle causes severe harm and death.

According to the National Transportation Safety Board, motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age. In 2002, teenage drivers, who constituted only 6.4 percent of all drivers, were involved in 14.3 percent of all fatal motor vehicle crashes. In 2003, 5,691 teenage drivers were killed in motor vehicle crashes and 300,000 teenage drivers suffered injuries in motor vehicle crashes.

The National Highway Traffic Safety Administration reports that teenage drivers have a fatality rate that is four times higher than the average fatality rate for drivers between 25 and 70 years of age. Furthermore, teenage drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers between the ages of 30 and 60.

Finally, the Insurance Institute for Highway Safety concludes that the chance of a crash by a driver either 16 or 17 years of age is doubled if there are two peers in the motor vehicle and quadrupled with three or more peers in the vehicle.

Crashes involving teenage injuries or fatalities are often highprofile tragedies in the area where they occur. However, when taken together, these individual tragedies speak to a national problem clearly illustrated by the staggering statistics I just mentioned. It is a problem that adversely affects teenage drivers, their passengers, and literally everyone else who operates or rides in a motor vehicle. Clearly, more work must be done to design and implement innovative methods that educate our young drivers on the awesome responsibilities that are associated with operating a motor vehicle safely.

One such method involves implementing and enforcing a graduated driver's license system, or a GDL system. Under a typical GDL system, a teenage driver passes through several sequential learning stages before earning the full privileges associated with an unrestricted driver's license. Each learning stage is designed to teach a teenage driver fundamental lessons on driver operations, responsibilities, and safety. Each stage also imposes certain restrictions, such as curfews on nighttime driving and limitations on passengers, that further ensure the safety of the teenage driver, his or her passengers, and other motorists.

First implemented over ten years ago, three-stage GDL systems now exist in 38 States. Furthermore, every

State in the country has adopted at least one driving restriction for new teenage drivers. Several studies have concluded that GDL systems and other license restriction measures have been linked to an overall reduction on the number of teenage driver crashes and fatalities. In 1997, in the first full year that its GDL system was in effect, Florida experienced a 9 percent reduction in fatal and injurious motor vehicle crashes among teenage drivers between 15 and 18 years of age. After GDL systems were implemented in Michigan and North Carolina in 1997, the number of motor vehicle crashes involving teenage drivers 16 years in age decreased in each State by 25 percent and 27 percent, respectively. And in California, the numbers of teenage passenger deaths and injuries in crashes involving teenage drivers 16 years in age decreased by 40 percent between 1998 and 2000, the first three years that California's GDL system was in effect. The number of "at-fault" crashes involving teenage drivers decreased by 24 percent during the same period.

These statistics are promising and clearly show that many States are taking an important first step towards addressing this enormous problem concerning teenage driver safety. However, there is currently no uniformity between States with regards to GDL system requirements and other novice driver license restrictions. Some States have very strong initiatives in place that promote safe teenage driving while others have very weak initiatives in place. Given how many teenagers are killed or injured in motor vehicle crashes each year, and given how many other motorists and passengers are killed or injured in motor vehicle crashes involving teenage drivers each year, Senator Warner and I believe that the time has come for an initiative that sets a national minimum safety standard for teen driving laws while giving each State the flexibility to set additional standards that meet the more specific needs of its teenage driver population. The bill that Senator Warner and I are introducing today—the STANDUP Act—is such an initiative. There are four principal components of this legislation about which I would like to discuss.

First, The STANDUP Act mandates that all States implement a national minimum safety standard for teenage drivers that contains three core requirements recommended by the National Transportation Safety Board. These requirements include implementing a three-stage GDL system, implementing at least some prohibition on nighttime driving, and placing a restriction on the number of passengers without adult supervision.

Second, the STANDUP Act directs the Secretary of Transportation to issue voluntary guidelines beyond the three core requirements that encourage States to adopt additional standards that improve the safety of teenage driving. These additional standards may include requiring that the learner's permit and intermediate stages be six months each, requiring at least 30 hours of behind-the-wheel driving for a novice driver in the learner's permit stage in the company of a licensed driver who is over 21 years of age, requiring a novice driver in the learner's permit stage to be accompanied and supervised by a licensed driver 21 years of age or older at all times when the novice driver is operating a motor vehicle, and requiring that the granting of an unrestricted driver's license be delayed automatically to any novice driver in the learner's permit or intermediate stages who commits a motor vehicle offense, such as driving while intoxicated, misrepresenting his or her true age, reckless driving, speeding, or driving without a fastened seatbelt.

Third, the STANDUP Act provides incentive grants to States that come into compliance within three fiscal years. Calculated on a State's annual share of the Highway Trust Fund, these incentive grants could be used for activities such as training law enforcement and relevant State agency personnel in the GDL law or publishing relevant educational materials on the GDL law.

Finally, the STANDUP Act calls for sanctions to be imposed on States that do not come into compliance after three fiscal years. The bill withholds 1.5 percent of a State's Federal highway share after the first fiscal year of non-compliance, three percent after the second fiscal year, and six percent after the third fiscal year. The bill does allow a State to reclaim any withheld funds if that State comes into compliance within two fiscal years after the first fiscal year of non-compliance.

There are those who will say that the STAND UP Act infringes on States' rights. I respectfully disagree. I believe that working to protect and ensure the lives and safety of the millions of teenage drivers, their passengers, and other motorists in this country is national in scope and a job that is rightly suited for Congress. I also believe that the number of motor vehicle deaths and injuries associated with teenage drivers each year compels us to address this important national issue today and not tomorrow.

The teenage driving provisions within the STANDUP Act are both well-known and popular with the American public. A Harris Poll conducted in 2001 found that 95 percent of Americans support a requirement of 30 to 50 hours of practice driving within an adult, 92 percent of Americans support a six-month learner's permit stage, 74 percent of Americans support limiting the number of teen passengers in a motor vehicle with a teen driver, and 74 percent of Americans also support supervised or restricted driving during high-risk periods such as nighttime. Clearly, these numbers show that teen driving safety is an issue that transcends party politics and is strongly embraced by a solid majority of Americans. Therefore, I ask my colleagues today to join Senator Warner and myself in protecting the lives of our teenagers and in supporting this important legislation.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Teen and Novice Driver Uniform Protection Act of 2005" or the "STANDUP Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Transportation Safety Board has reported that—

(A) in 2002, teen drivers, which constituted only 6.4 percent of all drivers, were involved in 14.3 percent of all fatal motor vehicle crashes;

(B) motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age;

(C) between 1994 and 2003, almost 64,000 Americans between 15 and 20 years of age died in motor vehicle crashes, an average of 122 per week; and

(D) in 2003—

(i) 3,657 American drivers between 15 and 20 years of age were killed in motor vehicle crashes;

(ii) 300,000 Americans between 15 and 20 years of age were injured in motor vehicle crashes; and

(iii) 7,884 American drivers between 15 and 20 years of age were involved in fatal crashes, resulting in 9,088 total fatalities, a 5 percent increase since 1993.

(2) Though only 20 percent of driving by young drivers occurs at night, over 50 percent of the motor vehicle crash fatalities involving young drivers occur at night.

(3) The National Highway Traffic Safety Administration has reported that—

(A) 6,300,000 motor vehicle crashes claimed the lives of nearly 43,000 Americans in 2003 and injured almost 3,000,000 more Americans;

(B) teen drivers between 16 and 20 years of age have a fatality rate that is 4 times the rate for drivers between 25 and 70 years of age; and

(C) drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers aged between 30 and 60 years of age.

(4) According to the Insurance Institute for Highway Safety, the chance of a crash by a 16- or 17-year-old driver is doubled if there are 2 peers in the vehicle and quadrupled with 3 or more peers in the vehicle.

(5) In 1997, the first full year of its graduated driver licensing system, Florida experienced a 9 percent reduction in fatal and injurious crashes among young drivers between the ages of 15 and 18, compared with 1995, according the Insurance Institute for Highway Safety.

(6) The Journal of the American Medical Association reports that crashes involving

16-year-old drivers decreased between 1995 and 1999 by 25 percent in Michigan and 27 percent in North Carolina. Comprehensive graduated driver licensing systems were implemented in 1997 in these States.

(7) In California, according to the Automobile Club of Southern California, teenage passenger deaths and injuries resulting from crashes involving 16-year-old drivers declined by 40 percent from 1998 to 2000, the first 3 years of California's graduated driver licensing program. The number of at-fault collisions involving 16-year-old drivers decreased by 24 percent during the same period.

(8) The National Transportation Safety Board reports that 39 States and the District of Columbia have implemented 3-stage graduated driver licensing systems. Many States have not yet implemented these and other basic safety features of graduated driver licensing laws to protect the lives of teenage and novice drivers.

(9) A 2001 Harris Poll indicates that—

(A) 95 percent of Americans support a requirement of 30 to 50 hours of practice driving with an adult;

(B) 92 percent of Americans support a 6-month learner's permit period; and

(C) 74 percent of Americans support limiting the number of teen passengers in a car with a teen driver and supervised driving during high-risk driving periods, such as night.

SEC. 3. STATE GRADUATED DRIVER LICENSING LAWS.

(a) Minimum Requirements.—A State is in compliance with this section if the State has a graduated driver licensing law that includes, for novice drivers under the age of 21—

(1) a 3-stage licensing process, including a learner's permit stage and an intermediate stage before granting an unrestricted driver's license;

(2) a prohibition on nighttime driving during the learner's permit and intermediate stages;

(3) a prohibition, during the learner's permit intermediate stages, from operating a motor vehicle with more than 1 non-familial passenger under the age of 21 if there is no licensed driver 21 years of age or older present in the motor vehicle; and

(4) any other requirement that the Secretary of Transportation (referred to in this Act as the "Secretary") may require, including—

(A) a learner's permit stage of at least 6 months;

(B) an intermediate stage of at least 6 months;

(C) for novice drivers in the learner's permit stage—

(i) a requirement of at least 30 hours of behind-the-wheel training with a licensed driver who is over 21 years of age; and

(ii) a requirement that any such driver be accompanied and supervised by a licensed driver 21 years of age or older at all times when such driver is operating a motor vehicle; and

(D) a requirement that the grant of full licensure be automatically delayed, in addition to any other penalties imposed by State law for any individual who, while holding a provisional license, convicted of an offense, such as driving while intoxicated, misrepresentation of their true age, reckless driving, unbelted driving, speeding, or other violations, as determined by the Secretary.

(b) Rulemaking.—After public notice and comment rulemaking the Secretary shall issue regulations necessary to implement this section.

SEC. 4. INCENTIVE GRANTS.

(a) In General.—For each of the first 3 fiscal years following the date of enactment of this Act, the Secretary shall award a grant to any State in compliance with section 3(a) on or before the first day of that fiscal year that submits an application under subsection (b).

(b) Application.—Any State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a certification by the governor of the State that the State is in compliance with section 3(a).

(c) Grants.—For each fiscal year described in subsection (a), amounts appropriated to carry out this section shall be apportioned to each State in compliance with section 3(a) in an amount determined by multiplying—

(1) the amount appropriated to carry out this section for such fiscal year; by

(2) the ratio that the amount of funds apportioned to each such State for such fiscal year under section 402 of title 23, United States Code, bears to the total amount of funds apportioned to all such States for such fiscal year under such section 402.

(d) Use of Funds.—Amounts received under a grant under this section shall be used for—

(1) enforcement and providing training regarding the State graduated driver licensing law to law enforcement personnel and other relevant State agency personnel;

(2) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law; and

(3) other administrative activities that the Secretary considers relevant to the State graduated driver licensing law.

(e) Authorization of Appropriations.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for each of the fiscal years 2005 through 2009.

SEC. 5. WITHHOLDING OF FUNDS FOR NON-COMPLIANCE.

(a) In General.—

(1) Fiscal year 2010.—The Secretary shall withhold 1.5 percent of the amount otherwise required to be apportioned to any State for fiscal year 2010 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on October 1, 2009.

(2) Fiscal year 2011.—The Secretary shall withhold 3 percent of the amount otherwise required to be apportioned to any State for fiscal year 2011 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on October 1, 2010.

(3) Fiscal year 2012 and thereafter.—The Secretary shall withhold 6 percent of the amount otherwise required to be apportioned to any State for each fiscal year beginning with fiscal year 2012 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on the first day of such fiscal year.

(b) Period of Availability of Withheld Funds.—

(1) Funds withheld on or before September 30, 2011.—Any amount withheld from any State under subsection (a) on or before September 30, 2011, shall remain available for distribution to the State under subsection (c) until the end of the third fiscal year following the fiscal year for which such amount is appropriated.

(2) Funds withheld after September 30, 2011.—Any amount withheld under subsection (a)(2) from any State after September 30, 2011, may not be distributed to the State.

(c) Apportionment of Withheld Funds After Compliance.—

(1) In general.—If, before the last day of the period for which funds withheld under subsection (a) are to remain available to a State under subsection (b), the State comes into compliance with section 3(a), the Secretary shall, on the first day on which the State comes into compliance, distribute to the State any amounts withheld under subsection (a) that remains available for apportionment to the State.

(2) Period of availability of subsequently apportioned funds.—Any amount distributed under paragraph (1) shall remain available for expenditure by the State until the end of the third fiscal year for which the funds are so apportioned. Any amount not expended by the State by the end of such period shall revert back to the Treasury of the United States.

(3) Effect of non-compliance.—If a State is not in compliance with section 3(a) at the end of the period for which any amount withheld under subsection (a) remains available for distribution to the State under subsection (b), such amount shall revert back to the Treasury of the United States.

By Ms. MURKOWSKI:

S. 796. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into law; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. MURKOWSKI. Mr. President, I am today reintroducing a very important bill on a subject that was not resolved last year, and which continues to be an outstanding issue for those of us who are dependent on healthy and productive natural populations of ocean fish and shellfish.

Simply put, this bill prohibits further movement toward the development of aquaculture facilities in federal waters until Congress has had an opportunity to review all of the very serious implications, and make decisions on how such development should proceed.

Some people are calling for a moratorium on offshore aquaculture. Frankly, Mr. President, we need more than a delay—we need a very comprehensive discussion of this issue and a serious debate on what the ground-rules should be.

For years, some members of the federal bureaucracy have advocated going forward with offshore aquaculture development without that debate. Doing so, would be an extraordinarily bad idea.

We are now being told that the Administration is in the final stages of preparing a draft bill to allow offshore aquaculture development to occur, and that it plans to send a draft to the Hill in the very near future. The problem is, that draft has been prepared in deep secrecy. We have only rumors about what may be in that draft bill. The administration has had meetings on the general topic of aquaculture, but has done little to nothing to work with those of us who represent constituents whose livelihoods might be imperiled and states with resources that might be endangered if the administration gets it wrong.

Scientists, the media and the public are awakening to the serious disadvantages of fish raised in fish farming operations compared to naturally healthy wild fish species such as Alaska salmon, halibut, sablefish, crab and many other species.

It has become common to see news reports that cite not only the general health advantages of eating fish at least once or twice a week, but the specific advantages of fish such as wild salmon, which contains essential Omega-3 fatty acids that may help reduce the risk of heart disease and possibly have similar beneficial effects on other diseases.

Educated and watchful consumers have also seen recent stories citing research that not only demonstrates that farmed salmon fed vegetable-based food does not have the same beneficial impact on cardio-vascular health, but also that the demand for other fish to grind up and use as feed in those fish farms may lead to the decimation of those stocks.

Those same alert consumers may also have seen stories indicating that fish farms may create serious pollution problems from the concentration of fish feces and uneaten food, that fish farms may harbor diseases that can be transmitted to previously healthy wild fish stocks, and that fish farming has had a devastating effect on communities that depend on traditional fisheries.

It is by no means certain that all those problems would be duplicated if we begin to develop fish farms that are farther offshore, but neither is there any evidence that they would not be. Yet despite the uncertainties, proponents have continued to push hard for legislation that would encourage the development of huge new fish farms off our coasts.

Not only do the proponents want to encourage such development, but reports indicate they may also want to change the way decisions are made so that all the authority rests in the hands of just one federal agency. I believe that would be a serious mistake. There are simply too many factors that should be evaluated—from hydraulic engineering, to environmental impacts, to fish biology, to the management of disease, to the nutritional character of farmed fish, and so on—for any existing agency.

We cannot afford a rush to judgment on this issue—it is far too dangerous if we make a mistake. In my view, such a serious matter deserves the same level of scrutiny by Congress as the recommendations of the U.S. Commission on Ocean Policy for other sweeping changes in ocean governance.

The "Natural Stock Conservation Act" I am introducing today lays down a marker for where the debate on offshore aquaculture needs to go. It would prohibit the development of new offshore aquaculture operations until Congress has acted to ensure that every federal agency involved does the necessary analyses in areas such as disease control, engineering, pollution prevention, biological and genetic impacts, economic and social effects, and other critical issues, none of which are specifically required under existing law.

I strongly urge my colleagues to understand that this is not a parochial issue, but a very real threat to the literal viability of natural fish and shellfish stocks as well as the economic viability of many coastal communities.

I sincerely hope that this issue is taken up seriously in the context of reauthorizing the Magnuson-Stevens Act, which governs fishery management, and responding to the recommendations of the U.S. Oceans Commission and the Pew Oceans Commission.

We all want to make sure we enjoy abundant supplies of healthy foods in the future, but not if it means unnecessary and avoidable damage to wild species, to the environment generally, and to the economies of America's coastal fishing communities.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Natural Stock Conservation Act of 2005".

SEC. 2. PROHIBITION ON PERMITS FOR AQUACULTURE.

The National Aquaculture Act of 1980 (16 D.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 10 and 11 as sections 11 and 12 respectively; and S.L.C.

(2) by inserting after section 9 the following new section:

PROHIBITION ON PERMITS FOR AQUACULTURE

"SEC. 10. (a) IN GENERAL.—The head of an agency with jurisdiction to regulate aquaculture may not issue a permit or license to permit an aquaculture facility located in the exclusive economic zone to operate until after the date on which a bill is enacted into law that—

"(1) sets out the type and specificity of the analyses that the head of an agency with jurisdiction to regulate aquaculture shall carry out prior to issuing any such permit or license, including analyses related to—

"(A) disease control;

"(B) structural engineering;

"(C) pollution;

"(D) biological and genetic impacts;

"(E) access and transportation;

"(F) food safety; and

"(G) social and economic impacts of such facility on other marine activities, including commercial and recreational fishing; and

"(2) requires that a decision to issue such a permit or license be—

"(A) made only after the head of the agency that issues such license or permit consults with the Governor of each State located within a 200-mile radius of the aquaculture facility; and

"(B) approved by the regional fishery management council that is granted authority under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) over a fishery in the region where the aquaculture facility will be located.

"(b) DEFINITIONS.—In this section:

"(1) AGENCY WITH JURISDICTION TO REGULATE AQUACULTURE.—The term 'agency with jurisdiction to regulate aquaculture' means each agency and department of the United States, as follows:

"(A) The Department of Agriculture.

"(B) The Coast Guard.

"(C) The Department of Commerce.

"(D) The Environmental Protection Agency.

"(E) The Department of the Interior.

"(F) The U.S. Army Corps of Engineers.

"(2) EXCLUSIVE ECONOMIC ZONE.—The term 'exclusive economic zone' has the meaning given that term in section 3 of the of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

"(3) Regional fishery management council.—The term 'regional fishery management council' means a regional fishery management council established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)).".

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 797. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the status of certain communities in the western Alaska community development quota program; to the Committee on Commerce, Science, and Transportation.

Ms. MURKOWSKI. Mr. President, I am today reintroducing legislation to clarify the status of villages participating in the federally established Community Development Quota (CDQ) program created to assist economically disadvantaged communities around the edge of the Bering Sea.

The CDQ program is one of the youngest but most successful of a variety of programs intended to improve economic opportunities in some of my State's most challenged communities.

The CDQ Community Preservation Act is intended to maintain the participation of all currently eligible communities along the shore of the Bering Sea in Alaska's Community Development Quota program. It is necessary because inconsistencies in statutory and regulatory provisions may require a reassessment of eligibility and the exclusion of some communities from the program. This was not the intent of the original program, nor of any subsequent changes to it. In order to clarify that fact, a legislative remedy is needed.

Senator STEVENS joined me in introducing just such a remedy last year, but work on it was not completed and we were forced to settle for only temporary relief. It is time we dealt with this matter more appropriately.

Alaska has been generously blessed with natural resources, but due to its location and limited transportation infrastructure it continues to have pockets of severe poverty. Nowhere is this more evident than in the villages around the rim of the Bering Sea.

The Community Development Quota Program began in 1992, at the recommendation of the North Pacific Fishery Management Council, one of the regional councils formed under the Magnuson-Stevens Fishery Conservation and Management Act. Congress gave the program permanent status in the 1996 reauthorization of the Act. The program presently includes 65 communities within a 50 nautical-mile radius of the Bering Sea, which have formed six regional non-profit associations to participate in the program. The regional associations range in size from one to 20 communities. Under the program, a portion of the regulated annual harvests of pollock, halibut, sablefish, Atka mackerel, Pacific cod, and crab is assigned to each of the associations, which operate under combined Federal and State agency oversight. Almost all of an association's earnings must be invested in fishing-related projects in order to encourage a sustainable economic base for the region.

Typically, each association sells its share of the annual harvest quotas to established fishing companies in return for cash and agreements to provide job training and employment opportunities for residents of the region. The program has been remarkably successful.

Since 1992, approximately 9,000 jobs have been created for western Alaska residents with wages totaling more than $60 million. The CDQ program has also contributed to fisheries infrastructure development in western Alaska, as well as providing vessel loan programs; education, training and other CDQ-related benefits.

The CDQ program has its roots in the amazing success story of how our offshore fishery resources were Americanized after the passage of the original Magnuson Act in 1976. At the time, vast foreign fishing fleets were almost the only ones operating in the U.S. 200-mile Exclusive Economic Zone. American fishermen simply did not have either the vessels or the expertise to participate.

The Magnuson-Stevens Act changed all that. It led to the adoption of what we called a "fish and chips" policy that provided for an exchange of fish allocations for technological and practical expertise. Within the next few years, harvesting fell almost exclusively to American vessels. Within a few years after that, processing also became Americanized. Today, there are no foreign fishing or processing vessels operating in the 200-mile zone off Alaska, and the industry is worth billions of dollars each year.

The CDQ program helps bring some of the benefits of that great industry to local residents in one of the most impoverished areas of the entire country. It is a vital element in the effort to create and maintain a lasting economic base for the region's many poor communities, and truly deserves the support of this body.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "CDQ Community Preservation Act".

SEC. 2. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

(a) ELIGIBLE COMMUNITIES.—Section 305(i)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) is amended adding at the end the following:

"(E) A community shall be eligible to participate in the western Alaska community development quota program under subparagraph (A) if the community was—

"(i) listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on January 1, 2004; or

"(ii) approved by the National Marine Fisheries Service on April 19, 1999.".

(b) CONFORMING AMENDMENT.—Such section is further amended, in paragraph (B), by striking "To" and inserting, "Except as provided in subparagraph (E), to".

By Mr. FEINGOLD (for himself, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. LAUTENBERG, Ms. MIKULSKI, and Mrs. MURRAY):

S. 798. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I introduce legislation on behalf of myself and Senators CORZINE, DAYTON, DURBIN, LAUTENBERG, MIKULSKI, and MURRAY, that would bring a small measure of relief to the families of our brave military personnel who are being deployed for the ongoing fight against terrorism, the war in Iraq, and other missions in this country and around the world. It is legislation that the Senate adopted unanimously when I offered it as an amendment to the fiscal year 2004 Iraq supplemental spending bill and I think it would be very fitting for my colleagues to join me in supporting this measure again during this, the National Month of the Military Child.

The men and women of our Armed Forces undertake enormous sacrifices in their service to our country. They spend time away from home and from their families in different parts of the country and different parts of the world and are placed into harm's way in order to protect the American people and our way of life. We owe them a huge debt of gratitude for their dedicated service.

The ongoing deployments for the fight against terrorism and for the campaign in Iraq are turning upside down the lives of thousands of active duty, National Guard, and Reserve personnel and their families as they seek to do their duty to their country and honor their commitments to their families, and, in the case of the reserve components, to their employers as well. Today, there are more than 180,000 National Guard and Reserve personnel on active duty.

Some of my constituents are facing the latest in a series of activations and deployments for family members who serve our country in the military. Others are seeing their loved ones off on their first deployment. All of these families share in the worry and concern about what awaits their relatives and hope, as we do, for their swift and safe return.

Many of those deployed in Iraq have had their tours extended beyond the time they had expected to stay. This extension has played havoc with the lives of those deployed and their families. Worried mothers, fathers, spouses, and children expecting their loved ones home after more than a year of service have been forced to wait another three or four months before their loved ones' much-anticipated homecoming. The emotional toll is huge. So is the impact on a family's daily functioning as bills still need to be paid, children need to get to school events, and sick family members must still be cared for.

Our men and women in uniform face these challenges without complaint. But we should do more to help them and their families with the many things that preparing to be deployed requires.

During the first round of mobilizations for operations in Afghanistan and Iraq, military personnel and their families were given only a couple of days' notice that their units would be deployed. As a result, these dedicated men and women had only a very limited amount of time to get their lives in order. For members of the National Guard and Reserve, this included informing their employers of the deployment. I want to commend the many employers around the country for their understanding and support when their employees were called to active duty.

In preparation for a deployment, military families often have to scramble to arrange for child care, to pay bills, to contact their landlords or mortgage companies, and to take care of other things that we deal with on a daily basis.

The legislation I introduce today would allow eligible employees whose spouses, parents, sons, or daughters are military personnel who are serving on or called to active duty in support of a contingency operation to use their Family and Medical Leave Act (FMLA) benefits for issues directly relating to or resulting from that deployment. These instances could include preparation for deployment or additional responsibilities that family members take on as a result of a loved one's deployment, such as child care.

But don't just take my word for it. Here is what the National Military Family Association has to say in a letter of support:

> (The National Military Family Association) has heard from many families about the difficulty of balancing family obligations with job requirements when a close family member is deployed. Suddenly, they are single parents or, in the case of grandparents, assuming the new responsibility of caring for grandchildren. The days leading up to a deployment can be filled with pre-deployment briefings and putting legal affairs in order.

In that same letter, the National Military Family Association states that, "Military families, especially those of deployed service members, are called upon to make extraordinary sacrifices. (The Military Families Leave Act) offers families some breathing room as they adjust to this time of separation."

On July 21, 2004, then-Governor Joseph Kernan of Indiana testified before a joint hearing of the Senate Health, Labor, Education, and Pensions and Armed Services committees that Congress should revise FMLA to include activated National Guard families, as recommended by the National Governors' Association. The legislation I introduce today would give many military families some of the assistance Governor Kernan spoke of.

Let me make sure there is no confusion about what this legislation does and does not do. This legislation does not expand eligibility for FMLA to employees not already covered by FMLA. It does not expand FMLA eligibility to active duty military personnel. It simply allows those already covered by FMLA to use those benefits in one additional set of circumstances—to deal with issues directly related to or resulting from the deployment of a family member.

I was proud to cosponsor and vote for the legislation that created the landmark Family and Medical Leave Act (FMLA) during the early days of my service to the people of Wisconsin as a member of this body. This important legislation allows eligible workers to take up to 12 weeks of unpaid leave per year for the birth or adoption of child, the placement of a foster child, to care for a newborn or newly adopted child or newly placed foster child, or to care for their own serious health condition or that of a spouse, a parent, or a child. Some employers offer a portion of this time as paid leave in addition to other accrued leave, while others allow workers to use accrued vacation or sick leave for this purpose prior to going on unpaid leave.

Since its enactment in 1993, the FMLA has helped more than 35 million American workers to balance responsibilities to their families and their jobs. According to the Congressional Research Service, between 2.2 million and 6.1 million people took advantage of these benefits in 1999-2000.

Our military families sacrifice a great deal. Active duty families often move every couple of years due to transfers and new assignments. The twelve years since FMLA' s enactment has also been a time where we as a country have relied more heavily on National Guard and Reserve personnel for more and more deployments of longer and longer duration. The growing burden on these service members' families must be addressed, and this legislation is one way to do so.

This legislation has the support of a number of organizations, including the Wisconsin National Guard, the Military Officers Association of America, the Enlisted Association of the National Guard of the United States, the Reserve Enlisted Association, the Reserve Officers Association, the National Military Family Association, the National Council on Family Relations, and the National Partnership for Women and Families. The Military Coalition, an umbrella organization of 31 prominent military organizations, specified this legislation as one of five meriting special consideration during the fiscal year 2004 Iraq supplemental debate.

We owe it to our military personnel and their families to do all we can to support them in this difficult time. I hope that this legislation will bring a small measure of relief to our military families and I urge my colleagues to support it.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Families Leave Act of 2005".

SEC. 2. LEAVE FOR MILITARY FAMILIES UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) ENTITLEMENT TO LEAVE.—Section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) is amended by adding at the end the following new subparagraph:

"(E) Because of any qualifying exigency (as the Secretary may by regulation determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.".

(b) INTERMITTENT OR REDUCED LEAVE SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following new sentence: "Subject to subsection (e)(3) and section 103(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.".

(c) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by striking "or (C)" and inserting "(C), or (E)".

(d) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following new paragraph:

"(3) NOTICE FOR LEAVE DUE TO ACTIVE DUTY OF FAMILY MEMBER.—In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable based on notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.".

(e) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following new subsection:

"(f) CERTIFICATION FOR LEAVE DUE TO ACTIVE DUTY OF FAMILY MEMBER.—An employer may require that a request for leave under section 102(a)(1)(E) be supported by a certification issued at such time and in such manner as the Secretary shall by regulation prescribe.. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.".

(f) DEFINITION.—Section 101 of such Act (29 U.S.C. 2611) is amended by adding at the end the following new paragraph:

"(14) CONTINGENCY OPERATION.—The term 'contingency operation' has the same meaning given such term in section 101(a)(13) of title 10, United States Code.".

SEC. 3. LEAVE FOR MILITARY FAMILIES UNDER TITLE 5, UNITED STATES CODE.

(a) ENTITLEMENT TO LEAVE.—Section 6382(a)(1) of title 5, United States Code, is amended by adding at the end the following new subparagraph:

"(E) Because of any qualifying exigency (as defined under section 6387) arising out of the fact that the spouse, or a son, daughter, or parent, of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.".

(b) INTERMITTENT OR REDUCED LEAVE SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following new sentence: "Subject to subsection (e)(3) and section 6383(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.".

(c) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by striking "or (D)" and inserting "(D), or (E)".

(d) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following new paragraph:

"(3) In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable based on notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employing agency as is reasonable and practicable.".

(e) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following new subsection:

"(f) An employing agency may require that a request for leave under section 6382(a)(1)(E) be supported by a certification issued at such time and in such manner as the employing agency may require.".

(f) DEFINITION.—Section 6381 of such title is amended—

(1) in paragraph (5)(B), by striking "and" at the end;

(2) in paragraph (6)(B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) the term 'contingency operation' has the same meaning given such term in section 101(a)(13) of title 10.".

By Mr. KENNEDY:

S. 799. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, America is facing a major public health problem because of the epidemic of obesity in the nation's children. Nine million children today are obese. Over the past three decades, the rate of obesity has more than doubled in preschool children and adolescents, and tripled among all school-age children. The health risks are immense. If the current rates do not decrease, 30 percent of boys and 40 percent of girls born in 2000 will develop diabetes, which can lead to kidney failure, blindness, heart disease and stroke.

Obese children are 80 percent likely to become obese adults, with significantly greater risk for not only diabetes, but heart disease, arthritis and certain types of cancer. The economic impact of obesity-related health expenditures in 2004 reached $129 billion, a clear sign of the lower quality of life likely to be faced by the growing number of the nation's youth.

Childhood obesity is the obvious result of too much food and too little exercise. Children are especially susceptible because of the dramatic social changes that have been taking place for many years. Children are exposed to 40,000 food advertisements a year one food commercial every minute—urging them to eat candy, snacks, and fast food. Vending machines are now in 43 percent of elementary schools and 97 percent of high schools, offering young students easy access to soft drinks and snacks that can double their risk of obesity. Many schools have eliminated physical education classes, leaving children less active throughout the school day. More communities are built without sidewalks, safe parks, or bike trails. Parents, who worry about the safety of their children in outside play, encourage them to sit and watch television. Fast food stores are nearby, grocery stores and farmers markets with fresh fruits and vegetables are not.

According to the Institute of Medicine, prevention of obesity in children and youth requires public health action at its broadest and most inclusive level, with coordination between federal and state governments, within schools and communities, and involving industry and media, so that children can make food and activity choices that lead to healthy weights.

The Prevention of Childhood Obesity Act makes the current epidemic a national public health priority. It appoints a federal commission on food policies to promote good nutrition. Guidelines for food and physical activity advertisements will be established by a summit conference of representatives from education, industry, and health care. Grants are provided to states to implement anti-obesity plans, including curricula and training for educators, for obesity prevention activities in preschool, school and afterschool programs, and for sidewalks, bike trails, and parks where children can play and be both healthy and safe.

Prevention is the cornerstone of good health and long, productive lives for all Americans. Childhood obesity is preventable, but we have to work together to stop this worsening epidemic and protect our children's future. Congress must to do its part and I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prevention of Childhood Obesity Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Childhood overweight and obesity is a major public health threat to the United States. The rates of obesity have doubled in preschool children and tripled in adolescents in the past 25 years. About 9,000,000 young people are considered overweight.

(2) Overweight and obesity is more prevalent in Mexican American and African American youth. Among Mexican Americans, 24 percent of children (6 to 11 years) and adolescents (12 to 19 years) are obese and another 40 percent of children and 44 percent of adolescents are overweight. Among African Americans, 20 percent of children and 24 percent of adolescents are obese and another 36 percent of children and 41 percent of adolescents are overweight.

(3) Childhood overweight and obesity is related to the development of a number of preventable chronic diseases in childhood and adulthood, such as type 2 diabetes and hypertension.

(4) Overweight adolescents have up to an 80 percent chance of becoming obese adults. In 2003, obesity-related health conditions in adults resulted in approximately $11,000,000,000 in medical expenditures.

(5) Childhood overweight and obesity is preventable but will require changes across the multiple environments to which our children are exposed. This includes homes, schools, communities, and society at large.

(6) Overweight and obesity in children are caused by unhealthy eating habits and insufficient physical activity.

(7) Only 2 percent of school children meet all of the recommendations of the Food Guide Pyramid. Sixty percent of young people eat too much fat and less than 20 percent eat the recommended 5 or more servings of fruits and vegetables each day.

(8) More than one third of young people do not meet recommended guidelines for physical activity. Daily participation in high school physical education classes dropped from 42 percent in 1991 to 28 percent in 2003.

(9) Children spend an average of 5½ hours per day using media, more time than they spend doing anything besides sleeping.

(10) Children are exposed to an average of 40,000 television advertisements each year for candy, high sugar cereals, and fast food. Fast food outlets alone spend $3,000,000,000 in advertisements targeting children. Children are exposed to 1 food commercial every 5 minutes.

(11) A coordinated effort involving evidence-based approaches is needed to ensure children develop in a society in which healthy lifestyle choices are available and encouraged.

TITLE I—FEDERAL OBESITY PREVENTION

SEC. 101. FEDERAL LEADERSHIP COMMISSION TO PREVENT CHILDHOOD OBESITY.

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by inserting after section 399W, the following:

"SEC. 399W-1. FEDERAL LEADERSHIP COMMISSION TO PREVENT CHILDHOOD OBESITY.

"(a) IN GENERAL.—The Secretary shall ensure that the Federal Government coordinates efforts to develop, implement, and enforce policies that promote messages and activities designed to prevent obesity among children and youth.

"(b) ESTABLISHMENT OF LEADERSHIP COMMISSION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish within the Centers for Disease Control and Prevention a Federal Leadership Commission to Prevent Childhood Obesity (referred to in this section as the 'Commission') to assess and make recommendations for Federal departmental policies, programs, and messages relating to the prevention of childhood obesity. The Director shall serve as the chairperson of the Commission.

"(c) MEMBERSHIP.—The Commission shall include representatives of offices and agencies within—

"(1) the Department of Health and Human Services;

"(2) the Department of Agriculture;

"(3) the Department of Commerce;

"(4) the Department of Education;

"(5) the Department of Housing and Urban Development;

"(6) the Department of the Interior;

"(7) the Department of Labor;

"(8) the Department of Transportation;

"(9) the Federal Trade Commission; and

"(10) other Federal entities as determined appropriate by the Secretary.

"(d) DUTIES.—The Commission shall—

"(1) serve as a centralized mechanism to coordinate activities related to obesity prevention across all Federal departments and agencies;

"(2) establish specific goals for obesity prevention, and determine accountability for reaching these goals, within and across Federal departments and agencies;

"(3) review evaluation and economic data relating to the impact of Federal interventions on the prevention of childhood obesity;

"(4) provide a description of evidence-based best practices, model programs, effective guidelines, and other strategies for preventing childhood obesity;

"(5) make recommendations to improve Federal efforts relating to obesity prevention and to ensure Federal efforts are consistent with available standards and evidence; and

"(6) monitor Federal progress in meeting specific obesity prevention goals.

"(e) STUDY; SUMMIT; GUIDELINES.—

"(1) STUDY.—The Government Accountability Office shall—

"(A) conduct a study to assess the effect of Federal nutrition assistance programs and agricultural policies on the prevention of childhood obesity, and prepare a report on the results of such study that shall include a description and evaluation of the content and impact of Federal agriculture subsidy and commodity programs and policies as such relate to Federal nutrition programs;

"(B) make recommendations to guide or revise Federal policies for ensuring access to nutritional foods in Federal nutrition assistance programs; and

"(C) complete the activities provided for under this section not later than 18 months after the date of enactment of this section.

"(2) INSTITUTE OF MEDICINE STUDY.—

"(A) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Secretary shall request that the Institute of Medicine (or similar organization) conduct a study and make recommendations on guidelines for nutritional food and physical activity advertising and marketing to prevent childhood obesity. In conducting such study the Institute of Medicine shall—

"(i) evaluate children's advertising and marketing guidelines and evidence-based literature relating to the impact of advertising on nutritional foods and physical activity in children and youth; and

"(ii) make recommendations on national guidelines for advertising and marketing practices relating to children and youth that—

"(I) reduce the exposure of children and youth to advertising and marketing of foods of poor or minimal nutritional value and practices that promote sedentary behavior; and

"(II) increase the number of media messages that promote physical activity and sound nutrition.

"(B) GUIDELINES.—Not later than 2 years after the date of enactment of this section, the Institute of Medicine shall submit to the Commission the final report concerning the results of the study, and making the recommendations, required under this paragraph.

"(3) NATIONAL SUMMIT.—

"(A) IN GENERAL.—Not later than 1 year after the date on which the report under paragraph (2)(B) is submitted, the Commission shall convene a National Summit to Implement Food and Physical Activity Advertising and Marketing Guidelines to Prevent Childhood Obesity (referred to in this section as the 'Summit').

"(B) COLLABORATIVE EFFORT.—The Summit shall be a collaborative effort and include representatives from—

"(i) education and child development groups;

"(ii) public health and behavioral science groups;

"(iii) child advocacy and health care provider groups; and

"(iv) advertising and marketing industry.

"(C) ACTIVITIES.—The participants in the Summit shall develop a 5-year plan for implementing the national guidelines recommended by the Institute of Medicine in the report submitted under paragraph (2)(B).

"(D) EVALUATION AND REPORTS.—Not later than 1 year after the date of enactment of this section, and biannually thereafter, the Commission shall evaluate and submit a report to Congress on the efforts of the Federal Government to implement the recommendations made by the Institute of Medicine in the report under paragraph (2)(B) that shall include a detailed description of the plan of the Secretary to implement such recommendations.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2010.

"(g) DEFINITIONS.—For purposes of this section, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.".

SEC. 102. FEDERAL TRADE COMMISSION AND MARKETING TO CHILDREN AND YOUTH.

(a) IN GENERAL.—Notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), the Federal Trade Commission is authorized to promulgate regulations and monitor compliance with the guidelines for advertising and marketing of nutritional foods and physical activity directed at children and youth, as recommended by the National Summit to Implement Food and Physical Activity Advertising and Marketing Guidelines to Prevent Childhood Obesity (as established under section 399W-1(e)(3) of the Public Health Service Act).

(b) FINES.—Notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), the Federal Trade Commission may assess fines on advertisers or network and media groups that fail to comply with the guidelines described in subsection (a).

TITLE II—STATE CHILDREN AND YOUTH OBESITY PREVENTION AND CONTROL

SEC. 201. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART R—OBESITY PREVENTION AND CONTROL

"SEC. 399AA. STATE CHILDHOOD OBESITY PREVENTION AND CONTROL PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award competitive grants to eligible entities to support activities that implement the children's obesity prevention and control plans contained in the applications submitted under subsection (b)(2).

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a State, territory, or an Indian tribe; and

"(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a children's obesity prevention and control plan that—

"(A) is developed with the advice of stakeholders from the public, private, and nonprofit sectors that have expertise relating to obesity prevention and control;

"(B) targets prevention and control of childhood obesity;

"(C) describes the obesity-related services and activities to be undertaken or supported by the applicant; and

"(D) describes plans or methods to evaluate the services and activities to be carried out under the grant.

"(c) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to conduct, in a manner consistent with the children's obesity prevention and control plan under subsection (b)(2)—

"(1) an assessment of the prevalence and incidence of obesity in children;

"(2) an identification of evidence-based and cost-effective best practices for preventing childhood obesity;

"(3) innovative multi-level behavioral or environmental interventions to prevent childhood obesity;

"(4) demonstration projects for the prevention of obesity in children and youth through partnerships between private industry organizations, community-based organizations, academic institutions, schools, hospitals, health insurers, researchers, health professionals, or other health entities determined appropriate by the Secretary;

"(5) ongoing coordination of efforts between governmental and nonprofit entities pursuing obesity prevention and control efforts, including those entities involved in related areas that may inform or overlap with childhood obesity prevention and control efforts, such as activities to promote school nutrition and physical activity; and

"(6) evaluations of State and local policies and programs related to obesity prevention in children.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2010.

"SEC. 399AA-1. COMPREHENSIVE OBESITY PREVENTION ACTION GRANTS.

"(a) IN GENERAL.—The Secretary shall award grants on a competitive basis to eligible entities to enable such entities to implement activities related to obesity prevention and control.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a public or private nonprofit entity; and

"(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a description of how funds received under a grant awarded under this section will be used to—

"(A) supplement or fulfill unmet needs identified in the children's obesity prevention and control plan of a State, Indian tribe, or territory (as prepared under this part); and

"(B) otherwise help achieve the goals of obesity prevention as established by the Secretary or the Commission.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications proposing to carry out programs for preventing obesity in children and youth from at-risk populations or reducing health disparities in underserved populations.

"(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant awarded under subsection (a) to implement and evaluate behavioral and environmental change programs for childhood obesity prevention.

"(e) EVALUATION.—An eligible entity that receives a grant under this section shall submit to the Secretary an evaluation of the operations and activities carried out under such grant that includes an analysis of the utilization and benefit of public health programs relevant to the activities described in subsection (d).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2010.

"SEC. 399AA-2. DISCOVERY TO PRACTICE CENTERS OF EXCELLENCE WITHIN THE HEALTH PROMOTION AND DISEASE PREVENTION RESEARCH CENTERS OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to eligible entities for the establishment of Centers of Excellence for Discovery to Practice (referred to in this section as the 'Centers') implemented through the Health Promotion and Disease Prevention Research Centers of the Centers for Disease Control and Prevention. Such eligible entities shall use grant funds to disseminate childhood obesity prevention evidence-based practices to individuals, families, schools, organizations, and communities.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a Health Promotion and Disease Prevention Research Center of the Centers for Disease Control and Prevention;

"(2) demonstrate a history of service to and collaboration with populations with a high incidence of childhood obesity; and

"(3) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications targeting childhood obesity prevention activities in underserved populations.

"(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to disseminate childhood obesity prevention evidence-based practices through activities that—

"(1) expand the availability of evidence-based nutrition and physical activity programs designed specifically for the prevention of childhood obesity; and

"(2) train lay and professional individuals on determinants of and methods for preventing childhood obesity.

"(e) EVALUATION.—An eligible entity that receives a grant under this section shall submit to the Secretary an evaluation of the operations and activities carried out under such a grant that includes an analysis of increased utilization and benefit of programs relevant to the activities described in subsection (d).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.

"SEC. 399AA-3. DEFINITIONS.

"For purposes of this part, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.".

TITLE III—FEDERAL PROGRAMS TO PREVENT CHILDHOOD OBESITY

Subtitle A—Preventing Obesity at Home

SEC. 301. DEVELOPMENT OF OBESITY PREVENTION BEHAVIOR CHANGE CURRICULA FOR EARLY CHILDHOOD HOME VISITATION PROGRAMS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 201, is further amended by adding at the end the following:

"PART S—PREVENTING CHILDHOOD OBESITY

"SEC. 399BB. DEVELOPMENT OF OBESITY PREVENTION BEHAVIOR CHANGE CURRICULA FOR EARLY CHILDHOOD HOME VISITATION PROGRAMS.

"(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and the Secretary of Education, shall award grants for the development of obesity prevention behavior change curricula to be incorporated into early childhood home visitation programs.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be an academic center collaborating with a public or private nonprofit organization that has the capability of testing behavior change curricula in service delivery settings and disseminating results to home visiting programs nationally, except that an organization testing the behavior change curricula developed under the grant shall implement a model of home visitation that—

"(A) focuses on parental education and care of children who are prenatal through 5 years of age;

"(B) promotes the overall health and well-being of young children; and

"(C) adheres to established quality standards; and

"(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications that propose to develop and implement programs for preventing childhood obesity and reducing health disparities in underserved populations.

"(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to develop, implement, and evaluate the impact of behavior change curricula for early childhood home visitation programs that—

"(1) encourage breast-feeding of infants;

"(2) promote age-appropriate portion sizes for a variety of nutritious foods;

"(3) promote consumption of fruits and vegetables and low-energy dense foods; and

"(4) encourage education around parental modeling of physical activity and reduction in television viewing and other sedentary activities by toddlers and young children.

"(e) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Secretary a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in preventing obesity by improving nutrition and increasing physical activity.

"(f) INCORPORATION INTO EVIDENCE-BASED PROGRAMS.—The Secretary, in consultation with the heads of other Federal departments and agencies, shall ensure that policies that prevent childhood obesity are incorporated into evidence-based early childhood home visitation programs in a manner that provides for measurable outcomes.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2006 through 2010.".

Subtitle B—Preventing Childhood Obesity in Schools

SEC. 311. PREVENTING CHILDHOOD OBESITY IN SCHOOLS.

(a) IN GENERAL.—Part S of title III of the Public Health Service Act (as added by section 301) is amended by adding at the end the following:

"SEC. 399BB-1. PREVENTING CHILDHOOD OBESITY IN SCHOOLS.

"(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention, the Secretary of Education, the Secretary of Agriculture, and the Secretary of the Interior shall establish and implement activities to prevent obesity by encouraging healthy nutrition choices and physical activity in schools.

"(b) SCHOOLS.—The Secretary, in consultation with the Secretary of Education, shall require that each local educational agency that receives Federal funds establish policies to ban vending machines that sell foods of poor or minimal nutritional value in schools.

"(c) SCHOOL DISTRICTS.—

"(1) IN GENERAL.—The Secretary shall award grants to local educational agencies to enable elementary and secondary schools to promote good nutrition and physical activity among children.

"(2) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—The Secretary of Education, in collaboration with the Secretary, may give priority in awarding grants under the Carol M. White Physical Education Program under subpart 10 of part D of title V of the Elementary and Secondary Education Act of 1965 to local educational agencies and other eligible entities that have a plan to—

"(A) implement behavior change curricula that promotes the concepts of energy balance, good nutrition, and physical activity;

"(B) implement policies that encourage the appropriate portion sizes and limit access to soft drinks or other foods of poor or minimal nutritional value on school campuses, and at school events;

"(C) provide age-appropriate daily physical activity that helps students to adopt, maintain, and enjoy a physically active lifestyle;

"(D) maintain a minimum number of functioning water fountains (based on the number of individuals) in school buildings;

"(E) prohibit advertisements and marketing in schools and on school grounds for foods of poor or minimal nutritional value such as fast foods, soft drinks, and candy; and

"(F) develop and implement policies to conduct an annual assessment of each student's body mass index and provide such assessment to the student and the parents of that student with appropriate referral mechanisms to address concerns with respect to the results of such assessments.

"(3) GRANTS FOR ADDITIONAL ACTIVITIES.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Agriculture, and the Secretary of Education, shall award grants for the implementation and evaluation of activities that—

"(A) educate students about the health benefits of good nutrition and moderate or vigorous physical activity by integrating it into other subject areas and curriculum;

"(B) provide food options that are low in fat, calories, and added sugars such as fruit, vegetables, whole grains, and dairy products;

"(C) develop and implement guidelines for healthful snacks and foods for sale in vending machines, school stores, and other venues within the school's control;

"(D) restrict student access to vending machines, school stores, and other venues that contain foods of poor or minimal nutritional value;

"(E) encourage adherence to single-portion sizes, as defined by the Food and Drug Administration, in foods offered in the school environment;

"(F) provide daily physical education for students in prekindergarten through grade 12 through programs that are consistent with the Guidelines for Physical Activity as reported by Centers for Disease Control and Prevention and the American College of Sports Medicine and National Physical Education Standards;

"(G) encourage the use of school facilities for physical activity programs offered by the school or community-based organizations outside of school hours;

"(H) promote walking or bicycling to and from school using such programs as Walking School Bus and Bike Train;

"(I) train school personnel in a manner that provides such personnel with the knowledge and skills needed to effectively teach lifelong healthy eating and physical activity; and

"(J) evaluate the impact of school nutrition and physical education programs and facilities on body mass index and related fitness criteria at annual intervals to determine the extent to which national guidelines are met.

"(d) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in improving nutrition and increasing physical activity.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.".

(b) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—Subpart 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is amended by adding at the end the following:

"SEC. 5508. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart, $150,000,000 for each of fiscal years 2006 through 2010.".

Subtitle C—Preventing Childhood Obesity in Afterschool Programs

SEC. 321. CHILDHOOD OBESITY PREVENTION GRANTS TO AFTERSCHOOL PROGRAMS.

Part S of title III of the Public Health Service Act (as amended by section 311) is further amended by adding at the end the following:

"SEC. 399BB-2. CHILDHOOD OBESITY PREVENTION GRANTS TO AFTERSCHOOL PROGRAMS.

"(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and the Secretary of Education, shall award grants for the development of obesity prevention behavior change curricula for afterschool programs for children.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be an academic center collaborating with a public or private nonprofit organization that has the capability of testing behavior change curricula in service delivery settings and disseminating results to afterschool programs on a nationwide basis, except that an organization testing the behavior change curricula developed under the grant shall implement a model of afterschool programming that shall—

"(A) focus on afterschool programs for children up to the age of 13 years;

"(B) promote the overall health and well-being of children and youth; and

"(C) adhere to established quality standards; and

"(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications proposing to develop, implement, and evaluate programs for preventing and controlling childhood obesity or reducing health disparities in underserved populations.

"(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to develop, implement, and evaluate, and disseminate the results of such evaluations, the impact of curricula for afterschool programs that promote—

"(1) age-appropriate portion sizes;

"(2) consumption of fruits and vegetables and low-energy dense foods;

"(3) physical activity; and

"(4) reduction in television viewing and other passive activities.

"(e) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Secretary a report that described the activities carried out with funds received under the grant and the effectiveness of such activities in preventing obesity, improving nutrition, and increasing physical activity.

"(f) INCORPORATION OF POLICIES INTO FEDERAL PROGRAMS.—The Secretary, in consultation with the heads of other Federal departments and agencies, shall ensure that policies that prevent childhood obesity are incorporated into evidence-based afterschool programs in a manner that provides for measurable outcomes.

"(g) DEFINITION.—In this section, the term 'afterschool programs' means programs providing structured activities for children during out-of-school time, including before school, after school, and during the summer months.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2006 through 2010.".

Subtitle D—Training Early Childhood and Afterschool Professionals to Prevent Childhood Obesity

SEC. 331. TRAINING EARLY CHILDHOOD AND AFTERSCHOOL PROFESSIONALS TO PREVENT CHILDHOOD OBESITY.

Part S of title III of the Public Health Service Act (as amended by section 321) is further amended by adding at the end the following:

"SEC. 399BB-3. TRAINING EARLY CHILDHOOD AND AFTERSCHOOL PROFESSIONALS TO PREVENT CHILDHOOD OBESITY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to support the training of early childhood professionals (such as parent educators and child care providers) about obesity prevention, with emphasis on nationally accepted standards.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a public or private nonprofit organization that conducts or supports early childhood and afterschool programs, home visitation, or other initiatives that—

"(A) focus on parental education and care of children;

"(B) promote the overall health and well-being of children;

"(C) adhere to established quality standards; and

"(D) have the capability to provide or distribute training on a nationwide basis; and

"(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

"(c) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Administrator of the Health Resources and Services Administration a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in improving the practice of child care and afterschool professionals with respect to the prevention of obesity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2006 through 2010.".

Subtitle E—Preventing Childhood Obesity in Communities

SEC. 341. PREVENTING CHILDHOOD OBESITY IN COMMUNITIES.

Part S of title III of the Public Health Service Act (as amended by section 331) is further amended by adding at the end the following:

"SEC. 399BB-4. PREVENTING CHILDHOOD OBESITY IN COMMUNITIES.

"(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Transportation, and Secretary of the Interior, shall award grants and implement activities to encourage healthy nutrition and physical activity by children in communities.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a public or private nonprofit organization or community-based organizations that conduct initiatives that—

"(A) focus on parental education and care of children;

"(B) promote the overall health and well-being of children;

"(C) adhere to established quality standards; and

"(D) have the capability to provide training on a nationwide basis; and

"(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

"(c) COMMUNITIES.—

"(1) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Transportation, and Secretary of the Interior, shall award grants to eligible entities to develop broad partnerships between private and public and nonprofit entities to promote healthy nutrition and physical activity for children by assessing, modifying, and improving community planning and design.

"(2) ACTIVITIES.—Amounts awarded under a grant under paragraph (1) shall be used for the implementation and evaluation of activities—

"(A) to create neighborhoods that encourage healthy nutrition and physical activity;

"(B) to promote safe walking and biking routes to schools;

"(C) to design pedestrian zones and construct safe walkways, cycling paths, and playgrounds;

"(D) to implement campaigns, in communities at risk for sedentary activity, designed to increase levels of physical activity, which should be evidence-based, and may incorporate informational, behavioral, and social, or environmental and policy change interventions;

"(E) to implement campaigns, in communities at risk for poor nutrition, that are designed to promote intake of foods by children consistent with established dietary guidelines through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings; and

"(F) to implement campaigns, in communities at risk for poor nutrition, that promote water as the main daily drink of choice for children through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings.

"(d) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in increasing physical activity and improving dietary intake.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.".

SEC. 342. GRANTS AND CONTRACTS FOR A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS.

Section 399Y of the Public Health Service Act (42 U.S.C. 280h–2) is amended by striking subsection (b) and inserting the following:

"(b) GRANTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants or contracts to eligible entities to design and implement culturally and linguistically appropriate and competent campaigns to change children's health behaviors.

"(2) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means a marketing, public relations, advertising, or other appropriate entity.

"(3) CONTENT.—An eligible entity that receives a grant under this subsection shall use funds received through such grant or contract to utilize marketing and communication strategies to—

"(A) communicate messages to help young people develop habits that will foster good health over a lifetime;

"(B) provide young people with motivation to engage in sports and other physical activities;

"(C) influence youth to develop good health habits such as regular physical activity and good nutrition;

"(D) educate parents of young people on the importance of physical activity and improving nutrition, how to maintain healthy behaviors for the entire family, and how to encourage children to develop good nutrition and physical activity habits; and

"(E) discourage stigmatization and discrimination based on body size or shape.

"(4) REPORT.—The Secretary shall evaluate the effectiveness of the campaign described in paragraph (1) in changing children's behaviors and report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $125,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2011.".

SEC. 343. PREVENTION OF CHILDHOOD OBESITY RESEARCH THROUGH THE NATIONAL INSTITUTES OF HEALTH.

(a) IN GENERAL.—The Director of the National Institutes of Health, in accordance with the National Institutes of Health's Strategic Plan for Obesity Research, shall expand and intensify research that addresses the prevention of childhood obesity.

(b) PLAN.—The Director of the National Institutes of Health shall—

(1) conduct or support research programs and research training concerning the prevention of obesity in children; and

(2) develop and periodically review, and revise as appropriate, the Strategic Plan for Obesity Research.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2011. Amounts appropriated under this section shall be in addition to other amounts available for carrying out activities of the type described in this section.

SEC. 344. RESEARCH ON THE RELATIONSHIP BETWEEN THE PHYSICAL ACTIVITY OF CHILDREN AND THE BUILT ENVIRONMENT.

Part S of title III of the Public Health Service Act (as amended by section 341) is further amended by adding at the end the following:

"SEC. 399BB–5. RESEARCH ON THE RELATIONSHIP BETWEEN THE PHYSICAL ACTIVITY OF CHILDREN AND THE BUILT ENVIRONMENT.

"(a) IN GENERAL.—The Secretary shall support research efforts to promote physical activity in children through enhancement of the built environment.

"(b) ELIGIBILITY.—In this section, the term 'eligible institution' means a public or private nonprofit institution that submits to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

"(c) GRANT PROGRAMS.—

"(1) RESEARCH.—The Secretary, in collaboration with the Transportation Research Board of the National Research Council, shall award grants to eligible institutions to expand, intensify, and coordinate research that will—

"(A) investigate and define causal links between the built environment and levels of physical activity in children;

"(B) include focus on a variety of geographic scales, with particular focus given to smaller geographic units of analysis such as neighborhoods and areas around elementary schools and secondary schools;

"(C) identify or develop effective intervention strategies to promote physical activity among children with focus on behavioral interventions and enhancements of the built environment that promote increased use by children; and

"(D) assure the generalizability of intervention strategies to high-risk populations and high-risk communities, including low-income urban and rural communities.

"(2) INTERVENTION PILOT PROGRAMS.—The Secretary, in collaboration with the Transportation Research Board of the National Research Council and with appropriate Federal agencies, shall award grants to pilot test the intervention strategies identified or developed through research activities described in paragraph (1) relating to increasing use of the built environment by children.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2010.

"SEC. 399BB–6. DEFINITIONS.

"For purposes of this part, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. DEFINITIONS.

In this Act:

(1) CHILDHOOD.—The term "childhood" means children and youth from birth to 18 years of age.

(2) CHILDREN.—The term "children" means children and youth from birth through 18 years of age.

(3) FOOD OF POOR OR MINIMAL NUTRITIONAL VALUE.—The term "food of poor or minimal nutritional value" has the meaning given the term "food of minimal nutritional value" for purposes of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and part 210 of title 7, Code of Federal Regulations.

(4) OBESITY AND OVERWEIGHT.—The terms "obesity" and "overweight" have the meanings given such terms by the Centers for Disease Control and Prevention.

(5) OBESITY CONTROL.—The term "obesity control" means programs or activities for the prevention of excessive weight gain.

(6) OBESITY PREVENTION.—The term "obesity prevention" means prevention of obesity or overweight.

By Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. AKAKA, Ms. LANDRIEU, and Mr. DURBIN):

S. 800. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, today I am introducing legislation that includes the District of Columbia Budget Autonomy Act of 2005 and the District of Columbia Independence of the Chief Financial Officer Act of 2005. Last Congress, I introduced this legislation, which passed the Senate unanimously. This legislation would provide the District of Columbia with more autonomy over its local budget and make permanent the authority of the D.C. Chief Financial Officer.

Providing the District of Columbia with more autonomy over its local budget will help the Mayor and the Council of the District of Columbia better manage and run the city. Currently, the District of Columbia must submit its budget through the normal Federal appropriations process. Unfortunately, this process is often riddled with delays. For example, the average delay for enactment of an appropriations bill for the District of Columbia has been 3 months. The result of this delay is clear. For a local community these delays affect programs, planning and management initiatives important to the everyday lives of the residents of the city.

The ability of D.C., like any other city in the Nation, to operate efficiently and address the needs of its citizens is of utmost importance. Unlike other budgets that are approved by Congress, the local D.C. budget has a direct effect on local services and programs and affects the quality oflife for the residents of D.C. Congress has recognized the practical issues associated with running a city. As a result, in the 1970s, Congress passed the D.C. Home Rule Act which established the current form of local government. Congress also empowered D.C. to enact local laws that affect the everyday lives of District residents. And, now, I believe it is time for Congress to do the same with regard to the local budget.

The District of Columbia Budget Autonomy Act of 2005 would address these problems by authorizing the local government to pass its own budget each year. This bill would only affect that portion of the D.C. budget that includes the use oflocal funds, not Federal funds. In addition, the bill still provides for congressional oversight. Prior to a local budget becoming effective, Congress will have a 30-day period in which to review the local budget. In addition, the local authority to pass a budget would be suspended during any periods of poor financial condition that would trigger a control year.

Having the locally elected officials of those providing the funds that are the subject of the budget process decide on how those funds should be spent is a matter of simple fairness. There are also the practical difficulties that the current system causes when the local budget is not approved until well into the fiscal year. By enacting this bill, Congress would be appropriately carrying out its constitutional duties with respect to the District by improving the city's ability to better plan, manage and run its local programs and services. This is what the taxpayers of the District of Columbia have elected their local officials to do.

The legislation also includes the District of Columbia Independence of the Chief Financial Officer Act of 2005 which would make permanent the authority of the District of Columbia Chief Financial Officer. The current Chief Financial Officer for the District of Columbia is operating under authority it derived from the D.C. Control Board, which is currently dormant due to the city's improved financial situation. That authority was set to sunset when the D.C. Control Board was phased out; however, the CFO's authority continues to be extended through the appropriations process, until such time as permanent legislation is enacted.

Ensuring continued financial accountability of the D.C. government is crucial for the fiscal stability of the city. The CFO has played a significant role in maintaining this stability. While providing the District with more autonomy over its budgets, it is also important that the CFO's authority is made permanent and that its role is clear.

I urge my colleagues to support this important piece of legislation.

By Mr. NELSON of Florida:

S. 801. A bill to designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the "John Milton Bryan Simpson United States Courthouse"; to the Committee on Environment and Public Works.

Mr. NELSON. Mr. President, today I rise to introduce a bill designating a Jacksonville courthouse as the John Milton Bryan Simpson United States Courthouse.

John Milton Bryan Simpson was born in Kissimmee, FL, in 1903. He was nominated to the Southern District Court of Florida by President Truman in 1950 and to the Federal court of appeals by President Johnson in 1966.

Designating this courthouse after the late Judge Simpson is a fitting tribute to a man whose judicial decisions were instrumental in desegregating public facilities in Jacksonville, Orlando, and Daytona Beach.

It is important that we remember not only his name but also his legacy of courage during that period of our history.

I hope that other members of the Senate will join me in honoring Judge Simpson, a man who was not only a hero to the state of Florida, but a national hero.

By Mr. DOMENICI (for himself, Mr. BAUCUS, Mr. BURNS, Mr. JOHNSON, Mr. ROBERTS, Mr. BINGAMAN, Mr. ALLARD, Mr. WYDEN, Mr. SMITH, Mr. HAGEL, and Mr. BROWNBACK):

S. 802. A bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DOMENICI1. Mr. President, I rise today to introduce The National Drought Preparedness Act of 2005. First off, I would like to thank Senator BAUCUS. As the lead cosponsor, his strong leadership and hard work on this bill has been a tremendous help.

Drought is a unique emergency situation; it creeps in unlike other abrupt weather disasters. Without a national drought policy we constantly live not knowing what the next year will bring. Unfortunately, when we find ourselves facing a drought, towns often scramble to drill new water wells, fires often sweep across bone dry forests and farmers and ranchers are forced to watch their way of life blow away with the dust.

We must be vigilant and prepare ourselves for quick action when the next drought cycle begins. Better planning on our part could limit some of the damage felt by drought. I submit that this bill is the exact tool needed for facilitating better planning.

This Act establishes a National Drought Council within the Department of Agriculture to improve national drought preparedness, mitigation and response efforts. The National Drought Council will formulate strategies to alleviate the effects of drought by fostering a greater understanding of what triggers wide-spread drought conditions. By educating the public in water conservation and proper land stewardship, we can ensure a better preparedness when future drought plagues our country.

The impacts of drought are also very costly. According to NOAA, there have been 12 different drought events since 1980 that resulted in damages and costs exceeding $1 billion each. In 2000, severe drought in the South-Central and Southeastern states caused losses to agriculture and related industries of over $4 billion. Western wildfires that year totaled over $2 billion in damages. The Eastern drought in 1999 led to $1 billion in losses. These are just a few of the statistics.

While drought affects the economic and environmental well being of the entire nation, the United States has lacked a cohesive strategy for dealing with serious drought emergencies. As many of you know, the impact of drought emerges gradually rather than suddenly as is the case with other natural disasters.

I am pleased to be following through on what I started in 1997. The bill that we are introducing today is the next step in implementing a national, cohesive drought policy. The bill recognizes that drought is a recurring phenomenon that causes serious economic and environmental loss and that a national drought policy is needed to ensure an integrated, coordinated strategy.

The National Drought Preparedness Act of 2005 does the following: It creates national policy for drought. This will hopefully move the country away from the costly, ad hoc, response-oriented approach to drought, and move us toward a pro-active, preparedness approach. The new national policy would provide the tools and focus, similar to the Stafford Act, for Federal, State, tribal and local governments to address the diverse impacts and costs caused by drought.

The Bill would improve delivery of federal drought programs. This would ensure improved program delivery, integration and leadership. To achieve this intended purpose, the bill establishes the National Drought Council, designating USDA as the lead federal agency. The Council and USDA would provide the coordinating and integrating function for federal drought programs, much like FEMA provides that function for other natural disasters under the Stafford Act.

The Act will provide new tools for drought preparedness planning. Building on existing policy and planning processes, the bill would assist states, local governments, tribes, and other entities in the development and implementation of drought preparedness plans. The bill does not mandate state and local planning, but is intended to facilitate plan development and implementation through establishment of the Drought Assistance Fund.

The bill would improve forecasting & monitoring by facilitating the development of the National Drought Monitoring Network in order to improve the characterization of current drought conditions and the forecasting of future droughts. Ultimately, this would provide a better basis to "trigger" federal drought assistance.

Finally, the bill would authorize the USDA to provide reimbursement to states for reasonable staging and prepositioning costs when there is a threat of a wildfire.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Drought Preparedness Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents
Sec. 2. Findings
Sec. 3. Definitions
Sec. 4. Effect of Act

TITLE I—DROUGHT PREPAREDNESS

SUBTITLE A—NATIONAL DROUGHT COUNCIL

Sec. 101. Membership and voting
Sec. 102. Duties of the Council
Sec. 103. Powers of the Council
Sec. 104. Council personnel matters
Sec. 105. Authorization of appropriations
Sec. 106. Termination of Council

SUBTITLE B—NATIONAL OFFICE OF DROUGHT PREPAREDNESS

Sec. 111. Establishment
Sec. 112. Director of the Office
Sec. 113. Office staff

SUBTITLE C—DROUGHT PREPAREDNESS PLANS

Sec. 121. Drought Assistance Fund
Sec. 122. Drought preparedness plans
Sec. 123. Federal plans
Sec. 124. State and tribal plans
Sec. 125. Regional and local plans
Sec. 126. Plan elements

TITLE II—WILDFIRE SUPPRESSION

Sec. 201. Grants for prepositioning wildfire suppression resources

SEC. 2. FINDINGS.

Congress finds that—

(1) drought is a natural disaster;

(2) regional drought disasters in the United States cause serious economic and environmental losses, yet there is no national policy to ensure an integrated and coordinated Federal strategy to prepare for, mitigate, or respond to such losses;

(3) drought has an adverse effect on resource-dependent businesses and industries (including the recreation and tourism industries);

(4) State, tribal, and local governments have to increase coordinated efforts with each Federal agency involved in drought monitoring, planning, mitigation, and response;

(5) effective drought monitoring—

(A) is a critical component of drought preparedness and mitigation; and

(B) requires a comprehensive, integrated national program that is capable of providing reliable, accessible, and timely information to persons involved in drought planning, mitigation, and response activities;

(6) the National Drought Policy Commission was established in 1998 to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies;

(7) according to the report issued by the National Drought Policy Commission in May 2000, the guiding principles of national drought policy should be—

(A) to favor preparedness over insurance, insurance over relief, and incentives over regulation;

(B) to establish research priorities based on the potential of the research to reduce drought impacts;

(C) to coordinate the delivery of Federal services through collaboration with State and local governments and other non-Federal entities; and

(D) to improve collaboration among scientists and managers; and

(8) the National Drought Council, in coordination with Federal agencies and State, tribal, and local governments, should provide the necessary direction, coordination, guidance, and assistance in developing a comprehensive drought preparedness system.

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term "Council" means the National Drought Council established by section 101(a).

(2) CRITICAL SERVICE PROVIDER.—The term "critical service provider" means an entity that provides power, water (including water provided by an irrigation organization or facility), sewer services, or wastewater treatment.

(3) DIRECTOR.—The term "Director" means the Director of the Office appointed under section 112(a).

(4) DROUGHT.—The term "drought" means a natural disaster that is caused by a deficiency in precipitation—

(A) that may lead to a deficiency in surface and subsurface water supplies (including rivers, streams, wetlands, ground water, soil moisture, reservoir supplies, lake levels, and snow pack); and

(B) that causes or may cause—

(i) substantial economic or social impacts; or

(ii) physical damage or injury to individuals, property, or the environment.

(5) FUND.—The term "Fund" means the Drought Assistance Fund established by section 121(a).

(6) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(7) INTERSTATE WATERSHED.—The term "interstate watershed" means a watershed that crosses a State or tribal boundary.

(8) MITIGATION.—The term "mitigation" means a short- or long-term action, program, or policy that is implemented in advance of or during a drought to minimize any risks and impacts of drought.

(9) NATIONAL INTEGRATED DROUGHT INFORMATION SYSTEM.—The term "National Integrated Drought Information System" means a comprehensive system that collects and integrates information on the key indicators of drought, including stream flow, ground water levels, reservoir levels, soil moisture, snow pack, and climate (including precipitation and temperature), in order to make usable, reliable, and timely assessments of drought, including the severity of drought and drought forecasts.

(10) NEIGHBORING COUNTRY.—The term "neighboring country" means Canada and Mexico.

(11) OFFICE.—The term "Office" means the National Office of Drought Preparedness established under section 111.

(12) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(13) STATE.—The term "State" means—

(A) each of the several States of the United States;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

(14) TRIGGER.—The term "trigger" means the thresholds or criteria that must be satisfied before mitigation or emergency assistance may be provided to an area—

(A) in which drought is emerging; or

(B) that is experiencing a drought.

(15) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Agriculture for Natural Resources and Environment.

(16) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

(17) WATERSHED.—

(A) IN GENERAL.—The term "watershed" means—

(i) a region or area with common hydrology;

(ii) an area drained by a waterway that drains into a lake or reservoir;

(iii) the total area above a designated point on a stream that contributes water to the flow at the designated point; or

(iv) the topographic dividing line from which surface streams flow in 2 different directions.

(B) EXCLUSION.—The term "watershed" does not include a region or area described in subparagraph (A) that is larger than a river basin.

(18) WATERSHED GROUP.—The term "watershed group" means a group of individuals that—

(A) represents the broad scope of relevant interests in a watershed; and

(B) works in a collaborative manner to jointly plan the management of the natural resources in the watershed; and

(C) is formally recognized by each of the States in which the watershed lies.

SEC. 4. EFFECT OF ACT.

This Act does not affect—

(1) the authority of a State to allocate quantities of water under the jurisdiction of the State; or

(2) any State water rights established as of the date of enactment of this Act.

TITLE I—DROUGHT PREPAREDNESS

Subtitle A—National Drought Council

SEC. 101. MEMBERSHIP AND VOTING.

(a) IN GENERAL.—There is established in the Office of the Secretary a council to be known as the "National Drought Council".

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Council shall be composed of—

(A) the Secretary;

(B) the Secretary of Commerce;

(C) the Secretary of the Army;

(D) the Secretary of the Interior;

(E) the Director of the Federal Emergency Management Agency;

(F) the Administrator of the Environmental Protection Agency;

(G) 4 members appointed by the Secretary, in coordination with the National Governors Association—

(i) who shall each be a Governor of a State; and

(ii) who shall collectively represent the geographic diversity of the United States;

(H) 1 member appointed by the Secretary, in coordination with the National Association of Counties;

(I) 1 member appointed by the Secretary, in coordination with the United States Conference of Mayors;

(J) 1 member appointed by the Secretary of the Interior, in coordination with Indian tribes, to represent the interests of tribal governments; and

(K) 1 member appointed by the Secretary, in coordination with the National Association of Conservation Districts, to represent local soil and water conservation districts.

(2) DATE OF APPOINTMENT.—The appointment of each member of the Council shall be made not later than 120 days after the date of enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a member of the Council shall serve for the life of the Council.

(B) EXCEPTION.—A member of the Council appointed under subparagraphs (G) through (K) of subsection (b)(1) shall be appointed for a term of 2 years.

(2) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Council—

(i) shall not affect the powers of the Council; and

(ii) shall be filled in the same manner as the original appointment was made.

(B) DURATION OF APPOINTMENT.—A member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term.

(d) MEETINGS.—

(1) IN GENERAL.—The Council shall meet at the call of the co-chairs.

(2) FREQUENCY.—The Council shall meet at least semiannually.

(e) QUORUM.—A majority of the members of the Council, including a designee of a member, shall constitute a quorum, but a lesser number may hold hearings or conduct other business.

(f) CO-CHAIRS.—

(1) IN GENERAL.—There shall be a Federal co-chair and non-Federal co-chair of the Council.

(2) APPOINTMENT.—

(A) FEDERAL CO-CHAIR.—The Secretary shall be Federal co-chair.

(B) NON-FEDERAL CO-CHAIR.—Every 2 years, the Council members appointed under subparagraphs (G) through (K) of subsection (b)(1) shall select a non-Federal co-chair from among the members appointed under those subparagraphs.

(g) DIRECTOR.—

(1) IN GENERAL.—The Director shall serve as Director of the Council.

(2) DUTIES.—The Director shall serve the interests of all members of the Council.

SEC. 102. DUTIES OF THE COUNCIL.

(a) IN GENERAL.—The Council shall—

(1) not later than 1 year after the date of the first meeting of the Council, develop a comprehensive National Drought Policy Action Plan that—

(A)(i) delineates and integrates responsibilities for activities relating to drought (including drought preparedness, mitigation, research, risk management, training, and emergency relief) among Federal agencies; and

(ii) ensures that those activities are coordinated with the activities of the States, local governments, Indian tribes, and neighboring countries;

(B) is consistent with—

(i) this Act and other applicable Federal laws; and

(ii) the laws and policies of the States for water management;

(C) is integrated with drought management programs of the States, Indian tribes, local governments, watershed groups, and private entities; and

(D) avoids duplicating Federal, State, tribal, local, watershed, and private drought preparedness and monitoring programs in existence on the date of enactment of this Act;

(2) evaluate Federal drought-related programs in existence on the date of enactment of this Act and make recommendations to Congress and the President on means of eliminating—

(A) discrepancies between the goals of the programs and actual service delivery;

(B) duplication among programs; and

(C) any other circumstances that interfere with the effective operation of the programs;

(3) make recommendations to the President, Congress, and appropriate Federal Agencies on—

(A) the establishment of common interagency triggers for authorizing Federal drought mitigation programs; and

(B) improving the consistency and fairness of assistance among Federal drought relief programs;

(4) in conjunction with the Secretary of Commerce, coordinate and prioritize specific activities to establish and improve the National Integrated Drought Information System by—

(A) taking into consideration the limited resources for—

(i) drought monitoring, prediction, and research activities; and

(ii) water supply forecasting; and

(B) providing for the development of an effective drought early warning system that—

(i) communicates drought conditions and impacts to—

(I) decisionmakers at the Federal, regional, State, tribal, and local levels of government;

(II) the private sector; and

(III) the public; and

(ii) includes near-real-time data, information, and products developed at the Federal, regional, State, tribal, and local levels of government that reflect regional and State differences in drought conditions;

(5) in conjunction with the Secretary of the Army and the Secretary of the Interior—

(A) encourage and facilitate the development of drought preparedness plans under subtitle C, including establishing the guidelines under sections 121(c) and 122(a); and

(B) based on a review of drought preparedness plans, develop and make available to the public drought planning models to reduce water resource conflicts relating to water conservation and droughts;

(6) develop and coordinate public awareness activities to provide the public with access to understandable, and informative materials on drought, including—

(A) explanations of the causes of drought, the impacts of drought, and the damages from drought;

(B) descriptions of the value and benefits of land stewardship to reduce the impacts of drought and to protect the environment;

(C) clear instructions for appropriate responses to drought, including water conservation, water reuse, and detection and elimination of water leaks;

(D) information on State and local laws applicable to drought; and

(E) information on the assistance available to resource-dependent businesses and industries during a drought; and

(7) establish operating procedures for the Council.

(b) CONSULTATION.—In carrying out this section, the Council shall consult with groups affected by drought emergencies, including groups that represent—

(1) agricultural production, wildlife, and fishery interests;

(2) forestry and fire management interests;

(3) the credit community;

(4) rural and urban water associations;

(5) environmental interests;

(6) engineering and construction interests;

(7) the portion of the science community that is concerned with drought and climatology;

(8) resource-dependent businesses and other private entities (including the recreation and tourism industries); and

(9) watershed groups.

(c) AGENCY ROLES AND RESPONSIBILITIES.—

(1) DESIGNATION OF LEAD AGENCIES.—

(A) DEPARTMENT OF COMMERCE.—The Department of Commerce shall be the lead agency for purposes of implementing subsection (a)(4).

(B) DEPARTMENTS OF THE ARMY AND THE INTERIOR.—The Department of the Army and the Department of the Interior shall jointly be the lead agency for purposes of implementing—

(i) paragraphs (5) and (6) of section subsection (a); and

(ii) section 122.

(C) DEPARTMENT OF AGRICULTURE.—The Department of Agriculture, in cooperation with the lead agencies designated under subparagraphs (A) and (B), shall be the lead agency for purposes of implementing section 121.

(2) COOPERATION FROM OTHER FEDERAL AGENCIES.—The head of each Federal agency shall cooperate as appropriate with the lead agencies in carrying out any duties under this Act.

(d) REPORTS TO CONGRESS.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of the first meeting of the Council, and annually thereafter, the Council shall submit to Congress a report on the activities carried out under this title.

(B) INCLUSIONS.—

(i) IN GENERAL.—The annual report shall include a summary of drought preparedness plans completed under sections 123 through 125.

(ii) INITIAL REPORT.—The initial report submitted under subparagraph (A) shall include any recommendations of the Council under paragraph (2) or (3) of subsection (a).

(2) FINAL REPORT.—Not later than 7 years after the date of enactment of this Act, the Council shall submit to Congress a report that recommends—

(A) amendments to this Act; and

(B) whether the Council should continue.

SEC. 103. POWERS OF THE COUNCIL.

(a) HEARINGS.—The Council may hold hearings, meet and act at any time and place, take any testimony and receive any evidence that the Council considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Council may obtain directly from any Federal agency any information that the Council considers necessary to carry out this title.

(2) PROVISION OF INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), on request of the Secretary or the non-Federal co-chair, the head of a Federal agency may provide information to the Council.

(B) LIMITATION.—The head of a Federal agency shall not provide any information to the Council that the Federal agency head determines the disclosure of which may cause harm to national security interests.

(c) POSTAL SERVICES.—The Council may use the United States mail in the same manner and under the same conditions as other agencies of the Federal Government.

(d) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(e) FEDERAL FACILITIES.—If the Council proposes the use of a Federal facility for the purposes of carrying out this title, the Council shall solicit and consider the input of the Federal agency with jurisdiction over the facility.

SEC. 104. COUNCIL PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Council who is not an officer or employee of the Federal Government shall serve without compensation.

(2) FEDERAL EMPLOYEES.—A member of the Council who is an officer or employee of the United States shall serve without compensation in addition to the compensation received for services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Council shall be allowed travel expenses at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Council.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $2,000,000 for each of the 7 fiscal years after the date of enactment of this Act.

SEC. 106. TERMINATION OF COUNCIL.

The Council shall terminate 8 years after the date of enactment of this Act.

Subtitle B—National Office of Drought Preparedness

SEC. 111. ESTABLISHMENT.

The Secretary shall establish an office to be known as the "National Office of Drought Preparedness", which shall be under the jurisdiction of the Under Secretary, to provide assistance to the Council in carrying out this title.

SEC. 112. DIRECTOR OF THE OFFICE.

(a) APPOINTMENT.—

(1) IN GENERAL.—The Under Secretary shall appoint a Director of the Office under sections 3371 through 3375 of title 5, United States Code.

(2) QUALIFICATIONS.—The Director shall be a person who has experience in—

(A) public administration; and

(B) drought mitigation or drought management.

(b) POWERS.—The Director may hire such other additional personnel or contract for services with other entities as necessary to carry out the duties of the Office.

SEC. 113. OFFICE STAFF.

(a) IN GENERAL.—The Office shall have at least 5 full-time staff, including the detailees detailed under subsection (b)(1).

(b) DETAILEES.—

(1) REQUIRED DETAILEES.—There shall be detailed to the Office, on a nonreimbursable basis—

(A) by the Director of the Federal Emergency Management Agency, 1 employee of the Federal Emergency Management Agency with expertise in emergency planning;

(B) by the Secretary of Commerce, 1 employee of the Department of Commerce with experience in drought monitoring;

(C) by the Secretary of the Interior, 1 employee of the Bureau of Reclamation with experience in water planning; and

(D) by the Secretary of the Army, 1 employee of the Army Corps of Engineers with experience in water planning.

(2) ADDITIONAL DETAILEES.—

(A) IN GENERAL.—In addition to any employees detailed under paragraph (1), any other employees of the Federal Government may be detailed to the Office.

(B) REIMBURSEMENT.—An employee detailed under subparagraph (A) shall be detailed without reimbursement, unless the Secretary, on the recommendation of the Director, determines that reimbursement is appropriate.

(3) CIVIL SERVICE STATUS.—The detail of an employee under paragraph (1) or (2) shall be without interruption or loss of civil service status or privilege.

Subtitle C—Drought Preparedness Plans

SEC. 121. DROUGHT ASSISTANCE FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Drought Assistance Fund".

(b) PURPOSE.—The Fund shall be used to pay the costs of—

(1) providing technical and financial assistance (including grants and cooperative assistance) to States, Indian tribes, local governments, watershed groups, and critical service providers for the development and implementation of drought preparedness plans under sections 123 through 125;

(2) providing to States, Indian tribes, local governments, watershed groups, and critical service providers the Federal share, as determined by the Secretary, in consultation with the other members of the Council, of the cost of mitigating the overall risk and impacts of droughts;

(3) assisting States, Indian tribes, local governments, watershed groups, and critical service providers in the development of mitigation measures to address environmental, economic, and human health and safety issues relating to drought;

(4) expanding the technology transfer of drought and water conservation strategies and innovative water supply techniques;

(5) developing post-drought evaluations and recommendations; and

(6) supplementing, if necessary, the costs of implementing actions under section 102(a)(4).

(c) GUIDELINES.—

(1) IN GENERAL.—The Secretary, in consultation with the non-Federal co-chair and with the concurrence of the Council, shall promulgate guidelines to implement this section.

(2) GENERAL REQUIREMENTS.—The guidelines shall—

(A) ensure the distribution of amounts from the Fund within a reasonable period of time;

(B) take into consideration regional differences;

(C) take into consideration all impacts of drought in a balanced manner;

(D) prohibit the use of amounts from the Fund for Federal salaries that are not directly related to the provision of drought assistance;

(E) require that amounts from the Fund provided to States, local governments, watershed groups, and critical service providers under subsection (b)(1) be coordinated with and managed by the State in which the local governments, watershed groups, or critical service providers are located, consistent with the drought preparedness priorities and relevant water management plans in the State;

(F) require that amounts from the Fund provided to Indian tribes under subsection (b)(1) be used to implement plans that are, to the maximum extent practicable—

(i) coordinated with any State in which land of the Indian tribe is located; and

(ii) consistent with existing drought preparedness and water management plans of the State; and

(G) require that a State, Indian tribe, local government, watershed group, or critical service provider that receives Federal funds under paragraph (2) or (3) of subsection (b) pay, using amounts made available through non-Federal grants, cash donations made by non-Federal persons or entities, or any other non-Federal funds, not less than 25 percent of the total cost of carrying out a project for which Federal funds are provided under this Act.

(3) SPECIAL REQUIREMENTS APPLICABLE TO INTERSTATE WATERSHEDS.—

(A) DEVELOPMENT OF DROUGHT PREPAREDNESS PLANS.—The guidelines promulgated under paragraph (1) shall require that, to receive financial assistance under subsection (b)(1) for the development of drought preparedness plans for interstate watersheds, the States or Indian tribes in which the interstate watershed is located shall—

(i) cooperate in the development of the plan; and

(ii) in developing the plan—

(I) ensure that the plan is consistent with any applicable State and tribal water laws, policies, and agreements;

(II) ensure that the plan is consistent and coordinated with any interstate stream compacts;

(III) include the participation of any appropriate watershed groups; and

(IV) recognize that while implementation of the plan will involve further coordination among the appropriate States and Indian tribes, each State and Indian tribe has sole jurisdiction over implementation of the portion of the watershed within the State or tribal boundaries.

(B) IMPLEMENTATION OF DROUGHT PREPAREDNESS PLANS.—The guidelines promulgated under paragraph (1) shall require that, to receive financial assistance under subsection (b)(1) for the implementation of drought preparedness plans for interstate watersheds, the States or Indian tribes in which the interstate watershed is located shall, to the maximum extent practicable—

(i) cooperate in implementing the plan;

(ii) in implementing the plan—

(I) provide that the distribution of funds to all States and Indian tribes in which the watershed is located is not required; and

(II) consider the level of impact within the watershed on the affected States or Indian tribes; and

(iii) ensure that implementation of the plan does not interfere with State water rights in existence on the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out subsection (b).

SEC. 122. DROUGHT PREPAREDNESS PLANS.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of the Army shall, with the concurrence of the Council, jointly promulgate guidelines for administering a national program to provide technical and financial assistance to States, Indian tribes, local governments, watershed groups, and critical service providers for the development, maintenance, and implementation of drought preparedness plans.

(b) REQUIREMENTS.—To build on the experience and avoid duplication of efforts of Federal, State, local, tribal, and regional drought plans in existence on the date of enactment of this Act, the guidelines may recognize and incorporate those plans.

SEC. 123. FEDERAL PLANS.

(a) IN GENERAL.—The Secretary, the Secretary of the Interior, the Secretary of the Army, and other appropriate Federal agency heads shall develop and implement Federal drought preparedness plans for agencies under the jurisdiction of the appropriate Federal agency head.

(b) REQUIREMENTS.—The Federal plans—

(1) shall be integrated with each other;

(2) may be included as components of other Federal planning requirements;

(3) shall be integrated with drought preparedness plans of State, tribal, and local governments that are affected by Federal projects and programs; and

(4) shall be completed not later than 2 years after the date of enactment of this Act.

SEC. 124. STATE AND TRIBAL PLANS.

States and Indian tribes may develop and implement State and tribal drought preparedness plans that—

(1) address monitoring of resource conditions that are related to drought;

(2) identify areas that are at a high risk for drought;

(3) describes mitigation strategies to address and reduce the vulnerability of an area to drought; and

(4) are integrated with State, tribal, and local water plans in existence on the date of enactment of this Act.

SEC. 125. REGIONAL AND LOCAL PLANS.

Local governments, watershed groups, and regional water providers may develop and implement drought preparedness plans that—

(1) address monitoring of resource conditions that are related to drought;

(2) identify areas that are at a high risk for drought;

(3) describe mitigation strategies to address and reduce the vulnerability of an area to drought; and

(4) are integrated with corresponding State plans.

SEC. 126. PLAN ELEMENTS.

The drought preparedness plans developed under sections 123 through 125—

(1) shall be consistent with Federal and State laws, contracts, and policies;

(2) shall allow each State to continue to manage water and wildlife in the State;

(3) shall address the health, safety, and economic interests of those persons directly affected by drought;

(4) shall address the economic impact on resource-dependent businesses and industries, including regional tourism;

(5) may include—

(A) provisions for water management strategies to be used during various drought or water shortage thresholds, consistent with State water law;

(B) provisions to address key issues relating to drought (including public health, safety, economic factors, and environmental issues such as water quality, water quantity, protection of threatened and endangered species, and fire management);

(C) provisions that allow for public participation in the development, adoption, and implementation of drought plans;

(D) provisions for periodic drought exercises, revisions, and updates;

(E) a hydrologic characterization study to determine how water is being used during times of normal water supply availability to anticipate the types of drought mitigation actions that would most effectively improve water management during a drought;

(F) drought triggers;

(G) specific implementation actions for droughts;

(H) a water shortage allocation plan, consistent with State water law; and

(I) comprehensive insurance and financial strategies to manage the risks and financial impacts of droughts; and

(6) shall take into consideration—

(A) the financial impact of the plan on the ability of the utilities to ensure rate stability and revenue stream; and

(B) economic impacts from water shortages.

TITLE II—WILDFIRE SUPPRESSION

SEC. 201. GRANTS FOR PREPOSITIONING WILDFIRE SUPPRESSION RESOURCES.

Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by adding at the end the following:

"SEC. 205. GRANTS FOR PREPOSITIONING WILDFIRE SUPPRESSION RESOURCES.

"(a) FINDINGS AND PURPOSE.—

"(1) FINDINGS.—Congress finds that—

"(A) droughts increase the risk of catastrophic wildfires that—

"(i) drastically alter and otherwise adversely affect the landscape for communities and the environment;

"(ii) because of the potential of such wildfires to overwhelm State wildfire suppression resources, require a coordinated response among States, Federal agencies, and neighboring countries; and

"(iii) result in billions of dollars in losses each year;

"(B) the Federal Government must, to the maximum extent practicable, prevent and suppress such catastrophic wildfires to protect human life and property;

"(C) not taking into account State, local, and private wildfire suppression costs, during the period of 2000 through 2004, the Federal Government expended more than $5,800,000,000 for wildfire suppression costs, at an average annual cost of almost $1,200,000,000;

"(D) since 1980, 2.8 percent of Federal wildfires have been responsible for an average annual cost to the Forest Service of more than $350,000,000;

"(E) the Forest Service estimates that annual national mobilization costs are between $40,000,000 and $50,000,000;

"(F) saving 10 percent of annual national mobilization costs through more effective use of local resources would reduce costs by $4,000,000 to $5,000,000 each year;

"(G) it is more cost-effective to prevent wildfires by prepositioning wildfire fighting resources to catch flare-ups than to commit millions of dollars to respond to large uncontrollable fires; and

"(H) it is in the best interest of the United States to invest in catastrophic wildfire prevention and mitigation by easing the financial burden of prepositioning wildfire suppression resources.

"(2) PURPOSE.—The purpose of this section is to encourage the mitigation and prevention of wildfires by providing financial assistance to States for prepositioning of wildfire suppression resources.

"(b) AUTHORIZATION.—Subject to the availability of funds, the Director of the Federal Emergency Management Agency (referred to in this section as the 'Director') shall reimburse a State for the cost of prepositioning wildfire suppression resources on potential multiple and large fire complexes when the Director determines, in accordance with the national and regional severity indices contained in the Forest Service handbook entitled 'Interagency Standards for Fire and Fire Aviation Operations', that a wildfire event poses a threat to life and property in the area.

"(c) ELIGIBILITY.—Wildfire suppression resources of the Federal Government, neighboring countries, and any State other than the State requesting assistance are eligible for reimbursement under this section.

"(d) REIMBURSEMENT.—

"(1) IN GENERAL.—The Director may reimburse a State for the costs of prepositioning of wildfire suppression resources of the entities specified in subsection (c), including mobilization to, and demobilization from, the staging or prepositioning area.

"(2) REQUIREMENTS.—For a State to receive reimbursement under paragraph (1)—

"(A) any resource provided by an entity specified in subsection (c) shall have been specifically requested by the State seeking reimbursement; and

"(B) staging or prepositioning costs—

"(i) shall be expended during the approved prepositioning period; and

"(ii) shall be reasonable.

"(3) LIMITATION.—The amount of all reimbursements made under this subsection during any year shall not exceed $50,000,000.".

Mr. JOHNSON. Mr. President, I rise today in support of bipartisan National Drought Preparedness Act of 2005. For the last 5 years a devastating drought has forced many families across South Dakota and the United States to make difficult life-changing decisions about their future in agriculture. Many of our Nation's hard-working producers have had to abandon their farms, and the family farm life has been threatened for too many people.

I was hopeful that the drought measures I have helped pass in the last 5 years would assist producers in weathering the current drought. With my support, the Senate, and ultimately Congress, agreed to legislation providing either or agriculture disaster assistance packages for 2001–2002 and 2003–2004. While this assistance is greatly appreciated by those suffering from this natural disaster, I am concerned for our future prospects for drought aid. Given the President's reluctance to fund crucial USDA farm bill programs in his proposed fiscal year 2006 budget, his insistence on cannibalizing $3 billion from the Conservation Security Program, CSP to fund the 2003–2004 package, which should in fact be recognized as an uncapped entitlement provision, and a historically high budgetary deficit, I am concerned at our prospects of securing substantive monies for future disasters. I will continue to work with my Senate colleagues to ensure adequate dollars for South Dakota, but we must examine more comprehensive measures for addressing drought.

That National Drought Preparedness Act will help us better prepare for future droughts and reduce the need for large ad hoc disaster programs that may cannibalize funds from other agricultural programs. I am fully prepared to support special disaster assistance when it is necessary, but with this act made law, producers, tribes, States, and Federal agencies will be much better prepared for future droughts.

This act will do several things that will significantly increase our ability to deal with drought conditions. The bill establishes, in the office of the Secretary of Agriculture, a National Drought Council to oversee the development of a national drought policy action plan. This plan will be the blueprint for dealing with and preparing for drought. The Federal government has plans for dealing with floods and hurricanes, and we need the same kind of plan for the slow, dry disaster that is drought. This bill recognizes drought as the natural disaster it is.

The act also creates the National Office of Drought Preparedness. This would be the permanent body that assists the National Drought Council in the formulation and carrying out of the national drought policy action plan.

A drought assistance fund will be established by this act, to assist State and local governments in their development and implementation of drought preparedness plans. The act will also provide assistance for the rapid response to wildfires, which is critical to mitigating the effects of a prolonged drought in forested areas, like we have in western South Dakota.

Lastly, the act provides for the development of a national drought forecasting and monitoring network, that will help forecast the onset of droughts better and improve reporting on current droughts.

I am encouraged by what the National Drought Preparedness Act of 2005 has to offer to the farmers and ranchers of our great country. We must treat drought like all other disasters are treated, and take an aggressive stance toward minimizing its effect on communities across America. That is why I am pleased to be an original cosponsor of this important bipartisan piece of legislation.

By Mr. COLEMAN (for himself and Mrs. CLINTON):

S. 803. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, I am pleased to introduce the Help Expand Access to Recovery and Treatment (HEART) Act of 2005 with my friend and colleague, Senator CLINTON of New York.

By passing this life-saving legislation, Congress would provide equitable access to substance abuse treatment services for 23 million adults and children who need treatment for the disease of alcoholism and other drug dependencies.

HEART would put the decision of whether or not consumers are granted substance abuse treatment services in the hands of doctors and trained addiction professionals, and patients. At least 75 percent of individuals who suffer from alcoholism have access to private health insurance. However, fewer than 70 percent of employer-provided health plans cover alcoholism and drug treatment at the same level as other medical conditions.

Our bill eliminates this inequitable coverage of medical conditions so those who need treatment receive it.

I look forward to working with my colleagues to pass this legislation that is not just important to our nation's economy and the health of our workforce but to the quality of life for millions of Americans and their families.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Help Expand Access to Recovery and Treatment Act of 2005" or the "HEART Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Substance abuse, if left untreated, is a medical emergency and a private and public health crisis.

(2) Nothing in this Act should be construed as prohibiting application of the concept of parity to substance abuse treatment provided by faith-based treatment providers.

SEC. 3. PARITY IN SUBSTANCE ABUSE TREATMENT BENEFITS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following new section:

"SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

"(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

"(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—

"(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

"(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

"(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

"(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section:

"(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

"(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

"(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

"(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

"(A) Inpatient treatment, including detoxification.

"(B) Nonhospital residential treatment.

"(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

"(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

"(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

"(f) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.".

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg-23(c)) is amended by striking "section 2704" and inserting "sections 2704 and 2707".

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 714. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

"(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

"(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—

"(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

"(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

"(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

"(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section:

"(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

"(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

"(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

"(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

"(A) Inpatient treatment, including detoxification.

"(B) Nonhospital residential treatment.

"(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

"(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

"(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

"(f) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.".

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of such Act (29 U.S.C. 1191(c)) is amended by striking "section 711" and inserting "sections 711 and 714".

(ii) Section 732(a) of such Act (29 U.S.C. 1191a(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(iii) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"714. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits".

(3) INTERNAL REVENUE CODE AMENDMENTS.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

"SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

"(a) IN GENERAL.—In the case of a group health plan that provides both medical and surgical benefits and substance abuse treatment benefits, the plan shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

"(b) Construction.—Nothing in this section shall be construed—

"(1) as requiring a group health plan to provide any substance abuse treatment benefits; or

"(2) to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(c) Exemptions.—

"(1) Small employer exemption.—

"(A) In general.—This section shall not apply to any group health plan for any plan year of a small employer.

"(B) Small employer.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(C) Application of certain rules in determination of employer size.—For purposes of this paragraph—

"(i) Application of aggregation rule for employers.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 shall apply for purposes of treating persons as a single employer.

"(ii) Employers not in existence in preceding year.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(iii) Predecessors.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(2) Increased cost exemption.—This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.

"(d) Separate Application to Each Option Offered.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) Definitions.—For purposes of this section:

"(1) Treatment limitation.—The term 'treatment limitation' means, with respect to benefits under a group health plan, any day or visit limits imposed on coverage of benefits under the plan during a period of time.

"(2) Financial requirement.—The term 'financial requirement' means, with respect to benefits under a group health plan, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan.

"(3) Medical or surgical benefits.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include substance abuse treatment benefits.

"(4) Substance abuse treatment benefits.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

"(5) Substance abuse treatment services.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

"(A) Inpatient treatment, including detoxification.

"(B) Nonhospital residential treatment.

"(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

"(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

"(6) Substance abuse.—The term 'substance abuse' includes chemical dependency.".

(B) Conforming amendments.—

(i) Section 4980D(d)(1) of such Code is amended by striking "section 9811" and inserting "sections 9811 and 9813".

(ii) The table of sections of subchapter B of chapter 100 of such Code is amended by adding at the end the following new item:

"9813. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits".

(b) Individual Health Insurance.—

(1) Amendment to the public health service act.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended by inserting after section 2752 the following new section:

"SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE BENEFITS.

"(a) In General.—The provisions of section 2707 (other than subsection (e)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

"(b) Notice.—A health insurance issuer under this part shall comply with the notice requirement under section 714(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.".

(2) Conforming amendment.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking "section 2751" and inserting "sections 2751 and 2753".

(c) Effective Dates.—

(1) Group health plans.—Subject to paragraph (3), the amendments made by subsection (a) apply with respect to group health plans for plan years beginning on or after January 1, 2006.

(2) Individual health insurance.—The amendments made by subsection (b) apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2006.

(3) Special rule.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2006.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(d) Coordinated Regulations.—Section 104(1) of the Health Insurance Portability and Accountability Act of 1996 is amended by striking "this subtitle (and the amendments made by this subtitle and section 401)" and inserting "the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986".

(e) Preemption.—Nothing in the amendments made by this section shall be construed to preempt any provision of State law that provides protections to individuals that are greater than the protections provided under such amendments.

By Mr. CRAIG (for himself and Mr. Akaka):

S. 806. A bill to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I rise on behalf of myself and the distinguished ranking member of the Veterans Committee, Senator Akaka, to introduce legislation providing a traumatic injury protection rider for servicemembers. I urge all my colleagues to review this important legislation and support its enactment, and I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRAUMATIC INJURY PROTECTION.

(a) In General.—Subchapter III of chapter 19 of title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

"(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

"(A) Bathing.

"(B) Continence.

"(C) Dressing.

"(D) Eating.

"(E) Toileting.

"(F) Transferring."; and

(2) by adding at the end the following:

"§ 1980A. Traumatic injury protection

"(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

“(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against—

“(A) total and permanent loss of sight;

“(B) loss of a hand or foot by severance at or above the wrist or ankle;

“(C) total and permanent loss of speech;

“(D) total and permanent loss of hearing in both ears;

“(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

“(F) quadriplegia, paraplegia, or hemiplegia;

“(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

“(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

“(2) For purposes of this subsection—

“(A) the term ‘quadriplegia’ means the complete and irreversible paralysis of all 4 limbs;

“(B) the term ‘paraplegia’ means the complete and irreversible paralysis of both lower limbs; and

“(C) the term ‘hemiplegia’ means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

“(3) In no case will a member be covered against loss resulting from—

“(A) attempted suicide, while sane or insane;

“(B) an intentionally self-inflicted injury or any attempt to inflict such an injury;

“(C) illness, whether the loss results directly or indirectly;

“(D) medical or surgical treatment of illness, whether the loss results directly or indirectly;

“(E) any infection other than—

“(i) a pyogenic infection resulting from a cut or wound; or

“(ii) a bacterial infection resulting from ingestion of a contaminated substance;

“(F) the commission of or attempt to commit a felony;

“(G) being legally intoxicated or under the influence of any narcotic unless administered or consumed on the advice of a physician; or

“(H) willful misconduct as determined by a military court, civilian court, or administrative body.

“(c) A payment under this section may be made only if—

“(1) the member is insured under Servicemembers’ Group Life Insurance when the traumatic injury is sustained;

“(2) the loss results directly from that traumatic injury and from no other cause; and

“(3) the member suffers the loss not later than 90 days after sustaining the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

“(d) Payments under this section for losses described in subsection (b)(1) will be made in accordance with the following schedule:

“(1) Loss of both hands, $100,000.

“(2) Loss of both feet, $100,000.

“(3) Inability to carry out activities of daily living resulting from traumatic brain injury, $100,000.

“(4) Burns greater than second degree, covering 30 percent of the body or 30 percent of the face, $100,000.

“(5) Loss of sight in both eyes, $100,000.

“(6) Loss of 1 hand and 1 foot, $100,000.

“(7) Loss of 1 hand and sight of 1 eye, $100,000.

“(8) Loss of 1 foot and sight of 1 eye, $100,000.

“(9) Loss of speech and hearing in 1 ear, $100,000.

“(10) Total and permanent loss of hearing in both ears, $100,000.

“(11) Quadriplegia, $100,000.

“(12) Paraplegia, $75,000.

“(13) Loss of 1 hand, $50,000.

“(14) Loss of 1 foot, $50,000.

“(15) Loss of sight one eye, $50,000.

“(16) Total and permanent loss of speech, $50,000.

“(17) Loss of hearing in 1 ear, $50,000.

“(18) Hemiplegia, $50,000.

“(19) Loss of thumb and index finger of the same hand, $25,000.

“(20) Coma resulting from traumatic brain injury, $50,000 at time of claim and $50,000 at end of 6-month period.

“(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member’s basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

“(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

“(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

“(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

“(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

“(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member’s uniformed service, shall be paid by the Secretary of Defense to the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

“(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

“(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

“(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

“(g) Payment for a loss resulting from traumatic injury will not be made if the member dies not more than 7 days after the date of the injury. If the member dies before payment to the member can be made, the payment will be made according to the member’s most current beneficiary designation under Servicemembers’ Group Life Insurance, or a by law designation, if applicable.

“(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member’s separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

“(i) Insurance coverage provided under this section is not convertible to Veterans’ Group Life Insurance.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

“1980A. Traumatic injury protection. ”.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mr. CRAPO, and Mr. SMITH):

S. 807. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Enhanced Safety from Wildfire Act of 2005. I am joined by my colleagues Mr. CRAPO and Mr. SMITH.

The legislation we are introducing would amend the Federal Land Policy and Management Act of 1976 to make it possible for non-federal land owners to receive compensation for a loss of property as a result of wildfire spreading from Federal land that has not been managed as Condition Class 1.

As we all know, in recent years, there has been a significant amount of injury and loss of property resulting from the spread of wildfire from Federal forested lands to non-Federal lands. Recent wildfires on federal forested lands have shown that lands managed under approved forest health management practices are less susceptible to wildfire, or are subjected to less severe wildfire, than similarly forested lands that are not actively managed.

There is a continuing and growing threat to the safety of communities, individuals, homes and other property, and timber on non-Federal lands that adjoin Federal forested lands because of the unnatural accumulation of forest fuels on these Federal lands and the lack of active Federal management of these lands.

The use of approved forest health management practices to create forest fire "buffer zones" between forested Federal lands and adjacent non-Federal lands would reduce the occurrence of wildfires on forested federal lands or, at least, limit their spread to non-Federal lands and the severity of the resulting damage.

This legislation requires the agencies to manage a "buffer zone" on Federal land, greater than 6,400 acres, that is adjacent to non-Federal land. When forested Federal lands adjacent to non-Federal lands are not adequately managed with a "buffer zone" and wildfire occurs, the legislation states the owners of the non-Federal lands are eligible for compensation for damages resulting from the spread of wildfire to their lands. The legislation sets minimum criteria for non-Federal land to be eligible for compensation.

Our federal land management agencies need to take responsibility for the impacts that occur on non-Federal land as a result of a lack of management on federal land. As a society, we have come to expect that our neighbors take responsibility for their actions and I feel the federal land management agencies should not escape this responsibility either.

In the next few weeks, the weather will heat up, the drought ridden West will become drier, wildfire danger will rise, and I fear we will once again hear reports regarding the loss of property.

I know this legislation may not be the answer to solving our Federal land management problems and I am willing to discuss other options, but I know that until we address the heart of this issue, homes, private land, and communities will continue to be at risk because of poor Federal land management. Being a good neighbor means being responsible for your actions.

By Mr. DURBIN (for himself and Ms. Collins):

S. 808. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Madam President, I rise today to introduce the Conserve by Bike Act to promote energy conservation and improve public health. I am pleased to be joined by my colleague from Maine, Senator Susan Collins, in introducing this measure. This legislation addresses one part of our Nation's energy challenges. Although there is no single solution to solve our energy problems, I believe that every possible approach must be considered.

Our Nation would realize several benefits from the increased use of bicycle transportation, including lessened dependence on foreign oil and prevention of harmful air emissions. Currently, less than one trip in one hundred, .88 percent, is by bicycle. If we can increase cycling use to one and a half trips per hundred, which is less than one bike trip every two weeks for the average person, we will save more than 462 million gallons of gasoline in a year, worth more than $721 million. That is the equivalent of one full day per year in which the U.S. will not need to import any foreign oil.

In addition to fostering greater energy security, this bill will help mitigate air quality challenges, which can be harmful to public health and the environment. Unlike automotive transportation, bicycling is emission-free.

The Conserve by Bike Act encourages bicycling through two key components: a pilot program and a research project. The Conserve by Bike Pilot Program established by this legislation would be implemented by the U.S. Department of Transportation. The Department would fund up to ten pilot projects throughout the country that would utilize education and marketing tools to encourage people to convert some of their car trips to bike trips. Each of these pilot projects must: (1) document project results and energy conserved; (2) facilitate partnerships among stakeholders in two or more of the following fields: transportation, law enforcement, education, public health, and the environment; (3) maximize current bicycle facility investments; (4) demonstrate methods that can be replicated in other locations; and (5) produce ongoing programs that are sustained by local resources.

This legislation also directs the Transportation Research Board of the National Academy of Sciences to conduct a research project on converting car trips to bike trips. The study will consider: (1) what car trips Americans can reasonably be expected to make by bike, given such factors as weather, land use, and traffic patterns, carrying capacity of bicycles, and bicycle infrastructure; (2) what energy savings would result, or how much energy could be conserved, if these trips were converted from car to bike, (3) the cost-benefit analysis of bicycle infrastructure investments; and (4) what factors could encourage more car trips to be replaced with bike trips. The study also will identify lessons we can learn from the documented results of the pilot programs.

The Conserve by Bike Program is a small investment that has the potential to produce significant returns: greater independence from foreign oil and a healthier environment and population. The Conserve by Bike Act authorizes a total of $6.2 million to carry out the pilot programs and research. A total of $5,150,000 will be used to implement the pilot projects; $300,000 will be used by the Department of Transportation to coordinate, publicize, and disseminate the results of the program; and $750,000 will be utilized for the research study.

The provisions in this bill enjoy strong, bipartisan support and have passed by unanimous consent as an amendment to a previous Senate energy package. The measure is endorsed by the League of American Bicyclists, which has over 300,000 affiliates, as well as the Association of Pedestrian and Bicycle Professionals, Rails to Trails Conservancy, Thunderhead Alliance, Bikes Belong Coalition, Adventure Cycling, International Mountain Bicycling Association, Chicagoland Bicycle Federation, and the League of Illinois Bicyclists.

I ask that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSERVE BY BICYCLING PROGRAM.

(a) Definitions.—In this section:

(1) Program.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

(b) Establishment.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) Projects.—

(1) In general.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) Requirements.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Illinois in reintroducing the Conserve by Bike Act to recognize and promote bicycling's important impact on energy savings and public health.

With America's dependence on foreign oil, it is vital that we look to the contribution that bike travel can make toward solving our Nation's energy challenges. The legislation we are reintroducing today would establish a Conserve by Bike pilot program that would oversee pilot projects throughout the country designed to conserve energy resources by providing education and marketing tools to convert car trips into bike trips. Right now, fewer than 1 trip in 100 nationwide is by bicycle. If we could increase this statistic to 1½ trips per 100, we could save over 462 million gallons of gasoline per year, worth nearly $1 billion.

While more bike trips would benefit our energy conservation efforts, additional bicycling activity would also help improve the Nation's public health. According to the U.S. Surgeon General, fewer than one-third of Americans meet Federal recommendations to engage in at least 30 minutes of moderate physical activity 5 days a week. Even more disturbing is the fact that approximately 300,000 American deaths a year are associated with obesity. By promoting biking, we are working to ensure that Americans, young and old, will increase their physical activity.

In my home State of Maine, citizen activists have led the way in encouraging their fellow Mainers to use bicycling as an alternative mode of transportation. Founded in 1992, the Bicycle Coalition of Maine, BCM, has grown substantially in its first decade plus of operation. In 1996, when BCM hired its current executive director, Jeffrey Miller, the organization had 200 individual and family memberships. Today, it has over 1,700. For a State of less than 1.3 million residents—many of them elderly—BCM's broad membership is especially impressive.

Over the years, this group has advocated increased bicycle access to Maine's roads and bridges, organized the first "Bike to Work Day" in our State, initiated bicycle safety education in our classrooms—teaching more than 60,000 schoolchildren in over 500 Maine schools—and produced "Share the Road" public service announcements for television stations statewide, among numerous other accomplishments.

No matter how energetic, committed, and organized BCM and other bicycle activists are, however, these groups cannot accomplish their mission alone. There is an important role for Government to play in encouraging more individuals to make bicycling their alternative mode of transportation. In Maine, BCM has built strong, active partnerships with local governments and the State's Department of Transportation. These key relationships have benefitted bicyclists throughout Maine and, in doing so, have encouraged more Mainers to ride their bikes on a regular basis. Indeed, more than 4 percent of Maine's commuters currently bike or walk, ranking the State 14th in that category nationwide. I believe the Federal Government needs to become more engaged in encouraging bicycling as a means of alternative transportation, and the Conserve by Bike Act would contribute to the worthy goal of convincing more Americans to travel by bicycle.

The Senate is already on record in support of this bill. In the previous Congress, during consideration of the Energy bill, identical legislation was accepted by voice vote as an amendment. I urge my colleagues to maintain their support for the Conserve by Bike Act.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, and Mrs. BOXER):

S. 809. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LAUTENBERG. Mr. President, today I am introducing the Access to Legal Pharmaceuticals Act (ALPhA). I want to thank Senators CORZINE and BOXER for cosponsoring this important piece of legislation.

This bill is simple. It ensures timely access to contraception and is crucial to protecting a woman's health and autonomy, and to keeping pharmacists and politicians out of personal, private matters.

This bill would protect an individual's access to legal contraception by requiring that if a pharmacist has a personal objection to filling a legal prescription for a drug or device, the pharmacy would be required to ensure that the prescription is filled by another pharmacist employed by the pharmacy who does not have a personal objection.

I came to the Senate 22 years ago. We've made a lot of progress, in women's health and women's rights since then. But today it seems like we're fighting to keep from sliding backward in some areas.

An individual's fundamental right of access to birth control is being attacked. Reports of some pharmacists refusing to fill prescriptions have been documented in twelve states.

The women that were denied were young and old; married and single; with children and without. Even women who were using birth control for other medical reasons aside from preventing conception have been denied access to the birth control pill.

If you told me 10 years ago that a woman's right to use contraception would be in jeopardy, I probably wouldn't have believed it. Today I have to believe it—because it's happening.

In Texas last year, a pharmacist refused to fill a legal prescription for the "morning after" contraceptive for a woman who had been raped. First she was assaulted and violated—then her rights were violated by a self-righteous pharmacist who didn't want to do his job.

In Milwaukee, a married woman in her mid-40s with four children got a prescription from her doctor for a morning-after pill. A pharmacist refused to do his job. He wouldn't fill the prescription.

A handful of pharmacists are saying they have a "right" to ignore prescriptions written by medical doctors.

Well, they do have a right. They have a right to get a new job if they don't want to fill legal prescriptions.

But nobody has a right to come between any person and their doctor. Not the government . . . not an insurance company . . . and not a pharmacist.

The American Pharmaceutical Association has adopted an "Oath of Pharmacists." The last part of the oath states: I take these vows voluntarily with the full realization of the responsibility with which I am entrusted by the public.

People trust pharmacists to fill the prescriptions that are written by their doctors. If pharmacists are allowed to pick and choose which prescriptions get filled, everyone's health will be at risk. Today they might not fill prescriptions for birth control pills. Tomorrow it could be painkillers for a cancer patient. Next year it could be medicine that prolongs the life of a person with AIDS or some other terminal disease.

I'm going to fight to protect all Americans against this radical assault on our rights.

I'm proud to introduce a bill that will require pharmacists to do one simple thing: their job.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Legal Pharmaceuticals Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) An individual's right to religious belief and worship is a protected, fundamental right in the United States.

(2) An individual's right to access legal contraception is a protected, fundamental right in the United States.

(3) An individual's right to religious belief and worship cannot impede an individual's access to legal prescriptions, including contraception.

SEC. 3. DUTIES OF PHARMACIES WITH RESPECT TO REFUSAL OF PHARMACISTS TO FILL VALID PRESCRIPTIONS.

(a) In General.—Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"SEC. 249. DUTIES OF PHARMACIES WITH RESPECT TO REFUSAL OF PHARMACISTS TO FILL VALID PRESCRIPTIONS.

"(a) In General.—A pharmacy that receives prescription drugs or prescription devices in interstate commerce shall maintain compliance with the following conditions:

"(1) If a product is in stock and a pharmacist employed by the pharmacy refuses on the basis of a personal belief to fill a valid prescription for the product, the pharmacy ensures, subject to the consent of the individual presenting the prescription in any case in which the individual has reason to know of the refusal, that the prescription is, without delay, filled by another pharmacist employed by the pharmacy.

"(2) Subject to subsection (b), if a product is not in stock and a pharmacist employed by the pharmacy refuses on the basis of a personal belief or on the basis of pharmacy policy to order or to offer to order the product when presented a valid prescription for the product—

"(A) the pharmacy ensures that the individual presenting the prescription is immediately informed that the product is not in stock but can be ordered by the pharmacy; and

"(B) the pharmacy ensures, subject to the consent of the individual, that the product is, without delay, ordered by another pharmacist employed by the pharmacy.

"(3) The pharmacy does not employ any pharmacist who engages in any conduct with the intent to prevent or deter an individual from filling a valid prescription for a product or from ordering the product (other than the specific conduct described in paragraph (1) or (2)), including—

"(A) the refusal to return a prescription form to the individual after refusing to fill the prescription or order the product, if the individual requests the return of such form;

"(B) the refusal to transfer prescription information to another pharmacy for refill dispensing when such a transfer is lawful, if the individual requests such transfer;

"(C) subjecting the individual to humiliation or otherwise harassing the individual; or

"(D) breaching medical confidentiality with respect to the prescription or threatening to breach such confidentiality.

"(b) Products Not Ordinarily Stocked.—Subsection (a)(2) applies only with respect to a pharmacy ordering a particular product for an individual presenting a valid prescription for the product, and does not require the pharmacy to keep such product in stock, except that such subsection has no applicability with respect to a product for a health condition if the pharmacy does not keep in stock any product for such condition.

"(c) Enforcement.—

"(1) Civil penalty.—A pharmacy that violates a requirement of subsection (a) is liable to the United States for a civil penalty in an amount not exceeding $5,000 per day of violation, and not to exceed $500,000 for all violations adjudicated in a single proceeding.

"(2) Private cause of action.—Any person aggrieved as a result of a violation of a requirement of subsection (a) may, in any court of competent jurisdiction, commence a civil action against the pharmacy involved to obtain appropriate relief, including actual and punitive damages, injunctive relief, and a reasonable attorney's fee and cost.

"(3) Limitations.—A civil action under paragraph (1) or (2) may not be commenced against a pharmacy after the expiration of the five-year period beginning on the date on which the pharmacy allegedly engaged in the violation involved.

"(d) Definitions.—For purposes of this section:

"(1) The term 'employ', with respect to the services of a pharmacist, includes entering into a contract for the provision of such services.

"(2) The term 'pharmacist' means a person authorized by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

"(3) The term 'pharmacy' means a person who—

"(A) is authorized by a State to engage in the business of selling prescription drugs at retail; and

"(B) employs one or more pharmacists.

"(4) The term 'prescription device' means a device whose sale at retail is restricted under section 520(e)(1) of the Federal Food, Drug, and Cosmetic Act.

"(5) The term 'prescription drug' means a drug that is subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act.

"(6) The term 'product' means a prescription drug or a prescription device.

"(7) The term 'valid', with respect to a prescription, means—

"(A) in the case of a drug, a prescription within the meaning of section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act that is in compliance with applicable law, including, in the case of a prescription for a drug that is a controlled substance, compliance with part 1306 of title 21, Code of Federal Regulations, or successor regulations; and

"(B) in the case of a device, an authorization of a practitioner within the meaning of section 520(e)(1) of such Act that is in compliance with applicable law.

"(8) The term 'without delay', with respect to a pharmacy filling a prescription for a product or ordering the product, means within the usual and customary timeframe at the pharmacy for filling prescriptions for products for the health condition involved or for ordering such products, respectively.".

(b) Effective Date.—The amendment made by subsection (a) takes effect upon the expiration of 30 days after the date of the enactment of this Act, without regard to whether the Secretary of Health and Human Services has issued any guidance or final rule regarding such amendment.

By Mr. HATCH (for himself, Mrs. Feinstein, Mr. Thune, Mr. Talent, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Baucus, Mr. Brownback, Mr. Burns, Mr. Burr, Mr. Chambliss, Mr. Coburn, Mr. Coleman, Ms. Collins, Mr. Cornyn, Mr. Craig, Mr. Crapo, Mr. DeWine, Mr. Domenici, Mr. Ensign, Mr. Enzi, Mr. Frist, Mr. Graham, Mr. Grassley, Mr. Inhofe, Mr. Kyl, Mrs. Lincoln, Mr. Lott, Mr. Lugar, Mr. McCain, Mr. Roberts, Mr. Santorum, Mr. Sessions, Mr. Shelby, Mr. Thomas, Mr. Vitter, Mr. Warner, Mr. Bond, Mr. Bunning, Mr. DeMint, Mrs. Dole, Mr. Gregg, Mr. Hagel, Mrs. Hutchison, Mr. Johnson, Mr. Martinez, Mr. Nelson of Nebraska, Ms. Snowe, Mr. Specter, and Mr. Stevens):

S.J. Res. 12. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, it is with a sense of honor that my friend and colleague, Senator Feinstein, and I rise to introduce a bipartisan constitutional amendment that would allow Congress to prohibit the physical desecration of the American flag.

I am proud and privileged to be working again with my California colleague on this important proposal. Among our principal cosponsors are our colleagues Senator Thune and Senator Talent. It is heartening to us to see some of the Senate's newest Members come to this issue with the same passion that its original supporters still feel.

This amendment is truly bipartisan. Today, we count 51 original cosponsors of this resolution. And, nearly two-thirds of the Members of this body have indicated their support. Those numbers seem to grow with each passing year.

No doubt, some will still argue that this amendment is unnecessary. Fortunately, that refrain is gradually losing its punch.

When this amendment eventually passes the Senate, as I believe that it will, our victory will not be attributed to the passions of the moment. Rather, it will be due to the tireless efforts of citizens committed to convincing their elected representatives that this amendment matters.

I have heard from some Utahans who love our country's flag but are opposed to amending the Constitution. To them I would say, amending the Constitution should never be taken lightly. Yet after serious study of the issue, I have concluded there is no other way to guarantee that our flag is protected, as I will discuss in a few minutes.

And, indeed, guaranteeing the physical integrity of the flag is a cause worth fighting for. The American people seem to understand what the opponents of this amendment fail to grasp. This amendment is a necessary statement that citizens still have some control over the destiny of this Nation and in maintaining the traditions and symbols that have helped to bind us together in all our diversity for over 200 years.

Those who oppose protecting the flag through a constitutional amendment are probably not aware of our constitutional history. Indeed, for most of America's history, our Nation's laws guaranteed the physical integrity of the American flag.

These were laws no one questioned. No one every questioned that the simple act of providing legal protection for the flag, a unique symbol of our ties as a Nation, could somehow violate the Constitution.

We should take a moment and recall what we were taught about the flag as schoolchildren. Our flag's 13 stripes show our origins. We started as 13 separate colonies that first became separate States and then one Nation through the Declaration of Independence and the American Revolution. The 50 stars on the field of blue represent what we have become: a Nation unified. And over the past 230 years, we have become ever more united in our commitment to the extension of liberty and equality.

Among all of our differences, differences frequently reflected in this body, we do remain one Nation undivided and indivisible, and our flag is a simple but profound statement of that union. That is why we open the Senate each day by pledging our allegiance to the flag. It is a reminder of all that we have in common.

Supreme Court Justice John Paul Stevens understood the significance of the flag's status when he wrote:

> A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas . . . So it is with the American flag. It is more than a proud symbol of the courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations.

There is a certain wisdom to Justice Stevens' statement that our constituents immediately grasp. Some polls show that over 80 percent of the American people support an amendment to protect the flag.

Its unique character is represented in the diversity of the groups that have worked over the years to bring this amendment to fruition. Veterans, police, African Americans, Polish Americans, farmers, and so many more diverse groups see in the flag a symbol of our Nation; they understand that it is perfectly consistent with our constitutional traditions for us to protect it.

Unfortunately, in 1989 the Supreme Court intervened and ovrrode every State law barring desecration of the American flag.

None of these States has restricted first amendment political speech in any way.

Their laws did not lead us down some slippery slope that would result in restraints on political opinions.

These States drew reasonable distinctions between political speech and inflammatory and frequently violent acts.

Yet in Texas v. Johnson, the Supreme Court held that a Texas statute, and others like it, that barred desecration of the American flag, violated core first amendment principles. That certainly would have been news to those who wrote the Constitution and our Bill of Rights.

It was news, bad news, to the American people as well.

So in response to this imprudent decision, the Senate acted quickly and passed The Flag Protection Act. It became law on October 28, 1989.

Then, in 1990, the Court struck down even this legislation in United States v. Eichman.

And that is why a constitutional amendment has become necessary.

With due respect to our courts, and to my colleagues who continue to support these decisions, these legal arguments against flag protection just do not hold water.

Detractors of our amendment contend that the first amendment guarantees the right to burn the American flag. It does no such thing.

They contend it would carve out an exception to the first amendment as some say. It would not. Rather, it would reaffirm what was understood not only by those who ratified the Constitution but also by citizens of today: that the first amendment never guaranteed such expressive conduct. Whether one is an originalist or whether one believes in a living Constitution, this argument falls short.

The American people have long distinguished between the first amendment's guarantee of an individual's right to speak his or her mind and the repulsive expression of desecrating the flag. For many years, the people's elected representatives in Congress and 49 State legislatures passed statutes prohibiting physical desecration of the flag, and our political speech thrived. It was just as robust as it is today.

Yet in 1989, the Supreme Court's novel interpretation of the first amendment concluded that the people, their elected legislators, and the courts are no longer capable of making these reasonable distinctions, distinctions that we frequently make in this body such as when we prohibit speeches or demonstrations of any kind, even in the silent display of signs or banners, in the public galleries.

The American people created the Constitution, and they reserved to themselves the right to amend the Constitution when they saw fit. Is it wrong to give the American people the opportunity to review whether the Supreme Court got it right in this case? I think not.

The fact is, a Senator does not take an oath to support and defend the holdings of the Supreme Court. We take an oath to support the Constitution. And, it is entirely appropriate that when we think the Court gets it wrong, we correct it through proper constitutional devices, devices set out in the Constitution itself . . . Though it has been forgotten over the years, this is hardly a radical idea. It was one supported by the founders of both the Republican and Democratic parties, Thomas Jefferson and Abraham Lincoln.

As some in this body have noted, our courts are now frequently attempting to identify a national consensus to justify contemporary interpretations of our constitutional guarantees. The progress of this amendment to protect the flag demonstrates to me at least just how such a consensus is supposed to develop. Through argument, through give and take, through debate—over time the American people, as reflected in the actions of their representatives, have become more sure than ever that they should have the opportunity to protect their flag through moderate and reasonable legislation.

After September 11, citizens proudly flew the flag, defying the terrorist challenge to our core values of liberty and equality, and confirming its unique status as a symbol of our nation's strength and purpose. In the struggle that has followed, our flag stands as a reminder of the many personal sacrifices made to protect and strengthen our nation.

And so, to protect this symbol, I am today introducing this amendment.

I thank my colleagues, Senators FEINSTEIN, THUNE, and TALENT for their work on this. I urge those who are not cosponsors of this amendment to keep an open mind as we debate this resolution.

It is my hope that the Judiciary committee will move the resolution to the floor.

And, in turn, I ask that our leadership ensure this resolution gets a vote on the floor.

Mr. THUNE. Mr. President, today, it is my distinct honor and privilege to rise and speak on behalf of Senator HATCH, Senator FEINSTEIN, Senator TALENT, myself, and 47 other senators, as we introduce bipartisan legislation we believe to be long overdue. It is not reform legislation. It does not authorize new government programs, create new sources of tax revenue, or provide incentives to stimulate our economy. It is none of those things, but it is a matter of great importance. The events of 9/11 have reminded us all of that. It is, instead, legislation that speaks to the core of our beliefs and hopes as a Nation, and as a people. It is about a national treasure and a symbol of our country that the vast majority of Americans—and the majority of this great body, I might add—believe is worth special status and worthy of protection. It is about the American flag.

Our American flag is more than mere cloth and ink. It is a symbol of the liberty and freedom that we enjoy today thanks to the immeasurable sacrifices of generations of Americans who came before us.

It represents the fiber and strength of our values and it has been sanctified by the blood of those who died defending it.

I rise today to call upon all members of this body to support a constitutional amendment that would give Congress the power to prohibit the physical desecration of the American flag. It would simply authorize, but not require, Congress to pass a law protecting the American flag.

This amendment does not affect anyone's right to express their political beliefs.

It would only allow Congress to prevent our flag from being used as a prop, to be desecrated in some ways simply not appropriate to even mention in these halls.

This resolution and similar legislation have been the subject of debate before this body before. There is, in fact, a quite lengthy legislative history regarding efforts to protect the American flag from desecration. In 1989, the Supreme Court declared essentially that burning the American flag is "free speech." That is a decision the American people should make, particularly when this country finds itself fighting for democracy and expending American lives for that cause, on battlefields overseas.

South Dakota veterans and members of the armed forces from my State know exactly what I'm talking about, as I'm sure they do from every state represented in the Senate. In recent months, units of the 147th field artillery and 153rd engineer battalions of the South Dakota National Guard returned home after spending a difficult year in Iraq. Likewise, the 452nd ordinance company of the United States Army Reserve is preparing to depart for Iraq in September.

My father, like many other veterans of World War II, understands the importance of taking this step. Veterans from across South Dakota have asked me to step up and defend the flag of this great Nation and today I am answering that call.

Today, members of both political parties will introduce a proposed constitutional amendment that would give back to the American people the power to prevent the desecration of the American flag. We know the gravity of this legislation. There is nothing complex about this amendment, nor are there any hidden consequences. This amendment provides Congress with the power to outlaw desecration of the American flag, a right that is widely recognized by Madison, Jefferson, and Supreme Court Justice Hugo Black, one of the foremost advocates of first amendment freedoms.

Most states officially advocate Congress passing legislation to protect the flag. Frankly, I do not see this as a first amendment issue.

It is an attempt to restore the traditional protections to the symbol cherished so dearly by our Government and the people of the United States. Some acts are not accepted as "free speech" even in societies like ours where we consider free speech a cherished right. For example, an attempt to burn down this Capitol building as a political statement would never be viewed as someone's right of free speech. Our laws would not tolerate the causing of harm to other's property or life as an act of "free speech." This flag happens to be the property of the American people, in my opinion, and this question should be put before the States and their people to decide how and if to protect it. I think the answer will come back as a resounding "yes".

There is little doubt that the debate over state ratification will trigger a tremendous discussion over our values, beliefs and whether we will ultimately bestow a lasting honor on our traditions. Importantly, it will be an indication of how we recognize our servicemen and women who are sacrificing—right now—in Iraq and Afghanistan, to protect those traditions and values for us. Will we honor them, and all the veterans who served and died in wars for this country and our flag over the last 200 years? That's not a question which a court should hold the final answer.

I believe the time has finally come. I believe our country wants this debate. The majority of this Senate, I believe, wants this amendment. We begin it here, and we begin it now. Let the debate begin.

Mr. BURNS. Mr. President, I come to the floor today to voice my support for the flag amendment.

The flag of the United States of America is a symbol of freedom. The flag of the United States of America has been sanctified by the blood of thousands of U.S. soldiers who have fought across the world, and it must be protected from desecration. This proposed constitutional amendment would overturn the 1989 U.S. Supreme Court's 5–4 ruling which held that laws banning desecration of the U.S. flag were unconstitutional infringements on free speech and therefore a violation of the first amendment.

I am proud of the first amendment right to free speech and will always ensure all Americans maintain that right. I am also proud of the American flag and the values behind it. The American flag flies over this great country as a symbol of liberty and patriotism. Desecration of the flag would be destruction of the core principles on which this great Nation was founded. I will continue to be an advocate on behalf of the American flag and the values the flag represents.

I encourage my colleagues to support this measure and join me in ensuring the everlasting integrity of the American flag.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 107—COMMENDING ANNICE M. WAGNER, CHIEF JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS, FOR HER PUBLIC SERVICE

Ms. COLLINS (for herself, Mr. DURBIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. VOINOVICH, Mr. AKAKA, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, Mr. DEWINE, Ms. LANDRIEU, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 107

Whereas Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, entered Federal Government service in 1973 as the first woman to be appointed General Counsel of the National Capital Housing Authority, then a Federal agency;

Whereas, from 1975 to 1977, the Honorable Annice M. Wagner served as People's Counsel for the District of Columbia, an office created by Congress to represent the interests of utility consumers before the District of Columbia Public Service Commission and the District of Columbia Court of Appeals;

Whereas, in 1977, the Honorable Annice M. Wagner was appointed by President Carter and confirmed by the Senate to serve as an Associate Judge of the Superior Court for the District of Columbia;

Whereas, while serving as an Associate Judge of the Superior Court, the Honorable Annice M. Wagner served in the civil, criminal, family, probate, and tax divisions and served for 2 years as presiding judge of the probate and tax divisions;

Whereas, while serving as an Associate Judge of the Superior Court, Annice M. Wagner served on various commissions and committees to improve the District of Columbia judicial system, including serving as chairperson of the Committee on Selection and Tenure of Hearing Commissioners, and as a member of the Superior Court Rules Committee and the Sentencing Guidelines Commission;

Whereas, as an Associate Judge of the Superior Court, Annice M. Wagner served as chairperson of the Court's Advisory Committee on Probate and Fiduciary Rules and was largely responsible for the implementation of new rules intended to streamline and clarify procedures regarding missing, protected, and incapacitated individuals;

Whereas, as an Associate Judge of the Superior Court, the Honorable Annice M. Wagner served as chairperson of the Task Force on Gender Bias in the Courts, which conducted a comprehensive study of bias in the courts;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts established the Standing Committee on Fairness and Access to the Courts to ensure racial, gender, and ethnic fairness;

Whereas Annice M. Wagner was appointed by President George H.W. Bush and confirmed by the Senate in 1990 to be an Associate Judge of the District of Columbia Court of Appeals;

Whereas Annice M. Wagner was appointed in 1994 to serve as Chief Judge of the District Court of Appeals;

Whereas, while Chief Judge of the District of Columbia Court of Appeals, Annice M. Wagner served as Chair of the Joint Committee on Judicial Administration in the District of Columbia;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts initiated the renovation of the Old District of Columbia Courthouse (Old City Hall) in Judiciary Square, a National Historic Landmark, for future use by the District of Columbia Court of Appeals;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts initiated the master planning process for the renovation and use of unused or underutilized court properties, which will lead to the revitalization of the Judiciary Square area in the Nation's Capital;

Whereas, under Annice M. Wagner's leadership, the Court of Appeals, along with the District of Columbia Bar, the District of Columbia Bar Foundation, and the District of Columbia Consortium of Legal Service Providers, established the District of Columbia Access to Justice Commission, a commission that will propose ways to make lawyers and the legal system more available for poor individuals in the District of Columbia;

Whereas Annice M. Wagner served as President of the Conference of Chief Justices, an organization of Chief Justices and Chief Judges of the highest court of each of the 50 States, the District of Columbia, and the territories;

Whereas Annice M. Wagner served as Chairperson of the Board of Directors of the National Center for State Courts;

Whereas the Honorable Annice M. Wagner commands wide respect within the legal profession nationally, having been selected to serve as one of 11 members of the American Bar Association's Section on Dispute Resolution's Drafting Committee on the Uniform Mediation Act, which collaborated with the National Conference of Commissioners on Uniform State Laws in promulgating the Uniform Mediation Act, which, in 2001, was approved and recommended for enactment in all of the States, to foster prompt, economical, and amicable resolution of disputes through mediation processes which promote public confidence and uniformity across state lines;

Whereas, since 1979, Annice M. Wagner has been involved with the United Planning Organization, which was established in 1962 to conduct initiatives designed to provide human services in the District of Columbia and she has served as Interim President of the Organization's Board of Trustees;

Whereas, since 1986, Annice M. Wagner has participated as a member of a teaching team for the Trial Advocacy Workshop at Harvard Law School;

Whereas Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, was born in the District of Columbia and attended District of Columbia Public Schools and received her Bachelor's and law degrees from Wayne State University in Detroit, Michigan; and

Whereas Annice M. Wagner's dedication to public service and the citizens of the District of Columbia has contributed to the improvement of the judicial system, increased equal access to justice, and advanced public confidence in the court system: Now, therefore, be it

Resolved, That the Senate commends the Honorable Annice M. Wagner for her commitment and dedication to public service, the judicial system, equal access to justice, and the community.

Ms. COLLINS. Mr. President, today I am submitting a Senate resolution to commend Chief Judge Annice M. Wagner of the District of Columbia Court of Appeals for more than 32 years of public service. As the Chairman of the Committee on Homeland Security and Governmental Affairs, which has oversight jurisdiction of the District of Columbia courts, I believe that it is important to recognize the contributions of Chief Judge Wagner who will be retiring this year. As chief judge of the D.C. Court of Appeals, she has worked closely with the Committee on Homeland Security and Governmental Affairs on various issues related to the D.C. courts and the justice system in the District.

Chief Judge Wagner entered Federal Government service in 1973 as the first woman to be appointed General Counsel of the National Capital Housing Authority, then a Federal agency. Subsequently, she served as People's Counsel for the District of Columbia, an office created by Congress to represent the interests of utility consumers before the District of Columbia Public Service Commission and the District of Columbia Court of Appeals.

Chief Judge Wagner was twice confirmed by the Senate. First, in 1977, when she was nominated by President Jimmy Carter to serve as an Associate Judge of the Superior Court for the District of Columbia and again when she was nominated by President George H. W. Bush, in 1990, to serve as an Associate Judge of the D.C. Court of Appeals. She was later appointed, in 1994, to serve as chief judge. During her 28 years of service in the D.C. courts, she served in every division of the D.C. Superior Court, and served for two years as presiding judge of the Probate and Tax divisions. She also served on various commissions and committees, including serving as chairperson of the Committee on Selection and Tenure of Hearing Commissioners, Chair of the Joint Committee on Judicial Administration in the District of Columbia, and as a member of the Superior Court Rules Committee and the Sentencing Guidelines Commission.

Chief Judge Wagner has also demonstrated a commitment to improving access to justice. To this end, she served as chairperson of the Court's Advisory Committee on Probate and Fiduciary Rules and was largely responsible for the implementation of new rules intended to streamline and clarify procedures regarding the affairs of missing, protected, and incapacitated individuals. She also served as chairperson of the Task Force on Gender Bias in the Courts, which conducted a comprehensive study of bias in the courts and, under her leadership, the District of Columbia courts established the Standing Committee on Fairness and Access to the Courts to ensure racial, gender, and ethnic fairness.

More recently, under her leadership, the Court of Appeals, along with the District of Columbia Bar, the District of Columbia Bar Foundation, and the District of Columbia Consortium of Legal Service Providers, established the D.C. Access to Justice Commission, a commission that will propose ways to make lawyers and access to justice more available for poor individuals in the District of Columbia.

Chief Judge Wagner's work at the D.C. courts also extends beyond legal issues. As the space needs of the District of Columbia courts continued to grow beyond their current building, Chief Judge Wagner led the effort to examine solutions to resolve the courts continued space problems. Her efforts led the D.C. courts to plan and initiate the renovation of the Old Courthouse/City Hall in Judiciary Square, a National Historic Landmark, for the future use by the D.C. Court of Appeals. In addition, as Congress enacted new legislative mandates on the courts which further increased their space needs, under her leadership, the District of Columbia courts initiated the master planning process for the renovation and use of all court properties in Judiciary Square. This effort will result not only in the improvement of court operations, but is expected to lead to the revitalization of the Judiciary Square area in the Nation's Capital.

Chief Judge Wagner's service also extends beyond the boundaries of the District. She has served as President of the Conference of Chief Justices, an organization of chief justices and chief judges of the highest court of each of the fifty states, the District of Columbia, and the territories, as chairperson of the Board of Directors of the National Center for State Courts, and as one of eleven members of the American Bar Association's Section on Dispute Resolution's Drafting Committee on the Uniform Mediation Act which collaborated with the National Conference of Commissioners on Uniform State Laws in promulgating the Uniform Mediation Act, which, in 2001, was approved and recommended for enactment in all the States, to foster prompt, economical, and amicable resolution of disputes through mediation processes which promote public confidence and uniformity across state lines.

Chief Judge Wagner's dedication and service to the District of Columbia and to the judicial system are highly commendable and warrant our recognition.

I urge my colleagues to support this resolution.

SENATE RESOLUTION 108—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK, MAY 2 THROUGH 8, 2005

Mr. AKAKA (for himself, Mr. Voinovich, Ms. Collins, Mr. Lieberman, Mr. Coleman, Mr. Levin, Mr. Coburn, and Mr. Carper) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. Res. 108

Whereas Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of men and women who meet the needs of the Nation through work at all levels of government;

Whereas over 18,000,000 individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas Federal, State, and local officials perform essential services the Nation relies upon every day;

Whereas the United States of America is a great and prosperous nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) help the Nation recover from natural disasters and terrorist attacks;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fire;

(4) deliver the United States mail;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) defend and secure critical infrastructure;

(9) teach and work in our schools and libraries;

(10) improve and secure our transportation systems;

(11) keep the Nation's economy stable; and

(12) defend our freedom and advance United States interests around the world;

Whereas public servants at every level of government are hard-working men and women, committed to doing their jobs regardless of the circumstances;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas Federal, State, and local government employees have risen to the occasion and demonstrated professionalism, dedication, and courage while fighting the war against terrorism;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, contribute greatly to the security of the Nation and the world;

Whereas government workers have much to offer, as demonstrated by their expertise and innovative ideas, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 2 through 8, 2005, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees;

Whereas the theme for Public Service Recognition Week 2005 is Celebrating Government Workers Nationwide to highlight the important work civil servants perform throughout the Nation; and

Whereas Public Service Recognition Week is celebrating its 21st anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation;

(2) salutes their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon a new generation of workers to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

Mr. AKAKA. Mr. President, today I rise to pay tribute to America's public servants. Whether it is at the Federal, State, or local level, the men and women who choose public service provide essential services that we rely on every day. As the ranking member of the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I am pleased to submit a resolution honoring these employees and celebrating Public Service Recognition Week. I am delighted to be joined by the leadership of the Senate Homeland Security and Governmental Affairs Committee, Senators Voinovich, Collins, Lieberman, Coleman, Levin, Coburn, and Carper.

The 21st anniversary of Public Service Recognition Week, which takes place the week of May 2, 2005, showcases the talented individuals who serve their country as Federal, State and local government employees, both civilian and military. From Hawaii to Maine, throughout the Nation, and around the world, public employees use the week to educate their fellow citizens on Government services make life better for all of us and the exciting challenges of a career in public service.

Public servants are teachers, members of the Armed Forces, civilian defense workers, postal employees, food inspectors, law enforcement officers, firemen, social workers, crossing guards, and road engineers. They deliver essential Government services; defend our freedom; go above and beyond the call of duty to notify the public of Government waste, fraud, abuse; and respond with professionalism and honor during emergencies. They deserve our respect and gratitude for their dedication and service to this country.

As the conflict in Iraq continues, as well as the global war on terrorism, I would like to take this opportunity to thank the brave men and women who have given their lives for their country. Over 1,500 Americans have lost their lives in defense of freedom since the beginning of Operation Iraqi Freedom. Members of the Federal civilian workforce work side-by-side with members of the Armed Services and are crucial to our Nation's defense, security, and general welfare. Like those who came before them and those who are yet to come, our military and civilian support staff show courage in the face of adversity and deserve our admiration and respect.

Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of individuals who serve the needs of the Nation as Government and municipal employees. It is also a time to call on a new generation of Americans to consider public service. Through job fairs, special exhibits, and agency sponsored education programs, Public Service Recognition Week provides an opportunity for individuals to gain a deeper understanding of the exciting and challenging work in the Federal Government.

I encourage my colleagues to recognize Federal employees in their States, as well as State and local government employees, and to let them know how much their work is appreciated. I invite my colleagues to join in the annual celebration.

SENATE RESOLUTION 109—COMMENDING THE UNIVERSITY OF OKLAHOMA SOONERS MEN'S GYMNASTICS TEAM FOR WINNING THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I MEN'S GYMNASTICS CHAMPIONSHIP

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 109

Whereas on April 8, 2005, the University of Oklahoma Sooners won their sixth National Collegiate Athletic Association (NCAA) Division I Men's Gymnastics Championship, at West Point, New York;

Whereas the 2005 NCAA Championship is the Sooners' third championship in the past 4 years;

Whereas the championship title crowned a remarkable season for the Sooners in which the team achieved an impressive record of 21 wins and only 2 losses;

Whereas the Sooners clinched a spectacular, nail-biting victory over the Ohio State Buckeyes, which was made possible by a heroic final performance on the vault by freshman Jonathan Horton;

Whereas the Sooners' winning score of 225.675 set a school record and dramatically surpassed second-place Ohio State's score of 225.450;

Whereas 6 members of the University of Oklahoma men's gymnastics team, including Taqiy Abdullah-Simmons, Josh Gore, David Henderson, Jamie Henderson, Jonathan Horton, and Jacob Messina, also garnered a school-record 13 All-America honors in the individual event finals;

Whereas senior David Henderson's 2005 NCAA title on the still rings gave the University of Oklahoma its 18th all-time individual national champion and capped off an exceptional 4 years;

Whereas Head Coach Mark Williams was named the 2005 NCAA Coach of the Year, making it the third time in his distinguished career that Head Coach Williams has received that honor;

Whereas the tremendous success of the 2005 Sooners adds to the outstanding legacy of men's gymnastics at the University of Oklahoma and is a reflection of the heart and dedication of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members;

Whereas the teamwork, grit, and sportsmanship demonstrated by the University of Oklahoma Sooners men's gymnastics team is a proud tribute to the university and the communities from which the team members hail: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Oklahoma Sooners for their sixth National Collegiate Athletic Association Division I Men's Gymnastics Championship;

(2) recognizes all who have contributed their hard work and support to making the 2005 season a historic success; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to University of Oklahoma President David L. Boren and Head Coach Mark Williams for appropriate display.

SENATE RESOLUTION 110—COMMENDING OKLAHOMA STATE UNIVERSITY'S WRESTLING TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WRESTLING CHAMPIONSHIP

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 110

Whereas on March 19, 2005, the Oklahoma State University Cowboys claimed their 33rd National Collegiate Athletic Association Wrestling Championship in St. Louis, Missouri;

Whereas the 33 wrestling championships won by the Cowboys is more than have been won by any other school in the history of National Collegiate Athletic Association Division I wrestling;

Whereas the Cowboys now have won 3 consecutive wrestling championships, a feat not accomplished since they won the national wrestling championship in 1954, 1955, and 1956;

Whereas the Cowboys' 2005 championship topped off an impressive season in which they were undefeated in the regular season and also had a perfect record in the finals;

Whereas the Cowboys outscored second place Michigan, 153 to 83, achieving a margin of victory that was the second-highest in National Collegiate Athletic Association wrestling history;

Whereas the Cowboys crowned a school-record 5 individual national champions, tying a national tournament record;

Whereas the Cowboys' outstanding 2005 season contributed to an already rich and proud tradition of wrestling excellence at Oklahoma State University;

Whereas the amazing accomplishments of the past year reflect the dedication, commitment, and tireless effort of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members; and

Whereas the student athletes of the Oklahoma State University wrestling team, through their exceptional athletic achievements, have not only brought credit to themselves but to their fellow students, their university, and their community: Now, therefore be it

Resolved, That the Senate—

(1) commends the Oklahoma State Cowboys for their third straight National Collegiate Athletic Association Division I Wrestling Championship;

(2) recognizes the players, coaches, staff, and all who have made the historic successes of the 2005 season possible; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Oklahoma State University President Dr. David J. Schmidly and Coach John Smith for appropriate display.

SENATE CONCURRENT RESOLUTION 27—HONORING MILITARY CHILDREN DURING "NATIONAL MONTH OF THE MILITARY CHILD"

Mr. KENNEDY (for himself, Mr. FRIST, Mr. LEVIN, Mr. KERRY, Ms. MIKULSKI, Mr. BOND, Mr. BAYH, Mr. AKAKA, Mr. REID, Mr. JOHNSON, Mrs. MURRAY, and Mrs. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 27

Whereas more than a million Americans are demonstrating their courage and commitment to freedom by serving in the Armed Forces of the United States;

Whereas nearly 40 percent of the members of the Armed Forces, when deployed away from their permanent duty stations, have left families with children behind;

Whereas no one feels the effect of those deployments more than the children of deployed service members;

Whereas as of March 31, 2005, approximately 1,000 of these children have lost a parent serving in the Armed Forces during the preceding 5 years;

Whereas the daily struggles and personal sacrifices of children of members of the Armed Forces too often go unnoticed;

Whereas the children of members of the Armed Forces are a source of pride and honor to all Americans and it is fitting that the Nation recognize their contributions and celebrate their spirit;

Whereas the "National Month of the Military Child", observed in April each year, recognizes military children for their sacrifices and contributes to demonstrating the Nation's unconditional support to members of the Armed Forces;

Whereas in addition to Department of Defense programs to support military families and military children, a variety of programs and campaigns have been established in the private sector to honor, support, and thank military children by fostering awareness and appreciation for the sacrifices and the challenges they face;

Whereas a month-long salute to military children will encourage support for those organizations and campaigns established to provide direct support for military children and families

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) joins the Secretary of Defense in honoring the children of members of the Armed Forces and recognizes that they too share in the burden of protecting the Nation;

(2) urges Americans to join with the military community in observing the "National Month of the Military Child" with appropriate ceremonies and activities that honor, support, and thank military children; and

(3) recognizes with great appreciation the contributions made by private-sector organizations that provide resources and assistance to military families and the communities that support them.

AMENDMENTS SUBMITTED AND PROPOSED

SA 412. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 413. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 414. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 415. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 416. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 417. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 418. Mr. CHAMBLISS (for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, Mr. BYRD, Mr. BURR, Mr. LOTT, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 419. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 420. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 421. Mr. KENNEDY (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 422. Mr. COCHRAN (for Mr. LEAHY (for himself and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, supra.

SA 423. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 424. Mr. COCHRAN proposed an amendment to the bill H.R. 1268, supra.

SA 425. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 426. Mr. SANTORUM (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 427. Mr. DURBIN (for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LEAHY, Mr. FEINGOLD, Mr. LAUTENBERG, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 1268, supra.

SA 428. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 429. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 430. Mr. BYRD (for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill H.R. 1268, supra.

SA 431. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 432. Mr. CHAMBLISS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 433. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 434. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 435. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 submitted by Mr. CRAIG (for himself and Mr. KENNEDY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 436. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 437. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 438. Mr. COCHRAN (for Mr. SPECTER) proposed an amendment to the bill H.R. 1268, supra.

SA 439. Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 440. Mr. BIDEN (for himself, Mr. BINGAMAN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 441. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 442. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 443. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 444. Mrs. BOXER (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 445. Mr. REID proposed an amendment to the bill H.R. 1268, supra.

SA 446. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 412. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON A STUDY OF THE ROLE OF NATURAL BARRIERS

(a) Congress makes the following findings:

(1) The tsunami that struck in the Indian Ocean on December 26, 2004 not only killed approximately 250,000 people, it also obliterated the natural coastal barriers in the region affected by the tsunami.

(2) More than 3,000 miles of coastline were affected by the tsunami, a distance that is equal to the distance of the United States shoreline from Galveston, Texas to Bangor, Maine.

(3) The United Nations Environmental Program estimates that the damage to the environment could total $675,000,000 in loss of natural habitats and important ecosystem function.

(4) Without the barriers that act as nature's own line of defense against flooding, storm surge, hurricanes, and even tsunamis, human lives are at greater risk.

(5) Restoring the reefs, barrier islands, and shorelines of these areas will help in long-term disaster risk reduction.

(6) While the Atlantic and Gulf of Mexico coasts are at some risk for a tsunami, the major threat each year comes from hurricanes. In 2004, multiple hurricanes in rapid succession decimated the people and natural barriers of Florida, the southeast Atlantic seaboard, and most of the Gulf south. These annual extremes of mother nature make critical the need to reinvest in the natural barriers of the United States.

(b) It is the sense of Congress that the head of the United States Geological Survey should study the role of natural barriers in the coastal areas of the United States to assess the vulnerabilities of such areas to extreme conditions, the possible effects such conditions could have on coastal populations, and the means, mechanisms, and feasibility of restoring already deteriorated natural barriers along the coast lines of the United States.

SA 413. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON A COMPREHENSIVE EVACUATION PLAN

(a) Congress makes the following findings:

(1) In the United States, 122,000,000 people, approximately 53 percent of the population, live in coastal countries or parishes.

(2) In the annual occurrence of massive and deadly hurricanes that affect coastal areas

in the United States, the lack of adequate highways, planning, and communication sends many people scrambling into gridlocked traffic jams where they are vulnerable to injury and unable to evacuate to safe areas in a reasonable amount of time.

(3) Federal interstate and other highways may be used in an efficient and safe manner to quickly evacuate large populations to safer areas in the event of natural disasters that occur and affect low-lying coastal communities.

(b) It is the sense of Congress that the head of the Federal Highway Administration should develop a comprehensive plan for evacuation of the coastal areas of the United States during any of the variety of natural disasters that affect coastal populations. The plan should include plans for evacuation in the event of a hurricane, flash flooding, tsunami, or other natural or man-made disaster that require mass evacuation.

SA 414. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 13, after "tsunami:" insert "*Provided further*, That of the funds appropriated under this heading, not less than $25,000,000 should be made available to support initiatives that focus on the immediate and long-term needs of children, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the facilitation and promotion of domestic and international adoption for orphaned children, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and promote the integration of war affected youth:".

SA 415. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 174, line 2, after "programs:" insert "*Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 should be made available to support initiatives that focus on the immediate and long-term needs of children, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the promotion of domestic and international adoption for orphaned children, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and the reintegration of war affected youth:".

SA 416. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

TRAVEL AND TRANSPORTATION FOR FAMILY OF MEMBERS OF THE ARMED FORCES HOSPITALIZED IN UNITED STATES IN CONNECTION WITH NON-SERIOUS ILLNESSES OR INJURIES INCURRED OR AGGRAVATED IN A CONTINGENCY OPERATION

SEC. 1122. (a) AUTHORITY.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "and" at the end of subparagraph (A); and

(B) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) either—

"(i) is seriously ill, seriously injured, or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility in or outside the United States; or

"(ii) is not described in clause (i), but has an illness or injury incurred or aggravated in a contingency operation and is hospitalized in a medical facility in the United States for treatment of that condition."; and

(2) by adding at the end the following new paragraph:

"(3) Not more than one roundtrip may be provided to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B).".

(b) CONFORMING AMENDMENTS.—

(1) HEADING FOR AMENDED SECTION.—The heading for section 411h of such title is amended to read as follows:

"§411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members.".

(c) FUNDING.—Funds for the provision of transportation in fiscal year 2005 under section 411h of title 37, United States Code, by reason of the amendments made by this section shall be derived as follows:

(1) In the case of transportation provided by the Department of the Army, from amounts appropriated for fiscal year 2005 by this Act and the Department of Defense Appropriations Act, 2005 (Public Law 108-287) for the Military Personnel, Army account.

(2) In the case of transportation provided by the Department of the Navy, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Navy account.

(3) In the case of transportation provided by the Department of the Air Force, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Air Force account.

(d) REPORT ON TRANSPORTATION IN EXCESS OF CERTAIN LIMIT.—If in any fiscal year the amount of transportation provided in such fiscal year under section 411h of title 37, United States Code, by reason of the amendments made by this section exceeds $20,000,000, the Secretary of Defense shall submit to the congressional defense committees a report on that fact, including the total amount of transportation provided in such fiscal year under such section 411h by reason of the amendments made by this section.

SA 417. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 200, between lines 13 and 14, insert the following:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

For an additional amount for necessary expenses of the Office of the United States Trade Representative, $2,000,000, to remain available until expended: *Provided*, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 418. Mr. CHAMBLISS (for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, Mr. BYRD, Mr. BURR, Mr. LOTT, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC–130J AIRCRAFT

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC-130J aircraft that is in effect on the date of the enactment of this Act.

SA 419. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON ORPHANS

(a) Congress makes the following findings:

(1) It is estimated that, by the end of 2003, there were 143,000,000 orphans under the age of 18 years in 93 countries in sub-Sahara Africa, Asia, Latin American, and the Caribbean.

(2) Millions of children have been orphaned or made vulnerable by HIV/AIDS. The region most affected by HIV/AIDS is sub-Sahara Africa, where an estimated 12,300,000 millions orphans of HIV/AIDS live.

(3) To survive and thrive, children need to be raised in a family that is prepared to provide for their physical and emotional well being.

(4) The institutionalization of a child, especially during the first few years of life, has been proven to inhibit the physical and emotional development of the child.

(5) Large numbers of orphans present dire challenges to the economic and social structures of affected countries, and such countries that ignore such challenges at their peril.

(b) It is the sense of Congress that—

(1) the United States Agency for International Development should develop and fund a comprehensive, long-term agenda for reducing the number of orphans;

(2) the strategy under paragraph (1) should include policies and programs designed to prevent abandonment, reduce the transmission of HIV/AIDS to parents and their children, and connect orphaned children with permanent families through adoption; and

(3) humanitarian assistance programs funded with amounts appropriated in this Act should be required to promote the permanent placement of orphaned children, rather than long-term foster care or institutionalization, as the best means of caring for such children.

SA 420. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047.(a) In this section:

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Federal land" means the approximately 508,582.70 square feet of land on the easternmost lot depicted on the plat entitled "Plat of Computation on a Tract of Land 'Taxed as Square 2055'", recorded in the Office of the Surveyor of the District of Columbia on page 81 of Survey Book 199, which is also taxed as part of Lot 800 in Square 2055.

(3) The term "Fund" means the State Department trust fund established under subsection (c)(4)(A).

(4) The term "lease" means the lease between the United States and the International Telecommunications Satellite Organization, dated June 8, 1982.

(5) The term "Parks land" means the parcels of land designated in the lease as Park I and Park II.

(6) The term "Secretary" means the Secretary of State.

(7) The term "successor entity" means the successor entity of the International Telecommunications Satellite Organization or an assignee of the successor entity.

(b) Notwithstanding Public Law 90–553 (82 Stat. 958), on request of the successor entity, the Secretary, in coordination with the Administrator, shall convey to the successor entity, by quitclaim deed, all right, title, and interest of the United States in and to—

(1) the Federal land; and

(2) the Parks land.

(c)(1) The amount of consideration for the conveyance of Federal land under subsection (b)(1) shall be determined in accordance with Article 10–1 of the lease.

(2) The amount of consideration for the conveyance of the Parks land under subsection (b)(2) shall be—

(A) determined in accordance with the terms of the lease; or

(B) in an amount agreed to by the Secretary and the successor entity.

(3) On the conveyance of the Federal land and the Parks land under subsection (b), the successor entity shall pay to the United States the full amount of consideration (as determined under paragraph (1) or (2)).

(4)(A) Amounts received by the United States as consideration under paragraph (3) shall be deposited in a State Department trust fund, to be established within the Treasury.

(B) Amounts deposited in the Fund under subparagraph (A)—

(i) shall be used by the Secretary, in coordination with the Administrator, for the costs of surveys, plans, expert assistance, and acquisition relating to the development of additional areas within the National Capital Region for chancery and diplomatic purposes;

(ii) may be used to pay the administrative expenses of the Secretary and the Administrator in carrying out this section;

(iii) may be invested in public debt obligations; and

(iv) shall remain available until expended.

(d) The conveyance of the Federal land and Parks land under subsection (b) shall be subject to the terms and conditions described in this section and any other terms and conditions agreed to by the Secretary and the successor entity, which shall be included in the quitclaim deed referred to in subsection (b).

(e)(1) The conveyance of the Federal land and Parks land under subsection (b) shall be subject to restrictions on the use, development, or occupancy of the Federal land and Parks land (including restrictions on leasing and subleasing) that provide that the Secretary may prohibit any use, development, occupancy, lease, or sublease that the Secretary determines could—

(A) impair the safety or security of the International Center;

(B) impair the continued operation of the International Center; and

(C) be contrary to the character of commercially acceptable occupants or uses in the surrounding area.

(2) A determination under paragraph (1) that is based on safety or security considerations shall—

(A) only be made by the Secretary; and

(B) be final and conclusive as a matter of law.

(3) A determination under paragraph (1) that is based on damage to the continued operation of the International Center or incompatibility with the character of commercially acceptable occupants or uses in the surrounding area shall be subject to judicial review.

(4) If the successor entity fails to submit any use, development, or occupancy of the Federal land or Parks land to the Secretary for prior approval or violates any restriction imposed by the Secretary, the Secretary may—

(A) bring a civil action in any appropriate district court of the United States to enjoin the use, development, or occupancy; and

(B) obtain any appropriate legal or equitable remedies to require full and immediate compliance with the covenant.

(5) Any transfer (including a sale, lease, or sublease) of any interest in the Federal land or Parks land in violation of the restrictions included in the quitclaim deed or otherwise imposed by the Secretary shall be null and void.

(f) On conveyance to the successor entity, the Federal land and Parks land shall not be subject to Public Law 90–553 (82 Stat. 958) or the lease.

(g) The authority of the Secretary under this section shall not be subject to—

(1) sections 521 through 529 and sections 541 through 559 of title 40, United States Code;

(2) any other provision of Federal law that is inconsistent with this section; or

(3) any other provision of Federal law relating to environmental protection or historic preservation.

(h) The Federal land and Parks land shall not be considered to be unutilized or underutilized for purposes of section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

SA 421. Mr. KENNEDY (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for

the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

PERMANENT MAGNET MOTOR FOR NEXT GENERATION DESTROYER PROGRAM

SEC. 1122. (a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount appropriated by this chapter under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY" is hereby increased by **$15,000,000**, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this Act under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", as increased by subsection (a), $15,000,000 shall be available for continued development and testing of the Permanent Magnet Motor for the next generation destroyer (DD(X)) program.

SA 422. Mr. COCHRAN (for Mr. LEAHY (for himself and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorist from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 14, delete "should" and insert in lieu thereof "shall".

On page 194, line 16, delete "Avian flu" and insert in lieu thereof "avian influenza virus, to be administered by the United States Agency for International Development".

SA 423. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 183, after line 23, insert the following new general provision:

SEC. . The amounts set forth in the eighth proviso in the Diplomatic and Consular Programs appropriation in the FY 2005 Department of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (P.L. 108-447, Div. B) may be subject to reprogramming pursuant to section 605 of that Act.

SA 424. Mr. COCHRAN proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 219 of the bill, line 16, strike "or" and insert "and";

On page 219 of the bill, line 17, after "and" insert "seismic-related".

SA 425. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 13, after "tsunami:" insert "*Provided further*, That of the funds appropriated under this heading, not less that $20,000,000 shall be made available for microcredit programs in countries affected by the tsunami, to be administered by the United States Agency for International Development:".

SA 426. Mr. SANTORUM (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

VISA WAIVER COUNTRY

SEC. 6047. (a) Congress makes the following findings:

(1) Since the founding of the United States, Poland has proven its steadfast dedication to the causes of freedom and friendship with the United States, exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszko during the American Revolution.

(2) Polish history provides pioneering examples of constitutional democracy and religious tolerance.

(3) The United States is home to nearly 9,000,000 people of Polish ancestry.

(4) Polish immigrants have contributed greatly to the success of industry and agriculture in the United States.

(5) Since the demise of communism, Poland has become a stable, democratic nation.

(6) Poland has adopted economic policies that promote free markets and rapid economic growth.

(7) On March 12, 1999, Poland demonstrated its commitment to global security by becoming a member of the North Atlantic Treaty Organization.

(8) On May 1, 2004, Poland became a member state of the European Union.

(9) Poland was a staunch ally to the United States during Operation Iraqi Freedom.

(10) Poland has committed 2,300 soldiers to help with ongoing peacekeeping efforts in Iraq.

(11) The Secretary of Homeland Security and Secretary of State administer the visa waiver program, which allows citizens from 27 countries, including France and Germany, to visit the United States as tourists without visas.

(12) On April 15, 1991, Poland unilaterally repealed the visa requirement for United States citizens traveling to Poland for 90 days or less.

(13) More than 100,000 Polish citizens visit the United States each year.

(b) Effective on the date of the enactment of this Act, and notwithstanding section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)), Poland shall be deemed a designated program country for purposes of the visa waiver program established under section 217 of such Act.

SA 427. Mr. DURBIN (for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LEAHY, Mr. FEINGOLD, Mr. LAUTENBERG, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REPORTS ON IRAQI SECURITY FORCES

SEC. 1122. Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit an unclassified report to Congress, which may include a classified annex, that includes a description of the following:

(1) The extent to which funding appropriated by this Act will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq.

(2) The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqi fighters, and any changes over the previous 90-day period.

(3) A description of all militias operating in Iraq, including their number, size, strength, military effectiveness, leadership, sources of external support, sources of internal support, estimated types and numbers of equipment and armaments in their possession, legal status, and the status of efforts to disarm, demobilize, and reintegrate each militia.

(4) The extent to which recruiting, training, and equipping goals and standards for Iraqi security forces are being met, including the number of Iraqis recruited and trained for the army, air force, navy, and other Ministry of Defense forces, police, and highway patrol of Iraq, and all other Ministry of Interior forces, and the extent to which personal and unit equipment requirements have been met.

(5) A description of the criteria for assessing the capabilities and readiness of Iraqi security forces.

(6) An evaluation of the operational readiness status of Iraqi military forces and special police, including the type, number, size, unit designation and organizational structure of Iraqi battalions that are—

(A) capable of conducting counterinsurgency operations independently;

(B) capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers; or

(C) not ready to conduct counterinsurgency operations.

(7) The extent to which funding appropriated by this Act will be used to train capable, well-equipped, and effectively led Iraqi police forces, and an evaluation of Iraqi police forces, including—

(A) the number of police recruits that have received classroom instruction and the duration of such instruction;

(B) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(C) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(D) a description of the field training program, including the number, the planned number, and nationality of international field trainers;

(E) the number of police present for duty;

(F) data related to attrition rates; and

(G) a description of the training that Iraqi police have received regarding human rights and the rule of law.

(8) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by the Coalition Forces, including defending Iraq's borders, defeating the insurgency, and providing law and order.

(9) The extent to which funding appropriated by this Act will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(10) The estimated total number of adequately trained, equipped, and led Iraqi battalions expected to be capable of conducting counterinsurgency operations independently and the estimated total number expected to be capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers by the end of 2005 and of 2006.

(11) An assessment of the effectiveness of the chain of command of the Iraqi military.

(12) The number and nationality of Coalition mentors and advisers working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(13) A list of countries of the North Atlantic Treaty Organisation ("NATO") participating in the NATO mission for training of Iraqi security forces and the number of troops from each country dedicated to the mission.

(14) A list of countries participating in training Iraqi security forces outside the NATO training mission and the number of troops from each country dedicated to the mission.

(15) For any country, which made an offer to provide forces for training that has not been accepted, an explanation of the reasons why the offer was not accepted.

(16) A list of foreign countries that have withdrawn troops from the Multinational Security Coalition in Iraq during the previous 90 days and the number of troops withdrawn.

(17) A list of foreign countries that have added troops to the Coalition in Iraq during the previous 90 days and the number of troops added.

(18) For offers to provide forces for training that have been accepted by the Iraqi government, a report on the status of such training efforts, including the number of troops involved by country and the number of Iraqi security forces trained.

(19) An assessment of the progress of the National Assembly of Iraq in drafting and ratifying the permanent constitution of Iraq, and the performance of the new Iraqi Government in its protection of the rights of minorities and individual human rights, and its adherence to common democratic practices.

(20) The estimated number of United States military forces who will be needed in Iraq 6, 12, and 18 months from the date of the report.

SA 428. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

(INCLUDING RESCISSIONS OF FUNDS)

Sec. 1122. (a) Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) is amended by striking "obligated" and inserting "expended".

(b) Of the amount appropriated in chapter 2 of title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224) under the heading "OTHER BILATERAL ECONOMIC ASSISTANCE" and under the subheading "IRAQ RELIEF AND RECONSTRUCTION FUND", $50,000,000 is hereby rescinded.

(c) There is appropriated $50,000,000 to carry out section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234). Such amount shall be in addition to any other amount available for such purpose and available until the date of the termination of the Office of the Special Inspector General for Iraq Reconstruction.

SA 429. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, insert the following:

TITLE VII—REAL ID ACT OF 2005

SEC. 701. SHORT TITLE.

This title may be cited as the "REAL ID Act of 2005".

Subtitle A—Amendments to Federal Laws to Protect Against Terrorist Entry

SEC. 711. PREVENTING TERRORISTS FROM OBTAINING RELIEF FROM REMOVAL.

(a) Conditions for Granting Asylum.—Section 208(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)) is amended—

(1) by striking "The Attorney General" the first place such term appears and inserting the following:

"(A) Eligibility.—The Secretary of Homeland Security or the Attorney General";

(2) by striking "the Attorney General" the second and third places such term appears and inserting "the Secretary of Homeland Security or the Attorney General"; and

(3) by adding at the end the following:

"(B) Burden of proof.—

"(i) In general.—The burden of proof is on the applicant to establish that the applicant is a refugee, within the meaning of section 101(a)(42)(A). To establish that the applicant is a refugee within the meaning of such section, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be a central reason for persecuting the applicant.

"(ii) Sustaining burden.—The testimony of the applicant may be sufficient to sustain the applicant's burden without corroboration, but only if the applicant satisfies the trier of fact that the applicant's testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant is a refugee. In determining whether the applicant has met the applicant's burden, the trier of fact may weigh the credible testimony along with other evidence of record. Where the trier of fact determines, in the trier of fact's discretion, that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain the evidence without departing the United States. The inability to obtain corroborating evidence does not excuse the applicant from meeting the applicant's burden of proof.

"(iii) CREDIBILITY DETERMINATION.—The trier of fact should consider all relevant factors and may, in the trier of fact's discretion, base the trier of fact's credibility determination on any such factor, including the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not made under oath), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. There is no presumption of credibility.".

(b) WITHHOLDING OF REMOVAL.—Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) is amended by adding at the end the following:

"(C) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A), the trier of fact shall determine whether the alien has sustained the alien's burden of proof, and shall make credibility determinations, in the manner described in clauses (ii) and (iii) of section 208(b)(1)(B).".

(c) OTHER REQUESTS FOR RELIEF FROM REMOVAL.—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1230(c)) is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(2) by inserting after paragraph (3) the following:

"(4) APPLICATIONS FOR RELIEF FROM REMOVAL.—

"(A) IN GENERAL.—An alien applying for relief or protection from removal has the burden of proof to establish that the alien—

"(i) satisfies the applicable eligibility requirements; and

"(ii) with respect to any form of relief that is granted in the exercise of discretion, that the alien merits a favorable exercise of discretion.

"(B) SUSTAINING BURDEN.—The applicant must comply with the applicable requirements to submit information or documentation in support of the applicant's application for relief or protection as provided by law or by regulation or in the instructions for the application form. In evaluating the testimony of the applicant or other witness in support of the application, the immigration judge will determine whether or not the testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant has satisfied the applicant's burden of proof. In determining whether the applicant has met such burden, the immigration judge shall weigh the credible testimony along with other evidence of record. Where the immigration judge determines in the judge's discretion that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant demonstrates that the applicant does not have the evidence and cannot reasonably obtain the evidence without departing from the United States. The inability to obtain corroborating evidence does not excuse the applicant from meeting the burden of proof.

"(C) CREDIBILITY DETERMINATION.—The immigration judge should consider all relevant factors and may, in the judge's discretion, base the judge's credibility determination on any such factor, including the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not made under oath), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. There is no presumption of credibility.".

(d) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—Section 242(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(4)) is amended by adding at the end, after subparagraph (D), the following: "No court shall reverse a determination made by a trier of fact with respect to the availability of corroborating evidence, as described in section 208(b)(1)(B), 240(c)(4)(B), or 241(b)(3)(C), unless the court finds that a reasonable trier of fact is compelled to conclude that such corroborating evidence is unavailable.".

(e) CLARIFICATION OF DISCRETION.—Section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)) is amended—

(1) by inserting "or the Secretary of Homeland Security" after "Attorney General" each place such term appears; and

(2) in the matter preceding clause (i), by inserting "and regardless of whether the judgment, decision, or action is made in removal proceedings," after "other provision of law,".

(f) REMOVAL OF CAPS.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended—

(1) in subsection (a)(1)—

(A) by striking "Service" and inserting "Department of Homeland Security"; and

(B) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security or the Attorney General";

(2) in subsection (b)—

(A) by striking "Not more" and all that follows through "asylum who—" and inserting "The Secretary of Homeland Security or the Attorney General, in the Secretary's or the Attorney General's discretion and under such regulations as the Secretary or the Attorney General may prescribe, may adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—"; and

(B) in the matter following paragraph (5), by striking "Attorney General" and inserting "Secretary of Homeland Security or the Attorney General"; and

(3) in subsection (c), by striking "Attorney General" and inserting "Secretary of Homeland Security or the Attorney General".

(g) EFFECTIVE DATES.—

(1) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect as if enacted on March 1, 2003.

(2) The amendments made by subsections (a)(3), (b), and (c) shall take effect on the date of the enactment of this title and shall apply to applications for asylum, withholding, or other removal made on or after such date.

(3) The amendment made by subsection (d) shall take effect on the date of the enactment of this title and shall apply to all cases in which the final administrative removal order is or was issued before, on, or after such date.

(4) The amendments made by subsection (e) shall take effect on the date of the enactment of this title and shall apply to all cases pending before any court on or after such date.

(5) The amendments made by subsection (f) shall take effect on the date of the enactment of this title.

(h) REPEAL.—Section 5403 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

SEC. 712. WAIVER OF LAWS NECESSARY FOR IMPROVEMENT OF BARRIERS AT BORDERS.

Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended to read as follows:

"(c) WAIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive, and shall waive, all laws such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section.

"(2) NO JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), no court, administrative agency, or other entity shall have jurisdiction—

"(A) to hear any cause or claim arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1); or

"(B) to order compensatory, declaratory, injunctive, equitable, or any other relief for damage alleged to arise from any such action or decision.".

SEC. 713. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.

(a) IN GENERAL.—So much of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) as precedes the final sentence is amended to read as follows:

"(i) IN GENERAL.—Any alien who—

"(I) has engaged in a terrorist activity;

"(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

"(IV) is a representative (as defined in clause (v)) of—

"(aa) a terrorist organization (as defined in clause (vi)); or

"(bb) a political, social, or other group that endorses or espouses terrorist activity;

"(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

"(VI) is a member of a terrorist organization described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

“(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

“(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or

“(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible.”.

(b) Engage in Terrorist Activity Defined.—Section 212(a)(3)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as follows:

“(iv) Engage in terrorist activity defined.—As used in this Act, the term ‘engage in terrorist activity’ means, in an individual capacity or as a member of an organization—

“(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

“(II) to prepare or plan a terrorist activity;

“(III) to gather information on potential targets for terrorist activity;

“(IV) to solicit funds or other things of value for—

“(aa) a terrorist activity;

“(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

“(V) to solicit any individual—

“(aa) to engage in conduct otherwise described in this subsection;

“(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

“(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

“(aa) for the commission of a terrorist activity;

“(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

“(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or

“(dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.

This clause shall not apply to any material support the alien afforded to an organization or individual that has committed terrorist activity, if the Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Attorney General, after consultation with the Secretary of State and the Secretary of Homeland Security, concludes in his sole unreviewable discretion, that this clause should not apply.”.

(c) Terrorist Organization Defined.—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

“(vi) Terrorist organization defined.—As used in this section, the term ‘terrorist organization’ means an organization—

“(I) designated under section 219;

“(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

“(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).”.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this title, and these amendments, and section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), as amended by this section, shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this title; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

SEC. 714. REMOVAL OF TERRORISTS.

(a) In General.—

(1) In general.—Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

“(B) Terrorist activities.—Any alien who is described in subparagraph (B) or (F) of section 212(a)(3) is deportable.”.

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this title, and the amendment, and section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)), as amended by such paragraph, shall apply to—

(A) removal proceedings instituted before, on, or after the date of the enactment of this title; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

(b) Repeal.—Effective as of the date of the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), section 5402 of such Act is repealed, and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

SEC. 715. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

(a) In General.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title” after “Notwithstanding any other provision of law”;

(ii) in each of subparagraphs (B) and (C), by inserting “(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in subparagraph (D)” after “Notwithstanding any other provision of law”; and

(iii) by adding at the end the following:

“(D) Judicial review of certain legal claims.—Nothing in subparagraph (B) or (C), or in any other provision of this Act which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or pure questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section.”; and

(B) by adding at the end the following:

“(4) Claims under the United Nations Convention.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, except as provided in subsection (e).

“(5) Exclusive means of review.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act, except as provided in subsection (e). For purposes of this Act, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms ‘judicial review’ and ‘jurisdiction to review’ include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).”;

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting “pursuant to subsection (f)” after “unless”; and

(B) in paragraph (9), by adding at the end the following: “Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.”; and

(3) in subsection (g), by inserting “(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title” after “notwithstanding any other provision of law”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this title and shall apply to cases in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this title.

(c) Transfer of Cases.—If an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this title, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation, or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section, or under section 309(c)(4)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note). The court of appeals shall treat the transferred case as if it had been filed pursuant to a petition for review under such section 242, except that subsection (b)(1) of such section shall not apply.

(d) Transitional Rule Cases.—A petition for review filed under former section 106(a) of the Immigration and Nationality Act (as in effect before its repeal by section 306(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1252 note)) shall be treated as if it had been filed as a petition for review under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, such petition for review shall be the sole and exclusive means for judicial review of an order of deportation or exclusion.

SEC. 716. DELIVERY BONDS.

(a) Definitions.—For purposes of this section:

(1) Delivery bond.—The term "delivery bond" means a written suretyship undertaking for the surrender of an individual against whom the Department of Homeland Security has issued an order to show cause or a notice to appear, the performance of which is guaranteed by an acceptable surety on Federal bonds.

(2) Principal.—The term "principal" means an individual who is the subject of a bond.

(3) Suretyship undertaking.—The term "suretyship undertaking" means a written agreement, executed by a bonding agent on behalf of a surety, which binds all parties to its certain terms and conditions and which provides obligations for the principal and the surety while under the bond and penalties for forfeiture to ensure the obligations of the principal and the surety under the agreement.

(4) Bonding agent.—The term "bonding agent" means any individual properly licensed, approved, and appointed by power of attorney to execute or countersign surety bonds in connection with any matter governed by the Immigration and Nationality Act as amended (8 U.S.C. 1101, et seq.), and who receives a premium for executing or countersigning such surety bonds.

(5) Surety.—The term "surety" means an entity, as defined by, and that is in compliance with, sections 9304 through 9308 of title 31, United States Code, that agrees—

(A) to guarantee the performance, where appropriate, of the principal under a bond;

(B) to perform the bond as required; and

(C) to pay the face amount of the bond as a penalty for failure to perform.

(b) Validity, Agent Not Co-Obligor, Expiration, Renewal, and Cancellation of Bonds.—

(1) Validity.—Delivery bond undertakings are valid if such bonds—

(A) state the full, correct, and proper name of the alien principal;

(B) state the amount of the bond;

(C) are guaranteed by a surety and countersigned by an agent who is properly appointed;

(D) bond documents are properly executed; and

(E) relevant bond documents are properly filed with the Secretary of Homeland Security.

(2) Bonding agent not co-obligor, party, or guarantor in individual capacity, and no refusal if acceptable surety.—Section 9304(b) of title 31, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, no bonding agent of a corporate surety shall be required to execute bonds as a co-obligor, party, or guarantor in an individual capacity on bonds provided by the corporate surety, nor shall a corporate surety bond be refused if the corporate surety appears on the current Treasury Department Circular 570 as a company holding a certificate of authority as an acceptable surety on Federal bonds and attached to the bond is a currently valid instrument showing the authority of the bonding agent of the surety company to execute the bond.".

(3) Expiration.—A delivery bond undertaking shall expire at the earliest of—

(A) 1 year from the date of issue;

(B) at the cancellation of the bond or surrender of the principal; or

(C) immediately upon nonpayment of the renewal premium.

(4) Renewal.—Delivery bonds may be renewed annually, with payment of proper premium to the surety, if there has been no breach of conditions, default, claim, or forfeiture of the bond. Notwithstanding any renewal, when the alien is surrendered to the Secretary of Homeland Security for removal, the Secretary shall cause the bond to be canceled.

(5) Cancellation.—Delivery bonds shall be canceled and the surety exonerated—

(A) for nonrenewal after the alien has been surrendered to the Department of Homeland Security for removal;

(B) if the surety or bonding agent provides reasonable evidence that there was misrepresentation or fraud in the application for the bond;

(C) upon the death or incarceration of the principal, or the inability of the surety to produce the principal for medical reasons;

(D) if the principal is detained by any law enforcement agency of any State, county, city, or any political subdivision thereof;

(E) if it can be established that the alien departed the United States of America for any reason without permission of the Secretary of Homeland Security, the surety, or the bonding agent;

(F) if the foreign state of which the principal is a national is designated pursuant to section 244 of the Act (8 U.S.C. 1254a) after the bond is posted; or

(G) if the principal is surrendered to the Department of Homeland Security, removal by the surety or the bonding agent.

(6) Surrender of principal; forfeiture of bond premium.—

(A) Surrender.—At any time, before a breach of any of the bond conditions, if in the opinion of the surety or bonding agent, the principal becomes a flight risk, the principal may be surrendered to the Department of Homeland Security for removal.

(B) Forfeiture of bond premium.—A principal may be surrendered without the return of any bond premium if the principal—

(i) changes address without notifying the surety, the bonding agent, and the Secretary of Homeland Security in writing prior to such change;

(ii) hides or is concealed from a surety, a bonding agent, or the Secretary;

(iii) fails to report to the Secretary as required at least annually; or

(iv) violates the contract with the bonding agent or surety, commits any act that may lead to a breach of the bond, or otherwise violates any other obligation or condition of the bond established by the Secretary.

(7) Certified copy of bond and arrest warrant to accompany surrender.—

(A) In general.—A bonding agent or surety desiring to surrender the principal—

(i) shall have the right to petition the Secretary of Homeland Security or any Federal court, without having to pay any fees or court costs, for an arrest warrant for the arrest of the principal;

(ii) shall forthwith be provided 2 certified copies each of the arrest warrant and the bond undertaking, without having to pay any fees or courts costs; and

(iii) shall have the right to pursue, apprehend, detain, and surrender the principal, together with certified copies of the arrest warrant and the bond undertaking, to any Department of Homeland Security detention official or Department detention facility or any detention facility authorized to hold Federal detainees.

(B) Effects of delivery.—Upon surrender of a principal under subparagraph (A)(iii)—

(i) the official to whom the principal is surrendered shall detain the principal in custody and issue a written certificate of surrender; and

(ii) the Secretary of Homeland Security shall immediately exonerate the surety from any further liability on the bond.

(8) Form of bond.—Delivery bonds shall in all cases state the following and be secured by a corporate surety that is certified as an acceptable surety on Federal bonds and whose name appears on the current Treasury Department Circular 570:

"(A) Breach of bond; procedure, forfeiture, notice.—

"(i) If a principal violates any conditions of the delivery bond, or the principal is or becomes subject to a final administrative order of deportation or removal, the Secretary of Homeland Security shall—

"(I) immediately issue a warrant for the principal's arrest and enter that arrest warrant into the National Crime Information Center (NCIC) computerized information database;

"(II) order the bonding agent and surety to take the principal into custody and surrender the principal to any one of 10 designated Department of Homeland Security 'turn-in' centers located nationwide in the areas of greatest need, at any time of day during 15 months after mailing the arrest warrant and the order to the bonding agent and the surety as required by subclause (III), and immediately enter that order into the National Crime Information Center (NCIC) computerized information database; and

"(III) mail 2 certified copies each of the arrest warrant issued pursuant to subclause (I) and 2 certified copies each of the order issued pursuant to subclause (II) to only the bonding agent and surety via certified mail return receipt to their last known addresses.

"(ii) Bonding agents and sureties shall immediately notify the Secretary of Homeland Security of their changes of address and/or telephone numbers.

"(iii) The Secretary of Homeland Security shall establish, disseminate to bonding agents and sureties, and maintain on a current basis a secure nationwide toll-free list of telephone numbers of Department of Homeland Security officials, including the names of such officials, that bonding agents, sureties, and their employees may immediately contact at any time to discuss and resolve any issue regarding any principal or bond, to be known as 'Points of Contact'.

"(iv) A bonding agent or surety shall have full and complete access, free of charge, to any and all information, electronic or otherwise, in the care, custody, and control of the United States Government or any State or local government or any subsidiary or police agency thereof regarding the principal that may be helpful in complying with section 715 of the REAL ID Act of 2005 that the Secretary of Homeland Security, by regulations subject to approval by Congress, determines may be helpful in locating or surrendering the principal. Beyond the principal, a bonding agent or surety shall not be required to disclose any information, including but not limited to the arrest warrant and order, received from any governmental source, any person, firm, corporation, or other entity.

"(v) If the principal is later arrested, detained, or otherwise located outside the United States and the outlying possessions of the United States (as defined in section 101(a) of the Immigration and Nationality Act), the Secretary of Homeland Security shall—

"(I) immediately order that the surety is completely exonerated, and the bond canceled; and

"(II) if the Secretary of Homeland Security has issued an order under clause (i), the surety may request, by written, properly filed motion, reinstatement of the bond. This subclause may not be construed to prevent the Secretary of Homeland Security from revoking or resetting a bond at a higher amount.

"(vi) The bonding agent or surety must—

"(I) during the 15 months after the date the arrest warrant and order were mailed pursuant to clause (i)(III) surrender the principal one time; or

"(II)(aa) provide reasonable evidence that producing the principal was prevented—

"(AA) by the principal's illness or death;

"(BB) because the principal is detained in custody in any city, State, country, or any political subdivision thereof;

"(CC) because the principal has left the United States or its outlying possessions (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); or

"(DD) because required notice was not given to the bonding agent or surety; and

"(bb) establish by affidavit that the inability to produce the principal was not with the consent or connivance of the bonding agent or surety.

"(vii) If compliance occurs more than 15 months but no more than 18 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 25 percent of the face amount of the bond shall be assessed as a penalty against the surety.

"(viii) If compliance occurs more than 18 months but no more than 21 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 50 percent of the face amount of the bond shall be assessed as a penalty against the surety.

"(ix) If compliance occurs more than 21 months but no more than 24 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 75 percent of the face amount of the bond shall be assessed as a penalty against the surety.

"(x) If compliance occurs 24 months or more after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 100 percent of the face amount of the bond shall be assessed as a penalty against the surety.

"(xi) If any surety surrenders any principal to the Secretary of Homeland Security at any time and place after the period for compliance has passed, the Secretary of Homeland Security shall cause to be issued to that surety an amount equal to 50 percent of the face amount of the bond: *Provided, however*, That if that surety owes any penalties on bonds to the United States, the amount that surety would otherwise receive shall be offset by and applied as a credit against the amount of penalties on bonds it owes the United States, and then that surety shall receive the remainder of the amount to which it is entitled under this subparagraph, if any.

"(xii) All penalties assessed against a surety on a bond, if any, shall be paid by the surety no more than 27 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III).

"(B) The Secretary of Homeland Security may waive penalties or extend the period for payment or both, if—

"(i) a written request is filed with the Secretary of Homeland Security; and

"(ii) the bonding agent or surety provides an affidavit that diligent efforts were made to effect compliance of the principal.

"(C) COMPLIANCE; EXONERATION; LIMITATION OF LIABILITY.—

"(i) COMPLIANCE.—A bonding agent or surety shall have the absolute right to locate, apprehend, arrest, detain, and surrender any principal, wherever he or she may be found, who violates any of the terms and conditions of his or her bond.

"(ii) EXONERATION.—Upon satisfying any of the requirements of the bond, the surety shall be completely exonerated.

"(iii) LIMITATION OF LIABILITY.—Notwithstanding any other provision of law, the total liability on any surety undertaking shall not exceed the face amount of the bond.".

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this title and shall apply to bonds and surety undertakings executed before, on, or after the date of the enactment of this title.

SEC. 717. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.

(a) IN GENERAL.—Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

"(2) subject to such reasonable regulations as the Secretary of Homeland Security may prescribe, shall permit agents, servants, and employees of corporate sureties to visit in person with individuals detained by the Secretary of and, subject to section 241(a)(8), may release the alien on a delivery bond of at least $10,000, with security approved by the Secretary, and containing conditions and procedures prescribed by section 715 of the REAL ID Act of 2005 and by the Secretary, but the Secretary shall not release the alien on or to his own recognizance unless an order of an immigration judge expressly finds and states in a signed order to release the alien to his own recognizance that the alien is not a flight risk and is not a threat to the United States".

(b) REPEAL.—Section 286(r) of the Immigration and Nationality Act (8 U.S.C. 1356(r)) is repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this title.

SEC. 718. DETENTION OF ALIENS DELIVERED BY BONDSMEN.

(a) IN GENERAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following:

"(8) EFFECT OF PRODUCTION OF ALIEN BY BONDSMAN.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond whether or not the Department of Homeland Security accepts custody of the alien. The obligor on the bond shall be deemed to have substantially performed all conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this title and shall apply to all immigration bonds posted before, on, or after such date.

Subtitle B—Improved Security for Drivers' Licenses and Personal Identification Cards

SEC. 721. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) DRIVER'S LICENSE.—The term "driver's license" means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD.—The term "identification card" means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(4) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 722. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this title, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary of Transportation. Such certifications shall be made at such times and in such manner as the Secretary of Transportation, in consultation with the Secretary of Homeland Security, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver's license or identification card number.

(5) A digital photograph of the person.

(6) The person's address of principle residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status; or

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

SEC. 723. LINKING OF DATABASES.

(a) IN GENERAL.—To be eligible to receive any grant or other type of financial assistance made available under this title, a State shall participate in the interstate compact regarding sharing of driver license data, known as the "Driver License Agreement", in order to provide electronic access by a State to information contained in the motor vehicle databases of all other States.

(b) REQUIREMENTS FOR INFORMATION.—A State motor vehicle database shall contain, at a minimum, the following information:

(1) All data fields printed on drivers' licenses and identification cards issued by the State.

(2) Motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 724. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

(a) CRIMINAL PENALTY.—Section 1028(a)(8) of title 18, United States Code, is amended by striking "false authentication features" and inserting "false or actual authentication features".

(b) USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.—

(1) IN GENERAL.—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) FALSE DEFINED.—In this subsection, the term "false" has the same meaning such term has under section 1028(d) of title 18, United States Code.

SEC. 725. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this subtitle.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subtitle.

SEC. 726. AUTHORITY.

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, set standards, and issue grants under this subtitle shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) COMPLIANCE WITH STANDARDS.—All authority to certify compliance with standards under this subtitle shall be carried out by the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the States.

(c) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 722(a)(1) if the State provides adequate justification for noncompliance.

SEC. 727. REPEAL.

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

SEC. 728. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this subtitle shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

Subtitle C—Border Infrastructure and Technology Integration

SEC. 731. VULNERABILITY AND THREAT ASSESSMENT.

(a) STUDY.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) REPORT TO CONGRESS.—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a).

SEC. 732. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this title, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment of the technologies considered best suited to address such threats.

(b) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—The pilot program shall include the utilization of a variety of ground surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of such technologies for border security; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) TECHNOLOGIES.—The ground surveillance technologies utilized in the pilot program shall include the following:

(A) Video camera technology.

(B) Sensor technology.

(C) Motion detection technology.

(c) IMPLEMENTATION.—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) REPORT.—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

SEC. 733. ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this title, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local government agencies, and Indian tribal agencies on such matters.

(b) REPORT.—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary.

SA 430. Mr. BYRD (for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC.   . None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

SA 431. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

FULL UTILIZATION OF INDUSTRIAL CAPACITY FOR REFURBISHMENT AND REPLACEMENT OF TACTICAL WHEELED VEHICLES

SEC. 1122. The Secretary of the Army shall use funds in the Other Procurement, Army account to utilize fully the industrial capacity of the United States, including the capacity of Maine Military Authority, to meet requirements for the refurbishment and replacement of tactical wheeled vehicles in order to facilitate the delivery of up armored tactical vehicles to deployed units of the Armed Forces.

SA 432. Mr. CHAMBLISS (for himself, and Mr. KYL) submitted an amendment intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—TEMPORARY AGRICULTURAL WORKERS

SEC. 701. SHORT TITLE.

This title may be cited as the "Temporary Agricultural Work Reform Act of 2005".

Subtitle A—Temporary H–2A Workers

SEC. 711. ADMISSION OF TEMPORARY H–2A WORKERS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

"ADMISSION OF TEMPORARY H–2A WORKERS

"SEC. 218. (a) APPLICATION.—An alien may not be admitted as an H–2A worker unless the employer has filed with the Secretary of Homeland Security a petition attesting to the following:

“(1) TEMPORARY OR SEASONAL WORK OR SERVICES.—

“(A) IN GENERAL.—The agricultural employment for which the H–2A worker or workers is or are sought is temporary or seasonal, the number of workers sought, and the wage rate and conditions under which they will be employed.

“(B) TEMPORARY OR SEASONAL WORK.—For purposes of subparagraph (A), a worker is employed on a ‘temporary’ or ‘seasonal’ basis if the employment is intended not to exceed 10 months.

“(2) BENEFITS, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (m) to all workers employed in the jobs for which the H–2A worker or workers is or are sought and to all other temporary workers in the same occupation at the place of employment.

“(3) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and during a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

“(4) RECRUITMENT.—

“(A) IN GENERAL.—The employer shall attest that the employer—

“(i) conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation; and

“(ii) was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought.

“(B) RECRUITMENT.—The adequate recruitment requirement under subparagraph (A) is satisfied if the employer—

“(i) places a job order with America's Job Bank Program of the Department of Labor; and

“(ii) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the area of intended employment.

“(C) ADVERTISEMENT CRITERIA.—The advertisement requirement under subparagraph (B)(ii) is satisfied if the advertisement—

“(i) names the employer;

“(ii) directs applicants to report or send resumes, as appropriate for the occupation, to the employer;

“(iii) provides a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

“(iv) describes the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

“(v) states the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

“(vi) offers wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

“(5) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the nonimmigrant is, or the nonimmigrants are, sought to any eligible United States worker who applies and is equally or better qualified for the job and who will be available at the time and place of need.

“(6) PROVISION OF INSURANCE.—If the job for which the nonimmigrant is, or the nonimmigrants are, sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

“(7) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(8) PREVIOUS VIOLATIONS.—The employer has not, during the previous 5-year period, employed H–2A workers and knowingly violated a material term or condition of approval with respect to the employment of domestic or nonimmigrant workers, as determined by the Secretary of Labor after notice and opportunity for a hearing.

“(b) PUBLICATION.—The employer shall make available for public examination, within 1 working day after the date on which a petition under this section is filed, at the employer's principal place of business or worksite, a copy of each such petition (and such accompanying documents as are necessary).

“(c) LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer) of the petitions filed under subsection (a). Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for public examination in Washington, District of Columbia.

“(d) SPECIAL RULES FOR CONSIDERATION OF PETITIONS.—The following rules shall apply in the case of the filing and consideration of a petition under subsection (a):

“(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Homeland Security may not require that the petition be filed more than 28 days before the first date the employer requires the labor or services of the H–2A worker or workers.

“(2) ISSUANCE OF APPROVAL.—Unless the Secretary of Homeland Security finds that the petition is incomplete or obviously inaccurate, the Secretary of Homeland Security shall provide a decision within 7 days of the date of the filing of the petition.

“(e) ROLES OF AGRICULTURAL ASSOCIATIONS.—

“(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to hire an alien as a temporary agricultural worker may be filed by an association of agricultural producers which use agricultural services.

“(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the petition was approved.

“(3) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under this section of an employer who places an H–2A worker with another H–2A employer if the other employer displaces a United States worker in violation of the condition described in subsection (a)(7).

“(4) TREATMENT OF VIOLATIONS.—

“(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that is in violation of the conditions for approval with respect to the member's petition, the denial shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or had reason to know of the violation.

“(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

“(i) JOINT EMPLOYER.—If an association representing agricultural producers as a joint employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, the denial shall apply only to the association and does not apply to any individual producer member of the association, unless the Secretary of Labor determines that the member participated in, had knowledge of, or had reason to know of the violation.

“(ii) SOLE EMPLOYER.—If an association of agricultural producers approved as a sole employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied approval during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

“(f) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—Regulations shall provide for an expedited procedure for the review of a denial of approval under this section, or at the applicant's request, for a de novo administrative hearing respecting the denial.

“(g) MISCELLANEOUS PROVISIONS.—

“(1) ENDORSEMENT OF DOCUMENTS.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii)(a) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

“(2) PREEMPTION OF STATE LAWS.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

“(3) FEES.—

“(A) IN GENERAL.—The Secretary of Homeland Security may require, as a condition of approving the petition, the payment of a fee in accordance with subparagraph (B) to recover the reasonable costs of processing petitions.

“(B) AMOUNTS.—

“(i) EMPLOYER.—The fee for each employer that receives a temporary alien agricultural labor certification shall be equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000.

“(ii) JOINT EMPLOYER ASSOCIATION.—In the case of a joint employer association that receives a temporary alien agricultural labor certification, each employer-member receiving such certification shall pay a fee equal to $100 plus $10 for each job opportunity for H–

2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000. The joint employer association shall not be charged a separate fee.

"(C) Payments.—The fees collected under this paragraph shall be paid by check or money order made payable to the 'Department of Homeland Security'. In the case of employers of H–2A workers that are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the petition may be paid by 1 check or money order.

"(D) Inflation adjustment.—In the case of any calendar year beginning after 2005, each dollar amount in subparagraph (B) may be increased by an amount equal to—

"(i) such dollar amount; multiplied by

"(ii) the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2004.

"(h) Failure To Meet Conditions.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of subsection (a), or a material misrepresentation of fact in a petition under subsection (a)—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 1 year.

"(i) Willful Failures and Willful Misrepresentations.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a)—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 2 years;

"(3) for a second violation, the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 5 years; and

"(4) for a third violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H-2A workers.

"(j) Displacement of United States Workers.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (a) or during the period of 30 days preceding such period of employment—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate;

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 5 years; and

"(3) for a second violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers.

"(k) Limitations on Civil Money Penalties.—The Secretary of Labor shall not impose total civil money penalties with respect to a petition under subsection (a) in excess of $90,000.

"(l) Failures To Pay Wages or Required Benefits.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment required under subsection (a)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under subsection (a)(2) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

"(m) Minimum Benefits, Wages, and Working Conditions.—

"(1) Preferential treatment of aliens prohibited.—

"(A) In general.—Employers seeking to hire United States workers shall offer the United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

"(B) Interpretations and determinations.—While benefits, wages, and other terms and conditions of employment specified in this subsection are required to be provided in connection with employment under this section, every interpretation and determination made under this Act or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made in conformance with the governing principles that the services of workers to their employers and the employment opportunities afforded to workers by their employers, including those employment opportunities that require United States workers or H–2A workers to travel or relocate in order to accept or perform employment, mutually benefit such workers, as well as their families, and employers, principally benefitting neither, and that employment opportunities within the United States further benefit the United States economy as a whole and should be encouraged.

"(2) Required wages.—

"(A) An employer applying for workers under subsection (a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less than the prevailing wage.

"(B) In complying with subparagraph (A), an employer may request and obtain a prevailing wage determination from the State employment security agency.

"(C) In lieu of the procedure described in subparagraph (B), an employer may rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of intended employment that has been conducted or funded by the employer or a group of employers, that meets criteria specified by the Secretary of Labor in regulations.

"(D) An employer who obtains such prevailing wage determination, or who relies on a qualifying survey of prevailing wages, and who pays the wage determined to be prevailing, shall be considered to have complied with the requirement of subparagraph (A).

"(E) No worker shall be paid less than the greater of the prevailing wage or the applicable State minimum wage.

"(3) Requirement to provide housing or a housing allowance.—

"(A) In general.—An employer applying for workers under subsection (a) shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

"(B) Type of housing.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing, or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable State or local standards, Federal temporary labor camp standards shall apply.

"(C) Certificate of inspection.—Prior to any occupation by a worker in housing described in subparagraph (B), the employer shall submit a certificate of inspection by an approved Federal or State agency to the Secretary of Labor.

"(D) Workers engaged in the range production of livestock.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(E) Limitation.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

"(F) Housing allowance as alternative.—

"(i) In general.—The employer may provide a reasonable housing allowance in lieu of offering housing under subparagraph (A) if the requirement under clause (v) is satisfied.

"(ii) Assistance to locate housing.—Upon the request of a worker seeking assistance in locating housing, the employer shall make a good-faith effort to assist the worker in locating housing in the area of intended employment.

"(iii) Limitation.—A housing allowance may not be used for housing which is owned or controlled by the employer. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

"(iv) Reporting requirement.—The employer must provide the Secretary of Labor with a list of the names of all workers assisted under this subparagraph and the local address of each such worker.

“(v) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(vi) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(G) EXEMPTION.—An employer applying for workers under subsection (a) whose primary job site is located 150 miles or less from the United States border shall not be required to provide housing or a housing allowance.

“(4) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—

“(i) IN GENERAL.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, measured from the worker's first day of work in such employment, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment by the employer.

“(ii) OTHER FEES.—The employer shall not be required to reimburse visa, passport, consular, or international border-crossing fees or any other fees associated with the worker's lawful admission into the United States to perform employment that may be incurred by the worker.

“(iii) TIMELY REIMBURSEMENT.—Reimbursement to the worker of expenses for the cost of the worker's transportation and subsistence to the place of employment shall be considered timely if such reimbursement is made not later than the worker's first regular payday after the worker completes 50 percent of the period of employment of the job opportunity as provided under this paragraph.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less or if the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (3).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (5)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters (such as housing provided by the employer pursuant to paragraph (3), including housing provided through a housing allowance) and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(5) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least 75 percent of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this subparagraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT; TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster (including a flood, hurricane, freeze, earthquake, fire, or drought), plant or animal disease, pest infestation, or regulatory action, before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker.

“(n) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker must file a petition with the Secretary of Homeland Security. The petition shall include the attestations for the certification described in section 101(a)(15)(H)(ii)(a).

“(o) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary of Homeland Security—

“(1) shall establish a procedure for expedited adjudication of petitions filed under subsection (n); and

“(2) not later than 7 working days after such filing shall, by fax, cable, or other means assuring expedited delivery transmit a copy of notice of action on the petition—

“(A) to the petitioner; and

“(B) in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate where the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States.

“(p) DISQUALIFICATION.—

“(1) Subject to paragraph (2), an alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years, violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission.

“(2) WAIVERS.—

“(A) IN GENERAL.—An alien outside the United States, and seeking admission under section 101(a)(15)(H)(ii)(a), shall not be deemed inadmissible under such section by reason of paragraph (1) or section 212(a)(9)(B) if the previous violation occurred on or before April 1, 2005.

“(B) LIMITATION.—In any case in which an alien is admitted to the United States upon having a ground of inadmissibility waived under subparagraph (A), such waiver shall be considered to remain in effect unless the alien again violates a material provision of this section or otherwise violates a term or condition of admission into the United States as a nonimmigrant, in which case such waiver shall terminate.

“(q) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(2) Report by employer.—The employer (or association acting as agent for the employer) shall notify the Secretary of Homeland Security within 7 days of an H–2A worker's having prematurely abandoned employment.

"(3) Removal by the secretary.—The Secretary of Homeland Security shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

"(4) Voluntary termination.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

"(r) Replacement of Alien.—

"(1) In general.—Upon presentation of the notice to the Secretary of Homeland Security required by subsection (q)(2), the Secretary of State shall promptly issue a visa to, and the Secretary of Homeland Security shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker who abandons or prematurely terminates employment.

"(2) Construction.—Nothing in this subsection shall limit any preference required to be accorded United States workers under any other provision of this Act.

"(s) Identification Document.—

"(1) In general.—The Department of Homeland Security shall provide each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) with a single machine-readable, tamper-resistant, and counterfeit-resistant document that—

"(A) authorizes the alien's entry into the United States; and

"(B) serves, for the appropriate period, as an employment eligibility document.

"(2) Requirements.—No identification and employment eligibility document may be issued which does not meet the following requirements:

"(A) The document shall be capable of reliably determining whether—

"(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

"(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

"(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

"(B) The document shall—

"(i) be compatible with other databases of the Secretary of Homeland Security for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

"(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(t) Extension of Stay of H–2A Workers in the United States.—

"(1) Extension of stay.—

"(A) In general.—An employer may seek up to 2 10-month extensions under this subsection.

"(B) Petition.—If an employer seeks to employ an H–2A worker who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (n) shall request an extension of the alien's stay.

"(C) Commencement; maximum period.—An extension of stay under this subsection—

"(i) may only commence upon the termination of the H–2A worker's contract with an employer; and

"(ii) may not exceed 10 months unless the employer files a written request for up to an additional 30 days accompanied by justification that the need for such additional time is necessitated by adverse weather conditions, acts of God, or economic hardship beyond the control of the employer.

"(D) Future eligibility.—At the conclusion of 3 10-month employment periods authorized under this section, the alien so employed may not be employed in the United States as an H–2A worker until the alien has returned to the alien's country of nationality or country of last residence for not less than 6 months.

"(2) Work authorization upon filing petition for extension of stay.—

"(A) In general.—An alien who is lawfully present in the United States may commence or continue the employment described in a petition under paragraph (1) on the date on which the petition is filed. The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document, as evidence that the petition has been filed and that the alien is authorized to work in the United States.

"(B) Approval.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary of Homeland Security shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

"(C) Definition.—In this paragraph, the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

"(u) Special Rule for Aliens Employed as Sheepherders, Goatherders, or Dairy Workers.—Notwithstanding any other provision of this section, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goatherder, or dairy worker may be admitted for a period of up to 2 years.

"(v) Definitions.—For purposes of this section:

"(1) Area of employment.—The term 'area of employment' means the area within normal commuting distance of the worksite or physical location where the work of the H–2A worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

"(2) Eligible individual.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to that employment.

"(3) Displace.—In the case of a petition with respect to 1 or more H–2A workers by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the H–2A worker or workers is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

"(4) H–2A worker.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

"(5) Lays off.—

"(A) In general.—The term 'lays-off', with respect to a worker—

"(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (3) or (7) of subsection (a); but

"(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under subsection (a)(7), with either employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(B) Construction.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(6) Prevailing wage.—The term 'prevailing wage' means, with respect to an agricultural occupation in an area of intended employment, the rate of wages that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing method of pay for the occupation in the area of intended employment.

"(7) United States worker.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

"(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

"(B) an alien provided status under section 220.".

SEC. 712. LEGAL ASSISTANCE PROVIDED BY THE LEGAL SERVICES CORPORATION.

Section 305 of the Immigrant Reform and Control Act of 1986 (8 U.S.C. 1101 note) is amended—

(1) by striking "A nonimmigrant" and inserting the following:

"(a) In General.—A nonimmigrant"; and

(2) by adding at the end the following:

"(b) Legal Assistance.—The Legal Services Corporation may not provide legal assistance for or on behalf of any alien, and may not provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien—

"(1) is present in the United States at the time the legal assistance is provided; and

"(2) is an alien to whom subsection (a) applies."

"(c) Required Mediation.—No party may bring a civil action for damages on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) or pursuant to those in the Blue Card Program established under section 220 of such Act, unless at least 90 days before bringing the action a request has been made to the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute and mediation has been attempted.".

Subtitle B—Blue Card Status

SEC. 721. BLUE CARD PROGRAM.

(a) In General.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

"BLUE CARD PROGRAM

"Sec. 220. (a) Definitions.—As used in this section—

"(1) the term 'agricultural employment'—

"(A) means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986; and

"(B) includes any service or activity described in—

"(i) title 37, 37-3011, or 37-3012 (relating to landscaping) of the Department of Labor 2004-2005 Occupational Information Network Handbook;

"(ii) title 45 (relating to farming fishing, and forestry) of such handbook; or

"(iii) title 51, 51–3022, or 51–3023 (relating to meat, poultry, fish processors and packers) of such handbook.

"(2) the term 'blue card status' means the status of an alien who has been—

"(A) lawfully admitted for a temporary period under subsection (b); and

"(B) issued a tamper-resistant, machine-readable document that serves as the alien's visa, employment authorization, and travel documentation and contains such biometrics as are required by the Secretary;

"(3) the term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment;

"(4) the term 'Secretary' means the Secretary of Homeland Security;

"(5) the term 'small employer' means an employer employing fewer than 500 employees based upon the average number of employees for each of the pay periods for the preceding 10 calendar months, including the period in which the employer employed H–2A workers; and

"(6) the term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

"(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

"(B) an alien provided status under this section.

"(b) Blue Card Program.—

"(1) Blue card program.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

"(A) has been in the United States continuously as of April 1, 2005;

"(B) has performed more than 50 percent of total annual weeks worked in agricultural employment in the United States (except in the case of a child provided derivative status as of April 1, 2005);

"(C) is otherwise admissible to the United States under section 212, except as otherwise provided under paragraph (2); and

"(D) is the beneficiary of a petition filed by an employer, as described in paragraph (3).

"(2) Waiver of certain grounds for inadmissibility.—In determining an alien's eligibility for blue card status under paragraph (1)(C)—

"(A) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply;

"(B) the provisions of section 212(a)(6)(C) shall not apply with respect to prior or current agricultural employment; and

"(C) the Secretary may not waive paragraph (1), (2), or (3) of section 212(a) unless such waiver is permitted under another provision of law.

"(3) Petitions.—

"(A) In general.—An employer seeking blue card status under this section for an alien employee shall file a petition for blue card status with the Secretary.

"(B) Employer petition.—An employer filing a petition under subparagraph (A) shall—

"(i) pay a registration fee of—

"(I) $1,000, if the employer employs more than 500 employees; or

"(II) $500, if the employer is a small employer employing 500 or fewer employees;

"(ii) pay a processing fee to cover the actual costs incurred in adjudicating the petition; and

"(iii) attest that the employer conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation and was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought, which attestation shall be valid for a period of 60 days.

"(C) Recruitment.—

"(i) The adequate recruitment requirement under subparagraph (B)(iii) is satisfied if the employer—

"(I) places a job order with America's Job Bank Program of the Department of Labor; and

"(II) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the metropolitan statistical area of intended employment.

"(ii) An advertisement under clause (i)(II) shall—

"(I) name the employer;

"(II) direct applicants to report or send resumes, as appropriate for the occupation, to the employer;

"(III) provide a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

"(IV) describe the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

"(V) state the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

"(VI) offer wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

"(D) Notification of denial.—The Secretary shall provide notification of a denial of a petition filed for an alien to the alien and the employer who filed such petition.

"(E) Effect of denial.—If the Secretary denies a petition filed for an alien, such alien shall return to the country of the alien's nationality or last residence outside the United States.

"(4) Blue card status.—

"(A) Blue card.—

"(i) All-in-one card.—The Secretary, in conjunction with the Secretary of State, shall develop a single machine-readable, tamper-resistant document that—

"(I) authorizes the alien's entry into the United States;

"(II) serves, during the period an alien is in blue card status, as an employment authorized endorsement or other appropriate work permit for agricultural employment only; and

"(III) serves as an entry and exit document to be used in conjunction with a proper visa or as a visa and as other appropriate travel and entry documentation using biometric identifiers that meet the biometric identifier standards jointly established by the Secretary of State and the Secretary.

"(ii) Biometrics.—

"(I) After a petition is filed by an employer and receipt of such petition is confirmed by the Secretary, the alien, in order to further adjudicate the petition, shall submit 2 biometric identifiers, as required by the Secretary, at an Application Support Center.

"(II) The Secretary shall prescribe a process for the submission of a biometric identifier to be incorporated electronically into an employer's prior electronic filing of a petition. The Secretary shall prescribe an alternative process for employers to file a petition in a manner other than electronic filing, as needed.

"(B) Document requirements.—The Secretary shall issue a blue card that is—

"(i) capable of reliably determining if the individual with the blue card whose eligibility is being verified is—

"(I) eligible for employment;

"(II) claiming the identify of another person; and

"(III) authorized to be admitted; and

"(ii) compatible with—

"(I) other databases maintained by the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

"(II) law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(C) Authorized travel.—During the period an alien is in blue card status granted under this section and pursuant to regulations established by the Secretary, the alien may make brief visits outside the United States. An alien may be readmitted to the United States after such a visit without having to obtain a visa if the alien presents the alien's blue card document. Such periods of time spent outside the United States shall not cause the period of blue card status in the United States to be extended.

"(D) Portability.—

"(i) During the period in which an alien is in blue card status, the alien issued a blue card may accept new employment upon the Secretary's receipt of a petition filed by an employer on behalf of the alien. Employment authorization shall continue for such alien until such petition is adjudicated.

"(ii) If a petition filed under clause (i) is denied and the alien has ceased employment with the previous employer, the authorization under clause (i) shall terminate and the alien shall be required to return to the country of the alien's nationality or last residence.

"(iii) A fee may be required by the Secretary to cover the actual costs incurred in adjudicating a petition under this subparagraph. No other fee may be required under this subparagraph.

"(iv) A petition by an employer under this subparagraph may not be accepted within 90 days after the adjudication of a previous petition on behalf of an alien.

"(E) Annual check in.—The employer of an alien in blue card status who has been employed for 1 year in blue card status shall confirm the alien's continued employment status with the Secretary electronically or in writing. Such confirmation will not require a further labor attestation.

"(F) Termination of blue card status.—

"(i) During the period of blue card status granted an alien, the Secretary may terminate such status upon a determination by the Secretary that the alien is deportable or has become inadmissible.

"(ii) The Secretary may terminate blue card status granted to an alien if—

"(I) the Secretary determines that, without the appropriate waiver, the granting of blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i));

"(II) the alien is convicted of a felony or a misdemeanor committed in the United States; or

"(III) the Secretary determines that the alien is deportable or inadmissible under any other provision of this Act.

"(5) Period of authorized admission.—

"(A) In general.—The initial period of authorized admission for an alien with blue card status shall be not more than 3 years. The employer of such alien may petition for extensions of such authorized admission for 2 additional periods of not more than 3 years each.

"(B) Exception.—The limit on renewals shall not apply to a nonimmigrant in a position of full-time, non-temporary employment who has managerial or supervisory responsibilities. The employer of such nonimmigrant shall be required to make an additional attestation to such an employment classification with the filing of a petition.

"(C) Reporting requirement.—If an alien with blue card status ceases to be employed by an employer, such employer shall immediately notify the Secretary of such cessation of employment. The Secretary shall provide electronic means for making such notification.

"(D) Loss of employment.—

"(i) An alien's blue card status shall terminate if the alien is unemployed for 60 or more consecutive days.

"(ii) An alien whose period of authorized admission terminates under clause (i) shall be required to return to the country of the alien's nationality or last residence.

"(6) Grounds for ineligibility.—

"(A) Bar to future visas for condition violations.—Any alien having blue card status shall not again be eligible for the same blue card status if the alien violates any term or condition of such status.

"(B) Aliens unlawfully present.—Any alien who enters the United States after April 1, 2005, without being admitted or paroled shall be ineligible for blue card status.

"(C) Aliens in H–2A status.—Any alien in lawful H–2A status as of April 1, 2005, shall be ineligible for blue card status.

"(7) Bar on change or adjustment of status.—

"(A) In general.—An alien having blue card status shall not be eligible to change or adjust status in the United States or obtain a different nonimmigrant or immigrant visa from a United States Embassy or consulate.

"(B) Loss of eligibility.—An alien having blue card status shall lose eligibility for such status if the alien—

"(i) files a petition to adjust status to legal permanent residence in the United States; or

"(ii) requests a consular processing for an immigrant visa outside the United States.

"(C) Exception.—An alien having blue card status may not adjust status to legal permanent resident status or obtain another nonimmigrant or immigrant status unless—

"(i)(I) the alien renounces his or her blue card status by providing written notification to the Secretary of Homeland Security or the Secretary of State; or

"(II) the alien's blue card status otherwise expires; and

"(ii) the alien has resided and been physically present in the alien's country of nationality or last residence for not less than 1 year after leaving the United States and the renouncement or expiration of blue card status.

"(8) Judicial review.—There shall be no judicial review of a denial of blue card status.

"(c) Safe Harbor.—

"(1) Safe harbor of alien.—An alien for whom a nonfrivolous petition is filed under this section—

"(A) shall be granted employment authorization pending final adjudication of the petition;

"(B) may not be detained, determined inadmissible or deportable, or removed pending final adjudication of the petition for change in status, unless the alien commits an act which renders the alien ineligible for such change of status; and

"(C) may not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as the petition for status is adjudicated.

"(2) Safe harbor for employer.—An employer that files a petition for blue card status for an alien shall not be subject to civil and criminal tax liability relating directly to the employment of such alien. An employer that provides unauthorized aliens with copies of employment records or other evidence of employment pursuant to the petition shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

"(d) Treatment of Spouses and Children.—

"(1) Spouses.—A spouse of an alien having blue card status shall not be eligible for derivative status by accompanying or following to join the alien. Such a spouse may obtain status based only on an independent petition filed by an employer petitioning under subsection (b)(3) with respect to the employment of the spouse.

"(2) Children.—A child of an alien having blue card status shall not be eligible for the same temporary status unless—

"(A) the child is accompanying or following to join the alien; and

"(B) the alien is the sole custodial parent of the child or both custodial parents of the child have obtained such status.".

(b) Clerical Amendment.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 219 the following:

"Sec. 220. Blue card program.".

SEC. 722. PENALTIES FOR FALSE STATEMENTS.

Section 1546 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Any person, including the alien who is the beneficiary of a petition, who—

"(1) files a petition under section 220(b)(3) of the Immigration and Nationality Act; and

"(2)(A) knowingly and willfully falsifies, conceals, or covers up a material fact related to such a petition;

"(B) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry related to such a petition; or

"(C) creates or supplies a false writing or document for use in making such a petition, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.".

SEC. 723. SECURING THE BORDERS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a comprehensive plan for securing the borders of the United States.

SEC. 724. EFFECTIVE DATE.

This subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 433. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Sec. . Settlement of Claims.—It is the sense of the Congress that the United States should—

(a) reach a settlement agreement with the Republic of Iraq providing for fair and full compensation of any unresolved claim of any United States national who was victimized by acts of terrorism committed by the former Iraqi regime, including hostage-taking and torture committed during the period between the Iraqi invasion of Kuwait on August 2, 1990 and the conclusion of the First Persian Gulf War on February 25, 1991; and

(b) seek compensation from responsible parties for any United States civilian who has been victimized by acts of terror committee in response to U.S. foreign and military policy in Iraq since March 21, 2003.

SA 434. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

DIVERSITY LOTTERY VISAS

Sec. 6047. (a) Section 204(a)(1)(I)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(I)(ii)) is amended by striking subclause (II) and inserting the following:

"(II) An alien who qualifies, through random selection, for a visa under section 203(c) or adjustment of status under section 245(a) shall remain eligible to receive such visa beyond the end of the specific fiscal year for which the alien was selected if the alien—

"(aa) properly applied for such visa or adjustment of status during the fiscal year for which alien was selected; and

"(bb) was notified by the Secretary of State, through the publication of the Visa Bulletin, that the application was authorized.".

(b)(1) Notwithstanding any other provision of law, a visa shall be available under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)) if—

(A) such alien was eligible for and properly applied for an adjustment of status during a fiscal year between 1998 and 2004;

(B) the application submitted by such alien was denied because personnel of the Department of Homeland Security or the Immigration and Naturalization Service failed to adjudicate such application during the fiscal year in which such application was filed;

(C) such alien moves to reopen such adjustment of status applications pursuant to procedures or instructions provided by the Secretary of Homeland Security or the Secretary of State; and

(D) such alien has continuously resided in the United States since the date of submitting such application.

(2) A visa made available under paragraph (1) may not be counted toward the numerical maximum for the worldwide level of set out in section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)).

(c) The amendment made by subsection (a) shall take effect on October 1, 2005.

SA 435. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 submitted by Mr. CRAIG) for himself and Mr. KENNEDY) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes: which was ordered to lie on the table; as follows:

On page 6, line 12, strike "(e)(2)" and all that follows through line 18, and insert the following: "(e)(2); or

"(II) is convicted of a felony or misdemeanor committed in the United States.".

On page 16, line 2, strike "(e)(2)" and all that follows through line 8, and insert the following: "(e)(2); or

"(II) is convicted of a felony or misdemeanor committed in the United States.".

On page 18, line 16, strike "(e)(2)" and all that follows through line 22, and insert the following: "(e)(2); or

"(ii) is convicted of a felony or misdemeanor committed in the United States.".

SA 436. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike line 5 and all that follows through page 14, line 23, and insert the following:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 5 years of agricultural employment in the United States, for at least 575 hours or 100 work days per year, during the 6-year period beginning on the date of enactment of this Act.

(ii) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(iii) PROOF.—In meeting the requirements under clause (i), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(iv) DISABILITY.—In determining whether an alien has met the requirements under clause (i), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

SA 437. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, add the following:

SEC. 6047. SENSE OF SENATE ON SELECT COMMITTEE ON INTELLIGENCE OF THE SENATE INVESTIGATION INTO PRISONER DETENTION, INTERROGATION, AND RENDITION POLICIES AND PRACTICES OF THE UNITED STATES GOVERNMENT.

(a) SENSE OF SENATE.—

(1) IN GENERAL.—It is the sense of the Senate that the Select Committee on Intelligence of the Senate should conduct an investigation into, and study of, all matters relating to the authorities, policies, and practices of the departments, agencies, and other entities of the United States Government on the detention, interrogation, or rendition of prisoners for intelligence purposes (other than for purely domestic law enforcement purposes), whether by such departments, agencies, or entities themselves or in conjunction with any foreign government or entity.

(2) ELEMENTS.—The investigation and study under paragraph (1) should address and consider—

(A) the history of the authorities, policies, and practices of the United States Government on the detention, interrogation, or rendition of prisoners for intelligence purposes before September 11, 2001, including—

(i) a review of any presidential or other authorities, and other written guidance, before that date on the detention, interrogation, or rendition of prisoners;

(ii) a review of any experience before that date with the detention, interrogation, or rendition of prisoners; and

(iii) an assessment of the legality and efficacy of the practices before that date with respect to the detention, interrogation, and rendition of prisoners;

(B) all presidential and other authorities since September 11, 2001, on the detention, interrogation, or rendition of prisoners for intelligence purposes;

(C) all legal opinions and memoranda of any official or component of the Department of Justice since September 11, 2001 on the authorities, polices, or practices of the United States Government with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(D) all legal opinions and memoranda of any official or component of any other department, agency, or entity of the United States Government since September 11, 2001 on authorities, policies, or practices with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(E) all investigations and reviews conducted since September 11, 2001 by any department, agency, or entity of the United States Government, or by any nongovernmental organization, on the authorities, policies, and practices of the United States Government with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(F) all facts concerning the actual detention, interrogation, or rendition of prisoners for intelligence purposes by any department, agency, or other entity of the United States Government since September 11, 2001;

(G) all facts concerning the knowledge of any department, agency, or other entity of the United States Government of the detention and interrogation methods of any foreign government or entity to which persons detained by the departments, agencies, or other entities of the United States Government have been rendered;

(H) case studies and evaluations of the detention, interrogation, or rendition of persons, including any methods used and the reliability of the information obtained;

(I) all rules, practices, plans, and actual experiences on the use of classified information in military tribunals, commissions, or other proceedings on the detention, continued detention, or military trials of detainees;

(J) all plans for the long-term detention, or for prosecution by civilian courts or military tribunals or commissions, of persons detained by any department, agency, or other entity of the United States Government or of persons who have been rendered by the United States Government to any foreign government or entity; and

(K) any other matters that the Select Committee on Intelligence of the Senate considers appropriate for the investigation and study.

(b) REPORT.—

(1) IN GENERAL.—The Select Committee on Intelligence of the Senate should submit to the Senate, not later than six months after

the date of the enactment of this Act, a report on the investigation and study under subsection (b).

(2) ELEMENTS.—The report under paragraph (1) should include—

(A) such findings as the Select Committee on Intelligence considers appropriate in light of the investigation and study under that paragraph; and

(B) such recommendations, including recommendations for legislative or administrative action, as the Select Committee on Intelligence considers appropriate in light of the investigation and study.

(3) FORM.—The report under paragraph (1) should be submitted in unclassified form, but may include a classified annex.

SA 438. Mr. COCHRAN (for Mr. SPECTER) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 220, line 12, strike "Section 101" and insert "Section 102" in lieu thereof.

SA 439. Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TRAUMATIC INJURY PROTECTION.

(a) IN GENERAL.—Subchapter III of chapter 19, Title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

"(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

"(A) Bathing.

"(B) Continence.

"(C) Dressing.

"(D) Eating.

"(E) Toileting.

"(F) Transferring."; and

(2) by adding at the end the following:

"§ 1980A. Traumatic injury protection

"(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

"(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against—

"(A) total and permanent loss of sight;

"(B) loss of a hand or foot by severance at or above the wrist or ankle;

"(C) total and permanent loss of speech;

"(D) total and permanent loss of hearing in both ears;

"(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

"(F) quadriplegia, paraplegia, or hemiplegia;

"(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

"(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

"(2) For purposes of this subsection—

"(A) the term 'quadriplegia' means the complete and irreversible paralysis of all 4 limbs;

"(B) the term 'paraplegia' means the complete and irreversible paralysis of both lower limbs; and

"(C) the term 'hemiplegia' means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

"(3) In no case will a member be covered against loss resulting from—

"(A) attempted suicide, while sane or insane;

"(B) an intentionally self-inflicted injury or any attempt to inflict such an injury;

"(C) illness, whether the loss results directly or indirectly;

"(D) medical or surgical treatment of illness, whether the loss results directly or indirectly;

"(E) any infection other than—

"(i) a pyogenic infection resulting from a cut or wound; or

"(ii) a bacterial infection resulting from ingestion of a contaminated substance;

"(F) the commission of or attempt to commit a felony;

"(G) being legally intoxicated or under the influence of any narcotic unless administered or consumed on the advice of a physician; or

"(H) willful misconduct as determined by a military court, civilian court, or administrative body.

"(c) A payment under this section may be made only if—

"(1) the member is insured under Servicemembers' Group Life Insurance when the traumatic injury is sustained;

"(2) the loss results directly from that traumatic injury and from no other cause; and

"(3) the member suffers the loss not later than 90 days after sustaining the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

"(d) Payments under this section for losses described in subsection (b)(1) will be made in accordance with the following schedule:

"(1) Loss of both hands, $100,000.

"(2) Loss of both feet, $100,000.

"(3) Inability to carry out activities of daily living resulting from traumatic brain injury, $100,000.

"(4) Burns greater than second degree, covering 30 percent of the body or 30 percent of the face, $100,000.

"(5) Loss of sight in both eyes, $100,000.

"(6) Loss of 1 hand and 1 foot, $100,000.

"(7) Loss of 1 hand and sight of 1 eye, $100,000.

"(8) Loss of 1 foot and sight of 1 eye, $100,000.

"(9) Loss of speech and hearing in 1 ear, $100,000.

"(10) Total and permanent loss of hearing in both ears, $100,000.

"(11) Quadriplegia, $100,000.

"(12) Paraplegia, $75,000.

"(13) Loss of 1 hand, $50,000.

"(14) Loss of 1 foot, $50,000.

"(15) Loss of sight one eye, $50,000.

"(16) Total and permanent loss of speech, $50,000.

"(17) Loss of hearing in 1 ear, $50,000.

"(18) Hemiplegia, $50,000.

"(19) Loss of thumb and index finger of the same hand, $25,000.

"(20) Coma resulting from traumatic brain injury, $50,000 at time of claim and $50,000 at end of 6-month period.

"(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

"(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

"(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

"(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

"(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

"(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member's uniformed service, shall be paid by the

Secretary of Defense to the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

"(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

"(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

"(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

"(g) Payment for a loss resulting from traumatic injury will not be made if the member dies not more than 7 days after the date of the injury. If the member dies before payment to the member can be made, the payment will be made according to the member's most current beneficiary designation under Servicemembers' Group Life Insurance, or a by law designation, if applicable.

"(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member's separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

"(i) Insurance coverage provided under this section is not convertible to Veterans' Group Life Insurance.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

"1980A. Traumatic injury protection. ".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of enactment of this Act.

SA 440. Mr. BIDEN (for himself, Mr. BINGAMAN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

FORCE PROTECTION WORK AND MEDICAL CARE AT VACCINE HEALTH CARE CENTERS

SEC. 1122. (a) INCREASE IN AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount appropriated by this chapter under the heading "DEFENSE HEALTH PROGRAM" is hereby increased by $6,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated or otherwise made available by this chapter under the heading "DEFENSE HEALTH PROGRAM", as increased by subsection (a), $6,000,000 shall be available for force protection work and medical care at the Vaccine Health Care Centers.

(c) OFFSET.—The amount appropriated by chapter 2 of this title under the heading "GLOBAL WAR ON TERROR PARTNERS FUND" is hereby reduced by $6,000,000.

SA 441. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Notwithstanding any other provision of law, funds that have been appropriated to and awarded by the Secretary of Energy under the Clean Coal Power Initiative in accordance with financial assistance solicitation number DE-PS26-02NT41428 (as described in 67 Fed. Reg. 575) to construct a Fischer-Tropsch coal-to-oil project may be used by the Secretary to provide a loan guarantee for the project.

SA 442. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research and Facilities", $1,000,000, to remain available until expended, for the National Marine Fisheries Service to establish a cooperative research program to study the causes of lobster disease and the decline in the lobster fishery in New England waters: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 443. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 3, insert the following:

AFFIRMING THE PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT

SEC. 6047. (a)(1) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) As used in this section—

(1) the term "torture" has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States.

SA 444. Mrs. BOXER (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $35,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OTHER PROCUREMENT, ARMY", as increased by subsection (a), $60,000,000 shall be available under the Tactical Intelligence and Related Activities (TIARA) program to facilitate the rapid deployment of Warlock systems and other field jamming systems.

SA 445. Mr. REID proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 183, after line 23, add the following new section:

INTERNATIONAL EFFORTS FOR RECONSTRUCTION IN IRAQ

SEC. 2105. (a) Congress makes the following findings:

(1) The United States Armed Forces have borne the largest share of the burden for securing and stabilizing Iraq. Since the war's start, more than 500,000 United States military personnel have served in Iraq and, as of the date of the enactment of this Act, more than 130,000 such personnel are stationed in Iraq. Though the Department of Defense has kept statistics related to international troop contributions classified, it is estimated that all of the coalition partners combined have maintained a total force level in Iraq of only 25,000 troops since early 2003.

(2) United States taxpayers have borne the vast majority of the financial costs of securing and reconstructing Iraq. Prior to the date of the enactment of this Act, the United States appropriated more than $175,000,000,000 for military and reconstruction efforts in Iraq and, including the funds appropriated in this Act, the amount appropriated for such purposes increases to a total of more than $250,000,000,000.

(3) Of such total, Congress appropriated $2,475,000,000 in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559) (referred to in this section as "Public Law 108–11") and $18,439,000,000 in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1209) (referred to in this section as "Public Law 108–106") under the heading "IRAQ RELIEF AND RECONSTRUCTION FUND" for humanitarian assistance and to carry out reconstruction and rehabilitation in Iraq.

(4) The Sixth Quarterly Report required by section 2207 of Public Law 108–106 (22 U.S.C. 2151 note), submitted by the Secretary of State in April 2005, stated that $12,038,000,000 of the $18,439,000,000 appropriated by Public Law 108–106 under the heading "IRAQ RELIEF AND RECONSTRUCTION FUND" had been obligated and that only $4,209,000,000, less than 25 percent of the total amount appropriated, had actually been spent.

(5) According to such report, the international community pledged more than $13,500,000,000 in foreign assistance to Iraq in the form of grants, loans, credits, and other assistance. While the report did not specify how much of the assistance is intended to be provided as loans, it is estimated that loans constitute as much as 80 percent of contributions pledged by other nations. The report further notes that, as of the date of the enactment of this Act, the international community has contributed only $2,700,000,000 out of the total pledged amount, falling far short of its commitments.

(6) Iraq has the second largest endowment of oil in the world and experts believe Iraq has the capacity to generate $30,000,000,000 to $40,000,000,000 per year in revenues from its oil industry. Prior to the launch of United States operations in Iraq, members of the Administration stated that profits from Iraq's oil industry would provide a substantial portion of the funds needed for the reconstruction and relief of Iraq and United Nations Security Council Resolution 1483 (2003) permitted the coalition to use oil reserves to finance long-term reconstruction projects in Iraq.

(7) Securing and rebuilding Iraq benefits the people of Iraq, the United States, and the world and all nations should do their fair share to achieve that outcome.

(b) Notwithstanding any other provision of law, not more than 50 percent of the previously appropriated Iraqi reconstruction funds that have not been obligated or expended prior to the date of the enactment of this Act may be obligated or expended, as the case may be, for Iraq reconstruction programs unless—

(1) the President certifies to Congress that all countries that pledged financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora since March 2003, for the relief and reconstruction of Iraq, including grant aid, credits, and in-kind contributions, have fulfilled their commitments; or

(2) the President—

(A) certifies to Congress that the President or his representatives have made credible and good faith efforts to persuade other countries that made pledges of financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora to fulfill their commitments;

(B) determines that, notwithstanding the efforts by United States troops and taxpayers on behalf of the people of Iraq and the failure of other countries to fulfill their commitments, revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the Government of Iraq may not be used to reimburse the Government of the United States for the obligation and expenditure of a significant portion of the remaining previously appropriated Iraqi reconstruction funds;

(C) determines that, notwithstanding the failure of other countries to fulfill their commitments as described in subparagraph (A) and that revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the government of Iraq shall not be used to reimburse the United States government as described in subparagraph (B), the obligation and expenditure of remaining previously appropriated Iraqi reconstruction funds is in the national security interests of the United States; and

(D) submits to Congress a written notification of the determinations made under this paragraph, including a detailed justification for such determinations, and a description of the actions undertaken by the President or other official of the United States to convince other countries to fulfill their commitments described in subparagraph (A).

(c) This section may not be superseded, modified, or repealed except pursuant to a provision of law that makes specific reference to this section.

(d) In this section:

(1) The term "previously appropriated Iraqi reconstruction funds" means the aggregate amount appropriated or otherwise made available in chapter 2 of title II of Public Law 108–106 under the heading "IRAQ RELIEF AND RECONSTRUCTION FUND" or under title I of Public Law 108–11 under the heading "IRAQ RELIEF AND RECONSTRUCTION FUND".

(2)(A) The term "Iraq reconstruction programs" means programs to address the infrastructure needs of Iraq, including infrastructure relating to electricity, oil production, public works, water resources, transportation and telecommunications, housing and construction, health care, and private sector development.

(B) The term does not include programs to fund military activities (including the establishment of national security forces or the Commanders' Emergency Response Programs), public safety (including border enforcement, police, fire, and customs), and justice and civil society development.

SA 446. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) is amended by inserting before the period at the end the following: ", which in this subsection means the payment by the purchaser of an agricultural commodity or product and the receipt of the payment by the seller prior to—

"(i) the transfer of title of the commodity or product to the purchaser; and

"(ii) the release of control of the commodity or product to the purchaser.".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAMBLISS. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing to consider the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development and to be a Member of the Board of Directors of the Commodity Credit Corporation. The hearing will be held on Wednesday, April 27, 2005, at 10:30 a.m. in SR–328A Russell Senate Office Building. Senator SAXBY CHAMBLISS will preside.

For further information, please contact the Committee at 224–2035.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Joint Committee on

Printing will meet on Thursday, April 21, 2005, at 2 p.m. to conduct its organization meeting for the 109th Congress.

For further information regarding this hearing, please contact Susan Wells at the Rules and Administration Committee on 224-6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 14, 2005, at 9:30 a.m., in open session to receive testimony on implementation by the Department of Defense of the National Security Personnel System.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 14, 2005, at 10 a.m., to conduct a hearing on "The Terrorism Risk Insurance Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on pending Committee business, on Thursday, April 14, 2005, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, April 14, 2005, at 10 a.m., to hear testimony on "The $350 Billion Question: How To Solve the Tax Gap."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Thursday, April 14, 2005, at 10 a.m., in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, April 14, 2005, at 2 p.m., for a hearing title: "U.S. Postal Service: What Is Needed To Ensure Its Future Viability?"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 14, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

AGENDA:

I. Nominations: Thomas B. Griffith to be U.S. Circuit Judge for the District of Columbia Circuit; Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit; Priscilla R. Owen to be U.S. Circuit Judge for the Fifth Circuit; Janice Rogers Brown to be U.S. Circuit Judge for the District of Columbia Circuit; Robert J. Conrad, Jr. to be U.S. District Judge for the Western District of North Carolina; and James C. Dever, III to be U.S. Circuit Judge for the Eastern District of North Carolina.

II. Bills: S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005: Biden, Specter, Feinstein, Kyl, Cornyn; S. 119, Unaccompanied Alien Child Protection Act of 2005: Feinstein, Schumer, Durbin, DeWine, Feingold, Kennedy, Brownback, Specter, Leahy; S. 629, Railroad Carriers and Mass Transportation Act of 2005: Sessions, Kyl; and S. 555, No oil Producing and Exporting Cartels Act of 2005: DeWine, Kohl, Leahy, Grassley, Feingold, Schumer, Durbin.

III. Matters: Asbestos

THE PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 14, 2005, a 10 a.m. to hold a hearing.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 14, 2005, at 2 p.m. to hold a closed briefing.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND

Mr. COCHRAN, Mr. President, I ask unanimous consent that the subcommittee on Airland be authorized to meet during the session of the Senate on April 14, 2005, at 2:30 p.m., in open session to receive testimony on Air Force Acquisition oversight in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary and the Committee Subcommittee on Immigration, Border Security and Citizenship and the Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a joint hearing on "Strengthening Interior Enforcement: Deportation and Related Issues" on Thursday, April 14, 2005 in Dirksen room 226 at 2:30 p.m.

Panel I: Jonathan Cohn, Deputy Assistant Attorney General for the Civil Division, U.S. Department of Justice, Washington, DC and Victor Cerda, Acting Director of Detention and Removal, U.S. Department of Homeland Security, Washington, DC.

Panel II: David Venturella, U.S. Investigations Service, Washington, DC and Lee Gelernt, Senior Staff Counsel, Immigrant's Rights Project, American Civil Liberties Union, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. COCHRAN. Mr. President, I ask unanimous consent that the subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Thursday, April 14, at 10 a.m. for a hearing entitled, "Passing the Buck: A Review of the Unfunded Mandates Reform Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. Mr. President, I ask unanimous consent Jennifer Pollom, a detailee on the Senate Budget Committee staff, be granted the privilege of the floor during consideration of H.R. 1268.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT T. MATSUI UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 787 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 787) to designate the United States courthouse located at 501 I Street, Sacramento, California, as the "Robert T. Matsui United States Courthouse".

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 787) was read the third time and passed.

COMMENDING THE UNIVERSITY OF OKLAHOMA SOONERS MEN'S GYMNASTICS TEAM

COMMENDING OKLAHOMA STATE UNIVERSITY'S WRESTLING TEAM

Mr. FRIST. Madam President, I ask unanimous consent that the Senate now proceed to the en bloc consideration of S. Res. 109 and S. Res. 110, which were submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolutions by title en bloc.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 109) commending the University of Oklahoma Sooners men's gymnastics team for winning the National Collegiate Athletic Association Division I Men's Gymnastics Championship.
>
> A resolution (S. Res. 110) commending Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association Division I Wrestling Championship.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

S. RES. 109

Mr. INHOFE. Madam President, I rise today to recognize the University of Oklahoma Sooners men's gymnastics team for winning the 2005 NCAA Division I men's gymnastics championship on April 8, 2005 at West Point, NY. This historic achievement is an enormous source of pride for the university that they represent as well as for the people of my entire State.

This championship achieved by the Sooners, under the outstanding leadership of NCAA Coach of the Year Mark Williams, is OU's sixth overall national title and their third in the past 4 years. It was undoubtedly an accomplishment that they earned and grittily sweated out.

The Sooners' dramatic victory over second-place Ohio State came down to the wire with the competition narrowly being determined by the final rotation on the vault. Freshman Jonathan Horton delivered a heroic performance, which secured OU's winning score of 225.675 over the Buckeyes' 225.450.

The tremendous success of the 2005 Sooners gives support to the Sports Illustrated cover's designation of Oklahoma as "America's Gymnastics Hotbed" that notably included the International Gymnastics Hall of Fame, the Bart Conner Gymnastics Academy, Nadia Comaneci, Shannon Miller, and the world's largest gymnastics magazine, International Gymnast.

In addition to the national championship, the Sooners boasted six team members who attained a total of 13 All-America honors for OU at the individual event finals. The 13 honors of 2005 added to an already substantial collection of 141 honors garnered by the university over the 39 years of the men's gymnastics program's existence. Moreover, senior David Henderson's 2005 NCAA title on the still rings, gave OU its 18th all-time individual national champion, capping off a brilliant 4 years for this extraordinary young man.

The Sooners' victory is a product of the heart, determination, and teamwork of these exceptional student athletes, and I extend my heart-felt congratulations to the entire team for a job truly well done and well deserved.

S. RES. 110

Mr. INHOFE. Madam. President. I also rise today to extend my congratulations to the Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association's Division I Wrestling Championship on March 19, 2005, at St. Louis, MO.

The Cowboys' historic victory this year contributes to an already exceptional legacy of achievement that makes the OSU wrestling program a touchstone for all others. In fact, the Collegiate Wrestling Hall of Fame is at OSU.

The 2005 Championship title is the 33rd overall title in the storied history of wrestling at OSU, and also represents the most possessed by any school in the history of Division I wrestling. Moreover, this year's win marks the Cowboys' third consecutive championship under the dynasty of Coach John Smith, an accomplishment that had not occurred at OSU since the 1954 to 1956 seasons.

Indeed, the Cowboys' dominance was in full display not only during the season in which they went undefeated but also in the finals where they continued to remain perfect. The Cowboys swept all five of its matches and clinched the national championship, getting titles from Steve Mocco, Zack Esposito, Johny Hendricks, Chris Pendleton, and Jake Rosholt and tying the record of five championships set by Iowa in 1997. In all. OSU finished with an all-time high of 153 points and far surpassed second-place Michigan by 70 points, which was the second highest winning margin in NCAA wrestling history.

Much credit for this amazing achievement undoubtedly goes to coach John Smith, who was named Big 12 Wrestling Coach of the Year for the sixth time in his career. Finally I would be remiss, if I did not recognize the extraordinary effort, commitment, and grit of these student athletes. They are a tremendous source of pride for their university and community, and I offer them my sincere congratulations for all that they have achieved.

Mr. FRIST. Madam President, I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table, all en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 109) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 109

Whereas on April 8, 2005, the University of Oklahoma Sooners won their sixth National Collegiate Athletic Association (NCAA) Division I Men's Gymnastics Championship, at West Point, New York;

Whereas the 2005 NCAA Championship is the Sooners' third championship in the past 4 years;

Whereas the championship title crowned a remarkable season for the Sooners in which the team achieved an impressive record of 21 wins and only 2 losses;

Whereas the Sooners clinched a spectacular, nail-biting victory over the Ohio State Buckeyes, which was made possible by a heroic final performance on the vault by freshman Jonathan Horton;

Whereas the Sooners' winning score of 225.675 set a school record and dramatically surpassed second-place Ohio State's score of 225.450;

Whereas 6 members of the University of Oklahoma men's gymnastics team, including Taqiy Abdullah-Simmons, Josh Gore, David Henderson, Jamie Henderson, Jonathan Horton, and Jacob Messina, also garnered a school-record 13 All-America honors in the individual event finals;

Whereas senior David Henderson's 2005 NCAA title on the still rings gave the University of Oklahoma its 18th all-time individual national champion and capped off an exceptional 4 years;

Whereas Head Coach Mark Williams was named the 2005 NCAA Coach of the Year, making it the third time in his distinguished career that Head Coach Williams has received that honor;

Whereas the tremendous success of the 2005 Sooners adds to the outstanding legacy of men's gymnastics at the University of Oklahoma and is a reflection of the heart and dedication of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members;

Whereas the teamwork, grit, and sportsmanship demonstrated by the University of Oklahoma Sooners men's gymnastics team is a proud tribute to the university and the communities from which the team members hail: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Oklahoma Sooners for their sixth National Collegiate Athletic Association Division I Men's Gymnastics Championship;

(2) recognizes all who have contributed their hard work and support to making the 2005 season a historic success; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to University of Oklahoma President David L. Boren and Head Coach Mark Williams for appropriate display.

The resolution (S. Res. 110) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 110

Whereas on March 19, 2005, the Oklahoma State University Cowboys claimed their 33rd National Collegiate Athletic Association Wrestling Championship in St. Louis, Missouri;

Whereas the 33 wrestling championships won by the Cowboys is more than have been won by any other school in the history of National Collegiate Athletic Association Division I wrestling;

Whereas the Cowboys now have won 3 consecutive wrestling championships, a feat not accomplished since they won the national wrestling championship in 1954, 1955, and 1956;

Whereas the Cowboys' 2005 championship topped off an impressive season in which they were undefeated in the regular season and also had a perfect record in the finals;

Whereas the Cowboys outscored second place Michigan, 153 to 83, achieving a margin of victory that was the second-highest in National Collegiate Athletic Association wrestling history;

Whereas the Cowboys crowned a school-record 5 individual national champions, tying a national tournament record;

Whereas the Cowboys' outstanding 2005 season contributed to an already rich and proud tradition of wrestling excellence at Oklahoma State University;

Whereas the amazing accomplishments of the past year reflect the dedication, commitment, and tireless effort of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members; and

Whereas the student athletes of the Oklahoma State University wrestling team, through their exceptional athletic achievements, have not only brought credit to themselves but to their fellow students, their university, and their community: Now, therefore be it

Resolved, That the Senate—

(1) commends the Oklahoma State Cowboys for their third straight National Collegiate Athletic Association Division I Wrestling Championship;

(2) recognizes the players, coaches, staff, and all who have made the historic successes of the 2005 season possible; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Oklahoma State University President Dr. David J. Schmidly and Coach John Smith for appropriate display.

NATIONAL MONTH OF THE MILITARY CHILD

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 27, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 27) honoring military children during "National Month of the Military Child."

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 27) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 27

Whereas more than a million Americans are demonstrating their courage and commitment to freedom by serving in the Armed Forces of the United States;

Whereas nearly 40 percent of the members of the Armed Forces, when deployed away from their permanent duty stations, have left families with children behind;

Whereas no one feels the effect of those deployments more than the children of deployed service members;

Whereas as of March 31, 2005, approximately 1,000 of these children have lost a parent serving in the Armed Forces during the preceding 5 years;

Whereas the daily struggles and personal sacrifices of children of members of the Armed Forces too often go unnoticed;

Whereas the children of members of the Armed Forces are a source of pride and honor to all Americans and it is fitting that the Nation recognize their contributions and celebrate their spirit;

Whereas the "National Month of the Military Child", observed in April each year, recognizes military children for their sacrifices and contributes to demonstrating the Nation's unconditional support to members of the Armed Forces;

Whereas in addition to Department of Defense programs to support military families and military children, a variety of programs and campaigns have been established in the private sector to honor, support, and thank military children by fostering awareness and appreciation for the sacrifices and the challenges they face;

Whereas a month-long salute to military children will encourage support for those organizations and campaigns established to provide direct support for military children and families

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) joins the Secretary of Defense in honoring the children of members of the Armed Forces and recognizes that they too share in the burden of protecting the Nation;

(2) urges Americans to join with the military community in observing the "National Month of the Military Child" with appropriate ceremonies and activities that honor, support, and thank military children; and

(3) recognizes with great appreciation the contributions made by private-sector organizations that provide resources and assistance to military families and the communities that support them.

ORDERS FOR FRIDAY, APRIL 15, 2005

Mr. FRIST. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, April 15. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Madam President, tomorrow, the Senate will resume consideration of the Iraq-Afghanistan supplemental. Although no rollcall votes will occur tomorrow, we hope to make additional progress on the bill. We expect to lock in some of the pending amendments for votes on Monday, and therefore Senators can expect a series of votes to occur Monday evening. It is my intention to complete action on this bill early next week, and Members should not wait until the last minute to offer their amendments.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Friday, April 15, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 14, 2005:

DEPARTMENT OF TRANSPORTATION

PHYLLIS F. SCHEINBERG, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE LINDA MORRISON COMBS.

DEPARTMENT OF ENERGY

DAVID R. HILL, OF MISSOURI, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE LEE SARAH LIBERMAN OTIS, RESIGNED.

DEPARTMENT OF STATE

CRAIG ROBERTS STAPLETON, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO FRANCE.

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SPAIN, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANDORRA.

EMIL A. SKODON, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. MICHAEL V. HAYDEN

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JOHN C. INGLIS, 8571

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. MICHAEL R. EYRE, 9396

To be brigadier general

COL. JIMMY E. FOWLER, 8520
COL. SANFORD E. HOLMAN, 8794
COL. DAVID A. MORRIS, 3823
COL. WILLIAM D. WAFF, 5496

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. HENRY G. ULRICH III, 2552

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

LISA M. AMOROSO, 0220
JANICE L. BAKER, 9252
STEVEN A. BATY, 1253
JENNIFER J. BECK, 5227
KELLY C. BROOKS, 7967
AMMON W. BROWN, 6308
PATTY H. CHEN, 3266
WILLIAM CULP, 5538
CHRISTINE A. EGE, 5804
REBECCA I. EVANS, 5070
SARAH B. HINDS, 6721
JENNIFER M. KISHIMORI, 7721
THOMAS KOHLER, 4066
WENDY E. MEY, 2615
KRINON D. MOCCIA, 8452
MARY A. PARHAM, 6956
SANDI K. PARRIOTT, 8947
GERALD R. SARGENT, 1617
LARRY J. SHELTON, JR., 3338
CHAD A. WEDDELL, 8229
WILLIAM L. WILKINS, 4576
SAMUEL L. YINGST, 6567

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

STEVEN B. * ANDERSON, 5199
BRUCE J. BEECHER, 5559
RICHARD E. * BETT, 9363
JANETTA R. * BLACKMORE, 6319
MICHAEL E. * BOOTH, 2596
SEAN F. * BRAY, 8250
KENNETH S. * BROOKS, 0916
ASMA S. * BUKHARI, 8258
STUART M. * CAMPBELL, 9260
STACIE M. CASWELL, 6344
SHON D. * COMPTON, 6259
GAIL A. * DREITZLER, 3751
DOUGLAS I. * DUSENBERRY, 8145
MICHAEL D. * DYCHES, 0294
KERRY W. * EBERHARD, 5634
FREDERICK E. * FOLTZ, 2365
STEVEN S. GAY, 7177
MARK J. * GESLAK, 1038
DONALD L. * GOSS, 6029
LEONARD Q. * GRUPPO, JR., 2638
PAUL V. * JACOBSON, 8853
JERRY L. * JOHNSTON, 2187
BRIAN W. * JOVAG, 5751
CHAD A. * KOENIG, 9597
KOHJI K. * KURE, 4546
CHRISTOPHER M. * LECCESE, 8137
BETH E. * MASON, 6085
DOUGLAS J. * MCKNIGHT, 0365
ELIZABETH L. * NORTH, 7091
JESSE K. * ORTEL, 0963
CORDES L. * PRYOR, 6560
MICHAEL A. * ROBERTSON, 1915
PAMELA A. * ROOF, 8378
PAUL * SANDERS, 9455
JAMES T. * SCHUMACHER, JR., 8046
PATRICK A. * SHERMAN, 5697
DONALD G. SHIPMAN, 3051
RANDALL R. * SITZ, 0273
TERRY L. * SMITH, 0432
DALE A. * SPENCE, 7387
RANDY B. THOMAS, 2692
ROBERT M. * TOMSETT, 0585
COLIN S. * TURNNIDGE, 9860

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064

To be major

CHRISTOPHER B. * ACKERMAN, 9637
GINA E. * ADAM, 8325
KAYS * ALALI, 5891
MATTHEW J. * ALLEN, 8373
DWIGHT A. * ARMBRUST, 6791
HUGH H. BAILEY, 1366
MARIA Y. * BATES, 7453
BRADLEY M. BEAUVAIS, 2705
BRENDON * BLUESTEIN, 9877
DAVID M. * BOWEN, 6747
DEVVON L. * BRADLEY, 0189
EDWARD L. * BRYAN, JR., 4790
DAVID S. * BRYANT, 5789
GABRIELLE N. * BRYEN, 9071
CRAIG W. * BUKOWSKI, 6861
MARC BUSTAMANTE, 0846
DAVID E. * CABRERA, 1779
TIMOTHY K. * CARROLL, 3923
YVONNE * CEPERO, 6457
CHARLES D. * CLARK, 1943
JAMES D. CLAY, 9326
CARLOS E. CORREDOR, 1167
SCOTT A. * CRAIL, 9927
JOSEPHINE E. * CREEL, 1417
JUSTIN C. * CURRY, 0734
LUCCA J. * DALLE, 1070
RUSSELL A. DEVRIES, 9112
JACOB J. * DLUGOSZ, 3195
JOHN R. DOELLER, 4407
MICHAEL J. * DOLAN, 6138
RANDY D. * DORSEY, 0828
JACQUELINE L. * DURANT, 8383
JOSEPH P. EDGER, 7395
JONATHAN A. EDWARDS, 7992
MARVIN A. * EMERSON, 3086
ROBERT A. ERICKSON, 6037
BRIAN P. * EVANS, 3207
ARTHUR * FINCH III, 3885
CRAIG D. GEHRELS, 7071
JONATHAN L. * GOODE, 2570
JOHN B. GOODRICH, 8489
RICHARD E. * GREMILLION, 5006
TARA L. HALL, 4142
CINTHYA A. * HAMMER, 0434
KEVIN A. * HANNAH, 3285
ALFONSO A. * HARO III, 1541
BRIAN A. HAUG, 8259
CLAUDIA L. * HENEMYREHARRIS, 2713
SAMANTHA S. * HINCHMAN, 8471
JIMMY D. HUMPHRIES, 2575
GREGORY A. * HUTCHESON, 1240
MARION A. JEFFERSON, 4325
KENNETH D. JONES II, 4590
SHELLEY C. * JORGENSEN, 0113
MARK D. * KELLOGG, 3800
ERIC J. * KELLY, 2270
VEDA F. * KENNEDY, 3553
WILLIAM D. * KILLGORE, 9441
PHILIP C. * KNIGHTSHEEN, 2964
KENNETH M. KOYLE, 5276
KRIS E. * KRATZ, 4800
JON R. LASELL, 3972
MICHAEL D. * LAWSON, 2893
LEE J. * LEFKOWITZ, 8416
WALTER G. * LEKITES IV, 5815
STEPHEN J. * LETTRICH, 9813
EDWARD F. MANDRIL, 4575
MONIQUE G. * MCCOY, 9258
MICHAEL S. MCFADDEN, 2672
DARREN D. MCWHIRT, 6710
ANTHONY A. * MEADOR, 9196
VICTOR * MELENDEZ, JR., 1519
ERIC G. * MIDBOE, 3782
CHRISTOPHER J. MOORE, 7114
DANIEL J. MOORE, 7523
MARK K. * MORRIS, 7497
DAVID J. * MULLER, 5236
NEIL I. NELSON, 7252
SCOTT J. * NEWBERG, 5757
MICHAEL T. OLEARY, 3460
CHARLES H. * ONEAL, 0614
SEAN S. * ONEIL, 3907
DAVID E. * PARKER, 1608
STEVEN L. * PATTERSON, 2561
CHRISTOPHER G. * PETERSON, 4475
DAVID J. PHILLIPS, 2401
CHRISTOPHER D. * PITCHER, 8549
STEPHAN C. * PORTER, 4064
THOMAS W. * PORTER, 8417
MARK A. * POTTER, 9940
BRYAN K. * PREER, 0202
SUEANN O. * RAMSEY, 2695
MARTIN B. * ROBINETTE, 2754
SCOTT D. * ROLLSTON, 9004
FRANCISCO A. ROMERO III, 1674
BARRY W. * RYLE, 3743
WENDY L. * SAMMONS, 2605
ANTHONY L. * SCHUSTER, 7572
JASON D. * SCHWARTZ, 2153
ANDREW L. * SCOTT, 1437
JASON R. SEPANIC, 6248
ROBERT W. * SHARPES, 8827
LUKE J. * SHATTUCK, 1865
STEPHEN W. * SMITH, 3095
GARY * STAPOLSKY, 5917
SUSANNA J. * STEGGLES, 1600
MELBA * STETZ, 2048
DOUGLAS L. STRATTON, 7191
KEITH E. * STRETCHKO, 1282
THOMAS E. * STROHMEYER, 0623
JEFFREY L. * THOMAS, 5261
LEONA R. TOLLE, 2262
EVANS D. * TRAMMEL, JR., 8672
CLIFTON B. * TROUT, 5457
KELLY L. * TURNER, 8978
WILLIAM N. * UPTERGROVE, 6685
RAYMOND * VAZQUEZ, 2556
ROY L. VERNON, JR., 6160
ERIC T. WALLIS, 5367
MICHAEL J. * WALTER, 7393
CHARLENE L. * WARRENDAVIS, 2749
KIRK W. WEBB, 4292
EDWARD J. WEINBERG, 8297
KENNEY H. * WELLS, 5714
LILLIAN A. WESTFIELD, 2942
RONALD J. * WHALEN, 3546
VERNON W. * WHEELER, 4551
DUVEL W. WHITE, 1367
DAVID J. * ZAJAC, 7765
CHARLES D. ZIMMERMAN, JR., 7898

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

HERMAN A. ALLISON, 3080
ROBERT R. * ARNOLD, 0736
PACITA G. * ATKINSON, 2530
ERIKA J. * AYERS, 8072
JENNIFER M. * BANNON, 5528
DENISE M. BEAUMONT, 6897
KIRK C. * BIEBER, 7610
AVA M. BIVENS, 1576
CHRISTIE L. BROWN, 5620
PEGGY A. * BRYANT, 7724
JAMES D. * BURK, 6318
KATE E. * CARR, 6115
SHEILA D. * CASTEEL, 3662
EUGENE J. CHRISTEN III, 9203
MELINDA L. * CHURCH, 8188
SHERMAN D. CLAGG, 8968
GILBERT A. * CLAPPER, 2168
MARY L. * CONDELUCI, 9888
AMY L. * COOPERSMITH, 4141
JENNIFER L. * COYNER, 0627
WARREN T. CUSICK, 6222
JULIE A. * DARGIS, 8746
ROBERT S. DAVIS, 1124
JUANITA * DEJESUSMARTINEZ, 3161
DANNY R. DENKINS, 3087
LAURIE D. * DESANTIS, 1633
CHRISTOPHER B. * DOMER, 5694
DAVID G. * DOTY, 1819
COREY L. * EICHELBERGER, 4939
AARON R. ELLIOTT, 8588
MICHAEL T. ENDRES, 5893
DAVID S. FARLEY, 1729
DAVID C. * FAZEKAS, 6800
MONNICA D. * FELIX, 1959
JESUS FLORES, 2718
JULIE J. * FREEMAN, 4396
KATHERINE E. FROST, 5034
JANA N. GAINOK, 2106
SUSAN R. * GARTUNG, 2395
SUSAN E. * GILBERT, 4781
JANET A. * GLENN, 4920
JOHN D. * GORDON, 4997
STEVEN L. * GRAHAM, 8519
PASCALE L. * GUIRAND, 3851
TYKISE L. * HAIRSTON, 8960
GREGORY W. * HANN, 5572
ANTHONY J. * HARKIN, 0381
PATRICK C. * HARTLEY, 8558
SHELLEY A. * HASKINS, 7565
ROBERT L. * HERROLD, 6127
WILFRED D. * HINZE, 1900
JAMES R. HUNLEY, JR., 2582
BRADLEY G. HUTTON, 7291
MICHELLE J. JARRELL, 0070
CONSTANCE L. JENKINS, 9798
CHERYL L. * JONES, 4229
BARBARA W. * KANE, 4800
JR R. * KENT, 6582
STEVEN A. * KINDLE, 4164
ROBERT N. LADD, 2494
ELAINE M. * LADICH, 7359
BRIAN M. * LENZMEIER, 6391
ANTHONY G. * LEONARD, 7152
JEFF L. LOGAN, 4299
CHERYL D. * LOVE, 1508
EDWIN S. * MANIULIT, 7525
CHERYLL A. * MARCHALK, 7069
FRED D. * MARCUM, 1902
DANIEL R. * MATTSON, 9206
TAMMY K. MAYER, 3006
ALAN E. * MEEKINS, 6824
JOHN J. * MELVIN, 4967
ZENON * MERCADO III, 8761

VINCENT R. * MILLER, 0107
CHERYL R. * MONTGOMERY, 6371
ANGELO D. MOORE, 6411
RICHARD T. * MORTON, JR., 8468
JANA L. NOHRENBERG, 4961
JOSE M. * NUNEZ, 8747
RONALD R. * OLIVER, 9888
OMER * OZGUC, 2648
KEITH C. * PALM, 5347
BRENT J. PERSONS, 1645
UN Y. * RAINEY, 6835
VINA A. RAJSKI, 5616
JANE E. * RALPH, 9236
TARA C. * REAVEY, 5796
BARBARA A. * REILLY, 2576
JAMES E. * RIGOT, 5801
CHRISTOPHER M. RIVERA, 8847
FELECIA M. RIVERS, 0844
ANDREA L. ROBERTS, 2145
RICCI R. * ROBISON, 3084
DOUGLAS W. ROGERS, 8308
ERICSON B. * ROSCA, 0076
MARGUERITE A. ROSSIELLO, 5819
SONYA I. ROWE, 9540
EDITHA D. RUIZ, 5215
EDWARD RUIZ, JR., 1909
JAY C. * SCHUSTER, 4105
TOMAS * SERNA, 4685
BROCK M. * SMITH, 2629
TARA O. * SPEARS, 1475
ANN M. * STARR, 5103
JOHN C. STICH, 7308
ROBERT D. SWINFORD, 0103
KELLY L. * TAYLOR, 4610
JAMIE S. THOMAS, 8025
MICHAEL K. * THOMAS, 0206
TROY R. THOMPSON, 7597
CHARLES E. TRUDO, 1777
CYBIL A. * TRUE, 9705
JESSICA T. * TRUEBLOOD, 2072
CHRISTIANE H. TURLINGTON, 6627
DENNIS R. * TURNER, 4804
ADAM W. * VANEK, 7699
MARY J. * VERNON, 8163
JOHN W. * VINING, 0906
ELIZABETH P. VINSON, 6927
KRISTEN L. * VONDRUSKA, 8871
MARVETTA WALKER, 4556
MIKO Y. * WATKINS, 9268
THOMAS K. WEICHART, 5739
CHRISTOPHER P. * WEIDLICH, 3104
BRIAN K. * WEISGRAM, 1961
RHONDA G. * WHITFIELD, 2648
RYAN J. WILCOX, 8654
JENNIFER L. WILEY, 4187
VAUGHN C. * WILHITE, 6110
ANGELA R. WILLIAMS, 5715
FAYE H. * WILSON, 6098
JOE C. WILSON, 7501
MERYIA D. WINDISCH, 0271
HEATHER L. ZUNIGA, 5872

EXTENSIONS OF REMARKS

IN RECOGNITION OF MR. WILLIAM SCHMIDT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HASTERT. Mr. Speaker, I would like to congratulate Mr. William Schmidt, the Village President of Hampshire, Illinois, on his more than 40 years of service and devotion to the Village and its residents. After arriving in Hampshire in 1945, Mr. Schmidt taught history at Hampshire High School for 23 years. His commitment to his students and to the community's young people is evident in his enduring relationships with many of these individuals.

Bill Schmidt began his public service in 1980 as a Village Board member. He was subsequently elected to a 4-year term as Village Trustee in 1981. First elected as Village President in 1985, Mr. Schmidt was then elected to four additional successive terms, serving a total of 20 years as Village President.

During his tenure, Bill worked to ensure a diversified tax base for the Village by expanding the Village's boundaries to include the I–90 and U.S. 20 interchange, securing more than $7 million in public investment that leveraged nearly $100 million in private investment, and securing new businesses that created more than 750 new jobs.

Bill and his late wife, Dorothy, have helped to position Hampshire for a successful future by building on the community's history, values and respect for each of its citizens. I would like to extend my thanks to Bill Schmidt for his many years of service and dedication to the people of Hampshire, Illinois. The Village of Hampshire is certainly fortunate to have benefited from his talent and expertise for so many years.

HONORING JOHANNA CLARK

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor Johanna Clark, the Boyertown Outstanding Student of the Year.

Johanna Clark is that special kind of student who not only excels in her academic work at school, but one who enthusiastically participates in all sorts of extracurricular activities. Johanna is seen by many in such a positive light that she is commonly described as caring, effervescent, intelligent, and responsible.

Johanna has said that she lives to help other people and make them happy. This is clearly evident through the work she is involved in. She is a member of the Boyertown High School Key Club, Student Council, "Insight," the high school cable television talk show, the Boyertown Holiday House tour, peer mediation, and the meth hotline mentoring program. Johanna diligently provides support for others while consistently demonstrating a strong work ethic.

Johanna's academic achievement is quite impressive, with a current grade point average of 4.01. She has taken honors English courses since her freshman year and she began taking both honors social studies and science as a sophomore. As a senior, she has added to her impressive academic schedule by taking AP environmental science. And Johanna has been a member of the National Honor Society since her junior year.

Johanna has future plans to attend Millersville University where she will major in early childhood education, elementary education, and she then plans to get her certification in English as a Second Language. Johanna has expressed interest in teaching second grade upon graduation. As a high school student, she has already gained considerable experience working as a Sunday school teaching assistant at St. John's Lutheran Church in Boyertown for many years. At St. John's, Johanna also assists with the youth group, serves as an acolyte, and helps out in the nursery.

Johanna is the daughter of Jenny and Fitzhugh Clark and is the third of four children. Johanna's family life has served as a source of inspiration for her by instilling her with lasting values and an extraordinary work ethic. She stated how grateful she was to have people in her life who have inspired her, and in particular, her grandmother, Jeanne Dill. Johanna says that "she is the most honest and giving person I know. I have worked so hard over the years to be like her as best as I could and to make her proud . . . because of her, in a big way, I am who I am today."

Mr. Speaker, I ask that my colleagues join me today in honoring this tremendous young lady. Johanna Clark is an inspiration to all through her hard work and community service. It is an honor to stand before you to recognize and congratulate Johanna on her many impressive accomplishments and to wish her the very best of luck in the future.

HONORING THE CONTRIBUTIONS OF JUSTICE OF THE PEACE BETH SMITH

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the distinguished public service of Hays County Justice of the Peace Beth Smith.

Beth Smith attended Austin Community College and Southwest Texas State University, studying Criminal Justice. She has set an example for other law enforcement professionals by continuously updating her educational credentials, working as a Campus Manager for Austin Community College and substitute teaching for the Hays County Independent School District. She was elected as the First Mayor of Mountain City in 1984, and served in that capacity for 14 years.

Judge Smith has been tremendously active in the community. She is a member of the Board of Directors of the Hays Caldwell Council on Alcohol and Drug Abuse, and the President of the Gang Response Intervention Program. She has held the position of Associate Municipal Judge for the City of Kyle, and is President of Hays County Rural Fire District #5.

Ms. Smith is married to her husband Everett, and has three children. She was first elected to office in 1999, and represents Precinct 2 on the County Justice Court. She has been especially zealous protecting the well-being of Hays County youth, and has been consistently involved with intervention programs to help those most at risk.

Justice of the Peace Beth Smith is a tremendous resource for her community, both as a volunteer and a public official. She has served her neighbors with distinction, and I am honored to have the chance to recognize her here today.

REGARDING CLEAN CRUISE SHIP ACT OF 2005

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. FARR. Mr. Speaker, many Americans enjoy taking cruises, in large part because they get to see some of the nation's most beautiful marine ecosystems. Because I want to see these beautiful marine ecosystems protected for future generations to enjoy, I am introducing The Clean Cruise Ship Act of 2005.

The Cruise Ship Industry has experienced much success over the past few years. In fact, the industry has grown an average of 10 percent per year over the past 8 years, including an almost 17 percent increase in 2000. Unfortunately, as it grows, its potential to negatively affect the marine environment grows as well. Over a week's time, a single 3,000 passenger cruise ship, according to EPA and industry data, generates a tremendous amount of waste: Over 200,000 gallons of black water (raw sewage) are created. Approximately 1 million gallons of gray water (runoff from showers, sinks and dishwashers) are produced. More than 35,000 gallons of oily bilge water (oil and chemicals from engine maintenance that collect in the bottom of ships and

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

are toxic to marine life) are generated. Isn't it reasonable to think that these ships should be subject to the same wastewater regulations as those governing municipalities of comparable size? I think so.

While many cruise ship companies have environmental policies in place, many are voluntary with no monitoring or enforcement provisions. Unfortunately, I am all too familiar with the down-side to voluntary agreements. In my district a cruise ship—breaking its voluntary agreement—illegally discharged into the Monterey Bay National Marine Sanctuary in 2002. Simply put, voluntary agreements between cruise lines and states aren't enough to ensure protection of our oceans. The public deserves more than industry's claims of environmental performance. We need a Federal law and we need it now. It's time we strengthen the environmental regulations and in so doing, bring these floating cities in line with current pollution treatment standards. The Clean Cruise Ship Act of 2005 is the answer.

The legislation that I am introducing today, which has bipartisan support and is endorsed by over 30 local and national groups, plugs existing loopholes in Federal laws, requires ships to treat their wastewater wherever they operate, and authorizes broadened enforcement authority. Several states including California, Alaska, Hawaii, Maine, and Washington have enacted or are currently considering legislation to better regulate various cruise ship wastes—similar to the legislation I am introducing today. In fact, I am proud to report that California is leading the country in protecting its coastal waters from cruise ship pollution. Passage of the Clean Cruise Ship Act of 2005 is one of the ways to provide all states with the kinds of ocean and coastal protections that the people of California, Alaska and Maine benefit from. Enactment of this bill will protect the tourism industry by making sure that the beaches and oceans, two of the attractions that make California the most visited state in our country, will be protected from cruise ship pollution. Simply put, this legislation ensures two things: (1) a sustainable future for our oceans, and (2) a sustainable future for the cruise and tourism industry.

This legislation promotes the public interest for all Americans. The public deserves clean water—both in our inland waterways and in our oceans. The Clean Cruise Ship Act of 2005, through its discharge standards, will give the public what it deserves.

In closing, Mr. Speaker, I urge all of my colleagues to support this critically important legislation.

INTRODUCING THE ELECTION WEEKEND ACT OF 2005

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HASTINGS of Florida. Mr. Speaker, in 2001, the National Commission on Federal Election Reform released its report highlighting a variety of reforms that need to occur in our country's faltering election system. While I did not agree with all of the Commission's views, I did agree with the report's recommendation to establish a federal holiday on Election Day.

Today, my good friend from California, Representative Honda, and I are taking the Commission's recommendation one step further and introducing the Election Weekend Act of 2005. Our bill changes our nation's Election Day from the first Tuesday after the first Monday in November to the first consecutive Saturday and Sunday in November. Furthermore, it expresses the sense of Congress that private sector employers provide their employees with one day off during Election Weekend to allow them ample opportunity and time to cast their ballot without having to leave work.

Each Election Day, employees are faced with the difficult task of balancing their work schedules with their family responsibilities, while trying to find time to make it to the polls. Our bill recognizes the undue amount of pressure Americans face when trying to participate in the democratic process. It acknowledges the fact that a great deal of Americans are unable to leave their jobs in the middle of the day and vote because our elections occur on a Tuesday, a day when almost all Americans are working.

As more and more Americans enter the workforce, the choice they are forced to make between working or voting has resulted in decreased voter turnout. Turnout is even smaller in low and middle income communities where individuals do not enjoy the luxury of taking a three hour lunch to eat and vote. For many, the hour they lose in wages when they go to the polls may mean the difference between paying the bills or finding themselves out on the street.

It is irresponsible of us to continue forcing Americans to choose between a paycheck, family time, or democracy. It is the Constitutional privilege of every American to vote. In moving our nation's Election Day to the first full weekend in November and extending it from one day to two days, we recognize the responsibility that we have to our constituents and our democratic heritage. We should be doing everything we can to protect the integrity of our election system by not only encouraging Americans to vote, but making it more convenient for them to do so.

RECOGNIZING THE 25TH ANNIVERSARY OF THE NATIONAL ASSOCIATION OF BLACK AND WHITE MEN TOGETHER

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. NORTON. Mr. Speaker, I rise today to recognize the National Association of Black and White Men Together (NABWMT), a gay, multiracial, multicultural organization committed to fostering supportive environments wherein racial and cultural barriers can be overcome and the goal of human equality realized, on the occasion of its 25th Anniversary which it will celebrate this Friday evening, April 15th, with a reception in the Rayburn House Office Building Foyer.

NABWMT began in September, 1980 with an advertisement its founder, the late Michael G. Smith, placed in The Advocate. From this small advertisement NABWMT has grown into a national 501(c)(3) organization with headquarters in Pittsburgh, PA and local chapters in the major cities of the United States, including Washington, DC.

The national and the local chapter engage in educational, political, cultural and social activities as a means of dealing with racism, sexism, homophobia, HIV/AIDS discrimination, and other inequities. Among the more prominent of these activities are the Discrimination Response System, a model program which, I am proud to note, the DC Chapter created, and the widely presented Multi-Racial, Multi-Cultural Workshop.

In the 1980s, local chapters initiated AIDS education and prevention programs that, in 1988, resulted in a million dollar grant from the Centers for Disease Control, which made the NABWMT the first openly gay organization to receive federal funds to conduct a nation-wide HIV education program. From this grant NABWMT created the National Task Force on AIDS Prevention. In 1992 the National Task Force became a separate entity which conducted trainings and workshops for every active chapter in NABWMT. The Task Force created HIV/AIDS educational models that community-based organizations, health departments, and activists used throughout the United States and in countries from New Zealand to South Africa.

I ask the House to join me in congratulating the National Association of Black and White Men Together on its silver anniversary.

THE UNITED STATES SHOULD WITHDRAW FROM UNESCO

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. PAUL. Mr. Speaker, I rise today to introduce a concurrent resolution expressing the sense of the Congress that the United States should withdraw from the United Nations Educational, Scientific, and Cultural Organization (UNESCO).

Mr. Speaker, in 1984 President Ronald Reagan withdrew the United States from membership in UNESCO, citing egregious financial mis-management, blatant anti-Americanism, and UNESCO's general anti-freedom policies and programs. President Reagan was correct in identifying UNESCO as an organization that does not act in America's interest, and he was correct in questioning why the U.S. should fund 25 percent of UNESCO's budget for that privilege.

Since the United States decided to re-join UNESCO in 2003, Congress has appropriated funds to cover some 25 percent of the organization's entire budget. But what are we getting for this money?

UNESCO has joined the "International Network for Cultural Policy" in seeking a UN "global diversity initiative" by this year that would restrict US export of some $70 billion worth of movies, television programs, music recordings, and other cultural products.

UNESCO sponsors the International Baccalaureate program, which seeks to indoctrinate

U.S. primary and secondary school students through its "universal curriculum" for teaching global citizenship, peace studies and equality of world cultures. This program, started in Europe, is infiltrating the American school system.

UNESCO has been fully supportive of the United Nations' Population Fund in its assistance to China's brutal coercive population control program.

UNESCO has designated 47 U.N. Biosphere Reserves in the United States covering more than 70 million acres, without Congressional consultation.

Continued membership in UNESCO is a blatant assault on our sovereignty and an inexcusable waste of U.S. taxpayer dollars.

Mr. Speaker, I hope all members of this body will join me in calling for an end to U.S. membership in the United Nations Educational, Scientific, and Cultural Organization by co-sponsoring this legislation.

HONORING THE 100TH ANNIVERSARY OF THE KNIGHTS OF COLUMBUS COUNCIL 1028 OF BELLEVILLE, ILLINOIS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 100th Anniversary of the Knights of Columbus Council 1028 of Belleville, Illinois.

In 1905, 31 members of the Knights of Columbus Council in East St. Louis, who lived in or near Belleville, Illinois, desired to have their own Council. After several rounds of negotiations with Bishop Janssen, the first bishop of the Belleville Diocese, this committee was successful in obtaining his approval. The National Council issued the charter and the first meeting of Belleville Council 1028 was held on July 7, 1905.

From this small but determined group of initial members, Council 1028 would grow to a peak of approximately 700 knights at the time of their Golden Jubilee, in 1955. During this time of growth, the goals of the Knights of Columbus, Charity, Unity and Fraternity, would be the guiding principals of the Belleville Council.

In 1906, one year after the Council was formed, and again in 1907, Council 1028 presented Bishop Janssen with checks of $1,000,—a substantial sum in those days!—for the support of 81st. John's Orphanage. For the remaining time that 81st. John's was in existence as an orphanage, that institution was a favorite charity of Council 1028. Other worthy recipients of support through the years have been 81st. Elizabeth's Hospital, the Newman Foundation at Illinois Universities, Parent Teachers of Exceptional Children, the Mamie O. Stookey School, the Autism Society of Illinois, the Murray Center, Special Olympics and numerous local organizations.

The Belleville Council has always been a supporter of local youth activities. Boy Scout Troop 16, at St. John's Orphanage, was organized by the Council and supported for years. Catholic grade school field days were sponsored and numerous trophies were supplied for individual and team sports. The Council still sponsors local youth sport teams and continues to hold annual and recreational programs and many religious activities have helped promote camaraderie among the knights and their families.

While the names are too numerous to mention of those who have been instrumental in the history of the Belleville Council, one name is now officially linked to the Council. The Belleville Council is now named Monsignor Leonard A. Bauer Council 1028 to honor the dedicated service of Monsignor Bauer as the Council Chaplain for many years.

Council 1028 has seen many changes through the last 100 years but they have always stayed true to the Knights of Columbus goals of Charity, Unity and Fraternity.

Mr. Speaker, I ask my colleagues to join me in honoring the 100th Anniversary of the Knights of Columbus Council 1028 and wish them the best for continued service in the future.

CELEBRATING 90 YEARS OF PEACEMAKING

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in honor of Women's International League for Peace and Freedom, (WILPF) who on April 9, 2005, celebrated their ninetieth anniversary marking their work for peace for justice.

We commend Phyllis S. Yingling and the Joint Planning Committee ofthe Baltimore/Catonsville area for their hard work on behalf of women and world peace.

WILPF, located in 36 nations, was formed in 1915 during World War I. WILPF works to achieve through peaceful means world disarmament, full rights for women, racial and economic justice, an end to all forms of violence and to establish those political, social, and psychological conditions which can assure peace, freedom and justice for all.

Out of a meeting planned amongst western European and N. American suffragists grew WILPF. The meeting was supposed to be in Berlin. The war prevented the women from going to Berlin, so the women went to The Hague. Over 1200 women attended. At that meeting the women decided that ending the killing and the violence of war was even more important than suffrage for women.

WILPF's first International President was Jane Addams, founder of Hull House in Chicago and the first U.S. woman to win the Nobel Peace Prize.

The United States Section of WILPF maintains a presence in Washington, D.C. providing support and organizing connections for the grassroots activities of WILPF's members located in 80 branches across the United States. They work in coalition with other disarmament, women's human rights, and racial and economic justice organizations to translate women's experience and vision into policies to promote peace and justice

For the last nine decades, WILPF has had a vision of peaceful and non-violent solutions to conflicts around the world.

We salute WILPF for their remarkable vision that we respect and that which still guides us today as we face the human security challenges of tomorrow.

HONORING JUDGE MATTHEW J. JASEN, RETIRED ASSOCIATE JUDGE OF THE NEW YORK STATE COURT OF APPEALS

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HIGGINS. Mr. Speaker, today, Thursday, April 14, 2005, the New York State Court of Appeals will for the first time in modem memory hold a session outside of the State capital of Albany. For this august occasion they have chosen the newly-renovated courtroom of Erie County Surrogate Court Judge Barbara Howe.

Tomorrow, however, the seven member court will honor one of its former members, and that is the reason why I rise today. Tomorrow, former New York State Court of Appeals Associate Judge Matthew Jasen, a resident of the town of Orchard Park in my congressional district, will be honored by his successor colleagues on the court

Judge Jasen was the Court of Appeals' first Judge of Polish-American descent. The most recent Western New Yorker to be elected to New York State's highest court, the Court of Appeals, Judge Jasen is an outstanding contributor to the Western New York community and to the legal profession, and I am proud to honor him today.

Through a combination of intellect and fortitude, Judge Jasen worked his way through the Great Depression to achieve great heights in Western New York's legal community. Educated at Buffalo's own Canisius College and receiving his law degree from the University at Buffalo, Judge Jasen went on to attend Harvard University's Civil Affairs School, and was admitted to the New York State Bar in 1940.

Before beginning his distinguished career in law, Jasen was called to serve his country in the armed services in Germany during World War II. Following his service, he received an appointment to serve as the United States Military Court Judge at Heidelberg, where he presided over trials of Nazi Youth groups.

In 1957, Jasen was appointed to his second judgeship, the New York State Supreme Court, and 10 years later, Judge Jasen took on the race for Associate Judge of the New York State Court of Appeals.

Today, Judges of the New York State Court of Appeals are appointed by the Governor, subject to the confirmation of the State Senate. This was not so in the 1960s, when Judges instead ran for this office in statewide elections. Through his skills as a grass-roots organizer and with tremendous perseverance, Judge Jasen, a loyal and longtime Democrat, was elected to the Court of Appeals.

Judge Jasen's career on the state's highest court ranged from his election in 1967 to his statutory retirement in 1985 at the age of seventy. During his 18 years on the high court, Judge Jasen played a part in hundreds of landmark decisions of the court, and played a significant role in the court's transition from an elected body to one of appointment based on merit. Nowadays, court appointments are made by the Governor, who must choose his Appeals court appointees from a list of three candidates presented to him by a judicial screening panel. An elected Judge himself, Judge Jasen was a strong advocate for merit selection, having authored articles on the subject in the mid-1970s.

Following his retirement, Judge Jasen re-entered the practice of law himself, serving as Of Counsel to law firms operated by his sons, Peter M. Jasen, Esq. and Mark Matthew Jasen, Esq. Despite advancing age, Judge Jasen's post-judicial legal career has been a busy one as well, taking part in cases on local, State and Federal levels, serving as Special Master in a number of State and Federal actions and in performing other services as an officer of the court.

I am proud to honor Judge Matthew J. Jasen today—an outstanding member of the bar and of the Western New York community—and I am certain that the whole of our community would join with me in offering my congratulations to Judge Jasen upon his receipt of this most recent honor in his long and distinguished career. I thank you, Mr. Speaker, for offering me an opportunity to share with the House Judge Jasen's accomplishments and for allowing me this chance to join in honoring him.

HONORING THE CONTRIBUTIONS OF JUSTICE OF THE PEACE ANDREW CABLE

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the distinguished public service of Andrew Cable.

Andrew Cable graduated from Southwest Texas State University in 1992, and received his Bachelors of Science in Criminal Justice. Upon graduation, he decided to pursue a career in law and real estate. He has had an extremely varied and successful professional life: he currently holds a real estate license, a license as a community corrections officer, and a certification in commercial banking.

He and his wife, Rebecca, have been tireless volunteers in their community. Mr. Cable is a member of many organizations, including the Texas Justice Court Judges Association, the Texas Community Justice Task Force, the Wimberly High School Mentor Program, and the Community Emergency Response Team Advisory Board.

Mr. Cable was elected Justice of the Peace in 1998. He represents Precinct 3 of Hays County, which includes, among several other towns, Mr. Cable's home of Wimberly. His extensive education and experience make him an excellent public servant, and an important resource for his friends and neighbors.

Mr. Cable is the sort of energetic, knowledgeable leader who holds our communities together. The people of Hays County are lucky to have him as a Justice of the Peace, and I am happy to have the chance to acknowledge him here today.

IN HONOR OF THE SANTA CRUZ HIGH SCHOOL BOYS BASKETBALL TEAM

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. FARR. Mr. Speaker, I rise today to congratulate the Santa Cruz High School Boys Basketball Team. The Cardinals won the title of Boys Basketball Division III California State Champions 2004–05. Led by Coach Pete Newell Jr., the exciting victory of 67–56 against St. Augustine took place on March 19, 2005.

The Boys Basketball team has enjoyed a winning season with their record standing at 36–1. Their only loss was by one point to Santa Margarita in a suspenseful overtime. The team set a Central Coast record with 36 season victories, the most by any team, boys or girls, in the state this season. Their accomplishments brought unprecedented firsts for the Central Coast community.

All nineteen Cardinal players were able to contribute to the successful season. After thirty years of coaching the Santa Cruz High School's Boys Basketball team and with the 2005 State Championship under his belt, Mr. Newell has opted to retire with a winning record. Throughout his career, he has led the team to victory 554 out of 880 games. Mr. Newell's diligent efforts will surely be missed by the Cardinals and the Santa Cruz community.

Mr. Speaker, I wish to congratulate the Santa Cruz High School Boys Basketball Team on their Division III State Championship. They have demonstrated hard work, perseverance, and relentless dedication to the sport of basketball. I extend my congratulations to the Cardinals and wish the team many successful seasons to come.

MAKING ENVIRONMENTAL JUSTICE A NATIONAL PRIORITY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HASTINGS of Florida. Mr. Speaker, it was barely 20 years ago when the nation first became concerned with minority communities and the disproportionate impact from polluting facilities. At that time, we referred to this problem as environmental racism. This was a term which strongly depicted the harsh reality and the disparities of environmental policy or practices affecting individuals, groups, or communities based on race or color. In the last decade, the pursuit against environmental racism has been transformed into an effort to achieve environmental justice in all socio-economic communities, suggesting that we are making wiser environmental policy decisions and engaging in a proactive approach.

On February 11, 1994, President Clinton signed Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. EO 12898 required that all appropriate federal agencies collect data on the health and environmental impact of their programs and activities on "minority populations" and "low-income populations" and to develop policies to achieve environmental justice. EO 12898 also requires federal agencies and their funding recipients to fully comply with Title VI of the Civil Rights Act of 1964 by conducting their programs and implementing policies in a nondiscriminatory manner.

Despite EO 12898, federal efforts to achieve environmental justice have been minimal at best. In fact, in 2002, the U.S. Commission on Civil Rights held hearings on the issue and concluded that due to organizational and financial limitations, "there is inconsistency and unevenness in the degree to which agencies achieved integration of environmental justice into their core mission." It also noted that "current funding and staffing levels [at federal agencies] undermine meaningful Title VI enforcement at a time when there are increasing judicial barriers to enforcing Title VI."

I come to the floor today to introduce legislation that expands the definition of environmental justice, directs each Federal Agency to establish an office of environmental justice, reestablishes the interagency Federal Working Group on Environmental Justice, and requires that EO 12898 remain in force until changed by law. My legislation represents a significant step in ensuring that current and future federal policies reflect the intentions and goals of EO 12898 and protect minority and low-income communities from poor environmental and energy decisions and policies.

I ask for my colleagues support, and urge the House Leadership to expeditiously bring this critical legislation to the House floor for consideration.

INTRODUCTION OF THE DISTRICT OF COLUMBIA BUDGET AUTONOMY ACT OF 2005

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. NORTON. Mr. Speaker, today, Senate Government Affairs Chair SUSAN COLLINS, Ranking Member Senator JOE LIEBERMAN, Senator GEORGE VOINOVICH, Senator DANIEL AKAKA, Senator MARY LANDRIEU, House Government Reform Committee Chair TOM DAVIS, Ranking Member HENRY WAXMAN and I introduce H.R. 1629, the District of Columbia Budget Autonomy Act of 2005, which passed the Senate in the last Congress, but did not pass the House. It marked the most significant change in self-government since the Home Rule Act was passed in 1973. Instead, Congress continues to essentially use the same oversight process it has used since the District was created as a functioning city more than 200 years ago. The partial budget autonomy in this bill would be a major step to improve the efficiency of the congressional appropriations process and a historic step toward full self-government for the District of Columbia.

Our bill starts as a compromise that is less than what the District and every local jurisdiction is entitled to in the management of its local funds. As important as this bill is, it is not the self-contained and more efficient procedure used by every state and locality in our country. The District's budget would still come to the Congress, but it would be discharged after 30 calendar days. This step would take the city a great distance toward functional budget autonomy and away from a congressional process that adds large dollar costs to running the city, and incalculable waste and inefficiency directly traceable to the congressional appropriations process.

Our bill would significantly streamline and untangle the process. It also would eliminate the most inefficient and demeaning impediment to the local control every other jurisdiction enjoys, in requiring that the budget of the local jurisdiction be enacted by the District and the Congress as Congress enacts the budgets of federal agencies, such as the Interior Department and the Labor Department.

For most of my service in Congress, the enactment requirement has usually kept the District from having a local annual budget with which to operate and manage the city for months at a time. The requirement of our bill that the D.C. budget become operative after 30 calendar days would have large effects on everything from the District's bond rating to its ability to more efficiently manage every function of the D.C. government.

The irony is that the Congress almost never changes the District's locally raised core budget in any case. Even at its most intrusive, Congress has realized that when it comes to the complexities of budget decisions for city agencies, Congress is in foreign territory. This is only one of the reasons that I think members of the House and Senate have been open to the change we propose. I appreciate the support this approach already has received in the Senate.

For years Congress saw the D.C. budget wreck the larger appropriation process for the country. Too often the District appropriation, by far the smallest of all of the appropriations, has been the largest impediment to the entire appropriation process and a major cause of delay. I am especially grateful for the way that Chairman Bill Young worked with me to remove obstacles and often to rescue the D.C. budget altogether. I expect that my good friend, Jerry Lewis, our new appropriations chair who has often been helpful to me and the city, will want to see the District come smoothly through the process as well. Speaker Dennis Hastert and former Speaker Newt Gingrich both have become involved as a last resort, when only they could rescue the locally raised budget from lengthy delays. I very much appreciate that they have always responded when I have asked for their help.

However, the local balanced budget of a great city should not need extraordinary action by House speakers or full appropriation chairs. Despite a national economy that has left states and local jurisdictions on their knees, in recent years the District has balanced its budget without raising taxes and without using its cash reserve funds. Because the Mayor and the City Council have been cautious and conservative in their management of city finances and operations, the District has avoided the budget problems that plague many jurisdictions today.

After more than 200 years of unchanged procedures here in the Congress, the city's record today and the bill we are considering today should be the beginning of improvement of congressional processes in aid of greater efficiency for the D.C. government. Even full city autonomy over its local budget would not deprive the Congress of the right to make changes by legislation.

Congressional enactment of the Home Rule Act after a century of struggle was a major breakthrough. However, Congress has made no major step toward self-government since 1973. Surely the place to begin is with the city's own budget. Today must mark a long awaited step toward equal citizenship and equal treatment by the Congress. At the very least, the District is owed a Congressional response in kind to the very substantial improvements the city has made in its finances and operations for six years. The way to begin is by matching the District's greater efficiency in managing its finances and operations with the same in our own processes. The way to begin is with budget autonomy.

THE AMERICAN JUSTICE FOR AMERICAN CITIZENS ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce the American Justice for American Citizens Act, which exercises Congress's Constitutional authority to regulate the federal judiciary to ensure that federal judges base their decisions solely on American Constitutional, statutory, and traditional common law. Federal judges increasing practice of "transjudicialism" makes this act necessary. Transjudicialism is a new legal theory that encourages judges to disregard American law, including the United States Constitution, and base their decisions on foreign law. For example, Supreme Court justices have used international law to justify upholding race-based college admissions, overturning all state sodomy laws, and, most recently, to usurp state authority to decide the age at which criminals becomes subject to the death penalty.

In an October 28, 2003 speech before the Southern Center for International Studies in Atlanta, Georgia, Justice O'Connor stated: "[i]n ruling that consensual homosexual activity in one's home is constitutionally protected, the Supreme Court relied in part on a series of decisions from the European Court of Human Rights. I suspect that with time, we will rely increasingly on international and foreign law in resolving what now appear to be domestic issues, as we both appreciate more fully the ways in which domestic issues have an international dimension, and recognize the rich resources available to us in the decisions of foreign courts."

This statement should send chills down the back of every supporter of Constitutional government. After all, the legal systems of many of the foreign countries that provide Justice O'Connor with "rich resources" for her decisions do not respect the same concepts of due process, federalism, and even the presumption of innocence that are fundamental to the American legal system. Thus, harmonizing American law with foreign law could undermine individual rights and limited, decentralized government.

There has also been speculation that transjudicialism could be used to conform American law to treaties, such as the U.N. Convention on the Rights of the Child, that the Senate has not ratified. Mr. Speaker, some of these treaties have not been ratified because of concerns regarding their effects on traditional American legal, political, and social institutions. Judges should not be allowed to implement what could be major changes in American society, short-circuit the democratic process, and usurp the Constitutional role of the Senate to approve treaties, by using unratified treaties as the bases of their decisions.

All federal judges, including Supreme Court justices, take an oath to obey and uphold the Constitution. The Constitution was ordained and ratified by the people of the United States to provide a charter of governance in accord with fixed and enduring principles, not to empower federal judges to impose the transnational legal elites' latest theories on the American people.

Mr. Speaker, the drafters of the Constitution gave Congress the power to regulate the jurisdiction of federal courts precisely so we could intervene when the federal judiciary betrays its responsibility to uphold the Constitution and American law. Congress has a duty to use this power to ensure that judges base their decisions solely on American law.

Therefore, Mr. Speaker, I urge my colleagues to do their Constitutional duty to ensure that American citizens have American justice by cosponsoring the American Justice for American Citizens Act.

SENATE—*Friday, April 15, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our sure refuge, teach us how to live this day. Give us a relaxed attitude that lengthens life. Make us like trees that bear lifegiving fruit. Keep us calm when we feel indignation. Grant that our work will bring freedom and not captivity. Look with favor upon the Members of the Senate and bless them according to their needs. Move their minds to discover Your purposes.

Keep alive in each of us the grace of Your spirit, lest we lose the awareness of Your presence in our lives.

We pray this in the name of the Master Teacher. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHNNY ISAKSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 15, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ISAKSON thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will again consider the emergency supplemental appropriations bill. Although no rollcall votes will occur during today's session, we expect amendments will be considered over the course of the day.

In a minute, I will call up a couple of amendments on behalf of other Senators so that we can continue to make headway on the bill. Senators should be aware that we expect the Senate to return on Monday to the bill, and I hope we will have several votes Monday evening to advance this bill. The bill has been pending for a week, and it is time for us to work towards completing action on this very important bill that addresses funding for our troops overseas.

I had appealed to the body to defer and postpone most of the immigration amendments—again, this is a broad category of amendments—but I have not been successful in convincing colleagues on both sides of the aisle to postpone those to a time when we can in a comprehensive way address immigration, a hugely important issue to America, to our people, and something we all hear about as we go back to our States and talk with our constituents. It is an issue we absolutely must address. Now is not the time because this is an emergency bill, a supplemental bill, and there is a time to do it later.

In spite of that, there are several amendments that have been brought forward that are pending which we will address; and in a few moments, I will be laying out how we might do that.

Before doing that, Mr. President, I wish to comment on a separate issue that has to do with Sudan and what is going on in that part of the world now.

SUDAN AID WORKER

Mr. FRIST. Mr. President, as my colleagues know, I have a special interest in Sudan. I have spent much time there on an annual basis for the last several years participating in various types of work—mission work, some medical work, as well as a Senator.

Three weeks ago, a USAID team member working in the Darfur region of Sudan was shot and wounded. By now, most Americans know the Darfur region is a huge region, about the size of France, in the western part of Sudan, a vast country in and of itself.

This USAID worker was traveling in a clearly marked four-vehicle convoy on a road that was considered safe and secure. The convoy was ambushed, and the 26-year-old aid worker was shot in the face. As a result of that attack, she has lost vision in her right eye and has had and will continue to have to undergo facial reconstruction.

First and foremost, our thoughts and prayers go out to this courageous and compassionate young woman and to her family whom we all know must be in tremendous grief. What happened is a tragedy that deeply troubles us all.

I am informed that the shooting was not random. The attackers intentionally targeted the humanitarian convoy in order to intimidate the world. For 2 years, the jingaweit death squads have terrorized the people. With the backing of the Government, these criminals have killed nearly 50,000 innocent Darfur Africans.

A British Parliamentary report issued last month says as many as 300,000 Sudanese may have died since the Khartoum Government started the fighting 2 years ago.

The exact numbers, as always, are difficult to confirm. Access to these areas is very limited. Khartoum simply does not want the world to know what those numbers are.

It was just last August that I made a trip to the region. I was denied permission by Khartoum to travel to Darfur properly. Nevertheless, I went and spent time just to the west, in the adjacent country of Chad, and went along that Chad-Darfur border. I wanted to see with my own eyes so I could come back and report, which I did, my observations in a part of the world where, to my interpretation, to our interpretation, there is genocide occurring.

We visited refugee camps on that Chad-Sudan border. We met with survivors. They told us the heartrending stories of women and girls being abused, mass rapes, land destroyed, crops destroyed, villages burned, water supplies actively polluted. As a product of all that, there is the forced displacement, moving out of villages, out of homes of over 1.2 million people.

It is clear, as I mentioned, that what is going on—the destruction, the death, the killing—is genocide. This body has said that. The jingaweit are killing the Darfur people because they are ethnically different and because they do not support Khartoum.

Since October of last year, the State Department has formally recognized the conditions in Darfur as genocide. Congress has also acted, placing sanctions on Sudan's Government and authorizing about $100 million in aid.

This week, at a special international donors conference for Sudan, the United States pledged $1.7 billion in aid over the next 2 years, more than any other country. As a condition of that aid, the Khartoum Government must demonstrate that it is taking action to stop, to end, to terminate this killing.

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The United States, under President Bush's leadership, has led on this issue from the beginning. The United States has provided over 70 percent of the supplies going to the survivors now in Darfur and eastern Chad, and the United States has been providing assistance to the region, indeed, for years.

Robert Zoellick, our Deputy Secretary of State, is currently traveling in the region to observe the situation on the ground. What he will see when he is there and what he will report back, I am sure, when he comes back to us, no doubt, will deeply disturb him, as it did me and others in this body who have traveled to that region.

In the last Congress, I worked with a number of our colleagues—Senators BROWNBACK, FEINGOLD, BIDEN, LUGAR, and before that, former Senator Helms and many others—to enact a bill called the Sudan Peace Act. That bill provided the framework for the peace negotiations in Sudan between the northern and southern regions.

In addition, last year, we in this body voted unanimously to urge the Secretary of State to take appropriate actions within the United Nations to suspend Sudan's membership on the U.N. Human Rights Commission.

While I am heartened by the aid pledges made this week by the international community, a lot more work absolutely must be done. Global pressure must be brought to bear.

I urge the United Nations to formally recognize the reality of the crisis in Darfur. What is happening there is genocide. The Khartoum Government will not stop this killing until it is faced with stiff international pressure.

Every day the world fails to act, Khartoum gets closer to its genocidal goal, and every day the world fails to act, it compounds its shame. We must not let this happen. We cannot fail the Darfur people. They are pleading for our help, and, indeed, they are pleading for their lives.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report:

The assistant bill clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Feinstein amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

Durbin amendment No. 427, to require reports on Iraqi security services.

Salazar amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families.

Dorgan/Durbin amendment No. 399, to prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005, and request an accounting of costs from GAO.

Reid amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

AMENDMENT NO. 432

(Purpose: To simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers, and for other purposes)

Mr. FRIST. Mr. President, I ask unanimous consent the pending amendments be set aside. On behalf of Senator CHAMBLISS and others, I call up amendment No. 432.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. CHAMBLISS, for himself, and Mr. KYL, proposes an amendment numbered 432.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in the RECORD of April 14, 2005, under "Text of Amendments.")

Mr. FRIST. I ask unanimous consent the amendment be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 375, AS MODIFIED

(Purpose: To provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program and the Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes)

Mr. FRIST. On behalf of Mr. CRAIG and others, I call up amendment No. 375.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. CRAIG, for himself, and Mr. KENNEDY, proposes an amendment numbered 375, as modified.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY ACT OF 2005

SEC. 701. SHORT TITLE.

This title may be cited as the "Agricultural Job Opportunities, Benefits, and Security Act of 2005" or the "AgJOBS Act of 2005".

SEC. 702. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) EMPLOYER.—The term "employer" means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(3) JOB OPPORTUNITY.—The term "job opportunity" means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(4) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(5) TEMPORARY.—A worker is employed on a "temporary" basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term "United States worker" means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and

Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term "work day" means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of "man-day" under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

Subtitle A—Adjustment to Lawful Status

SEC. 711. AGRICULTURAL WORKERS.

(a) TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer upon an alien who qualifies under this subsection the status of an alien lawfully admitted for temporary residence if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on December 31, 2004;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF TEMPORARY RESIDENT STATUS.—

(A) IN GENERAL.—During the period of temporary resident status granted an alien under this subsection, the Secretary may terminate such status only upon a determination under this Act that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF TEMPORARY RESIDENT STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to temporary resident status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a), such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a) as described in paragraph (1) shall not be eligible, by reason of such acquisition of that status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers permanent resident status upon that alien under subsection (a).

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition in accordance with this subparagraph of complaints by aliens granted temporary resident status under subsection (a) who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted temporary resident status under subsection (a) without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted temporary resident status under subsection (a) has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 360 work days or 2,060 hours, but in no case less than 2,060 hours, of agricultural employment in the United States, during the 6-year period beginning after the date of enactment of this Act.

(ii) QUALIFYING YEARS.—The alien has performed at least 75 work days or 430 hours, but in no case less than 430 hours, of agricultural employment in the United States in at least 3 nonoverlapping periods of 12 consecutive months during the 6-year period beginning after the date of enactment of this Act. Qualifying periods under this clause may include nonconsecutive 12-month periods.

(iii) QUALIFYING WORK IN FIRST 3 YEARS.—The alien has performed at least 240 work days or 1,380 hours, but in no case less than 1,380 hours, of agricultural employment during the 3-year period beginning after the date of enactment of this Act.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(v) PROOF.—In meeting the requirements of clauses (i), (ii), and (iii), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(vi) DISABILITY.—In determining whether an alien has met the requirements of clauses (i), (ii), and (iii), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the temporary resident status granted such alien under subsection (a), if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) GROUNDS FOR REMOVAL.—Any alien granted temporary resident status under subsection (a) who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a). The Secretary shall issue regulations establishing grounds to waive subparagraph (A)(iii) with respect to an alien who has completed at least 200 days of the work requirement specified in such subparagraph in the event of a natural disaster which substantially limits the availability of agricultural employment or a personal emergency that prevents compliance with such subparagraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted temporary resident status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—A spouse and minor child of an alien granted temporary resident status under subsection (a) may not be—

(i) removed while such alien maintains such status, except as provided in subparagraph (C); and

(ii) granted authorization to engage in employment in the United States or be provided an "employment authorized" endorsement or other work permit, unless such employment authorization is granted under another provision of law.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary, but only if the applicant is represented by an attorney; or

(II) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B) OUTSIDE THE UNITED STATES.—The Secretary, in cooperation with the Secretary of State, shall establish a procedure whereby an alien may apply for temporary resident status under subsection (a) at an appropriate consular office outside the United States.

(C) PRELIMINARY APPLICATIONS.—

(i) IN GENERAL.—During the application period described in subsection (a)(1)(B), the Secretary may grant admission to the United States as a temporary resident and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a preliminary application for such status under subsection (a) at a designated port of entry on the southern land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(ii) DEFINITION.—For purposes of clause (i), the term "preliminary application" means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.

(iii) ELIGIBILITY.—An applicant under clause (i) shall otherwise be admissible to the United States under subsection (e)(2) and shall establish to the satisfaction of the examining officer during an interview that the applicant's claim to eligibility for temporary resident status is credible.

(D) TRAVEL DOCUMENTATION.—The Secretary shall provide each alien granted status under this section with a counterfeit-resistant document of authorization to enter or reenter the United States that meets the requirements established by the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this Act as "qualified designated entities".

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have

access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department of Homeland Security, or bureau or agency thereof, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department of Homeland Security, or bureau or agency thereof, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department of Homeland Security pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the "Agricultural Worker Immigration Status Adjustment Account". Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the "Agricultural Worker Immigration Status Adjustment Account" shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for temporary resident status under subsection (a) (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for temporary resident status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for temporary resident status under subsection (a) during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $40,000,000 for each of fiscal years 2006 through 2009.

SEC. 712. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) who is granted status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2005,”; and

(4) by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted lawful temporary resident status.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of enactment of this Act.

Subtitle B—Reform of H–2A Worker Program

SEC. 721. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by striking section 218 (8 U.S.C. 1188) and inserting the following:

“H-2A EMPLOYER APPLICATIONS

“SEC. 218. (a) APPLICATIONS TO THE SECRETARY OF LABOR.—

“(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

“(A) the assurances described in subsection (b);

“(B) a description of the nature and location of the work to be performed;

“(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

“(D) the number of job opportunities in which the employer seeks to employ the workers.

“(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

“(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

“(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

“(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

“(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

“(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

“(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

“(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

“(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

“(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

“(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

“(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

“(E) REQUIREMENTS FOR PLACEMENT OF NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

“(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

“(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

“(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

“(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

“(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

“(H) EMPLOYMENT OF UNITED STATES WORKERS.—

“(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

“(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

“(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on ‘America's Job Bank’ or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

“(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

“(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

"(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

"(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

"(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

"(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

"(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

"(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

"(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

"(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A through 218C.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

"(d) WITHDRAWAL OF APPLICATIONS.—

"(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

"(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

"(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

"(e) REVIEW AND APPROVAL OF APPLICATIONS.—

"(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

"(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

"(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

"(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.

"H–2A EMPLOYMENT REQUIREMENTS

"SEC. 218A. (a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

"(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

"(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

"(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

"(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

"(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

"(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

"(F) CHARGES FOR HOUSING.—

"(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

"(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

"(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

"(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

"(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the

State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(iii) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(2) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(3) REQUIRED WAGES.—

“(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

“(B) LIMITATION.—Effective on the date of enactment of the Agricultural Job Opportunity, Benefits, and Security Act of 2005 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

“(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

“(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

“(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

“(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

“(i) the worker's total earnings for the pay period;

“(ii) the worker's hourly rate of pay, piece rate of pay, or both;

“(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

“(iv) the hours actually worked by the worker;

“(v) an itemization of the deductions made from the worker's wages; and

“(vi) if piece rates of pay are used, the units produced daily.

“(G) REPORT ON WAGE PROTECTIONS.—Not later than June 1, 2007, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

“(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

“(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

“(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

“(v) recommendations for future wage protection under this section.

“(H) COMMISSION ON WAGE STANDARDS.—

“(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

“(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

“(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

“(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

“(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

“(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

“(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

"(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

"(V) recommendations for future wage protection under this section.

"(iv) FINAL REPORT.—Not later than June 1, 2007, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

"(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

"(4) GUARANTEE OF EMPLOYMENT.—

"(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H-2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

"(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

"(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

"(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

"(5) MOTOR VEHICLE SAFETY.—

"(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

"(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

"(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

"(I) applies only to transportation provided by an H-2A employer to an H-2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

"(II) does not apply to—

"(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

"(bb) car pooling arrangements made by H-2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

"(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H-2A employer, shall not constitute an arrangement of, or participation in, such transportation.

"(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

"(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

"(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

"(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

"(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

"(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

"(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

"(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

"(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H-2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

"(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

"(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

"(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

"(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

"(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

"PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H-2A WORKERS

"SEC. 218B. (a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

"(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

"(c) CRITERIA FOR ADMISSIBILITY.—

"(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

"(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

"(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

"(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

"(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

"(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H-2A status, but may not be granted that status in the United States.

"(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

"(d) PERIOD OF ADMISSION.—

"(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

"(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

"(B) the total period of employment, including such 14-day period, may not exceed 10 months.

"(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

"(e) ABANDONMENT OF EMPLOYMENT.—

"(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

"(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

"(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

"(f) REPLACEMENT OF ALIEN.—

"(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

"(A) who abandons or prematurely terminates employment; or

"(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

"(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

"(g) IDENTIFICATION DOCUMENT.—

"(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

"(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

"(A) The document shall be capable of reliably determining whether—

"(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

"(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

"(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H-2A worker.

"(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

"(C) The document shall—

"(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

"(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(h) EXTENSION OF STAY OF H-2A ALIENS IN THE UNITED STATES.—

"(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H-2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

"(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

"(A) for a period of more than 10 months; or

"(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

"(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

"(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

"(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

"(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

"(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

"(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

"(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

"(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

"(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

"(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

"(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H-2A worker.

"(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS.—Notwithstanding any provision of the Agricultural Job Opportunity, Benefits, and Security Act of 2005, aliens admitted under section 101(a)(15)(H)(ii)(a) for employment as sheepherders—

"(1) may be admitted for a period of 12 months;

"(2) may be extended for a continuous period of up to 3 years; and

"(3) shall not be subject to the requirements of subsection (h)(5) relating to periods of absence from the United States.

"WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT

"SEC. 218C. (a) ENFORCEMENT AUTHORITY.—

"(1) INVESTIGATION OF COMPLAINTS.—

"(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

"(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

"(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

"(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

"(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

"(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

"(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

"(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

"(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

"(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

"(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

"(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

"(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

"(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

"(2) The reimbursement of transportation as required under section 218A(b)(2).

"(3) The payment of wages required under section 218A(b)(3) when due.

"(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

"(5) The guarantee of employment required under section 218A(b)(4).

"(6) The motor vehicle safety requirements under section 218A(b)(5).

"(7) The prohibition of discrimination under subsection (d)(2).

"(c) PRIVATE RIGHT OF ACTION.—

"(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

"(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

"(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

"(C) AUTHORIZATION.—

"(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

"(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

"(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

"(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

"(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

"(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

"(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

"(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

"(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

"(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

"(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

"(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

"(i) a recovery under a State workers' compensation law; or

"(ii) rights conferred under a State workers' compensation law.

"(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

"(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and H–2A employer reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

"(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

"(d) DISCRIMINATION PROHIBITED.—

"(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

"(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

"(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

"(f) ROLE OF ASSOCIATIONS.—

"(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

"(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

"DEFINITIONS

"SEC. 218D. For purposes of sections 218 through 218D:

"(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

"(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

"(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

"(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A(h)(3)).

"(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

"(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

"(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

"(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

"(9) LAYS OFF.—

"(A) IN GENERAL.—The term 'lays off', with respect to a worker—

"(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

"(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

"(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

"(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

"(B) from its nature, it may not be continuous or carried on throughout the year.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

"(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

"(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).".

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

"Sec. 218 H–2A employer applications.
"Sec. 218A H–2A employment requirements.

"Sec. 218B Procedure for admission and extension of stay of H–2A workers.
"Sec. 218C Worker protections and labor standards enforcement.
"Sec. 218D Definitions.".

Subtitle C—Miscellaneous Provisions

SEC. 731. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this title and the amendments made by this title, and a collection process for such fees from employers participating in the program provided under this Act. Such fees shall be the only fees chargeable to employers for services provided under this Act.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as added by section 721 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as added by section 721 of this Act, and the provisions of this Act.

SEC. 732. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, and 218C of the Immigration and Nationality Act, as added by section 721 of this Act, shall take effect on the effective date of section 721 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 733. RELIGIOUS ORGANIZATIONS.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following:

"(C) It is not a violation of clauses (ii), (iii), or (iv) of subparagraph (A) for a religious denomination described in section 101(a)(27)(C)(i) or an affiliated religious organization described in section 101(a)(27)(C)(ii)(III), or their agents or officers, to encourage, invite, call, allow, or enable an alien who is present in the United States in violation of law to carry on the vocation described in section 101(a)(27)(C)(ii)(I), as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, and other basic living expenses.".

SEC. 734. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 721 and 731 shall take effect 1 year after the date of enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the measures being taken and the progress made in implementing this title.

AMENDMENT NO. 432

CLOTURE MOTION

Mr. FRIST. I call for the regular order on the Chambliss amendment. I now send a cloture motion to the desk to the Chambliss amendment.

The ACTING PRESIDENT pro tempore. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Chambliss amendment to Calendar No. 67, H.R. 1268.

Bill Frist, Saxby Chambliss, Mitch McConnell, Elizabeth Dole, Larry Craig, Judd Gregg, Norm Coleman, Trent Lott, Arlen Specter, George V. Voinovich, Bob Bennett, Pete Domenici, Pat Roberts, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

AMENDMENT NO. 375, AS MODIFIED

CLOTURE MOTION

Mr. FRIST. I ask we resume the Craig amendment, and I send a cloture motion to the desk to the Craig amendment.

The ACTING PRESIDENT pro tempore. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Craig amendment to Calendar No. 67, H.R. 1268.

Bill Frist, Larry Craig, Mitch McConnell, Elizabeth Dole, Judd Gregg, Saxby Chambliss, Trent Lott, George V. Voinovich, Arlen Specter, Bob Bennett, Pete Domenici, Pat Roberts, John E. Sununu, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

CLOTURE MOTION

Mr. FRIST. I now send a cloture motion to the desk to the underlying bill.

The ACTING PRESIDENT pro tempore. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 67, H.R. 1268.

Bill Frist, Mitch McConnell, Elizabeth Dole, Olympia Snowe, Norm Coleman, Pat Roberts, Orrin Hatch, John Cornyn, Craig Thomas, Michael Enzi, Larry E. Craig, Trent Lott, George V. Voinovich, Bob Bennett, Pete Domenici, Richard Burr, James Talent.

Mr. FRIST. I ask unanimous consent that the live quorums, with respect to the four pending cloture motions, be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. For the information of Senators, we now have four cloture motions filed in relation to the emergency supplemental. They are filed on the Mikulski amendment on H–2B visas, the Chambliss AgJOBS amendment, the Craig AgJOBS amendment, and to the underlying emergency supplemental.

This will ensure votes in relation to the three amendments and then allow the Senate to move toward finishing the bill. I remind my colleagues we will be able to consider additional amendments either Monday evening or after the cloture votes have occurred on Tuesday.

I thank my colleagues and hope we can move quickly next week to pass this important bill in order to provide the appropriate resources to our troops. The cloture motions are filed to further the bringing of this bill to closure. It is an important bill to support our troops in Afghanistan and Iraq—indeed, around the world—and also the important tsunami relief.

With what I have outlined, we will be able to take what are now still more than two pages of amendments, outside of the many immigration amendments that have emerged in the period over the last several days, and give them some order so we can bring this bill to closure. Again, I want to reaffirm our commitment to address immigration in the future. It is a very important issue, but we will be having these three cloture votes on the immigration issues I briefly outlined, and we have filed cloture on the underlying bill, which does allow us to stay on amendments, germane amendments that were laid down to changing, altering, improving this bill as we go forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

AMENDMENT NO. 340

Mr. DEWINE. Mr. President, I call up amendment No. 340 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. DURBIN, and Mr. COLEMAN, proposes an amendment numbered 340.

Mr. DEWINE. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days)

At the appropriate place, insert the following:

SEC. . INCREASED PERIOD OF CONTINUED TRICARE COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) PERIOD OF ELIGIBILITY.—Section 1079(g) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by striking the second sentence and inserting the following:

"(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent who is a child of the deceased, the period of continued eligibility shall be the longer of the following periods beginning on such date:

"(A) Three years.

"(B) The period ending on the date on which the child attains 21 years of age.

"(C) In the case of a child of the deceased who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of the child's support, the period ending on the earlier of the following dates:

"(i) The date on which the child ceases to pursue such a course of study, as determined by the administering Secretary.

"(ii) The date on which the child attains 23 years of age.

"(3) For the purposes of paragraph (2)(C), a child shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the child's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

"(4) No charge may be imposed for any benefits coverage under this chapter that is provided for a child for a period of continued eligibility under paragraph (2), or for any benefits provided to such child during such period under that coverage.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 2001, and shall apply with respect to deaths occurring on or after such date.

Mr. DEWINE. Mr. President, this amendment is cosponsored by Senator DURBIN, Senator COLEMAN, Senator DOLE, Senator KENNEDY, Senator SALAZAR, and Senator CORZINE. This amendment is designed to improve the health care access for those children who have lost a parent on active military duty.

To understand the need for this amendment, we have to look at the current status of the law, to understand the problem, to understand why we need to change it. Currently, the dependent child—children of a deceased service member—will receive medical benefits under the TRICARE prime, for 3 years after that service member has died, at no cost. But following that period, the dependent child may continue to receive TRICARE prime at the retiree dependent premium rate available to children until the age of 21, or 23 if enrolled in school. But they have to pay for it.

Also, if a dependent child's military parent dies, that child moves down on the food chain, in terms of availability of services. What that means is that if, for example, there is a doctor's appointment opening, an Active-Duty dependent would get preference to schedule that appointment over the dependent child whose parent has died in service.

Let me state that again. Let me make sure my colleagues understand me. To take one example, if there is a doctor's appointment opening and your parent is alive, you get preference over a child whose parent was killed in Iraq or killed in Afghanistan.

That is simply not fair. That is not right. I don't think any Member of the Senate, who really understands that, would say that is right. Our amendment would change that. What our amendment will do is put the surviving children of service members killed in service to our country in the same position as if their parent would have lived and continued to serve in the military. It puts them in no better position, but it puts them in the same position. That is all this amendment does. That is the right thing to do.

What our amendment would do simply is to extend TRICARE prime to every dependent child of a deceased service member at no cost—the same thing as if the parent would have lived—until the dependent's age of 21, or 23 if the dependent attends college. It is the same as if the service member were still alive.

Maintaining this level of TRICARE coverage guarantees the surviving dependents will continue to have access to some of the best doctors this country has to offer and would receive adequate health care and treatment.

This is the right thing to do, it is fair, and it is just. I believe it is what the American people, if they understood the issue, if the issue was explained to them, would clearly want us to do. To do any less for the surviving children of our service members who have been killed in service to our country is simply not right.

I ask unanimous consent that two letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESERVE OFFICERS ASSOCIATION
OF THE UNITED STATES,
Washington, DC, April 11, 2005.

Hon. MIKE DEWINE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DEWINE: The Reserve Officers Association, representing 75,000 Reserve Component members, supports your amendment to the emergency supplemental appropriation, SR 109–052, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

The Department of Defense (DoD) has relied heavily on the Guard and Reserve to provide almost half of the troop support for Iraq and Afghanistan and this does not even take into consideration the number of members who have volunteered for duty during this time. It has been announced that this level of Reserve Component support has become the norm.

Your bill will provide a limited entitlement, in keeping with business case principles, that allows a member to serve their country knowing that their family will be taken care of if they give the ultimate sacrifice—their life.

The Active and Reserve Components, are entering into a new phase of protracted warfare and we need to update our outdated personnel practices to reflect this new environment. Congressional support for our nation's military men and women in the Guard and Reserve is and always will be appreciated.

Sincerely,

ROBERT A. MCINTOSH,
Major General (Ret), USAFR, Executive Director.

NATIONAL MILITARY FAMILY
ASSOCIATION,
April 10, 2005.

Senator MIKE DEWINE,
U.S. Senate,
Washington DC

DEAR SENATOR DEWINE: The National Military Family Association (NMFA) is a national nonprofit membership organization whose sole focus is the military family. NMFA's mission is to serve the families of the seven uniformed services through education, information, and advocacy. On behalf of NMFA and the families it serves, I would like to thank you for introducing important amendments in The Emergency Supplemental Wartime Appropriations Act, to enhance benefits for survivors of those servicemembers who have made the supreme sacrifice for their Nation.

NMFA strongly believes that all servicemembers deaths should be treated

> equally. Servicemembers are on duty 24 hours a day, 7 days a week, 365 days a year. Through their oath, each servicemember's commitment is the same. The survivor benefit package should not create inequities by awarding different benefits to families who lose a servicemember in a hostile zone versus those who lose their loved one in a training mission preparing for service in a hostile zone. To the family, there is no difference. Your amendment would extend the death gratuity increase proposed by the Administration to survivors of all active duty deaths, not just those that are combat related.
>
> NMFA also supports the amendment you propose to extend the TRICARE Prime medical benefit to any dependent child of a deceased servicemember at not cost until the age of 21 or 23 if enrolled in school. This is a benefit that would have been available to these children had their servicemember parent lived and remained on active duty. The freedom from worrying about copays and deductibles when a child needs to see a doctor is very important for the surviving parent.
>
> Thank your for your support and interest in military families. If NMFA can be of any assistance to you in other areas concerning military families, please feel free to contact Kathy Moakler in the Government Relations Department at 703.931.6632.
>
> Sincerely,
>
> CANDACE A. WHEELER,
> *Chairman/Chief Executive Officer.*

Mr. DEWINE. Mr. President, one letter is from the Reserve Officers Association and one is from the National Military Family Association.

I wish to share an excerpt from the letter from the ROA. Regarding health care benefits, it reads in part as follows:

> Your bill will provide a limited entitlement in keeping with business case principles that allows a member to serve their country knowing that their family will be taken care of if they give the ultimate sacrifice—their life.

We owe the families of those who have lost loved ones in active duty our gratitude and our support. It is time to do a better job of caring for these families. It is time to ensure that this Congress does what is right. I ask my colleagues to stand with me and with my other colleagues to support these families and do our part as they have done theirs.

As I said, I am joined in this amendment by Senators DURBIN, COLEMAN, DOLE, KENNEDY, SALAZAR, and CORZINE. We believe this is the equitable thing to do, it is the fair thing to do, and it is the right thing to do.

Again, to repeat: All it does is put this child who has lost a parent in Iraq, who lost a parent in Afghanistan, who has lost a parent in service to our country, in the same position that child would have been if that parent would have continued to serve in the military and would have continued to live.

Today, without this amendment, that child is discriminated against. After 3 years, that child has to pay for his or her own premium, that family has to pay the premium and, not only that, even if they pay the premium, they are put in a different position than if the parent would have lived. The child of a person in the military who lives is in a better position than a child of a person in the military who is deceased, and that is wrong. This amendment corrects that.

I ask unanimous consent that this amendment be set aside for the moment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 342

Mr. DEWINE. Mr. President, I now ask that my amendment No. 342 be called up.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, and Mr. BINGAMAN, Mr. COLEMAN, Mr. NELSON, Mr. MARTINEZ, Mr. CORZINE, Mr. CHAFEE, Mr. DODD, Mr. DURBIN, Mr. ALEXANDER, Mr. MARTINEZ, Mr. SMITH, Mr. SPECTER, Mr. KENNEDY, Mr. LAUTENBERG, and Mr. OBAMA, proposes an amendment numbered 342.

Mr. DEWINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement)

On page 183, after line 23, add the following:

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For necessary expenses to provide assistance to Haiti under chapter 1 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $10,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ASSISTANCE TO HAITI

SEC. 2105. (a)(1) The total amount appropriated by this chapter under the heading "ECONOMIC SUPPORT FUND" is increased by $21,000,000. Of the total amount appropriated under that heading, $21,000,000 shall be available for necessary expenses to provide assistance to Haiti.

(2) Of the funds made available under paragraph (1), up to $10,000,000 may be made available for election assistance in Haiti.

(3) Of the funds made available under paragraph (1), up to $10,000,000 may be made available for public works programs in Haiti.

(4) Of the funds made available under paragraph (1), up to $1,000,000 may be made available for administration of justice programs in Haiti.

(5) The amount made available under paragraph (1) is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b)(1) The total amount appropriated by this chapter under the heading "INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT" is increased by $10,000,000. Of the total amount appropriated under that heading, $10,000,000 shall be available for necessary expenses to provide assistance to Haiti.

(2) Of the funds made available under paragraph (1), up to $5,000,000 may be made available for training and equipping the Haitian National Police.

(3) Of the funds made available under paragraph (1), up to $5,000,000 may be made available to provide additional United States civilian police in support of the United Nations Stabilization Mission in Haiti.

(4) The amount made available under paragraph (1) is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Mr. DEWINE. Mr. President, this amendment is cosponsored by Senators BINGAMAN, COLEMAN, NELSON, CORZINE, DOLE, CHAFEE, DODD, DURBIN, ALEXANDER, MARTINEZ, SMITH, SPECTER, KENNEDY, LAUTENBERG, and OBAMA. It will provide additional emergency assistance to Haiti. Unfortunately, the fact is that the bill before us now contains virtually no additional economic assistance to Haiti, the poorest country in our hemisphere.

Haiti today is on the brink of collapse. Elections are scheduled in November, but there is grave social unrest and horrible poverty that is spinning Haiti back into its previous cycles of violence and instability. Haiti is our neighbor to the south, about an hour and a half plane trip from Miami. Twice in the last decade, American marines, American troops, have had to go to Haiti.

There is an interim government in Haiti, a government that was supported and is supported and backed by the United States and by the international community, but the situation is very precarious. That interim government is scheduled to give way to a permanent government after elections that are now scheduled for November of this year. There is an international peacekeeping force in Haiti, but there is significant violence, and the government is, quite frankly, tottering.

Money is needed in this emergency supplemental for emergency reasons in Haiti. We cannot wait for the normal appropriations process. First of all, money is needed for the elections. The United States will have to contribute toward these elections. We will have to take the lead, and other countries, of course, will participate, if elections are going to be held.

Those elections were not scheduled when the last appropriations bill went through this Congress. No one could have totally foreseen what the exact situation would have been in Haiti when the last appropriations bill was approved by this Congress. The violence has continued. The international peacekeeping force has not been as aggressive as some of us would have liked to have seen it, and therefore violence has continued. Some of the pro-Aristide forces are responsible for some of the violence, and some of the old regime people dating back to Baby Doc are responsible for some of the violence. The situation is not good.

Some of this money, quite frankly, needs to be used for humanitarian assistance. Some of the money needs to be used to train the police. Some of the money needs to be used to deal with the unemployment situation.

My colleagues and I—a long bipartisan list that I have read with seven Republicans have sponsored this amendment—are working with the chairman of the subcommittee and with the chairman of the full committee to see what funds might be available and what we might be able to work out with regard to this amendment.

If the United States does not stay engaged in Haiti, the day will not be far off when there will be more chaos in Haiti than there already is, and the government may fall. American troops may be back in Haiti at great cost to us, potential lives as well as money, and we may once again see more people flooding toward the United States. This will be money that is very well spent, and, quite frankly, I believe we have no choice but to spend this money.

I ask unanimous consent that this amendment be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I wish to talk now about two other amendments, one of which has already been offered and one which will be offered that I have cosponsored.

Haiti is not the only emergency need that cannot wait another 6 or 9 months for funding. I wish to first talk about an amendment that Senator KOHL and I sponsored and that Senator COCHRAN has been very helpful in regard to.

Our amendment provides additional emergency money for food aid. The President in his budget requested $150 million in additional emergency food aid in this bill. Quite frankly, we need to do more. Accounts have been drained, and over 17 million people are in need of emergency food aid in the world. That is a very conservative estimate.

Last week, the United Nations World Food Program announced that it would be forced to cut rations to Darfur to make their supplies last. As Senator FRIST so eloquently spoke just a few moments ago, the people in this part of the world suffered through genocide, and now they will starve. In addition, the U.S. Agency for International Development has been forced to cut programs in Sudan and Angola, Nicaragua, Rwanda, Ghana, Eritrea—all food programs.

We know, of course, about the high-profile food aid emergencies, such as the people affected by the tsunami in Southeast Asia and the people in Darfur, but what we really do not hear so much about is the need for food as a result of the locust infestation that swept through Africa last year, devastating crops, and what we do not hear about is the devastating floods in Bangladesh that leave women and children without any means of survival. We cannot tell these 17 million starving people of the world to wait. We can't tell them to wait for the regular appropriations cycle because, frankly, by then, for them at least, it will be too late.

When this amendment comes to the floor, the amendment sponsored by Senator KOHL and me, I urge my colleagues to support this amendment to provide this emergency food. It is lifesaving. It will make a difference. Lives are, in fact, saved.

Finally, I am cosponsoring an amendment offered by Senator CORZINE, together with Senators BROWNBACK and DURBIN, that would provide $93.5 million to address the crisis in the Darfur region of Sudan.

Again, I thank my colleague, Senator FRIST, who has on many occasions been to Sudan and has personally done humanitarian work there, and who has been so very active on the floor of the Senate as well. I thank him for his eloquent words a few minutes ago and for his great leadership.

I also thank my other colleagues who have taken the lead in this area and for their comments on the floor about this particular amendment and the dire situation in Darfur. They have been deeply committed to helping this troubled region of our world, and I commend them for their work.

The amendment would provide $52 million in assistance for the African Union. The African Union is trying to stop the genocide, and we have a moral obligation to support their mission.

This amendment also addresses the overwhelming humanitarian crisis in Darfur—providing $40.5 million for international disaster assistance. The United Nations International Children's Fund estimates that they only have access to 5 to 10 percent of Darfur and only can get into 5 or 10 percent, and they have access only to one-third of the millions of people living in the region. Children's lives depend on our vote on this amendment.

This amendment is budget neutral.

I urge all of my colleagues who have raised their voices on the floor in opposition to the crimes being committed in Darfur to vote for this amendment and to vote for the accompanying amendment containing the Darfur Accountability Act. The genocide in Darfur must end, and it must end now.

I understand that we cannot address every problem in the world in this particular bill and that some things will have to wait for the regular appropriations cycle, but the things that I have come to the floor to talk about this morning simply will not wait. Lives are at stake if we do not address them in this bill, and lives will, in fact, be lost. Each one of the items that I have talked about is a matter of crisis, a matter of emergency.

They need to be included in this bill.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 451

Mr. SCHUMER. Mr. President, I send an amendment to the desk, and I ask unanimous consent that Senators MIKULSKI, STABENOW, DODD, BOXER, DORGAN, LIEBERMAN, CLINTON, and AKAKA be added as cosponsors of this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DODD, Mrs. BOXER, Mr. DORGAN, Mr. LIEBERMAN, Mrs. CLINTON, and Mr. AKAKA, proposes an amendment numbered 451.

Mr. SCHUMER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047.(a) Congress finds that—

(1) the prices of gasoline and crude oil have a direct and substantial impact on the financial well-being of families of the United States, the potential for national economic recovery, and the economic security of the United States;

(2) on April 12, 2005, crude oil prices closed at the exceedingly high level of $51.86 per barrel and the price of crude oil has remained above $50 per barrel since February 22, 2005;

(3) on April 11, 2005, the Energy Information Administration announced that the national price of gasoline, at $2.28 per gallon—

(A) had set a new record high for a 4th consecutive week;

(B) was $0.49 higher than last year; and

(C) could reach even higher levels in the near future;

(4) despite the severely high, sustained price of crude oil—

(A) the Organization of Petroleum Exporting Countries (referred to in this section as "OPEC") has refused to adequately increase production to calm global oil markets and officially abandoned its $22–$28 price target; and

(B) officials of OPEC member nations have publicly indicated support for maintaining oil prices of $40–$50 per barrel;

(5) the Strategic Petroleum Reserve (referred to in this section as "SPR") was created to enhance the physical and economic security of the United States;

(6) the law allows the SPR to be used to provide relief when oil and gasoline supply shortages cause economic hardship;

(7) the proper management of the resources of the SPR could provide gasoline price relief to families of the United States and provide the United States with a tool to counterbalance OPEC supply management policies;

(8) the Administration's current policy of filling the SPR despite the fact that the SPR is more than 98 percent full has exacerbated the rising price of crude oil and record high retail price of gasoline;

(9) in order to combat high gasoline prices during the summer and fall of 2000, President Clinton released 30,000,000 barrels of oil from the SPR, stabilizing the retail price of gasoline;

(10) increasing vertical integration has allowed—

(A) the 5 largest oil companies in the United States to control almost as much crude oil production as the Middle Eastern members of OPEC, over of domestic refiner capacity, and over 60 percent of the retail gasoline market; and

(B) the top 10 oil companies in the world to make more than $100,000,000,000 in profit and in some instances to post record-breaking fourth quarter earnings that were in some cases more than 200 percent higher than the previous year;

(11) the Administration has failed to manage the SPR in a manner that would provide gasoline price relief to working families; and

(12) the Administration has failed to adequately demand that OPEC immediately increase oil production in order to lower crude oil prices and safeguard the world economy.

(b) It is the sense of Congress that the President should—

(1) directly confront OPEC and challenge OPEC to immediately increase oil production; and

(2) direct the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets to protect the people of the United States from price gouging and unfair practices at the gasoline pump.

(c)(1) For the period beginning on the date of enactment of this Act and ending on the date that is 30 days after the date of enactment of this Act—

(A) deliveries of oil to the SPR shall be suspended; and

(B) 1,000,000 barrels of oil per day shall be released from the SPR.

(2) If necessary to lower the burden of gasoline prices on the economy of the United States and to circumvent the efforts of OPEC to reap windfall crude oil profits, 1,000,000 barrels of oil per day shall be released from the Strategic Petroleum Reserve for an additional 30 days.

Mr. SCHUMER. Mr. President, the amendment I have offered will allow the Federal Government to take long overdue action to curb the record high gasoline prices that are plaguing American consumers at the pump. As my colleagues are aware, for weeks, oil and gasoline prices have been placing an immense burden on working families. They are burning a hole in every wallet and pocketbook in America, and they are threatening our fragile recovery. The March numbers showed that consumers are not spending on other things because of the high prices of gasoline and other petroleum products. It is time this body took action to protect our Nation's economic security from sky-high oil prices and the whims of the OPEC cartel.

This amendment would provide the American consumer with relief by halting the diversion of oil from markets to the Strategic Petroleum Reserve, and by releasing an amount of oil from the reserve through a swap program in order to increase supply, quell the markets, and bring down prices at the pump.

What we are faced with is the simple market economics of supply and demand. If demand goes up, price goes up. If supply goes up, price goes down. At a time when we are facing record-breaking gasoline prices, it is unfathomable that the Federal Government would actually be taking oil off the market and exacerbating the high costs of working families.

The price of crude oil has remained at near record highs for the first half of 2005. Oil has been trading at over $50 a barrel since February 22. The prices have already burdened Americans, particularly in my home State of New York and the Northeast where we rely on home heating oil to heat our homes, as people have done throughout the winter.

I know a lot of these families were hoping for a quick spring so they could enjoy relief from the high energy prices. Unfortunately, that has not been the case, as the increased burden of oil costs has just moved from the home and now, as we approach spring, to the highway. As Americans are beginning to plan for their summer vacations and road trips, the price of gasoline has reached a record high for the fourth week in a row.

The Energy Information Administration predicted that the current price of $2.28 a gallon—that is 49 cents, just about half a dollar up from last year—could give way to even higher prices in the future.

We know who is being hurt by these oil prices, and we know who is benefiting—OPEC. OPEC made over $300 billion in oil revenue last year. They stand to gain much more if the price stays in the stratosphere. And they have a policy which they keep changing. Originally, they said $22 to $28 a barrel would be their policy. Now they say they are comfortable at oil remaining at $40 to $50 permanently. I know who will not be comfortable—American families who depend on affordable oil to commute to work, heat their homes, and provide for their energy needs.

Some of my colleagues may be asking: Didn't OPEC agree to increase production by 500,000 barrels a day? The reality is that OPEC's pledge to increase production on paper has not reduced prices at the pump. OPEC cut a million barrels in the face of rising prices, and now they say they are going to raise it 500,000 barrels. But we are not sure this is happening because it may be a paper transaction. When it comes to the talk of increasing production by another 500,000 barrels, an increase that might actually result in a production raise, it is no surprise that OPEC members are balking. Venezuela, Nigeria, and Libya—all have indicated they would oppose such an increase. That is another reason we should use the SPR because there is a division in OPEC, and we can strengthen the hands of those more responsible nations that want to increase production to meet the increasing demand in the world.

What has the administration done on this? It has continued its policy of taking oil off the market and placing it in the SPR. This policy, which further tightens the oil market by taking much-needed supplies out of commerce, is slated to take an average of 85,000 barrels a day off the market during the height of the driving season.

I understand some of my colleagues are convinced the SPR should not be touched, even to safeguard our economic security. I would argue that the concerns to this degree do not properly balance America's physical security needs against our economic security needs. The SPR is now 98 percent full. We are not recommending a sale but, rather, a swap so the oil would be replaced presumably at a lower price, and we would have the full amount of oil in the SPR once again.

The administration has these tools, and yet we are letting OPEC control the whole show. If we showed them we meant business, that we were willing to mix in, they would be far more reticent, far more reluctant to raise the price at will in the light of increasing demand from China, India, our country, and other places.

It is about time we did this. I urge my colleagues to join me in protecting the pocketbook of working families from OPEC's profiteering by supporting the amendment.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I want to make some remarks today on the Defense supplemental we have before us. It is critical we pass that legislation. I have been exceedingly disappointed that critical legislation to support our troops who are serving us in Iraq and Afghanistan and other areas around the world is being held up by what now appears to be a prolonged and extensive debate on immigration. More than that, we are being asked to vote on a very significant immigration legislation. No. 1, the AgJOBS bill is 105 pages. As I read it, Mr. President, as I know you have, it is breathtakingly deficient. It will undermine our current immigration system, make it much worse. It is an abomination. Yet I understand at one point the sponsors, Senators CRAIG and KENNEDY, said they had over 60 Senators prepared to vote for it. Now, they are peeling off right and left and we may certainly hope there are not votes sufficient to pass this legislation we will be voting on now on a defense bill.

I was in an Immigration Subcommittee hearing yesterday, chaired by Senator CORNYN who chairs the Judiciary Subcommittee on Immigration. It was a very informative and important hearing. He has been working on this for many months now, trying to hammer out something that makes sense for America. Yet now we are rushing through to vote on this bill. I want to share some thoughts about it.

I want to strongly oppose the AgJOBS Act. I oppose it, not only because it has nothing to do with the money we need to support our troops in Iraq and will no doubt, and already has, slow down the bill, but because it undermines the rule of law by rewarding illegal aliens with amnesty. It creates no mechanisms in the law that will help bring integrity to a system that is failing badly. It is a huge step backward. It would be a disaster, if you want to know the truth.

It contains a host of bad provisions that should not be law and, as a result, has even lost the support of much of the agriculture community the sponsors claim to be so much in need of it.

It will provide amnesty to 1 million illegal aliens and their families in addition, illegal aliens who broke the immigration law to come here illegally and then again broke the law by working here illegally. The AgJOBS bill will treat unfairly those people who come to the United States legally to work in agriculture, and do their work and comply with the rules dutifully. They do not benefit at all from this amnesty. Only illegals can benefit from its passage. That is a fundamental principle a great nation ought to think about. This is not an itty-bitty matter. We are going to provide a benefit to somebody who violates a law and deny it to somebody who complies with the law? What kind of policy can that be? How can one justify such a policy?

Under the AgJOBS bill, illegal aliens are granted not only the right to stay here and work here, but they are put on the road to citizenship, a virtual guaranteed path to citizenship unless they get arrested for a felony—not arrested, you have to be convicted of a felony. Or if you are convicted of three misdemeanors, that can get you out—three or more.

As I noted, the legal farm workers under the current H–2A program will get nothing. They are certainly not put on a road to citizenship. Legal workers will not become permanent resident workers and then citizens under the AgJOBS bill. If the AgJOBS bill passes, we will state to the world that America is in fact rewarding people who break the law to the disadvantage of those who follow it.

The sponsors of the amendment say this is not amnesty, it is earned legalization; it is adjustment of status; it is rehabilitation. Those are misnomers, to say the least. The AgJOBS bill is amnesty, plain and simple. It will give illegal aliens the very thing they broke the law to get, the ability to live and work inside the United States without having to wait in line the same as everybody else to get it. The amnesty contained in AgJOBS does not stop there. It goes even further and gives illegal aliens a direct path from their new legal status to U.S. citizenship. Getting rewarded by being handed the exact thing you broke the law to get plus the ability to get citizenship is amnesty, I think, under any definition of it. It even goes far beyond the proposals President Bush has made that some have called amnesty, and he says it is not.

I am somewhat dubious about some of the ideas he has proposed. But his principles are clearly violated by this AgJOBS bill. Make no mistake about it. President Bush, for all his commitment to improving the ability of people to come to America to work, has never announced principles as breathtakingly broad as this.

Let us remind ourselves that criminal laws are involved here. Title 8, section 1325 of the United States Code says illegal entry into the United States is a misdemeanor on the first offense, a felony thereafter. Coming here illegally, regardless of why you came, is a criminal offense. Oftentimes, false documents and papers are submitted and filed. That is a criminal offense also.

Not only does it provide amnesty to illegal aliens who are already working here, it gives amnesty to the illegal alien's family, if their family is also illegally here. But if their family is still abroad and not here, the AgJOBS amendment allows the illegal alien to send for their family and bring them here, cutting in line ahead of others who made the mistake of trying to comply with our laws rather than break them.

According to a Pew report, there are at least 840,000 illegal immigrant workers who would be eligible for amnesty under this bill. Adding in one spouse and a minor child for each of those, the estimate can easily increase to 3 million immigrants—3 million, all of whom are defined only in the agricultural community, not in any other community in the country where it seems to me we would have a very difficult time on principle defining why agriculture workers get such beneficial treatment compared to any other worker who might be here.

Not only does AgJOBS give amnesty to the current people who are in our country illegally, but it extends that amnesty to illegal aliens who once worked in America but have already gone home. It actually encourages them to come back to the United States and puts them on a route that leads them to full citizenship. These are people who have returned home to their country, and we are putting them ahead of lawful workers who come here and may also want to be citizens one day.

The AgJOBS amendment will create a category of "lawful, temporary resident status" of agricultural workers who have worked at least 100 days in the 18 months prior to December 31, 2004. These are supposed to be workers who were here working, contributing to our economy, but they only have to work 100 days.

You have to read these acts. You can't just believe what you hear about them. I was trying to study it last night and things kept hitting me that almost take your breath away. One hundred workdays—do you know how that is defined in the act? An individual who is employed 1 or more hours in agriculture per day, that is a workday. For literally as many or as few as 100 hours of agricultural work in 18 months you are put on this track. That is not good policy. I don't know who wrote this bill. The details of it are extremely troubling.

Because the bill now only applies to agricultural workers, it is true the entire illegal population that is estimated to be in our country of 8 to 10 million will not be legalized under the bill. However, we can be quite sure the majority of those 1.2 million illegal agricultural workers will apply for amnesty if this amendment is passed.

Again I ask, what real principle can we stand on to say we need to give these people who are here illegally preference over people who might be working in some other industry?

Under the AgJOBS bill, an illegal alien is not deportable as soon as his paperwork is filed. No factfinding or adjudication on the application is necessary. It kicks in a protection that he cannot be deported. Maybe he has been charged with a felony, but the trial hasn't come along yet. It seems to me the procedure is guaranteed to go forward and they will be able to be put on this track. After the illegal alien gets the first round of amnesty, being granted temporary legal status under the AgJOBS bill, the bill gives them the opportunity to continue working in agriculture and apply for permanent resident status here in the United States. Thereafter that puts you in a position to become a citizen—guaranteed, unless you get in some big trouble.

There is no limit on the number of individuals who would be allowed to adjust to lawful permanent residence and eventually become citizens. If the illegal alien who meets the bill criteria has already left the United States, the legislation actually would encourage them to come back through the border to become a lawful temporary worker. As I read the legislation, they are allowed to do that by filing a petition. I believe it is called a preliminary petition. This petition is pretty interesting. The petition fundamentally is filed at the border with an officer, it says. And who is the officer? An officer is a member of a farm workers organization or an employer group, both of which are not representing the interests of the citizens of the United States but both of which have a special interest in having the alien come into the country. That is how they make their money. And they have to accept it if he produces virtually any document at all that would say he or she has worked in the country at sometime previously.

Later on my breath was taken away where it says in this act that the documents filed by the illegal alien are confidential. Read this:

> Except as otherwise provided in this section, the Secretary [that's the Secretary of Homeland Security, who is supposed to be supervising all of this, under his jurisdiction] nor any official or employee of the Homeland Security or Bureau or Agency thereof may use the information furnished by the applicant pursuant to an application under this section. . . .

It goes on to say:

> Files and records prepared for the purposes of this section by qualified designated entities [these are these employer groups. These are the farm worker organizations] are confidential, and the Secretary shall not have access to such files or records relating to the alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph 6.

Great Scott, you mean you file an application that is supposed to justify you to come into the country, and it is supposed to allow you to come in here, but the drafters of this legislation are so distrustful of our Government and the Secretary of Homeland Security that he is not even able to see the documents? I don't know how this became the policy of the United States.

The fundamental principle is that no nation is required to allow anyone to come into their country because they have sovereignty over their country. They set standards and try to adhere to them. Wise countries such as ours are very generous about how many people are allowed to come in. Some are far more strict—most are, in fact, more strict than are we. But no one has a right, automatically, to enter somebody's country. You enter by permission of that country. I don't think there would be anything wrong to ask the applicant to at least file a petition so the designated governmental official in charge of the operation can see it, instead of it being secret from them.

Frank Gaffney recently wrote a column entitled "Stealth Amnesty." He is the president of the Center for Security Policy. We do have some security problems involving terrorism involved around our country. He summarized the AgJOBS bill by saying this:

> By the legislation's own terms, an illegal alien will be turned into "an alien lawfully admitted for temporary residence" . . .

Just by fiat.

Provided they had managed to work unlawfully in an agricultural job in the United States for a minimum of 100 hours: in other words, for 2½ weeks during 18 months prior to August 31, 2003.

I will continue to talk about the bizarre nature of this application process. Someone who is even not in the country who wants to come back into the country, as I understand it, who has worked in our country illegally for some period of time and have returned to their country, they want to come back; they file an application, a preliminary application. I believe the phrase is. They do not file it with the Government, they file it with a farm workers group or an employer group, both of which do not have a real interest in seeing that the laws of the United States are enforced.

It goes on. It is difficult to understand. I read from page 24 of the 205-page bill:

> . . . the Secretary shall not have access to such files or records relating to the alien without the consent of the alien, except as allowed by a court order.

It goes on to say that "neither the Secretary nor any official" shall "use the information furnished by the applicant pursuant to an application filed under this section," provided they cannot use it "for any purpose other than to make a determination on the application or for enforcement."

Then it goes on to state that "nothing in this section shall be construed to limit the use or release for immigration enforcement purposes or law enforcement purposes" of information contained in files and records of the Department of Homeland Security but that does not give them the ability to use the information contained in the paperwork filed with the employer group. Those papers the employer does not give to the Department of Homeland Security are kept secret and not available to law enforcement, the bill goes on to add that no information in the application can be used "other than information furnished by an applicant pursuant to the application or any other information derived from the application that is not available for any other source."

I was a prosecutor. I know how hard it was to handle these things. This bill will create a situation that makes these documents virtually unusable in making sure this system has integrity. Why do we want to do that? What possible reason do we want to have in legislation of this kind that would say when you come here and you present documentation into evidence that justifies coming here to do that—why shouldn't the information you present in your application be part of the files of the Government, be reviewable at any time by any agency of the Government, for any purpose for which they want to use it? Everybody else has to do that.

Before you can be a Senator, you have to disclose all your finances. That does not take me long, but for some people it takes a long time. We have to do that, but somebody who is not even a citizen, not even a resident of this country, can keep information secret even though they are asking to become legal permanent residents eligible for citizenship.

Mr. President, I will quote from an article by Mr. Frank Gaffney. This confirms what I have been saying, which is undisputable about the bill. We are not at a time in our history when we should be doing this. It is exactly opposite of what we should be doing if we want to create a new system of immigration that allows more people to come here legally, to work as their schedules are fit, with employers who may need them.

We can do that. We should do that. We can do better about that. We can improve current law. But to just willy-nilly allow people who could very well be very marginal part-time employees, who never worked much—to give them permanent resident status and citizenship for violating our laws is thunderously erroneous, in my view. It is just not good.

Mr. Gaffney goes on to say:

Once so transformed—What he means by that is once you have been transformed from an illegal person to a legal person by filing an application—they can stay in the U.S. indefinitely while applying for permanent resident status. From there, it is a matter of time before they can become citizens, so long as they work in the agricultural sector for 675 hours over the next six years.

But you only have to work, really, 2,000 hours, or 1 year out of 6 years, but you have to stay in the agricultural sector.

Some have called this creating indentured servants. Why isn't it a form of indentured servitude? You have to come here. You are required to work for 6 years in agriculture. You cannot take some other type employment.

The Craig [-Kennedy] bill would confer this amnesty as an exchange for indentured servitude. The amnesty will be conferred—Mr. Gaffney goes on to say—not only on farmworking illegal aliens who are in this country—estimates of those eligible run to more than 800,000. It would also extend the opportunity to those who otherwise qualified but had previously left the United States. No one knows how many would fall in this category and want to return as legal workers. But, a safe bet is that there are hundreds of thousands of them.

If any were needed, S. 1645 [the AgJOBS bill] offers a further incentive to the illegals: Your family can stay, as well. Alternatively, if they are not with you, [and you are in the United States] you can bring them in, too—cutting in line ahead of others who made the mistake of abiding by, rather than ignoring, our laws.

So the system would work this way. I do not think anyone would dispute this. Someone is here illegally. They are working in agricultural work. By the way, it defines, at the beginning of this legislation, what an "employer" means in agricultural employment. And it says:

> The term "employer" means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

So you have to work for an agricultural employer, but that does not indicate to me that you have to be working in agriculture. Maybe the company has some workers who are agricultural, and 90 percent of them are not. Maybe you could work for them the way this thing is written, regardless.

But the way this system would work is if they were here illegally over a period of 18 months—if they were here just 18 months—and had worked 100 hours in agricultural employment during that 18 months, the Secretary shall make them a lawful temporary resident—required to, unless they committed a serious crime or something.

Then, over the next 6 years, if they were to work in agriculture for up to 2,060 hours—that is about 1 year's work—over 6 years in agriculture, they become a legal permanent resident. Then if you just hang along there for 5 years, you can become a citizen.

Now, I do not see where this can be supported by somebody saying they earned their citizenship. Citizenship should not be bought and paid for in labor. Why? Well, they worked for compensation, they wanted to work for compensation, this is not something we forced them to come here and do, they were paid like every other American is paid. You earn your pay for the work you perform. I do not know that you should earn additional benefits because you work. All the while, of course, the lawful H–2A workers are still required to go home when their time is up. They only receive pay for working, why should we give illegal workers more than that.

The AgJOBS amendment goes so far as to provide free legal counsel to illegal aliens who want to receive this amnesty. All Americans don't get free legal counsel. There is no notice in this bill that suggests they have to have any low-income level or have no assets to get the legal services this bill gives to illegal alien workers. It provides that the Legal Services Corporation can expend their funds and shall not be prevented from providing legal assistance directly related to an application for adjustment of status under this section.

Again, we are now giving them free legal status, free legal services, and we are allowing them to go to these groups, these farmworker organizations or employer groups, to help them with that. The AgJOBS amendment provides all that in that fashion.

Let me talk about another item in this amendment an item that restricts the rights of employers. I don't know how every State does it. I think probably a substantial number of States, like my State of Alabama, have laws that provide for employment at will; that is, unless an employee has a contract, they work for the company and they can leave the company whenever they want and the company can terminate them whenever they want. That is Alabama law. I am rather certain of that. But if you come in under this act, you get an enhanced protection over American citizens. Prohibition: No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident status except for just cause. And they set up an administrative law process, an arbitration proceeding to have all these trials. The burden of proof is on the employer to demonstrate just cause for termination, and he has the burden to prove it by a preponderance of the evidence.

Once again, we are entering into a complex legal deal here we need to avoid, providing legal rights and protections to noncitizens who have violated the law that are not available to American citizens.

Presumably, there are two farmworkers on this farm somewhere. One of them is an American citizen—in Alabama, let us say—and the boss wants to fire one of them. If he fires the temporary resident alien, he has to go through arbitration and hire a lawyer and defend himself and be sued. As a matter of fact, it goes on to say that doesn't end it. That is one additional remedy the worker can have. He can still sue the employer for any kind of fraud, abuse or harassment or any other thing that some trial lawyer may pursue. So it doesn't end it. The evidence apparently can be utilized from that trial into a next trial.

I am concerned about that. I believe it is an unnecessary litigation that is going to impact our country adversely. That is why you will see that agricultural groups are not supporting this AgJOBS bill.

What we really should do is follow the recommendations made to us over the years by immigration commissions of Congress that have been created for the specific purpose of providing advice and counsel to us on how to effect immigration reform. In 1992, 6 years after the last illegal alien agricultural worker amnesty passed in 1986 as part of the Immigration Reform and Control Act, the IRCA, the Commission on Agricultural Workers issued a report to Congress that studied the effects of the 1986 agricultural amnesty called the Special Agricultural Worker Program.

One of the first things the Commission acknowledged was the number of workers given amnesty under the bill had been severely underestimated. The Commission reported the SAW Program legalized many more farmworkers than expected:

> It appears that the number of undocumented workers who had worked in seasonal agricultural services prior to the IRCA was generally underestimated.

What else did the Commission find? Did it suggest that this solved the problem of workers in America in agricultural industry? Did it fix the problem that they tried to fix in 1986?

They say this:

> Six years after the IRCA was signed into law, the problems within the system of agricultural labor continued to exist. In most areas, an increasing number of newly arriving unauthorized workers compete for available jobs, reducing the number of workers available to all harvest workers—

That is, those who were given amnesty and those who are citizens—

> and contributing to lower annual earnings.

Did the Commission recommend we pass a second legalization program such as AgJOBS? What did they say that might help us on that? They said this:

> A worker specific and/or industry specific legalization program, as contained in the IRCA, should not be the basis of future immigration policy.

This was 6 years after we did the last one. They had a commission study it.

This is what they concluded. What do they suggest we ought to do? What did the Commission recommend? They said the only way to have structure and a stable agricultural market was to increase enforcement of our immigration laws, including employer sanctions, and reduce illegal immigration:

> Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. Government should also develop better employment eligibility and identification systems, including fraud-proof work authorization documents for all persons legally authorized to work in the United States so that employer sanctions can more effectively deter the employment of unauthorized workers.

That is what they recommended. That is what we haven't done. In fact, we are in an uproar over this rather minor Sensenbrenner language the House put on their bill that deals with national security and a way to make ID secure and other matters consistent with recommendations of the 9/11 Commission. So it appears that the Senate does not want to do that but what we want to do is continue to pass these amnesty bills. This should not be happening.

Restoring our ability and commitment to successfully enforce our immigration laws is the only long-term solution. A real solution will not reward illegal behavior by handing out amnesty to people here illegally, but instead will require effective control of our borders, active policing in the interior, and participation among all levels of law enforcement. Of course, it includes improving the laws that we have to allow, where needed, more people to come legally in a system that actually works. But to have any system at all, of course, that must be created with an enforcement mechanism that works. We have never created such a mechanism and now it is time to do so.

I introduced a bill last Congress—and will introduce, again—that would strengthen the United States' ability to enforce our immigration laws. The Homeland Security Enhancement Act would clarify for law enforcement officers of a State, county, and city that they do have authority to enforce immigration violations while carrying out their routine duties.

They don't have authority to deport or try, but they have a responsibility, in most instances, to detain people they identify as being here in violation of the law and contact Federal officials to process that individual after that. They have been told, and been confused about, what their authority is. I have written a law review article on it, aided by my assistant here, my counsel, Cindy Hayden. We researched the law and came to that conclusion.

The law provides the authority, in virtually every instance, but lawyers have confused cities and counties and police and sheriffs, and they are not participating in anything the way they would like. We are not talking about forcing them to do anything. We are trying to make sure we pass legislation that clarifies existing law and makes it clear they have the ability to serve and assist our country. It would increase the amount of information regarding deportable illegal aliens entered into the FBI National Crime Information Center database, making the information more readily available to local officials.

This is a big, big deal. In the hearing Senator CORNYN chaired yesterday, we had a person from the Department of Homeland Security who is in charge of detention and removal, and what we learned was that over 80 percent of the people who are detained, processed and found to be here illegally are released on bail while the government arranges for their deportation. It is not surprising they don't show up to be deported. Even after they are given a hearing and found to be here in violation of the law, they are consistently released on bail, and 80 percent of those don't show up to be deported. Then, we now have some 400,000 absconders. Now, Mr. President, if a Senator gets a DUI in Kansas or someplace and you don't show up for court, they put your name in the database, and if you get stopped for speeding somewhere in some other State, they will pick it up. So they are a fugitive, but their information is not being put into the NCIC.

I know police officers. I was a prosecutor for over 15 years. I asked them about this. They tell me they do not even bother to call the Federal Immigration officials if they apprehend someone that is illegally here because they won't come and get them. So they have just given up. They are prepared to help. What a great asset that would be. But, no, we have not seen fit to do that.

But more importantly, the 400,000 absconders are not in the National Crime Information Center computer. So when a State officer apprehends someone, and they have a name and they want to run it through the wanted persons database they would use for an American citizen, they run the birth date, the driver's license, or other identifying characteristics, and it tells them whether there is a warrant out for their arrest.

That is how most people are caught today who violate the law and who are fugitives. Most of them are caught in simple traffic stops. Don't tell them because they will quit speeding. But that is how we catch them—when they get in a fight somewhere and the police runs their name and there is a warrant out in Texas for them for assault or something.

We raised Cain last year about that and asked the tough questions of a number of the Department officials. They said they would try. So out of 400,000, we learned there are about 40,000 of those names they found time to put in the NCI Center computer system that is available at city, county, and police offices out in the country. That indicates to me how confused we are about how to make this system work.

I want to say this. I absolutely believe that we have one big problem on our minds; that is, we think it cannot be done. We think we cannot enforce immigration laws, that we might as well just quit. Well, under our present way of doing so, that is correct. However, if we create a more generous way for people to come here legally that is simple and understandable, and if we enhance our enforcement abilities and if we quit rewarding those who come illegally, you will begin to see the numbers change. As a matter of fact, there is a tipping point out there I am absolutely convinced exists.

If we enhance the enforcement of those who come illegally, we quit providing those who are here illegally with benefits, we increase border enforcement, and we enhance the way for people to come here legally to work, and we make that easier and will get more support from countries from which these people come, we can tip this thing. As the number that come into the country illegally goes down, and as our enforcement effort and officers are increased, you will have a tremendous change in the number of enforcement officers per illegal. That is when you make progress. That is what happened in crime.

The crime rate has been dropping for the last 20 years. As it drops, we don't fire policemen. We have gotten more policemen per crime, so they have more time to work on crime. They are doing a better job of apprehending repeat offenders and putting them in jail. The crime rate has broken. Instead of going up, as it did in the 1960s and 1970s, it has been going down for over 20 years. We can do that here. It will affirm America's commitment to the rule of law. To do that, we are going to need additional bedspace for detention, and we cannot continue to release people who have been apprehended on the street so they just disappear again. We have to require the Federal Government to receive and process people who have been apprehended by local law enforcement. We need to make sure the system provides them a fair hearing, but it also needs to be a prompt hearing. If someone is in violation of the law, the system should work rapidly and not with great expense. Those are some of the things I am concerned about in the bill I have offered. But there are many other problems of a similar nature that need to be dealt with.

We are a nation of immigrants. America openly welcomes legal immigrants and new citizens who have the character, integrity, the decency, and the work ethic that have made this country great. But they are concerned, rightly, about the politicians in Washington who talk as though they hear them when they cry out for a system that works, and we say we are working on it. What do we do? We came up with an AgJOBS bill that absolutely goes in the wrong direction. The same people who are supporting that bill, for the most part—although not Senator LARRY CRAIG—are opposing my bill, for example, that would enhance law enforcement authority for local officers, and they wonder if we have any commitment at all here to enforce the law. They have every right to do so because I will tell you, from my experience in talking with police officers in my State, nothing is being done. Until we put our minds to it, nothing will be done.

How do we go from here? What should we do? In my view, we need to pass this emergency supplemental to support our troops. We need to reject all immigration amendments on it. We need to follow President Bush's lead and have a serious debate and discussion on this issue.

We need to agree on certain principles about how it will be conducted. We are going to have a legal system that works. We are going to be humane in how we treat people who come here. We are going to consider American needs. It is not going to be an unlimited number. And we are going to create a legal system that works.

We can do that, and we should do that. A lot of work is going on toward that end right now. Senator KYL and Senator CHAMBLISS have a major bill to deal with some of these issues. Senator CORNYN, a former justice of the Texas Supreme Court, a former attorney general of Texas, is doing a real good job in managing the Immigration Subcommittee of the Judiciary Committee and is considering all these issues. Then sometime later this year, I think, we might as well get serious, bring something up and try to make some progress. Who knows, maybe even the President should appoint an independent commission of people who understand this issue—we have had commissions before—and make some specific recommendations about how we ought to proceed. That could work, in my view.

Right now the American people lack confidence in us, and they have every right to lack confidence in us because we have created a system that is flawed, it is not working. It is an abomination, really.

I want to share this information with my colleagues. Farmers who are supposed to be benefiting from this act, the agriculture workers amnesty legislation, do not want it. Maybe some farm groups in Washington or lobbyists are for it. Maybe some big agricultural entities want it. But I have in my hands an open letter from the Southeastern Farmers Coalition. It is signed by a list of organizations and individual H–2A program participants, people who utilize farm workers from out of the country who are "the overwhelming majority of H–2A program users in the country."

The list of signatories to this letter is expansive, including the North Carolina Growers Association, the Mid-Atlantic Solutions, the Georgia Peach Council, AgWorks, the Georgia Fruit and Vegetable Association, the Virginia Agricultural Growers Association, the Vidalia Onion Business Council—I am sure that is a sweet group—and the Kentucky-Tennessee Growers Association.

The letter states:

> Farmers in the Southeastern United States are opposed to Senate bill S. 1645 introduced by Ted Kennedy and Larry Craig. It is an amnesty for illegal farm-workers. It does not reform the H–2A program. Please oppose this legislation.

The text of the letter, which asks me to oppose the bill, says:

> [AgJOBS] is nothing more than a veiled amnesty. While everyone, it seems, agrees that the H–2A program desperately needs reform, this legislation does not fix the two most onerous problems with the program: the adverse effect wage rate and the overwhelming litigation brought by Legal Services groups against farmers using the H–2A program.

In fact, it explicitly provides for more such litigation. The letter goes on to say:

> The Craig-Kennedy-Berman reform package provides a private right of action provision that goes far beyond legitimate worker protections and expands Legal Services' attorneys ability to sue growers in several critical areas. These lawyers, who have harassed program users with meritless lawsuits for years, will continue to attack small family farmers under the new statute.

Supporters of Craig-Kennedy-Berman have endorsed this alleged reform believing in a misguided fashion that it will bring stability to the agricultural labor market. It will not. It will create greater instability. As illegal farm workers earn amnesty, they will abandon their farm jobs for work in other industries.

Continuing this letter:

> Many of the attached signatories have been actively involved in negotiations surrounding this legislation. The following groups have broken ranks with the American Farm Bureau.

As a matter of fact, I think the Farm Bureau has now switched sides on this bill, and they are no longer endorsing it. They are not supporting it now. They have changed their position.

They continue:

> You are likely to hear that the majority of agriculture supports this bill. The industry, in fact, is split.

But, in fact, the trend has been the other way against it.

They go on:

> History has demonstrated that the amnesty granted under the Immigration Reform and Control Act of 1986 was a dismal failure for agriculture employers. Farm workers abandoned agricultural employment shortly after gaining amnesty and secured jobs in other industries.

I also received a letter last week from two growers in Alabama who favor improving the ability to utilize foreign workers. They strongly support that. But still they asked me to oppose the AgJOBS legislation.

Tom Bentley of Bentley Farms, which grows, packs, and ships peaches from Thorsby, AL, and Henry Williams, head of the Alabama Growers Association, write:

> In the coming days, you may be asked to vote on legislation offered by Senator Larry Craig and Senator Edward Kennedy that purports to significantly reform the present H–2A agricultural worker program by providing an earned amnesty to hundreds of thousands of undocumented farm workers now present in the United States.
>
> Despite claims that this bill is bipartisan and represents the interests of all agricultural employers, growers in the Southeastern United States do not support the passage of this legislation.
>
> This bill is not H–2A reform as touted, it is simply an amnesty bill for a selected group of workers.

If farmers who make up a majority of H–2A employers are opposed to AgJOBS because it is amnesty for illegal workers and it does not reform the H–2A program, why should we pass it? Who supports this amendment? I believe the supporters who are advocating it are really not in touch with the desires of the American people and the desires of the farmers they claim to represent. In fact, I am not sure the authors understand just how far this bill goes and just how many serious problems exist within it.

I do not think that I am out of touch with the American people. I certainly believe the principles I have advocated are consistent with the rule of law that I cherish in our country, and I am troubled to see it eroded in this fashion. I believe reform is necessary. I believe we can achieve reform. I believe we need to spend some time on it. I do not think it can be done piecemeal. I originally thought it had to be done comprehensively. Then somebody convinced me we could break it up. But the more I look at it, the more I see the nature of it. Why would we want to spend all this time on one group of workers, agricultural workers? There are other workers who are facing the same challenge. Why not fix this problem in a generous way for foreign workers to come and work, a generous way to achieve citizenship, a focus on the real needs of America, not just laboring immigrants. We need people who have Ph.D.s, brain power, scientific people who may cure cancer one day. We need more of those kinds of people, too.

We need to look at it comprehensively. Draw up a system that works. But one that allows us to honor the heritage we have been given as Americans, the heritage that draws so many people—our heritage of the rule of law—is being eroded terribly today.

I thank the Presiding Officer for the time, and I yield the floor.

Mr. REID. Mr. President, I have an amendment that is pending. The distinguished majority leader will make the decision as to what votes are going to occur on Monday evening. I want to get my debate out of the way, hoping this amendment, which is probably germane postcloture—maybe we could do it at that time and get it over with.

Over this past recess I had the good fortune to travel to the Middle East. I visited Nevada troops in Kuwait before they went to Iraq. It was a great trip for me, one I will never forget. But I saw firsthand what has been accomplished in the face of very difficult and dangerous conditions in Iraq. I was also able to see that every American should be very proud of the unheralded service these courageous service men and women perform each day.

The 1864th Transportation Unit from Nevada hauls the goods from Kuwait to Iraq. This is where we hear about some vehicles needing more armor. These vehicles need more armor, but when they get an order they get in the truck and off they go, men and women.

I also received briefings on the status of our efforts to secure and rebuild Iraq. During a helicopter flight over Baghdad, it was very clear that big city one time was in shambles. The process of rebuilding Iraq has started, thanks to generous assistance of the U.S. taxpayers, but a lot of it doesn't show.

The amendment I offer today seeks to honor the sacrifices of our troops and taxpayers on behalf of the Iraqi people and ensures that other nations of the world keep their commitment in this worthwhile effort.

I want to spend a few minutes discussing the details of what we and other nations around the world are doing to secure and rebuild Iraq.

Presently, there are more than 150,000 Coalition troops in Iraq. More than 130,000 of them are Americans, such as the 1864th I saw in Kuwait that drives on a continual basis into the middle of Iraq.

Since the beginning of this war, more than half a million U.S. military personnel have served in Iraq. The story is remarkable. It is remarkable because it is similar to the international effort to rebuild Iraq.

While this Nation has appropriated more than $20 billion in direct assistance for Iraqi reconstruction, the rest of the world combined has produced about half of that. When I say "produced," it is only in talk. Even more startling is the fact that the vast majority of the commitments made by these other countries have been in the form of loans and credits rather than hard cash such as we have provided. In short, this Nation has done more than its fair share to secure and rebuild Iraq.

As I noted at the outset, it was clear from my recent trip that a great deal more needs to be done in construction, and that is an understatement. We are not as far along as the administration promised we would be at this point of the conflict; and the cost to the U.S. taxpayers of our country for operations in Iraq has far exceeded the estimates the administration provided us prior to the start of this war.

The failure of the international community to keep its commitment is one reason why reconstruction developments in Iraq have not proceeded as they should. According to the State Department's sixth quarterly report, the international community has actually delivered only $1 billion of the $13.5 billion promised.

As for the cost to the U.S. taxpayers of the Iraq reconstruction, administration officials declared that Iraq itself could cover a substantial portion of these costs. Shortly after the war started, Deputy Defense Secretary Wolfowitz told the House Budget Committee, "There's lots of money to pay for this. It doesn't have to be U.S. taxpayer money. We are dealing with a country that can easily finance its own reconstruction, and relatively soon." U.S. AID Director Andrew Natsios was even more explicit in his statement nearly a month later:

> The rest of the rebuilding of Iraq will be done by other countries who have already made pledges, Britain, Germany, Norway, Japan, Canada, and Iraqi oil revenues, eventually in several years, when it's up and running and there's a new government that's been democratically elected, will finish the job with their own revenues. They're going to get in $20 billion a year in oil revenues. But the American part of this will be $1.7 billion. We have no plans for any further-on funding for this.

I think it's fair for the American people to ask why the Iraq reconstruction has not proceeded as promised by this administration? Why, when the United States military and our taxpayers have done so much, the international community has done so little, failing to keep even its relatively modest reconstruction commitment? Any why have the administration's statements that the people of Iraq and other nations would cover the bulk of that country's reconstruction costs proven to be so wrong?

I think it is time we restored some equity, fairness, and shared sacrifice with other nations on the reconstruction efforts.

I haven't talked about the deaths of our soldiers, the sacrifices they have made being wounded. I am talking today only about money. The commitment other countries have made has been very small in actual personnel, very large in talk and very short in dollars, and our taxpayers have more than lived up to their commitment to the people of Iraq. It's long past time that the rest of the world do the same. That's what my amendment seeks to do.

My amendment is quite straightforward. This amendment does not affect roughly $17 billion of the $20 billion that Congress has appropriated for Iraq reconstruction assistance, the administration is free to do with that amount as they see fit and when they see fit.

And it gives the President two clear options that he could take to gain access to the remaining $3 billion.

First, the President can easily gain unfettered access to the remaining funds by merely certifying that other nations who have made financial commitments to help Iraq at the Madrid Donor's Conference and in other donor meetings since 2003 have fulfilled those commitments.

Second, if the President is unable to make that certification, this amendment provides him with yet another way to gain access to and spend the remaining funds we have appropriated, he can simply certify to the Congress that: No. 1, his representatives have made a good faith effort to persuade other nations to follow through on their previous financial commitments to Iraq; No. 2, the sale of Iraqi oil or other Iraqi sources of revenue should not be used to reimburse the United States Government for our reconstruction assistance; and No. 3, despite the failure of these other nations to live up to their financial promises and the inability of Iraq to reimburse us for a significant portion of our reconstruction costs, continued American spending on Iraqi reconstruction is in the national security interests of the United States.

These are very simple, clear and straightforward certifications. The amendment does not require others to pay for U.S. military operations, nor does it seek to shut down the reconstruction process.

I recall what the military commanders on the ground have said about the importance of delivering reconstruction aid as a means of putting a dent into the insurgency. As the former Commander of the First Calvary in Baghdad often talked about, where reconstruction efforts were successful and where the citizens had power, clean water and basic services, the attacks against American forces went down.

Let us be clear. I am not arguing against continuing to help the Iraqi people with the reconstruction of their country. I am not in favor of putting insurmountable hurdles in front of the President as he seeks to carry out these efforts.

Rather, I am simply saying that in light of all that America's troops and taxpayers have done for the people of Iraq and the world, it seems only reasonable to expect that other nations will live up to their commitments and that this administration would want to hold them accountable.

We should be looking for ways to strengthen the President's negotiating hand when dealing with these other countries, and that's what this amendment does.

Passing this amendment gives the President greater leverage in getting other nations to follow through on their previous commitments. The President can cite this Congressional action, highlight the fact that the Congress is closely monitoring the international contributions coming into Iraq, and let them know that there is growing concern in the Congress about their inability to live up to their past promises.

For those who argue that passing this amendment will slow down the reconstruction, nothing could be further from the truth. As I've already stated, the State Department and AID cannot spend the money they already have.

Through six quarterly reports, the U.S. has spent only $4.209 billion in Iraq, an average of $701.5 million per quarter. At this rate, it will take over 5 years for all the money to be spent.

In other words, at the current pace, the Bush administration would be over before we would spend their reconstruction money that we have already provided last year.

If this amendment passes, the reconstruction money will flow unaffected for many years, perhaps through the end of President Bush's term. At that point, he or a future President merely needs to issue a certification to ensure the continued flow of the money.

Iraq needs to become the world's concern, not strictly our concern. We owe that to our soldiers and to the American taxpayers who have been both patient and generous and have borne an unusually high burden. If you want to support the troops, our taxpayers, and give the administration the leverage to get the rest of the world to live up to their commitments, this amendment should be supported.

HIGHWAYS

Briefly, we need to a highway bill. We have received all kinds of letters from different entities saying we must do a highway bill. According to a report by the American Association of State Highway and Transportation officials, the uncertainty caused by the short-term extensions to the surface transportation program has cost billions of dollars in project delays and thousand and thousands of jobs. This is an alarm.

I have letters from over 20 groups ranging from state and local governments to major trade associations, all urging immediate consideration of this important bill. When we finish the supplemental, I urge the majority leader to move forward on the highway bill.

Yesterday, Senators BAUCUS, INOUYE, JEFFORDS, SARBANES, and I sent a letter to the majority leader requesting that he bring the surface transportation reauthorization bill to the floor for consideration prior to the completion of this April work period. I hope we can do that. It is so important.

Senator BAUCUS and Senator BOND, the people leading that subcommittee, have done a wonderful job. We have a bill ready to go. I hope we can do that soon.

I ask unanimous consent a letter from 18 trade associations be printed in the RECORD in addition to a letter from virtually all State and local government organizations, the National Governors Association, and the letter I previously mentioned from the Democratic leaders.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 13, 2005.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. HARRY REID,
Democratic Leader, U.S. Senate,
Washington, DC.

DEAR SENATORS FRIST and REID: With the 109th Congress well underway, we urge you to schedule Senate floor consideration of legislation to reauthorize the federal highway and transit programs for this month. The Transportation Equity Act for the 21st Century (TEA–21) expired September 30, 2003, and the programs continue to operate under a series of extensions. The Senate has repeatedly expressed its will about the importance of addressing the nation's transportation challenges and there is no substantive reason to delay consideration of this bill.

TEA–21 reauthorization may be one of the few measures the Senate will consider this year that will pass with overwhelming bipartisan support. This board support, combined with the May 31 expiration of the latest short-term extension of the highway and transit program, presents a compelling case for Senate action so that conference negotiations may begin with the House of Representatives, which approved its multi-year reauthorization bill March 10.

The nation's surface transportation infrastructure needs and safety concerns continue to grow, yet lack of a long-term funding commitment by the Federal government is impeding states' ability to plan and let transportation improvement projects that will help create American jobs, ease pollution creating traffic congestion and address highway safety. With substantial groundwork completed on TEA–21 reauthorization over the last two years, the authorizing committees with jurisdiction over the legislation are well prepared for Senate consideration of a reauthorization bill.

We urge you to schedule TEA–21 reauthorization legislation for Senate floor action as soon as possible and allow the Senate to again work its will on this critical matter.

Sincerely,

American Road & Transportation Builders Association, Associated General Contractors of America, U.S. Chamber of Commerce, American Association of State Highway & Transportation Officials, Associated Equipment Distributors, Association of Equipment Manufacturers, International Union of Operating Engineers, National Ready Mixed Concrete Association, American Public Transportation Association, American Concrete Pipe Association, American Concrete Pavement Association, National Utility Contractors Association, Portland Cement Association, National Asphalt Pavement Association, United Brotherhood of Carpenters and Joiners of America, American Society of Civil Engineers, National Stone, Sand & Gravel Association, Laborers-Employers Cooperation and Education Trust.

APRIL 12, 2005.

Hon. BILL FRIST,
Office of the Senate Majority Leader, Capitol Building, Washington, DC.

DEAR MAJORITY LEADER FRIST: On behalf of the nation's state and local governments, we want to take this opportunity to urge you to schedule consideration of SAFETEA, the Senate version of the reauthorization of the highway and transit programs, at the earliest possible date. This legislation needs to be passed by the Senate and sent to a conference committee as soon as possible. As you know, TEA–21 expired on September 30, 2003 and the current extension expires on May 31, 2005. In order to plan for, maintain, and build our nation's transportation infrastructure, state and local governments need a multi-year reauthorization passed in the very near term.

Thank you for your consideration to this matter.

Respectfully,

RAYMOND C. SCHEPPACH,
Executive Director, National Governors' Association.
WILLIAM T. POUND,
Executive Director, National Conference of State Legislatures.
DANIEL M. SPRAGUE,
Executive Director, Council of State Government.
LARRY E. NAAKE,
Executive Director, National Association of Counties.
J. THOMAS COCHRAN,
Executive Director, U.S. Conference of Mayors.
DONALD J. BORUT,
Executive Director, National League of Cities.
ROBERT O'NEIL,
Executive Director, International City/County Management Association.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, April 14, 2005.
Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. HARRY REID,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST AND SENATOR REID: On behalf of the nation's governors, we write to urge the Senate to complete action on the surface transportation reauthorization bill and begin conference before the current extension expires on May 31, 2005. Congress' series of successive short-term extensions of TEA–21 have burdened State transportation planning and programming, and can only be addressed by passing a long-term bill.

We encourage the Senate to consider and expeditiously complete its work on S. 732 so that the Senate and House bills may be conferenced and a law enacted.

Additional information and specifics regarding the governors' position on surface transportation reauthorization can be found in the attached NGA Policy which was revised and reaffirmed on March 1, 2005 at the NGA Winter Meeting.

Sincerely.

MARK R. WARNER,
Governor of Virginia.
MIKE HUCKABEE,
Governor of Arkansas.

U.S. SENATE,
Washington, DC, April 14, 2005.
Hon. BILL FRIST,
Majority Leader,
U.S. Senate.

DEAR MAJORITY LEADER: We write to request floor consideration of the surface transportation reauthorization bill prior to the completion of this April work period.

As you know, a well-maintained surface transportation system is critical to our nation's economy. Long-term transportation planning is essential to the continued maintenance and improvement of the system. Unfortunately, for the past 18 months, the Federal surface transportation program has operated under a series of short-term extensions denying states the ability to make and to execute long-term transportation plans.

Because of this continuing uncertainty, many states have had to slow or to stop entirely progress on many important transportation projects. Further extensions will only exacerbate these delays costing billions of dollars in project delays and thousands of jobs.

The current program extension expires on May 31, 2005. In order to complete work on this important legislation before this deadline, the full Senate must consider the measure prior to the end of the April work period. Recognizing this urgency, each of the committees of jurisdiction will be ready for Senate floor debate in the near future.

We are ready and committed to moving this process forward in the bipartisan spirit this bill has traditionally enjoyed. We look forward to an open and vigorous debate of the surface transportation reauthorization before the end of this April work period.

Sincerely,

HARRY REID,
MAX BAUCUS,
DANIEL INOUYE,
JIM JEFFORDS,
PAUL SARBANES.

As we all know, the current Federal surface transportation program expired 18 months ago, and the program has operated under a series of short term extensions since then, with the latest set to expire on May 31 of this year. While these extensions have helped the Federal program limp along, they have denied States the ability to make long-term transportation planning decisions essential to the continued maintenance and improvement of the system. In addition, the lack of a permanent reauthorization bill has caused many States to slow or stop entirely progress on many important transportation projects.

According to a report by the American Association of State Highway and Transportation Officials, the uncertainty caused by the short term extensions has cost billions of dollars in project delays and thousands of jobs.

Mr. President, I stand ready and committed to moving this process forward in the bipartisan spirit that this bill has always enjoyed. I urge the majority leader to bring the surface transportation reauthorization bill up for floor consideration before the end of the April work period for the good of the country and the workers that so desperately depend upon its future.

Mr. KERRY. Mr. President, earlier this week I was proud to submit into the RECORD several e-mails from the more than 2,000 I had received from military families around the country. These e-mails detailed the proud service that America's military families make every day. The e-mails are full of their pride and understanding of service. And I know my colleagues join me in expressing our thanks to them for all they do.

I submitted these e-mails because they put a human face on the sacrifices we speak about so often. I have come to learn that one of the stories relayed to me about a Home Depot employee does not reflect Home Depot's policies. In fact, Home Depot is a strong supporter of its mobilized employees. The company was recognized last year by the Department of Defense for its support to service members, including a program to give hiring preferences to injured service members who want to work for the company. Its "Project Home Front" contributed tools and volunteers to help military spouses make home repairs while their loved ones were deployed. And, as a model for others to emulate, Home Depot makes up any salary lost by mobilized employees. I am happy to set the record straight on the contributions Home Depot makes to the brave Americans who work for it and serve in the National Guard and Reserves. I regret the unfortunate oversight and thank Home Depot for their support of America's military.

The stories we received are snapshots of what service means to families across this great land. America's military families are partners in the defense of this country and we have to listen to them. Taking care of their needs is not sentimentalism it's a practical investment in our national security. Given the millions spent to recruit and train the men and women of the United States military, our modest investment in military families is a smart way to retain the force.

I thank my colleagues for their continued interest and support on these issues, and I thank Home Depot for its support of America's heroes.

MORNING BUSINESS

Mr. McCONNELL. I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IBRAHIM PARLAK

Mr. LEVIN. Mr. President: I would like to bring my colleagues' attention to a situation facing one of my constituents, Ibrahim Parlak, who, up until a year ago, was living the American dream. After moving to this country in 1991, through hard work and dedication, he worked his way up from being a busboy to owning his own restaurant, Café; Gulistan, in Harbert, MI. Mr. Parlak has spent over a decade of hard, honest work and has led an upstanding life with his family and community. However, now, he may be deported.

Ibrahim Parlak, a Kurd born in southern Turkey, came to the United States seeking asylum in 1991. In his asylum application, Mr. Parlak disclosed that he had been associated with the Kurdistan Worker's Party (PKK) in the 1980s, that he was involved in an armed skirmish at the Turkish border in 1988, and that he had been imprisoned in Turkey as a result of these facts. In 1992, Mr. Parlak was granted asylum due to the persecution and torture that he suffered at the hands of the Turkish government. The Immigration and Naturalization Service believed that Mr. Parlak had a credible fear of returning to Turkey.

In 1993, Mr. Parlak wanted to take the next step and become a United States citizen. However, when he filled out his application to become a lawful permanent resident, he did not check a box stating that he had been "arrested, cited, charged, indicted, fined or imprisoned for violating any law or ordinance, excluding traffic violations," in or outside of the United States. Mr. Parlak has stated that due to his limited English skills, he misunderstood the form, and believed that the question related only to his activities since he entered the United States. Again, Mr. Parlak had already given the Government the information surrounding his 1988 arrest and conviction in his earlier asylum application. He had also provided documents at the time of his asylum, in Turkish, that described the Turkish government's view of his association with the PKK.

Last July, the Department of Homeland Security (DHS) detained Mr. Parlak and DHS is now moving to deport Mr. Parlak, claiming a deliberate misrepresentation of facts. Further, the Department of Homeland Security states that Mr. Parlak has been convicted of an aggravated felony after admission to the United States because, in 2004, the now-disbanded Turkish Security Court reopened his case from 1990 and re-sentenced him for the crime of Kurdish separatism. The "new" sentence imposed by the Security Court required less jail time than Mr. Parlak had already served, and the Security Court closed its file on Mr. Parlak. Turkey does not seek his extradition and has, in fact, no interest in his return and will not issue a special passport for that purpose.

Despite his strong ties to his community and the lack of evidence that he is a flight risk, Mr. Parlak continues to be held in prison without bond. The Department of Homeland Security says that Mr. Parlak is a "terrorist," and therefore cannot be released. This "terrorist" designation is based solely on Mr. Parlak's association with the PKK in the 1980s. However, not only did Mr. Parlak outline his involvement with the PKK in his asylum application, at the time Mr. Parlak was associated with the PKK, it was not designated as a terrorist organization. The State Department did not add the PKK to its list of terrorist organizations until 1996.

I am concerned with the fact that the government continues to detain and is attempting to deport this model immigrant over activities he disclosed in his application for asylum, an application which, again, was granted. While it may be disputed why the box was not checked accurately, it is incongruous to conclude that he was intentionally hiding those facts from the Department of Justice in 1993, when he detailed them explicitly to the Department of Justice in 1991.

Mr. President, Mr. Parlak is a good man and should be given the chance to remain in the United States and continue the life that he has built for his community, his daughter and himself all these years. Our history is built upon the courage and hard work of immigrants who opposed brutal oppression and fled to our country seeking a new life. Ibrahim Parlak is one of them.

DRU'S LAW

Mr. DORGAN. I rise today to describe S. 792, a bipartisan piece of legislation called "Dru's Law," which I introduced in the Senate yesterday.

This bill seeks to fill some gaping holes in our criminal justice system, made tragically evident by a recent tragedy in North Dakota.

In November 2003, Dru Sjodin, a student at the University of North Dakota, was abducted in the parking lot of a Grand Forks shopping mall. She was found in a ditch in Minnesota some 6 months later.

A suspect was eventually arrested and is awaiting trial. There is abundant evidence that he was responsible for Dru's abduction. The alleged assailant, Alfonso Rodriguez, Jr., had been released from prison only 6 months earlier, having served a 23-year sentence for rape in Minnesota. And what's more, Minnesota authorities had known that he was at high risk of committing another sexual assault if released.

The Minnesota Department of Corrections had rated Rodriguez as a "type 3" offender—meaning that he was at the highest risk for reoffending. In an evaluation conducted in January 2003, a prison psychiatrist wrote that Rodriguez had demonstrated "a willingness to use substantial force, including the use of a weapon, in order to gain compliance from his victims."

Despite this determination, the Minnesota Department of Corrections released Rodriguez in May 2003, and essentially washed its hands of the case. Since Rodriguez had served the full term of his sentence, the Department of Corrections imposed no further supervision on him at all.

The Minnesota Department of Corrections could have recommended that the State Attorney General seek what is known as a "civil commitment." Under this procedure, a State court would have required Rodriguez to be confined as long as he posed a sufficient threat to the public, even if he had served his original sentence. But the State Attorney General was never notified that Rodriguez was getting out, and there was no chance for the Minnesota courts to consider the case.

So upon his release, Mr. Rodriguez went to live in Crookston, MN, completely unsupervised, a short distance from the Grand Forks shopping mall where Dru Sjodin was abducted.

To make matters worse, while Mr. Rodriguez registered as a sex offender in Minnesota, there was no indication of his release for nearby North Dakota communities. I suspect that most Americans would be surprised to learn that there is currently no national sex offender registry available to the public. So sex offender registries currently stop at State lines. Each State has its own sex offender registry, which tracks only its own residents.

For all intents and purposes, Rodriguez was free to prey on nearby communities in North Dakota, without fear of recognition.

This situation is simply unacceptable. We must do better. A recent study found that 72 percent of "highest risk" sexual offenders reoffend within 6 years of being released. And the Bureau of Justice Statistics has determined that sex offenders released from prison are over ten times more likely to be arrested for a sexual crime than individuals who have no record of sexual assault. We cannot just release such individuals with no supervision whatsoever, and let them prey upon an unsuspecting public.

Today, I am reintroducing legislation that will hopefully help to prevent such breakdowns in our criminal justice system, and that will give our citizens the tools to better protect themselves from sexual offenders.

This bill is cosponsored by Senator SPECTER, the new chairman of the Senate Judiciary Committee. It also has a growing list of bipartisan cosponsors, which currently includes Senators CONRAD, DAYTON, COLEMAN, LUGAR, JOHNSON, and DURBIN.

The bill does the following three things:

First, it requires the Justice Department to create a national sex offender database accessible to the public through the Internet—with data drawn from the FBI's existing National Sex Offender Registry. This public website would allow users to specify a search radius across State lines, providing much more complete information on nearby sex offenders.

Second, it requires State prisons to notify States attorneys whenever "high risk" offenders are about to be released, so that States attorneys can consider petitioning the courts for continued confinement of the offender. The "civil commitment" option is available under the law in many States, if an individual is deemed a continuing threat to the public safety. In the Dru Sjodin case, prison officials did not alert the States attorney of Rodriguez' impending release. If they had done so, this tragedy might have been avoided.

Third, it requires states to monitor "high-risk" offenders who are released after serving their full sentence—and are otherwise not subject to probation or other supervision—for a period of no less than 1 year.

The cost of these steps would be shared by the Federal Government and the States. The Federal Government would bear the cost of maintaining the national sex offender registry, and the States would bear the cost of supervising high risk offenders upon their release from prison.

To ensure compliance with these measures, the legislation would reduce Federal funding for prison construction by 25 percent for those States that did not comply, and would reallocate such funds to States that do comply with those provisions. This will be the "stick" that some States may need to ensure that they comply with these important protections.

I should note that this identical legislation was passed in the Senate toward the conclusion of the 108th Congress. It passed by unanimous consent, with the support of Senator HATCH, who was then the Chairman of the Judiciary Committee, and also with the support of Senator LEAHY, who was—and remains—the ranking member of the committee.

Regrettably, the House of Representatives did not act on Dru's Law before adjourning in the last Congress, and so we must start the legislative process on this bill again in the 109th Congress. But I am committed to getting this done, and I expect that the House will pass Dru's Law in this Congress.

Our thoughts and prayers go to Dru Sjodin's family. I cannot guarantee that that passage of the legislation we are introducing today will prevent such tragedies from ever occurring again. But I believe that it will be a significant step toward making our neighborhoods safer for our loved ones.

In recent weeks, we have had some very sad reminders of the need for such legislation. In February, 9-year-old Jessica Lunsford was abducted and murdered in Florida by a previously convicted sexual offender. The offender fled across State lines to Georgia, where he was apprehended. He has now confessed to this brutal crime. Had he not been arrested, he might well have offended again. This was, again, a reminder that while sex offender registries currently stop at State lines, sex offenders do not.

Mark Lunsford, Jessica's father, has written in strong support of this bill.

I look forward to working with my colleagues, on a bipartisan basis, to secure passage of this bill.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dru Sjodin National Sex Offender Public Database Act of 2005" or "Dru's Law".

SEC. 2. DEFINITION.

In this Act:

(1) CRIMINAL OFFENSE AGAINST A VICTIM WHO IS A MINOR.—The term "criminal offense against a victim who is a minor" has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(2) MINIMALLY SUFFICIENT SEXUAL OFFENDER REGISTRATION PROGRAM.—The term "minimally sufficient sexual offender registration program" has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

(3) SEXUALLY VIOLENT OFFENSE.—The term "sexually violent offense" has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(4) SEXUALLY VIOLENT PREDATOR.—The term "sexually violent predator" has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

SEC. 3. AVAILABILITY OF THE NSOR DATABASE TO THE PUBLIC.

(a) IN GENERAL.—The Attorney General shall—

(1) make publicly available in a registry (in this Act referred to as the "public registry") from information contained in the National Sex Offender Registry, via the Internet, all information described in subsection (b); and

(2) allow for users of the public registry to determine which registered sex offenders are currently residing within a radius, as specified by the user of the public registry, of the location indicated by the user of the public registry.

(b) INFORMATION AVAILABLE IN PUBLIC REGISTRY.—With respect to any person convicted of a criminal offense against a victim who is a minor or a sexually violent offense, or any sexually violent predator, required to register with a minimally sufficient sexual offender registration program within a State, including a program established under section 170101 of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(b)), the public registry shall provide, to the extent available in the National Sex Offender Registry—

(1) the name and any known aliases of the person;

(2) the date of birth of the person;

(3) the current address of the person and any subsequent changes of that address;

(4) a physical description and current photograph of the person;

(5) the nature of and date of commission of the offense by the person;

(6) the date on which the person is released from prison, or placed on parole, supervised release, or probation; and

(7) any other information the Attorney General considers appropriate.

SEC. 4. RELEASE OF HIGH RISK INMATES.

(a) CIVIL COMMITMENT PROCEEDINGS.—

(1) IN GENERAL.—Any State that provides for a civil commitment proceeding, or any equivalent proceeding, shall issue timely notice to the attorney general of that State of the impending release of any person incarcerated by the State who—

(A) is a sexually violent predator; or

(B) has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(2) REVIEW.—Upon receiving notice under paragraph (1), the State attorney general shall consider whether or not to institute a civil commitment proceeding, or any equivalent proceeding required under State law.

(b) MONITORING OF RELEASED PERSONS.—

(1) IN GENERAL.—Each State shall intensively monitor, for not less than 1 year, any person described under paragraph (2) who—

(A) has been unconditionally released from incarceration by the State; and

(B) has not been civilly committed pursuant to a civil commitment proceeding, or any equivalent proceeding under State law.

(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) any sexually violent predator; or

(B) any person who has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(c) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have not more than 3 years from the date of enactment of this Act in which to implement the requirements of this section.

(2) INELIGIBILITY FOR FUNDS.—A State that fails to implement the requirements of this section, shall not receive 25 percent of the funds that would otherwise be allocated to the State under section 20106(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706(b)).

(3) REALLOCATION OF FUNDS.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

HONORING OUR ARMED FORCES

SERGEANT JAMES SHAWN LEE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Mount Vernon. Sergeant Lee, 26 years old, died on April 6 in a military helicopter crash near Ghazni city, 80 miles southwest of Kabul. With his entire life before him, Jimmy Shawn risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A 1997 graduate of Mount Vernon High School, Jimmy Shawn had served in the Marines for 8 years. Friends and family describe him as a man who grew up longing to serve God and country. Jimmy was a devout Christian who aspired to travel the world as a missionary. His half-sister, Destiny Dowden, recounted that Jimmy Shawn was "the most honest, loving, giving and fun-loving person I ever met." His mother shared her pride in Jimmy Shawn's accomplishments, calling him "our family's hero."

Jimmy Shawn was killed while serving his country in Operation Enduring Freedom. This brave young soldier leaves behind his mother, Becky Blanchard and his half-sister, Destiny Dowden.

Today, I join Jimmy Shawn's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Jimmy Shawn, a memory that will burn brightly during these continuing days of conflict and grief.

Jimmy Shawn was known for his deep faith, his dedication to his family and his love of country. Today and always, Jimmy Shawn will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Jimmy Shawn's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Jimmy Shawn's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Sergeant James Shawn Lee in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes. I hope that families like Jimmy Shawn's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Jimmy Shawn.

PROTECTING HONEST TAXPAYERS

Mr. LEVIN. Mr. President, today when so many Americans have to dig deep to pay the taxes owed to Uncle Sam, it is particularly appropriate that we focus on the hundreds of billions of dollars the U.S. Treasury is shortchanged each year by those who abuse the tax system. Because it's not just the Treasury that is shortchanged; it's honest taxpayers throughout this country who end up picking up the tab.

Tax cheats are an insult to the men and women who serve in our military, the children who attend our schools, and the millions who rely on Social Security. Tax cheats make it harder to maintain our highways, protect our borders, advance medical research, and inspect our food. Not only do they drain money from the Treasury, they help deepen the deficit ditch that threatens the economic well-being of our children and grandchildren. They also shift a huge burden onto the backs of the honest taxpayers in this country.

It is also particularly appropriate to focus on the need to crack down on tax cheats during this time of year when Congressional appropriators decide how to direct the Nation's resources. Just last month, the IRS updated its estimate of the Nation's "tax gap"—the difference between the amount of taxes owed by taxpayers and the amount collected. The total tax gap in 2001 is now estimated to have been between $312 billion and $353 billion, and some experts believe it's even higher. $350 billion is more than the government spent on all of Medicare last year. It is three-quarters of the size of the Federal deficit.

In fact, the tax gap is so huge that each individual U.S. taxpayer is now forced to pay more than $2,000 in taxes annually to make up for the taxpayers cheating Uncle Sam. The plain truth is that tax evaders are hurting honest Americans—not only by shrinking available resources for essential government services, but also by literally sticking honest Americans with the tax bill they've dodged.

One of the greatest dodges is abusive tax shelters. For more than 2 years, as ranking member of the U.S. Permanent Subcommittee on Investigations, I've been investigating the abusive tax shelters being developed and sold by professional firms such as accounting firms, law firms and banks. Our investigation found tax shelter promoters knowingly selling dubious tax shelters to hundreds of U.S. taxpayers, in part, because they knew the IRS lacked the resources to stop them.

One of the tax shelters examined by the subcommittee, called "BLIPS," was sold to people facing large tax bills by accounting giant KPMG. The IRS is now tracking down the hundreds of individuals who bought BLIPS or a similar tax dodge. This abusive tax shelter was included in the $3.2 billion settlement announced by the IRS just last month. This successful settlement shows how huge the tax shelter problem is, and how much can be done when the IRS enforces the law. It also shows how critical it is for Congress to provide the IRS with adequate enforcement dollars to crack down on abusive tax shelters, the promoters who push them, and the taxpayers who evade their tax obligations.

The IRS also needs significant resources to track tax dodgers who hide their income in tax havens. An estimated 1 to 2 million individuals dodge U.S. taxes by depositing funds in offshore bank accounts in tax havens with secrecy laws that impede IRS review. A recent study found that, in 2003, U.S. multinational corporations shifted $75 billion in domestic profits to tax havens, leading to an estimated tax revenue loss of $10 to $20 billion. In addition, the Government Accountability Office has found that 59 of the top 100 Federal contractors owned tax haven subsidiaries, raising tax questions that the IRS simply doesn't have the resources to unravel. U.S. tax dollars hidden in a tax haven leaves more honest taxpayers to make up the difference.

Despite these and other growing tax shelter and tax haven abuses, the resources made available to the IRS for tax enforcement have been reduced over the past decade. Since fiscal year 1996, for example, the number of IRS enforcement personnel has declined by 20 percent. The IRS audit rate for businesses has dropped to just two audits for every 1,000 businesses in 2003, a decline of 62 percent in 6 years. In addition to fewer audits, there have been fewer penalties, fewer tax evasion prosecutions, and virtually no effort to prosecute corporate tax crimes. Corporations used to pay 35 percent of our nation's tax bill, but now they pay less than 10 percent. In a 2004 study that Senator DORGAN and I requested, the Government Accountability Office found that 94 percent of corporations who filed income tax returns with the IRS from 1996 to 2000 paid taxes of less than 5 percent of their income, and 60 percent didn't pay any Federal corporate income tax at all.

Last year, the IRS obtained sufficient funds for a slight increase in its enforcement efforts. The result was a $43.1 billion increase in enforcement revenue a jump of 15 percent over the previous year. The lesson here, which is consistent with years of data, is that a relatively small increase in tax enforcement resources pays for itself many times over by increasing the amount of revenue collected. In fact, for every dollar invested in IRS' budget, the service yields more than $4 dollars in enforcement revenue. Beyond the additional revenues collected, increased IRS enforcement deters those who might otherwise have dodged their tax obligations and reassures honest taxpayers that compliance with the law is not a chump's game. I can't think of many better investments to build respect for the law and respect for the honest Americans who play by the rules and meet their tax obligations.

President Bush has apparently come around to a similar conclusion. In a budget otherwise full of cutbacks, President Bush has advocated allocating $6.9 billion to tax enforcement efforts in FY 2006, with an emphasis on high-income individuals and corporations. This reflects an increase of nearly 8 percent over last year's budget. Congress should support this request and provide the funds needed to stop tax evasion and ensure tax fairness. Otherwise honest taxpayers will continue to shoulder more and more of the tax burden left by abusive tax shelters and tax haven gamesmanship. It is time to take action against the tax cheats who not only undermine the integrity of the Federal tax system, but also hike the tax bills for honest taxpayers.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Health, Education, Labor, and Pensions.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 1134) "To amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1745. A communication from the Acting Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to contractual offset agreements, memoranda of understanding, and waivers for foreign-produced goods; to the Committee on Appropriations.

EC–1746. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report entitled "Legislative Recommendations 2005"; to the Committee on Rules and Administration.

EC–1747. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Extension of Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans" (DFARS Case 2004-D029) received on April 13, 2005; to the Committee on Armed Services.

EC–1748. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Contractor Performance of Acquisition Functions Closely Associated with Inherently Governmental Functions" (DFARS Case 2004-D021) received on April 13, 2005; to the Committee on Armed Services.

EC–1749. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Contractor Performance of Security-Guard Functions" (DFARS Case 2004-D032) received on April 13, 2005; to the Committee on Armed Services.

EC–1750. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR part 542: Syrian Sanctions Regulations" received on April 11, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1751. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Administrative Collection of Civil Penalties in the Iranian Assets Control Regulations, the Libyan Sanctions Regulations, and the Iraqi Sanctions Regulations" received on April 11, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1752. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Commission Guidance Regarding Prohibited Conduct in Connection with IPO Allocations" received on April 11, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1753. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report entitled "Plan Colombia/Andean Ridge Counterdrug Initiative Semi-Annual Obligation Report, 3rd and 4th Quarters Fiscal Year 2004"; to the Committee on the Judiciary.

EC–1754. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's 2004 fiscal year report on the Uniformed Services Employment and Reemployment Rights Act of 1994; to the Committee on Veterans' Affairs.

EC–1755. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Administration's report entitled "Performance Profiles of Major Energy Producers 2003"; to the Committee on Energy and Natural Resources.

EC–1756. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Virginia Regulatory Program" (VA–121–FOR) received on April 11, 2005; to the Committee on Energy and Natural Resources.

EC–1757. A communication from the Secretary, Department of Agriculture, transmitting, pursuant to law, the Department's annual report entitled "Assessment of the Cattle, Hog, Poultry, and Sheep Industries"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1758. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Bovine Spongiform Encephalopathy; Minimal Risk Regions and Importation of Commodities; Finding of No Significant Impact and Affirmation of Final Rule" (APHIS Docket No. 03–080–7) received on April 11, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1759. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's fiscal year 2004 report relative to the Medical Device User Fee and Modernization Act of 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–1760. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report entitled "American Indian and Alaska Native Head Start Facilities"; to the Committee on Health, Education, Labor, and Pensions.

EC–1761. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "West Nile Virus Prevention and Control: Ensuring the Safety of the Blood Supply and Assessing Pesticide Spraying"; to the Committee on Health, Education, Labor, and Pensions.

EC–1762. A communication from the Acting Assistant Secretary, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Procedures for the Handling of Discrimination Complaints Under Section 6 of the Pipeline Safety Improvement Act of 2002" (RIN1218–AC12) received on April 11, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1763. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Uniform Compliance Date for Food Labeling Regulations" (Docket No. 2000N–1596) received on April 11, 2005; to the Committee on Health, Education, Labor and Pensions.

EC–1764. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted in Feed and Drinking Water of Animals: Poly(2-vinylpyridine-co-styrene); Salts of Volatile Fatty Acids" received on April 13, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1765. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Instrumentation for Clinical Multiplex Test Systems" received on April 13, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1766. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Drug Metabolizing Enzyme Genotyping System" received on April 13, 2005; to the Committee on Health, Education, Labor, and Pensions.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN:

S. 811. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 812. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on individual taxable earned income and business taxable income, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 813. A bill to amend part D of title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate for lower prices for medicare prescription drugs; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 814. A bill to amend the Mineral Leasing Act to promote the development of Federal coal resources; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself, Ms. SNOWE, Mr. ENZI, Mr. BINGAMAN, Mr. ALEXANDER, Mr. TALENT, Mr. ENSIGN, and Mr. SMITH):

S. 815. A bill to amend the Internal Revenue Code of 1986 to allow a 15-year applicable recovery period for depreciation of certain electric transmission property; to the Committee on Finance.

By Mr. REID (for Mrs. CLINTON):

S. 816. A bill to establish the position of Northern Border Coordinator in the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

By Ms. STABENOW (for herself, Mr. GRAHAM, and Mr. BAYH):

S. 817. A bill to amend the Trade Act of 1974 to create a Special Trade Prosecutor to ensure compliance with trade agreements, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. SALAZAR, Mr. THUNE, Mr. DORGAN, Mr. ENZI, Mr. JOHNSON, Mr. DAYTON, and Mr. HARKIN):

S. 818. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON:

S. 819. A bill to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 820. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. STEVENS (for himself, Mr. BAUCUS, Mr. BURNS, Mr. BENNETT, Mr. INOUYE, Mr. THOMAS, Ms. MURKOWSKI, Ms. MIKULSKI, Mr. DOMENICI, Mr. SALAZAR, Mr. COCHRAN, and Mrs. FEINSTEIN):

S. 821. A bill to require the Secretary of the Treasury to mint coins in commemoration of the founding of America's National Parks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 822. A bill to prevent the retroactive application of changes to Trans-Alaska Pipeline Quality Bank valuation methodologies; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 111. A resolution urging the United States to increase its efforts to ensure democratic reform in the Kyrgyz Republic; considered and agreed to.

By Mr. DODD (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BINGAMAN, Ms. CANTWELL, Mr. COLEMAN, Ms. COLLINS, Mr. DAYTON, Mr. DURBIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, and Ms. SNOWE):

S. Res. 112. A resolution designating the third week of April in 2005 as "National Shaken Baby Syndrome Awareness Week"; considered and agreed to.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 154

At the request of Mr. JOHNSON, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 154, a bill to grant a Federal charter to the National American Indian Veterans, Incorporated.

S. 313

At the request of Mr. LUGAR, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 337

At the request of Mr. GRAHAM, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 347

At the request of Mr. NELSON of Florida, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 375

At the request of Mr. BAYH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 375, a bill to amend the Public Health Service Act to provide for an influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 495

At the request of Mr. CORZINE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 537

At the request of Mr. BINGAMAN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 558

At the request of Mr. REID, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 627

At the request of Mr. HATCH, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Michigan (Ms. STABENOW), the Senator from North Carolina (Mrs. DOLE) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 702

At the request of Mr. BAUCUS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 702, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 709

At the request of Mr. DEWINE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 765

At the request of Mr. WARNER, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

AMENDMENT NO. 443

At the request of Mr. DURBIN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 443 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 811. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, today I am introducing a bill that will honor Abraham Lincoln with a commemorative coin and provide funds to the Abraham Lincoln Bicentennial Commission, which has been charged by Congress with planning the celebration of Lincoln's bicentennial in 2009.

The bill authorizes the Treasury to mint 500,000 one dollar silver coins. The design, which will represent the life and legacy of Abraham Lincoln, will be selected by the Secretary after consultation with the Commission of Fine Arts and the ALBC and reviewed by the Citizens Coinage Advisory Committee.

The coins will be sold for face value plus a $10 surcharge and the cost of designing and issuing them. All funds collected by the surcharge will be provided to the ALBC to further its work.

Abraham Lincoln was one of our greatest leaders, demonstrating enormous courage and strength of character during the Civil War, perhaps the greatest crisis in our Nation's history. Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the Nation in Washington, D.C. He rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

Adhering to the belief that all men are created equal, Lincoln led the effort to free all slaves in the United States. Despite the great passions aroused by the Civil War, Lincoln had a generous heart and acted with malice toward none and with charity for all. Lincoln made the ultimate sacrifice for the country he loved, dying from an assassin's bullet on April 15, 1865. All Americans could benefit from studying the life of Abraham Lincoln. As we near the bicentennial of Lincoln's birth, we should recognize his great achievement in ensuring that the United States remained one Nation, united and inseparable.

By Mr. SPECTER:

S. 812. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on Individual taxable earned income and business taxable income, and for other purposes; to the Committee on Finance.

Mr. SPECTER. Mr. President, this week, American taxpayers face another Federal income tax deadline. The date of April 15 stabs fear, anxiety, and unease into the hearts of millions of Americans. Every year during "tax season," millions of Americans spend their evenings poring over page after page of IRS instructions, going through their records looking for information and struggling to find and fill out all the appropriate forms on the Federal tax returns. Americans are intimidated by the sheer number of different tax forms and their instructions, many of which they may be unsure whether they need to file. Given the approximately 325 possible forms, not to mention the instructions that accompany them, simply trying to determine which form to file can in itself be a daunting and overwhelming task. According to a 2002 study conducted by the Tax Foundation, American taxpayers, including businesses, spend more than 5.8 billion hours and $194 billion each year in complying with tax laws. That works out to more than $2,400 per U.S. household. Much of this time is spent burrowing through IRS laws and regulations which fill 17,000 pages and have grown from 744,000 words in 1955 to over 6.9 million words in 2000. By contrast, the Pledge of Allegiance has only 31 words, the Gettysburg Address has 267 words, the Declaration of Independence has about 1,300 words, and the Bible has only about 1,773,000 words.

The majority of taxpayers still face filing tax forms that are far too complicated and take far too long to complete. According to the estimated preparation time listed on the forms by the IRS, the 2004 Form 1040 is estimated to take 13 hours and 35 minutes to complete. Moreover this does not include the estimated time to complete the accompanying schedules, such as Schedule A, for itemized deductions, which carries an estimated preparation time of 5 hours, 37 minutes, or Schedule D, for reporting capital gains and losses, shows an estimated preparation time of 6 hours, 10 minutes. Moreover, this complexity is getting worse each year. Just from 2000 to 2004 the estimated time to prepare Form 1040 jumped 34 minutes.

It is no wonder that well over half of all taxpayers, 56 percent according to a recent survey, now hire an outside professional to prepare their tax returns for them. However, the fact that only about 30 percent of individuals itemize their deductions shows that a significant percentage of our taxpaying population believes that the tax system is too complex for them to deal with. We all understand that paying taxes will never be something we enjoy, but neither should it be cruel and unusual punishment. Further, the pace of change to the Internal Revenue Code is brisk—Congress made about 9,500 tax code changes in the past thirteen years. And we are far from being finished. Year after year, we continue to ask the same question—isn't there a better way?

My flat tax legislation would make filing a tax return a manageable chore, not a seemingly endless nightmare, for most taxpayers. My flat tax legislation will fundamentally revise the present tax code, with its myriad rates, deductions, and instructions. This legislation would institute a simple, flat 20 percent tax rate for all individuals and businesses. This proposal is not cast in stone, but is intended to move the debate forward by focusing attention on three key principles which are critical to an effective and equitable taxation system: simplicity, fairness and economic growth.

My flat tax plan would eliminate the kinds of frustrations I have outlined above for millions of taxpayers. This flat tax would enable us to scrap the great majority of the IRS rules, regulations and instructions and delete most of the 6.9 million words in the Internal Revenue Code. Instead of billions of hours of non-productive time spent in compliance with, or avoidance of, the tax code, taxpayers would spend only the small amount of time necessary to fill out a postcard-sized form. Both business and individual taxpayers would thus find valuable hours freed up to engage in productive business activity, or for more time with their families, instead of poring over tax tables, schedules and regulations.

My flat tax proposal is dramatic, but so are its advantages: a taxation system that is simple, fair and designed to maximize prosperity for all Americans. A summary of the key advantages are:

Simplicity: A 10-line postcard filing would replace the myriad forms and attachments currently required, thus saving Americans up to 5.8 billion hours they currently spend every year in tax compliance.

Cuts Government: The flat tax would eliminate the lion's share of IRS rules, regulations and requirements, which have grown from 744,000 words in 1955 to 6.9 million words and 17,000 pages currently. It would also allow us to slash the mammoth IRS bureaucracy of approximately 117,000 employees, creating opportunities to put their expertise to use elsewhere in the government or in private industry.

Promotes Economic Growth: Economists estimate a growth due to a flat tax of over $2 trillion in national wealth over seven years, representing an increase of approximately $7,500 in personal wealth for every man, woman and child in America. This growth would also lead to the creation of 6 million new jobs.

Increases Efficiency: Investment decisions would be made on the basis of productivity rather than simply for tax avoidance, thus leading to even greater economic expansion.

Reduces Interest Rates: Economic forecasts indicate that interest rates would fall substantially, by as much as two points, as the flat tax removes many of the current disincentives to savings.

Lowers compliance costs: Americans would be able to save or invert up to $194 billion they currently spend every year in tax compliance.

Decreases fraud: As tax loopholes are eliminated and the tax code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over $120 billion in uncollected revenue annually.

Reduces IRS costs: Simplification of the tax code will allow us to save significantly on the $10 billion annual budget currently allocated to the Internal Revenue Service.

The most dramatic way to illustrate the flat tax is to consider that the income tax form for the flat tax is printed on a postcard—it will allow all taxpayers to file their April 15 tax returns on a simple 10-line postcard. This postcard will take 15 minutes to fill out.

At my town hall meetings across Pennsylvania, there is considerable public support for fundamental tax reform.

This is a win-win situation for America because it lowers the tax burden on the taxpayers in the lower brackets. For example in the 2004 tax year, the standard deduction is $4,850 for a single taxpayer, $7,150 for a head of household and $9,700 for a married couple filing jointly, while the personal exemption for individuals and dependents is $3,100. Thus, under the current tax code, a family of four which does not itemize deductions would pay taxes on all income over $22,100—that is personal exemptions of$12,400 and a standard deduction of $9,700. By contrast, under my flat tax bill, that same family would receive a personal exemption of $30,000, and would pay tax on only income over that amount.

The tax loopholes enable write-offs of some $393 billion a year. What is eliminated under the flat tax are the loopholes, the deductions in this complicated code which can be deciphered, interpreted, and found really only by the $500-an-hour lawyers. That money is lost to the taxpayers. $120 billion would be saved by the elimination of fraud because of the simplicity of the Tax Code, the taxpayer being able to find out exactly what they owe.

This bill is modeled after a proposal organized and written by two very distinguished professors of law from Stanford University, Professor Hall and Professor Rabushka. Their model was first introduced in the Congress in the fall of 1994 by Majority Leader Richard Armey. I introduced the flat tax bill—the first one in the Senate—on March 2, 1995, Senate bill 488. On October 27, 1995, I introduced a Sense of the Senate Resolution calling on my colleagues to expedite Congressional adoption of a flat tax. The Resolution, which was introduced as an amendment to pending legislation, was not adopted. I reintroduced my legislation in the 105th Congress with slight modifications to reflect inflation-adjusted increases in the personal allowances and dependent allowances. I re-reintroduced the bill on April 15, 1999—income tax day—in a bill denominated as S. 822. I then introduced my flat tax legislation as an amendment to S. 1429, the Tax Reconciliation bill; the amendment was not adopted. During the 108th Congress, I introduced my flat tax legislation once again on April 11, 2003. On May 14, 2003, I offered an amendment to the Tax Reconciliation legislation urging the Senate to hold hearings and consider legislation providing for a flat tax; this amendment passed by a vote of 70 to 30 on May 15, 2003. I then testified on this issue at a subsequent hearing held by the Joint Economic Committee on November 5, 2003.

Over the years and prior to my legislative efforts on behalf of flat tax reform, I have devoted considerable time and attention to analyzing our nation's tax code and the policies which underlie it. I began the study of the complexities of the tax code over 40 years ago as a law student at Yale University. I included some tax law as part of my practice in my early years as an attorney in Philadelphia. In the spring of 1962, I published a law review article in the Villanova Law Review, "Pension and Profit Sharing Plans: Coverage and Operation for Closely Held Corporations and Professional Associations," 7 Villanova L. Rev. 335, which in part focused on the inequity in making tax-exempt retirement benefits available to some kinds of businesses but not others. It was apparent then, as it is now, that the very complexities of the Internal Revenue Code could be used to give unfair advantage to some. Einstein himself is quoted as saying "the hardest thing in the world to understand is the income tax."

The Hall-Rabushka model envisioned a flat tax with no deductions whatever. After considerable reflection, I decided to include in the legislation limited deductions for home mortgage interest for up to $100,000 in borrowing and charitable contributions up to $2,500. While these modifications undercut the pure principle of the flat tax by continuing the use of tax policy to promote home buying and charitable contributions, I believe that those two deductions are so deeply ingrained in the financial planning of American families that they should be retained as a matter of fairness and public policy—and also political practicality. With those two deductions maintained, passage of a modified flat tax will be difficult, but without them, probably impossible.

In my judgment, an indispensable prerequisite to enactment of a modified flat tax is revenue neutrality. Professor Hall advised that the revenue neutrality ofthe Hall-Rabushka proposal, which uses a 19 percent rate, is based on a well-documented model founded on reliable governmental statistics. My legislation raises that rate from 19 percent to 20 percent to accommodate retaining limited home mortgage interest and charitable deductions.

This proposal taxes business revenues fully at their source, so that there is no personal taxation on interest, dividends, capital gains, gifts or estates. Restructured in this way, the tax code can become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and raising the standard of living for all Americans.

The key advantages of this flat tax plan are threefold: First, it will dramatically simplify the payment of taxes. Second, it will remove much of the IRS regulatory morass now imposed on individual and corporate taxpayers, and allow those taxpayers to devote more of their energies to productive pursuits. Third, since it is a plan which rewards savings and investment, the flat tax will spur economic growth in all sectors of the economy as more money flows into investments and savings accounts.

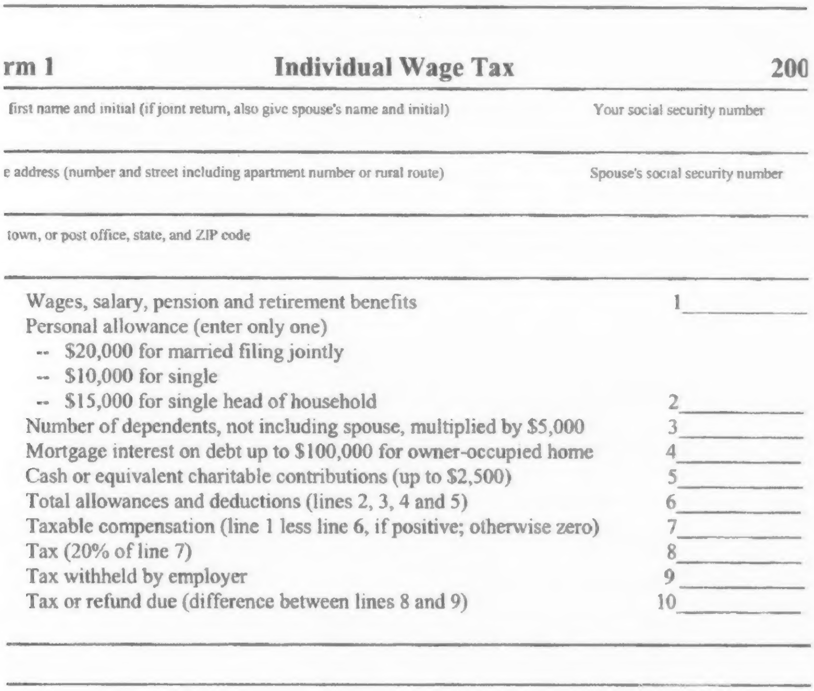
Professors Hall and Rabushka have projected that within seven years of enactment, this type of a flat tax would produce a 6 percent increase in output from increased total work in the U.S. economy and increased capital formation. The economic growth would mean a $7.500 increase in the personal income of all Americans. No one likes to pay taxes. But Americans will be much more willing to pay their taxes under a system that they believe is fair, a system that they can understand, and a system that they recognize promotes rather than prevents growth and prosperity. My flat tax legislation will afford Americans such a tax system.

I ask unanimous consent that a copy of my flat tax postcard, a variety of specific cases that illustrate the fairness and simplicity of this flat tax, and an example flat tax table be printed in the RECORD following my statement.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

2004 Individual Tax Return



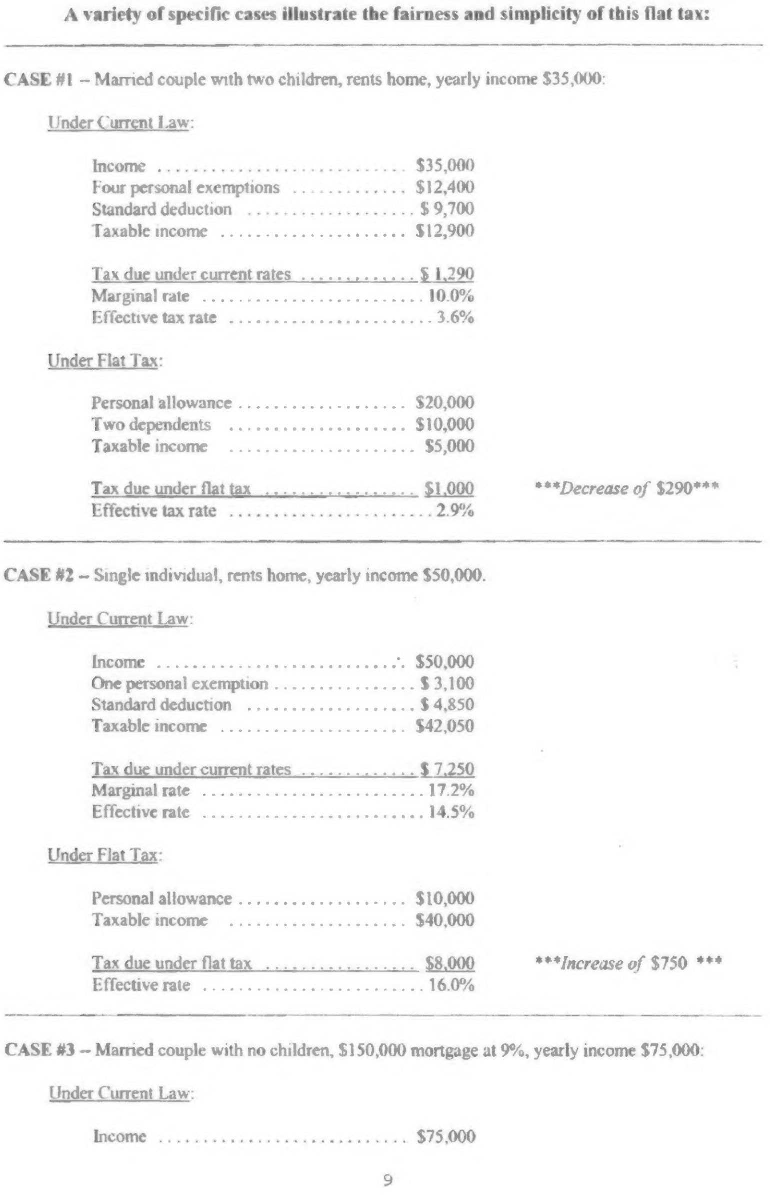
rm 1 **Individual Wage Tax** **200**

first name and initial (if joint return, also give spouse's name and initial) Your social security number

e address (number and street including apartment number or rural route) Spouse's social security number

town, or post office, state, and ZIP code

Wages, salary, pension and retirement benefits 1__________
Personal allowance (enter only one)
-- $20,000 for married filing jointly
-- $10,000 for single
-- $15,000 for single head of household 2__________
Number of dependents, not including spouse, multiplied by $5,000 3__________
Mortgage interest on debt up to $100,000 for owner-occupied home 4__________
Cash or equivalent charitable contributions (up to $2,500) 5__________
Total allowances and deductions (lines 2, 3, 4 and 5) 6__________
Taxable compensation (line 1 less line 6, if positive; otherwise zero) 7__________
Tax (20% of line 7) 8__________
Tax withheld by employer 9__________
Tax or refund due (difference between lines 8 and 9) 10__________



A variety of specific cases illustrate the fairness and simplicity of this flat tax:

CASE #1 – Married couple with two children, rents home, yearly income $35,000:

Under Current Law:

Income	$35,000
Four personal exemptions	$12,400
Standard deduction	$ 9,700
Taxable income	$12,900
Tax due under current rates	$ 1,290
Marginal rate	10.0%
Effective tax rate	3.6%

Under Flat Tax:

Personal allowance	$20,000	
Two dependents	$10,000	
Taxable income	$5,000	
Tax due under flat tax	$1,000	****Decrease of* $290***
Effective tax rate	2.9%	

CASE #2 – Single individual, rents home, yearly income $50,000.

Under Current Law:

Income	$50,000
One personal exemption	$ 3,100
Standard deduction	$ 4,850
Taxable income	$42,050
Tax due under current rates	$ 7,250
Marginal rate	17.2%
Effective rate	14.5%

Under Flat Tax:

Personal allowance	$10,000	
Taxable income	$40,000	
Tax due under flat tax	$8,000	****Increase of* $750 ***
Effective rate	16.0%	

CASE #3 – Married couple with no children, $150,000 mortgage at 9%, yearly income $75,000:

Under Current Law:

Income	$75,000

Two personal exemptions	$ 6,200
Home mortgage deduction	$13,500
State & local taxes	$ 3,000
Charitable deduction	$ 1,500
Taxable income	$50,800
Tax due under current rates	$6,905
Marginal rate	13.6%
Effective tax rate	9.2%

Under Flat Tax:

Personal allowance	$20,000	
Home mortgage deduction	$9,000	
Charitable deduction	$ 1,500	
Taxable income	$44,500	
Tax due under flat tax	$8,900	***Increase of $1,995***
Effective tax rate	11.8%	

CASE #4 -- Married couple with three children, $250,000 mortgage at 9%, yearly income $125,000:

Under Current Law:

Income	$125,000
Five personal exemptions	$15,500
Home mortgage deduction	$22,500
State & local taxes	$5,000
Retirement fund deductions	$6,000
Charitable deductions	$ 2,500
Taxable income	$73,500
Tax due under current rates	$11,850
Marginal rate	16.1%
Effective tax rate	9.5%

Under Flat Tax:

Personal allowance	$20,000	
Three dependents	$15,000	
Home mortgage deduction	$9,000	
Charitable deduction	$2,500	
Taxable income	$78,500	
Tax due under flat tax	$15,700	***Increase of $3,850***
Effective tax rate	12.6%	

ANNUAL TAXES UNDER 20% FLAT TAX FOR MARRIED COUPLE WITH TWO CHILDREN FILING JOINTLY

Income	Home Mortgage*	Deductible Mtg Interest	Charitable Contribution*	Personal Allowance (w/ children)	Taxable Income	Effective Tax Rate	Taxes Owed
<30,000					0	0%	None
30,000	60,000	5,400	600	30,000	0	0%	None
40,000	80,000	7,200	800	30,000	2,000	1%	400
50,000	100,000	9,000	1,000	30,000	10,000	4%	2,000
60,000	120,000	9,000	1,200	30,000	19,800	6.6%	3,960
70,000	140,000	9,000	1,400	30,000	29,600	8.6%	5,920
80,000	160,000	9,000	1,600	30,000	39,400	9.9%	7,880
90,000	180,000	9,000	1,800	30,000	49,200	10.9%	9,840
100,000	200,000	9,000	2,000	30,000	59,000	11.8%	11,800
125,000	250,000	9,000	2,500	30,000	83,500	13.4%	16,700
150,000	300,000	9,000	2,500	30,000	108,500	14.5%	21,700
200,000	400,000	9,000	2,500	30,000	158,500	15.9%	31,700
250,000	500,000	9,000	2,500	30,000	208,500	16.7%	41,700
500,000	1,000,000	9,000	2,500	30,000	458,500	18.3%	91,700
1,000,000	2,000,000	9,000	2,500	30,000	958,500	19.2%	191,700

* Assumes home mortgage of twice annual income at a rate of 9% and charitable contributions up to 2% of annual income

S. 812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Flat Tax Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents; amendment of 1986 Code.
Sec. 2. Flat tax on individual taxable earned income and business taxable income.
Sec. 3. Repeal of estate and gift taxes.
Sec. 4. Additional repeals.
Sec. 5. Effective dates.

(c) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. FLAT TAX ON INDIVIDUAL TAXABLE EARNED INCOME AND BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of subtitle A is amended to read as follows:

"Subchapter A—Determination of Tax Liability

"PART I. TAX ON INDIVIDUALS.
"PART II. TAX ON BUSINESS ACTIVITIES.

"PART I—TAX ON INDIVIDUALS

"Sec. 1. Tax imposed.
"Sec. 2. Standard deduction.
"Sec. 3. Deduction for cash charitable contributions.
"Sec. 4. Deduction for home acquisition indebtedness.
"Sec. 5. Definitions and special rules.
"Sec. 6. Dependent defined.

"SEC. 1. TAX IMPOSED.

"(a) IMPOSITION OF TAX.—There is hereby imposed on every individual a tax equal to 20 percent of the taxable earned income of such individual.

"(b) TAXABLE EARNED INCOME.—For purposes of this section, the term 'taxable earned income' means the excess (if any) of—

"(1) the earned income received or accrued during the taxable year, over

"(2) the sum of—

"(A) the standard deduction,

"(B) the deduction for cash charitable contributions, and

"(C) the deduction for home acquisition indebtedness, for such taxable year.

"(c) EARNED INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received from sources within the United States as compensation for personal services actually rendered, but does not include that part of compensation derived by the taxpayer for personal services rendered by the taxpayer to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

"(2) TAXPAYER ENGAGED IN TRADE OR BUSINESS.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of the taxpayer's share of the net profits of such trade or business, shall be considered as earned income.

"SEC. 2. STANDARD DEDUCTION.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

"(1) the basic standard deduction, plus

"(2) the additional standard deduction.

"(b) BASIC STANDARD DEDUCTION.—For purposes of subsection (a), the basic standard deduction is—

"(1) 200 percent of the dollar amount in effect under paragraph (3) of the taxable year in the case of—

"(A) a joint return, or

"(B) a surviving spouse (as defined in section 5(a)),

"(2) $15,000 in the case of a head of household (as defined in section 5(b)), or

"(3) $10,000 in any other case.

"(c) ADDITIONAL STANDARD DEDUCTION.—For purposes of subsection (a), the additional standard deduction is $5,000 for each dependent (as defined in section 6)—

"(1) whose earned income for the calendar year in which the taxable year of the taxpayer begins is less than the basic standard deduction specified in subsection (b)(3), or

"(2) who is a child of the taxpayer and who—

"(A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

"(B) is a student who has not attained the age of 24 at the close of such calendar year.

"(d) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2006, each dollar amount contained in subsections (b) and (c) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment for the calendar year in which the taxable year begins.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for calendar year 2005.

"(3) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

"(4) CONSUMER PRICE INDEX.—For purposes of paragraph (3), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

"(5) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"SEC. 3. DEDUCTION FOR CASH CHARITABLE CONTRIBUTIONS.

"(a) GENERAL RULE.—For purposes of this part, there shall be allowed as a deduction any charitable contribution (as defined in subsection (b)) not to exceed $2,500 ($1,250, in the case of a married individual filing a separate return), payment of which is made within the taxable year.

"(b) CHARITABLE CONTRIBUTION DEFINED.—For purposes of this section, the term 'charitable contribution' means a contribution or gift of cash or its equivalent to or for the use of the following:

"(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

"(2) A corporation, trust, or community chest, fund, or foundation—

"(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States,

"(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals,

"(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual, and

"(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

"(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

"(A) organized in the United States or any of its possessions, and

"(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

"(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term 'charitable contribution' also means an amount treated under subsection (d) as paid for the use of an organization described in paragraph (2), (3), or (4).

"(c) DISALLOWANCE OF DEDUCTION IN CERTAIN CASES AND SPECIAL RULES.—

"(1) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) Content of acknowledgment.—An acknowledgment meets the requirements of this subparagraph if it includes the following information:

"(i) The amount of cash contributed.

"(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any contribution described in clause (i).

"(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term 'intangible religious benefit' means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

"(C) Contemporaneous.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) Substantiation not required for contributions reported by the donee organization.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.

"(2) Denial of deduction where contribution for lobbying activities.—No deduction shall be allowed under this section for a contribution to an organization which conducts activities to which section 11(d)(2)(C)(i) applies on matters of direct financial interest to the donor's trade or business, if a principal purpose of the contribution was to avoid Federal income tax by securing a deduction for such activities under this section which would be disallowed by reason of section 11(d)(2)(C) if the donor had conducted such activities directly. No deduction shall be allowed under section 11(d) for any amount for which a deduction is disallowed under the preceding sentence.

"(d) Amounts Paid to Maintain Certain Students as Members of Taxpayer's Household.—

"(1) In general.—Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 6, or a relative of the taxpayer) as a member of such taxpayer's household during the period that such individual is—

"(A) a member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (b) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

"(B) a full-time pupil or student in the twelfth or any lower grade at an educational organization located in the United States which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, shall be treated as amounts paid for the use of the organization.

"(2) Limitations.—

"(A) Amount.—Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed $50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

"(B) Compensation or reimbursement.—Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in the taxpayer's household during the period described in paragraph (1).

"(3) Relative defined.—For purposes of paragraph (1), the term 'relative of the taxpayer' means an individual who, with respect to the taxpayer, bears any of the relationships described in subparagraphs (A) through (G) of section 6(d)(2).

"(4) No other amount allowed as deduction.—No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of the taxpayer's household under a program described in paragraph (1)(A) except as provided in this subsection.

"(e) Denial of Deduction for Certain Travel Expenses.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

"(f) Disallowance of Deductions in Certain Cases.—For disallowance of deductions for contributions to or for the use of Communist controlled organizations, see section 11(a) of the Internal Security Act of 1950 (50 U.S.C. 790).

"(g) Treatment of Certain Amounts Paid to or for the Benefit of Institutions of Higher Education.—

"(1) In general.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

"(2) Amount described.—For purposes of paragraph (1), an amount is described in this paragraph if—

"(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

"(i) which is described in subsection (d)(1)(B), and

"(ii) which is an institution of higher education (as defined in section 3304(f)), and

"(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection.

"(h) Other Cross References.—

"(1) For treatment of certain organizations providing child care, see section 501(k).

"(2) For charitable contributions of partners, see section 702.

"(3) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

"(4) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

"(5) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 4043 of title 18, United States Code.

"(6) For charitable contributions to or for the use of Indian tribal governments (or subdivisions of such governments), see section 7871.

"SEC. 4. DEDUCTION FOR HOME ACQUISITION INDEBTEDNESS.

"(a) General Rule.—For purposes of this part, there shall be allowed as a deduction all qualified residence interest paid or accrued within the taxable year.

"(b) Qualified Residence Interest Defined.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on acquisition indebtedness with respect to any qualified residence of the taxpayer. For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

"(c) Acquisition Indebtedness.—

"(1) In general.—The term 'acquisition indebtedness' means any indebtedness which—

"(A) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

"(B) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

"(2) $100,000 Limitation.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $100.000 ($50,000 in the case of a married individual filing a separate return).

"(d) Treatment of Indebtedness Incurred on or Before October 13, 1987.—

"(1) In general.—In the case of any pre-October 13, 1987, indebtedness—

"(A) such indebtedness shall be treated as acquisition indebtedness, and

"(B) the limitation of subsection (c)(2) shall not apply.

"(2) Reduction in $100,000 limitation.—The limitation of subsection (c)(2) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

"(3) Pre-October 13, 1987, indebtedness.—The term 'pre-October 13, 1987, indebtedness' means—

"(A) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

“(B) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subparagraph (A) (or refinanced indebtedness meeting the requirements of this subparagraph) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

“(4) LIMITATION ON PERIOD OF REFINANCING.—Subparagraph (B) of paragraph (3) shall not apply to any indebtedness after—

“(A) the expiration of the term of the indebtedness described in paragraph (3)(A), or

“(B) if the principal of the indebtedness described in paragraph (3)(A) is not amortized over its term, the expiration of the term of the first refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such first refinancing).

“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) QUALIFIED RESIDENCE.—For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the term ‘qualified residence’ means the principal residence of the taxpayer.

“(B) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for the taxable year—

“(i) such couple shall be treated as 1 taxpayer for purposes of subparagraph (A), and

“(ii) each individual shall be entitled to take into account ½ of the principal residence unless both individuals consent in writing to 1 individual taking into account the principal residence.

“(C) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—In the case of any pre-October 13, 1987, indebtedness, the term ‘qualified residence’ has the meaning given that term in section 163(h)(4), as in effect on the day before the date of enactment of this subparagraph.

“(2) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—Any indebtedness secured by stock held by the taxpayer as a tenant-stockholder in a cooperative housing corporation shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder. If stock described in the preceding sentence may not be used to secure indebtedness, indebtedness shall be treated as so secured if the taxpayer establishes to the satisfaction of the Secretary that such indebtedness was incurred to acquire such stock.

“(3) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

“(4) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust.

“SEC. 5. DEFINITIONS AND SPECIAL RULES.

“(a) DEFINITION OF SURVIVING SPOUSE.—

“(1) IN GENERAL.—For purposes of this part, the term ‘surviving spouse’ means a taxpayer—

“(A) whose spouse died during either of the taxpayer's 2 taxable years immediately preceding the taxable year, and

“(B) who maintains as the taxpayer's home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent—

“(i) who (within the meaning of section 6, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B)) is a son, stepson, daughter, or stepdaughter of the taxpayer, and

“(ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

“(2) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part a taxpayer shall not be considered to be a surviving spouse—

“(A) if the taxpayer has remarried at any time before the close of the taxable year, or

“(B) unless, for the taxpayer's taxable year during which the taxpayer's spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

“(3) SPECIAL RULE WHERE DECEASED SPOUSE WAS IN MISSING STATUS.—If an individual was in a missing status (within the meaning of section 6013(f)(3)) as a result of service in a combat zone and if such individual remains in such status until the date referred to in subparagraph (A) or (B), then, for purposes of paragraph (1)(A), the date on which such individual dies shall be treated as the earlier of the date determined under subparagraph (A) or the date determined under subparagraph (B):

“(A) The date on which the determination is made under section 556 of title 37 of the United States Code or under section 5566 of title 5 of such Code (whichever is applicable) that such individual died while in such missing status.

“(B) Except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated as the date of termination of combatant activities in that zone.

“(b) DEFINITION OF HEAD OF HOUSEHOLD.—

“(1) IN GENERAL.—For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of such individual's taxable year, is not a surviving spouse (as defined in subsection (a)), and either—

“(A) maintains as such individual's home a household which constitutes for more than one-half of such taxable year the principal place of abode, as a member of such household, of—

“(i) a qualifying child of the individual (as defined in section 6(c), determined without regard to section 6(e)), but not if such child—

“(I) is married at the close of the taxpayer's taxable year, and

“(II) is not a dependent of such individual by reason of section 6(b)(2) or 6(b)(3), or both, or

“(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 2, or

“(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

“(2) DETERMINATION OF STATUS.—For purposes of this subsection—

“(A) an individual who is legally separated from such individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married,

“(B) a taxpayer shall be considered as not married at the close of such taxpayer's taxable year if at any time during the taxable year such taxpayer's spouse is a nonresident alien, and

“(C) a taxpayer shall be considered as married at the close of such taxpayer's taxable year if such taxpayer's spouse (other than a spouse described in subparagraph (B)) died during the taxable year.

“(3) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part, a taxpayer shall not be considered to be a head of a household—

“(A) if at any time during the taxable year the taxpayer is a nonresident alien, or

“(B) by reason of an individual who would not be a dependent for the taxable year but for—

“(i) subparagraph (H) of section 6(d)(2), or

“(ii) paragraph (3) of section 6(d).

“(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b).

“SEC. 6. DEPENDENT DEFINED.

“(a) IN GENERAL.—For purposes of this subtitle, the term ‘dependent’ means—

“(1) a qualifying child, or

“(2) a qualifying relative.

“(b) EXCEPTIONS.—For purposes of this section—

“(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

“(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

“(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

“(A) IN GENERAL.—The term ‘dependent’ does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

“(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of ‘dependent’ if—

“(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

“(ii) the taxpayer is a citizen or national of the United States.

“(c) QUALIFYING CHILD.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying child’ means, with respect to any taxpayer for any taxable year, an individual—

“(A) who bears a relationship to the taxpayer described in paragraph (2), "(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

"(A) a child of the taxpayer or a descendant of such a child, or

"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

"(3) AGE REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

"(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

"(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

"(i) a parent of the individual, or

"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

"(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

"(i) the parent with whom the child resided for the longest period of time during the taxable year, or

"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

"(d) QUALIFYING RELATIVE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

"(C) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

"(A) A child or a descendant of a child.

"(B) A brother, sister, stepbrother, or stepsister.

"(C) The father or mother, or an ancestor of either.

"(D) A stepfather or stepmother.

"(E) A son or daughter of a brother or sister of the taxpayer.

"(F) A brother or sister of the father or mother of the taxpayer.

"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

"(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support,

"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

"(C) the taxpayer contributed over 10 percent of such support, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

"(A) payments to a spouse which are includible in the gross income of such spouse shall not be treated as a payment by the payor spouse for the support of any dependent, and

"(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(e) SPECIAL RULE FOR DIVORCED PARENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year, such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 2 for such child, and in the case of such a decree or agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year, or

"(B) the custodial parent signs a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year.

For purposes of subparagraph (A), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) CHILD DEFINED.—

"(A) IN GENERAL.—The term 'child' means an individual who is—

"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

"(ii) an eligible foster child of the taxpayer.

"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 3(d)(1)(B), or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 3(d)(1)(B) or of a State or political subdivision of a State.

"(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

"(A) a child of the taxpayer, and

"(B) a student, amounts received as scholarships for study at an educational organization described in section 3(d)(1)(B) shall not be taken into account.

"(6) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping, shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under section 2(c), and

"(ii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 5).

"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping, shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

"PART II—TAX ON BUSINESS ACTIVITIES

"Sec. 11. Tax imposed on business activities.

"SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.

"(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity located in the United States a tax equal to 20 percent of the business taxable income of such person.

"(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

"(c) BUSINESS TAXABLE INCOME.—

"(1) IN GENERAL.—For purposes of this section, the term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

"(2) GROSS ACTIVE INCOME.—For purposes of paragraph (1), the term 'gross active income' means gross income other than investment income.

"(d) DEDUCTIONS.—

"(1) IN GENERAL.—The deductions specified in this subsection are—

"(A) the cost of business inputs for the business activity,

"(B) the compensation (including contributions to qualified retirement plans but not including other fringe benefits) paid for employees performing services in such activity, and

"(C) the cost of personal and real property used in such activity.

"(2) BUSINESS INPUTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the term 'cost of business inputs' means—

"(i) the actual cost of goods, services, and materials, whether or not resold during the taxable year, and

"(ii) the actual cost, if reasonable, of travel and entertainment expenses for business purposes.

"(B) PURCHASES OF GOODS AND SERVICES EXCLUDED.—Such term shall not include purchases of goods and services provided to employees or owners.

"(C) CERTAIN LOBBYING AND POLITICAL EXPENDITURES EXCLUDED.—

"(i) IN GENERAL.—Such term shall not include any amount paid or incurred in connection with—

"(I) influencing legislation,

"(II) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,

"(III) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or

"(IV) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

"(ii) EXCEPTION FOR LOCAL LEGISLATION.—In the case of any legislation of any local council or similar governing body—

"(I) clause (i)(I) shall not apply, and

"(II) such term shall include all ordinary and necessary expenses (including, but not limited to, traveling expenses described in subparagraph (A)(iii) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

"(aa) in direct connection with appearances before, submission of statements to, or sending communications to the committees, or individual members, of such council or body with respect to legislation or proposed legislation of direct interest to the taxpayer, or

"(bb) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to any such legislation or proposed legislation which is of direct interest to the taxpayer and to such organization, and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities carried on by such organization.

"(iii) APPLICATION TO DUES OF TAX-EXEMPT ORGANIZATIONS.—Such term shall include the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which clause (i) applies.

"(iv) INFLUENCING LEGISLATION.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'influencing legislation' means any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

"(II) LEGISLATION.—The term 'legislation' has the meaning given that term in section 4911(e)(2).

"(v) OTHER SPECIAL RULES.—

"(I) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in clause (i), clause (i) shall not apply to expenditures of the taxpayer in conducting such activities directly on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

"(II) DE MINIMIS EXCEPTION.—

"(aa) IN GENERAL.—Clause (i) shall not apply to any in-house expenditures for any taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit, there shall not be taken into account overhead costs otherwise allocable to activities described in subclauses (I) and (IV) of clause (i).

"(bb) IN-HOUSE EXPENDITURES.—For purposes of provision (aa), the term 'in-house expenditures' means expenditures described in subclauses (I) and (IV) of clause (i) other than payments by the taxpayer to a person engaged in the trade or business of conducting activities described in clause (i) for the conduct of such activities on behalf of the taxpayer, or dues or other similar amounts paid or incurred by the taxpayer which are allocable to activities described in clause (i).

"(III) EXPENSES INCURRED IN CONNECTION WITH LOBBYING AND POLITICAL ACTIVITIES.—Any amount paid or incurred for research for, or preparation, planning, or coordination of, any activity described in clause (i) shall be treated as paid or incurred in connection with such activity.

"(vi) COVERED EXECUTIVE BRANCH OFFICIAL.—For purposes of this subparagraph, the term 'covered executive branch official' means—

"(I) the President,

"(II) the Vice President,

"(III) any officer or employee of the White House Office of the Executive Office of the President, and the 2 most senior level officers of each of the other agencies in such Executive Office, and

"(IV) any individual serving in a position in level I of the Executive Schedule under section 5312 of title 5, United States Code, any other individual designated by the President as having Cabinet level status, and any immediate deputy of such an individual.

"(vii) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS.—For purposes of this subparagraph, an Indian tribal government shall be treated in the same manner as a local council or similar governing body.

"(viii) CROSS REFERENCE.—

> "For reporting requirements and alternative taxes related to this subsection, see section 6033(e).

"(e) CARRYOVER OF EXCESS DEDUCTIONS.—

"(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the amount of the deductions specified in subsection (d) for the succeeding taxable year (determined without regard to this subsection) shall be increased by the sum of—

"(A) such excess, plus

"(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year.

"(2) 3-MONTH TREASURY RATE.—For purposes of paragraph (1), the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less."

(b) CONFORMING REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are repealed:

(A) Subchapter B (relating to computation of taxable income).

(B) Subchapter C (relating to corporate distributions and adjustments).

(C) Subchapter D (relating to deferred compensation, etc.).

(D) Subchapter G (relating to corporations used to avoid income tax on shareholders).

(E) Subchapter H (relating to banking institutions).

(F) Subchapter I (relating to natural resources).

(G) Subchapter J (relating to estates, trusts, beneficiaries, and decedents).

(H) Subchapter L (relating to insurance companies).

(I) Subchapter M (relating to regulated investment companies and real estate investment trusts).

(J) Subchapter N (relating to tax based on income from sources within or without the United States).

(K) Subchapter O (relating to gain or loss on disposition of property).

(L) Subchapter P (relating to capital gains and losses).

(M) Subchapter Q (relating to readjustment of tax between years and special limitations).

(N) Subchapter S (relating to tax treatment of S corporations and their shareholders).

(O) Subchapter T (relating to cooperatives and their patrons).

(P) Subchapter U (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas).

(Q) Subchapter V (relating to title 11 cases).

(R) Subchapter W (relating to District of Columbia Enterprise Zone).

(2) REDESIGNATIONS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are redesignated:

(A) Subchapter E (relating to accounting periods and methods of accounting) as subchapter B.

(B) Subchapter F (relating to exempt organizations) as subchapter C.

(C) Subchapter K (relating to partners and partnerships) as subchapter D.

SEC. 3. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B (relating to estate, gift, and generation-skipping taxes) and the item relating to such subtitle in the table of subtitles is repealed.

SEC. 4. ADDITIONAL REPEALS.

Subtitles H (relating to financing of presidential election campaigns) and J (relating to coal industry health benefits) and the items relating to such subtitles in the table of subtitles are repealed.

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act apply to taxable years beginning after December 31, 2005.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section 3 applies to estates of decedents dying, and transfers made, after December 31, 2005.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

By Mr. SPECTER:

S. 813. A bill to amend part D of title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate for lower prices for medicare prescription drugs; to the Committee on Finance.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce the Prescription Drug and Health Improvement Act of 2005 to reduce the high prices of prescription drugs for Medicare beneficiaries. I introduced a similar version of this bill in the 108th Congress, S. 2766. To increase the likelihood that this bill may become law this bill does not include a costly provision which would have closed the gap in prescription drug costs for Medicare beneficiaries.

Americans, specifically senior citizens, pay the highest prices in the world for brand-name prescription drugs. With 45 million uninsured Americans and many more senior citizens without an adequate prescription drug benefit, filling a doctor's prescription is unaffordable for many people in this country. The United States has the greatest health care system in the world; however, too many seniors are forced to make difficult choices between life-sustaining prescription drugs and daily necessities.

The Centers for Medicare and Medicaid Services estimate that in 2004 per capita spending on prescription drugs rose approximately 12 percent, with a similar rate of growth expected for this year. Much of the increase in drug spending is due to higher utilization and the shift from older, lower cost drugs to newer, higher cost drugs. However, rapidly increasing drug prices are a critical component.

High drug prices, combined with the surging older population, are also taking a toll on State budgets and private sector health insurance benefits. Medicaid spending on prescription drugs increased at an average annual rate of nearly 19 percent between 1998 and 2002. Until lower priced drugs are available, pressures will continue to squeeze public programs at both the State and Federal level.

To address these problems, my legislation would reduce the high prices of prescription drugs to seniors by repealing the prohibition against interference by the Secretary of HHS with negotiations between drug manufacturers, pharmacies, and prescription drug plan sponsors and instead authorize the Secretary to negotiate contracts with manufacturers of covered prescription drugs. It will allow the Secretary of HHS to use Medicare's large beneficiary population to leverage bargaining power to obtain lower prescription drug prices for Medicare beneficiaries.

Price negotiations between the Secretary of HHS and prescription drug manufacturers would be analogous to the ability of the Secretary of Veterans Affairs to negotiate prescription drug prices with manufacturers. This bargaining power enables veterans to receive prescription drugs at a significant cost savings. According to the National Association of Chain Drug Stores, the average "cash cost" of a prescription in 2001 was $40.22. The average cost in the Veterans Affairs (VA) health care system in fiscal year 2001 was $22.87.

In the 108th Congress, in my capacity as chairman of the Veterans' Affairs Committee, I introduced the Veterans Prescription Drugs Assistance Act, S. 1153, which was reported out of committee, but was not considered before the full Senate. In the 109th Congress, I have again introduced the Veterans Prescription Drugs Assistance Act, S. 614.

This legislation will broaden the ability of veterans to access the Veterans Affairs' Prescription Drug Program. Under my bill, all Medicare-eligible veterans will be able to purchase medications at a tremendous price reduction through the Veterans Affairs' Prescription Drug Program. In many cases, this will save veterans who are Medicare beneficiaries up to 50 percent on the cost of prescribed medications, a significant savings for veterans. Similar savings may be available to America's seniors from the savings achieved using the HHS bargaining power, like the Veterans Affairs bargaining power for the benefit of veterans. These savings may provide America's seniors with fiscal relief from the increasing costs of prescription drugs.

I believe this bill can provide desperately needed access to inexpensive, effective prescription drugs for America's seniors. The time has come for concerted action in this arena. I urge my colleagues to move this legislation forward promptly.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1860D-11 of the Social Security Act (42 U.S.C. 1395w-111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following:

"(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that beneficiaries enrolled under prescription drug plans and MA-PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2066).

(c) HHS REPORTS COMPARING NEGOTIATED PRESCRIPTION DRUG PRICES AND RETAIL PRESCRIPTION DRUG PRICES.—Beginning in 2007, the Secretary of Health and Human Services shall regularly, but in no case less often than quarterly, submit to Congress a report that compares the prices for covered part D drugs (as defined in section 1860D-2(e) of the Social Security Act (42 U.S.C. 1395w-102(e)) negotiated by the Secretary pursuant to section 1860D-11(i) of such Act (42 U.S.C. 1395w-111(i)), as amended by subsection (a), with the average price a retail pharmacy would charge an individual who does not have health insurance coverage for purchasing the same strength, quantity, and dosage form of such covered part D drug.

By Mr. THOMAS (for himself, Ms. SNOWE, Mr. ENZI, Mr. BINGAMAN, Mr. ALEXANDER, Mr. TALENT, Mr. ENSIGN, and Mr. SMITH):

S. 815. A bill to amend the Internal Revenue Code of 1986 to allow a 15-year applicable recovery period for depreciation of certain electric transmission property; to the Commission on Finance.

Mr. THOMAS. Mr. President, today I rise to introduce a bill to encourage the construction of electric transmission lines. One of the biggest energy problems our country faces is a lack of electric transmission capacity. Recently, my home State of Wyoming joined forces with Utah, Nevada, and California in a partnership to create a new transmission line—the Frontier Line—to send coal-generated electricity to the West Coast.

Demand for electricity in the West has grown by 60 percent in the last two decades, while transmission capacity has grown by only 20 percent. But ours is certainly not the only region affected. Energy production and distribution is a serious issue affecting all Americans. From our dependence on foreign oil and natural gas, to limited refining capacity and distribution ability, never mind development of nontraditional fuels, we need to get our energy house in order. I have long-favored a comprehensive energy policy and will continue to champion that cause because it is badly needed and the right thing to do.

One piece of any energy policy needs to be providing for electric transmission capacity. If we're producing a surplus in one area of the country but can't convey it to other areas that need it, it doesn't do anyone any good. The bill I introduce today will help alleviate the problem by making it less expensive to invest in electric transmission lines that we badly need.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and by inserting ", and", and by adding at the end the following new clause:

"(vii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subparagraph (E)(vi) the following:

"(E)(vii) .... 30.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. REID (for Mrs. CLINTON):

S. 816. A bill to establish the position of Northern Border Coordinator in the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

Mr. REID (for Mrs. CLINTON). Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NORTHERN BORDER COORDINATOR.

(a) IN GENERAL.—Title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) is amended—

(1) in section 402—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

"(8) Increasing the security of the border between the United States and Canada and the ports of entry located along that border, and improving the coordination among the agencies responsible for maintaining that security."; and

(2) in subtitle C, by adding at the end the following:

"SEC. 431. NORTHERN BORDER COORDINATOR.

"(a) IN GENERAL.—There shall be within the Directorate of Border and Transportation Security the position of Northern Border Coordinator, who shall be appointed by the Secretary and who shall report directly to the Under Secretary for Border and Transportation Security.

"(b) RESPONSIBILITIES.—The Northern Border Coordinator shall be responsible for—

"(1) increasing the security of the border, including ports of entry, between the United States and Canada;

"(2) improving the coordination among the agencies responsible for the security described under paragraph (1);

"(3) serving as the primary liaison with State and local governments and law enforcement agencies regarding security along the border between the United States and Canada; and

"(4) serving as a liaison with the Canadian government on border security.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 430 the following:

"Sec. 431. Northern Border Coordinator.".

By Ms. STABENOW (for herself, Mr. GRAHAM, and Mr. BAYH):

S. 817. A bill to amend the Trade Act of 1974 to create a Special Trade Prosecutor to ensure compliance with trade agreements, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, I rise to introduce a bill on behalf of myself and Senators GRAHAM and BAYH.

This bill would create an ambassador-level position within the office of the U.S. Trade Representative entitled: Special Trade Prosecutor. This individual would be appointed by the President and confirmed by the Senate, with the authority to ensure compliance with trade agreements to protect our manufacturers against unfair trade practices.

In practical terms, this prosecutor will have the authority to investigate and recommend prosecuting cases before the World Trade Organization and under trade agreements to which the United States is a party.

Why this bill? At this time?

We have an Executive Branch that is organized in such a way as to make prosecution of unfair trade cases unlikely at best. When you couple this with the fact that our government has sat idle as our domestic manufacturing base has eroded due to unfair trade practices, it becomes very clear that we have put our manufacturers in an impossible situation.

Under the current structure of the office of the U.S. Trade Representative, we are asking our Trade Representative to do too much. Quite simply, the office is not able to deliver.

The current structure demands that they negotiate trade agreements with foreign nations and simultaneously enforce other agreements with those same countries—all without damaging the U.S.'s ability to negotiate the next trade deal.

It's not working. And, while significant portions of our trade imbalances are not caused by lax enforcement, much of it is.

In February, the Department of Commerce reported that the merchandise trade deficit reached a record level of $666.2 billion in the 2004, a 21.7 percent increase since 2003.

If we can address any portion of this deficit we must do it. This bill represents a straight-forward, commonsense solution.

There are many U.S. industries facing unfair trade practices and this bill represents an institutional change that will allow the U.S. to thoroughly and vigorously investigate and prosecute these cases.

For instance, China is a textbook case of how a foreign government has used a network of illegal subsidies and government interventions in order to destroy foreign competition, both in the United States as well as in many other countries.

According to the U.S. China Economic and Security Commission, these actions have gone virtually unchallenged by the U.S. government, despite the fact that China's actions are in clear violations of both U.S. trade law and WTO rules.

These "anti-competitive actions by China's government include currency manipulation (estimated to provide as much as a 40 percent subsidy for Chinese exporters), illegal direct government subsidies of its money losing state-owned textile and apparel sectors, illegal export tax rebates (13 percent) and the deliberate extension of billions of dollars in non-performing ("free money") loans by China's central banks in order to award a competitive advantage against foreign competition."

The Commission goes on to say that "in the case of China, the dramatic increase in subsidies has caused Chinese prices to drop by an average of 58 percent over the past two years in those product areas where quotas have been removed. As a result, China has gained a near monopoly share in these products over the last 24 months, taking 60 percent of the market."

However, the U.S. government has failed to file any complaints at the WTO, despite the Chinese government's repeated and widespread violations of WTO rules.

Our government's inaction is costing us millions of American jobs, crippling our manufacturing sector, distorting trade and investment patterns globally, and leaving hundreds of millions of Chinese workers vulnerable and mistreated.

Let me give you a concrete example of the violations that are occurring.

Counterfeit automotive products are a big problem in my home State of Michigan. Not only does it kill American jobs, but it has the potential to kill Americans as cheap shoddy automotive products replace legitimate ones of higher-quality.

The American automotive parts and components industry looses an estimated $12 billion in sales on a global basis to counterfeiting.

And, we don't even keep statistics on the potential loss of life.

As many have said, we should understand that, if left unchecked, penetration by counterfeit automotive products, as well as other manufactured goods, has the potential to undermine the public's confidence and trust in what they are buying. We can't let that happen.

In Michigan, we lost 51,000 manufacturing jobs between 1989 and 2003 due to China's unfair trade practices, according to the Economic Policy Institute.

Unfortunately, the plant closings continue in Michigan and around the Nation. Over the past three months we see example after example of the damage a "wait and see" attitude has on workers in this country.

We should not be shirking our responsibilities to enforce trade rules. This Bill helps us reverse the course upon which we find ourselves—it helps us save American jobs.

I believe in trade and the benefits it can have for our manufacturers, farmers, and other industries. But, we need to have fair trade first and foremost.

A Special Trade Prosecutor would have the power to stand up for our manufacturers and farmers and make sure that other countries are holding up their end of their trade agreements.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREATION OF SPECIAL TRADE PROSECUTOR.

(a) ESTABLISHMENT OF POSITION.—Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended to read as follows:

"(2) There shall be in the Office 3 Deputy United States Trade Representatives, 1 Chief Agricultural Negotiator, and 1 Special Trade Prosecutor. The 3 Deputy United States Trade Representatives, the Chief Agricultural Negotiator, and the Special Trade Prosecutor shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative, the Chief Agricultural Negotiator, or the Special Trade Prosecutor submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy United States Trade Representative, the Chief Agricultural Negotiator, and the Special Trade Prosecutor shall hold office at the pleasure of the President and shall have the rank of Ambassador.".

(b) FUNCTIONS OF POSITION.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following new paragraph:

"(6) The principal function of the Special Trade Prosecutor shall be to ensure compliance with trade agreements relating to United States manufactured goods and services. The Special Trade Prosecutor shall have the authority to investigate and recommend prosecuting cases before the World Trade Organization and under trade agreements to which the United States is a party. The Special Trade Prosecutor shall recommend administering United States trade laws relating to foreign government barriers to United States goods and services. The Special Trade Prosecutor shall perform such other functions as the United States Trade Representative may direct.".

By Mr. JOHNSON:

S. 819. A bill to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; to the Committee on Energy and Natural Resources.

Mr. JOHNSON. Mr. President, I rise today to introduce legislation that codifies an agreement between the City of Rapid City, SD and the Rapid Valley Water Conservancy District for a water service contract. The renegotiated agreement reallocates the costs of the Pactola Dam to better reflect the City's growing need for municipal water supply and the Rapid Valley District's decreasing demand for irrigation.

The legislation implements an agreement to improve upon the current municipal, industrial, irrigation, recreation, and wildlife requirements of Rapid City and the Rapid Valley District. It is my hope that this legislation can be quickly approved to facilitate the completion of this contract.

I ask unanimous consent that the text of the Pactola Reservoir Reallocation Authorization Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pactola Reservoir Reallocation Authorization Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) it is appropriate to reallocate the costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; and

(2) section 302 of the Department of Energy Organization Act (42 U.S.C. 7152) prohibits such a reallocation of costs without congressional approval.

SEC. 3. REALLOCATION OF COSTS OF PACTOLA DAM AND RESERVOIR, SOUTH DAKOTA.

The Secretary of the Interior may, as provided in the contract of August 2001 entered into between Rapid City, South Dakota, and the Rapid Valley Conservancy District, reallocate, in a manner consistent with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the construction costs of Pactola Dam and Reservoir, Rapid Valley Unit, Pick-Sloan Missouri Basin Program, South Dakota, from irrigation purposes to municipal, industrial, and fish and wildlife purposes.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 820. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today, along with my colleague from Maine, Senator COLLINS, I am introducing legislation to help businesses form group-purchasing cooperatives to obtain enhanced benefits, to reduce health care rates, and to improve quality for their employees' health care.

High health care costs are burdening businesses and employees across the Nation. These costs are digging into profits and preventing access to affordable health care. Too many patients feel trapped by the system, with decisions about their health dictated by costs rather than by what they need.

Nationally, the annual average cost to an employer for an employee's health care is $6,348. In my home State of Wisconsin it is even higher—the average cost there is $7,618. We must curb these rapidly increasing health care costs. I strongly support initiatives to ensure that everyone has access to health care. It is crucial that we support successful local initiatives to reduce health care premiums and to improve the quality of employees' health care.

By using group purchasing to obtain rate discounts, some employers have been able to reduce the cost of health care premiums for their employees. According to the National Business Coalition on Health, there are nearly 80 employer-led coalitions across the United States that collectively purchase health care. Through these pools, businesses are able to proactively challenge high costs and inefficient delivery of health care and share information on quality. These coalitions represent over 10,000 employers nationwide.

Improving the quality of health care will also lower the cost of care. By investing in the delivery of quality health care, we will be able to lower long term health care costs. Effective care, such as quality preventive services, can reduce overall health care expenditures. Health purchasing coalitions help promote these services and act as an employer forum for networking and education on health care cost containment strategies. They can help foster a dialogue with health care providers, insurers, and local HMOs.

Health care markets are local. Problems with cost, quality, and access to health care are felt most intensely in the local markets. Health care coalitions can function best when they are formed and implemented locally. Local employers of large and small businesses have formed health care coalitions to track health care trends, create a demand for quality and safety, and encourage group purchasing.

In Wisconsin, there have been various successful initiatives that have formed health care purchasing cooperatives to improve quality of care and to reduce cost. For example, the Employer Health Care Alliance Cooperative, an employer-owned and employer-directed not-for-profit cooperative, has developed a network of health care providers in Dane County and 12 surrounding counties on behalf of its 160 member employers. Through this pooling effort, employers are able to obtain affordable, high-quality health care for their 87,500 employees and dependents.

This legislation seeks to build on successful local initiatives, such as the Alliance, that help businesses to join together to increase access to affordable and high-quality health care.

The Promoting Health Care Purchasing Cooperatives Act would authorize grants to a group of businesses so that they could form group-purchasing cooperatives to obtain enhanced benefits, reduce health care rates, and improve quality.

This legislation offers two separate grant programs to help different types of businesses pool their resources and bargaining power. Both programs would aid businesses to form cooperatives. The first program would help large businesses that sponsor their own health plans, while the second program would help small businesses that purchase their health insurance.

My bill would enable larger businesses to form cost-effective cooperatives that could offer quality health care through several ways. First, they could obtain health services through pooled purchasing from physicians, hospitals, home health agencies, and others. By pooling their experience and interests, employers involved in a coalition could better address essential issues, such as rising health insurance rates and the lack of comparable health care quality data. They would be able to share information regarding the quality of these services and to partner with these health care providers to meet the needs of their employees.

For smaller businesses that purchase their health insurance, the formation of cooperatives would allow them to buy health insurance at lower prices through pooled purchasing. Also, the communication within these cooperatives would provide employees of small businesses with better information about the health care options that are available to them. Finally, coalitions would serve to promote quality improvements by facilitating partnerships between their group and the health care providers.

By working together, the group could develop better quality insurance plans and negotiate better rates.

This legislation also tries to alleviate the burden that our Nation's farmers face when trying to purchase health care for themselves, their families, and their employees. Because the health insurance industry looks upon farming as a high-risk profession, many farmers are priced out of, or simply not offered, health insurance. By helping farmers join cooperatives to purchase health insurance, we will help increase their health insurance options.

Past health purchasing pool initiatives have focused only on cost and have tried to be all things for all people. My legislation creates an incentive to join the pools by giving grants to a group of similar businesses to form group-purchasing cooperatives. The pools are also given flexibility to find innovative ways to lower costs, such as enhancing benefits, for example, more preventive care, and improving quality. Finally, the cooperative structure is a proven model, which creates an incentive for businesses to remain in the pool because they will be invested in the organization.

I am pleased that this bill is supported by the National Business Coalition on Health, an organization that already understands that allowing businesses to come together to increase their health care purchasing power can lead to an increase in health care quality, and a decrease in health care costs.

We must reform health care in America and give employers and employees more options. This legislation, by providing for the formation of cost-effective coalitions that will also improve the quality of care, contributes to this essential reform process. I urge my colleagues to join me in cosponsoring this proposal to improve the quality and costs of health care.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Promoting Health Care Purchasing Cooperatives Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Health care spending in the United States has reached 15 percent of the Gross Domestic Product of the United States, yet 45,000,000 people, or 15.6 percent of the population, remains uninsured.

(2) After nearly a decade of manageable increases in commercial insurance premiums, many employers are now faced with consecutive years of double digit premium increases.

(3) Purchasing cooperatives owned by participating businesses are a proven method of achieving the bargaining power necessary to manage the cost and quality of employer-sponsored health plans and other employee benefits.

(4) The Employer Health Care Alliance Cooperative has provided its members with health care purchasing power through provider contracting, data collection, activities to enhance quality improvements in the health care community, and activities to promote employee health care consumerism.

(5) According to the National Business Coalition on Health, there are nearly 80 employer-led coalitions across the United States that collectively purchase health care, proactively challenge high costs and the inefficient delivery of health care, and share information on quality. These coalitions represent more than 10,000 employers.

(b) PURPOSE.—It is the purpose of this Act to build off of successful local employer-led health insurance initiatives by improving the value of their employees' health care.

SEC. 3. GRANTS TO SELF INSURED BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

(a) AUTHORIZATION.—The Secretary of Health and Human Services (in this Act referred to as the "Secretary"), acting through the Director of the Agency for Healthcare Research and Quality, is authorized to award grants to eligible groups that meet the criteria described in subsection (d), for the development of health care purchasing cooperatives. Such grants may be used to provide support for the professional staff of such cooperatives, and to obtain contracted services for planning, development, and implementation activities for establishing such health care purchasing cooperatives.

(b) ELIGIBLE GROUP DEFINED.—

(1) IN GENERAL.—In this section, the term "eligible group" means a consortium of 2 or more self-insured employers, including agricultural producers, each of which are responsible for their own health insurance risk pool with respect to their employees.

(2) NO TRANSFER OF RISK.—Individual employers who are members of an eligible group may not transfer insurance risk to such group.

(c) APPLICATION.—An eligible group desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(d) CRITERIA.—

(1) FEASIBILITY STUDY GRANTS.—

(A) IN GENERAL.—An eligible group may submit an application under subsection (c) for a grant to conduct a feasibility study concerning the establishment of a health insurance purchasing cooperative. The Secretary shall approve applications submitted under the preceding sentence if the study will consider the criteria described in paragraph (2).

(B) REPORT.—After completion of a feasibility study under a grant under this section, an eligible group shall submit to the Secretary a report describing the results of such study.

(2) GRANT CRITERIA.—The criteria described in this paragraph include the following with respect to the eligible group:

(A) The ability of the group to effectively pool the health care purchasing power of employers.

(B) The ability of the group to provide data to employers to enable such employers to make data-based decisions regarding their health plans.

(C) The ability of the group to drive quality improvement in the health care community.

(D) The ability of the group to promote health care consumerism through employee education, self-care, and comparative provider performance information.

(E) The ability of the group to meet any other criteria determined appropriate by the Secretary.

(e) COOPERATIVE GRANTS.—After the submission of a report by an eligible group under subsection (d)(1)(B), the Secretary shall determine whether to award the group a grant for the establishment of a cooperative under subsection (a). In making a determination under the preceding sentence, the Secretary shall consider the criteria described in subsection (d)(2) with respect to the group.

(f) COOPERATIVES.—

(1) IN GENERAL.—An eligible group awarded a grant under subsection (a) shall establish or expand a health insurance purchasing cooperative that shall—

(A) be a nonprofit organization;

(B) be wholly owned, and democratically governed by its member-employers;

(C) exist solely to serve the membership base;

(D) be governed by a board of directors that is democratically elected by the cooperative membership using a 1-member, 1-vote standard; and

(E) accept any new member in accordance with specific criteria, including a limitation on the number of members, determined by the Secretary.

(2) AUTHORIZED COOPERATIVE ACTIVITIES.—A cooperative established under paragraph (1) shall—

(A) assist the members of the cooperative in pooling their health care insurance purchasing power;

(B) provide data to improve the ability of the members of the cooperative to make data-based decisions regarding their health plans;

(C) conduct activities to enhance quality improvement in the health care community;

(D) work to promote health care consumerism through employee education, self-care, and comparative provider performance information; and

(E) conduct any other activities determined appropriate by the Secretary.

(g) REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date on which grants are awarded under this section, and every 2 years thereafter, the Secretary shall study programs funded by grants under this section and provide to the appropriate committees of Congress a report on the progress of such programs in improving the access of employees to quality, affordable health insurance.

(2) SLIDING SCALE FUNDING.—The Secretary shall use the information included in the report under paragraph (1) to establish a schedule for scaling back payments under this section with the goal of ensuring that programs funded with grants under this section are self sufficient within 10 years.

SEC. 4. GRANTS TO SMALL BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

The Secretary shall carry out a grant program that is identical to the grant program provided in section 3, except that an eligible group for a grant under this section shall be a consortium of 2 or more employers, including agricultural producers, each of which—

(1) have 99 employees or less; and

(2) are purchasers of health insurance (are not self-insured) for their employees.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

From the administrative funds provided to the Secretary, the Secretary may use not more than a total of $60,000,000 for fiscal years 2006 through 2015 to carry out this Act.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 822. A bill to prevent the retroactive application of changes to Trans-Alaska Pipeline Quality Bank valuation methodologies; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I rise today for myself and fellow Alaska Senator TED STEVENS to introduce legislation concerning a complex issue, the Quality Bank that is used to facilitate payments between shippers using the Trans-Alaska Oil Pipeline System to reflect variations in the value of different crude oil streams that are injected into the pipeline.

Since its opening in June 1977, the Trans-Alaska Pipeline System, TAPS, has carried crude oil from Alaska's North Slope to Valdez where the oil is shipped to market. The pipeline carries crude oil from various sources and of varying quality—the oil injected into the line before the pipeline's Pump Station One near Deadhorse, AK, and commingled as the blended stream of oil travels south to Valdez. The TAPS Quality Bank was established to compensate producers of higher quality crude oil for the difference in the value of the crude injected at the North Slope and that of the lower-quality commingled stream received in Valdez, since each shipper receives a quantity of the blended stream equivalent to the amount it injected into the line.

Companies injecting low-quality crude oil pay into the Quality Bank, while companies injecting high quality crude receive a payment from the Quality Bank. In addition, between the North Slope and Valdez, two refineries, Flint Hills and Petro Star, withdraw a portion of the common stream from TAPS, partially refine the crude oil into products such as gasoline, diesel and jet fuel, and reinject into TAPS the other components of crude left over after their refinery processes. Each fuel extracted from the crude is called a "cut." To compensate producers for the loss in value of the crude oil because of what is removed by these refineries, refiners also pay into the Quality Bank. The objective of the Quality Bank is to make monetary adjustments so that each shipper is in the same economic position it would enjoy if it received the same oil in Valdez that it delivered to TAPS on the state's North Slope.

The methodology used to determine Quality Bank payments has been a subject of controversy since the Quality Bank's creation. The problem arises because there is no independent market for the crude injected on the North Slope and thus no way to objectively determine its value. The methodology is set by the Federal Energy Regulatory Commission. Since the early 1980s, FERC-approved methodologies have been challenged in court and revised multiple times. In 1993, the majority of North Slope shippers proposed and FERC approved a settlement calling for the use of a "distillation" methodology, which would value crude oil based on the market price of various cuts created when the components are separated based on different boiling points—the distillation process. This methodology replaced the former "gravity" methodology where oil was valued based on its relative gravity.

Since 1993, disputes have focused largely on the valuation of cuts at the highest boiling points—the "Heavy Distillate" cut that evaporates at temperatures between 350 and 650 degrees F. and the Resid, residual, cut, which includes the portion remaining after distillation of all other cuts at boiling points up to 1050 degrees F. Two additional cuts are also at issue, the VGO and Naptha cuts.

In 1997, responding to a D.C. Circuit Court of Appeals ruling, FERC approved a settlement with a revised valuation methodology for Distillate and Resid. Under the FERC order, the new valuation methodologies were to be applied on a prospective basis only. Later, the D.C. Circuit in 1999 told FERC to revise some particular details of the Resid valuation and also held that FERC had "failed to provide an adequate explanation" as to why the new methodology should not be made retroactive to 1993.

Responding to the ruling, the Administrative Law Judge, who in 1997 had decided that all changes should only apply prospectively, reversed his position and released a decision in August 2004 calling for changes in the Resid and Heavy Distillate cuts to be applied retroactively, in the case of Resid to as far back as 1993. In addition, the administrative law judge decided to apply new valuations for VGO and Naptha, prospectively. Currently, the judge's decision is awaiting a final decision by the FERC on whether to impose the Initial Decision or alter it.

There are clearly major public policy implications resulting from this Quality Bank issue. While the bank is a "zero sum" game as far as money paid in and out of the bank is concerned, the impacts on the parties and thus on the citizens of Alaska are anything but equal.

For decades Alaskans suffered under the impacts of having to import all refined fuel products into the State from West Coast refineries. Besides higher prices caused by transportation, that left the State wholly dependent on fuel supplies that needed to travel at least 2,000 miles on average to reach Alaska consumers—sometimes through bad weather and difficult sea conditions. With the construction of in-State refineries, Alaskans finally saw greater security of supply, less dependence upon weather for shipment arrivals, and the possibility of lower fuel prices because of potentially reduced transportation costs. The greater dependability of fuel supplies improved aviation freight shipments at the Anchorage and Fairbanks international airports, helping create jobs in air freight and related industries.

But the decision of the Administrative Law Judge to apply new Quality Bank methodology assessments retroactively, places the economics of in-State refineries at risk. That in turn not only impacts the job security for the roughly 400 Alaskans who work at the refineries, but also threatens the State's energy and economic security.

The problem is that both of the refineries must make long- and short-term business decisions based on crude costs when they process crude oil into product. Refineries optimize their production slates based on current market realities. It is difficult for them to operate, given low profit margins, if oil values can change years later as a result of Quality Bank decisions. They simply have no way to make rational business decisions when the value of their products can be determined retroactively long after they can protect themselves for perceived mistakes in FERC-approved valuation methodologies. This certainly threatens the ability of the refineries to attract capital, money needed for them to modernize and meet new ultra-low sulfur diesel "clean fuel" requirements soon to go into effect.

The State's Congressional Delegation last fall in report language added to the Federal budget expressed its concern with the equity of long retroactive Quality Bank valuation adjustments. Last autumn we urged FERC to look carefully at the justice of the Initial Decision of the Administrative Law Judge in this case and we encouraged all of the eight parties that includes the State of Alaska, to reach an out-of-court settlement of the 1993 case to bring finality to this complex case before it harms instate refinery capabilities. At the time we avoided a legislative solution to this purely Alaskan case. We are renewing our pleas for action in a letter sent to FERC on Thursday.

In the intervening six months, while one mediation session has occurred, the parties report little or no progress toward reaching a mutually agreeable settlement. While opinions may differ on whether Congress should intervene to settle the on-going case, there is little doubt that Congress should step forward to prevent such an arcane dispute from ever again threatening Alaska's energy industry.

For that reason prior to the next mediation session, today we introduce legislation to limit the ability of FERC in the future to make retroactive the impacts of future Quality Bank valuation methodology changes. By this legislation, after December 31, 2005, FERC still will be able to change the methodology for determining the value of oil flowing through the pipeline but will not be permitted to apply changes to Quality Bank valuation methodologies on anything other than a prospective basis.

We have proposed this provision to prevent this legal nightmare from happening again. This provision will first eliminate the perverse current incentive for all sides to promote further litigation regarding Quality Bank valuations based on the expectation of a retroactive application of changes that would result in a large economic windfall. The retroactive application of valuation methodology changes encourages the sides in a dispute to sue in hopes of gaining a larger benefit in the future. This is a "lottery," however, that Alaskans are guaranteed to lose.

By setting December 31, 2005, as the date that FERC can no longer apply Quality Bank valuation methodologies on a retroactive basis, the legislation will put the FERC and the litigants on record that the current dispute must be resolved by the end of this year.

Requiring FERC to apply valuation methodology changes in connection with any future disputes on a prospective basis only will eliminate the risk and uncertainty associated with the prospect of nearly unlimited retroactive application of Quality Bank payment methodology changes. That will allow all Quality Bank participants to be able to conduct business with the certainty of knowing that prices received and paid for oil today cannot be altered years down the road. In addition, this will eliminate the strong incentive that currently exists for some parties to engage in endless litigation, in hopes of gaining windfall benefits from retroactive application changes.

While we continue to call on all sides in the current dispute to compromise and settle this case now, this bill will discourage if not eliminate this type of dispute in the future—a benefit for all Alaskans.

Mr. STEVENS. Mr. President, I join my colleague, Senator LISA MURKOWSKI, in introducing legislation pertaining to the Trans Alaska Pipeline System (TAPS) and the Quality Bank.

The Quality Bank was created to balance accounts among oil producers on Alaska's North Slope who produce crude oil of different quality and value from different oil fields. When the oil is delivered at Pump Station No. 1, it is commingled and transported by TAPS to Valdez, Alaska, where it is shipped by tanker to the lower 48 States.

This Quality Bank accounting concept also applies to oil refineries in my State who receive needed crude oil from TAPS, refine various petroleum products and return the balance of the crude oil to the pipeline. The methodology used to determine these payments has been the subject of dispute since the Bank's inception, creating uncertainty in the market and a chilling effect on business investment in Alaska.

In 1989, a legal proceeding was initiated at the Federal Energy Regulatory Commission (FERC) that in 1993 changed the methodology under which "Quality Banks" in Alaska were operated. After 15 long and protracted years of legal proceedings before FERC, an Administrative Law Judge issued an Initial Decision proposing to replace the Quality Bank methodology that the parties assumed they were operating under since 1993. It proposes instead a new complex set of valuations that the parties could not have predicted and that have very large financial impacts, especially on refiners. Significantly, this decision also proposes to apply the most significant of these new valuations retroactively, all the way back to 1993.

The Administrative Law Judge's decision to apply this new methodology retroactively puts Alaska's in-State refineries at risk at a time when the United States can ill afford to lose its limited refining capacity.

Given the Potential impact should FERC decide to adopt the ALJ's decision, Congress included legislative language in the Fiscal Year 2005 Consolidated Appropriations conference report expressing its concern over this issue. Congress urged FERC to carefully Consider the specific equities of this case to prevent special hardship, inequity, or an unfair distribution of burdens to any party, to assess the equity of assigning retroactivity, and to resolve this matter in a fair and equitable manner.

In addition, the State's Congressional Delegation urged the parties to reach a settlement to end over 15 years of litigation and bring finality to this issue. Despite repeated calls for settlement, the parties appear to have made little or no progress towards this end.

The issue of retroactivity and its application in the aforementioned case is problematic given the lack of clear Congressional action on the subject. Congress' silence on the subject has given the parties incentive to prolong litigation and pursue appeals until they receive a ruling which is beneficial to them.

To remedy this situation and prevent similar disputes in the future, we are introducing this legislation to limit FERC's ability to assign retroactivity in matters pertaining to the Quality Bank. This legislation is necessary to limit business uncertainty associated with the use of the Trans Alaska Pipeline System, and to ensure continued domestic refinery activity in order to protect national fuel supplies.

SUBMITTED RESOLUTIONS

S. RES. 111

Whereas on August 31, 1991, the Kyrgyz Republic declared independence from the Soviet Union;

Whereas the Kyrgyz Republic was ruled by President Askar Akayev from October 1991 to April 2005;

Whereas the Kyrgyz Republic held a first round of parliamentary elections on February 27, 2005;

Whereas the United States Government recognized several areas of improvement in the parliamentary elections in the Kyrgyz Republic, including competitive elections and the active participation of civil society, but it noted the elections fell short of the commitments of the Kyrgyz Republic to the Organization for Security and Cooperation in Europe (OSCE) and other international entities to fully meet the accepted criteria for democratic elections;

Whereas nation-wide demonstrations sparked by the flawed parliamentary elections in the Kyrgyz Republic led to the departure of President Akayev and the collapse of his government on March 22, 2005;

Whereas Askar Akayev officially resigned as President of the Kyrgyz Republic on April 4, 2005;

Whereas the Kyrgyz people, through their actions, have created an opportunity for a democratic and stable future for the Kyrgyz Republic;

Whereas the interim government in the Kyrgyz Republic can earn the confidence of the Kyrgyz people and the international community by abiding by its commitment to hold free and fair presidential elections on July 10, 2005, and by ensuring that the members of the new parliament in the Kyrgyz Republic represent the choice of the Kyrgyz people;

Whereas the interim government in the Kyrgyz Republic can move towards resolving the political crisis in the Kyrgyz Republic in a way that confirms the will of the Kyrgyz people by working closely with its immediate neighbors and with the OSCE;

Whereas the United States strongly supports efforts by the OSCE to work with the Kyrgyz people to strengthen democratic institutions in the Kyrgyz Republic, which will provide the foundation for political stability in the Kyrgyz Republic;

Whereas the United States and the Kyrgyz Republic value a good relationship;

Whereas the United States provides humanitarian assistance, nonlethal military assistance, and assistance to support economic and political reforms as part of the democratic transition process in the Kyrgyz Republic; and

Whereas security in the Kyrgyz Republic remains a top concern of the United States due to its strong support of the United States in the global war on terrorism: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the official resignation of Askar Akayev as President of the Kyrgyz Republic;

(2) acknowledges and welcomes the close relationship formed between the United States and the Kyrgyz Republic since it declared independence from the Soviet Union on August 31, 1991;

(3) supports the sovereignty, independence, and territorial integrity of the Kyrgyz Republic;

(4) urges the continuation of strong support for democratic reform, including respect for the rule of law and human rights, in the Kyrgyz Republic;

(5) urges the interim government in the Kyrgyz Republic to move swiftly toward the democratic government ratified by the Kyrgyz people by holding free, fair, and transparent presidential elections on July 10, 2005, and by ensuring that the new parliament in the Kyrgyz Republic represents the choice of the Kyrgyz people; and

(6) urges the people of the Kyrgyz Republic to take advantage of the readiness of the Organization for Security and Cooperation in Europe (OSCE) to expand its assistance in preparing for free and fair presidential elections in the Kyrgyz Republic as the foundation of political legitimacy and stability in the Kyrgyz Republic.

SENATE RESOLUTION 112—DESIGNATING THE THIRD WEEK OF APRIL IN 2005 AS "NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK"

Mr. DODD (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BINGAMAN, Ms. CANTWELL, Mr. COLEMAN, Ms. COLLINS, Mr. DAYTON, Mr. DURBIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 112

Whereas the month of April has been designated "National Child Abuse Prevention Month" as an annual tradition that was initiated in 1979 by former President Jimmy Carter;

Whereas the most recent National Child Abuse and Neglect Data System (NCANDS) figures show that almost 900,000 children were victims of abuse and neglect in the United States in 2002, causing unspeakable pain and suffering to our most vulnerable citizens;

Whereas among the children who are victims of abuse and neglect, nearly 4 children die each day in this country;

Whereas children age 1 and younger accounted for 41.2 percent of child abuse and neglect fatalities in 2002, and children age 4 and younger accounted for 76.1 percent of all child abuse and neglect fatalities in 2002;

Whereas abusive head trauma, including the trauma known as Shaken Baby Syndrome, is recognized as the leading cause of death of physically abused children;

Whereas Shaken Baby Syndrome is a totally preventable form of child abuse, caused by a caregiver losing control and shaking a baby that is usually less than 1 year in age;

Whereas Shaken Baby Syndrome can result in loss of vision, brain damage, paralysis, seizures, or death;

Whereas a 2003 report in the Journal of the American Medical Association estimates that, in the United States, an average of 300 children will die each year, and 600 to 1,200 more will be injured, of whom ⅔ will be babies or infants under 1 year in age, as a result of Shaken Baby Syndrome, with many cases resulting in severe and permanent disabilities;

Whereas medical professionals believe that thousands of additional cases of Shaken Baby Syndrome are being misdiagnosed or not detected;

Whereas Shaken Baby Syndrome often results in permanent, irreparable brain damage or death to an infant and may result in more than $1,000,000 in medical costs to care for a single, disabled child in just the first few years of life;

Whereas the most effective solution for ending Shaken Baby Syndrome is to prevent such abuse, and it is clear that the minimal costs of education and prevention programs may prevent enormous medical and disability costs and untold grief for many families;

Whereas prevention programs have demonstrated that educating new parents about the danger of shaking young children and how they can help protect their child from injury can bring about a significant reduction in the number of cases of Shaken Baby Syndrome;

Whereas education programs have been shown to raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, daycare workers, child protection employees, law enforcement personnel, health care professionals, and legal representatives;

Whereas efforts to prevent Shaken Baby Syndrome are supported by advocacy groups across the United States that were formed by parents and relatives of children who have been killed or injured by shaking, such as the National Shaken Baby Coalition, the Shaken Baby Association, the SKIPPER (Shaking Kills: Instead Parents Please Educate and Remember) Initiative, the Shaken Baby Alliance, Shaken Baby Prevention, Inc., A Voice for Gabbi, Don't Shake Jake, and the Kierra Harrison Foundation, whose mission is to educate the general public and professionals about Shaken Baby Syndrome and to increase support for victims and victim's families in the health care and criminal justice systems;

Whereas child abuse prevention programs and "National Shaken Baby Syndrome Awareness Week" are supported by the National Shaken Baby Coalition, the National Center on Shaken Baby Syndrome, the Children's Defense Fund, the American Academy of Pediatrics, the Child Welfare League of America, Prevent Child Abuse America, the National Child Abuse Coalition, the National Exchange Club Foundation, the American Humane Association, the American Professional Society on the Abuse of Children, the Arc of the United States, the Association of University Centers on Disabilities, Children's Healthcare is a Legal Duty, Family Partnership, Family Voices, National Alliance of Children's Trust and Prevention Funds, United Cerebral Palsy, the National Association of Children's Hospitals and related institutions, Never Shake a Baby Arizona/Prevent Child Abuse Arizona, the Center for Child Protection and Family Support, and many other organizations;

Whereas a 2000 survey by Prevent Child Abuse America shows that half of all Americans believe that of all the public health issues facing this country, child abuse and neglect is the most important;

Whereas Congress previously designated the third week of April 2001 as "National Shaken Baby Syndrome Awareness Week 2001"; and

Whereas Congress strongly supports efforts to protect children from abuse and neglect: Now, therefore, be it

Resolved, That the Senate—

(1) designates the third week of April in 2005 as "National Shaken Baby Syndrome Awareness Week"; and

(2) encourages the people of the United States to remember the victims of Shaken Baby Syndrome and to participate in educational programs to help prevent Shaken Baby Syndrome.

AMENDMENTS SUBMITTED AND PROPOSED

SA 447. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 448. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 449. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 450. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 451. Mr. SCHUMER (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DODD, Mrs. BOXER, Mr. DORGAN, Mr. LIEBERMAN, Mrs. CLINTON, Mr. AKAKA, Mr. DURBIN, and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, supra.

SA 452. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 453. Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 454. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 455. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 456. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 457. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 458. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 459. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 460. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 461. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 462. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 463. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 464. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 465. Mr. BYRD (for himself, Mr. CRAIG, Mr. DORGAN, Mr. BAUCUS, Mr. LEAHY, Mrs. FEINSTEIN, Mr. OBAMA, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 447. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency repair of the Fern Ridge Dam, Oregon, $31,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 448. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 199, strike line 13 and all that follows through page 200, line 13.

SA 449. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 196, strike lines 4 through 17.

On page 202, strike lines 1 through 13.

SA 450. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 166, strike lines 8 through 20.

SA 451. Mr. SCHUMER (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DODD, Mrs. BOXER, Mr. DORGAN, Mr. LIEBERMAN, Mrs. CLINTON, Mr. AKAKA, Mr. DURBIN, and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047.(a) Congress finds that—

(1) the prices of gasoline and crude oil have a direct and substantial impact on the financial well-being of families of the United States, the potential for national economic recovery, and the economic security of the United States;

(2) on April 12, 2005, crude oil prices closed at the exceedingly high level of $51.86 per barrel and the price of crude oil has remained above $50 per barrel since February 22, 2005;

(3) on April 11, 2005, the Energy Information Administration announced that the national price of gasoline, at $2.28 per gallon—

(A) had set a new record high for a 4th consecutive week;

(B) was $0.49 higher than last year; and

(C) could reach even higher levels in the near future;

(4) despite the severely high, sustained price of crude oil—

(A) the Organization of Petroleum Exporting Countries (referred to in this section as "OPEC") has refused to adequately increase production to calm global oil markets and officially abandoned its $22–$28 price target; and

(B) officials of OPEC member nations have publicly indicated support for maintaining oil prices of $40–$50 per barrel;

(5) the Strategic Petroleum Reserve (referred to in this section as "SPR") was created to enhance the physical and economic security of the United States;

(6) the law allows the SPR to be used to provide relief when oil and gasoline supply shortages cause economic hardship;

(7) the proper management of the resources of the SPR could provide gasoline price relief to families of the United States and provide the United States with a tool to counterbalance OPEC supply management policies;

(8) the Administration's current policy of filling the SPR despite the fact that the SPR is more than 98 percent full has exacerbated the rising price of crude oil and record high retail price of gasoline;

(9) in order to combat high gasoline prices during the summer and fall of 2000, President Clinton released 30,000,000 barrels of oil from the SPR, stabilizing the retail price of gasoline;

(10) increasing vertical integration has allowed—

(A) the 5 largest oil companies in the United States to control almost as much crude oil production as the Middle Eastern members of OPEC, over of domestic refiner capacity, and over 60 percent of the retail gasoline market; and

(B) the top 10 oil companies in the world to make more than $100,000,000,000 in profit and in some instances to post record-breaking fourth quarter earnings that were in some cases more than 200 percent higher than the previous year;

(11) the Administration has failed to manage the SPR in a manner that would provide gasoline price relief to working families; and

(12) the Administration has failed to adequately demand that OPEC immediately increase oil production in order to lower crude oil prices and safeguard the world economy.

(b) It is the sense of Congress that the President should—

(1) directly confront OPEC and challenge OPEC to immediately increase oil production; and

(2) direct the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets to protect the people of the United States from price gouging and unfair practices at the gasoline pump.

(c)(1) For the period beginning on the date of enactment of this Act and ending on the date that is 30 days after the date of enactment of this Act—

(A) deliveries of oil to the SPR shall be suspended; and

(B) 1,000,000 barrels of oil per day shall be released from the SPR.

(2) If necessary to lower the burden of gasoline prices on the economy of the United States and to circumvent the efforts of OPEC to reap windfall crude oil profits, 1,000,000 barrels of oil per day shall be released from the Strategic Petroleum Reserve for an additional 30 days.

SA 452. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . ADJUSTMENT OF STATUS.

(a) ADJUSTMENT OF STATUS.—

(1) ELIGIBILITY.—The Secretary of Homeland Security (referred to in this section as the "Secretary") shall adjust the status of any alien described in subsection (b) to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for adjustment before April 1, 2006; and

(B) is otherwise eligible to receive an immigrant visa, has not been convicted of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act), and is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility—

(i) the grounds of inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply; and

(ii) the Secretary, in the unreviewable discretion of the Secretary, may waive the grounds of inadmissibility specified in paragraphs (1)(A)(i) and (6)(C) of such section 212(a) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—

(A) IN GENERAL.—In determining the eligibility of an alien described in subsection (b) or (d) for adjustment of status under this section or other relief necessary to establish eligibility for such adjustment, the provisions of section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) shall not apply.

(B) REAPPLICATION FOR ADMISSION.—An alien who would otherwise be inadmissible under subparagraph (A) or (C) of section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)) may apply for the Secretary's consent to reapply for admission without regard to the requirement that the consent be granted prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to qualify for the exception to those grounds of inadmissibility set forth in subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) IN GENERAL.—An alien present in the United States who has been ordered excluded, deported, removed, or to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1).

(B) REQUIREMENTS.—An alien described in subparagraph (A)—

(i) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the order described in subparagraph (A); and

(ii) may be required to seek a stay of such order in accordance with subsection (c) to prevent the execution of that order pending the adjudication of the application for adjustment of status.

(C) EFFECT OF DECISION BY SECRETARY.—If the Secretary denies a stay of a final order of exclusion, deportation, or removal, or if the Secretary renders a final administrative decision to deny the application for adjustment of status, the order shall be effective and enforceable to the same extent as if the application had not been made. If the Secretary grants the application for adjustment of status, the Secretary shall cancel the order.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Except as provided under paragraphs (2) and (3), the benefits provided under subsection (a) shall apply to any alien who—

(A) is a national of Liberia; and

(B) has been physically present in the United States for a continuous period, beginning not later than January 1, 2005, and ending not earlier than the date on which the application for adjustment under subsection (a) is filed.

(2) EFFECT OF ABSENCES.—An alien described in paragraph (1) shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(3) LIMITATION.—Subsection (a) shall not apply to an alien lawfully admitted for permanent residence, unless the alien is applying for such relief in deportation or removal proceedings.

(c) STAY OF REMOVAL AND WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, for an alien subject to a final order of exclusion, deportation, or removal to seek a stay of such order based on the filing of an application under subsection (a). Nothing in this section shall require the Secretary to stay the removal of an alien who is ineligible for adjustment of status under this section.

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision in the Immigration and Nationality Act, the Secretary shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except if the Secretary has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—

(A) IN GENERAL.—The Secretary may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate documentation signifying authorization of employment.

(B) PENDING APPLICATIONS.—If an application under subsection (a) is pending for a period exceeding 180 days and has not been denied, the Secretary shall authorize such employment.

(d) SPOUSES, CHILDREN, AND UNMARRIED SONS AND DAUGHTERS.—

(1) ADJUSTMENT OF STATUS.—The Secretary shall adjust the status of any alien to that of an alien lawfully admitted for permanent residence if—

(A) the alien is the spouse, child, or unmarried son or daughter of an alien lawfully admitted for permanent residence under subsection (a), if—

(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying marriage was entered into before the date of enactment of this Act; and

(ii) in the case of such an unmarried son or daughter, the son or daughter is required to establish that he or she has been physically present in the United States for a continuous period, beginning not later than January 1, 2005, and ending not earlier than the date the application for adjustment under this subsection is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days;

(B) the alien entered the United States on or before the date of enactment of this Act;

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed;

(D) the alien is otherwise eligible to receive an immigrant visa, has not been convicted of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act) and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds of inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply, and the Secretary may, in his unreviewable discretion, waive the grounds of inadmissibility specified in paragraphs (1)(A)(i) and (6)(C) of such section 212(a) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; and

(E) the alien applies for such adjustment before April 1, 2006.

(2) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

(A) IN GENERAL.—In accordance with regulations to be promulgated by the Secretary and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien granted such status may be issued a visa for admission to the United States as an immigrant following to join the principal applicant, if the spouse or child—

(i) meets the requirements in subparagraph (A) and (D) of paragraph (1); and

(ii) applies for such a visa within a time period to be established by regulation.

(B) FEES.—

(i) IN GENERAL.—The Secretary of State may retain fees to recover the cost of immigrant visa application processing and issuance for certain spouses and children of aliens whose applications for adjustment of status under subsection (a) have been approved.

(ii) AMOUNT; AVAILABILITY.—Fees collected under this subparagraph—

(I) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of such processing and issuance; and

(II) shall be available until expended for the same purposes of such appropriation to support consular activities.

(e) ADMINISTRATIVE REVIEW.—The Secretary shall provide to applicants for adjustment of status under this section the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Secretary as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—If an alien is granted the status of having been lawfully admitted for permanent residence or an immigrant classification under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—

(1) DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in this section.

(2) SAVINGS PROVISION.—Nothing in this section shall be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, function, or authority of the Secretary in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

(3) EFFECT OF ELIGIBILITY FOR ADJUSTMENT OF STATUS.—Eligibility to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude an alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

(i) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, be admitted to, be paroled into, or otherwise return to the United States, or to apply for or pursue an application for adjustment of status under this section without the express authorization of the Secretary.

SA 453. Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes: which was ordered to lie on the table: as follows:

Strike all after "SEC." in the matter proposed to be inserted and insert the following:

. (a) Notwithstanding any other provision of law, beginning in fiscal year 2005 and thereafter, none of the funds made available by this or any other Act shall be used to pay the salaries or expenses of any employee of any agency or office to implement or enforce section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) or any other provision of law in a manner other than a manner that permits payment by the purchaser of an agricultural commodity or product to the seller, and receipt of the payment by the seller, at any time prior to—

(1) the transfer of the title of the commodity or product to the purchaser; and

(2) the release of control of the commodity or product to the purchaser.

(b) Notwithstanding any other provision of law, beginning in fiscal year 2005 and thereafter, none of the funds made available by this or any other Act shall be used to pay the salaries or expenses of any employee of any agency or office that refuses to authorize the issuance of a general license for travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations, for travel to, from, or within Cuba undertaken in connection with sales and marketing, including the organization and participation in product exhibitions, and the transportation by sea or air of products pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000.

(c) Notwithstanding any other provision of law, beginning in fiscal year 2005 and thereafter, none of the funds made available by this or any other Act shall be used to pay the salaries or expenses of any employee of any agency or office that restricts the direct transfers from a Cuban financial institution to a United States financial institution executed in payment for a product authorized for sale under the Trade Sanctions Reform and Export Enhancement Act of 2000.

SA 454. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REPORT ON AFGHAN SECURITY FORCES TRAINING

SEC. 1122. (a) Notwithstanding any other provision of law, not later than 60 days after the date on which the initial obligation of funds made available in this Act for training Afghan security forces is made, the Secretary of Defense, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that includes the following:

(1) An assessment of whether the individuals who are providing training to Afghan security forces with assistance provided by the United States have proven records of experience in training law enforcement or security personnel.

(2) A description of the procedures of the Department of Defense and Department of State to ensure that an individual who receives such training—

(A) does not have a criminal background;

(B) is not connected to any criminal or terrorist organization, including the Taliban;

(C) is not connected to drug traffickers; and

(D) meets certain age and experience standards;

(3) A description of the procedures of the Department of Defense and Department of State that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(4) A description of the procedures of the Department of Defense and Department of State to ensure the coordination of such training efforts between these two Departments.

(5) The number of trained security personnel needed in Afghanistan, an explanation of how such number was determined, and a schedule for training that number of people.

(6) A description of the methods that will be used by the Government of Afghanistan to maintain and equip such personnel when such training is completed.

(7) A description of how such training efforts will be coordinated with other training programs being conducted by the governments of other countries or international organizations in Afghanistan.

(b) Not less frequently than once each year the Secretary of Defense, in conjunction with the Secretary of State, shall submit a report to the appropriate congressional committees that describes the progress made to meet the goals and schedules set out in the report required by subsection (a).

(c) In this section the term "appropriate congressional committees" means the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

SA 455: Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table, as follows:

On page 208, strike lines 19 through 22.

SA 456. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, insert the following:

UNITED NATIONS HEADQUARTERS RENOVATION LOAN

SEC. 2105. (a) Notwithstanding any other provision of law, and subject to subsection (b), no loan in excess of $600,000,000 may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York.

(b) No loan may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York until after the date on which the President certifies to Congress that the renovation project has been fairly and competitively bid and that such bid is a reasonable cost for the renovation project.

SA 457. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, line 2 strike "$150,000,000" and all through line 6 and insert in lieu thereof the following:

"$458,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).".

SA 458. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for

the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, line 2 strike "$150,000,000" and all through line 6 and insert in lieu thereof the following:

"$470,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).".

SA 459. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

SEC. 1122. (a) Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) is amended by striking "obligated" and inserting "expended".

(b) Subsection (f)(1) of such section is amended in the matter preceding subparagraph (A) by inserting "appropriated funds by the Coalition Provisional Authority in Iraq during the period from May 1, 2003 through June 28, 2004 and" after "expenditure of".

(c) Notwithstanding any other provision of law, of the amount appropriated in chapter 2 of title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224) under the heading "OTHER BILATERAL ECONOMIC ASSISTANCE" and under the subheading "IRAQ RELIEF AND RECONSTRUCTION FUND", $50,000,000 shall be available to carry out section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234). Such amount shall be in addition to any other amount available for such purpose and available until the date of the termination of the Office of the Special Inspector General for Iraq Reconstruction.

SA 460. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, between lines 8 and 9, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency work on the Los Angeles-Long Beach Harbor, Mojave River Dam, Port San Luis, and Santa Barbara Harbor, $7,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 461. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, between lines 8 and 9, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CONSTRUCTION, GENERAL

The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Secretary of the Army to carry out the project at a total cost of $222,000,000.

SA 462. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, between lines 8 and 9, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CONSTRUCTION, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency construction at Lower Santa Ana River Reaches 1 and 2 of the Santa Ana River Project, Prado Dam of the Santa Ana River Project, San Timoteo of the Santa Ana River Project, Murrieta Creek, and Santa Paula Creek, $12,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 463. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

AUDITS OF DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN

SEC. 1122. (a)(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of the Defense Contract Audit Agency, shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives a report that lists and describes audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan.

(2) The Secretary of Defense shall identify in the report submitted under paragraph (1)—

(A) any such task or delivery order contract or other contract that the Director of the Defense Contract Audit Agency determines involves costs that are unjustified, unsupported, or questionable, including any charges assessed on goods or services not provided in connection with such task or delivery order contract or other contract; and

(B) the amount of the unjustified, unsupported, or questionable costs and the percentage of the total value of such task or delivery order contract or other contract that such costs represent.

(3) The Secretary of Defense shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives an update of the report submitted under paragraph (1) every 90 days thereafter.

(b) In the event that any costs under a contract are identified by the Director of the Defense Contract Audit Agency as unjustified, unsupported, or questionable pursuant to subsection (a)(2), the Secretary of Defense shall withhold from amounts otherwise payable to the contractor under such contract a sum equal to 115 percent of the total amount of such costs.

(c) Upon a subsequent determination by the Director of the Defense Contract Audit Agency that any unjustified, unsupported, or questionable cost for which an amount payable was withheld under subsection (b) has been justified, supported, or answered, as the case may be, the Secretary of Defense may release such amount for payment to the contractor concerned.

(d) In each report or update submitted under subsection (a), the Secretary of Defense shall describe each action taken under subsection (b) or (c) during the period covered by such report or update.

SA 464. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REQUESTS FOR FUTURE FUNDING FOR MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

SEC. 1122. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87) and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) The Senate has included in its version of the fiscal year 2006 budget resolution, which was adopted by the Senate on March 17, 2005, a reserve fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(5) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 costs for ongoing military operations in Iraq and Afghanistan could total $65,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 that was submitted to Congress under section 1105(a) of title 31, United States Code, setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

(c) ADDITIONAL REQUIREMENTS FOR CERTAIN REPORTS.—(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

(2) The provisions of law referred to in this paragraph are as follows:

(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note).

SA 465. Mr. BYRD (for himself, Mr. CRAIG, Mr. DORGAN, Mr. BAUCUS, Mr. LEAHY, Mrs. FEINSTEIN, Mr. OBAMA, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 187, after line 4, insert the following:

REDUCTION IN FUNDING FOR DIPLOMATIC AND CONSULAR PROGRAMS

The amount for "Diplomatic and Consular Programs" under chapter 2 of title II shall be $357,700,000.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", for the hiring of Border Patrol agents and related mission support expenses and continued operation of unmanned aerial vehicles along the Southwest Border, $179,745,000, to remain available until September 30, 2006.

CUSTOMS AND BORDER PROTECTION

CONSTRUCTION

For an additional amount for "Construction", $67,438,000, to remain available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", for the enforcement of immigration and customs laws, detention and removal, and investigations, including the hiring of immigration investigators, enforcement agents, and deportation officers, and the provision of detention bed space, $128,000,000, to remain available until September 30, 2006.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $10,471,000, to remain available until September 30, 2006.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount "Acquisition, Construction, Improvements, and Related Expenses", for the provision of training at the Border Patrol Academy, $3,959,000, to remain available until expended.

EXECUTIVE SESSION

NOMINATION DISCHARGED

Mr. McCONNELL. Mr. President, as in executive session, I ask unanimous consent the Banking Committee be discharged from further consideration of PN 76, Pamela Hughes Patenaude, to be an Assistant Secretary of Housing and Urban Development; I further ask consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Pamela Hughes Patenaude, of New Hampshire, to be an Assistant Secretary of Housing and Urban Development.

LEGISLATION SESSION

Mr. McCONNELL. I finally ask consent that the Senate then resume legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENSURING DEMOCRATIC REFORM IN THE KURDISH REPUBLIC

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 111 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 111) urging the United States to increase its efforts to ensure democratic reform in the Kurdish Republic.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LUGAR. Mr. President, this resolution urges the United States to increase its efforts to ensure democratic reform in the Kyrgyz Republic.

The Kyrgyz Republic has held two rounds of parliamentary elections, the first on February 27 the second on March 13. While both election rounds showed progress toward the goal of a free, fair, and transparent election process, the elections fell short of the Kyrgyz Republic's Organization for Security and Cooperation in Europe's OSCE and international commitments to fully meet the accepted criteria for democratic elections.

Violations included instances of vote buying, questionable disqualification of candidates and interference with the media.

Inspired by the recent revolutions in Ukraine and Georgia, the people of the Kyrgyz Republic rose against their corrupt government to demand respect for their democratic rights. Nationwide demonstrations sparked by the flawed parliamentary elections led to the departure of President Askar Akayev on March 22. The opposition moved quickly to consolidate control and established an interim government. On April 4, President Akayev officially resigned. But the situation remains fluid. The outcome in the Kyrgyz Republic is critically important for its future, and for people living in the Central Asia region, who hope for a democratic future.

The United States and the Kyrgyz Republic have formed a close relationship since it declared independence from the Soviet Union in 1991. The United States has provided humanitarian assistance, nonlethal military assistance, and assistance to support economic and political reforms. The Kyrgyz Republic also hosts a U.S. military base that provides crucial support to Operation Enduring Freedom in Afghanistan.

However, while the Kyrgyz Republic has advanced quickly in the area of democratic reform since 1991, it has experienced setbacks in recent years. I urge the United States in my resolution to continue its strong support for democratic reform in the Kyrgyz Republic, including respect for the rule of law and human rights.

I also call upon the interim government in the Kyrgyz Republic to move swiftly toward democratic government ratified by the Kyrgyz people by holding free, fair, and transparent presidential elections on July 10, and by ensuring that the new parliament represents the choice of the Kyrgyz people. The United States must provide strong leadership in countries where democracy is still taking root.

I ask my colleagues to support this resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 111) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 111

Whereas on August 31, 1991, the Kyrgyz Republic declared independence from the Soviet Union;

Whereas the Kyrgyz Republic was ruled by President Askar Akayev from October 1991 to April 2005;

Whereas the Kyrgyz Republic held a first round of parliamentary elections on February 27, 2005;

Whereas the United States Government recognized several areas of improvement in the parliamentary elections in the Kyrgyz Republic, including competitive elections and the active participation of civil society, but it noted the elections fell short of the commitments of the Kyrgyz Republic to the Organization for Security and Cooperation in Europe (OSCE) and other international entities to fully meet the accepted criteria for democratic elections;

Whereas nation-wide demonstrations sparked by the flawed parliamentary elections in the Kyrgyz Republic led to the departure of President Akayev and the collapse of his government on March 22, 2005;

Whereas Askar Akayev officially resigned as President of the Kyrgyz Republic on April 4, 2005;

Whereas the Kyrgyz people, through their actions, have created an opportunity for a democratic and stable future for the Kyrgyz Republic;

Whereas the interim government in the Kyrgyz Republic can earn the confidence of the Kyrgyz people and the international community by abiding by its commitment to hold free and fair presidential elections on July 10, 2005, and by ensuring that the members of the new parliament in the Kyrgyz Republic represent the choice of the Kyrgyz people;

Whereas the interim government in the Kyrgyz Republic can move towards resolving the political crisis in the Kyrgyz Republic in a way that confirms the will of the Kyrgyz people by working closely with its immediate neighbors and with the OSCE;

Whereas the United States strongly supports efforts by the OSCE to work with the Kyrgyz people to strengthen democratic institutions in the Kyrgyz Republic, which will provide the foundation for political stability in the Kyrgyz Republic;

Whereas the United States and the Kyrgyz Republic value a good relationship;

Whereas the United States provides humanitarian assistance, nonlethal military assistance, and assistance to support economic and political reforms as part of the democratic transition process in the Kyrgyz Republic; and

Whereas security in the Kyrgyz Republic remains a top concern of the United States due to its strong support of the United States in the global war on terrorism: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the official resignation of Askar Akayev as President of the Kyrgyz Republic;

(2) acknowledges and welcomes the close relationship formed between the United States and the Kyrgyz Republic since it declared independence from the Soviet Union on August 31, 1991;

(3) supports the sovereignty, independence, and territorial integrity of the Kyrgyz Republic;

(4) urges the continuation of strong support for democratic reform, including respect for the rule of law and human rights, in the Kyrgyz Republic;

(5) urges the interim government in the Kyrgyz Republic to move swiftly toward the democratic government ratified by the Kyrgyz people by holding free, fair, and transparent presidential elections on July 10, 2005, and by ensuring that the new parliament in the Kyrgyz Republic represents the choice of the Kyrgyz people; and

(6) urges the people of the Kyrgyz Republic to take advantage of the readiness of the Organization for Security and Cooperation in Europe (OSCE) to expand its assistance in preparing for free and fair presidential elections in the Kyrgyz Republic as the foundation of political legitimacy and stability in the Kyrgyz Republic.

NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK

Mr. McCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 112, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 112) designating the third week of the April, 2005, as National Shaken Baby Syndrome Awareness Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD: Mr. President, I rise today, along with my colleague Senator ALEXANDER, in support of the resolution the Senate has passed to proclaim the third week of April of 2005 as Shaken Baby Syndrome Awareness Week. I would like to recognize the many groups, particularly the National Shaken Baby Coalition and the SKIPPER Initiative, who support this effort to increase awareness of one of the most devastating forms of child abuse, one that results in the death or lifelong disability of too many children each year.

We must recognize child abuse and neglect as the public health problem it is, one that is linked with a host of other problems facing our country and one that needs the comprehensive approach of our entire public health system to solve. The month of April has been designated National Child Abuse Prevention Month as an annual tradition that was initiated in 1979 by former President Jimmy Carter. In 2005, April will again be National Child Abuse Prevention Month.

The tragedy of child abuse is well documented. According to the National Child Abuse and Neglect Data System, NCANDS, almost 900,000 children were victims of abuse and neglect in the United States in 2002, causing unspeakable pain and suffering to our most vulnerable citizens. Each day, nearly four of these children die as a result of this abuse. Most experts are certain that cases of child abuse and neglect are in fact underreported.

Very young children are particularly vulnerable to the pain of child abuse and neglect. In 2002, children age 1 and younger accounted for 41.2 percent of child abuse and neglect deaths in 2002, and children age 4 and younger accounted for 76.1 percent of all child abuse and neglect deaths.

Abusive head trauma, including the trauma known as shaken baby syndrome, is recognized as the leading cause of death of physically abused children, especially young children. Shaken baby syndrome is a totally preventable form of child abuse that results from a caregiver losing control and shaking a baby, usually an infant who is less than 1 year old. This severe shaking can kill the baby, or it can cause loss of vision, brain damage, paralysis, and seizures, resulting in lifelong disabilities and causing untold grief for many families. If a child survives shaken baby syndrome, the resulting medical costs to care for a single, disabled child in just the first few years of life may exceed $1,000,000.

Too many families have experienced the pain of shaken baby syndrome. A 2003 report in the Journal of the American Medical Association estimates that, in the United States, an average of 300 children will die each year, and 600 to 1,200 more will be injured, of whom ⅔ will be babies or infants under 1 year in age, as a result of shaken baby syndrome. Medical professionals believe that thousands more cases of shaken baby syndrome are being misdiagnosed or not detected.

Families should be spared the needless tragedy of shaken baby syndrome. The most effective solution to ending Shaken Baby Syndrome is to prevent such abuse, and it is clear that the minimal costs of educational and prevention programs may help to protect our young children and stop this tragedy from occurring. In 1995, the U.S. Advisory Board on Child Abuse and Neglect recommended a universal approach to the prevention of child fatalities that would reach out to all families through the implementation of several key strategies. Such efforts began by providing services such as home visitation by trained professionals or paraprofessionals, hospital-linked outreach to parents of infants and toddlers, community-based programs designed for the specific needs of neighborhoods, and effective public education campaigns.

Prevention programs like the ones recommended by the U.S. Advisory Board on Child Abuse and Neglect have demonstrated that educating new parents about the danger of shaking young children and how they can help protect their child from injury can bring about a significant reduction in the number of cases of shaken baby syndrome. In 1998, Dr. Mark Dias started the Upstate New York SBS Prevention Project at Children's Hospital of Buffalo. It uses a simple 11-minute video to educate new parents before they leave the hospital. Since that time, the number of shaken baby incidents in the Buffalo area has dropped by nearly 50 percent: none of the perpetrators have been identified as participants in the hospital education program. Hospitals around the country, including several in my own State of Connecticut, have adopted programs similar to these to educate new parents about the dangers of shaking young children.

I urge the Senate to adopt this resolution designating the third week of April of 2005 and 2006 as National Shaken Baby Syndrome Awareness Week, and to take part in the many local and national activities and events recognizing the month of April as National Child Abuse Prevention Month.

The prevention of shaken baby syndrome is supported by advocacy groups across the United States that were formed by parents and relatives of children who have been killed or injured by shaking. I ask unanimous consent that a list of groups supporting this resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in ahe RECORD, as follows:

GROUPS SUPPORTING "NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK"

The National Shaken Baby Coalition
The National Center on Shaken Baby Syndrome
The Children's Defense Fund
The American Academy of Pediatrics
The Child Welfare League of America Prevent Child Abuse America
The National Child Abuse Coalition
The National Exchange Club Foundation
The American Humane Association
The American Professional Society on the Abuse of Children
The Arc of the United States
The Association of University Centers on Disabilities
Children's Healthcare is a Legal Duty
Family Partnership
Family Voices
National Alliance of Children's Trust and Prevention Funds
United Cerebral Palsy
The National Association of Children's Hospitals and Related Institutions
Never Shake a Baby Arizona/Prevent Child Abuse Arizona
The Center for Child Protection and Family Support

Mr. MCCONNELL. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 112) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 112

Whereas the month of April has been designated "National Child Abuse Prevention Month" as an annual tradition that was initiated in 1979 by former President Jimmy Carter;

Whereas the most recent National Child Abuse and Neglect Data System (NCANDS) figures show that almost 900,000 children were victims of abuse and neglect in the United States in 2002, causing unspeakable pain and suffering to our most vulnerable citizens;

Whereas among the children who are victims of abuse and neglect, nearly 4 children die each day in this country;

Whereas children age 1 and younger accounted for 41.2 percent of child abuse and neglect fatalities in 2002, and children age 4 and younger accounted for 76.1 percent of all child abuse and neglect fatalities in 2002;

Whereas abusive head trauma, including the trauma known as Shaken Baby Syndrome, is recognized as the leading cause of death of physically abused children;

Whereas Shaken Baby Syndrome is a totally preventable form of child abuse, caused by a caregiver losing control and shaking a baby that is usually less than 1 year in age;

Whereas Shaken Baby Syndrome can result in loss of vision, brain damage, paralysis, seizures, or death;

Whereas a 2003 report in the Journal of the American Medical Association estimates that, in the United States, an average of 300 children will die each year, and 600 to 1,200 more will be injured, of whom ⅔ will be babies or infants under 1 year in age, as a result of Shaken Baby Syndrome, with many cases resulting in severe and permanent disabilities;

Whereas medical professionals believe that thousands of additional cases of Shaken Baby Syndrome are being misdiagnosed or not detected;

Whereas Shaken Baby Syndrome often results in permanent, irreparable brain damage or death to an infant and may result in more than $1,000,000 in medical costs to care for a single, disabled child in just the first few years of life;

Whereas the most effective solution for ending Shaken Baby Syndrome is to prevent such abuse, and it is clear that the minimal costs of education and prevention programs may prevent enormous medical and disability costs and untold grief for many families;

Whereas prevention programs have demonstrated that educating new parents about the danger of shaking young children and how they can help protect their child from injury can bring about a significant reduction in the number of cases of Shaken Baby Syndrome;

Whereas education programs have been shown to raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, daycare workers, child protection employees, law enforcement personnel, health care professionals, and legal representatives;

Whereas efforts to prevent Shaken Baby Syndrome are supported by advocacy groups across the United States that were formed by parents and relatives of children who have been killed or injured by shaking, such as the National Shaken Baby Coalition, the Shaken Baby Association, the SKIPPER (Shaking Kills: Instead Parents Please Educate and Remember) Initiative, the Shaken Baby Alliance, Shaken Baby Prevention, Inc., A Voice for Gabbi, Don't Shake Jake, and the Kierra Harrison Foundation, whose mission is to educate the general public and professionals about Shaken Baby Syndrome and to increase support for victims and victim's families in the health care and criminal justice systems;

Whereas child abuse prevention programs and "National Shaken Baby Syndrome Awareness Week" are supported by the National Shaken Baby Coalition, the National Center on Shaken Baby Syndrome, the Children's Defense Fund, the American Academy of Pediatrics, the Child Welfare League of America, Prevent Child Abuse America, the National Child Abuse Coalition, the National Exchange Club Foundation, the American Humane Association, the American Professional Society on the Abuse of Children, the Arc of the United States, the Association of University Centers on Disabilities, Children's Healthcare is a Legal Duty, Family Partnership, Family Voices, National Alliance of Children's Trust and Prevention Funds, United Cerebral Palsy, the National Association of Children's Hospitals and related institutions, Never Shake a Baby Arizona/Prevent Child Abuse Arizona, the Center for Child Protection and Family Support, and many other organizations;

Whereas a 2000 survey by Prevent Child Abuse America shows that half of all Americans believe that of all the public health issues facing this country, child abuse and neglect is the most important;

Whereas Congress previously designated the third week of April 2001 as "National Shaken Baby Syndrome Awareness Week 2001"; and

Whereas Congress strongly supports efforts to protect children from abuse and neglect: Now, therefore, be it

Resolved, That the Senate—

(1) designates the third week of April in 2005 as "National Shaken Baby Syndrome Awareness Week"; and

(2) encourages the people of the United States to remember the victims of Shaken Baby Syndrome and to participate in educational programs to help prevent Shaken Baby Syndrome.

ORDERS FOR MONDAY, APRIL 18, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 1. p.m. on Monday, April 18. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each; provided further, that the Senate then resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing none, it is so ordered.

Mr. McCONNELL. Mr. President, I further ask unanimous consent that notwithstanding the provisions of rule XXII, at 11:45 a.m. on Tuesday, April 19, the Senate proceed to the cloture vote in relation to the Chambliss amendment, to be followed immediately by the cloture vote in relation to the Craig amendment. I further ask unanimous consent that at 4:30 p.m. on Tuesday, if the Senate is not proceeding postcloture, the Senate proceed to the cloture vote in relation to the Mikulski amendment, and upon disposition of the Mikulski amendment or a failed cloture vote, the Senate proceed to the vote on invoking cloture on the underlying bill; provided further, that in accordance with rule XXII, Senators have until 2 p.m. Monday to file first-degree amendments and until 11 a.m. Tuesday to file second-degree amendments to the Chambliss and Craig amendments.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Democratic leader.

Mr. REID. Mr. President, I know the leader is planning on having votes on Monday night, and the distinguished whip will announce shortly that there will be multiple votes Monday night. I ask unanimous consent that there be no more than two votes Monday night.

Mr. McCONNELL. That would be our understanding.

Mr. REID. Mr. President, I would simply say, I do not want those people who may have to miss a vote Monday night for other reasons to think they are going to miss 15 or 20 votes.

Mr. McCONNELL. Yes.

Mr. REID. No objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, we will resume business on the emergency supplemental appropriations bill Monday. Although we have not yet set votes on Monday, as the Democratic leader just pointed out, we will have at least two votes Monday evening at around 5:30. In addition, we have cloture votes scheduled for Tuesday morning, and now Tuesday afternoon. Therefore, we expect busy days next week as we move toward completion of this important appropriations measure before us. It is our intent to finish this funding bill next week, and we hope cloture can be invoked on the underlying bill to ensure that we can get to final passage before the end of the week.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of the Senator from Illinois

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

AMENDMENT NO. 452

(Purpose: To provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence)

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the fact that H.R. 1268 is not pending, to call up amendment No. 452 by Senator REED of Rhode Island, and then it be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER (Mr. ROBERTS). On this lovely Friday afternoon, the distinguished Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, thank you for observing how beautiful it is outside and how wonderful it is to serve the Senate. Like yourself, I feel honored to represent the fine people of my State.

I also am honored to ask unanimous consent that when I finish my remarks, the senior Senator from West Virginia, Mr BYRD, be recognized to take the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NUCLEAR OPTION

Mr. DURBIN. Mr. President, I would like to address two issues that are related. The first issue is the so-called nuclear option. I think many people have read about it and heard about it. I would like to explain, from my point of view, the merits of that issue. Then I would like to address an article which appeared this morning on the front page of the New York Times relative to a meeting which will take place on April 24, sponsored by the Family Research Council, a meeting at which the majority leader of the Senate, Senator BILL FRIST, is reported to be scheduled to speak. I would like to address both of those issues and try to make this as direct and concise as I can.

First, let me say there is one thing that binds every Member of the Senate, Republican or Democrat or Independent. There is one thing that brings us together in this Chamber. It is an oath of office. That oath of office, where we stand solemnly before the Nation, before our colleagues, is an oath where we swear to uphold and defend the Constitution of the United States, this tiny little publication which has guided our Nation and our values for over two centuries.

Though we may disagree on almost everything else, we swear to uphold this document. We swear that at the end of the day we will be loyal to this Constitution of the United States. That, I think, is where this debate should begin, because this Constitution makes it very clear that when it comes to the rules of the Senate, it is the responsibility and authority of the Senate itself to make its rules. I refer specifically to article I, section 5. I quote from the Constitution:

> Each House may determine the rules of its proceedings. . . .

Because of that, most courts take a hands-off attitude. It is their belief that we decide how we conduct business in this Chamber, as the House of Representatives will decide about theirs. That is our constitutional right.

When this Constitution was written, there was a question about whether we could bring together 13 different colonies and they would agree to have one Federal Government. The first suggestion was that we create a House of Representatives with one Congressman for each American person who will be counted. There was, of course, a different system for counting those of color. But when the smaller States took a look at the House of Representatives, they were concerned. They understood in the House of Representatives the larger States would be a dominant voice because they had more people, more Congressmen. The Great Compromise said let us resolve this by creating a Senate which will give to every State, large and small, the same number of Senators—two Senators from each State. So today the State of Rhode Island has the same number of Senators as the State of New York; the State of South Dakota, the same number of Senators as the State of California—the Great Compromise, so the Senate would observe the rights of the minority, the smaller populated States, and give them an equal voice on the floor of the Senate.

The Senate rules were written to reflect that unique and peculiar institutional decision. We said within the Senate, following this same value and principle, that our rules would be written so the minority within the Senate would always be respected. We created something called a filibuster, a filibuster which is unique to the Senate but is consistent with the reason for its creation.

Some of you may remember the filibuster if you saw the movie "Mr. Smith Goes to Washington." Jimmy Stewart, a brand new Senator, full of idealism, comes to the floor of the Senate and runs smack dab into this establishment of power in the Senate. He decides it is worth a fight and he stands at his Senate desk and starts to speak, and he continues to speak hour after hour until clearly he is about to collapse. But he holds the Senate floor because it was his right to do it as a Senator. As long as his throat would hold up, and other bodily functions, he continued.

We all remember that movie. It spoke to the idealism of the Senate and it spoke to its core values—the filibuster. That is because it was part of checks and balances. It said we are saying to the legislative branch of Government: You are independent, you have your own power, and within that legislative branch you make your own rules. You define who you will be and how you will conduct your business.

We said to the executive branch: We respect you, but you are separate. You don't make our rules; the legislature makes its own rules. The Senate makes its own rules. The House makes its own rules. It is because of that difference, because each branch—the executive with the President, the congressional branch of Government and the judicial branch of Government—is separate and coequal, that we have this great Nation we have today.

It was an amazing stroke of genius that in this tiny publication these Founding Fathers understood how to create a government that would endure.

Think of all the governments in the world that have come and gone since those men sat down in Philadelphia and wrote these words. We have endured. Each and every one of us comes to this floor before we can cast our first vote and we swear to uphold and defend this document and what it contains.

The reason I tell you this is because at this moment there are those who are planning what I consider to be an assault on the very principles of this Constitution. There are those who wish to change the rules of the Senate and in changing the rules of the Senate, defy tradition, change the rules in the middle of the game, and have a full frontal assault on the unique nature of this institution. That, I think, is an abuse of power. I think it goes way too far. It ignores our Founding Fathers. This nuclear option ignores the Constitution. It ignores the rules of the Senate. For what? So the President of the United States can have every single judicial nominee approved by the Senate.

What is the scorecard? How has President Bush done in sending judicial nominees to the Senate? I can tell you the score as of this moment. Since he was elected President, he has had 215 nominees on the floor for a vote in the Senate and 205 have been approved. That is 205 to 10; over 95 percent of President Bush's judicial nominees have come to the floor and been approved. Only 10 have not been approved. They have been subject to a filibuster, part of the Senate rules.

But this White House and majority party in the Senate have decided 95 percent is not enough. They want it all. They want every nominee. Sadly, they are about to assault this Constitution and the rules of the Senate to try to achieve that goal.

This so-called nuclear option is a power grab. It is an attempt to change the rules of the Senate. It is an assault on the principle and value of checks and balances. It is an attempt by the majority party in the Senate to ram through nominees who will not pledge to protect the most important rights of the American people. It is an attempt to say we cannot demand of the President's nominees that each person be balanced and moderate and committed to the goals of ordinary Americans. The fact that the President has had 205 nominees approved and only 10 rejected is not good enough. He wants them all.

This is not the first President in history who has decided in his second term to take on the courts of our country, to say he wanted to put into that court system men and women who agreed with him politically at any cost. The first was one of our greatest Americans, Thomas Jefferson. Full of victory in his second term, he decided to attempt to impeach a Supreme Court Justice who disagreed with him politically, to show he had the political power, having just been re-elected. His efforts were rejected. They were rejected by his own party, his own party in the Senate, who said: Mr. President, we may be part of your party, but we disagree with this power grab.

We are going to protect the constitutional rights and power of our institution of the Senate.

More recently, President Franklin Delano Roosevelt—one of the greatest in our history—as his second term began, became so frustrated by a Supreme Court that would not agree with him, that he sent to the Senate a proposal to change the composition of the Court to make certain that we filled the bench across the street in the Supreme Court with people who were sympathetic to his political agenda. He sent that legislative proposal to a Congress dominated by his political party, by his Democratic Party. What was their response? They rejected it. They said we stood by you in the election, we will stand by your policies, but we will not allow you to abuse this Constitution. We will not allow you to change the rules so you can have more power over our judges. That was the principle at issue. Frankly, Roosevelt lost the debate when men and women of his own party stood up and opposed him in the Congress.

Thomas Jefferson lost the same debate.

Here we go, again. For the third time in our Nation's history, a President, as he begins his second term, is attempting to change the rules of the Senate to defy the Constitution and to give the Office of the President more power to push through judges, to defy the checks and balances in our Constitution.

I don't believe I was elected to the Senate to be a rubber stamp. I believe I was elected and took the oath of office to uphold this Constitution, to stand up for the precedents and values of Congress and our Nation. We need to have, in our judiciary, independence and fairness. We need to have men and women on the bench who will work to protect our individual rights, despite the intimidation of special interest groups, despite the intimidation of Members of Congress. They need to have the courage to stand up for what they believe, in good conscience, to be the rights and freedoms of Americans.

I speak, as a Senator on the Democratic side, and tell you that our 45 Members will not be intimidated. We will stand together. We understand these lifetime appointments to the bench should be subject to close scrutiny, to evaluation, and to a decision as to why they are prepared to serve and serve in a way to protect the rights and aspirations of ordinary Americans.

The filibuster, which requires that 60 Senators come together to resolve the most controversial issues, that rule in the Senate, forces compromise. It forces the Republicans to reach across the aisle and bring in some Democrats when they have very controversial legislation or controversial nominees. It forces bipartisanship—something that tells us, at the end of the day, we will have more moderate men and women who will serve us in the judiciary. Those who would attack and destroy the institution of the filibuster are attacking the very force within the Senate that creates compromise and bipartisanship.

Those who are forcing this nuclear option on the Senate are not just breaking the rules to win, but they want to break the rules to win every time.

Despite the fact that President Clinton had over 60 judicial nominees who never received a hearing and vote when the Republicans were in control of the Senate, this President has only been denied 10 nominees out of 215. We have one of the lowest vacancy rates in the Federal court in modern memory. Yet, they are prepared to push through this unconstitutional and unreasonable change in the Senate rules. It is the first time in the history of the Senate, it is the first time in the history of the United States, that a majority party is breaking the rules of the Senate, to change the rules of the Senate in the middle of the game. I think that is truly unfortunate.

I only hope that some Republican Senators, who value their oath of office and who value this institution, will have the same courage the Democratic Party had when it said to President Franklin Roosevelt: You have gone too far. We cannot allow you to impose your political will on the Supreme Court. They stood up to their President and said our first obligation is to the Constitution, our first obligation is to the Senate.

We will be Democrats after that, but first we must stand behind the Constitution.

I am only hoping that six Republican Senators will stand up, as Thomas Jefferson's party stood up and told him—one of our Founding Fathers—that he was wrong in trying to impose his political will on the Supreme Court and the Federal courts of the land. They had the courage to do it to their President.

How many Republican Senators will stand up to this Constitution and for the values and traditions of this great Senate?

I have a document which I ask unanimous consent be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISTORY OF FILIBUSTERS AND JUDGES

Prior to the start of the George W. Bush administration in 2001, the following 11 judicial nominations needed 60 (or more) votes—cloture—in order to end a filibuster:

1881: Stanley Matthews to be a Supreme Court Justice.

1968: Abe Fortas to be Chief Justice of the Supreme Court (cloture required ⅔ of those voting).

1971: William Rehnquist to be a Supreme Court Justice (cloture required ⅔ of those voting).

1980: Stephen Breyer to be a Judge on the First Circuit Court of Appeals.

1984: J. Harvie Wilkinson to be a Judge on the Fourth Circuit Court of Appeals.

1986: Sidney Fitzwater to be a Judge for the Northern District of Texas.

1986: William Rehnquist to be Chief Justice of the Supreme Court.

1992: Edward Earl Carnes, Jr., to be a Judge on the Eleventh Circuit Court of Appeals.

1994: H. Lee Sarokin to be a Judge on the Third Circuit Court of Appeals.

1999: Brian Theadore Stewart to be a Judge for the District of Utah.

2000: Richard Paez, to be a Judge on the Ninth Circuit Court of Appeals.

2000: Marsha Berzon to be a Judge on the Ninth Circuit Court of Appeals.

Because of a filibuster, cloture was filed on the following two judicial nominations, but was later withdrawn:

1986: Daniel Manion to be a Judge on the Seventh Circuit Court of Appeals Senator Biden told then Majority Leader Bob Dole that "he was ready to call off an expected filibuster and vote immediately on Manion's nomination."—Congressional Quarterly Almanac, 1986.

1994: Rosemary Barkett to be a Judge on the Eleventh Circuit Court of Appeals "... lacking the votes to sustain a filibuster, Republicans agreed to proceed to a confirmation vote after Democrats agreed to a day-long debate on the nomination."—Congressional Quarterly Almanac, 1994.

Following are comments by Republicans during the filibuster on the Paez and Berzon nominations in 2000, confirming that there was, in fact, a filibuster:

". . . It is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez."—Senator Bob Smith, March 9, 2000.

"So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role."—Senator Bob Smith, March 7, 2000.

"Indeed, I must confess to being some what baffled that, after a filibuster is cut off by cloture, the Senate could still delay final vote on the nomination."—Senator Orrin Hatch, March 9, 2000, when a Senator offered a motion to indefinitely postpone the Paez nomination after cloture has been invoked.

In 2000, during consideration of the Paez nomination, the following Senator was among those who voted to continue the filibuster:

Senator Bill Frist—Vote #37, 106th Congress, Second Session, March 8, 2000.

Mr. DURBIN. Mr. President, to give credit to the authorship, my colleague, Senator BOXER of California, put her staff to work. She asked them to research how many times, in the history of the Senate, a filibuster had been used to slow down or deny a Federal judgeship. You see Senator FRIST and others have stood before the press and said it has never been done. These Democrats have dreamed up something that has never been done. Using a filibuster to stop the judicial nominee has never occurred. I have seen those quotes. Unfortunately, they are wrong.

Prior to the start of President Bush's administration in 2001, at least 12 judicial nominations needed 60 votes for cloture to end a filibuster: the first, 1881, Stanley Matthews to be a Supreme Court Justice; 1968, Abe Fortas to be the Chief Justice of the Supreme Court; and the list goes on. Twelve different judicial nominees that have been subject to filibuster, and they are not all in the distant past.

The most recent occurred during the Clinton administration. Two nominees that he sent, Richard Paez and Marsha Berzon to the Ninth Circuit Court of Appeals, were filibustered by the same Republican Senate side that now argues this has never happened.

We have seen this happen because of the filibuster—cloture—which is the way to close down the debate, close down the filibuster. Cloture motions were filed on two judicial nominations. It was done in 1986, Daniel Manion; in 1994, Rosemary Barkett.

Some of the comments made by Republican Senators in the last few years about the filibusters on Clinton judicial nominees tell the story.

Senator Bob Smith of New Hampshire, in March of 2000, said, as follows, on the floor of the Senate in the official RECORD, the CONGRESSIONAL RECORD of the Senate. Here is what he said:

> . . . it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez.

He also said:

> So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role.

I hear Senators now saying, on the Republican side, it has never been done, no one has ever considered it. In fact, it has happened—and repeatedly—in our history.

In fact, in the year 2000, during consideration of the Paez nomination, there was one Senator who voted to continue the filibuster against Judge Paez. Who was that Senator? Senator BILL FRIST, the majority leader of U.S. Senate. His own action speaks volumes. He understood then there was a filibuster on a Democratic nominee, and he joined them in filibustering it. It is a matter of record, vote number 37, 106th Congress, second session, March 8, the year 2000. This is all in the CONGRESSIONAL RECORD.

So there is no question we have used the filibuster on judicial nominees. It is not an extraordinary thing in terms of our rules. It is extraordinary in terms of the number of occurrences. But I think it tells us, if you look at the history and precedent of the Senate and the use of this Constitution, that the right of the filibuster on a judicial nominee is protected by this Constitution.

So now comes the Republican majority. They say they are going to break the rules of the Senate to eliminate this filibuster of judicial nominees; to change the rules in the middle of the game; to stop the checks and balances which are an integral part of our legacy in this democratic form of government.

It is bad enough that this constitutional assault is being planned and discussed. But this morning a new element was introduced into it which is very troubling.

On the front page of the New York Times this morning is an article by David Kirkpatrick entitled, "Frist Set to Use Religious Stage on Judicial Issue."

This article, which I will read from, says as follows:

> As the Senate heads toward a showdown over the rules governing judicial confirmations, Senator Bill Frist, the majority leader, has agreed to join a handful of prominent Christian conservatives in a telecast portraying Democrats as "against people of faith," for blocking President Bush's nominees.
>
> Fliers for the telecast organized by the Family Research Council and scheduled to originate at a Kentucky megachurch the evening of April 24, call the day "Justice Sunday" and depict a young man holding a Bible in one hand and a gavel in the other. The flier does not name participants, but under the heading "the filibuster against people of faith," it reads: "The filibuster was once abused to protect racial bias, and it is now being used against people of faith."

Mr. President, this is a delicate issue—the role of religion in America in a democratic society. It is one our Nation has struggled with—not as much as the issue of race and slavery, but close to it since our founding.

The men who wrote this Constitution said that we should be guided by three rules when it comes to religion in America. The three rules were embodied in the first article of the Bill of Rights. It says each of us shall have freedom of religious belief. What does that mean? We can rely on our own conscience to make decisions when it comes to religion. We can decide whether we will believe or not believe, whether we will go to church or not go to church, whether we will be a member of one religion or another. It is our individual conscience that will make that decision.

In addition to that, of course, the Bill of Rights says that this Government shall not establish any church; there will not be an official church of America. There is a church of England. There may be religions of other countries, but there will not be a church of America—not a Christian church, not a Jewish synagogue, not a Muslim mosque. There will not be a church of America, according to the Constitution.

The third thing it says, and this is especially important in this aspect of the debate, and this is article VI of the Constitution, is that no religious test shall ever be required as a qualification to any office or public trust under the United States. It couldn't be clearer. We cannot legally or constitutionally even ask a person aspiring to a judicial nomination to what religion they belong. They can volunteer it, they may give us some evidence to suggest what their religious affiliation might be, but we cannot ask it of them, nor can we use it as a test to whether they qualify for office. That is not my decision; it is a decision which I respect in this Constitution, and I have sworn to uphold it.

Now come these judicial nominees, some of whom are controversial, 10 of whom have been subject to a filibuster. They hold a variety of different positions on a variety of different issues. Some of them are purely governmental issues and secular issues, but some are issues which transcend—they are issues of government which are also issues of values and religion.

A person's position on the death penalty is an important question to ask. It is an important part of our criminal justice system. It is also a question of religious belief. Some feel it is permissible in their religion; others do not. So when you ask a nominee for a judgeship, for example, What is your position on the death penalty, you are asking about a provision of our law, but you are also asking a question that may reach a religious conclusion, too. The lines blur.

It isn't just a matter of the issue of abortion. It relates to family planning, to medical research, to the issue of divorce—all sorts of issues cross those lines between government and religion.

I have been on the Committee on the Judiciary for several years. We have tried to be careful never to cross that line to ask a question of religious belief, knowing full well that most of the nominees sent to us had some religious convictions. Our Constitution tells us there is no religious test for public office in America, nor should there be if you follow that Constitution.

So this event, April 24, in Kentucky, by the Family Research Council, suggests the real motive for the filibuster against judicial nominees is because those engaged in the filibuster are against people of faith. They could not be more mistaken. The leader on the Democratic side of the aisle is Senator HARRY REID of Nevada. Senator REID and I have been friends and served together in Congress for over 20 years. I know him. I know his wife Landra. I know the family he is so proud of. I told him I was going to come to the Senate to speak for a few minutes about this issue. I said: HARRY, do you mind if I talk about your religious belief, since you are the Democratic leader? He said: I never talk about religion. To me, it is a personal and private matter; have you ever heard me bring up the issue of religion? And I said: Never, in any of the time I have known you. But, he said, you can say this: You can say that HARRY REID said, I am a person of religious conviction. It guides my life.

So those on the side of the filibuster against 10 nominees out of 215—many come to this debate on a personal basis with religious conviction and religious beliefs. We are not in the business of discriminating against anyone for their religious belief. I will fight for a person to have their protection under our Bill of Rights to believe what they want to believe, that our Government will not impose religious beliefs on anyone. That freedom, that right, is sacred and needs to be protected. What we find, unfortunately, is that those who are staging this rally have decided to make the issue of the filibuster a religious issue. It is not and never should be.

Americans value religious tolerance and respect. Those who would use religion to stir up partisanship or political anger do a great disservice to this country and to this Constitution. We need to be mindful of our responsibilities now more than ever.

Witness what has occurred in America in the last several weeks. The contentious national debate over the tragic story of Terri Schiavo, a woman who survived for 15 years, and after numerous court appeals involving statements by her husband as to her intentions, statements by her parents as to their beliefs and values, the courts ruled in Florida that ultimately her decision to not have extraordinary means to prolong her life would be respected. There were those in the House of Representatives, Congressman TOM DELAY of Texas and others, who would not accept the decision of the Florida courts. They wanted special legislation to give others, including those who were not members of her family, the right to go to court and to fight the family's wishes, to fight her husband's wishes, to fight the Florida court decisions.

That matter came to the Senate. What we did here was the more responsible course of action. We said, yes, in this particular case they may appeal the Florida court decisions on the Schiavo matter to the Federal courts so long as the person who initiates the appeal is a person in interest, a member of her family, someone who has her best interests in mind, and ultimately the Federal court will decide whether it should be reviewed. That ultimately was enacted, and in a matter of 7 days the Federal courts, from the lowest court to the highest court, said it has been decided; we are not going to intervene.

What happened after that with the Schiavo case? Congressman DELAY and many others from organizations said: That's it, you cannot trust the Federal Judiciary. We have to impeach the judges who reach these decisions. They have decided that the independence of the judiciary needs to be attacked by our branch of government.

Is that new? Of course it is not. Many are unhappy with decisions involving Federal courts from time to time. But to call for the impeachment of Federal judges—and some have suggested even worse—crosses that line.

Those who are holding some of these rallies have suggested—and I am reading directly from the Family Research Council release of April 15. Let me read the entire first paragraph, in fairness.

This is from the Family Research Council:

> A day of decision is upon us. Whether it was the legalization of abortion, the banning of school prayer, the expulsion of the 10 Commandments from public spaces, or the starvation of Terri Schiavo, decisions by the courts have not only changed our nation's course, but even led to the taking of human lives. As the liberal, anti-Christian dogma of the left has been repudiated in almost every recent election, the courts have become the last great bastion for liberalism.

They go on to say:

> We must stop this unprecedented filibuster of people of faith.

They call on people to join them on Sunday, April 24, for their so-called Justice Sunday. It is reported in newspapers today that the majority leader of the Senate will be among those at their gathering. I do not dispute Senator FRIST's right to speak his mind. I will fight for his right for free speech and for those who have written this publication. But I ask Americans to step back for a moment and ask, Is this what you want? Do you want to have a Federal judiciary and a Congress that intervenes in the most private aspects of your life and the life of your family? Do you believe, as most do in America, that we want to be left alone when it comes to our Government, that we want to face these critical life-and-death decisions as a family, understanding the wishes of the person involved, praying for the right way to go, but making the ultimate choice in that hospital room, not in a courtroom?

Make no mistake, these decisions are made time and time again every day, hundreds of times, maybe thousands of times. Doctors, family members, ministers, and others, gather in the quiet of a hospital corridor and have to answer the most basic questions.

It has happened in my family. It has happened in most.

The first thing we ask is, What would my brother want? What would my mother want? It is a private, personal, and family decision. But some believe it should not be. They believe anyone should be able to go to court to overturn that family decision and to inject themselves into the most intimate decisions of our personal lives. Sadly, that is what part of this debate has disintegrated to.

Let me close by saying this. I see my colleague and friend Senator BYRD has come to the floor. I do not need to ask him, I can guarantee you, without fear of contradiction, that in his suit pocket he carries the U.S. Constitution. There is no Member of the Congress, certainly no Member of the Senate, who honors this document more every day that he serves. And it has been my privilege and high honor to serve with him.

I think he understands, as we do, that this nuclear option is a full-scale assault on our Constitution. It is an assault on the checks and balances which make America different, the checks and balances in our Government which have led to the survival of this Nation for over two centuries.

This nuclear option, sadly, is an attempt to break the rules of the Senate in order to change the rules of the Senate so this President and his majority party can have any judicial nominee they want. And, sadly, if they prevail, it will make it easier for them to appoint judges to the bench who are not in touch with the ordinary lives of the American people, who are not moderate and balanced in their approach, but, sadly, go too far.

This is not an issue of religion. I cannot tell you the religious beliefs of any of the 10 nominees we have filibustered. By the Constitution, and by law, we cannot even ask that question, nor would I. But it is fair to ask those men and women, as we have, whether they will follow this Constitution, whether they will set out to make law or respect law, whether they will honor the rights and freedoms of the American people. In 10 cases out of 215, it has been the decision of at least 41 Members of the Senate or more that the nominees did not meet that test.

We need to work together to respect the rights of the American people and to respect the Constitution which we have sworn to uphold and defend.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I thank the distinguished Senator from Illinois, Mr. DURBIN, for his kind and overly charitable comments concerning me.

AGJOBS AMNESTY

Mr. BYRD. Mr. President, today, I oppose the AgJOBS amnesty. I oppose it. I oppose it unequivocally. I oppose it absolutely.

The Senate has already heard a great number of euphemisms about the AgJOBS bill, but let's be clear from the start about what we are discussing. AgJOBS is an amnesty for 3 million illegal aliens. It is amnesty for aliens employed unlawfully in the agricultural sector, and it is amnesty for the businesses that hire and exploit them as cheap labor.

AgJOBS is legislation that embodies the darkest and most disturbing elements of our immigration system; namely, illegal aliens being smuggled across our borders; unscrupulous employers taking advantage of undocumented workers; uncontrolled migration, black markets, and fraudulent documents used by terrorists to circumvent our border security.

The AgJOBS bill tarnishes the magnanimous promise of a better life enshrined on the base of the Statue of Liberty. It cheapens the struggle of those immigrants who arrived on Ellis Island 100 years ago, and all of those who have come to this country and followed the rules to earn citizenship in this great Republic.

Amnesties beget more illegal immigration—hurtful, destructive, illegal immigration. Look at the statistics. After President Ronald Reagan signed his amnesty into law in 1986, 2.5 million illegal immigrants flooded into this country. Since the 1986 amnesty, the Congress has passed 6 additional amnesties, resulting in an explosion in the illegal immigrant population, with an estimated 900,000 new illegal aliens settling in the United States each year, hoping to be similarly rewarded. The last thing we need is another amnesty masquerading as immigration reform. Amnesties cheat—amnesties cheat—immigrants and U.S. citizens alike.

Our immigration system is already plagued with funding and staffing problems. It is overwhelmed on the borders, in the interior, and in its processing of immigration applications.

Senators need only go to the emergency rooms of the hospitals in this city and in the environs of this city. Go, see for yourselves. The infrastructure is already greatly overburdened. The infrastructure cannot handle the problems that are coming upon us.

I go to the emergency rooms. I have been to them many times, taking my own wife of almost 68 years of marriage, taking her. I see the emergency rooms. I see how they are overcrowded. I see how there are people waiting. I see how there are people out in the corridors, in the halls, lying on cots awaiting attention. The schools are overburdened. Health services, health facilities, just take a look at what is happening. It is too much for the infrastructure.

Now we are going to increase the problem. If the AgJOBS amnesty is enacted into law, it is going to get worse. My forebears were immigrants, too. They came to this country a long time ago. It is going to get worse for employers, worse for immigrants, worse for the security of the American people.

Following the passage of the 1986 amnesty for 2.7 million illegal aliens, the INS had to open temporary offices, hire new workers, divert resources from enforcement areas. The result was chaos that produced rampant fraud, with many aliens, almost 20 years later, still disputing their amnesty claims in the courts. Today's backlog of immigration applications is even larger, with the stack of pending applications at 4 million and rising. The AgJOBS amnesty would dump countless more applications on an already overtasked immigration system. With resources so scarce, the process would literally break down, background checks would be missed, document verification would be ignored, and backlogs would grow, encouraging more and more fraud.

It only took 19 temporary visa holders to slip through the system to unleash the horror of the September 11 attacks. The AgJOBS proposal would shove 3 million illegal aliens, many of whom have never gone through a background check, through our border security system, in effect flooding a bureaucracy that is already drowning. It is a recipe for disaster.

It is not mere speculation to suggest that a terrorist would exploit an amnesty. It has already happened. Mahmud Abouhalima, a leader of the 1993 World Trade Center bombing, was legalized—legalized, I say—under the 1986 amnesty. Only after he was legalized was he able to travel outside of the country to the Afghanistan-Pakistan border where he received the terrorist training he used in the bombing.

A closer look at the details of the AgJOBS amnesty raises even more concern. The only way to secure amnesty under the AgJOBS proposal is to seek U.S. employment. That puts U.S. citizens in direct competition with illegal aliens. Even if U.S. workers are not displaced, illegal immigration depresses wages. It depresses benefits for American jobs.

Under the AgJOBS amnesty, an illegal alien, once achieving temporary status, becomes eligible to apply for permanent residency or even citizenship, which puts that alien ahead of every immigrant waiting to immigrate legally to the United States. That is not fair. When amnesty advocates evoke the image of Ellis Island and the Statue of Liberty, imagine those law-abiding immigrants being told to get back on the ship because an illegal alien had taken their spot. Is that right? Is that fair?

I hope Senators will take a close look at this proposal. I want to aid hard-working immigrants, but this is amnesty for illegal aliens. It is amnesty for the unscrupulous employers who exploit them. It is amnesty for potential terrorists seeking to circumvent our border defenses.

The AgJOBS bill is a sweeping, extreme proposal that will undermine our immigration system. It has no place on this wartime supplemental appropriations bill, and the Senate ought to reject it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator BYRD for his thoughtful remarks. As I have been doing some research on this AgJOBS bill myself, and have become increasingly concerned with it, I came upon a report in the early 1990s that reviewed the success of the 1986 amnesty, or lack of success. I wondered—the Senator was here during that time—whether the same arguments were made in favor of the bill in 1986 that are being made today: and further, whether he would agree with the official Commission's report that the 1986 amnesty was a failure?

Mr. BYRD. Well, I thank the distinguished Senator for his statement. I thank him for his attention to my remarks. I was here then. I am here now. I am concerned about the amnesty we are talking about, the AgJOBS amnesty. I have stated my feelings about it. I am going to leave it at that. I thank the distinguished Senator.

ADJOURNMENT UNTIL MONDAY, APRIL 18, 2005, at 1 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 1 p.m. on Monday, April 18, 2005.

Thereupon, the Senate, at 1:38 p.m., adjourned until Monday, April 18, 2005, at 1 p.m.

NOMINATIONS

Executive nomination received by the Senate April 15, 2005:

DEPARTMENT OF EDUCATION

RAYMOND SIMON, OF ARKANSAS, TO BE DEPUTY SECRETARY OF EDUCATION, VICE EUGENE HICKOK, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate Friday, April 15, 2005:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PAMELA HUGHES PATENAUDE, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DISCHARGED NOMINATION

The Senate Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of the following nomination and the nomination was confirmed:

PAMELA HUGHES PATENAUDE, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

EXTENSIONS OF REMARKS

RECOGNIZING THE CAREER AND RETIREMENT OF DR. JAMES ROSBORG, SUPERINTENDENT OF BELLEVILLE, ILLINOIS SCHOOL DISTRICT #118

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the career and retirement of Dr. James Rosborg, Superintendent of Belleville School District #118.

Dr. Rosborg has devoted 33 years to the education of our youth, serving as a teacher, coach, guidance counselor, principal, assistant superintendent and superintendent. He has been the superintendent of Belleville District #118 for the past 11 years. During that time, Dr. Rosborg has achieved recognition at both the state and national level for his leadership and hands-on involvement in the success of the students in his district. Typically, Dr. Rosborg has credited the faculty, staff and parents for the high level of student achievement and it has been the collaboration of these groups, along with community leaders, that has been a cornerstone of Dr. Rosborg's success.

Belleville School District #118 consists of eight elementary schools, two junior high schools and one early childhood facility, with a total enrollment of approximately 3700 students. In spite of a high percentage of low-income students, compared to state averages, the district has won numerous awards for high achievement. These awards include Golden Spike Awards, State and National Blue Ribbon School Awards, the national AFT-Saturn/UAW Collaboration Award and Illinois Spotlight School Awards.

In addition to these awards for the District, Dr. Rosborg has been the recipient of the Illinois Master Teacher Award, the Illinois State Board of Education "Those Who Excel" Award, the Illinois State Board of Education "Break the Mold" Award and the Boy Scouts of America Russell C. Hill Award for outstanding contribution to character education. Last year, Dr. Rosborg was named the 2004 Illinois School Superintendent of the Year.

Dr. Rosborg's service extends beyond District #118 while, at the same time, he still enjoys meeting individually with the students of his district. He has served as an adjunct college professor at both St. Louis University and Lindenwood University. He has served as President of the Illinois statewide Elementary District Organization and as a member of the Board of Directors of the Illinois Association of School Administrators. Dr. Rosborg is the Illinois superintendent representative on the State Superintendent's Testing Task Force, which is dealing with the federal "No Child Left Behind" legislation and its impact on state testing in Illinois.

According to Dr. Rosborg, the bottom line of success in any district rests with the individual teachers in the classrooms. He has the highest regard for educators as professionals and believes that the main goal for administrators should be to foster an environment where teachers can maximize the educational achievement of each student.

Dr. Rosborg is a product of Illinois education. After graduating from Hoopeston High School in Hoopeston, Illinois, he received his undergraduate degree from Southern Illinois University at Carbondale and both his masters and doctorate degrees from Southern Illinois University at Edwardsville.

Dr. Rosborg and his wife, Nancy, have three children; Mike, a civil engineer, and his wife Wendy; Kyle, employed by LaSalle Bank in Chicago; and Carol, a senior in accounting at the University of Illinois.

Mr. Speaker, I ask my colleagues to join me in an expression of appreciation to Dr. James Rosborg for his years of dedicated service to education and to wish him and his family the very best in the future.

HONORING ALISHA MATHIAS

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor Alisha Mathias, the Boyertown Area Outstanding Law Enforcement Officer of the Year.

Officer Mathias has been a member of the Colebrookdale Township Police Department since February of 1999 and has made countless contributions to her community over the past six years. Prior to becoming a police officer, Mathias was a Montgomery County emergency dispatcher and a Montgomery County deputy sheriff. During that time, she also assisted in Camp Cadet program and was a D.A.R.E. instructor, working to give kids the life skills they need to avoid involvement with drugs, gangs, and violence.

When Officer Mathias went to the Police Academy in Montgomery County, she was the only female in her class of 30. After graduation, Officer Mathias further proved her competence when she was awarded the Meritorious Service Award for her valiant efforts in the arrest of several car thieves in the surrounding area.

Officer Mathias has her roots in Montgomery County, Pennsylvania. She attended Pottsgrove High School and today she lives in Oley, Pennsylvania. Prior to moving to Oley last year, Officer Mathias lived in the Boyertown area for 6 years with her husband, Rodney, and her two young boys, Ayden and Kellen.

Mr. Speaker, I ask that my colleagues join me today in recognizing Officer Alisha Mathias for her years of exemplary service to the Boyertown community and for her notable community service contributions. It is an honor to stand before you to congratulate Alisha Mathias, one of Boyertown, Pennsylvania's most distinguished citizens.

CONGRATULATING UNITED GROUP SERVICES, INC., ON OSHA STAR AWARD

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. BOEHNER. Mr. Speaker, I rise today to congratulate United Group Services, Inc., a local company out of Cincinnati, Ohio, that recently earned the prestigious Star award for the Voluntary Protection Program in Construction (VPPC) from the U.S. Department of Labor's Occupational Safety & Health Administration (OSHA) for its outstanding safety performance and processes.

The award is the hallmark of OSHA's Voluntary Protection Program (VPP) in which employees, management and OSHA all work together to implement safety and health programs that protect workers above and beyond those regulations established by OSHA. As the highest honor given by the VPP, the Star award is reserved for participants that exceed OSHA standards, thereby making them models for their specific industries.

The original VPP program has been an OSHA standard since 1982, but until now has always excluded mobile workforce construction because it is site based and not company based. United Group has been involved with the new VPPC program since its inception in 2002.

Approval into VPPC is OSHA's official recognition of United Group for the outstanding efforts of both its management and employees on achieving exemplary occupational safety and health. This award is truly representative of United Group's dedication and commitment to safety—the company's #1 core value. It is also a testament to the teamwork and commitment to safety they demonstrate on a daily basis.

HAPPY BIRTHDAY TO LIEUTENANT COLONEL JOSEPH BOOTH

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise to wish a very happy birthday to Lt. Col.

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Joseph Booth of the Louisiana State Police. Mr. Booth celebrates his 50th birthday on April 15th.

Mr. Booth is known for his loyalty to friends and his commitment to his family, a warm smile and good sense of humor. Mr. Booth is a career law enforcement officer who followed in the footsteps of his father whom he loved very much in joining the Louisiana State Police rising through the ranks to lieutenant colonel. Mr. Booth is well respected nationally for his insights into law enforcement and the role law enforcement officers play in protecting our homeland. Throughout his career he has displayed rigorous intellect and sound judgment.

For these reasons and more, I would like to extend the warmest best wishes to Lt. Col. Joseph Booth on this special day.

HONORING THE CONTRIBUTIONS OF BISHOP DAVID COPELAND

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Bishop David M. Copeland for his dedicated ministry to the people of San Antonio.

David Copeland is a native of Buffalo, New York, and received his early spiritual training in the Baptist Church. He completed his undergraduate education at the State University of New York at Brockport, where he received his bachelor's degree in Sociology and Speech Communications. He earned his Master of Divinity in Church Administration at the Interdenominational Theological Center in Atlanta, Georgia. He was baptized into the Church of God in Christ at the age of 18, and was called to the ministry in 1969.

Bishop Copeland was the founding Pastor of the Good Shepherd Church of God in Christ in Atlanta, Georgia, as well as serving as the Chaplain and Deputy Sheriff of Dekalb County, Georgia. He has a history of taking on especially challenging ministries; he and his wife were the first active duty African American couple in the United States Air Force Chaplaincy, and he is a board member of the Fellowship of Inner City Word of Faith Ministries (FICWFM).

Bishop Copeland currently serves as the Senior Pastor of the New Creation Christian Fellowship of San Antonio, Texas. His church has grown and thrived under his leadership, purchasing new facilities and increasing its membership. His 35 years of ministry have changed countless lives for the better, and have strengthened all of the communities in which he has lived and worked.

Bishop Copeland is a blessing to the people of Texas, and I am proud to have the opportunity to thank him today.

TRIBUTE TO WALTER J. RUDDER

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to Walter J. Rudder, Ed.D., Superintendent of Schools of the Burlington County Institute of Technology (BCIT), who is retiring after 16 years of meritorious service to the community.

A veteran of the United States Marine Corps Reserve, Dr. Rudder has served the students of Burlington County for 38 years.

A teacher of fourth, fifth and sixth grades reading and mathematics in the Philadelphia, Pennsylvania public schools, Walt moved to the Pemberton Borough School District as Chief School Administrator. Maple Shade Township then welcomed him as Assistant Superintendent and School Business Administrator, followed by service to the students of Northern Burlington County Regional High School District, with his career culminating at BCIT.

Dr. Rudder also contributed to the education field by training prospective educators as an Adjunct Instructor and Visiting Assistant Professor at the College of New Jersey, Southern Illinois University and Fairleigh Dickinson University.

At the helm during expansion projects at both the Medford and Westampton Campuses of BCIT, Dr. Rudder enhanced the adult-school program offerings, strengthened district admission policy and instituted a dress code, while seeing his district gain 600 students during his tenure.

While he plans to become more active as a professor at Fairleigh Dickinson, he also plans to play golf, travel and spend more time with his wife, Pat, and his family.

I and all those whose lives he has touched these many years wish health, happiness and dreams come true in his retirement.

RECOGNITION OF THE CENTENNIAL OF THE VILLAGE OF BECKEMEYER

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the centennial of the Village of Beckemeyer.

On this date, 100 years ago, April 14, 1905, the Village of Beckemeyer officially filed their charter to no longer be known as Buxton, but to, from then on out, go by the name of Beckemeyer.

Buxton was a way station on the Ohio and Mississippi railroad, and was situated four miles west of the county seat of Carlyle. It was laid out in lots by Zophar Case in 1866, and named Buxton in honor of Harvey P. Buxton, an attorney for the railroad, who lived in Carlyle.

On February 24th, 1905, voters rushed to the polls in a momentous vote that carried an overwhelming majority of 53 to 12, laying the official groundwork for the renaming. Many people at the time were worried that the vote would not hold because the vote was apparently held on an official holiday. That was a question for the lawyers to decide.

The vote held steady and the village was organized on this day 100 years ago by Mr. August Beckemeyer and many other prominent citizens of that place. Now and into the future, it will be known as the Village of Beckemeyer.

Here's to the Village of Beckemeyer and all who reside there.

SPECIAL TRIBUTE TO RODOLFO "CORKY" GONZALES AND HIS LIFETIME FIGHT FOR JUSTICE AND EQUAL OPPORTUNITY

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. SALAZAR. Mr. Speaker, the Latino community lost a great leader this week. I rise today to pay tribute to Corky Gonzales, a man of principle and passion. He was a man who spent a lifetime working for equal opportunity for all Americans. At the same time, he taught us to take pride in our heritage and to remember our roots as we worked to achieve equality in mainstream society.

Corky was the youngest of 8 children. He was raised in the Denver barrio, where medical facilities were closed to Mexican migrant workers such as his parents, and opportunities were few and far between.

As a child though, he grew up listening to his father's accounts of the Mexican revolution. Having learned from those lessons of fighting for your principles, Gonzales literally fought his way out of poverty. The tough, wily man made his way into the boxing ring, and he worked his way up to become a national champion boxer. He was the first Latino inducted into the Colorado Sports Hall of Fame.

But Corky was also a lifelong poet, a man who understood the power of language. He taught us that words could inspire action and create real change. His epic poem, "Yo Soy Joaquin" was an inspiration to many. It captured the struggle of a community fighting for equality, fighting to break free of poverty, and fighting to create new opportunities without losing the heritage that helps shape our identity.

I shed the tears of anguish
as I see my children disappear
behind the shroud of mediocrity,
never to look back to remember me.
I am Joaquin.
I must fight
and win this struggle
for my sons, and they
must know from me
who I am.

Corky's words called for Latinos to unite for social justice and end discrimination, to demand just treatment. It is because of his leadership in the last 30 years that today we all enjoy a more inclusive society.

Corky will live on in more than memory—he lives on in our hearts, our identity, and the strength he gave us as a community.

HONORING THE CONTRIBUTIONS OF BRIGADIER GENERAL DR. THOMAS W. TRAVIS

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Brigadier General Dr. Thomas W. Travis for his dedication to public service.

Brigadier General Dr. Thomas W. Travis is commander of the 311th Human Systems Wing of the Brooks City Base in the great State of Texas. Serving as both a command pilot and chief flight surgeon, he believes strongly that the human being is the real key to developing capable armed forces.

A distinguished graduate of numerous schools and universities, he has earned a Bachelor of Science, a Master of Science degree in physiology, a Doctor of Medicine degree from the Uniformed Services University of Health Sciences School of Medicine, a Master of Science degree in public health, and a Master of Science degree in national resource strategy. His ongoing dedication to knowledge and learning has helped to make the 311th Human Systems Wing, located in Brooks City Base, the excellent unit it is today.

Brigadier General Travis is the recipient of numerous awards and decorations, including the Meritorious Service Medal with four oak leaf clusters, Aerial Achievement Medal, the Air Force Commendation Medal, the Joint Service Achievement Medal, the Combat Readiness Medal, and the Air Force Recognition Ribbon.

I am proud to honor the many accomplishments and awards of Brigadier General Dr. Thomas W. Travis. His service sets a strong example for all of those who serve under his guidance.

HONORING 35 YEARS OF HISTORY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Spanish American Federal Credit Union, in the Town of Dover, in Morris County, New Jersey, a vibrant community I am proud to represent. On April 17, 2005, the Spanish American Federal Credit Union is celebrating its 35th Anniversary.

For 35 years, the Spanish American Federal Credit Union has lived up to its purpose by providing basic financial services to its members. The board of directors and administration of the credit union made a commitment in 1998 to improve the quality and delivery of the services provided. To that end, the credit union has made large investments in employee development, a new location and technology.

The credit union's employees are prepared to meet the demands of a growing, more diverse membership that requires top-quality service and commitment. The staff at the Dover, NJ, Spanish American Federal Credit Union maintains a high degree of professionalism and continues to strive for member service excellence. During recent months, the credit union has also made use of technological advances in order to provide its member-owners with better services.

After 30 years, the Dover, NJ, Spanish American Federal Credit Union still follows its purpose faithfully and proudly.

Mr. Speaker, I urge you and my colleagues to join me in congratulating the members of the Spanish American Federal Credit Union on the celebration of its 35 years serving Morris County.

INTRODUCTION OF THE DUE PROCESS AND ECONOMIC COMPETITIVENESS RESTORATION ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce the Due Process and Economic Competitiveness Restoration Act, which repeals Section 404 of the Sarbanes-Oxley Act. Passed in the hysterical atmosphere surrounding the Enron and WorldCom bankruptcies, Sarbanes-Oxley was rushed into law by a Congress more concerned with doing something than with doing the right thing. Today, American businesses, workers, and investors are suffering as a result of Congress's eagerness to appear "tough on corporate crime." Sarbanes-Oxley imposes costly new regulations on the financial services industry. These regulations are damaging America's capital markets by providing an incentive for small U.S. firms and foreign firms to deregister from U.S. stock exchanges. According to a study by the prestigious Wharton Business School, the number of American companies deregistering from public stock exchanges nearly tripled the year after Sarbanes-Oxley became law, while the New York Stock Exchange had only 10 new foreign listings in all of 2004.

The post-Sarbanes-Oxley reluctance of small businesses and foreign firms to register on American stock exchanges is easily understood when one considers the costs this act imposes on businesses. According to a survey by Kron/Ferry International, Sarbanes-Oxley has cost Fortune 500 companies an average of $5.1 million in compliance expenses in 2004, while a study by the law firm of Foley and Lardner found that the act has increased the cost associated with being a publicly held company by 130 percent.

Many of the major problems with Sarbanes-Oxley stem from Section 404 that requires that a Chief Executive Officer certify the accuracy of financial statements and that a company's outside auditors must "attest to" the soundness of the internal controls used in preparing the statements. The Public Company Accounting Oversight Board defines internal controls as "controls over all significant accounts and disclosures in the financial statements." According to John Berlau, Warren Brookes Fellow at the Competitive Enterprise Institute, the definition of internal controls is so broad that a CEO could possibly be found liable for not using the latest version of Windows! Financial analysts have identified Section 404 as the major reason why American corporations are hoarding cash instead of investing it in new ventures.

Journalist Robert Novak, in his column of April 7, said that, "[f]or more than a year, CEOs and CFOs have been telling me that 404 is a costly nightmare" and "ask nearly any business executive to name the biggest menace facing corporate America, and the answer is apt to be number 404 . . . a dagger aimed at the heart of the economy."

Compounding the damage done to the economy by Sarbanes-Oxley is the harm the act does to constitutional liberties and due process. CEOs and CFOs can be held criminally liable, and subjected to up to 25 years in prison, for inadvertent errors. Laws criminalizing honest mistakes done with no intent to defraud are more typical of police states than free societies. I hope those who consider themselves "civil libertarians" will recognize the danger of imprisoning any citizens for inadvertent mistakes, put aside any prejudice against private businesses, and join my efforts to repel Section 404.

Nowhere in the United States Constitution is the federal government given the authority to regulate the accounting standards of private corporations. These questions are to be resolved by private contracts between a company and its shareholders and by state and local regulations. I would remind my colleagues who are skeptical of the ability of markets and local law enforcement to protect against fraud that the market passed judgment on Enron, in the form of declining stock prices, before Congress even held the first hearing on the matter. My colleagues should also keep in mind that certain state attorneys general have been very aggressive in prosecuting financial crimes

Far from fulfilling the promise of the authors of Sarbanes-Oxley that it would protect economic growth by creating a favorable investment climate, Section 404 of the Sarbanes-Oxley Act has raised the costs of doing business, thus causing foreign companies to withdraw from American markets and retarding economic growth. By criminalizing inadvertent mistakes and exceeding Congress's constitutional authority, Section 404 also undermines the rule of law and individual liberty. I, therefore, urge my colleges to cosponsor the Due Process and Economic Competitiveness Restoration Act.

ACCESS TO LEGAL PHARMACEUTICALS ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mrs. MALONEY. Mr. Speaker, today, along with my Republican colleague, CHRISTOPHER SHAYS, and my Democratic colleagues, DEBBIE WASSERMAN SCHULTZ in the House and Senator LAUTENBERG in the Senate, I am introducing the Access to Legal Pharmaceuticals Act, which will ensure that a woman's access to birth control cannot be denied by pharmacists who have personal objections to certain legal prescriptions.

A disturbing trend has recently erupted in drug stores across the nation: some pharmacists are refusing to fill women's prescriptions for legal contraception. It's happening everywhere: in small towns and large cities, in the north and the south. And it's happening to all women, whether they are young or old, married or single, with children or without. In some cases, the pharmacists are refusing to tell women where they can fill the prescription; in others, they are refusing to return the prescription paper back to the women. These women are frequently ridiculed and lectured by these pharmacists about their choice to use birth control pills.

It is incomprehensible that in the 21st century, we are living in a time where women are having to fight for their right to obtain birth control pills. Something must be done so that this assault on privacy does not continue to invade the bedrooms of American women. The Access to Legal Pharmaceuticals Act, ALPhA, protects an individual's access to legal contraception. It requires a pharmacy to ensure that if a pharmacist has a personal objection to filling a legal prescription for a drug or device, the pharmacy will ensure that the prescription is filled without delay by another pharmacist who does not have a personal objection. This act also ensures that if a prescription drug is not in stock, and it is a type of drug that the pharmacy routinely carries, such a drug will be ordered without delay.

A November 2004 poll conducted by CBS and the New York Times indicated that 8 out of 10 Americans believe that pharmacists should not be permitted to refuse to dispense birth control pills. This opinion was strong despite party affiliation—85 percent of Democrats and 70 percent of Republicans polled squarely opposed pharmacist refusals. The Access to Legal Pharmaceuticals Act reiterates the beliefs of the majority of Americans and the principles of our Constitution: that women have a fundamental right of access to birth control.

CALLING FOR THE RELEASE OF JOSE DANIEL FERRER GARCIA, A POLITICAL PRISONER IN CUBA

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. ANDREWS. Mr. Speaker, I rise today to call attention to the shameful imprisonment of Mr. Jose Daniel Ferrer Garcia, a pro-democracy activist in Cuba who has been jailed for his outspoken leadership in the Cuban democracy movement.

Mr. Garcia is the regional coordinator for the Christian Liberation Movement in Santiago Province. Through this leadership position, he has mobilized many Cuban youth for democratic change, and has focused on accomplishing the movement's chief objective: to unite citizens that are willing to defend and promote human rights and achieve changes in the Cuban society through peaceful means.

As part of the March 2003 crackdown on Cuban dissidents in which 75 prodemocracy activists were arrested by the Castro regime, Garcia was captured and sentenced to serve 25 years in prison. The prosecution had originally requested that Garcia receive the death penalty. Currently jailed in a prison located in Western Cuba, Garcia is being held over 1,000 kilometers away from his wife and two young sons.

Jose Daniel Ferrer Garcia has dedicated his life to achieving positive change in Cuba. He has worked in an effort to bring the basic rights that we enjoy in the United States to the Cuban people, and has been imprisoned for 25 years because of these efforts. Mr. Speaker, it is imperative that the United States Congress continue to oppose the Castro regime and adhere to the travel and aid sanctions that are currently in place for Cuba. Mr. Garcia, along with his brother Luis Enrique and activists such as Dr. Oscar Elias Biscet, have been willing to risk their freedom so as to ensure that their fellow countrymen can truly be free. They need and deserve the support of the United States, and I ask that my colleagues join me in urging that the Administration call for their immediate and unconditional release.

LIBERTY LIST ACT

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. SCHIFF. Mr. Speaker, in his second inaugural address in January, President Bush declared that "the survival of liberty in our land increasingly depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in all the world." Today, along with my colleague from Florida, Ms. ROS-LEHTINEN, I introduce legislation to aid that expansion by honoring the work of courageous men and women all over the world who strive to advance human rights and democratic values within their own countries and throughout the international community.

The Liberty List will be an independent annual report issued by the State Department to highlight the work of individuals and organizations, including the media, who promote the development of liberty, democracy, and respect for human rights. In addition to honoring these individuals and organizations for their important contributions to their societies, the Liberty List will draw attention to the conditions against which the honorees struggle and will offer some protection for honorees by identifying them to the international community. A few individuals and groups, such as Aung San Suu Kyi and her National League, for Democracy NLD, are known around the world for their struggle. Yet, for every individual who is known to the international community, there are many other heroes who deserve recognition and support as they risk their own lives for the improvement of others.

The Liberty List is fundamentally different from the existing State Department Report on International Religious Freedom and the annual Country Reports on Human Rights Practices. Current reports focus on the human rights records of national governments; they deal with the imposition of state power. The Liberty List, in contrast, will spotlight individuals and organizations who are working against that power to build freedom, democracy, and respect for human rights.

Leaders in the struggle for freedom and democracy around the world deserve recognition for the sacrifices and their struggles. It is through the work of individuals, who struggle at the local and national levels to improve the lives of their families, friends, and neighbors, that democracy, freedom, and human rights will prevail. The Liberty List Act will establish a means by which the United States can honor these men and women as they strive to make the world a better, safer place.

I urge my colleagues to join Ms. ROS-LEHTINEN and me as cosponsors of this legislation.

A TRIBUTE TO TIM BURGESS, M.D.

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. BURGESS. Mr. Speaker, I rise today to read into the CONGRESSIONAL RECORD, a tribute to my father, Dr. Tim Burgess, from his close associate and friend, Arvin Short.

Intelligent, competent, compassionate, loving, wise, fatherly, nurturing, clever, witty, emotionally kind and concerned. Harry Meredith Burgess was all of these and more. He was one of the finest people I have ever known and he was literally the best doctor I have ever met.

I came to Denton in 1974 full of vinegar. After meeting and spending 10 minutes with Tim, I knew, without a doubt, that I wanted and had to work with this man. And at that very moment, although I had been to medical school for 4 years and spent 5 years in surgical residency, I began my training as a doctor.

Tim Burgess did not demand, command, plead or suggest. He taught by example, quietly and competently. He, more than any other person in the field of medicine, made me a physician.

Tim is, and always will be, the shining light of the medical profession.

HONORING THE CONTRIBUTIONS OF TEXAS STATE BOARD OF EDUCATION MEMBER JOE BERNAL

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the many accomplishments of Texas State Board of Education Member Joe Bernal.

Mr. Bernal is a proud product of the Texas educational system. He received his Bachelor of Arts degree from Trinity University, his Master of Arts degree from Our Lady of the Lake University, and his doctorate from the University of Texas at Austin.

He has amassed a distinguished record in service to his country and his state. He is a

World War II veteran who served in the Philippines and Japan. Altogether, Mr. Bernal has more than 50 years experience in education and government service, including time spent as a social worker, a classroom teacher, a principal, an assistant superintendent, a Texas state representative, and a state senator.

During his legislative career, Mr. Bernal was a tireless advocate for education and civil rights. He championed bills that created free statewide kindergarten for needy five-year-olds, established the University of Texas at Austin, authorized the state's first minimum wage law, and expunged from the state statute all laws supporting racial segregation.

He now serves the people of Texas as a Member of the State Board of Education, a position he has held with distinction for seven years. Joe Bernal has had an extraordinary career, and his state is immeasurably better off because of all he has done. He is an example to all of us, and I am honored to have the chance to recognize him here today.

FREEDOM FOR ALFREDO FELIPE FUENTES

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Alfredo Felipe Fuentes, a political prisoner in totalitarian Cuba.

Mr. Fuentes is a member of the United Cuban Workers Council and an independent journalist. According to various reports, he has been an active opponent of the dictatorship since 1992. His peaceful, pro-democracy activities and truthful articles have helped the world to learn the facts about the nightmare that is the Castro regime. Unfortunately, those who believe in truth are targeted by the tyrant's machinery of repression.

On March 19, 2003, Mr. Fuentes was arrested as part of the dictatorship's heinous crackdown on peaceful pro-democracy activists. In a sham trial, he was accused of sending reports to Radio Martí about opposition demonstrations. For these "crimes," Mr. Fuentes was sentenced to 26 years in the totalitarian gulag.

Let me be very clear, Alfredo Felipe Fuentes is languishing in an inhuman gulag because of his belief in truth, freedom and democracy. According to reports, he is held in isolation, he is suffering from malnutrition and the abhorrent state of his cell. Mr. Fuentes is bravely suffering because he believes in freedom for all the men and women of Cuba.

Mr. Speaker, it is morally repugnant that, in the 21st Century, men and women are still locked in the dungeons of dictators because of their beliefs in freedom and human rights. It is as inconceivable as it is unacceptable that, while the world stands by in silence and acquiescence, brave men and women are systematically tortured because of their belief in democracy and the Rule of Law. My Colleagues, we must demand the immediate and unconditional release of Alfredo Felipe Fuentes and every political prisoner in totalitarian Cuba.

IN HONOR OF GOVERNOR ELBERT N. CARVEL

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to former Delaware Governor Elbert N. Carvel, lovingly known to most Delawareans as "Big Bert". Bert was born in Shelter Island, New York on February 9th, 1910 to loving parents Arnold W. Carvel and Elizabeth Nostrand Carvel.

Bert Carvel graduated from Baltimore Polytechnic Institute in 1928 and the University of Baltimore law school in 1931. After moving to Delaware in 1936, Mr. Carvel began working for the Valliant Fertilizer Company in Laurel. After years of hard work at Valliant Fertilizer, he rose to the position of President and Chairman of the Board.

Soon after rising to prominence in the business community, the 6 foot, 6 inch, gentle giant decided to throw his hat into the political arena. He was elected Lieutenant Governor of Delaware in 1944 and became the 65th Governor of the First State in 1949. He returned to the governorship in 1961 and served out his second term, eventually leaving elected office for good in 1965. As a former Governor myself, I honor and thank Governor Carvel for his major accomplishments while in office.

After leaving office, Governor Carvel remained a fixture around Delaware. His good-natured speeches and humor made him a lively and well-known personality throughout all three counties. He will be remembered for his work with community foundations such as: The March of Dimes, The American Cancer Society, Delaware Wild Lands, the Boy Scouts, Ducks Unlimited, many historical societies throughout Delaware and through his church, St. Philip's Episcopal in Laurel.

Bert Carvel's legacy is one of equal human rights and opportunity; he opposed the death penalty and favored a public accommodations law, civil rights era reform that opened public places to all people, including African-Americans. Bert Carvel was so strong in his convictions that he did not worry about the political and personal price of legislation. He knew what was right and he made it his job to make sure Delaware always did the just thing. He was truly a larger than life statesman who will leave a larger than life legacy for all of us to remember.

TRIBUTE TO THIRD DISTRICT CONGRESSIONAL YOUTH ADVISORY COUNCIL

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. SAM JOHNSON of Texas. Mr. Speaker, last fall I encouraged high school students from the Third Congressional District to join the first-ever Congressional Youth Advisory Council. I guessed that perhaps 10 to 20 students would participate.

Nearly 150 young people from public, private and home-schools applied. An outside, independent panel from the community spent hours pouring over the applications with care. Ultimately, the panel hand-selected 39 students to represent their peers as the voice of the future to Congress.

At our first meeting, I didn't know what to expect so I just opened up the floor to questions. It sounded like a meeting of award-winning scholars, well-respected leaders, and involved-civic activists. That's because they were. The students boasted impressive credentials: honors society, student leadership, school athletics, community philanthropy, language clubs, and musical backgrounds.

Members asked about the future of Social Security, the election in Iraq, and the status of legislation. They voiced their support for our troops and concerns about government spending.

I'm guessing that I learned more from the CYAC than they did, and I'm better for it. I'm eager. to improve on the Council next year and hope that the sophomores and juniors will return to contribute. I believe the students enjoyed our time together and feel confident creating the CYAC was the right thing after one person asked if we could meet every week. Clearly these students have things to say about the future of this great country and long to be heard.

It is my hope that someday the Congressional Youth Advisory Council will be associated with excellence and one of our highest standards of civic pride for young people in North Texas. I commend the students for volunteering their time on the Congressional Youth Advisory Council and I wish each one continued success in all of their endeavors. Without a doubt, every student will continue to play an important role in our community for decades to come, and that America and North Texas, will continue to benefit from their dedication, smarts, and service.

You know, a lot of people hope to make a difference sometime in their lives. To the members of the Congressional Youth Advisory Council, you just did. Thank you. I salute you; God Bless You and God Bless America.

The names of the students follow.

2005 CONGRESSIONAL YOUTH ADVISORY COUNCIL

SOPHOMORES

Merinda Brooks, Plano, Jasper High School.

Alyssa DeLorenz, Garland, Williams High School.

Amanda Lipscomb, McKinney, Dallas Academy.

Austin Lutz, Dallas, Trinity Christian Academy.

Michael Scott, Dallas, Plumtree Homeschool Academy.

Aatman Shah, Dallas, Vines High School.

JUNIORS

Nathaniel Alcorn, Frisco, Centennial High School.

Mindy Bell, McKinney, McKinney Christian Academy.

Heather Blizzard, Plano, Centennial High School.

Brandon Boyd, Allen, Allen High School.

Christina Elizabeth Buss, Plano, Ursuline Academy of Dallas.

Elyse Carlisle, Murphy, Plano East Senior High School.

Albert Chang, Dallas, Plano West Senior High School.
Andrew Clark, Plano, Plano West Senior High School.
Joe Dickerson, Frisco, Centennial High School.
Allison Goldman, Dallas, Plano West Senior High School.
Douglas Hermann, Allen, Allen High School.
Jordan Hirsch, Plano, Yavneh Academy of Dallas.
Katie Laughlin, Plano, Plano Senior High School.
Alison Lyon, Allen, Plano East Senior High School.
Natalie Myers, Plano, Plano Senior High School.
Jeff Nanney, Plano, Plano East Senior High School.
Joe O'Neill, Plano, Plano Senior High School.
Adam Rosenfield, Plano, Plano West Senior High School.
Kristin Schneider, Richardson, Home School.
Heather Webb, Plano, Plano West Senior High School.
Katie Willman, Frisco, Centennial High School.
Anna Zhang, Plano, Plano West Senior High School.

SENIORS

John Coleman, McKinney, McKinney High School.
Jenny Davis, Richardson, Canyon Creek Christian Academy.
Dana K. Hansen, Plano, Canyon Creek Christian Academy.
Jordan Herskowitz, Plano, Plano West Senior High School.
Alison Houpt, Rowlett, Naaman Forest High School.
Ashley E. Mergen, Frisco, Frisco High School.
Mathew Martinez, McKinney, McKinney High School.
Parth Shah, Garland, Naaman Forest High School.
Christina Shams, Sachse, Sachse High School.
Brittany Whitstone, McKinney, McKinney North High School.
Elliot Winters, Plano, Frisco High School.

MATH AND SCIENCE INCENTIVE ACT OF 2005

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. WOLF. Mr. Speaker, on Tuesday I introduced with Congressmen EHLERS and BOEHLERT, H.R. 1547, the Math and Science Incentive Act of 2005. This legislation would pay—over the life of the loan up to $10,000—the interest on the undergraduate student loans of math, science or engineering majors who agree to work five years in their respective fields. The idea for this legislation came from my friend Newt Gingrich's book, Winning the Future. America's dominance in science and innovation is slipping, but this legislation can help combat this trend.

We are facing today a critical shortage of science and engineering students in the United States. Unfortunately, there is little public awareness of this trend or its implications for jobs, industry or national security in America's future. We need to make sure we have people who can fill these science and engineering positions. In an era in which students are graduating college with record levels of debt, I am hopeful that this incentive will be a significant motivator in attracting or retaining math, science and engineering students.

How do we know that our nation is slipping in the areas of math, science, engineering and technology? Americans, for decades, led the world in patents. But we can no longer claim that lead. The percentage of U.S. patents has been steadily declining as foreigners, especially Asians, have become more active and in some fields have seized the innovation lead. The United States share of its own industrial patents now stands at only 52 percent. Foreign advances in basic science now often rival or even exceed America's. Published research by Americans is lagging.

Physical Review, a series of top physics journals, last year tracked a reversal in which American scientific papers, in two decades, dropped from the most published to minority status. In 2003—the most recent year statistics are available—the total number of American papers published was just 29 percent, down from 61 percent in 1983.

Another measuring stick: Nobel prizes. From the 1960s through the 1990s, American scientists dominated. Now the rest of the world has caught up. Our scientists win now about half of the Nobel prizes, the rest go to Britain, Japan, Russia, Germany, Sweden, Switzerland and New Zealand. According to the National Science Foundation, the United States has a smaller share of the worldwide total of science and engineering doctoral degrees awarded than both Asia and Europe.

This is a real problem. In 2000, Asian universities accounted for almost 1.2 million of the world's science and engineering degrees. European universities (including Russia and eastern Europe) accounted for 850,000.

North American universities accounted for only about 500,000. Since 1980, science and engineering positions in the U.S. have grown at five times the rate of positions in the civilian workforce as a whole.

I urge my colleagues to join me in cosponsoring this legislation to help America continue to be the innovation leader of the world. The text of H.R. 1547 follows:

H.R. 1547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Math and Science Incentive Act of 2005".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The United States can have a secure and prosperous future only by having a robust and inventive scientific and technical enterprise.

(2) Such an enterprise will require the United States to produce more scientists and engineers.

(3) The United States education system must do more to encourage students at every level to study science and mathematics and to pursue careers related to those fields.

(4) The current performance of United States students in science and math lags behind their international peers, and not enough students are pursuing science and mathematics.

(5) The United States is still reaping the benefits of past investments in research and development and education, but we are drawing down that capital.

(6) The United States needs to recommit itself to leadership in science, mathematics and engineering, especially as advances are being made in such areas as nanotechnology.

(7) A program of loan forgiveness designed to attract students to careers in science, mathematics, engineering and technology, including teaching careers, can help the United States maintain its technological leadership.

SEC. 3. ESTABLISHMENT OF PROGRAM.

(a) PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a program of assuming the obligation to pay, pursuant to the provisions of this Act, the interest on a loan made, insured, or guaranteed under part B or D of title IV of the Higher Education Act of 1965.

(2) ELIGIBILITY.—The Secretary may assume interest payments under paragraph (1) only for a borrower who—

(A) has submitted an application in compliance with subsection (d);

(B) obtained one or more loans described in paragraph (1) as an undergraduate student;

(C) is a new borrower (within the meaning of section 103(7) of the Higher Education Act of 1965 (20 U.S.C 1003(7)) on or after the date of enactment of this Act;

(D) is a teacher of science, technology, engineering or mathematics at an elementary or secondary school, or is a mathematics, science or engineering professional; and

(E) enters into an agreement with the Secretary to complete 5 consecutive years of service in a position described in subparagraph (D), starting on the date of the agreement.

(3) PRIOR INTEREST LIMITATIONS.—The Secretary shall not make any payments for interest that—

(A) accrues prior to the beginning of the repayment period on a loan in the case of a loan made under section 428H or a Federal Direct Unsubsidized Stafford Loan; or

(B) has accrued prior to the signing of an agreement under paragraph (2)(E).

(4) INITIAL SELECTION.—In selecting participants for the program under this Act, the Secretary—

(A) shall choose among eligible applicants on the basis of—

(i) the national security, homeland security and economic security needs of the United States, as determined by the Secretary, in consultation with other Federal agencies, including the Departments of Labor, Defense, Homeland Security, Commerce, and Energy, the Central Intelligence Agency and the National Science Foundation; and

(ii) the academic record or job performance of the applicant; and

(B) may choose among eligible applicants on the basis of—

(i) the likelihood of the applicant to complete the five-year service obligation;

(ii) the likelihood of the applicant to remain in science, mathematics or engineering after the completion of the service requirement; or

(iii) other relevant criteria determined by the Secretary.

(5) AVAILABILITY SUBJECT TO APPROPRIATIONS.—Loan interest payments under this Act shall be subject to the availability of appropriations. If the amount appropriated for any fiscal year is not sufficient to provide interest payments on behalf of all qualified applicants, the Secretary shall give priority to

those individuals on whose behalf interest payments were made during the preceding fiscal year.

(6) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(b) DURATION AND AMOUNT OF INTEREST PAYMENTS.—The period during which the Secretary shall pay interest on behalf of a student borrower who is selected under subsection (a) is the period that begins on the effective date of the agreement under subsection (a)(2)(E), continues after successful completion of the service obligation, and ends on the earlier of—

(1) the completion of the repayment period of the loan;

(2) payment by the Secretary of a total of $10,000 on behalf of the borrower;

(3) if the borrower ceases to fulfill the service obligation under such agreement prior to the end of the 5-year period, as soon as the borrower is determined to have ceased to fulfill such obligation in accordance with regulations of the Secretary; or

(4) 6 months after the end of any calendar year in which the borrower's gross income equals or exceeds 4 times the national per capita disposable personal income (current dollars) for such calendar year, as determined on the basis of the National Income and Product Accounts Tables of the Bureau of Economic Analysis of the Department of Commerce, as determined in accordance with regulations prescribed by the Secretary.

(c) REPAYMENT TO ELIGIBLE LENDERS.—Subject to the regulations prescribed by the Secretary by regulation under subsection (a)(6), the Secretary shall pay to each eligible lender or holder for each payment period the amount of the interest that accrues on a loan of a student borrower who is selected under subsection (a).

(d) APPLICATION FOR REPAYMENT.—

(1) IN GENERAL.—Each eligible individual desiring loan interest payment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—Such application shall contain an agreement by the individual that, if the individual fails to complete the 5 consecutive years of service required by subsection (a)(2)(E), the individual agrees to repay the Secretary the amount of any interest paid by the Secretary on behalf of the individual.

(e) TREATMENT OF CONSOLIDATION LOANS.—A consolidation loan made under section 428C of the Higher Education Act of 1965, or a Federal Direct Consolidation Loan made under part D of title IV of such Act, may be a qualified loan for the purpose of this section only to the extent that such loan amount was used by a borrower who otherwise meets the requirements of this section to repay—

(1) a loan made under section 428 or 428H of such Act; or

(2) a Federal Direct Stafford Loan, or a Federal Direct Unsubsidized Stafford Loan, made under part D of title IV of such Act.

(f) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this section and—

(1) any loan forgiveness program under title IV of the Higher Education Act of 1965; or

(2) subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "Secretary" means the Secretary of Education; and

(2) the term "mathematics, science, or engineering professional" means a person who—

(A) holds a baccalaureate, masters, or doctoral degree (a combination thereof) in science, mathematics or engineering; and

(B) works in a field the Secretary determines is closely related to that degree, which shall include working as a professor at a two or four-year institution of higher education.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act such sums as may be necessary for fiscal year 2006 and for each of the 5 succeeding fiscal years.

HONORING THE EXEMPLARY WORK OF HAYS COUNTY CONSTABLE LUPE R. CRUZ

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the dedicated public service of Hays County Constable Lupe R. Cruz.

Mr. Cruz is a native of the San Marcos area. He attended San Marcos High School, and later Austin Community College. He began his career in public service in the military: he served in the United States Navy and Naval Reserve for 30 years, at the end of which time he received an honorable discharge.

Mr. Cruz began his career in law enforcement in 1981. From 1981 to 1988, he served his community as a Hays County Deputy Sheriff and Corrections Officer. He continued to learn and train in modern law enforcement methods, and holds both an Advanced Certification in Law Enforcement and the title of Licensed Peace Officer from TCLEOSE. In addition, he has received training in Criminal Law, Civil Law, and Criminal Procedures.

In 1989, Mr. Cruz was elected to the position of Hays County Constable for Precinct One. He has served in this post with distinction. He has also found spare time to dedicate to a variety of charitable community organizations. He is a member of the Fraternal Order of Police, VFW Post 3413, and is on the board of directors for both the Southside Community Center and the San Marcos Area Food Bank.

Mr. Cruz has had a tremendously productive and successful career in law enforcement, and his community and county are grateful to him for his service. I am proud to recognize him before this body for all the good work he has done.

RECOGNIZING THE PEOPLE OF LEBANON

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. ANDREWS. Mr. Speaker, I rise today in recognition of the people of Lebanon, who have stood up against fear and oppression, and have embraced the idea of a democratic future. Hundreds of thousands of Lebanese patriots have taken to the streets of Beirut to demand national self-determination and real democratic rule. Their courage has led to the withdrawal of Syrian forces, and created the opportunity for a peaceful transition of power.

Lebanon's history has not been an easy one. The 15-year civil war begun in 1975 produced national upheaval and chaos, and pitted ethnic groups against each other. It left around 100,000 people dead, and the country in total disrepair. The civil war ended in 1990, but Syrian forces continued to occupy Lebanon. Syria, one of the region's foremost supporters of terrorism, has been heavily involved in Lebanese politics, and has used fear and intimidation to suppress the voice of its people. The citizens of Lebanon have bravely taken a stand against terrorism so as to inspire a truly free, democratic society. Now that Syrian forces have begun to withdraw, there is an opportunity for Lebanon to create a social and political contract that establishes the rights of each individual regardless of religion, race, creed, or ethnicity. It is vital that Lebanon continue its progression towards a true democratic peace by holding free and transparent elections, on time, as scheduled, under the supervision of international observers.

The Lebanese people have recognized that there exists an alternative to the brutal, autocratic governments of the past. They seek a new beginning, and a new voice. Their courage has begun a process of reform that has sent ripple effects across the broader Middle East and around the world. I admire their courage to stand up against terrorism and peacefully demand change, and encourage my colleagues to voice their support for the citizens of Lebanon and recognize their historic movement towards democracy.

HONORING CHIEF WARRANT OFFICER DAVID AYALA

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mrs. LOWEY. Mr. Speaker, I rise today to pay tribute to David Ayala who gave his life in service to our country in Ghanzi, Afghanistan.

David, a graduate of New Rochelle High School, was a dedicated son, friend, husband and citizen. He knew before he graduated high school that he wanted to serve his country in the U.S. Army. As a young boy, David dreamt of one day flying a helicopter for the Army. Just three months after his high school graduation in 1998, David enlisted to pursue his dream, studying to become a helicopter mechanic.

After receiving 18 months of training in Fort Rucker, Alabama, David emerged as a Warrant Officer and began his deployment in Germany. David would later be joined in Germany by his loving wife Athena, who was also serving her country as a nurse in a military hospital. As Chief Warrant Officer, David was assigned to F Company, 5th Battalion, 159th Aviation Regiment, Giebelstady, Germany.

In March of 2005, David and his unit were deployed to the Middle East under control of Army Central Command as part of Operation Enduring Freedom. On April 6th of this year, David died when the CH–47 Chinook helicopter he was aboard crashed.

David was a true patriot who never gave up his love for the sky and who paid the ultimate price for loyalty to his country. All Americans are truly fortunate to have had a person of David's caliber working to defend our Nation and keep it safe, strong, and secure.

Mr. Speaker, I ask my colleagues to join me in honoring Chief Warrant Officer David Ayala along with all of our Nation's other fallen heroes.

SMALL BUSINESS SPECTRUM OWNERSHIP OPPORTUNITIES ACT

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. RUSH. Mr. Speaker, I rise today to introduce the "Small Business Spectrum Ownership Opportunities Act." This bill would level the playing field in the acquisition of spectrum for telecommunications services so that small businesses and economically disadvantaged business owners could enter the communications field. As you know, since the passage of the 1996 Telecommunications Act there has been an unprecedented growth on the Telecommunications sector, which has often been referred to as the telecommunications revolution. However, conspicuously absent from this revolution has been economically disadvantage business owners. They have in essence been left on the fringes of this telecommunications revolution. There are many factors attributed to this lack of participation but chief among them is lack of capital. Because entry into the telecommunication field is capital intensive, many deserving, innovative, and well qualified small business owners have been denied entry into this vital sector because they lack access to the needed capital to complete with large companies. The problem of small businesses access to capital in telecommunications is greatly amplified because potential lenders to small telecommunications businesses cannot secure an interest in spectrum licenses as a condition of a loan. Given that new spectrum is auctioned and requires cash, this defect in spectrum financing means that small business are disadvantaged in their opportunities when compared with companies that have broad access to capital.

My bill would increase telecommunications ownership opportunities for small businesses, including small businesses owned or controlled by socially disadvantaged individuals, through Small Business Administration participation in a market-oriented restructuring of the credit aspects of Federal Communications Commission telecommunications spectrum auctions. The Act establishes two programs. THE TELECOMMUNICATIONS SPECTRUM INSTALLMENT LOAN PROGRAM which permits an entrepreneur to apply for a direct loan from the Small Business Administration in order to bid on a spectrum license in an auction of the Federal Communications Commission. In addition, the SBA Administrator may make loan guarantees (guarantees on private sector loans) only for telecommunications equipment and working capital necessary to carry out the terms of the license to be financed. The second program is the TELECOMMUNICATIONS ACCELERATED LENDER PROGRAM. In this program the SBA guarantees loans that are provided in the private sector. Guaranteed loans are to be used by entrepreneurs to obtained spectrum in auction or in secondary spectrum markets. An approved borrower is given a letter of credit by the lender (and SBA). The Federal Communications Commissions accepts this letter of credit in lieu of any up front payment or earnest money deposit required by Commission regulation. In addition, the SBA Administrator may make loan guarantees (guarantees on private sector loans) for telecommunications equipment and working capital necessary to carry out the terms of the license to be financed. The SBA Administrator requires, as a condition of any direct loan and any loan guarantee, that (1) any disbursement of a loan amount be fully protected by a secured interest in the proceeds of sale or other assignment of the license involved; (2) the loan agreement contain specific measures by which, in the case of default by the borrower, the lender may require the borrower to sell or otherwise assign the license.

I believe the "Small Business Spectrum Ownership Opportunities Act embodies the essence of this statement by making economically disadvantaged small business owners not only consumers of technology but also producers of technology. I hope that all my colleagues will join me in supporting this important initiative.

LOCALISM REFORM IN BROADCASTING ACT OF 2005

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. SLAUGHTER. Mr. Speaker, I rise today to address the ever-growing problem of radio and television stations that seem to have forgotten that the American public owns the airwaves on which they broadcast. Those stations also appear to have lost sight of the public interest obligations they assumed when they were awarded those airwaves, which today are collectively worth hundreds of billions of dollars.

To cite evidence of this lack of responsibility, a recent Poynter Institute study found that in the month leading up to Election Day 2004, local issues and races garnered just 8 percent of the local evening newscasts in 11 of the nation's largest TV markets. Stated another way, ninety-two percent of the news broadcasts studied contained no stories about races for the U.S. House, state senate or assembly, mayor, city council, law enforcement posts, judgeships, education offices, or regional or county offices.

Our citizens and constituents deserve more from broadcasters than canned weather and news, and local reporting of fires and murders. They deserve the vital information about issues of national and local importance that will allow them to make decisions about how our democracy should operate. Therefore, today I am introducing with my colleague JOHN J. DUNCAN, Jr., the Localism Reform in Broadcasting Act of 2005 to increase broadcasters' accountability to the public they serve.

The bill will have slight impact on stations meeting their public interest obligations, but it will give citizens greater leverage dealing with stations that do not. It would reduce the license term for broadcasters from 8 years to 3, thereby requiring broadcasters to provide the Federal Communications Commission (FCC) with information every 3 years why their license should be renewed. Broadcasters would be required regularly to post information about their local public affairs programming on their Internet site. The FCC would be required to review at least five percent of all license and renewal applications. During license renewal proceedings, the FCC will be able to review not only the performance of the station seeking approval, but also the performance of all stations owned by the licensee. Finally, the FCC would be required to complete its open proceeding on whether public interest obligations should apply to broadcasters in the digital era.

I think we all would prefer that broadcasters honor their responsibilities without being forced to do so by Congress. However, owner consolidation is growing, more and more stations are being run by absentee landlords in corporate offices far away, and their record is going from bad to worse. It is now up to us to put local back into local broadcasting, by giving citizens more control over content in what is—again, I repeat—their airwaves. This legislation is a step in the right direction to make that happen, and I urge my colleagues to join me in this effort.

HONORING JOHN SCHAEFFER

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor John Schaeffer who has recently been named the Boyertown Area Educator of the Year, by the Berks and Montgomery County Newspapers.

John Schaeffer began his teaching career in the Boyertown Area School District 35 years ago and has since continued to touch students' lives and inspire them to be the best that they can be.

As a math teacher, Mr. Schaeffer excelled at reaching out to his students by utilizing his own teaching philosophy and practice. From the very beginning, Mr. Schaeffer realized that each student learns the same material at a different pace. Mr. Schaeffer decided that the best approach would be one of simplicity. He deliberately tries to make things simple for his students so they can learn the basics and, once the foundation had been laid, he would develop their knowledge base in greater detail. Mr. Schaeffer is also keenly aware that each child's learning style and ability is different from their classmates. He works to adapt his teaching style to help each child individually in order to achieve their goals. This skillful enhancement of the learning process has worked remarkably well for both Mr. Schaeffer and his students as he encouraged his students.

John Schaeffer is also considered a great educator because of the time and effort he exerts to create a personal relationship with each of his students. He shows care and empathy for his students which, in turn, allows him to create relationships built on trust and understanding with his students. Mr. Schaeffer feels that gaining this trust is an important step in the learning process. Mr. Schaeffer wisely spoke, "I think the teacher's role has had to change because you have to show you care for them as a kid, and then you deal with the math problem."

Mr. Speaker, I ask that my colleagues join me today in honoring John Schaeffer for his many years of exemplary service and distinguished contributions to the Boyertown Area School District and its students over the past 35 years. He has touched countless lives and made an incredible impact on both the students and parents in Boyertown. I am honored to stand before you to congratulate and celebrate John Schaeffer on his many impressive accomplishments.

A TRIBUTE OF WESTSIDE WOMEN

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. DAVIS of Illinois. Mr. Speaker, although Women's History Month has just ended, while riding back on the airplane from Sri Lanka, I was thinking of the community where I live and decided to write this article about some of the women who have helped shape the Westside of Chicago. Obviously, there are many additional women who I could have featured and, hopefully, I will have an opportunity to do that some day.

NEEDED: A NEW GENERATION OF COMMUNITY LEADERS

The recent passing of Ms. Leola Spann jarred my thoughts and inspired me to write to put these thoughts down on paper. Ms. Spann was a delightful, committed, dedicated, visionary, hardworking woman of great integrity. She was willing to work hard for what she believed. She revitalized the Northwest Austin Council and kept it alive and thriving until she could work no more. Now we face the question: Who will be the next Leola Spann?

The Westside of Chicago has been rich with people like Leola Spann. Mary Volpe for many years lived, ate, slept, dreamed her commitment to the Northeast Austin Organization. She worked in a bi-racial environment as her community was experiencing transition, yet she never wavered, and remained steadfast until she could go no more. Who will be the next Mary Volpe?

Illinois Daggett moved with her husband, Jerry and their children, from the Near Westside to Austin at the beginning of its great transition: a period of block-busting, panic peddling, racial turmoil and community instability. She immediately established herself as an activist and community leader. She became a seriously fierce advocate for education, mental health and community stabilization. She founded, and operated for several years, the Austin Developmental Center, was a WVON "On Target" radio talk show host and a social service professional. Unfortunately, Illa was injured by an insane man at her job on the Near Northside where she was running a City of Chicago Community Service Center. As a result of her injuries Illa has been in a coma for the last fifteen or so years. Who will be the next Illinois Daggett?

The death of Pope John Paul II has caused me to think of Nancy Jefferson, who used to be called the Mother Theresa of the Westside. Nancy was a crusading nurse and social worker who became Executive Director of the Midwest Community Council. In this role Nancy became a premier protector and promoter of the Westside of Chicago which had been the last port of entry for large numbers of African Americans migrating to Chicago from the rural South. Nancy and the Midwest Community Council set up social service programs, organized block clubs and other self help activities, got people actively involved in politics, was credited with helping to elect Jane Byrne Mayor, was one of the architects of the Harold Washington campaigns and was instrumental in getting Leroy Martin appointed Superintendent of Police. Who will be the next Nancy Jefferson?

Obviously this is a call for new leadership. Nobody appointed these women, nobody moved out of their way, nobody decreed that these women should lead. They simply stepped up to the plate, did what they did, led where they went, and made valuable contributions to the community.

You can too!

ON THE OCCASION OF THE CENTENNIAL OF THE COUNTY OF MAUI

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CASE. Mr. Speaker, today marks a most auspicious day for the County of Maui, all of which I am most proud to represent in our Congress. The County of Maui, encompassing the four Islands of Maui, Moloka'i, Lana'i and Kaho'olawe and their roughly 140,000 residents, was created one hundred years ago today. Tonight my colleagues and fellow citizens are gathering in the Maui County Building in Wailuku, onetime home of my greatgrandparents, Daniel and Kathryn Case, to celebrate Proclamation Day and kick off a yearlong celebration of this milestone. As our business here keeps me from that ceremony, I have forwarded some remarks to be read there, and ask that those remarks and my best wishes for Maui County be inserted into the RECORD. Mahalo!

"HAPPY CENTENNIAL TO MAUI COUNTY!"

Mr. Mayor, colleagues in public service, and fellow citizens, aloha!

And Happy Centennial, Maui County!

I so deeply appreciate the invitation to be your keynote speaker at this great event honoring the one hundredth anniversary to the day of the proclamation of the four great islands of Maui, Moloka'i, Lana'i and Kaho'olawe as the county of Maui.

And I so equally regret that vital votes today in our nation's capitol make it impossible for me to come home in time to be with you personally.

But please know that I am very much with you in spirit on this great day, and that I truly look forward to joining you at other events in this centennial celebration year.

Of course, the roots of Maui County lie deep, back generations, centuries and millennia before its creation on April 14, 1905. It gave birth, with its sister counties, to the native Hawaiian people after the voyages from the south, and nurtured and sustained our indigenous culture through its refinement and time of greatest peril. In Post-contact times, it fostered the evolution of Hawaii's economy, through whaling and into sugar and pine, and the evolution of Hawaii's peoples, through in-migration from east and west.

But it is in the last century that this vital and unique part of our Hawaii has truly come into its own as the county of Maui. From not even 30,000 citizens in 1905, Maui county now is home to around 140,000 of us. From an agriculture-based economy, Maui county pioneered the modern tropical resort at Ká'anapali and later Wailea and Lanái, the modern ecotourism movement, and a growing high-tech industry. From the great struggles and rebirth of Kaho'olawe to the Hawaiian language immersion schools of Moloka'i and Upcountry, Maui County led the modern-day renaissance of the Hawaiian people. And in our modern e-world, Maui County now boasts its own universally recognized brand domain: Maui.gov!

Yet the history of Maui County has always been about its people. From the indigenous Hawaiians, through the great waves of immigrants from Japan and Portugal, whose descendants—the Yoshinagas and Yokouchis, the Tavares and Cravalhos, and so many more—have been so intertwined with the county's progress, to the great migration from the Philippines, which commenced one hundred years ago next year, to the mainlanders and Canadians of recent decades who have made this their home, to our most recent citizens, the next generations from Mexico and Laos and the Marshall Islands: Maui County has always been the epitome of our Hawaiian melting pot, the place that could justly claim credit for having produced so many firsts such as Congresswoman Patsy Takemoto Mink and Governor Linda Lingle.

And each of us could and can lay claim in some way to our own Maui heritage. Take just two families who lived here one hundred years ago under quite different circumstances. One a Kansan and his wife who moved to Wailuku at the turn of the century—he was the first politician in the family when he ran successfully for Maui County attorney in 1905, then went on to be "the judge" for over two decades. And the other an immigrant family from Fukuoka, Japan who moved to Pu'unene, also at the turn of the century, to work in the sugar fields, before moving on a decade later to Kona Mauka on the big island. The first my great-grandparents, Daniel and Kathryn Case and the second my wife, Audrey's grandparents, Sentaro and Shina Hirata.

Centennials are about looking back, but they are as much about looking to the future, about tying what has been with what is and what can be. And as we look at where we are and where the road ahead lies, we can see clearly some of the paths and challenges we face, while some are more murky, and others cannot be seen at all.

But if and as we honor the past and recognize how we got here, we cannot but have confidence in our future. And for Maui County it always has been about people—about us. About how we treat and care for each other and for those beyond our shores, and about how together we care for our Aina.

Maui County's first hundred years have been good because we hewed to the course lit by these principles, and we pause today to say mahalo to all who came before us who deserve credit for guiding us to this point. But we also pause to recommit ourselves to what has made Maui County strong, because success doesn't just happen, and it is now our responsibility to see Maui County's second century off to a good and sustainable start.

I am truly proud and humbled to represent the very best of our Hawaii and country in our Congress at this watershed in Maui County's rich history, and again truly appreciate the opportunity to take this part in this great celebration. Happy birthday, Maui County, and best wishes for our new century. Aloha!

HONORING THE EXEMPLARY WORK OF THE KIRBY POLICE DEPARTMENT

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the exemplary work of the Kirby, Texas Police Department.

The Kirby Police Department was established in 1968. At the time, it had only one police car, and was run by Harold Peterson, the first Kirby Marshal. Mr. Peterson received only $50 salary per month, and had to furnish his own transportation and pay his own expenses.

The department began to grow in the 1970's, under the leadership of Police Chief Bill Madison. A former counterintelligence officer and San Antonio police sergeant, Madison expanded the staff, purchased new facilities, and worked with county government to modernize Kirby's traffic control system. He was a strong advocate for Kirby, and worked tirelessly to find federal and state level funding to help protect Kirby's growing population.

The Kirby Police Department was one of the first to participate in the Selective Traffic Enforcement Program (STEP), which pioneered the use of the breathalyzer to combat drunk driving in high-risk areas.

Through the 1980's and up until the present day, the Kirby Police Department continued to grow in size and sophistication, purchasing new cars, radar guns, and 2 communication equipment. As it has grown, it has creatively used its relatively small budget to provide outstanding service and protection to the people of Kirby. I am pleased to have this opportunity to honor the men and women of the Kirby Police Department for over 35 years of exemplary work.

THE DEATH OF ARCHBISHOP IAKOVOS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mrs. MALONEY. Mr. Speaker, on Sunday, April 10, the world lost one its foremost religious leaders. It was with tremendous sadness that I learned of the death of His Eminence Archbishop Iakovos, who for 37 years was the Primate of the Greek Orthodox Church of North and South America. As the Hellenic-American community mourns the passing of this great leader, I hope that we can all pause to reflect upon the Archbishop's greatest legacies: his profound love of God and his lifetime of work to promote freedom, human rights and religious tolerance. He will be greatly missed.

I had the honor and pleasure of meeting Archbishop Iakovos in 1992, shortly after my election to Congress, and I will never forget his kind words of encouragement and advice. As the representative of Astoria, New York, home to the largest Hellenic population outside of Greece, the Archbishop's wise counsel was truly invaluable to me. The Archbishop once said that although the Orthodox Church is rooted in Greece, "America is the place God intended it to grow." Throughout his life, His Eminence helped millions to explore their lives in the Americas without losing touch with their religious and ethnic heritage.

In addition to his role as the leader of the Greek Orthodox Church in the Americas, Archbishop Iakovos was a staunch defender of human rights, both here in America and in his Greek homeland. Whether he was marching hand-in-hand with the Rev. Martin Luther King in support of civil rights or demanding an end to the Turkish occupation of Cyprus, His Eminence was a tireless champion of peace and freedom for all mankind.

I join with all New Yorkers and all Americans in extending my deepest sympathies to the Hellenic-American community on this solemn occasion. May Archbishop Iakovos rest in peace.

INTRODUCTION OF THE HERO ACT

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. HARMAN. Mr. Speaker, today, together with my good friend CURT WELDON and a bipartisan group of our colleagues, we are introducing Homeland Emergency Response Operations or HERO Act. The HERO Act would take much-needed broadcast spectrum available for use by America's first responders by no later than January 1, 2007.

Many public safety and state and local governmental associations, as well as first responders and other emergency personnel from across the country, support this legislation.

Interoperability is more than a public safety issue. It's a national security issue, and to our first responders it can be an issue of life or death. In 1997, Congress made a promise to the American people to allocate dedicated radio spectrum to first responders. Yet 8 years later, we still have not made good on our commitment. Why have we broken our promise? Because a handful of broadcasters refuse to compromise on this issue.

Thousands of lives are potentially at stake. We have all heard the tragic stories of firefighters who died in the World Trade Center on 9/11 because NYPD helicopters circling overhead could not radio them that the towers were glowing and beginning to collapse.

At the Pentagon on that same dark day, first responders from surrounding counties who converged on the scene were forced to use runners to convey messages, as their communications equipment was not compatible.

The tragedies of September 11 taught some painful lessons about the need for improved communications among and between first responder groups. In particular, the events of that and subsequent days have underscored the need for more public safety radio spectrum with which first responders can perform their live-saving functions.

The lack of frequency among emergency response agencies and jurisdictions is an everyday problem. Police officers, fire fighters, emergency medical personnel and others are forced to depend on radio systems that operate on incompatible radio frequency bands and lack sufficient capacity. We must as a nation remedy this situation as effective and interoperable public safety communications are more important than ever in the war against terrorism.

Key elements for first responders to begin using this spectrum are in place. The spectrum is allocated, states have already received licenses to use the 700 MHz band and local jurisdictions are engaged in regional planning needed to get a license. However, the investment to use the spectrum by public safety agencies cannot commence unless there is a tangible date when that spectrum can be used. Essentially, the first responders are waiting on Congress to keep our promise, and I think they have waited long enough.

I urge my colleagues to join us in this important effort to safeguard the lives of our public safety workers—and of the communities they serve—by co-sponsoring the HERO Act.

CONGRATULATE OAKLAND COMMUNITY COLLEGE ON 40 YEARS OF EDUCATIONAL EXCELLENCE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. LEVIN. Mr. Speaker, I rise to congratulate Oakland Community College on their 40 years of educational excellence.

When the voters of Oakland County voted to establish the Oakland Community College District on June 8, 1964, they not only approved the establishment of a valuable opportunity for thousands of students, but also an institution which would eventually become one of the State of Michigan's largest educational facilities. And, with 888 full-time employees, OCC is one of the County's largest employers.

When the college opened, a record 3,860 students enrolled to take classes. Today, annual enrollment reaches 74,000 and some 700,000 students have received a world-class education at OCC since it opened.

As the largest community college in the state of Michigan, and 14th largest in the nation, OCC has attracted students from over 80 countries.

Oakland Community College is certainly a home-town institution with more than 11 percent of Oakland County's high school graduates attending OCC. The college also boasts the largest freshman class in the entire state. And with campuses throughout Oakland County, many of which I have had the pleasure to represent at one time or another, this institution increasingly became accessible to students. I worked very hard years ago with an active group of citizens and Board members to open campuses in South Oakland County. Today, the Southfield and Royal Oak Campuses are among the two largest in the County.

OCC is also home to the CREST Program. The CREST or Combined Regional Emergency Service Training Facility is a 22-acre site which is the only emergency-response training center in the Midwest designed for the combined training of police, fire and emergency medical technicians in "real-life" scenarios.

Mr. Speaker, on May 5th Oakland Community College will celebrate its 40th anniversary at a dinner to raise money for its scholarship endowments. I ask you and my colleagues to join me in saluting a major community asset, Oakland Community College, as it celebrates its past and focuses on the future.

IN HONOR OF THE EARTH DAY—2005

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Earth Day Coalition of Cleveland, as they celebrate EarthFest 2005—a date that commemorates the 36th Anniversary of Earth Day. The Earth Day Coalition was formed in 1990 to celebrate the twentieth anniversary of Earth Day in Ohio. Over the past twenty-five years, a staff of one has evolved into a staff of six fulltime employees, college interns, and hundreds of volunteers. As the staff has grown, so has the focus, outreach and expansion of the programs and projects created by the Earth Day Coalition.

Beyond the initial focus on environmental education, recycling and energy waste, efficiency, alternatives and conservation, the focus of Earth Day Coalition has expanded into other significant environmental areas of concern that speak directly to the preservation and conservation of the delicate, interdependent threads of our natural world. Many of the programs initiated by the Earth Day Coalition have grown into nationally-recognized programs and models that speak to the critical need of community pollution prevention. EarthFest 2005, to be held on Sunday, April 17th at the Cleveland Metroparks Zoo, promises once again to be a significant aspect of the world celebration of Earth Day.

Mr. Speaker and Colleagues, please join me in honor and recognition of the staff, volunteers and members of the Earth Day Coalition—as we celebrate EarthFest 2004 on April 17, 2005. This significant day reflects the hope for a healthy community—for us today, and for future generations. The organizing force behind EarthFest—the Earth Day Coalition of Cleveland, offers residents of our community access to a wide range of environmental resources and information, presented by local and national organizations and agencies. Again, Earth Day promises to educate, inspire and motivate all of us to live with the awareness of our fragile connection to all living things.

INTRODUCTION OF MILITARY FAMILIES LEAVE ACT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce the Military Families Leave Act, a bill that will take a small step to help ease the burden of military families in this country. I originally introduced this bill at the end of the 108th Congress, and I look forward to working for its passage during the 109th Congress.

Nearly every day we hear stories about the hardships of the families of our nation's soldiers. Family members of deployed soldiers face unique challenges, especially in the first days and weeks after the member has been summoned to duty. The National Military Family Association has testified that it hears from many families about the difficulties of balancing new family and personal requirements with their regular duties when a family member is deployed. As members of Congress, we too hear from constituents who struggle with this balance. I believe there are measures we can take to ease this burden and increase flexibility in the lives of our military family members.

The legislation I am introducing today is one of the steps we can take. The Military Families Leave Act allows spouses, parents, or children of military personnel who are serving on, or are called to active duty, in support of a contingency operation to use their Family and Medical Leave Act benefits for issues directly related to deployment. The bill does not extend the FMLA to anyone; it simply allows those who already qualify for the FMLA to use that benefit in new specific instances. For example, if a woman's husband is deployed for a contingency operation, she can use her FMLA benefit to secure power of attorney or to arrange for necessary childcare. Or, in a single parent situation, the mother or father of the deployed servicemember could use his or her FMLA benefit to care for a grandchild. This bill has been carefully drafted to stipulate that this leave could only be taken for issues directly relating to or resulting from the deployment of a family member.

Senator RUSS FEINGOLD of Wisconsin has introduced the Senate companion to this bill, which has garnered widespread support from military reserve, active duty, and military family organizations. I would like to submit for the RECORD support letters from the Reserve Enlisted Association and Reserve Officers Association, the National Military Family Association, the Enlisted Association of the National Guard of the United States, and the National Partnership of Women and Families. Others who support this bill include the Military Officers Association of America and the National Guard Association of the United States.

It is time to show our military families that we are listening to their concerns. The Military Families Leave Act represents a small measure of relief for the families of the men and women who serve in our armed forces. I ask that my colleagues join me in assisting our military families by supporting this bill.

RESERVE ENLISTED ASSOCIATION,
April 9, 2005.

Hon. TOM UDALL,
House of Representatives,
Longworth House Office Building Washington, DC.

DEAR REPRESENTATIVE UDALL: The Reserve Officers Association, representing 75,000 Reserve Component members, and the Reserve Enlisted Association supporting all Reserve enlisted members supports your bill, to amend the Family and Medical Leave Act to provide authority for Reserve Component family members to take leave in conjunction with a call-up.

The Guard and Reserve are contributing approximately 40 percent of the troops in Iraq and Afghanistan and are gone from home for the longest period of time ever anticipated. Many families are faced with having to accommodate this absence with often less than 30 days notice and it requires a considerable amount of time to make the necessary adjustments. Family members supporting a spouse, son, daughter or parent that is serving on active duty, should not have to also be afraid of losing their job.

The bill recognizes many of the problems encountered in the current mobilization and provide solutions. We encourage you to offer your provision as an amendment to House Report 109-016, Making Emergency Supplemental Appropriations for the Fiscal Year ending September 30, 2005. ROA and REA applaud your effort and concern.

Sincerely,

LANI BURNETT,
CMSgt, USAFR (Ret.), REA Executive Director.

ROBERT A. MCINTOSH,
Major General (Ret), USAFR, ROA Executive Director.

NATIONAL MILITARY FAMILY ASSOCIATION,
Alexandria, VA, April 10, 2005.

Hon. TOM UDALL,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE UDALL: The National Military Family Association (NMFA) is a national nonprofit membership organization whose sole focus is the military family. NMFA's mission is to serve the families of the seven uniformed services through education, information and advocacy.

On behalf of NMFA and the families it serves, I would like to thank you for introducing legislation to amend the Family and Medical Leave Act of 1993 to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces serving on active duty in support or a contingency operation or notified of an impending call or order to active duty in support of a contingency operation.

NMFA has heard from many families about the difficulty of balancing family obligations with job requirements when a close family member is deployed. Suddenly, they are single parents or, in the ease of grandparents, assuming the new responsibility of caring for grandchildren. The days leading up to a deployment can be filled with pre-deployment briefings and putting legal affairs in order. Families also need the opportunity to spend precious time together prior to a long separation. The need is no less when the servicemember returns. Reintegration and transition requires training not only for the servicemember but for the family as well in order to be most effective.

Military families, especially those of deployed servicemembers, are called upon to make extraordinary sacrifices. This amendment offers families some breathing room as they adjust to this time of separation.

Thank you for your support and interest in military families. If NMFA can be of any assistance to you in other areas concerning military families, please led free to contact Kathy Moakler in the Government Relations Department at 703.931.6632.

Sincerely,

CANDACE A. WHEELER,
Chairman/Chief Executive Officer.

EANGUS
Alexandria, VA, April 11, 2005.

Hon. TOM UDALL,
U.S. Congress,
Washington, DC.

DEAR CONGRESSMAN UDALL: The Enlisted Association of the National Guard of the United States (EANGUS) would like to thank you, on behalf of the Enlisted men and women of the Army and Air National Guard, for drafting the Military Families Leave Act.

Families of mobilized National Guard and Reserve members, as well as the families of deployed active duty service members, experience many hardships. Your bill will help alleviate some of the stress involved when a principal family member is deployed. Allowing the use of the Family and Medical Leave Act of 1993 for those family members can greatly assist during a difficult time.

Thank you so much for recognizing one of the many needs of the military community. EANGUS will support the Military Families Leave Act in any way possible. If there is anything we can do to assist, please let us know.

If I can be of any assistance, please feel free to ask.

Working for America's Best!

MSG (RET) MICHAEL P. CLINE, AUS,
Executive Director.

NATIONAL PARTNERSHIP
FOR WOMEN & FAMILIES,
Washington, DC, April 8, 2005.

Hon. THOMAS UDALL,
Longworth House Office Building,
Washington, DC.

DEAR REPRESENTATIVE UDALL: Thank you for introducing legislation that would expand the scope of the Family and Medical Leave Act to allow the spouses, parents and children of active duty military personnel to take job-protected leave to take care of issues caused by the deployment of their family member.

The National Partnership was proud to lead an active coalition that fought for and helped secure passage of the FMLA. Twelve years later, the FMLA has helped more than 50 million Americans take job-protected leave from work after the birth of a child, to recover from a serious illness or to care for a family member with a serious illness. While the FMLA is a landmark piece of legislation and has made tremendous inroads in the struggle to make our workplaces more family friendly, there is still much more that can be done to help our working families in times of crisis. The National Partnership has long been a champion of expanding the FMLA to cover more workers and to allow workers to take job protected leave to address important family needs such as medical appointments and parent/teacher conferences. We also are actively advocating for policies and programs that make it easier for workers to receive pay while on leave.

Your bill comes at a critical time in the lives of our military families. Its passage will give them time to prepare, logistically and mentally, before or during a loved one's departure for active duty—without fear of losing a much needed job. For these reasons, the National Partnership applauds your leadership on this issue and supports the enactment of this legislation.

Sincerely,

DEBRA L. NESS,
President.

HONORING BERKELEY CITY COUNCILMEMBER MARGARET BRELAND

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the life and work of former Berkeley City Councilmember Margaret Breland of Berkeley, California. Serving the people of West Berkeley first as a private citizen and then as a public servant, Margaret devoted most of her adult life to improving conditions in a community she saw to be underrepresented and often overlooked. Margaret retired from the Berkeley City Council in November of 2004, and after a long battle with breast cancer, passed away on April 7, 2005.

Though Margaret was originally from Beaumont, Texas, she spent the majority of her life in Berkeley after moving there as a child with her family. The oldest of four children, she was counted on by her mother to help run the household. After graduating from Berkeley High School, Margaret became a licensed vocational nurse, an occupation in which she served for 27 years.

Margaret retired early from her work as a nurse to care for her mother in the late 1980s, but became increasingly involved in community and public service activities at Liberty Hill Missionary Baptist Church, where she was a member. As chairperson of Liberty Hill's scholarship committee, she raised thousands of dollars every year to ensure that every church member attending college received at least $1000 in financial assistance.

Margaret also made sure that members of her church remained informed through her work and that of others who served on the congregation's Christian Social Concern Committee. One of the ways in which Margaret first became known to the public in Berkeley was through spearheading the ultimately successful campaign to install a traffic light at Ninth Street and University Avenue, an effort aimed at protecting children crossing the street on their way to and from the church. Margaret continued to advocate for the safety of children and others in her neighborhood not only through her work at Liberty Hill, but also as the chair of both the Human Welfare Action Committee and the West Berkeley Neighborhood Development Corporation and through here involvement with the West Berkeley Area Plan Committee, the West Berkeley Community Cares Services Bank and the Community Advisory Board.

After several years of advocating on behalf of the residents of West Berkeley, in the mid-1990s Margaret decided to seek public office, and was elected as the District 2 representative to the Berkeley City Council in 1996. In her first term, she secured over one and a half million dollars in funding for projects and facilities located in her district, working to make up for funding gaps that she felt had long been ignored. Regardless of the challenges she faced, Margaret worked tirelessly to provide affordable housing, access to healthcare, police and fire protection resources and support for youth in her district. Though she struggled with her illness for much of the second half of her time in office, she remained steadfastly committed to serving her constituents, demanding daily briefings and making efforts to go to City Hall even as her condition and treatments diminished her physical strength. Margaret's devotion to serving her constituents earned her a reputation as a candid and straightforward representative of the people, someone who was truly dedicated to serving as a voice for those without the means to advocate for themselves.

On April 15, 2005, Margaret Breland's life and legacy will be honored at her own Liberty Hill Missionary Baptist Church in Berkeley, California. It is with great sorrow but also with great pride that I add my voice to all those that have joined together today to pay tribute to Margaret and the spirit of selflessness that she embodied. Margaret's commitment to and concern for others set her apart as an elected official and as a human being. The generosity that led her to serve others throughout her life is an inspiration to all of us to follow her example in giving back to our communities, our country and our world.

ELECTION WEEKEND ACT OF 2005

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HONDA. Mr. Speaker, I rise today to introduce the election Weekend Act of 2005. My dear friend and distinguished colleague, Mr. HASTINGS of Florida, and I are introducing this bill to expand accessibility to the electoral process for millions of hard working Americans, who at present are faced with the untenable task of balancing their familial and work responsibilities with their desire to participate in our democratic process, namely to vote.

For more than 200 years, our Nation has prided itself on being the preeminent democracy in the world. We have been the nation to which others look as an example of a healthy democracy. Yet, our rate of voter turnout reveals that our democracy is suffering from serious illness. According to the International Institute for Democracy and Electoral Assistance, between 1945 and 1998, the United States ranked a dismal 139th out of 172 democracies in voter turnout.

True to our ideals of freedom and individuality, voting has always been voluntary. But the voluntary nature of voting is only true if all Americans have equal access to participate in this process. Many hardworking Americans simply do not have ample time and opportunity to vote. And, as we saw in the 2004 election, many civic-minded Americans must wait in line for hours upon hours for the opportunity to cast their ballot.

Our predecessors in Congress arranged for elections to be held during a time of the year and day of the week that would allow enable the largest number of citizens to vote. In 1845 Congress selected November as the month to hold elections (Election Day) because the harvest was in, and farmers were able to take the time needed to vote. Congress selected Tuesday because it gave a full day's travel between Sunday, which was widely observed as a strict day of rest, and Election Day. Travel was also easier throughout the north during November, before winter had set in.

Mr. Speaker, it is time for this Congress to recognize today what our predecessors so astutely recognized 160 years ago: The timing of our elections must accommodate the schedules of our hard working citizens. In recognition of changed times, our bill proposes to do just this. The Weekend Election Act changes our Nation's Election Day from the first Tuesday in November to the first consecutive Saturday and Sunday in November, and in so doing, enables many more Americans to participate in the most fundamental aspect of our democratic process.

Our bill acknowledges the fact that many Americans are unable to leave their jobs in the middle of the day to vote because our elections occur on a Tuesday, a day when almost all Americans are working. By holding elections over a weekend, a time when fewer Americans work, voters will have more time to go to the polls, reducing many of the long lines that form during peak voting hours.

In a time when we are ardently promoting democracy abroad, we must not forget the ongoing need to strengthen democracy at home. Only as long as the democratic process is accessible to all hardworking citizens at home will we serve as a shining example of democracy to the rest of the world.

I urge my colleagues to support the Election Weekend Act to enable greater access to the most fundamental aspect of our democratic process.

HONORING LIEUTENANT COLONEL RICHARD "SLUG" McGIVERN

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. MILLER of Florida. Mr. Speaker, I'd like to bring to the attention of all the members of this Congress some good news and some bad news. First, the bad news; Lieutenant Colonel McGivern will no longer be serving the U.S. Congress as the Deputy Director of the Air Force's Congressional Liaison Office on Capitol Hill. He's retiring after 23 years of exceptionally patriotic and honorable service in the United States Air Force. The good news is that he's going to enjoy a well-earned retirement from military duty while pursuing a new civilian career. We are certain his infectious, "we're the Air Force, we can do anything" attitude, will uplift any organization he comes in contact with. Unfortunately for us, as nearly every member of this body knows who has traveled with" Slug," we are losing one of the best liaison officers we've ever had. He is one of those unique military members who knows and understands the intricacies of Congress and the complexities of overseas travel to often-hostile environments.

During the past 23 years, Lieutenant Colonel McGivern has served in the Air Force with honor and distinction. He's a master navigator/weapons officer with over 2,300 hours. He flew over 100 combat hours in Southwest Asia and was the operations officer of an F–15E squadron at Seymour Johnson AFB, NC. As a result of his operational expertise and consummate professional he was twice selected to work in the congressional arena for the USAF.

As we all know, we are engaged in a war different than those we have fought in the past. The war on terrorism is often a war of individuals and not a war of massed forces on a battle line. Lieutenant Colonel McGivern has contributed greatly to our success in this global war on terrorism by his individual attention and counsel to members of the U.S. Congress during trips to Iraq and Afghanistan. His insightful comments and professional skill has, on numerous occasions, been the difference between a safe and productive trip to visit our troops in the field. He's treated everyone of us like we were family and we couldn't appreciate it more. Despite the conflict and the natural frictions that develop in such an atmosphere, the relationship between the Congress and our military services has never been better. I attribute much of this to the unquestioned judgment and integrity of individual officers up and down the line—officers like LTC Rick McGivern. Whether it was responding to a constituent inquiry, providing information about force modernization or escorting our delegations to all corners of the world, we could count on the Air Force and it's congressional affairs officers to respond quickly, accurately and courteously.

As LTC Rick "Slug" McGivern departs from his active duty service to the United States Air Force and the Nation, we the members of the U.S. House of Representatives on behalf of all of our constituents, the citizens of this great nation, wish him the fondest farewell and deepest thanks for a job well done and mission complete.

RECOGNIZING HOPKINSVILLE COMMUNITY COLLEGE

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. WHITFIELD. Mr. Speaker, I rise today in recognition of Hopkinsville Community College.

Learning does not end at high school and whether you are 22 or 92, learning is lifelong. Today, I want to bring to the attention of this House that Hopkinsville Community College in western Kentucky proudly celebrates 40 years of higher education to the citizens of Christian County and surrounding communities in the First Congressional District.

Mr. Speaker, we need to make it easier for Americans to receive necessary training, to earn a degree, or to take specialized courses that meet the demands of today's job market and help our fellow citizens achieve their full potential. Community colleges like Hopkinsville Community College are an essential part of that effort.

Hopkinsville Community College bridges the gap between people's lives as they are and their lives as they want them to be. Flexibility and courses tailored to individual goals are characteristic of this exceptional community college.

Hopkinsville Community College has been a significant contributor to the economic growth and vitality of Hopkinsville and Christian County. The state of the art training and technology center tailors course work to meet the demands of high tech industry and specialized training.

Hopkinsville Community College also offers tremendous outreach to first generation college students through its Upward Bound/Trio Programs highlighting the flexibility and opportunity that community colleges provide to both traditional and nontraditional students.

Mr. Speaker, I was pleased to see that President Bush has proposed in his 2006 budget providing $125 million to promote dual-enrollment programs, so that high school students can take college level courses and receive both high school and post-secondary credit. This new initiative would provide incentives to states so that high school students, particularly low-income and minority high school students, have a greater chance to receive a college education.

Hopkinsville Community College has also partnered with Murray State University to open a campus in Hopkinsville that offers transferable college coursework that will count towards a four year degree. All of these efforts provide convenience, affordability, and flexibility to more of our citizens.

In conclusion, Mr. Speaker, our community, our state and our Nation are better because of the educational opportunities offered by our community colleges. Hopkinsville Community College is proudly celebrating Forty Years of higher education service and it is my honor to bring their accomplishments before this House.

INTRODUCING THE NAVAJO NATION HIGHER EDUCATION ACT OF 2005

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. RENZI. Mr. Speaker, I rise today to introduce the Navajo Nation Higher Education Act of 2005.

In 1868, the United States of America signed a treaty with the Navajo Tribe of Indians to provide for the education of the citizens of the Navajo Nation. At this time, the United States government recognized the trust responsibility to serve the educational needs of the Navajo people.

In 1968, the Navajo Nation created and chartered the Navajo Community College as a wholly-owned educational entity of the Navajo Nation. In 1971, Congress affirmed this effort by the Navajo Nation and enacted the Navajo Community College Act. In 1997, the Navajo Nation officially changed the name of the Navajo Community College to Diné College.

Mr. Speaker, the Navajo Nation Higher Education Act reauthorizes the 1971 Navajo Community College Act and modernizes the statute by including the mission statement and Navajo education philosophy of Diné College. Diné College educates students by applying the principles of Diné philosophy to advance quality student learning through training of the heart and the mind.

Over the years, facilities at Diné College have deteriorated, creating serious health safety risks to students, employees and the public. This legislation provides funding to address Diné College's facility needs such as modernization, repair and rehabilitation. In addition, this important legislation requires a survey and study of Diné College's facility needs.

Finally, to ensure equitable funding for Diné College, the Navajo Nation Higher Education Act provides funding for Diné College separate from the other tribal colleges and universities.

Mr. Speaker, I urge my colleagues to support the Navajo Nation Higher Education Act of 2005. It is our government's responsibility to provide educational opportunities to the Navajo people in a safe and healthy environment.

GROUNDBREAKING OF EDWARDS, COLORADO FREEDOM PARK

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to the ground breaking of the Freedom Park Memorial located in Edwards.

Once built, the Freedom Park Memorial will feature a building and a lakeside memorial park to celebrate freedom and to commemorate the personal sacrifices of the men and women who have served in our Armed Forces and our emergency services.

The idea for the Freedom Park Memorial originated with several local veterans, including Buddy Sims, and has grown into a valley wide grass roots effort including a steering committee, the board of directors and their subcommittees, Eagle County community leaders, the three county commissioners, business professionals, military veterans, and emergency service personnel from local police and fire departments, and mountain rescue.

Mr. Speaker, the Freedom Park Memorial will be used as an educational tool for visitors, teachers, and students. It will feature a "Time Wall" that will list the conflicts involving United States forces since the Revolutionary War. The Freedom Park will also commemorate emergency responders. In addition, the names of Eagle County residents who lost their lives while serving in the armed forces will be inscribed in the Veterans Memorial; Eagle County emergency responders who lost their lives in duty will have their names inscribed at the Emergency Responders Memorial.

Mr. Speaker, I ask my colleagues to join me in recognizing The Freedom Park Memorial and to celebrate the personal sacrifices of the men and women of Eagle County who have served in our Armed Forces and our emergency responders.

INTRODUCING THE AMTRAK REAUTHORIZATION ACT OF 2005 AND THE RAIL INFRASTRUCTURE DEVELOPMENT AND EXPANSION ACT FOR THE 21ST CENTURY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. OBERSTAR. Mr. Speaker, today I join Chairman YOUNG, Railroad Subcommittee Chairman LATOURETTE, and Subcommittee Ranking Member BROWN, in introducing two bills: the Amtrak Reauthorization Act of 2005 and the Rail Infrastructure Development and Expansion Act for the 21st Century (RIDE 21).

The Amtrak Reauthorization Act of 2005 will provide Amtrak $2 billion for each of Fiscal Years 2006 through 2008. RIDE 21 will provide $56 billion for new high-speed rail development for passenger and freight rail improvements. Last Congress, I joined Chairman YOUNG, Subcommittee Ranking Member BROWN, and the former Chairman of the Railroad Subcommittee, Congressman JACK QUINN, in introducing these bills. The Transportation and Infrastructure Committee reported the bills, but unfortunately, no further action was taken. This year, we have a new Chairman of the Railroad Subcommittee. We talked about what we wanted to do on Amtrak and high-speed rail, and we all agreed that these bills are the right approach.

The wrong approach is the President's plan: zero-out funding for Amtrak; eliminate the high-speed rail program; and provide $360 million to the Surface Transportation Board to run commuter operations should Amtrak shut down. In short, the Administration's plan is to pass legislation that, if enacted, would destroy Amtrak and our Nation's intercity passenger rail system.

The Administration, in a letter sent to the Speaker of the House yesterday, said that Amtrak has not evolved with the rest of the transportation sector and that structural reform is needed to make Amtrak a viable transportation alternative. Well, to the extent there is any truth to allegations that Amtrak hasn't evolved like the rest of the transportation sector, there is a good explanation. For too many years our Nation's passenger railroad has been treated as an unwanted stepchild. Year after year, Congress has shortchanged Amtrak. Even in the area of security, while we have enacted legislation protecting airlines from the threat of terrorist attacks, we have done virtually nothing to protect our railroad infrastructure and those who rely on it.

Amtrak has survived despite a severe lack of funding and an annual threat of elimination, which has conditioned Amtrak to focus on survival. Railroads throughout the world receive some government support to supplement the revenues paid by passengers. The Administration has not accepted this and every year proposes inadequate or no funding. A period of uncertainty follows, at the end of which Congress usually provides more than the Administration has requested, but sometimes less than Amtrak needs. I challenge anyone in this Congress to name one company who can develop and implement a 5-year capital and operating plan without knowing if they'll have any money for it the following year. That company would fail. That's not an option for Amtrak. It's our responsibility to ensure that Amtrak survives.

Without Amtrak, millions of passengers—many of who cannot afford to buy a plane ticket or for whom driving is impracticable—would be stranded. Without Amtrak, millions of travelers would be added to already congested roads and airports. Amtrak's 20,000 workers would be out on the streets looking for new jobs. Local economies and businesses that have benefited from Amtrak's service would suffer. States already under tight budget constraints would be forced to figure out how to pay for new service.

Without Amtrak, the Railroad Retirement and Unemployment programs, which cover employees of all railroads—freight and passenger—would be in dire straights. According to the Railroad Retirement Board, without the participation of Amtrak, employer and employee payroll taxes would need to be increased from the current 16 percent to 27 percent in 2027. Those tax increases, however, would ultimately be insufficient and serious cash flow problems for Railroad Retirement would begin in 2031.

Without Amtrak, cash reserves for the Railroad Unemployment Insurance Account would be exhausted by 2006, and nearly $297 million would have to be borrowed from the Railroad Retirement account to make up for losses. The Board informs me that ultimately Amtrak's unemployment benefit costs would be borne by other railroads.

Without Amtrak, the commuter operations that serve millions of passengers along the Northeast Corridor, Chicago, and the West Coast would halt. These operations, which include SEPTA in Philadelphia and New Jersey

Transit, require the use of Amtrak infrastructure, such as catenaries. They also require the continuation of Amtrak's dispatching system.

Yet despite chronic underfunding, Amtrak has had its successes. Under David Gunn's leadership, Amtrak has improved operations in some markets and increased ridership to over 25 million passengers in 2004: an increase of one million passengers from 2003 and a new Amtrak record.

Ridership on short-distance routes in the West is up 11.7 percent. The Pacific Surfliner, serving Southern California, showed the largest increase in ridership, with a gain of 26.3 percent. Midwest trains experienced the next largest increase in passengers.

Amtrak has also made significant progress in rebuilding infrastructure and rolling stock after years of deferred maintenance. In Fiscal Years 2003 and 2004, 256,000 concrete ties were laid; 2,755 bridge ties were replaced; 266 miles of continuous welded rail were installed; 34 miles of signal cable were replaced; and 19 stations and 37 substations were improved.

Amtrak's mechanical department plowed full steam ahead. In 2004, it remanufactured 180 passenger cars; rebuilt 51 wrecked cars and locomotives; and made seven Superliner baggage modifications in passenger cars.

Excess equipment was sold, unprofitable services were eliminated, fares were lowered on long-distance routes to increase ridership, and a $71 million maintenance facility was opened in a joint partnership between Amtrak and the State of California.

In short, Amtrak is making progress, even under a starvation budget. All of this progress would halt under the Administration's radical so-called "reform" schemes.

Our Nation's high-speed rail program is also on the Administration's chopping block. If the United States is serious about maintaining our status as the world's leader in transportation then we must tap into the potential of our rail system. Even with continuing investments in our highway and aviation systems, we can't depend on our highways and airports alone. We must strengthen our rail system by expanding its capacity and improving reliability for freight and passenger services.

I thank my colleagues, Chairman YOUNG, Subcommittee Chairman LATOURETTE and Ranking Member BROWN, for their dedication to rail and I look forward to working with them in moving these bills through the Transportation and Infrastructure Committee toward final passage.

CONGRATULATING MS. LINDA JONES ON RECEIPT OF THE 2004 PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor Ms. Linda Jones on the occasion of her being honored with the 2004 Presidential Award for Excellence in Mathematics and Science Teaching.

This award, established in 1983, recognizes outstanding science and mathematics teachers in grades K–12 in all fifty states and each of the four U.S. jurisdictions. This White House award is currently recognized as the nation's highest commendation for elementary and secondary math and science teachers. During this year's nomination process, 600 applications were submitted for this honor. Out of that tremendous number of nominations, Linda Jones was one of only 95 winners nationwide and one of only two from the state of Alabama.

Linda has been a distinguished member of the Baldwin County, Alabama, school system for over 30 years. A native of Louisiana, she graduated with a bachelor's degree from the University of Southern Mississippi, and went on to earn a master's degree at the University of South Alabama. Additionally, she received an educational administration certificate from Alabama State University. During the course of her teaching career, she earned her National Board certification and in 2001 was awarded with Baldwin County's Teacher of the Year Award.

In an article which ran in the Mobile Register acknowledging this award, students and colleagues were interviewed and asked about the impact Linda has made in their lives and in the life of her school. To a person, each singled out her ability to challenge their limits and to achieve more than they could have possibly imagined. Moreover, she was recognized for going outside of the limits of her normal job description and work day to provide as many opportunities for her students as possible.

Mr. Speaker, there are few individuals more important to the development of our young men and women in this country than those who commit themselves to educating these children. Ms. Linda Jones is an outstanding example of the quality individuals who have devoted their lives to the field of education, and I ask my colleagues to join with me in congratulating her on this remarkable achievement. I know her colleagues, her family, and her friends join with me in praising her accomplishments and extending thanks for her many efforts on behalf of the schoolchildren of Baldwin County and the state of Alabama.

HONORING EARL WARREN MIDDLE SCHOOL AND TWIN OAKS ELEMENTARY SCHOOL FOR BEING RECOGNIZED AS NATIONAL BLUE RIBBON SCHOOLS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUNNINGHAM. Mr. Speaker, I am proud to rise today to recognize that two blue ribbon schools in my 50th Congressional District of California are being honored as National Blue Ribbon Schools for 2004. These schools are:

Earl Warren Middle School, Solana Beach, CA. The principal is Dr. Jeanne Jones, and the superintendent of the San Dieguito Unified School District is Dr. Peggy Lynch.

Twin Oaks Elementary School, San Marcos, CA. The principal is Mrs. Carol Hayward, and the superintendent of the San Marcos Unified School District is Mr. Larry Maw.

There are over 100,000 public and private schools in the United States and only 300 are able to be recognized as a "National Blue Ribbon School" by the U.S. Department of Education, including the two above in California's 50th Congressional District, and 39 in the State of California. The No Child Left Behind—Blue Ribbon Schools Program honors public and private K–12 schools that either demonstrate dramatic gains in student achievement or are academically superior in their states. It recognizes schools that have at least 40 percent of their students from disadvantaged backgrounds that dramatically improve student performance in accordance with the state assessment systems. It also rewards schools that score in the top 10 percent on state assessments. The faculty and students at Earl Warren Middle School and Twin Oaks Elementary School have demonstrated strong leadership, clear vision and mission, excellent teaching and curriculum, policies and practices that keep their schools safe for learning, expanded involvement of families, and evidence that both schools help all students achieve high standards.

I am immensely proud of those involved whose outstanding and tireless work in the interest of better education has now been recognized through the National Blue Ribbon Schools program. This is particularly close to my heart, because, as a former teacher and coach, and as a father, one of my passions is improving education so that every American can have a fighting chance to achieve the American Dream.

And while these two schools in my district have now been recognized as National Blue Ribbon Schools, the real winners are all of the children, parents, teachers and citizens who have all been challenged through this recognition to successfully improve education in all of their local communities.

HONORING THE CONTRIBUTIONS OF TRUSTEE JUSTIN R. RODRIGUEZ OF THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the exemplary public service of Justin R. Rodriguez, District 7 Trustee of the San Antonio Independent School District.

Justin R. Rodriguez, a long time Texas resident, was born in San Antonio in 1974. In addition to his current career in education, he also has extensive legal experience in both his own law practice and through his former job as Assistant District Attorney.

Mr. Rodriguez understands the needs of our community. As Trustee, his goal is to prepare our children for both higher education and for the future workforce. Setting out to help end teenage pregnancy, and working hard to improve high school graduation rates, Justin Rodriguez believes in our kids.

He is the recipient of numerous awards, most notably the Bruce F. Beilfuss Memorial Award for outstanding service to the University of Wisconsin Law School. Justin R. Rodriguez has also served as the President of the Jefferson Neighborhood Association.

Justin Rodriguez currently lives in San Antonio with his wife Victoria and three children: Miranda, Aidan, and Olivia.

It is an honor to recognize the hard work of Justin R. Rodriguez of the San Antonio Independent School District. His dedication to the education of our children will help to insure the futures of our youngest citizens.

COMMEMORATING THE CITY OF MADISON HEIGHTS, MICHIGAN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. LEVIN. Mr. Speaker, I rise today to commemorate the City of Madison Heights, Michigan, on the occasion of its 50th anniversary of its incorporation as a city.

On January 17, 1955, the residents of the east side of Royal Oak Township voted for the incorporation of the City of Madison Heights and elected nine commissioners to draft a charter for the new city. The Charter Commission drafted its first charter within six months of incorporation. The draft charter was presented to the citizens at a June 6th election and was defeated. A Revised Charter was again presented to the citizens on December 6, 1955, and it was approved, becoming the tenth city government in South Oakland County. At that time, the 7¼ square-mile City was the second largest in South Oakland County. Madison Heights ranked as fifth-highest populated City in South Oakland County. The first City Hall was located at 26305 John R Road, the former township offices. On April 5, 1963, a new municipal building was constructed which is on the present location at 300 West Thirteen Mile Road.

The City of Madison Heights was named a "High Tech Hot Spot" by Detroiter Magazine. Nestled in the heart of Automation Alley, the newest technology cluster in the United States, Madison Heights offers lifestyle and economic benefits to its residents. There are more than 1,300 commercial and industrial businesses and services within the City and the City is proud to have a majority of small businesses, as well as more than 100 major companies within its borders.

The Madison Heights City motto is "The City of Progress" and it's well deserved. Over 31,000 people call Madison Heights home and enjoy the many benefits of living in a full-service and forward-thinking community. The city leadership has been central to providing growth as well as maintaining a sense of community.

As the city of Madison Heights celebrates this auspicious occasion, I ask my colleagues to join me in congratulating its citizens as they celebrate the past and focus on the future.

BLINDNESS DOES NOT PREVENT CHRISTIAN PEREZ FROM BECOMING SPELLING BEE CHAMPION OF IMPERIAL VALLEY!

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. FILNER. Mr. Speaker, I rise to honor the achievement of Christian Perez, an eighth grade student at Bill E. Young Middle School in Calipatria, a small city in Imperial County, California.

Christian, who is 14, recently participated in the first ever regional Scripps Howard Spelling Bee in Imperial County. As most are aware, the winner of the regional Scripps Howard Spelling Bee moves on to the nationals held here in Washington, D.C. to face students from across the country.

To prepare for the Spelling Bee, contestants, like Christian, dedicate a large portion of their young lives to the Herculean task of memorizing and learning thousands of words, which in itself is worthy of Congressional recognition.

Despite stiff competition and some very tense moments, Christian won the regional Spelling Bee upon correctly spelling "synapse." The 170 people who were watching the Spelling Bee at the Southwest Performing Arts Theater in El Centro gave Christian a standing ovation.

When asked about the competition, Christian said, "she felt relieved as soon as the competition was over and . . . her only dilemma might be which sister to take to nationals in early June."

Christian's story, however, doesn't end there. Unlike other contestants, who had a wide assortment of dictionaries and word lists to review, Christian's preparation was a little more arduous, as all of her study materials had to be in Braille. Fortunately, Christian did not let lack of sight stand in her way of becoming the spelling champion of Imperial County!

INTRODUCTION OF THE "VICTIMS OF CRIME FAIRNESS ACT"

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. SIMMONS. Mr. Speaker, I rise today in recognition of National Victims of Crime Week and to introduce legislation to help crime victims and their families.

The Victims of Crime Act, or VOCA, was a tremendous victory in the fight to aid those affected by crime. It established a trust fund composed of criminal fines, forfeited bail bonds, penalty fees and special assessments collected by the U.S. Attorney's Offices, U.S. Courts and Federal Bureau of Prisons. These dollars come from federal criminals, not from taxpayers.

Money from this fund is used for a variety of services such as crisis intervention, emergency shelter, emergency transportation, counseling, and criminal justice advocacy. There are approximately 4,400 agencies that depend upon VOCA to provide services to 3.6 million crime victims a year. Currently, VOCA is the only federal program that supports services to victims of all types of crimes including homicide fatalities, domestic violence, child abuse, drunk driving, elder financial exploitation, identity theft, rape, and robbery. These services are essential to helping people cope with their victimization and move on with their lives.

Sadly, a spending cap was installed on the VOCA trust fund. In fiscal year 2005, over $800 million was deposited into the fund. Due to the spending cap, only $620 million will be distributed to the states this year. While the balance of VOCA sits unused, state crime victim assistance programs struggle to remain fully funded. My legislation, the "Victims of Crime Fairness Act" would eliminate this spending cap and direct the money toward its original intention, helping victims of crime.

My state of Connecticut loses almost $5 million a year due to the VOCA cap. This money could make all the difference in thousands of people's lives. In a letter to me, Connecticut's State Victim Advocate James Papillo wrote, "The programs funded by the VOCA fund benefit crime victims in Connecticut through direct financial support and crime victim support services. These funds help crime victims when they most need it. Given the substantial reduction in the amount of funds available to the states caused by federal earmarks, and the real need for increased services to crime victims in Connecticut, it is clear that removal of the cap is necessary to ensure that Connecticut will be able to meet the needs of crime victims."

The Victims of Crime Fairness Act is common sense legislation. I ask my colleagues to join me in helping victims of crime by eliminating the VOCA fund spending cap.

MILITARY MENTAL HEALTH SERVICES ACT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. DELAURO. Mr. Speaker, I rise today to introduce legislation which will improve the lives of thousands of our troops and their families. As our troops serve us so well in Iraq, the war on terrorism and on countless other missions around the world, we honor their service. At the same time, however, we should do more to help our troops and their families handle the emotional toll that service can take.

The Military Mental Health Services Improvement Act, which I am introducing with 18 of my colleagues, will improve the ability of servicemembers and their families to access mental health care and overcome the stigma that is too often associated with mental health services. I am especially pleased that the National Military Families Association has lent its support to this important legislation.

Since the beginning of the Iraq War, more than 900 servicemembers have been evacuated from Iraq due to mental health concerns, and a new study by the New England Journal of Medicine confirms that more than one-quarter of Operation Iraqi Freedom and Operation Enduring Freedom veterans seeking care at Veterans hospitals are doing so for mental health treatment. While we have made good progress since the Vietnam era in diagnosing Post-Traumatic Stress Disorder and other forms of combat stress, much more remains to be done.

Specifically, my bill will: Ensure that troops deploying to combat theaters get the mental health screening they need before and after deployment. The bill requires that military mental health screenings be done in person. The 1997 Defense Authorization Act required pre- and post-deployment screenings, but the Defense Department elected to use paper self-evaluation forms which are widely viewed as insufficient to identify possible combat-stress cases.

Create a new program designed to alert dependents of servicemembers about the options for and availability of mental health treatment services. The bill requires the DOD to operate a web site and toll-free number that servicemembers and families can use to get information about the availability of mental health services. Many military families complain of being unable to determine where to go for mental health services. This problem is particularly acute for Guardsmen and Reservists, whose families may not live close to a military installation and thus do not have easy access to a military health care facility.

Reduce the stigma associated with mental health treatment. According to a 2004 New England Journal of Medicine study of troops returning from Iraq, fear of stigmatization was "disproportionately greatest among those most in need of help from mental health services."

Improve coordination between DOD and the Department of Veterans Affairs in treating mental health cases. As the youngest veterans, OIF/OEF veterans will be long-term users of VA health services, and so proper diagnosis and treatment are important to reduce their long-term mental health services needs.

Allow recently-deactivated Guard and Reserve members and their families to obtain mental health services through TRICARE for up to 24 months after the servicemember returns. This is a priority for the National Military Families Association, and 24 months was selected because that is the time-frame in which PTSD usually presents itself.

Allow colleges, universities and community hospitals to play a constructive role in helping to diagnose and treat combat stress in our servicemembers by permitting the Defense Department to partner with these organizations to carry out the programs prescribed in the bill.

Mr. Speaker, we owe a debt of gratitude to our troops and their families. Part of this debt can be paid by giving them the resources they need to get through deployment, including combat and long stretches away from loved ones. Supporting this legislation will be a good step in that direction.

I have long been interested in the issue of mental health among our men and women in uniform and their families, but it was brought home for me last year, during the deployment to Iraq of the 439th Quartermaster Company, an Army Reserve unit headquartered in New Haven, Connecticut. Over the course of that deployment, I saw a group of families overwhelmed by the stress and uncertainty caused by the deployment of their loved ones. These families did not know where to turn for help. The situation, unfortunately, did not improve when the soldiers returned from their 19 months on active duty, 14 of which were spent in the Middle East. I would like to read into the RECORD the speech given Monday by the leader of the 439th family support organization, Kelly Beckwith. Kelly's words speak volumes about the emotional toll of deployment on families. I hope my colleagues will take the time to read them:

SPEECH BY KELLY BECKWITH AT THE AMERICAN LEGION POST 89, EAST HAVEN, CONN. ON THE INTRODUCTION OF THE DELAURO MILITARY MENTAL HEALTH SERVICES IMPROVEMENT ACT OF 2005

"Hello. Thank you for allowing me this opportunity to speak with you today. My name is Kelly Beckwith. I am the wife of an OEF/OIF Veteran and mother to four young children. My husband, Sgt. Chris Beckwith, served on active duty with the 439th Quartermaster Company from New Haven for over 19 months. I served "unofficially" as the 439th Family Readiness Coordinator during the last few months of their deployment.

"Deployment is an extremely difficult time for our soldiers and their families. While there is a sense of pride in serving your country, the stress of separation can be devastating, even more so when there is no structuralized, formal support system. Reserve support relies heavily upon volunteers, most of which are struggling with the deployment of a loved one themselves. Soldiers are not the only ones making sacrifices. . . .

"If you will allow me to paint you a picture . . . Close your eyes . . .

"Imagine four young, bright-eyed children. Christopher is eight years old and in the third grade. He likes to play with trucks and cars, and loves to build with his legos. Julia is five and just started kindergarten in the fall. She loves to draw and tell stories. Shaun is three years old and very shy and quiet. He just started learning to use the potty. He is loving and holds tightly onto his mom and admires his dad. He wants to be a fireman when he grows up. Olivia just turned two and is eager to learn all that she can and cause mischief of one kind or another.

"Now picture soldiers, dressed in BDUs, filing onto the busses. Picture those same bright-eyed children standing at the gate, with tears in their eyes, hoping to have one last chance to wave goodbye to their Daddy.

"Imagine being the mother of those children, seeing the fear and confusion in their eyes as they know their father has to go away, but they do not understand why or know for how long.

"Imagine losing that one person you had to hold you, to comfort you, to talk to in the middle of the night. Imagine the overwhelming stress as the burden of the household quickly falls on those left behind. Imagine being that wife and realizing that you will now be raising four children on your own. Imagine watching helplessly as the terror of what your loved one is enduring unfolds right before your eyes on the television . . . the sudden onset of anxiety attacks as you wait endlessly for the phone to ring, hoping to hear from him, and dreading when the phone does ring, fearing the worst. Imagine the wife . . . holding tightly onto herself to ease her fears as she cries herself to sleep.

"Those bright-eyed children have all had to grow up entirely too fast.

"The oldest boy, Christopher, assumes the role as father figure to his younger siblings. He no longer wants to go to a friend's house to play. Instead, he prefers to stay home, in case his mother "needs" him. Five year old, Julia, is now six and in the first grade. She pours herself into schoolwork and immerses herself into books. She continues to draw and write. She now keeps a journal in which she writes, "Why can't my Daddy come home?"

"Quiet and shy Shaun, who was once so loveable, is now so full of anger and hate. Because he does not know what words to use to express his feelings, he starts lashing out. He bites, hits, kicks, screams, and breaks anything that catches his eye—three windows, four figurines, and a bed within one week's time. Shaun blames his mother for his father's extended absence and shouts to her "I hate you!" at least three times a day. Then cries, "Mommy, please let my Daddy come home."

"Little Olivia now only knows her father through photographs. When other fathers pick up their children at preschool, Olivia asks, "When is my Daddy coming to get me?"

"Now, if you will, flash forward to over a year and a half later.

* Christopher is now ten years old and is in the fifth grade.

* Julia is seven and in second grade.

* Shaun, who had just started learning to use potty at the beginning of deployment, is now five and in kindergarten.

* Little Olivia is four years old and is one of the "big kids" at her preschool.

* Mom has finally started to sleep at night.

"After all this time, Daddy finally comes home, only to hear his youngest child ask, 'Are you my Daddy?'

"For many families, reintegration is harder than the actual deployment itself. Sadly, many families fall apart during the deployment, and far too many soldiers return home divorced. For those families that have endured the trials and tribulations of separation, the arduous journey has just begun.

"Soldiers have witnessed and endured unspeakable cruelties. Their everyday life had become a series of safety checks and "trust no ones." Yet within a week of leaving the combat zone, the soldiers are back with their families with nothing more than a slap on the back and a 'thank you, buddy.'

"At first, everything is wonderful—the "honeymoon stage." You're just so grateful to have him back home, to have your family together again. Then comes the transition. People change over time, especially more so during a traumatic experience such as deployment. Soldiers come home to someone they feel is completely different from who they left behind. Often times, families do not recognize the person coming home to them. We have to learn how to live with another person again. In truth, it's almost as if you're learning to live with a stranger, only his face is so familiar. You have to learn to share the bed again. Even the simplest things, such as emptying the trash or remembering to put the toilet seat down can cause such a large, deep rift. The smallest misunderstandings can, and do, spiral into large disagreements and screaming matches.

"Unfortunately there are several factors hindering soldiers and families from seeking the help they so desperately need. Some do not know what options are available to them, others do not know where to go or whom to call. Some are too stubborn to realize they need help, thinking if they got through the deployment, they can get through anything.

"For those soldiers who do come forward to seek help, there is a good chance it will be held against them in their future military career. Even something as simple as going to marital counseling will be taken into consideration for security clearance. Sometimes more drastic measures, such as pushing the soldier out of military service, are taken.

"This is no way to thank our soldiers for defending and protecting our freedoms. It is time we do right by our soldiers and their families. There is no choice but to offer them the support they need not only to serve this country, but to reintegrate into their families as well.

"This is a matter of the utmost urgency, and we'd all be fools if we failed to do something about it. If we fail just one, then we have failed them all.

"It's time to do right by our soldiers . . . And that time is now."

WELCOMING HOME THE 2ND BATTALION, 24TH MARINE REGIMENT

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. EMANUEL. Mr. Speaker, this past Saturday at All State Arena in Chicago, it was my honor to participate in welcoming home some of America's most recent heroes—the brave men and women of the 2nd Battalion, 24th Marine Regiment—to their families, friends and a deeply grateful nation.

Following a seven-month tour in Iraq, it was a privilege to join in thanking these intrepid Marines for their service and sacrifice to our Nation. They served at the center of one of the most unstable and dangerous regions in Iraq known as the "Triangle of Death." The unit compiled an impressive service record, including the capture of more than 600 insurgents, and secured the delivery of life-saving medicine and humanitarian supplies. Those who observed that this particular unit never appeared to sleep while seemingly defending every position in the area understood why these Marines are known as the "Mad Ghosts"

The reunion I attended at All State Arena was filled nearly to capacity with proud Illinoisans awaiting their loved ones. Welcoming them home, however, was incomplete as thirteen Marines of the 2nd Battalion did not return to their families. This void is a solemn reminder of the unit's sacrifice to fight for democracy in Iraq.

I look forward to the day when all of the men and women of our Armed Forces return home to the same kind of warm reception that the 2nd Battalion received this past Saturday. Until that day, we will continue to commit our complete and unwavering support to our troops as they continue fighting for liberty and to preserve today's fragile democracy in Iraq. We will keep them in our thoughts and prayers and continue working to bring them home to their families.

Mr. Speaker, on behalf of the Fifth Congressional District of Illinois, I thank each of the Marines we just welcomed home for their valor and service, and I remind my colleagues that the freedoms we hold dear depend on the courage and honor of U.S. troops like those who follow the example set by the Mad Ghosts of the 2nd Battalion, 24th Marine Regiment.

TRIBUTE TO TENNESSEE WILLIAMS AND THE UNIVERSITY OF THE SOUTH

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today in recognition of playwright Tennessee Williams and the University of the South.

In 1983, following the death of the great American playwright, Tennessee Williams, the University of the South in Sewanee, Tennessee, received the most generous bequest of the playwright in honor of his grandfather, Walter E. Dakin. Since then the university, known as Sewanee, utilizing the income from the bequest and subsequent revenues from the hundreds of productions of Tennessee's award-winning plays, has established the Sewanee Writers Conference, which supports the work of emerging writers in all disciplines. In addition, the university has constructed the Tennessee Williams Center, a monument to the vision and craftsmanship of the late playwright, where each year gifted young writers develop their talents aided by artists from all over the world who visit the center as Tennessee Williams Fellows in Theatre.

This month, the Tennessee Williams Festival, an annual event featuring new works by established artists as well as students in the university, will present the premieres of two important theatrical productions.

The first, The Poetry of Tennessee Williams, will bring to dramatic life the poems of the great playwright. In the poems, we often hear "Tom" Williams at his most intimate and lyrical. Audiences will discover this powerful aspect of Williams' artistic life, very much the work of a master dramatist and storyteller.

The second, The Cherokee Lottery, is adapted from the book of the same name by William Jay Smith, a former Consultant in Poetry to the Library of Congress and a student friend of Tennessee Williams at Washington University in St. Louis. This new work for the theatre commemorates one of the saddest and most shameful moments in American History: the "Trail of Tears", the forced removal of the Native Americans of the Southeast to Oklahoma in the 1830's.

Both works illustrate the commitment of the Department of Theatre Arts of the University of the South to further the legacy of one of America's greatest artists, Tennessee Williams.

HOUSE OF REPRESENTATIVES—*Monday, April 18, 2005*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. RADANOVICH).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 18, 2005.

I hereby appoint the Honorable GEORGE RADANOVICH to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, giver of all good and lasting gifts, be with Your people today. Renew us in faith that by Your inspiration and bold holiness we may accomplish Your purpose for us in our day.

People of faith have laid the foundation of this democracy. May these same lasting values shape today both the private and public lives of all American citizens. Help Your people to focus on transcendent truths that will help them live and act as the free children of God, likely to reject any aspect of materialism or moral relativism that may undermine the common good of this Nation.

We humbly present ourselves and our needs to You, Almighty God, now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
April 15, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on April 15 at 9:24 a.m.:

That the Senate passed without amendment H.R. 787.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on April 14, 2005 he presented to the President of the United States, for his approval, the following bill.

H.R. 1134. To amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m., Tuesday, April 19, 2005, for morning hour debates.

There was no objection.

Accordingly (at 2 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, April 19, 2005, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1664. A letter from the Director, Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting the Department's "Major" final rule—Tobacco Transition Payment Program (RIN: 0560–AH30) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1665. A letter from the Director, Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting the Department's "Major" final rule—2003 and 2004 Livestock Credit Corporation, USDA (RIN: 0560–AH25) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1666. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Karnal Bunt; Regulated Areas [Docket No. 04–118–1] Received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1667. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Classical Swine Fever Status of Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan [Docket No. 02–002–2] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1668. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Grapes Grown in a Designated Area of Southeastern California; Increased Assessment Rate [Docket No. FV05–925–1 FR] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1669. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Dried Prunes Produced in California; Increased Assessment Rate [Docket No. FV05–993–1 FR] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1670. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2004–2005 Marketing Year [Docket No. FV04–985–2 IFR–A2] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1671. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Domestic Dates Produced or Packaged in Riverside County, CA; Modification of the Qualification Requirement for Approved Manufacturers of Date Products [Docket No. FV04–987–1 FR] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1672. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Onions Grown in South Texas; Decreased Assessment Rate [Docket No. FV05–959–1 FIR] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1673. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Vidalia Onions Grown in Georgia; Increased Assessment Rate [Docket No. FV05–955–1 IFR] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1674. A letter from the General Counsel, Department of the Treasury, transmitting a draft bill "To authorize United States participation in, and appropriations for the United States contribution to, the eighth replenishment of the resources of the Asian Development Fund"; to the Committee on Financial Services.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

1675. A letter from the General Counsel, Department of the Treasury, transmitting a draft bill "To authorize United States participation in, and appropriations for the United States contribution to, the tenth replenishment of the resources of the African Development Fund"; to the Committee on Financial Services.

1676. A letter from the General Counsel, Department of the Treasury, transmitting a draft bill "To authorize United States participation in, and appropriations for the United States contribution to, the fourteenth replenishment of the resources of the International Development Association"; to the Committee on Financial Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 1541. A bill to amend the Internal Revenue Code of 1986 to enhance energy infrastructure properties in the United States and to encourage the use of certain energy technologies, and for other purposes; with an amendment (Rept. 109–45). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 739. A bill to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to the filing of a notice of contest by an employer following the issuance of a citation or proposed assessment of a penalty by the Occupational Safety and Health Administration (Rept. 109–46). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 740. A bill to amend the Occupational Safety and Health Act of 1970 to provide for greater efficiency at the Occupational Safety and Health Review Commission; with an amendment (Rept. 109–47). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BARTON of Texas (for himself, Mr. Pombo, and Mr. Thomas):

H.R. 6. A bill to ensure jobs for our future with secure, affordable, and reliable energy; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, Financial Services, Agriculture, Resources, Science, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOEHLERT (for himself, Mr. Inslee, Mr. Ehlers, and Mr. Wu):

H.R. 1674. A bill to authorize and strengthen the tsunami detection, forecast, warning, and mitigation program of the National Oceanic and Atmospheric Administration, to be carried out by the National Weather Service, and for other purposes; to the Committee on Science.

By Mr. BOUSTANY (for himself, Mr. McCrery, Mr. Jefferson, Mr. Alexander, Mr. Jindal, Mr. Melancon, and Mr. Baker):

H.R. 1675. A bill to provide for agreements between Federal agencies to partner or transfer funds to accomplish erosion goals relating to the coastal area of Louisiana, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HOOLEY:

H.R. 1676. A bill to amend the Internal Revenue Code of 1986 to provide for the disclosure to State and local law enforcement agencies of the identity of individuals claiming tax benefits through the improper use of Social Security numbers of other individuals; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, Mr. TOWNS introduced a bill (H.R. 1677) for the relief of Kuan He Wu; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 19: Ms. Harris.

H.R. 47: Mr. McHenry, Mrs. Drake, Mr. Shuster, Mrs. Jo Ann Davis of Virginia, Mr. Ney, and Mrs. Myrick.

H.R. 302: Ms. Schakowsky.

H.R. 606: Mr. Stark.

H.R. 739: Mr. Souder, Ms. Foxx, and Mr. Kuhl of New York.

H.R. 740: Mr. Souder, Ms. Foxx, and Mr. Kuhl of New York.

H.R. 741: Mr. Souder, Ms. Foxx, and Mr. Kuhl of New York.

H.R. 742: Mr. Souder, Ms. Foxx, and Mr. Kuhl of New York.

H.R. 880: Mr. Boucher.

H.R. 987: Ms. Ros-Lehtinen, Mrs. Jones of Ohio, Mr. Conyers, Mrs. Maloney, and Mr. Burton of Indiana.

H.R. 1159: Mr. Udall of Colorado.

H.R. 1299: Ms. Herseth and Mr. Brown of South Carolina.

H.R. 1313: Mrs. Wilson of New Mexico, Mr. Beauprez, Mr. Porter, Mr. Weldon of Florida, Mr. Moran of Kansas, Mr. Sessions, Mr. Sam Johnson of Texas, Ms. Harman, and Mr. Hoekstra.

H.R. 1587: Mr. Manzullo.

H.R. 1589: Mr. Hinchey.

H.J. Res. 10: Mr. Kanjorski, Mr. Istook, and Mr. McNulty.

H. Con. Res. 99: Mr. Emanuel.

H. Res. 67: Mr. Bishop of Georgia, Ms. Zoe Lofgren of California, Mr. Rangel, Mr. Kennedy of Rhode Island, Mr. Schiff, Mr. Emanuel, and Mrs. Tauscher.

H. Res. 84: Mr. Boswell.

H. Res. 85: Mr. Terry and Mr. Cunningham.

H. Res. 184: Mr. Garrett of New Jersey.

H. Res. 195: Mr. Herger, Mr. Calvert, Mr. Bonner, Mr. Sessions, Mr. Price of Georgia, and Mr. Deal of Georgia.

SENATE—*Monday, April 18, 2005*

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who causes our hearts to overflow with beautiful thoughts, You are so glorious, so majestic. We think of the gifts of life, of love, of meaningful work. We think of the blessings of the gift of friendship, of family, of fertile fields. We think of the power of Your throne which endures forever and ever. Grant that these beautiful thoughts will be transformed into loving service to those who need it most. Inspire our Senators to labor for a harvest that will transform lives and provide a shield for freedom. Teach them to disagree without being disagreeable and to safeguard friendships regardless of the issues. May they seek to understand before being understood. Make them quick to listen, slow to speak and slow to anger. Give them the wisdom to love what is right and hate what is wrong. May their work so honor Your name that nations will praise You forever. We pray this in Your blessed Name.

Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, today we open with a 1-hour period for morning business. At 2 today, we will resume consideration of the emergency supplemental appropriations bill. As we announced at the close of last week, Members can expect one or two votes this evening in relation to the appropriations bill. Chairman COCHRAN will be here when we resume the bill, and we will be consulting with the two managers and the Democratic leader as to exactly what votes we can expect today at approximately 5:30.

On Friday, cloture was filed on the two pending amendments relating to AgJOBS. In addition to these two cloture votes, we have cloture votes scheduled on the Mikulski amendment on visas, as well as the underlying bill. To remind all of our colleagues, the two AgJOBS cloture votes are scheduled for 11:45 a.m. tomorrow. The cloture vote on the Mikulski amendment and the cloture vote on the bill will occur later tomorrow afternoon. I hope we can invoke cloture on the bill tomorrow. That will be the only way to ensure that we finish our work this week on this extremely important funding legislation. Therefore, Senators can expect votes each day this week as we work our way through the issues related to the supplemental appropriations bill.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until the hour of 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Georgia.

BLUE CARD ALTERNATIVE TO H–2A GUEST WORKER PROGRAM

Mr. CHAMBLISS. Mr. President, I rise to discuss an amendment that I, along with my friend from Arizona, Senator JON KYL, have introduced. This amendment represents a practical alternative to S. 359, which has been introduced by Senator CRAIG, commonly known as the AgJOBS bill. My hometown of Moultrie, GA, is located in Colquitt County. It is one of the most diversified agricultural counties in the country and often referred to as the most diversified agricultural county east of the Mississippi River. During my 26 years of practicing law, before I came to Congress I represented farmers who grow almost every kind of crop there is. These farmers, as do most farmers in America, depend very heavily upon migrant labor for their means of planting, harvesting, and getting their crops to market.

Up the road from my hometown is the Georgia peach growing area, which also produces most of the pecans that are grown in the country today. So, firsthand, I recognize the need for a stable and legal agricultural workforce.

From my perspective as a former member of the House Permanent Select Committee on Intelligence and my present position as chairman of the Senate Agricultural Committee, I understand that our country's need for a secure and reliable domestic food supply is an issue of national security. This legislation addresses those needs without providing amnesty to our current illegal agricultural workforce. Instead, we take a two-pronged approach. First, this legislation modernizes and streamlines the current H–2A program. Secondly, it creates a temporary agricultural guest worker program called the blue card program.

Let me give a little background on the present H–2A program and why so few agricultural employers utilize it.

The H–2A program is a program for non-immigrant, work-related, temporary visas authorized by the Immigration and Naturalization Act. It is regulated and administered by the United States Department of Labor. Although its purpose is to allow producers to have access to an adequate legal seasonal workforce when domestic workers are unavailable, participation in the H–2A program is time consuming, bureaucratic, and inefficient.

A producer must complete a complicated application process which involves sequential approval by a State agency and three Federal agencies. As presently designed, administered, and enforced, H–2A employers must complete a great deal of paperwork during the application process. They must then coordinate and track their workers through a Bureau of Customs and Immigration Services and State Department visa approval system. Once the workers are present on the farm, these employers must also comply with all aspects of the Immigration and Naturalization Act, the Migrant Seasonal Protection Worker Act, the Fair Labor Standards Act, and various OSHA regulations regarding housing and field sanitation.

Redtape aside, another serious issue with the current H–2A program is that it requires employers to pay the Adverse Effect Wage Rate, which is determined by an archaic survey conducted since the 1930s. This survey was never designed to capture prevailing wages within a specific geographical area nor does it specify the type of work that is being done for that wage. In my home State of Georgia, the present wage an employer must pay for an unskilled farm worker is $8.30 per hour. This wage is in addition to free housing and reimbursement for all transportation costs. All of these expenses make it

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

very difficult for these H-2A employers to compete with producers who do not or cannot use the program and who then pay workers they are able to find between $5.15 and $6.15 per hour.

We have millions of illegal workers on farms in this country. We have a program that will allow growers to use legal workers. The fact so few agricultural employers take advantage of H–2A is simple. It is too complicated, too costly, and much too litigious.

The legislation that Senator KYL and I have introduced simplifies the H-2A program by streamlining the application process to involve fewer Government entities in the final approval. Under this bill, employers who wish to use H-2A workers will go through an attestation process, rather than a lengthy bureaucratic labor certification process. Employers will be allowed to attest to the Department of Homeland Security that they have conducted the required recruitment and were unable to find an adequate number of domestic workers to fill their labor needs. The Department of Labor will maintain its roll as an auditor to punish those employers who willfully violate the conditions that must be met in the attestation process to obtain H-2A workers. We have increased the penalties to ensure those who continue to employ illegal workers rather than utilize this updated program will pay the costs.

This legislation also addresses the Adverse Effect Wage rate, which many contend has discouraged employers from using the H-2A program. Instead, we move to a wage rate that is more market-oriented and a prevailing wage for each region of the country.

Another important aspect of this legislation is it clearly states that the Legal Services Corporation cannot represent or provide services to a person or entity representing any alien, unless that alien is physically present in the United States. This clarification is needed because of the longstanding and well-documented abuses by the Legal Services Corporation in filing frivolous lawsuits against producers who employ H–2A workers.

By streamlining and modernizing the H-2A program, we can make it easier and more attractive to U.S. agricultural employers and minimize the attraction of using illegal labor.

The second part of our legislation targets the illegal population in this country with the creation of a blue card program. The blue card program is an innovative, new temporary guest worker program. The idea of it is to allow employers who cannot find an adequate domestic workforce to petition on behalf of an immigrant who is currently illegally here to receive a blue card or a temporary status in this country. The petitioning process will require the alien to submit his or her biographical information along with two biometric identifiers to the Department of Homeland Security. This way, we can be sure we are not bestowing the blue card status on a potential terrorist or an alien with a criminal past.

The blue card itself will be a machine-readable, tamper-resistant document that will be capable of confirming, for any immigration official who needs to know, the person holding the blue card is who the card claims he or she is, and the blue card worker is authorized to work in agricultural employment in the United States and the authorization has not expired.

Because the blue card workers will maintain these secure identification documents, they can freely travel between the United States and their home countries. This will allow the blue card workers to maintain ties to their lives and families at home.

It is important to note that by setting the Blue Card Program up on an employer-petition basis, the program has a natural cap built in—one that responds to the U.S. market and our agricultural labor needs. Employers will only petition for as many workers as needed to fill their labor needs. This is unlike the AgJOBS bill which allows illegal aliens to self-petition.

Once an alien receives a blue card, he or she is eligible to work in the United States for up to three years. The blue card may be renewed up to two times, each at an employer's petitioning. At the end of the second renewal, the blue card worker must return to his or her home country, or country of last residence. This is important. The blue card provides no path to U.S. citizenship, which is contrary to what the AgJOBS bill does. Any blue card worker who wishes to become a U.S. citizen is certainly allowed to do so. All that worker has to do is revoke his or her blue card, return to his or her home country or country of last residence for at least 1 year and apply through the normal process just like everyone else.

An approved blue card worker will receive all the protections U.S. workers will receive. While blue cards are available only to those aliens who work in the agricultural field, this legislation expands a traditional definition of agriculture in recognition of the interdependence on various occupations within the field of agriculture. By including packagers, processors, and landscapers, we not only encourage a larger percentage of our illegal population to come forward, submit to Homeland Security background checks, and get legal work authorization, we also provide some relief to those occupations that have traditionally relied on H–2B visas for foreign workers. As we all know, H-2B visas are in short supply and high demand.

This legislation is important, and I urge the support of my colleagues.

The PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I first wish to express appreciation to the Senator from Georgia for explaining very well both the need for and the description of the legislation on which we will be voting tomorrow, which is our version of the legislation that will help employers in our agricultural sector by including immigration reform which will make it easier for them to obtain workers from both the illegal immigrants who are in the country today as well as those legal immigrants who would be applying under our legislation.

Let me go back to kind of a 30,000-foot elevation view here and describe the reasons we put this legislation together and are offering it at this time. As we have said before, the supplemental appropriations bill, which will be debated again tomorrow as well as later today and which will help pay for our war efforts in Iraq and Afghanistan, is not the appropriate place to be debating immigration. Unfortunately, some of our colleagues saw fit to bring amendments to the Senate floor which related to that subject. One of those amendments is this amendment that deals with agricultural labor. It was at that point that Senator CHAMBLISS and I had no alternative but to present the alternative view of how to serve those agricultural needs.

The basic difference between the bill Senator CHAMBLISS just described and the other bill, the bill that is primarily offered by Senators KENNEDY and CRAIG, is the difference between a bill that provides amnesty, in the case of their legislation, for illegal immigrants here, and our bill, which provides the workforce within the legal construct of the law but does not grant amnesty to the illegal immigrants who are here. There are a lot of other differences, but that is the prime difference.

Both of us recognize that there is a significant need for a workforce in this country, willing and able to work in agriculture and related occupations, and that cannot be satisfied solely with people who are American citizens today.

The difference is in the way we treat those people who are here illegally today. What the Craig and Kennedy legislation does is to grant those people, very early on, a legal status which permits them to become legal permanent residents. "Legal permanent residents" is a term of art under our immigration law. Some people refer to it as a green card. As little as 100 hours' work for 3½ months entitles someone under their legislation to get a green card. A green card is like gold because it enables you to live for the rest of your life in the United States of America and work here.

But it also means something else. If you have a green card, you can also apply to become a citizen of the United

States of America. It is a wonderful thing for people from other countries to get to be citizens of the United States of America. We are very much in support of immigration to this country. As my grandparents came here and as almost all the rest of us have relatives who came to this country from another country, we all support legal immigration. But we do not believe that great opportunity to become a citizen of the United States should be granted to someone on the basis of their illegality; because they came here illegally, because they used counterfeit documents, because they got a job illegally—that on the basis of those factors they should get an advantage over those who are abiding by the law and who want to become U.S. citizens. It is that with which we disagree.

What we say is if a person who is in the country illegally today wants to work in U.S. agriculture or related industries, and the employer needs that person—and there are certainly a lot of them in that category—the employer petitions and that individual can get a different kind of status, a blue card, as Senator CHAMBLISS said. That blue card status enables them to work here, to live here, to travel back and forth to their country of origin. They can go back and forth every weekend, if they desire. There are no restrictions there. They are in the Social Security system. They are protected by our laws. They have to be paid a specific kind of wage, and they have all of the other kinds of protections one would think of in this context, but their status is different from that of a legal permanent resident, a green card holder.

Not only are they not entitled to live here the rest of their lives—eventually they are going to have to return home—but if they want to become citizens they have to go home and apply for it just like anybody else. What does that mean? They have to be petitioned for by somebody, by an employer in this country. It takes about a year for them to acquire this status of legal permanent resident. That is how long it takes to get it. But once you get it, you can apply to become a U.S. citizen.

We are not punishing people for having violated our laws. Some would say you should not give them the opportunity to become citizens because they broke our laws. As Senator CHAMBLISS pointed out, we are not saying that. If they want to become legal permanent residents and apply for U.S. citizenship, they would have that right. All we ask is that they be treated just like anybody else who wants that right, which is to say they apply from their own country, not from the United States; that they wait the same period of time you would have to wait otherwise, a year; and then, if it is granted, they can apply for citizenship, and all the rest of it works just the same as it would for anybody legal.

What we say is that you cannot use the fact that you came to the United States illegally to get to stay here and stay here during the entire process that you are applying for legal permanent residency and U.S. citizenship. That gives you a big advantage, a leg up over those who are abiding by the law and who did not violate the law and come here illegally in the first place. There are other differences, but that is the most critical difference.

From our colleagues' standpoint, what we are saying is you can vote for a bill which grants a very simple, convenient, economical way for us to get the agricultural labor we need in this country, with all the protections for the laborers which one would expect, without having to grant amnesty to these individuals, and that is a big deal.

The second way the Kennedy-Craig legislation provides for amnesty is that it even provides for someone who came to this country illegally and is employed illegally here and who then went back to their home country to come back into the United States and get those same advantages as those who would otherwise have to wait a year for legal permanent residency and then later for citizenship. So it not only would apply to those who are here illegally today but those who claimed they worked in the United States illegally in the past. And who knows what kind of claims we are going to get there? Because, of course, the counterfeit documents, Social Security cards, driver's licenses, and other kinds of documents used to gain employment in the first instance can also be used to demonstrate the previous status of having illegally worked in the United States of America.

(Mr. CHAMBLISS assumed the chair.)

Mr. KYL. One of the reasons I believe our bill has more support is that it is more likely to become law, whether it is a stand-alone provision that relates only to agricultural workers or is part of a broader kind of immigration reform. I do not think many people believe the House of Representatives is going to pass a bill with amnesty, so we are trying to be practical about it. We would like to get something done, not simply run an ideological position up the flag pole in order to get a vote on it here in the Senate. That is why the American Farm Bureau is so strongly in support of our legislation and in opposition to our colleagues' legislation.

I ask unanimous consent to have printed in the RECORD a letter from the American Farm Bureau Federation dated April 13 to the Presiding Officer and myself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, April 13, 2005.

Hon. SAXBY CHAMBLISS,
U.S. Senate,
Washington, DC.
Hon. JON L. KYL,
U.S. Senate,
Washington, DC.

DEAR SENATORS CHAMBLISS AND KYL: The American Farm Bureau Federation strongly supports the Chambliss-Kyl Amendment and urges its adoption when it is considered on the Senate floor.

This amendment would provide U.S. agriculture a clear, simple, timely and efficient H–2a program to fill seasonal and temporary jobs for which there is a limited U.S. labor supply. In order to recruit a worker from abroad, an employer would first have to make every reasonable effort to find an American worker. This is exactly the kind of meaningful reform that is necessary to provide all sectors of agriculture with a workable program while protecting American workers.

The measure also deals sensibly and fairly with illegal immigrants who are now working in agriculture, who meet strict criteria and who pose no security threat. Employers would petition to have such workers granted "blue card" temporary worker status. Once granted, a blue card would be valid for three years and could be renewed a maximum of two times (exceptions may be considered for supervisory employees.)

This amendment does not grant amnesty to illegal aliens. Blue card workers would have the right to change jobs, earn a fair wage and enjoy the same working conditions the law requires for American workers. Blue card workers would be protected by all labor laws. Blue card workers could travel freely and legally back and forth to their home country.

The Chambliss-Kyl proposal strikes a reasonable balance among employers, hard-working employees who are striving to better themselves and the need and obligation of our country to control the flow of immigrants.

AFBF supports the Chambliss-Kyl amendment and we urge your fellow Senators to vote for this proposal when it is considered in the Senate.

Sincerely,

BOB STALLMAN,
President.

Mr. KYL. Let me read the opening to give a flavor of what the American Farm Bureau Federation is saying:

> The American Farm Bureau Federation strongly supports the Chambliss-Kyl amendment and urges its adoption when it is considered on the Senate floor. This amendment would provide U.S. agriculture a clear, simple, timely and efficient H–2a program to fill seasonal and temporary jobs for which there is a limited U.S. labor supply. . . .
>
> This measure also deals sensibly and fairly with illegal immigrants who are now working in agriculture, who meet strict criteria and pose no security threat.
>
> This amendment does not grant amnesty to illegal aliens. . . .
>
> The Chambliss-Kyl proposal strikes a reasonable balance among employers, hard-working employees who are striving to better themselves and the need and obligation of our country to control the flow of immigrants.
>
> The American Farm Bureau Federation supports the Chambliss-Kyl amendment and we urge your fellow Senators to vote for this proposal when it is considered in the Senate.

In summary, we are going to have two proposals before us, one offered by the Senators from Massachusetts and Idaho. We urge you reject that proposal because it is not something that is ever going to become law. It provides amnesty for illegal immigrants here. The other is our proposal, which enables us to have a good, workable system for agricultural labor. It can pass both bodies, and it does not include amnesty.

I note when we begin debate on the supplemental appropriations we will have more of an explanation of what we have offered to our colleagues, but at least this way we have opened up the subject.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

CHANGING SENATE RULES

Mr. NELSON of Florida. Mr. President, I have had the pleasure of working with the Senator from Arizona in the finest tradition of the Senate, in bipartisanship. We are working together on an issue that is of great concern to the country, and that is the estate tax and whether it should be eliminated; if not totally eliminated, we are working on the prospect of having a significant exemption and doing something about the balance of a taxable estate as to what would be the actual rate at which the remainder of the estate would be taxed.

I raise this issue, although this is not the subject of my statement to the Senate, because I am following the distinguished junior Senator from Arizona. It has been my privilege to work with him in trying to achieve a bipartisan consensus. What I wish to talk about is achieving consensus in a town that is increasingly polarized by excessive partisanship and excessive ideological rigidity. This is a town in which it has gotten to the point, as told by Lesley Stahl, the CBS reporter, the other night, of an experience she had at a dinner party with nonelected officials—just normal folks at a dinner party in New York. The discussion turned to matters having to do with the subjects we are dealing with here in the Congress, and all of a sudden the mood in that salubrious dinner party turned hostile. People were starting to shout at each other, and any sense of civility was suddenly gone.

I worry about that here in the most collegial of all parliamentary bodies in the world—this one, right here, the Senate. It has been such a great privilege for me to be a part of it. Yet, as I see, as the debate is approaching, everything is so partisan and everything starts to take on the tinge of "it's either my way or the highway." That is not only not how this Nation has been governed under the Constitution for 217 years, that is, indeed, the very birthright we have had in this Nation—compromise, compromise, and bringing together consensus in order to have a governing ability to function. That was how we came out with the Constitution that we did in that hot summer session of the Constitutional Convention in Philadelphia back in 1787. Yet I wonder if we are losing some of that glue that brings us together and has us start drawing up consensus by reaching out to the other Senators and molding our ideas together in order to govern a very large country, a broad country, a diverse country, a complicated country.

You can't do it with just one opinion.

I have heard some of the statements when I have been interviewed on programs such as CNN and FOX. There were other Senators on these programs with me. I shake my head, wondering how someone could say those things.

It is this question this Senate is going to face, whether the rules of this body are going to be changed in order to cut off the ability of a Senator to stand up and speak for as long as he or she wants on a subject of importance to that Senator, and whether that ability, known as a filibuster, is going to be taken away from us.

What is the history of the filibuster? If you think about how the filibuster works in the Senate, 217 years ago there was no limitation on a Senator being able to stand up and speak. For over a century, the rules provided a Senator could not be cut off. Early in the last century, that was changed so that if 67 Senators voted to cut off debate, then the debate would be closed. That was a supermajority.

Later on—sometime, I believe, in the 1960s—that threshold of 67 was lessened to 60. That is the rule we operate under now. A Senator can stand up and talk and talk and talk. The ability to speak in this body is such that the filibuster helps to encourage compromise. It is saying to the majority that because they have an idea, they can't force that idea unless they get 60 votes, and that causes the majority to have to listen to the minority. It brings about encouragement of compromise.

I don't think we ought to do away with the filibuster. Yet that is what the Senate is about to do, if the rules are amended.

Interestingly, the rules of the Senate say it takes 67 Senators to amend the rules. But we all have been told of a plan whereby the Presiding Officer, the Vice President of the United States—and the majority leader would make a motion and the Chair, the Vice President, the President of the Senate, would rule, and a 51-vote majority would change the rules of the Senate. It is my understanding that the Parliamentarian of the Senate has in fact stated you can't change the rules that way. Yet it looks as though the majority leader, encouraged by the majority, is going to try to change the rules—not according to the Senate rules. In other words, it seems the majority is breaking the rules in order to change the Senate rules.

I don't think that is right. I don't think we ought to be changing the rules in the middle of the game. I don't think it is right to overrule the Parliamentarian of the Senate, who is not a partisan official.

I think this starts to verge on the edges of riskiness, if we start operating this Senate under those kind of rules, rules that are breaking the rules in order to change the rules.

Another way you could put it is that we talk about the majority is threatening to break the rules to win every time. Is that what the Senate is all about? Isn't the Senate about the majority having to consult the minority, because under the rules of the Senate, minority rights are protected so the majority cannot completely run over the minority? Isn't that what is the history and precedent of 217 years in the Senate? I think the history of this body would show that is the case, especially if we get to the point that this body is going to overrule the Parliamentarian. I think that is verging on an abuse of power of the majority.

Remember also a truth—that today's majority will be tomorrow's minority, and the minority should always be protected.

There is another reason; that is, this group of political geniuses who happened to gather in Philadelphia back in that hot summer of 1787 created a system that had indeed separation of powers—that no one institution or one person in the Government of the United States could become so all powerful as to mow over other persons in the institution.

In that separation of powers of the executive from the legislative and from the judicial, they also created checks and balances inherent in the Constitution so that power cannot accumulate in any one person's hands. Thus, in the Congress they created a House of Representatives which represents the population, and a Senate, which was the Great Compromise in the Constitutional Convention of 1787—the Senate that represented each State equally with two Senators. In the rules that evolved from that body, the checks and balances arose to protect the minority.

Let us look in the separation of powers, the executive, the legislative, and the judicial. What was created, and created over time, was the value of an independent judiciary, a judiciary that was going to be appointed in a two-step process. A one-step process that the Constitutional Convention rejected was that the appointment be only by the President. The Constitutional Convention created a two-step process in which the President nominates and the Senate confirms or rejects. That is part of the checks and balances.

I must say, as a senior Senator from Florida, I have been absolutely bewildered at statements I have heard on the floor of the Senate as well as I have heard from some of my colleagues when we have been interviewed on these news programs in which it is claimed we are rejecting all of these judges. Let me tell you what this Senator from Florida has done. Of the 215 nominations before the Senate, this Senator has voted for 206 of them. That means there are only 9 this Senator has not voted for. In other words, under the administration of President George W. Bush, I have voted for 206 of his 215 nominations. That is 96 percent I voted for.

Does that sound as though this Senator is not approving all of the conservative judges? Every one of those judges who have come forth to us was a conservative judge. I have voted for 96 percent of them. I can tell you that the 9 I have not voted for—by the way, I voted for one a majority of my party voted against, and that was Miguel Estrada. But I had reasons, because I called him in and asked him if he would obey the law as a court of appeals judge. He said he would. I said that is good enough for me. But the remaining nine, I have plenty of reasons why I do not think they are entitled to a lifetime appointment as a Federal judge.

That is my prerogative as a Senator, and it is also my prerogative as a Senator under the rules of the Senate to stand up and to speak as long as this Senator has breath in order to get that opinion across.

I have been amazed to hear some of my colleagues say here on the Senate floor as well as in some of these television interviews that we have done—and sometimes done together—that utilizing the filibuster has never been used, they say, against a judge nominee. My goodness, all you have to do is look at history. In 1881, Stanley Matthews was nominated by President Hayes to be a Justice of the Supreme Court, and he was filibustered. In 1968, Abe Fortas was nominated by President Johnson to be Chief Justice of the United States Supreme Court, and he was filibustered.

Since the start of the George W. Bush administration in 2001, 11 judicial nominations have needed 60 votes for cloture in order to end a filibuster. That is before President Bush's term which started in 2001.

How people can come with a straight face and say a filibuster has not been used on judicial appointments, I simply don't understand. It defies the historical record of the Senate.

I think there are several principles that are very important as we consider this. It is my hope—and I have reached out to colleagues, dear personal friends who are friends regardless of party—that we can avoid this constitutional clash which should not be and changing the rules by breaking the rules.

Remember, a filibuster is to help encourage compromise. We shouldn't be changing the rules in the middle of the game. The underlying principle I want our Senators to remember as we get into this debate—hopefully it will be headed off by cooler minds. As the Good Book says, come now and let us reason together. Remember these principles.

The Constitution stands for an independent judiciary. There are very necessary checks and balances in our form of government to keep the accumulation of power from any one agency, or executive branch, or person's hands.

We should not be overruling the Parliamentarian. We must encourage compromise. To change the rules in the middle of the game is bordering on an abuse of power. Surely the Senate can rise above this partisan, highly ideological set of politics and come together for the sake of the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will speak in morning business to the point discussed by my colleague from Florida. I understand another Senator was going to be here; when he arrives, I will yield the floor.

It is important for my colleagues and for the American people to appreciate a little bit of the background of this issue with respect to judges. My colleague from Florida makes a point that he has voted for most of the President's judicial nominees. Indeed, that has been the case with every Senator for every President.

But until the last 2 years, we have voted both for district court nominees and circuit court nominees. Two years ago, the Democratic minority began filibustering circuit court nominees. That is why President Bush has had a lower percentage of his nominees approved than any President since Franklin Roosevelt for the important circuit court positions. In fact, a third of President Bush's circuit court nominees were filibustered or could not be brought to a vote because they would have been filibustered; fully 17 out of around 35.

So when our colleagues on the other side of the aisle talk about the large number of judges they have approved, they are folding in all of the Federal district court nominees everyone has always voted for. That is not the appropriate measure. The question is, how many circuit court nominees? Never before, in the history of our country, have we seen circuit court nominees or district court nominees, for that matter, but circuit court nominees filibustered in this manner—ten separate judges we could not come to a final up-or-down vote, seven more who would have had the same fate had they been voted for. That has never happened before in the history of the country.

Our colleague from Illinois was discussing the fact that a former Senator from New Hampshire had, in this Senate, talked about filibuster, following a couple of judges for the Ninth Circuit Court of Appeals. In fact, that Senator had said that. The interesting point is, even though he, a single Senator, wanted to filibuster the nominees—their names were Berzon and Paez—the Republican leader, TRENT LOTT from Mississippi, made an arrangement with the then-Democratic leader, Daschle from South Dakota, that they would not be filibustered, and we filed cloture, which is the petition to bring the matter to a close so we could take a final vote. Senators on both sides of the aisle supported the cloture motion, so they supported getting to a final vote on those two judges. Of course, cloture was invoked, meaning they were not filibustered.

They were brought up for a vote. Some voted against them—I voted for Berzon and against Paez—but the net result is they are both sitting on the Ninth Circuit Court of Appeals today. They were not filibustered. So there is no case of a filibuster of the circuit court judge. None.

Second, the only other situation in which it is alleged a filibuster occurred was with Abe Fortas, whose name was withdrawn by Lyndon Johnson the day after a cloture vote failed to succeed. As Senator Griffin from Michigan, who was then leading that opposition to Abe Fortas, has told me and others, there was no effort to filibuster because they had the votes to kill the judge. They simply had not had time to debate him, which is why they voted against the cloture, but as a result of the President acknowledging he had no support in the Senate, his name was withdrawn.

There has never been a filibuster of a Supreme Court or circuit court judge in the United States—it simply is erroneous to suggest there has been—nor is it correct to say we have been voting on all of these different judges. If you take the district court judges out, about whom there is no controversy, there is a huge issue because fully a third of the President's circuit court nominees were not voted on because of this new filibuster by the Democratic minority.

We need to have some perspective. Who is changing the rules? Until 2 years ago, all the judges got up-or-down votes. Judges that could not even get out of the Judiciary Committee with a majority vote were granted the privilege or courtesy of a vote in the Senate. During the debate when Clarence Thomas was being confirmed, several leading Democratic Senators came to the Senate to oppose Judge Thomas. They said they actually had thought about trying to filibuster his nomination but that would be wrong because filibustering judicial nominees is wrong. Senator LEAHY, Senator KENNEDY, and others came to this floor and said, we do not know whether we will defeat Clarence Thomas or not, but we are not going to defeat him with a filibuster because that would be wrong.

Sure enough, they were correct. They lost the vote, 48-52. He was confirmed. I admired them because they stood for principle. The rule and the tradition of this body had always been we give the nominees an up-or-down vote, but if they could get 51 votes for confirmation, they became a circuit court judge or a Supreme Court justice. That is what happened in the case of Clarence Thomas.

Now, all of a sudden, it has been turned around, and the Democratic minority, almost to a person, has said they believe judges should be filibustered, and the President's nominees are not going to get an up-or-down vote if they decide they want to filibuster a particular nominee.

As I said, at least a third of these circuit court nominees so far have been filibustered. It is our understanding that practice will continue unless we can get back to the way it has always been, the traditional role of the Senate in providing advice and consent with a majority vote, up or down.

It has also been suggested the President is nominating a new, wild variety of lawyers and judges to be circuit court judges, way out of the mainstream kind of people. This, of course, is absolutely ludicrous. The kind of people that President Bush has nominated are respected jurists or lawyers.

The American Bar Association, which used to be the Democrat's gold standard for approving the judicial nominees, has judged all of these candidates qualified. Yet somehow some of our colleagues on the left say they are out of the mainstream. My colleague on the Judiciary Committee, the Senator from New York, for example, has made this charge on several occasions.

I ask, who is probably more representative of the mainstream? A single Senator from a State, for example, like New York? Or the President of the United States who had to get elected with support from all over this country? I don't think anyone would say George Bush is out of the mainstream, that President Bush is out of the mainstream of this country.

Who are some of the people he has nominated? Some are judges who have had to stand for election, for example, in California and Texas, and have received supermajorities, 70 or 80 percent. I have forgotten the exact numbers of support from the citizens of their States. One is a blue State. One is a red State. When well over 50 or 60 percent of the citizens in this State vote to support these judges to continue in office on their State supreme court, you would hardly say these nominees are out of the mainstream. Yet those two particular judges, Janice Rogers Brown from California and Percilla Owen from Texas, are the ones for whom this filibuster has been applied.

It does not make sense to suggest a tradition of this Senate to give people an up-or-down vote is going to be overturned because all of a sudden a President is proposing people who are wildly out of the mainstream.

What has the Republican majority at least considered doing? Simply returning to the way it has always been, to going back to the 200 years—before 2 years ago—and giving people an up-or-down vote. Members can still vote against the nominee. Members do not have to vote for the nominee, but at least give them an up-or-down vote. We do that based upon the precedence that has been set by the then-majority leader of this Senate, the Senator from West Virginia, who, on not fewer than four separate occasions, utilized the precedence of this body to ensure that dilatory tactics could not prevail in this Senate and that we could move forward with the business of the Senate.

It is the very same precedent that would be used to reestablish the up-or-down vote which has been the tradition of this Senate all along. That is not rubberstamping. That is giving due consideration to these nominees and giving them an up-or-down vote at the end of the day.

When Americans look at this sort of intramural battle occurring in the Senate, they have to wonder why this is happening, why it is so important. I suspect it may have something to do with the fact there might be a vacancy on the Supreme Court, and our friends on the other side of the aisle are so afraid President Bush might nominate someone who could gain majority support they are prepared to actually refuse that nominee an up-or-down vote. That would be unprecedented in the history of this body. I don't think it is right.

Some people have called this the nuclear option because they threatened to blow the Senate up if we try to return to the traditional rule of an up-or-down vote in the Senate. That is a very unfortunate name and a very unfortunate threat. No one should be threatening to go nuclear or blow the place up or prevent the Senate from doing its business. Our constituents sent us here for a reason, to get work done, to pass a budget, to pass the appropriations bill, to pass the bill that is before the Senate right now, the supplemental appropriations bill that will literally fund our troops' effort in Afghanistan and Iraq, to pass an energy bill, to pass a defense authorization bill, all of the other important things they want us to do here.

Yet we have some colleagues suggesting, if they do not get their way on these judges, like a school-yard bully who has a call go against him by the referee and picks up his ball and goes home so the rest of the kids cannot play. Is that the threat here; pick up your ball and go home so the rest of us cannot do the business we were sent here to do?

Let me make one final prediction. Last time we met as members of the Judiciary Committee, we could not get a quorum to do business. Not one member of the minority party showed up. We have to have at least one for a quorum. This was not the last meeting but the penultimate meeting. They said there were three members going to the funeral of the Pope; 3 out of 9. I predict, at another meeting on Thursday—and we need to pass the judges out to consider them on the floor—they will not give a quorum then, they will not show up or, if they do show up, they filibuster it so we cannot get the judges adopted. I predict right now the judges that are on the agenda for that meeting this coming week will not be passed out. They might pass out one or two, but they are not going to allow us to pass all of those judges so they can be considered by the full Senate.

It was Members of the minority party who complained, while Republicans never filibustered, they did keep some of President Clinton's judicial nominees bottled up in committee. We will see whether they are willing to pass these nominees—I think there are 6 or 7 pending—we will see whether or not they are willing to show up for the meeting so there is a quorum and enabling the committee to pass them out to the full body so we can debate the nominees or whether they talk and talk and talk until the meeting has to end, no one else is around, and we no longer have a quorum or they simply do not show up for a quorum.

We will see what they do. I predict right now my colleagues are not going to allow us to get those judges to the Senate so we can begin the debate and the consideration of whether they should be confirmed. That will be a real shame and, again, a violation of what this Senate has always done in the past, even when we did not particularly think a nominee should receive an affirmative vote on the floor. I believe Clarence Thomas was in this situation. The committee passed him to the Senate to see what the full body would do to give its advice and consent which is what the Constitution calls upon us to do.

I close by urging my colleagues not to confuse this discussion with erroneous information or talk about things that are in a history that never was but, rather, to approach it on the basis of moving forward, in a bipartisan way, to fill our constitutional responsibilities to grant these judges an up-or-down vote by our advice and consent so we can put people on the court in these very important positions to serve the American people.

Mr. CHAMBLISS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent to speak in morning business for not to exceed 14 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

MARLA RUZICKA

Mr. LEAHY. Mr. President, this is a matter which I and my friend from California, Senator BOXER, will be speaking about later this afternoon, and that is the tragic death of a remarkable young Californian, Marla Ruzicka.

Marla was the founder of a humanitarian organization devoted to helping the families of Afghan and Iraqi civilians who have been killed or suffered other losses as a result of U.S. military operations. She died in Baghdad on Saturday from a car bomb while she was doing the work she loved and for which so many people around the world admired her.

In fact, Tim Rieser, in my office, has worked closely with her. We received e-mails about the work she was doing, and even photographs of people she was helping arrived literally minutes before she died.

I will speak later today about this. But she was a remarkable person. When I spoke with her family in California yesterday, I told them this was a life well worth living, that most people would not accomplish in their lifetime what this 28-year-old wonderful woman accomplished in hers.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I am going to speak on another matter. We have learned that those who are intent on forcing confrontation, breaking the Senate rules, and undercutting our democratic checks and balances plan to take their previous outrageous allegations of religious McCarthyism one step further and accuse Democrats of being "against people of faith" because we object to seven—seven—of the President's more than 200 judicial nominations.

If you followed the sick logic of this venom being spewed by some of the leaders in this Chamber, we would have to say that 205 judicial nominees forwarded by the President, whom the Democratic Senators have helped to confirm, would seem not to be people of faith, even though that is as false and ridiculous on its face as is the charge leveled at Democratic Senators.

This disgusting spectacle, this smear of good men and women as "against faith" is expected to happen, in of all places, a house of worship, according to a front-page article last week in the New York Times. It will involve twisting history, as well as religion, because according to the report, those involved will claim that Democratic Senators are using the filibuster rule to keep people of faith off of the Federal bench.

This slander is so laden with falsehoods, so permeated by the smoke and mirrors of partisan politics, and so intertwined with one man's personal political aspirations that it should collapse of its own weight. But too many who should speak out against it remain silent.

Republicans on the Senate Judiciary Committee began blatantly to invoke obscene accusations like this one earlier in the Bush administration. They hurled false charges against Senators saying they were anti-Hispanic or anti-African American, anti-woman, anti-religion, anti-Catholic, and anti-Christian for opposing certain judicial nominees.

They never bothered to mention the same Senators who were making these slanderous statements had blocked, themselves, many, many, many—over 60—Hispanics, women, certainly people of faith. And they never bothered to say the Senators they were slandering had supported hundreds of nominees, including Hispanics, African Americans, women, and people of faith—Catholic, Christian, and Jewish. They never hesitated to stoke the flames of bigotry, and to encourage their supporters to continue the smear in cyberspace or on the pages of newspapers or through direct mail.

Actually, to the contrary, they seemed to like the way it sounded. Maybe it tested well in their political polls. Now they have decided to up the ante on such "religious McCarthyism," as a way to help them tear down the Senate and do away with the last bastion against this President's most extreme judicial nominees. It is crass demagoguery, and it is fueled by the arrogance of power.

They now seek to make a connection between the dark days of the struggle for civil rights, when some used the filibuster to try to defeat equal rights laws, and the situation we find ourselves in today when the voice of the minority struggles to be heard above the cacophony of daily lies and misrepresentations. This tactical shift follows on the rhetorical attacks aimed at the judiciary over the past few weeks in which Federal judges were likened to the KKK and "the focus of evil."

In the last few weeks, we have heard that, at an event attended by Republican Members of the Congress, people called for Stalinist solutions to problems, referring to Joseph Stalin's reference to killing people he disagreed with, and calling for mass impeachments. Wouldn't you think the Members of Congress, who have taken an oath to uphold the Constitution, would speak up or at least leave with their heads bowed in shame, instead of, apparently, enjoying it?

Last week, the Senate Democratic leadership called upon the President and the Republican leadership of Congress to denounce these inflammatory statements against judges. This week, I renew my call to the Republican leader and, in particular, to Republican moderates, to denounce the religious McCarthyism that is again pervading their side of this debate.

I ask my friends on the other side of the aisle to follow the brave example of one of Vermont's greatest Senators, Republican Ralph Flanders. Senator Flanders recognized a ruthless political opportunist when he saw one. He knew Senator Joseph McCarthy had exploited his position of power in the Senate to smear hundreds of innocent people and win headlines and followers, and campaign contributions, with his false charges and innuendo, without regard to facts or rules or human decency.

Senator Flanders spoke out during this dark chapter in the history of this great institution. He offered a resolution of censure condemning the conduct of Senator McCarthy. Now, in our time, a line has again been crossed by some seeking to influence this body. I ask my friends on the other side of the aisle to follow Senator Flanders' lead in condemning the crossing of that line.

I have served with many fair-minded Republican Senators. I am saddened to see Republican Senators stay silent when they are invited to disavow these abuses. Where are the voices of reason? Will the Republicans not heed the clarion call that Republican Senator John Danforth sounded a few weeks ago? And he is an ordained Episcopal priest. What has silenced these Senators who otherwise have taken moderate and independent stands in the past? Why are they allowing this religious McCarthyism to take place unchallenged? The demagoguery that is so cynically and corrosively being used by supporters of the President's most extreme judicial nominees needs to stop.

Not only must this bogus religious test end, but Senators should denounce the launching of the nuclear option, the Republicans' precedent-shattering proposal to destroy the Senate in one stroke, while shifting the checks and balances of the Senate to the White House.

I would like to keep the Senate safe and secure and in a "nuclear free" zone. Even our current Parliamentarian's office and our Congressional Research Service has said the so-called nuclear option would go against Senate precedent and require the Chair to overrule the Parliamentarian. Is this how we want to govern the Senate? Do Republicans want to blatantly break the rules for some kind of a short-term political gain?

Just as the Constitution provides in Article V for a method of amendment, so, too, the Senate Rules provide for their own amendment. Sadly, the current crop of zealot partisans who are seeking to limit debate and minority rights in the Senate have no respect for the Senate, its role in our government as a check on the executive or its Rules. Republicans are in the majority in the Senate and chair all of its Committees, including the Rules Committee. If Republicans have a serious proposal to change the Senate Rules, they should introduce it. The Rules Committee should hold serious hearings on it and consider it and create a full and fair record so that the Senate itself would be in position to consider it. That is what we used to call "regular order." That is how the Senate is intended to operate, through deliberative processes and with all points of view being protected and being able to be heard.

That is not how the "nuclear option" will work. It is intended to work outside established precedents and procedures as explained by the Congressional Research Service report from last month. Use of the "nuclear option" in the Senate is akin to amending the Constitution not by following the procedures required by Article V but by proclaiming that 51 Republican Senators have determined that every copy of the Constitution shall contain a new section or different words—or not contain some of those troublesome amendments that Americans like to call the Bill of Rights. That is wrong. It is a kind of lawlessness that each of us should oppose. It is rule by the parliamentary equivalent of brute force.

The recently constituted Iraqi National Assembly was elected in January. In April it acted pursuant to its governing law to select a presidency council by the required vote of two-thirds of the Assembly, a supermajority. That same governing law says that it can only be amended by a three-quarters vote of the National Assembly. Use of the "nuclear option" in the Senate is akin to Iraqis in the majority political party of the Assembly saying that they have decided to change the law to allow them to pick only members of their party for the government and to do so by a simple majority vote. They might feel justified in acting contrary to law because the Kurds and the Sunni were driving a hard bargain and because governing through consensus is not as easy as ruling unilaterally. It is not supposed to be, that is why our system of government is the world's example.

If Iraqi Shiites, Sunni and Kurds can cooperate in their new government to make democratic decisions, so can Republicans and Democrats in the United States Senate. If the Iraqi law and Assembly can protect minority rights and participation, so can the rules and United States Senate. That has been the defining characteristic of the Senate and one of the principal ways in which it was designed to be distinct from the House or Representatives.

This week, the Senate is debating an emergency supplemental appropriations bill to fund the war efforts in Iraq and Afghanistan. The justification for these billions of dollars being spent each week is that we are seeking to establish democracies. How ironic that at the same time we are undertaking these efforts at great cost to so many American families, some are seeking to undermine the protection of minority rights and checks and balances represented by the Senate through our own history. Yet that is what I see happening.

President Bush emphasized in his discussions earlier this year with President Putin of Russia that the essentials of a democracy include protecting minority rights and an independent judiciary. The Republican "nuclear option" will undermine our values here at the same time we are preaching our values to others abroad.

I urge Senate Republicans to listen carefully to what their leaders are saying, here in the Senate, and out across the country to their most extreme supporters. Consider what it is they are about to do and the language they use to justify it. Both are wrong. It would steer the Senate and the country away from democracy, away from the protections of the minority and away from the checks and balances that ensure the freedoms of all Americans.

I would also like to talk for a moment about the independence of the judiciary. I have expressed my concern that members of Congress have suggested judges be impeached if they disagree with the judges' decisions. Republicans rushed through legislation telling federal judges what to do in the Schiavo case, and then criticized the judges when they acted independently, judges appointed by President Reagan, by former President Bush, and by President Clinton. They were all criticized for that, although there are still those who are saying we should impeach the judges, or as I mentioned earlier in my speech, one speaker at a recent conference, to the cheers of some suggested Joseph Stalin's famous "No man. No problem" solution, because he killed those who disagreed.

I remember a group of Russian parliamentarians came to see me to talk about federal judiciary, and they asked, "Is it true that in the United States the government might be a party in a lawsuit and that the government could lose?" I said, "Absolutely right." They said, "People would dare to sue the government?" I said, "We have an independent judiciary, yes, they could." They said, "Well, if the government lost, you fire the judges, of course?" I said, "No, they are an independent judiciary." And I remember the discussion around the conference room in my office. This was the most amazing thing to them, that the people who disagreed with the government could actually go to a federal court or a state court, bring a suit there and seek redress even if it meant the government lost. Sometimes it wins, sometimes it loses. I was a government prosecutor. I know how that works. I think they finally understood that the reason we are such a great democracy is that we have an independent judiciary.

I would call out to my friends on the other side of the aisle to stop slamming the federal judiciary. We don't have to agree with every one of their opinions but let's respect their independence. Let's not say things that are going to bring about further threats against our judges. We've had a lot more judges killed than we've had U.S. Senators killed for carrying out their duties. We ought to be protecting them and their integrity. If we disagree with what they've done in a case where we can pass a law and we feel we should, then pass a law and change it. Don't take the pot shots that put all judges in danger and that attack the very independence of our federal judiciary.

We remember our own oath of office. Part of upholding the Constitution is upholding the independence of the third branch of government. One party or the other will control the presidency. One party or the other will control each House of Congress. No political party should control the judiciary. It should be independent of all political parties. That was the genius of the founders of this country. It is the genius that has protected our liberties and our rights for well over 200 years. It is the genius of this country that will continue to protect them if we allow it to. It would be a terrible diminution of our rights and it would be one of the most threatening things to our whole democracy if we were to remove the independence of our federal judiciary. That would do things that no armies marched against us have ever been able to do. None of the turmoil, the wars, all that we've gone through in this country has ever been able to do. If you take away the independence of our federal judiciary, then our whole constitutional fabric unravels.

I will close with one little story. One day, years ago, on the floor of this Senate, there was an attempt, in a court-stripping bill, to remove jurisdiction of the Federal courts because one Senator did not like a decision they came down with. It was decided if there had not been a vote by 4 o'clock on a Friday afternoon, we would not vote on it. So three Senators took the floor to talk against it—myself, former Republican Senator, Lowell Weicker of Connecticut, and one other. We spoke for several hours, and the bill was drawn down.

Now, I do not remember what the decision was of the Federal court.

I may have agreed with it. I may have disagreed. I did not want to see us making the Senate into some kind of a supreme court that would overturn any decision we didn't like. On the way out, the third Senator came up to Lowell Weicker and myself and linked his arm in ours, and he said: We are the only true conservatives on this floor because we want to protect the Constitution and not make these changes.

I turned to him and I said: Senator Goldwater, you are absolutely right.

I was glad Barry Goldwater, Lowell Weicker, and I stood up for the Constitution, stood up for the independence of the Federal judiciary. It probably was unpopular to do so, but I think Senator Goldwater, Senator Weicker, and I all agreed it was the right thing to do.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Feinstein amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

Durbin amendment No. 427, to require reports on Iraqi security services.

Salazar amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families.

Dorgan/Durbin amendment No. 399, to prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO.

Reid amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq.

Frist (for Chambliss/Kyl) amendment No. 432, to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers.

Frist (for Craig/Kennedy) modified amendment No. 375, to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers.

DeWine amendment No. 340, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

DeWine amendment No. 342, to appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement.

Schumer amendment No. 451, to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

Reid (for Reed/Chafee) amendment No. 452, to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

AMENDMENT NO. 418

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the pending amendment be set aside be in order that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. I call up amendment No. 418.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS], for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, and Mr. BYRD, proposes an amendment numbered 418.

Mr. CHAMBLISS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the termination of the existing joint-service multiyear procurement contract for C/KC-130J aircraft)

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC-130J AIRCRAFT

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC-130J aircraft that is in effect on the date of the enactment of this Act.

AMENDMENT NO. 418, AS MODIFIED

Mr. CHAMBLISS. Mr. President, I send a modification to the desk and I ask unanimous consent that Senator ALLEN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC-130J AIRCRAFT

SEC. 1122. During fiscal year 2005, no funds may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC-130J aircraft that is in effect on the date of the enactment of this Act.

Mr. CHAMBLISS. Mr. President, this amendment will prohibit any fiscal year 2005 funds from being used to terminate the C–130J multi-year procurement contract.

In hearings before this body over the past several weeks Department of Defense personnel have admitted that when they made the decision to terminate this contract in December of last year that they did not have all the information needed to make that decision. Since PBD 753 was drafted in December 2004, we have learned that the cost to terminate this contract is approximately $1.6 billion.

Also over the past several months we have seen the C–130J, KC–130J, as well as C–130s operated by our coalition partners in Iraq perform superbly throughout USCENTCOM. To date, C–130Js in Iraq have flown over 400 missions, with a mission capable rate of 93 percent and have performed all assigned missions successfully. KC–130Js have flown 789 hours in Iraq with mission capable rates in excess of 95 percent. Nevertheless, the Department of Defense has not yet submitted the amended budget request for this program that they discussed during hearings. That is why this amendment is necessary.

I am introducing this amendment to make sure that this program, which is performing extremely well and which meets validated Air Force and Marine Corps requirements, is not prematurely cancelled and that the Department of Defense follows through with their commitment to complete the multiyear procurement contract.

There are some issues with the current contract being a commercial contract versus a traditional military contract. My colleague, Senator McCAIN, and I agree that a traditional contract is more appropriate in this case and applaud the Air Force's decision to begin transitioning the program in that direction. However, I think we can all agree, that regardless of how these planes are procured, that the United States military needs them and they are demonstrating their value to the warfighter, and to the taxpayer today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I think we are now ready to begin a conversation. There are several colleagues here, including the Senators from Georgia, Alabama, and Idaho, we would like to discuss this issue we are going to be voting on tomorrow. Our colleagues need to have a clear picture of what we will be voting on.

There are two basic versions of legislation to try to make it easier for agricultural employers to hire people who are temporary workers or who have been in the United States illegally and can be employed under the bills proposed here. There are two different approaches. One is the approach of the Senator from Idaho—I will defer to him in a moment to have him discuss his approach—and the other approach Senator CHAMBLISS and I have offered. There are a couple of key differences. They both approach the problem from the standpoint of broadening the way in which legal immigrants can come to the country and be employed legally in agriculture and taking illegal immigrants who are currently not working within the legal regime, using counterfeit or fraudulent documents—and, everybody knows, being employed illegally—and enabling them to work for a temporary period of time legally in this country.

The primary difference between the approaches is over the question of amnesty. Regarding that, I think everybody would have to admit—and different people have different definitions of what amnesty is—everybody would have to agree, if there is a difference in how you can become a legal, permanent resident in this country or a citizen, you would have to agree, if someone is granted an advantage over an applicant for legal permanent residency or citizenship status in another country, if they are given an advantage because they came here illegally and counterfeited documents to get employment and worked here illegally, to give them an advantage over people who are seeking to come here legally is giving them an advantage that would amount to amnesty. You should not be able to use, in other words, your illegal status to bootstrap yourself into a position of legal, permanent residency or citizenship.

I pointed out before, under the bill of the Senators from Massachusetts and Idaho, there would be an ability for people not in the United States but who would like to come here to claim they worked in the country illegally, and that would give them an ability to come here and apply for this same status. So, ironically, we would be turning on a neon sign that says come here with documents—they could be fraudulent and you could have defrauded us before—and claim that you worked in the country illegally, and we will let you come back in again.

I don't know how you give people an advantage on the basis they violated our law. You would think you would want to give people an advantage who have played by the rules. That is the second way in which this bill grants amnesty and is not the right approach. As my colleague from Georgia talked about, we would be changing, for the first time, a law to allow the Legal Services Corporation to represent these illegal immigrants, which is something we have not been willing to do in the past. We have to be careful because the reason illegal immigrants are working here is the current H2–A law is so cumbersome to use, it is so subject to abuse and costs money and takes time and you can be sued, and so on, that employers don't like to use it. It is just not worth it to them. If we are going to have a bill that is no easier to use, there is not going to be any advantage over the current law and, as a result, it is going to be difficult for farmers to utilize this new provision if they have to look over their shoulder and wonder if the Legal Services Corporation is going to file a lawsuit.

Mr. CHAMBLISS. Will the Senator yield?

Mr. KYL. Yes.

Mr. CHAMBLISS. Mr. President, I ask the Senator, doesn't the AgJOBS bill, as well as the Chambliss-Kyl amendment, recognize there is a need in this country for agricultural workers to do the job that is not being done by American workers today, and we are not displacing American workers?

Mr. KYL. Mr. President, that is a very good question. I think all of us would agree that we cannot be displacing American workers. We are currently not doing that today. There is a need for these employees, and it is really a question of which approach is the better one, to ensure we can match a willing worker with a willing employer without granting amnesty.

Mr. CHAMBLISS. Would the Senator from Arizona yield for another question?

Mr. KYL. Yes.

Mr. CHAMBLISS. Does the Chambliss-Kyl amendment not take the current H2–A program, which is very cumbersome and requires a lot of paperwork and requires the adverse effect wage rate to be paid, and streamline that program to where it is more easily usable by farmers who now simply don't use it because it is cumbersome? Does it alleviate some of the problems?

Mr. KYL. Yes. We change the wage rate to the prevailing wage. We make it easier for the farmer to demonstrate that there are not American workers available to do the jobs. We make it easier, cheaper, faster, but with protections for the employees.

I think all of that is why the American Farm Bureau Federation has endorsed our legislation as the best way for them to satisfy these employment needs.

Mr. President, I will close and allow my colleagues the opportunity to speak. Senator CRAIG wants to disagree with us, and I want to give him that opportunity. Let me allow him to describe his bill, and we can have a debate back and forth as to which bill better satisfies our employment needs or requirements but doing so in a way that we can actually get a bill passed and sent to the President; i.e., a bill that doesn't include amnesty.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I appreciate the Senator from Arizona finally coming to the floor with a piece of legislation. For the last several years, I have challenged the Senate to deal with what I believe, and I think most colleagues believe, is a very urgent problem. Our borders, as much money as we have poured into them and as many new border patrolmen as we have put along them—primarily our southern border today—are still being overrun substantially by illegal people crossing.

While we have been trying, since 9/11, to understand and reform our immigration laws, there has been a great deal of talk, but very little done—some 1,300 days now of high-flying political talk about the dramatic problem that we awakened to post-9/11, and that was that there were between 8 million to 12 million undocumented illegal people in our country—most of them here and working hard to help themselves and their families. But it was obvious there were a few here with the evilest intent in mind: to destroy our country and to destroy us, too.

While I accept the argument, as most do, that comprehensive immigration reform is critical, right now we have a critical situation in front of us as it relates to agriculture. Starting about 5 years ago, and before 9/11, American agriculture was attempting to get the Congress to look at their plight. The plight was obvious and simple—and criticize it if you will—but the reality was that 50 to 70 percent of their workforce was undocumented, and the law we had given them, as the Senator from Arizona has so clearly spoken to, was so cumbersome, costly, and so untimely—and the key to timeliness is when the crop is in the field and ripe, it has to come out or it rots—that American agriculture could not depend on it. The workforce who was seeking the work in American agriculture began to recognize it. If you will, the black market or the illegal processes began.

It should not be a surprise to any of us that when government stands in the way of commerce, stands in the way of an economy, usually people find a way around it. Tragically enough, it happened. But, by definition, it was an illegal way.

Last year, in our country, there were 2 months in which we were a net importer of food. This year, it is guesstimated it could be in as many as 6 months that we will be a net importer of food, and that will be the first time, in the history of American agriculture, that becomes the situation. So why we are here on the floor today debating a piece of a much broader overall immigration problem is because it is urgent, it is important we deal with it, and we deal with it now as thoughtfully and as thoroughly as we can. That is why I insisted that the Senate come to this issue.

I am glad my colleagues have come up with an alternative. I think the provisions in it are quickly thought up. They were criticizing my bill earlier because I offered a temporary visa. They offer a visa. They offered it for 3 years—3 years—as many as 9 years. What I am glad to hear said, for those who argue what we were doing was an amnesty issue, is that it is no longer viewed as that, that we recognize there is a legitimate need for an American agricultural workforce, and it is critically necessary we make it a legal workforce for the sake of our country, for the sake of our borders, and for the sake of American agriculture.

That is what this debate will be all about in the next several hours and tomorrow morning before we vote on this issue. Both sides have accepted a rather unusual procedure, Mr. President—a supermajority procedure. Why? Well, we are germane to this supplemental bill because of what the House did earlier with a Sensenbrenner amendment dealing with what is known as REAL ID. It dealt with immigration and, as a result of dealing with immigration in the House, we were legitimized to do so, in a germane way, in the Senate. We will do that.

At the same time, we all understand that in legislative procedures, on cloture 60 votes are required. We have agreed to do so. Tomorrow, we will vote—first on the Chambliss-Kyl amendment and then on the Craig amendment. It will require 60 votes to proceed. Whether we succeed or fail—and I think I can succeed—what is most important is that the American people are beginning to hear just a little bit about what they have deserved to hear for the last 1,300 days, since 9/11 awakened us all to the dysfunctional character and the lack of enforcement of immigration law that has been going on for well over two decades. It was so typical of a Congress that wanted to talk a lot about it but do very little about it.

The Senator from Arizona and I and the Senator from Georgia, without question, agree on the critical nature of American agriculture today. What we also agree on—symbolic by their presence on the floor today, debating the issue and offering an alternative—is that we cannot build the wall high enough along our southern border, we cannot dig its foundation deep enough to close that border off, that it requires good, clear, simple, understandable, functioning law, not unlike the old Bracero Program of the 1950s when we had a guest worker program, when we identified the worker with the work, and they came, they worked, and they went home.

Up until that time, illegal immigration was astronomically high. It dropped precipitously during that period of time when we were identifying and being able to work about 500,000 workers who were foreign national in American agriculture. It was a law that worked.

Then somehow, in the sixties, Congress got it all wrong again. Why? Because they thought they were protecting an American workforce. But what the AFL–CIO found out and why they support my legislation is that there are unique types of employment in this country with which the American workforce will not identify.

I am pleased to hear that the Chambliss-Kyl bill, along with mine, provides a first-hire American approach. We create a labor pool. The employer must first go there, but if that workforce is not available, they do not have to languish there because, in essence, they have a crop to harvest, and the crop is time sensitive. We understand all of that.

I will get to the detail of my bill over the course of the afternoon and tomorrow. This is a bill that for 5 years has been worked out between now over 509 organizations. It is interesting that the Farm Bureau supports the Kyl-Chambliss approach, but they do not oppose my approach. And last year they supported my approach. In other words, they are as frustrated as all of us are about this very real problem of immigration. First they are here and then they are there. What is most important is that we are here on the floor of the Senate this afternoon talking about an issue on which this Senate has been absent way too long.

What the Senator from Arizona, the Senator from Georgia, and I and others who will be on the floor—I see my prime cosponsor Senator KENNEDY is on the floor—believe is that this is an issue whose time is coming, and we believe for agriculture it is now because it is critical and it is necessary. We are learning at this moment that as much money as we throw at the border, as many Border Patrol men as we hire, if the law on the other side does not back them up, if the law on the other side does not create a reasonable pathway forward for a workforce to be legal and a workforce that is necessary in this country, then you cannot put them along the border unless they are arm length to arm length from the Gulf of Mexico to San Diego. And even then, those folks have to sleep.

The reality is, we have to get the law right, and the law has been wrong for a great long while. In the absence of a functioning, reasonable law, we have set up for our country a human disaster. Not only do we have an uncontrolled illegal population in our country, but because they have no rights, because of the way they are treated, it is not unusual in the course of a given year to see 200 or 300 lose their lives along the southern border of our country, to see our emergency rooms in Texas, Arizona, New Mexico, and California flooded, to see the very culture and the very character and foundation of our country at risk because we do not control process, we do not control immigration, and we do not do so in an upright, legal, and responsible way.

We are here. We are going to debate this for a time, and there will be much more debate tomorrow. We will have some key votes to see whether we proceed to deal with the bill that I call AgJOBS and that 509 organizations across the country that have worked with us for the last 5 to 6 years call AgJOBS. It is a major reform in the H–2A law. It is a simplification. It is a clearer understanding. It is a reasonable process: The blue card, if you will, or the green card that is acceptable, normal, and understandable and provided in a temporary and earned way, as my bill does, is simply a point in transition, and it ought to be viewed as that.

You will hear the rhetoric that it will allow millions of people to become legal. The Bureau of Labor Statistics, the Department of Labor, does not agree with that at all. The Department of Labor says there are about 500,000 who they think will responsibly and legitimately come forward, and of that, there may be dependence of around 200,000 that are already in this country because that workforce has been here 5 or 6 years or more, for that matter. So those numbers are reasonable and realistic, and that is a moment in time, a transition as we create a law and allow American agriculture to work their way into a functioning realistic H-2A program that is timely, that is sensitive, that meets their workforce needs, and recognizes the value and the production of American agriculture.

If we do not correct this law and correct it now, Americans have a choice because we already decided years ago, based on the character of the work, that most Americans would not do it. They had better jobs and alternative jobs. So American agriculture began to rely on a foreign workforce.

I say this most directly, and I mean it most sincerely. Either foreign workers will harvest America's agricultural produce for America's consumers or foreign workers will harvest agriculture in another country to be shipped to American consumers. Ask an American today what they want. They want a safe food supply. They want an abundant food supply. They hope it would be reasonably priced. But most assuredly, they want to know that it is safe and it is reliable. The only way to guarantee that is that it be harvested in this country, as it has been from the beginning history of our great country. It was not for 2 months last year and possibly not for 6 months this year.

We have a choice to make. We either create a legal workforce, a workforce that is identifiable, or we keep stumbling down this road that no American wants us to go down, and that is to not control our borders, to not identify the foreign nationals within our borders, and to not have a reasonable, legal, and timely process. That is what the debate is all about.

I am pleased to see the other side, having been in opposition for so long, finally say, Whoa, I think maybe we ought to try to get this right. We disagree on process, we disagree on their approach, but there is similarity in many instances on reform of the H-2A program. We will work over the course of this afternoon, evening, and tomorrow to break all those differences out so all of our Senators can see these differences and sense the importance of what we debate.

There are many others who have come to the floor to discuss this legislation this afternoon. I yield the floor so the debate can proceed.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise in strong support of the proposal offered by Senators CRAIG and KENNEDY. I see Senator KENNEDY on the floor and Senator CRAIG on the floor. Their work is a testament to their persistence and the staying power of a handful of agricultural workers and employers who have been willing to set aside ideology and partisanship to hammer out a major overhaul of our law in this area.

Mr. KYL. Mr. President, will the Senator from Oregon yield for a procedural question?

Mr. WYDEN. Yes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask the Senator from Oregon, we have the Senator from Massachusetts here, and the Senator from Alabama has been here, as has the Senator from Georgia been on the floor when there was no one else present. I wonder if we can get some general agreement of going back and forth between proponents or opponents or proponents of the two separate bills so the Chair has some idea of order and the debate participants do as well.

I offer this as a suggestion. I have not proposed a unanimous consent request, but perhaps some of the staff can work this out while the Senator from Oregon is speaking.

Mr. CRAIG. Will the Senator yield?

Mr. KYL. Yes.

Mr. CRAIG. Because our debate time, as I understand it, is actually tomorrow, and I think we will go off and on this issue today, and because the chairman of the Appropriations Committee is on the floor managing the supplemental and may have other amendments he wants to deal with, I would hope we can rely on the Chair for moving us back and forth in a balanced way from side to side before we look at a structured way to proceed. I have difficulty with that.

Mr. SESSIONS. Mr. President, I join the Senator from Arizona in his request. I think it is important if we are to spend most of the afternoon on the issue. If we could work out an orderly arrangement, that would be good.

Mr. KYL. Let me propose this unanimous consent, Mr. President, if I may. The Senator from Oregon is speaking right now. I ask unanimous consent that after the Senator from Oregon is finished, so there would have been two Members speaking on behalf of the legislation of the Senator from Idaho, that at that point, the debate next go back and forth between proponents of the Chambliss-Kyl amendment and then back to Kennedy-Craig, and anyone offering an amendment can obviously seek to ask unanimous consent to lay the pending business aside, but in the meantime the debate on these two provisions that will both be voted upon tomorrow proceed with speakers on either side rotating.

The PRESIDING OFFICER. Is there objection? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see my friend from New Mexico who was here before I was here. Let him proceed.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I have two amendments to offer, and it will take a total of about 3 minutes. I do not expect votes on them today, of course, but I would like a chance to very briefly offer them, and then have them set aside, if I can do that after the Senator from Oregon concludes his remarks and before the rest of the debate continues.

Mr. KYL. That is accommodated in the unanimous consent request which I proposed.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, I welcome the opportunity to work this out. Can we perhaps get some time understanding as well? The Senator from Oregon mentioned he will probably need 15 minutes. Could we get some kind of understanding about the length of time? Generally we go from Republican to Democrat. Now we are looking at going from proponents to opponents. I do not mind that, but if we can limit this to 15 minutes each—I see we have a number of people—would that be agreeable? So we would go to Senator WYDEN, and because the Senator from Arizona has been so persuasive, we will hear two on his side, and maybe Senator BINGAMAN can be recognized after Senator WYDEN, and then two for the Senator's side, 15 minutes each, and then I be recognized.

Mr. CRAIG. Will the Senator yield?

Mr. KYL. I am happy to have my unanimous consent request amended along the lines of what the Senator from Massachusetts said.

Mr. CRAIG. It is clear anybody coming to the floor to offer amendments to the supplemental would have that right.

Mr. KYL. They could ask unanimous consent to intervene, and obviously it will be granted.

Mr. CRAIG. I thank the Senator.

Mr. KYL. Let me propound the unanimous consent request again, if I can. I ask unanimous consent that in 15-minute blocks of time Senator WYDEN proceed without any of this time coming off his, there then be two 15-minute blocks for the Senator from Alabama and the Senator from Georgia, followed by a 15-minute block for the Senator from Massachusetts, but in the meantime, Senator BINGAMAN be able to offer his amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. Mr. President, a remarkable coalition of agricultural employers and farm workers has come together behind the Craig-Kennedy amendment. I commend them for all of their efforts. I simply wanted to spend a few minutes and talk about a bit of lineage behind this whole effort.

To some extent, this began on the afternoon of July 23, 1998, when I had the opportunity to join with my friend and colleague Senator Gordon Smith and we offered an amendment to overhaul this program. It was, in fact, entitled the AgJOBS amendment. It had the strong support of Senator CRAIG at that time. We received 68 votes for that legislation. I think it was an indication then, as we see today, how the system works for no one.

To a great extent, we see so many who feel we have lost control of our borders. The system surely does not work for the honest agricultural employer, and the vast majority certainly meet that test, and for many farm workers who work hard and contribute every single day. The system simply does not work for anyone. So what Senator SMITH and I tried to do that July day in 1998 was to begin to address the foundation of a sensible immigration policy based on the proposition that what we have been doing does not work for anybody. It does not work for our country.

We live under a contradiction every day with respect to immigration. We say we are against illegal immigration. One can hear that in every coffee shop in the United States. Then we look the other way so as to deal with agriculture or perhaps motels, hotels, restaurants, and a variety of other establishments. We have to resolve that contradiction. We ought to resolve it by making the kind of start the Craig-Kennedy legislation does by saying we are going to put our focus on legal workers who are here in compliance with the law. That is what we sought to do that July day in 1998, requiring the growers to hire U.S. farmworkers first before they could seek alien workers. Then we took steps to try to ensure a measure of justice that would be required in our legislation for the migrant farmworkers by providing employment, housing, transportation, and other benefits, access to Head Start. I think Senator KENNEDY remembers this well from 1998. One would have thought Western civilization was going to end when that amendment offered by Oregon's two Senators got 68 votes in the Senate. I think it was an indication of how the animosity and fear that has surrounded this issue has enveloped the whole debate over the last few years, and that is why I commend Senator CRAIG and Senator KENNEDY for the thoughtful way they have worked since 1998 in order to build a coalition for this idea and to refine what the Senate voted for in 1998.

For example, in 1999, the National Council of Agricultural Employers, the employer group that helped start the process that led to the first AgJOBS bill of 1998, started reaching out directly to the Hispanic community representing agricultural workers, as well as churches and community groups. A dialog was begun then about how reform could benefit everyone.

In 2000, people from the agricultural employer community and those representing the farmworkers started talking more publicly about some of the issues that were particularly contentious. All of a sudden, there was an extended and thoughtful debate among people who were avowed enemies with respect to the topic of H-2A reform. Those people who had fought each other so bitterly began to come together and form a coalition that is behind the Craig-Kennedy amendment today.

In 1996, I formulated certain beliefs with respect to this issue that still hold true today. First, I believe willing and able American workers always should be given a chance to fulfill the needs of employers seeking agricultural labor. This was addressed in 1998 and it remains in the language before the Senate today. The amendment offered by Senator CRAIG and Senator KENNEDY requires employers seeking to use the H-2A program to first offer the job to any eligible U.S. worker who applies and who is equally or better qualified for the job, and then issue notice to local and State employment agencies, farmworkers organizations, and also through advertising.

We also said back then we wanted to have recommendations for a more straightforward, less cumbersome, less unwieldy process to address the shortage of primary foreign workers.

I commend Senator CRAIG and Senator KENNEDY because what we had been concerned about then—the need for simplicity and certainty—is now embodied in a number of aspects in this amendment. Employers are required to provide actual employment to the worker, a living wage and proof of that employment so the worker can move freely between jobs. The employee is required to show proof of legal temporary worker status in the United States to the employer before becoming employed. Each party shoulders the burden of ensuring their documentation is legal. That is the way we said it ought to be in 1998. That is the way it is in the Craig-Kennedy proposal.

Third, I have always maintained and still maintain that a farmer using the H-2A program should not be able to misuse it to displace U.S. agricultural workers or make U.S. workers worse off. The language before us today meets that test by ensuring that H-2A workers must be paid the same wage as the American worker. There is no incentive to seek a guest worker because there is no opportunity to indenture that worker by paying lower wages or not providing enough work.

Fourth, and perhaps most important, we said then and it is clear in this amendment as well that any program must not encourage the illegal immigration of workers. This bill addresses that by requiring agricultural workers to show they are legally in the United States in order to collect the benefits available under this program, such as housing, transportation, and the civil right to sue their employers for back wages or for wrongful dismissal.

So the goal of this legislation is to take out some of the uncertainty and the lack of predictability that has been in this program, and that uncertainty would be removed for both growers and workers.

Certainly my State has a great interest in agriculture. There are certainly billions of dollars of direct economic output in this sector and there is a need to enact H-2A programs for my State, where we feel we do a lot of things well, but what we do best is we grow things, and the need for enacting this program is as great today as it was in 1998. Both sides in this debate are going to continue to have their differences, and my guess is, as the Senator from Idaho knows, there are probably some residual and historical grudges. This Craig-Kennedy proposal shows that in a very contentious area that has been gridlocked in the Senate since a July date in 1998, we can still find a creative process that brings people together to solve mutual problems.

I hope my colleagues will support this historic effort. I look forward to working with Senators on both sides of the aisle on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending business? Is there an amendment pending?

The PRESIDING OFFICER. The pending amendment is the Chambliss amendment.

AMENDMENT NO. 483

Mr. BINGAMAN. Mr. President, I ask unanimous consent to set that aside so I can call up an amendment numbered 483.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 483.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the appropriation to Federal courts by $5,000,000 to cover increased immigration-related filings in the southwestern United States)

On page 202, strike line 24, and insert "$65,000,000, to remain available until September 30, 2006, of which $5,000,000 shall be made available for costs associated with increases in immigration-related filings in district courts near the southwestern border of the United States:".

Mr. BINGAMAN. Mr. President, this amendment would provide an additional $5 million for the U.S. district courts along our southwest border with Mexico. Due to the increased immigration enforcement efforts along that border, southwest border courts have seen an extraordinary increase in immigration-related filings. This amendment would help border courts cover those expenses as we continue allocating resources to secure our Nation's borders.

Since 1995, immigration cases in the five southwest border districts—that is, the District of Arizona, District of New Mexico, Southern District of California, and the Southern and Western Districts of Texas—have grown approximately 828 percent. In 2003, overall immigration filings in all U.S. district courts surged 22 percent. In 2004, they jumped 11 percent. Of those cases, 69 percent of them came from these five districts I have listed.

In recent years, Congress has appropriated millions of dollars to hire additional Border Patrol officers. Obviously, the more Border Patrol officers you have, the more cases you have coming into the Federal district courts. We need to recognize this. We need to recognize the enormous impact this is having on our courts in this part of the country.

This amendment would add an additional $5 million to southwest border courts to the existing $60 million that is currently allocated under the supplemental to cover expenses related to recent Supreme Court decisions and the class action bill. The Administrative Office of the Courts should be free to allocate the funds as it deems necessary among the various courts. I hope my colleagues will support that amendment.

AMENDMENT NO. 417

At this point I ask that amendment be set aside, and I call up amendment No. 417, the Grassley-Baucus amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mr. GRASSLEY, for himself, Mr. BAUCUS, and Mr. BINGAMAN, proposes an amendment numbered 417.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide emergency funding to the Office of the United States Trade Representative)

On page 200, between lines 13 and 14, insert the following:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

For an additional amount for necessary expenses of the Office of the United States Trade Representative, $2,000,000, to remain available until expended: *Provided*, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Mr. BINGAMAN. Mr. President, this is an amendment I am offering on behalf of Senator GRASSLEY and Senator BAUCUS and myself. It would provide an additional $2 million in funding to the Office of the U.S. Trade Representative for the balance of the current fiscal year. The reasons for the amendment are straightforward. As many of us have heard, because of the lack of funding, the Office of the Trade Representative has been forced to eliminate a substantial portion of its foreign travel. It has placed a freeze on all its hiring. It is essentially no longer able to do the job we are requiring it to do.

In my opinion, the U.S. Trade Representative's Office is chronically underfunded and understaffed as it is. It is the principal agency in charge of negotiating and enforcing our trade agreements, and it certainly deserves our support, particularly in this time of unprecedented trade imbalances.

We talk a lot about holding our partners to their obligations in trade agreements. We talk about protecting U.S. jobs. Unfortunately, we have not dedicated a proper amount of resources to this effort.

This fiscal year, the Trade Representative's Office has faced unexpected additional constraints as a result of the WTO Ministerial, travel related to enforcement, the need for more staff to pursue congressionally mandated enforcement actions, and substantial fluctuations in the exchange rate, almost all of which fluctuations, I would point out, have been adverse to the dollar.

This amendment will provide the Trade Representative's Office with the emergency funding needed to get through this fiscal year. It is an investment well worth making. It will add to U.S. competitiveness and economic security. I hope my colleagues will support the amendment.

I ask that amendment be set aside and the earlier amendment by Senator CHAMBLISS be brought up again.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 483

Mr. BINGAMAN. I yield the floor.

Mr. SESSIONS. Mr. President, I do not see Senator CHAMBLISS, but I would like to enter into a discussion. We will be voting tomorrow on the AgJOBS bill and the Kyl-Chambliss bill, and maybe other bills—the Mikulski bill and who knows what else—in the next few days as we are debating the emergency supplemental. These are amendments filed to the emergency supplemental, legislation to provide funding for our magnificent soldiers who are ably serving our country in harm's way to carry out a national policy that we sent them to carry out.

We have been told that since the House of Representatives, when they passed their emergency supplemental, added several provisions to enhance our border security, recommendations that were in substance made by the 9/11 Commission to provide greater protection to our country against attacks by terrorists, such action by the House has opened the door to any immigration language and bill that we want to offer, that any Member may favor, to be added right onto a supplemental for our soldiers. There is a tremendous difference between those provisions, in my view. The Sensenbrenner language in the House bill is narrow, based on recommendations of the 9/11 Commission, related to our national defense and should have broad-based support. I hope it does. The President supports it. The AgJOBS bill, however, is controversial. It deals with a very large and complex subject that affects our economy and our legal system in a significant way. We absolutely should not be attempting to slip such legislation of such great importance, and on which our country is so divided, onto the emergency defense supplemental.

Let me speak frankly on the issue. There is no legislative or national consensus about how to fix our immigration system. I serve on the subcommittee on immigration of the Senate Judiciary Committee. We have been having a series of important hearings on this subject. Our chairman, Senator JOHN CORNYN, has been working very hard and providing sound leadership, but our subcommittee and the full Judiciary Committee and this Senate are nowhere near ready to develop a comprehensive immigration proposal. This is made clear when we see that a number of outstanding Senators who worked on immigration over the years—such as Senator KYL, Senator DIANNE FEINSTEIN, Senator SAXBY CHAMBLISS—are working on legislation, also.

Surely no one can say this AgJOBS bill that really kicked off this debate is not a colossally important piece of legislation. Every one of us in this body knows that immigration is a matter of great importance to our country and one that we must handle carefully and properly. After the complete failure of the 1986 amnesty effort, surely we know we must do better this time.

Let me state this clearly. I believe we can improve our laws regarding how people enter our country, how they work here, and how they become citizens in this country, and we should do so. We absolutely can do that. Many fine applicants are not being accepted, applicants who could enrich our Nation.

Further, as a prosecutor of 15 years, a Federal prosecutor for almost that long, without hesitation I want to say this: If we improve our fundamental immigration laws and policies, and if at the same time we work to create an effective enforcement system, then we can absolutely eliminate this unconscionable lawlessness that is now occurring in our country and improve immigration policies across the board, serving our national interests and being certainly more sensitive to the legitimate interests of those who would like to come here, live here, work here, or even become citizens.

Any such legislation we pass should, in addition, protect our national security. Of course, we need to keep an eye on our national security—Have we forgotten that? Surely not—and allow increased approval for technically advanced, educated and skilled persons and students, as well as farm labor.

More importantly, under no circumstances should we pass bad legislation that will further erode the rule of law, that will make the current situation worse and will violate important principles that are essential for an effective national immigration policy.

Some will say, Well, Jeff, it is time to do something, even if it is not perfect. My direct answer to that is it is past time to pass laws that improve the ability of our country to protect our security from those who would do us harm. That is our duty. But we simply are not ready to legislate comprehensively on the complex issue of immigration.

We have not come close to completing our hearings in the appropriate subcommittees and the Judiciary Committee.

More importantly still, time or not, we must not pass bad legislation. The Nation tried amnesty for farmworkers in 1986 and few would deny it was a failure. That legislation, the Immigration Reform and Control Act, established within it section 304. The Commission's duty was, after the act had been in effect for some time, to study its impact on the American farming industry. The Commission issued its report and found, in every area, farm labor problems had not been improved and as many as 70 percent of the applications for amnesty were fraudulent.

I wish that weren't so. I wish we could pass laws that people conjure up which would solve the complex problems and it will all just work like we think it might. I am sure those people, in 1986, heard the exact same argument we are hearing today why this kind of legislation is so critical. They tried it. But they put in a commission to study it.

The Commission was clear. The Commission said:

> In retrospect, the concept of worker specific and industry specific legislation was fundamentally flawed.

That is exactly what the AgJOBS bill is, industry and worker specific. Indeed, it is the same industry and the same workers—agriculture—that the 1986 sponsors said would be fixed by their bill. It was an amnesty to end all amnesty. That is what they said. Now we are at it again in the same way.

Later, in 1997, former Congresswoman Barbara Jordan, an African-American leader of national renown, was authorized, by a 1990 immigration law, to chair a commission. The Commission reported to President Clinton on the status of existing immigration law. The Jordan Commission found that the guest worker programs do not "reduce unauthorized migration. To the contrary, research consistently shows that they tend to encourage and exacerbate illegal movements by setting up labor recruitment and family networks that persist long after the guest programs end."

The Commission further concluded that what was needed was an immigration system that had integrity where laws were enforced, including employer sanctions. I will quote from their report. They stated:

> Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. Government should also develop a better employment eligibility and identification system, including a fraud-proof work authorization document for all persons legally authorized to work in the United States so that employer sanctions can more effectively deter the employment of unauthorized workers.

Our enforcement efforts remind me of the man who builds an 8-foot ladder to try to reach across a 10-foot chasm. While he may have been close, close doesn't count in such an event. He is heading for disaster.

We are not as far away as most people think from an effective enforcement mechanism. It is absolutely not hopeless for this country to gain control of its borders, especially with the new technology we have today—biometrics and that kind of thing. We are spending billions of dollars, but we are spending that money very unwisely. The solution to our immigration situation is to review the procedures by which people come to our country, and the procedures by which people become citizens, and to then steadfastly plan a method that will work to enforce those rules. Without that enforcement, no matter what changes we make in our current law, we will be right back here discussing Amnesty III for agricultural farmworkers before this decade is out. This is plainly obvious to anyone who would look at our current system.

By all means, this Nation should not, in response to this current failure, pass a bill like what has been offered which basically says our current system has failed and we intend to give up and do nothing to fix it. It says we have failed, our system is not working so we are just going to quit trying and let everybody stay in. The American people are not going to be happy if they learn that is what we are about here. They surely will learn about it sooner or later.

Polls show huge majorities, upwards of 80 percent, want a lawful system of immigration. Why are we resistant to that?

It has been amazing to me, anytime a piece of legislation is offered that might actually work to tighten up the loopholes we have, it is steadfastly opposed and seems never to become law.

I feel very strongly about this. If it is not amnesty, I don't know what amnesty is.

This bill will bestow legal status and a guaranteed pass to citizenship for over a million individuals, perhaps 3 million, perhaps even more.

The Commissioners who studied the last bill all agreed the number that actually obtained amnesty was far greater than anticipated.

In addition, it makes no provision whatsoever for commensurate improvement of law enforcement.

It hurts me, as somebody who spent most of my professional life trying to enforce laws passed by Congress, to see us undermine the ability of our system to actually work.

The passage of this legislation will be the equivalent of placing a neon sign on our border that says: Yes, we have laws but we welcome you to try to sneak into our country, and if you are successful, we will reward you, as we have done twice before, with permanent residency and a step onto citizenship.

Under this legislation, if a person has worked within 18 months, 575 hours or 100 workdays—and a workday is defined in the act as working 1 hour—then for 100 hours within 18 months, they are eligible to apply for a temporary resident status even though they are here plainly and utterly illegally. They do not have to go home and make another application; they simply apply for this. In addition, they become a temporary resident.

It then provides they can ask for permanent resident status and that the Secretary of Homeland Security shall grant them this permanent resident status if they work 2,000 hours in a 6-year period. That is about 1 year of work period. Then they apply for a permanent resident status. In 5 years, if they have not been convicted of a felony or have not been convicted of three misdemeanors, the Secretary shall confer citizenship on them if they apply.

If they become a permanent resident citizen, they can call for their family, who may be out of the country. A family who never had any thought to come to this country is allowed to come in free. All of them are put on a guaranteed track for citizenship.

Indeed, if they have already left the country not intending to return, but did work 575 hours in 18 months before that period, or if they are willing to say they did—true or not—they get to come back in and bring their families with them. Maybe a person here never intended to bring their family, but faced with this offer, they bring them in.

I am not sure we know how broad this bill is, how dangerous this language is.

I have a host of specific complaints about the provisions within the statute. I will talk about them later today or tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I concur in about everything my friend from Alabama has said. Initially, he made a comment relative to debating immigration law on a Defense supplemental bill where we are trying to provide funds for our men and women who are serving so bravely overseas today. I concur in that.

I had hoped we would have an expansive debate on this very sensitive and complicated issue. I know my friend, the Senator from Idaho, feels exactly as I do on this, but unfortunately we have been dictated to by the rules of the Senate relative to this issue. That is why we have both of these amendments up for discussion today.

The Senator from Alabama is exactly right. He is also right on one other thing. There are two amendments we are debating, AgJOBS, filed by the Senator from Idaho and Senator KENNEDY from Massachusetts, and the Chambliss-Kyl amendment. Both of these amendments recognize, as the Senator from Alabama said, we have a problem. We have a problem in the agriculture community relative to providing our farmers all across America a stable, secure, and lawful pool from which to choose for their labor needs.

We can argue over how many hundreds of thousands or how many millions of individuals are illegally in this country today working on our farms. The Senator from Idaho said the Department of Labor says there will only be a few hundred thousand who will try to take advantage of this. I don't think that is right. I don't have a lot of faith in the numbers coming out of some of the studies that have been done.

For example, there was a study by GAO a couple of years ago which said there were some 600,000 farmworkers in the United States today who are here illegally. In my State, there are hundreds of thousands of illegal aliens who are working in agriculture as well as working in other industries today. Those who are working in other industries probably started out working in agriculture. That is 1 out of 50 States. Our number is dwarfed by Texas, New Mexico, Arizona, California, by those States that are on the border with our friends to the South in Mexico, where thousands of illegal aliens are crossing the border every day.

However, we do recognize there is a certain number—and it is not material as to what that number is—but the fact is we agree there are hundreds of thousands or millions of folks here illegally.

The basic difference between the Senator CRAIG and Senator KENNEDY AgJOBS amendment and the Chambliss-Kyl amendment is this: Which direction do we want to go with regard to identifying those folks here illegally? Do we want to reward those folks here illegally, as the AgJOBS amendment proposes to do, or do we want to identify those people and those who are here illegally who are making a valuable contribution to the economy of the United States and who, most significantly, are not displacing American workers—and I emphasize that—and who have not broken the law in this country? Do we want to make an accommodation for those folks so they can continue to contribute to the economy of the United States by virtue of working in the agriculture community?

We both agree we ought to regulate these folks. The difference is the Craig-Kennedy AgJOBS amendment gives those individuals who are in this country illegally a direct path to citizenship. The Chambliss-Kyl amendment recognizes those folks are here illegally and it says to them, we are going to grant you a temporary status to remain here if you are not displacing American workers, if you are law abiding, and if your employer makes an attestation that he needs you—whether it is for a short period of time, as the H-2A reform portion of our amendment calls for, or whether it is the longer term, or the blue card application. Unlike in the AgJOBS amendment where the illegal alien can make the application, in our amendment the application has to be made by the employer who does have to say he needs that individual in his employ.

Another significant difference between these two amendments is this: Under the AgJOBS bill it is pretty easy in the scheme of things to become legal—not maybe an American citizen off the bat, but to position yourself to be placed in line ahead of other folks who are going through the normal course as set forth in our Constitution today to become a citizen, for these folks to make that type of application.

Here is why. The AgJOBS bill says if you are an illegal alien, you shall be given status as one lawfully admitted for temporary residence if the illegal alien has worked 575 hours, or 100 workdays, whichever is less, during an 18-month period ending on December 31, 2004. Mr. President, 575 hours is 14.3 weeks of labor if they work 40 hours, or 71.8 days, or approximately 3½ months. An alien can get immigration status after working only 3½ months of full-time employment.

Under Senate bill 359, section 2, paragraph 7, a workday means a day in which an individual has worked as little as 1 hour. So 100 workdays can amount to, literally, 1 hour per day for 100 straight days which would amount to 2½ weeks. That may not be the practicality of this, but in actuality, that is what the bill says.

Coming from a very heavy agriculture area, as I do, these people for the most part who are here working in agriculture are here for the reason they want to improve the quality of life for themselves as well as their families. They are basically law-abiding people who are simply hard workers and are here because they have that opportunity to better themselves in this country versus their native country.

But still, are we going to recognize those folks for what they are—and that is an illegal alien—or are we going to grant them this legal status after being here for 3½ months?

I do not think the American people ever intended for the Constitution of the United States, and for us operating under that Constitution, to grant legal status to anybody who breaks the law, to come into this country, and who may break the law not once, not twice, but three times during that 3½-month period under the AgJOBS bill, as they can do, and get legal status. I cannot conceive that America wants us to enact that type of legislation.

A basic difference between the AgJOBS bill and the Chambliss-Kyl amendment relative to those issues is we do not put anybody on a path to legal status. We grant them temporary status under the H-2A bill. If the farmer comes in and says, "I need 100 workers for 90 days to work on my farm, and here is what they are going to do," we will have that application processed in a streamlined fashion, compared to the way the application would have to be processed today, and those workers can come in, and whether they are cutting lettuce or cutting cabbage or picking cucumbers, they will be able to come in for that 100 days, and at the end of that 100 days, they will return to their native land.

If there are other operations, other farming operations, whether it is a landscaper or somebody in the nursery business, that need individuals 12 months out of the year, they will have the opportunity under our bill to apply for the blue card—again, a temporary status. It must be applied for by the employer, not the illegal alien, as you can do under the AgJOBS bill. The employer must make the application for those individuals. No preferential status toward citizenship is given.

They can have that blue card for 3 years, and reapply on two separate occasions following that first application. Technically, they could stay here for 9 years, if they continue to be law abiding and if their employer makes the proper attestation that says he needs them, that they have been important to the economy of this country, and they are not displacing American workers. It is significantly different from actually the legal status given after 3½ months under the AgJOBS bill.

Where does the AgJOBS bill move this individual relative to the pathway to citizenship? What current immigration law says is for somebody who is here legally, if they work for 2,060 hours under the AgJOBS bill, at the end of that 1 year, which is approximately 2,060 hours of work, they can apply for a green card, and they are going to be given preferential treatment in getting that green card.

What current immigration law says is anybody who has maintained a green card for 5 years can apply for citizenship. That is the pathway to citizenship that is being granted to folks who are in this country illegally today, who can have broken the law in this country today, not once, not twice, but three times, and still be looked at as somebody who is given preferential treatment over those individuals who are outside of this country who want to become citizens of the United States, who want to come here legally and do it the right way.

It simply is not fair. It is not equitable. I cannot believe the American people want to see us enact a law that will reward those individuals who have come into this country illegally in that way.

Lastly, let me mention one other point that is critically different between the AgJOBS bill and the Chambliss-Kyl amendment; and that is the issue relative to control of the border. The AgJOBS bill is basically silent when it comes to control of the border. But what it does do is it says if you have previously worked in the United States, and you are now back in your home country, you can come and make application for the adjusted status by saying you did work 575 hours within a certain period of time and, therefore, you should be given legal status in this country. And that will happen.

The difference in our provisions relative to control of the border is we mandate that the Department of Homeland Security come back to Congress within 6 months after the effective date of this legislation and report to us on a plan they are going to put in place to control our borders. Because, let me tell you, I don't care what bill we pass, which of these amendments we pass, or any future bill we may pass relative to the immigration laws of this country, if we do not control our borders, we have not made one positive step in the right direction.

We simply must figure out a way to control our borders. We think rather than us legislating a way in which that be done, those folks who deal with the issue every day, those folks at the Department of Homeland Security, are better suited to determine how we can come up with a plan to control the border. We mandate that they come back to us with that plan to control the border within 6 months after the effective date of this legislation.

Mr. President, I would simply say in closing, we agree, No. 1, there is a problem. I commend Senator CRAIG and Senator KENNEDY for continuing to move this ball down the field, as they have done. While I do not necessarily agree that the Iraq supplemental is the right place to do it, we are here today. But it simply is a matter of in which direction we are going to go.

Is it going to be looking at folks who are in this country illegally and rewarding them, rewarding them with a path to citizenship? Or is it going to be in the direction of saying, OK, we know you are here illegally, but if you are here and are a law-abiding individual in this country, and you are making a contribution to this society, and you are not displacing an American worker, then we are going to give you a temporary status? We are not going to say you are here illegally. We are going to say you are here legally, temporarily.

That is a critical difference. We are going to make sure our farmers and our ranchers have the workforce necessary to carry out the job they must do of feeding Americans as well as other folks around the world, but we are simply not going to use that tool to put people who are here illegally on a pathway to one of the most precious rights every American citizen has, and that is citizenship of this country.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 15 minutes.

Mr. KENNEDY. If the Chair would be good enough to notify me when I have 1 minute remaining, please.

The PRESIDING OFFICER. The Chair will be happy to.

Mr. KENNEDY. Mr. President, it is a privilege to join with Senator CRAIG in offering the Agricultural Jobs, Opportunity, Benefits, and Security amendment.

America has a proud tradition as a nation of immigrants and a nation of laws, but our current immigration laws have failed us. Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. The agricultural industry would grind to a halt without immigrant farmworkers. Yet the overwhelming majority of these workers are undocumented and are, therefore, easily exploited by unscrupulous employers.

Our AgJOBS bill corrects these festering problems. It gives farmworkers and their families the dignity and justice they deserve, and it gives agricultural employers a legal workforce.

Impressive work has been done by many grassroots organizations to make AgJOBS a reality. They have demonstrated true statesmanship by putting aside strongly held past differences to work together for the common good. We have our own responsibility to join in a similar way to approve this needed reform that is years overdue.

I commend Senator CRAIG and Congressmen BERMAN and CANNON for their leadership. I urge my colleagues to wholeheartedly endorse the AgJOBS bill.

Our bill reflects a far-reaching and welcome agreement between the United Farm Workers and the agricultural industry to meet this urgent need, and Congress should make the most of this unique opportunity for progress.

Our bill has strong support from business and labor, civic and faith-based organizations, liberals and conservatives, trade associations and immigrant rights groups. More than 500 organizations across the country support it.

AgJOBS is a bipartisan compromise reached after years of negotiations. Both farmworkers and growers have made concessions to reach this agreement, but each side has obtained important benefits.

In contrast, opponents offer a one-sided proposal that has failed to win the broad support AgJOBS has received. I urge my colleagues to oppose it. It vastly favors employers at the expense of farmworkers. It makes harsh revisions to the current agricultural guest worker program and creates a new blue card program for undocumented workers without a path to permanent residence, and without any meaningful governmental oversight to prevent labor abuses.

Agricultural employers would have the freedom to avoid hiring U.S. workers, displace U.S. workers already on the job, and force both U.S. workers and guest workers to accept low wages. They could do all this by claiming they can't find any U.S. workers. Even when the few labor protections are violated, workers would have no meaningful ability to enforce their legal rights.

This program would return us to the dark and shameful era of the Bracero Program where abuses were rampant and widely tolerated. That is unacceptable. We must learn from our mistakes and not repeat them.

The Chambliss amendment also ignores the needs of many growers and farmworkers. It offers no solution to the basic problem faced by agricultural employers—the problem that an overwhelming majority of the workers are undocumented. By offering no path to permanent residence for these undocumented workers, none of the guest workers, no matter how long they have worked, will ever be able to earn their permanent status.

Perhaps more troubling is the amendment's repeal of the longstanding adverse effect wage rate under the current program. This wage rate was created during the Bracero Program as a necessary program against the depression in wages caused by guest worker programs. The Chambliss proposal would replace it with a prevailing wage standard, substantially lower than the adverse effect wage rate. It would be based on the employer's own survey of prevailing wages rather than the Labor Department's survey. Farmworkers, who are already the lowest paid workers in the United States, would see their wages drop even lower. In contrast, the AgJOBS bill preserves the adverse effect wage rate while recommendations are made to Congress to resolve these long-contested pay issues.

The Chambliss amendment also eliminates the key provision that gives U.S. workers a job preference by employers who request guest workers. It would end the longstanding 50 percent rule which requires employers to hire qualified U.S. workers who applied during the first half of the season. Studies have shown that this rule is a valid protection.

In addition, the Chambliss amendment would end what they call positive recruitment—the obligation of employers to look for U.S. workers outside of the government job service which currently provides farmworkers with agricultural jobs. This proposal creates a new guest worker program for the undocumented that would offer them visas that would be valid only for 3 years and renewable for up to 6 additional years. They would have no opportunity to earn a green card no matter how many years they worked in the United States. In fact, they would actually lose their status if they merely filed an application to become a permanent resident.

Senator CHAMBLISS believes that undocumented farmworkers will come out of the shadows and sign up for such a temporary worker program, but they are highly unlikely to do so. The vast majority will be deported after their temporary status expires. Registering as the first step towards deportation is unfair, and it just won't work.

In contrast, the AgJOBS bill offers farmworkers a genuine earned adjustment program that will put these workers and their families on a path to permanent residence. Hard-working, law-abiding farmworkers will be able to come out of the shadows. The Chambliss amendment is far less satisfactory than the AgJOBS proposal, and I urge my colleagues to oppose it.

Opponents of the AgJOBS bill claim that we are rushing this bill through Congress without full and careful consideration. This claim is without merit. Since 1998, the Immigration Subcommittee has held three hearings that have fully examined our agricultural workforce problems and the need to reform our immigration laws. Last year, we considered the issue once more. Legislation to address this problem has been introduced by both Republicans and Democrats in every Congress since 1996.

In September 2000, a breakthrough occurred, and both sides agreed to support compromise legislation that won broad bipartisan congressional support. Unfortunately, attempts to enact it were blocked in the lameduck session that year. The election of President Bush in 2000 changed the dynamics of the agreement, and the compromise fell apart.

A compromise was finally reached in September 2003 which led Senator CRAIG and me to introduce the AgJOBS bill. Last Congress, we had, as Senator CRAIG has pointed out, 63 Senate cosponsors, nearly evenly divided between Democrats and Republicans. Despite such strong bipartisan support, the leadership last year blocked our attempt to obtain a vote on this legislation. This is the second Congress in which Senator CRAIG and I have introduced the AgJOBS bill. Congress has had extensive discussions of this legislation in the past, and it is long past time for us to act.

Opponents of our amendment have offered no workable solutions. We cannot be complacent any longer. It is time for a new approach.

The American people want commonsense solutions to real problems such as immigration. They want neither open borders nor closed borders. They want smart borders. They are neither anti-immigrant nor anti-enforcement. Instead, they are anti-disorder and anti-hypocrisy. They want the Federal Government to get its act together, to set rules that are realistic and fair, and to follow through and enforce these realistic rules effectively and efficiently.

AgJOBS meets these goals. It addresses our national security needs, reflects current economic realities, and respects America's immigrant heritage.

The status quo is untenable. In the last 10 years, the U.S. Government has spent more than $20 billion to enforce our immigration laws. We have tripled the number of border security agents, improved surveillance technology, installed other controls to strengthen border enforcement, especially at the southwest border. None of these efforts have been adequate. Illegal immigration continues.

The proof is in the numbers. Between 1990 and 2000, the number of undocumented immigrants doubled from 3.5 million to 7 million. Today that number is nearly 11 million, with an average annual growth of almost 500,000. Those already here are not leaving, and new immigrants keep coming in. Massive deportations are unrealistic as a policy, impractical to carry out, and unacceptable to businesses that rely heavily on their labor.

Obviously, we must control our borders and enforce our laws, but we first need realistic immigration laws that we can actually enforce. The AgJOBS bill is a significant step. By bringing these illegal workers out of the shadows, we will enable law enforcement to focus its efforts on terrorists and violent criminals. We will reduce the chaotic, illegal, all too deadly traffic of immigrants at our borders by providing safe opportunities for farmworkers and their families to enter and leave the country.

The AgJOBS bill enhances our national security and makes our communities safer. It brings the undocumented farmworkers and their families out of the shadows and enables them to pass through security checkpoints. It shrinks the pool of law enforcement targets, enables our offices to train their sights more effectively on the terrorists and the criminals. The undocumented farmworkers eligible for this program will undergo rigorous security checks as they apply for legal status. Future temporary workers will be carefully screened to meet security concerns.

The AgJOBS amendment provides a fair and reasonable way for undocumented agricultural workers to earn legal status. It reforms the current visa program so that agricultural employers unable to hire American workers can hire needed foreign workers. Both of these components are critical. They serve as the cornerstone for comprehensive immigration reform of the agricultural sector.

Undocumented farmworkers are clearly vulnerable to abuse by unscrupulous labor contractors and growers. They are less likely than U.S. workers to complain about low wages, poor working conditions, or other labor law violations. Their illegal status deprives them of bargaining power and depresses the wages of all farmworkers. These workers are already among the lowest paid of all workers in America. According to the most recent findings of the national agricultural workers survey issued last month, their average individual income is between $10,000 and $12,000 a year. The average annual family income is $15,000 to $17,000.

Thirty percent of their households live below the poverty line. Only half of them own a car and even fewer own a home or even a trailer. By legalizing these farmworkers, the threat of deportation is removed. They will be on equal footing with U.S. workers and the end result will be higher wages.

better working conditions, and upward job mobility for all workers.

Opponents of reform continually mislabel any initiative they oppose as "amnesty" in a desperate attempt to stop any significant reform. Instead of proposing ways to fix our current broken system, they are calling for more of the same—increased enforcement of broken laws. However, enforcing a dysfunctional system only leads to greater dysfunction.

The AgJOBS bill is not an amnesty bill. The program requires farmworkers to earn legal status. They must demonstrate not only contributions but also a substantial future work commitment before they earn the right to remain in our country.

First, they will receive temporary resident status, based on their past work experience. They must have worked for at least 100 work days in agriculture by December 31, 2004. To earn permanent residence, they must fulfill a prospective work requirement. They must work at least 360 days in agriculture during a six-year period. At least 240 of those 360 work days must occur during the first 3 years. Temporary residents who fail to fulfill the prospective agricultural work requirement will be dropped from the program and required to leave the country.

It's not amnesty if you have to earn it. AgJOBS offers farm workers a fair deal: if they are willing to work hard for us, then we're willing to do something fair for them. It's the only realistic solution.

Contrary to statements made by its critics, AgJOBS does not provide a direct path to citizenship. Farm workers would first earn temporary residence if they provide evidence of past work in agriculture. The next step would be permanent residence, but only after they have completed thousands of hours of backbreaking work in agriculture—a process that could take up to 6 years. Once they earn permanent residence, these farm workers would have to wait another 5 years to be able to apply for citizenship. At that point, they would have to pass an English and civics exam, and go through extensive backgrounds checks. This process is long and arduous, as it should be. There is nothing direct about it.

To be eligible for legal status, applicants must be persons of good moral character and present no criminal or national security problems. Whether they are applying here or at U.S. consulates abroad, all applicants will be required to undergo rigorous security clearances. Like all applicants for adjustment of status, their names and birth dates must be checked against criminal and terrorist databases operated by the Department of Homeland Security, the FBI, the State Department, and the CIA. Applicants' fingerprints would be sent to the FBI for a criminal background check, which includes comparing the applicants' fingerprints with all arrest records in the FBI's database.

Contrary to arguments made by detractors of AgJOBS, terrorists will not be able to exploit this program to obtain legal status. Anyone with any ties to terrorist activity is ineligible for legal status under our current immigration laws, and would be ineligible under the AgJOBS bill. Our proposal has no loopholes for terrorists.

Opponents of AgJOBS claim that this bill is soft on criminals. Wrong again. AgJOBS has the toughest provisions against those who commit crimes—tougher than current immigration law. Convictions for most crimes will make them ineligible to obtain a green card. Generally, these convictions include violent crimes, drug crimes, theft, and domestic violence. AgJOBS goes even further. Applicants can be denied legal status if they commit a felony or three misdemeanors. It doesn't matter whether the misdemeanors involve minor offenses—three misdemeanors and you are out, no matter how minor the misdemeanors. In addition, anyone convicted of a single misdemeanor who served a sentence of 6 months or more would also be ineligible. These rules are additional requirements that do not apply to other immigrants and they cannot be waived by DHS.

There are those who would prefer to disqualify a farm worker who commits even a single minor misdemeanor, with no jail time. But that goes too far. In some States, it's a misdemeanor to put trash from your home into a roadside trash can. It's a misdemeanor to park a house trailer in a roadside park, or have an unleashed dog in your car on a State highway, or go fishing without a license.

If we're serious about this proposal, minor offenses like these shouldn't have such harsh consequences. We'd be severely punishing hard-working men and women for minor mistakes, and tearing these immigrant families apart.

It's hard to imagine any public purpose that would be served by such a severe punishment. But it's easy to imagine all the heart-wrenching stories and nightmares created by this proposal for people caught by its provisions. Many of these farm workers have lived in America with their families for many years. They've established strong ties to their communities, paid their taxes, and contributed to our economy. They deserve better than a punishment out of all proportion to their offense.

Opponents of AgJOBS also claim that it will be a magnet for further illegal immigration. Once again, they are wrong. To be eligible for the earned adjustment program, farm workers must establish that they worked in agriculture in the past. Farm workers must have entered the United States prior to October, 2004. Otherwise, they are not eligible. The magnet argument is false. New entrants who have not worked in agriculture won't qualify for this program.

Hard-working migrant farm workers are essential to the success of American agriculture. We need an honest agriculture policy that recognizes the contributions of these men and women, and respects and rewards their work.

Our bill will modify the current temporary foreign agricultural worker program, while preserving and enhancing key labor protections. It strikes a fair balance. Anything else would undermine the jobs, wages, and working conditions of U.S. workers.

For many employers, the current program is a bureaucratic nightmare. Few of them use the program, because it is so complicated, lengthy, uncertain, and expensive. Only 40,000–50,000 guest workers are admitted each year—barely 2 to 3 percent of the estimated total agricultural work force.

To deal with these problems, the bill streamlines the H-2A program's application process by making it a "labor attestation" program similar to the H-1B program, rather than the current "labor certification" program. This change will reduce paperwork for employers and accelerate processing.

Employers seeking temporary workers will file an application with the Secretary of Labor containing assurances that they will comply with the program's obligations. The application will be accompanied by a job offer that the local job service office will post on an electronic job registry at least 28 days before the job begins. In addition, the employer must post the position at the work site, notify the collective bargaining representative if one exists, make reasonable efforts to contact past employees, and advertise the position in newspapers read by farm workers.

Longstanding worker protections will continue in force. For example, the "three-fourths minimum work guarantee" will remain in effect. Employers will be required to guarantee work for at least three quarters of the employment period or pay compensation for any shortfall. The "50% rule" will also continue. Qualified U.S. workers would be hired as long as they apply during the first half of the season. No position could be filled by an H-2A worker that was vacant because of a strike or labor dispute. Employers will continue to reimburse workers for transportation costs and provide workers' compensation insurance coverage. Employers will be prohibited from discriminating in favor of temporary workers.

The bill will modify some current requirements in important ways. Employers must provide housing at no cost, or a monetary housing allowance in which the State governor certifies that sufficient farm worker housing is available. Employers will also be required to pay at least the highest of the State or Federal minimum wage, the local "prevailing wage" for the particular job, or an "adverse effect" wage rate.

For many years, the adverse effect wage rate has been vigorously debated, with most farm worker advocates arguing that the rate is too low, and most growers complaining that it is too high. The bill will freeze adverse effect wage rates for three years at the 2003 level, while studies and recommendations are made to Congress by the GAO and a special commission of experts. If Congress fails to enact an adverse effect wage rate formula within 3 years, this wage rate will be adjusted in 2006, and at the beginning of each year thereafter, based on the change in the consumer price index.

The Secretary of Labor will establish an administrative complaint process to investigate and resolve complaints alleging violations under the H–2A program. Violators will be required to pay back wages, and can also be given civil money penalties and be barred from the program.

In addition, the bill provides a significant new protection for H–2A workers—a private right of action in Federal court. Currently, these workers lack this right, and can seek redress in State courts only under State contract law. Such workers are also excluded from the Migrant and Seasonal Agricultural Worker Protection Act, which provides U.S. workers with protections and remedies in Federal court. Although the exclusion continues, our bill will permit workers to file a Federal lawsuit to enforce their wages, housing benefits, transportation cost reimbursements, minimum-work guarantee, motor vehicle safety protections, and other terms under their job offer.

Our bill will also unify families. When temporary residence is granted, a farm worker's spouse and minor children will be able to remain legally in the United States, but they will not be authorized to work. When the worker becomes a permanent resident, the spouse and minor children will also gain such status.

Mr. President, I have a letter from the AFL–CIO that calls AgJOBS a recent legislative compromise between farmworker advocates and agricultural employers. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, April 18, 2005.

DEAR SENATOR: On behalf of the AFL–CIO I urge you to support cloture on and passage of an amendment to the FY 2005 Supplemental Appropriations bill offered by Senators Craig and Kennedy—the Agricultural Job Opportunity, Benefits and Security Act (AgJOBS). I also strongly urge you to oppose an amendment offered by Senators Chambliss and Kyl as a substitute to AgJOBS. This amendment has inadequate worker protections and must be defeated.

The AgJOBS bill is a reasoned legislative compromise between farm worker advocates and agricultural employers. AgJOBS enjoys strong bipartisan support and would provide an avenue for 500,000 undocumented farm workers to qualify for an earned adjustment program that has a path to permanent residency. AgJOBS would both streamline the current H–2A agricultural guest-worker program and provide additional legal protections for migrant workers who hold H–2A visas. AgJOBS addresses both the growing concern over the high number of undocumented farm workers and the need for adjustments to the H–2A program so that we do not confront a similar crisis in the future. The Kennedy-Craig AgJOBS amendment is necessary immigration reform that will protect the rights and economic well-being of both immigrant and U.S. workers.

The Chambliss-Kyl proposal would radically change the H–2A program—stripping it of all labor protections and government oversight. This amendment would create a new year-round guest worker program with no meaningful labor protections and no role for the Department of Labor to enforce housing, pay, or other essential worker protections. The Chambliss-Kyl proposal would tie workers to particular employers and require them to leave the country if their jobs ended and no other employer petitioned for a visa for them within 60 days. It would allow employers to bring in a large numbers of vulnerable guest workers to fill year-round jobs for up to nine years without the ability to be united with their family members.

Also troubling is that the Chambliss-Kyl amendment would broaden the definition of seasonal agricultural workers to include "related industries," which could include landscaping and food processing. Currently, the use of guest workers in these industries is capped and subject to additional labor market tests. The H–2A program is not subject to a cap. This further jeopardizes essential labor protections for a broader segment of the U.S. workforce. The Chambliss-Kyl proposal is bad for both U.S. and immigrant workers, bad for employers who want to employ a stable workforce, and it is a dangerous precedent in immigration and labor policy.

Sincerely,

WILLIAM SAMUEL,
Director, Department of Legislation.

Mr. KENNEDY. Mr. President, this mentions:

> The Chambliss-Kyl proposal would radically change the H–2A program, stripping it of all labor protections and Government oversight. This amendment would create a new year-round guest worker program with no meaningful labor protections and no role for the Department of Labor to enforce housing, pay, or other essential worker protections. The Chambliss-Kyl proposal would tie workers to particular employers and require them to leave the country if their jobs ended and no other employer petitioned for a visa for them within 60 days.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 464

(Purpose: To express the sense of the Senate on future requests for funding for military operations in Afghanistan and Iraq)

Mr. BYRD. Mr. President, from the moment our military first attacked Osama bin Laden's hideouts in Afghanistan, through the time that our first soldiers set foot inside Iraq, continuing right up until the present day, the war in Afghanistan and the war in Iraq have been entirely funded by what the American people might call a series of stopgap spending measures. These measures, which are called emergency supplemental appropriation bills in the parlance of our Nation's capitol, take the form of last-minute requests by the White House for Congress to approve tens of billions of dollars on an accelerated timetable.

From September 11, 2001, until today, Congress has approved $201 billion in these appropriations bills, the great majority of which the President has applied to the wars in Afghanistan and Iraq. If this bill on the Senate floor is approved, it will add another $79.3 billion to that staggering total.

With the cost of the two wars approaching $280 billion—that is a lot of money; that is your money, Mr. and Mrs. American Citizen—the American people are beginning to ask how much more will these two wars cost our country? The Congressional Budget Office estimated, in February 2005, the cost of the wars in Iraq and Afghanistan will cost the American people $458 billion over the next 10 years. The $74.4 billion in military spending contained in this supplemental appropriations bill is but a small downpayment on that staggering sum.

How accurate is this estimate of nearly half a trillion dollars more in war costs? How accurate is it? Amazingly, the administration has flatout refused to provide any estimates for the cost of the war in its annual budget request. That means, then, under the administration's budget policies, our troops are forced to continue to rely on the stopgap spending measures that are known as emergency supplemental appropriations bills.

I know the terms "supplemental request" or "emergency appropriations" mean almost nothing to the average American. But each time the White House sends a supplemental request to Congress for more funds that have never appeared in the President's budget, it reminds me of the way so many Americans pull a credit card out of their wallet when faced with unexpected costs.

Like a credit card, emergency supplemental appropriations requests can be responsibly used to cover costs that could not have been foreseen. But most Americans know, if someone starts using a credit card for everyday expenses, watch out, because that person is on the path to financial ruin. Mr.

President, I have never had a credit card in my life. I don't use one. My wife doesn't use one. Using that little piece of plastic means avoiding the tough choices and tradeoffs that are necessary for fiscal responsibility, while reckless spending and increasing interest payments cause a family's debt to spiral out of control. That, in a nutshell, is exactly what is happening in Washington, DC. Just like the slick advertising slogan for credit cards, the administration's repeated requests for supplemental appropriations for the war exemplify the phrase "buy now, pay later."

Over the last 3½ years, at a time when the Government is swimming in red ink, the White House has charged an additional $280 billion—that is right, $280 billion—on the national credit card, without proposing a single dime of that spending in its annual budget proposal; not one thin dime is seen or shown in the administration's annual budget proposal. This is a reckless course the administration has plotted. It is fiscal irresponsibility at the highest level. This "take it as it comes" approach to paying for the cost of the war in Iraq ignores sound budgetary principles, and it is a grave disservice to our troops who are serving in Iraq.

By separating the regular budget of the Defense Department and other Federal agencies from the wartime costs of military operations, the White House has effectively denied Congress the ability to get the whole picture of the needs of our troops and the other needs of our Nation, such as education, highways, and veterans medical care. Instead, Congress receives only piecemeal information about, on the one hand, what funds are required to fight the war—this unnecessary war, I say, in Iraq—and on the other, what funds are required for the regular operations of the Defense Department and other Federal agencies.

This is a misguided approach, and the net effect of this misguided approach is a thoroughly disjointed and discombobulated Federal budget. This hand-me-down process does not serve our troops well.

A unified, coherent budget for our military would allow Congress and the administration, as well as the American people, to focus on the future to evaluate what our troops might need to fight two wars—the war in Afghanistan and the war in Iraq—in the next 6, 12, or 18 months.

I am fully supportive of the war in Afghanistan because in that case our country was attacked, our country was invaded by an enemy. We fought back. I fully supported President Bush in that war, and I do today. I support the troops in both wars, but I do not support the policy that sent our troops into Iraq.

Instead of looking forward, however, the abuse of the supplemental appropriations process means the Congress and the administration are constantly—constantly—looking backward over our shoulder to fix the problems that might have been addressed had the cost of the wars been included in the President's budget.

Congress has had to add money to prior supplementals to buy more body armor, to buy more ammunition, to buy more armored humvees. All of these costs should have been included in earlier administration regular unified budget requests for the entire Federal Government.

What is more, this disjointed manner of paying for the wars in Iraq and Afghanistan has a tremendous effect on the entire Federal budget. By refusing to budget for the cost of the war, the President is submitting annual budgets to Congress that are downright inaccurate. These budget requests are inaccurate. They understate the actual amount of our annual deficits by scores of billions of dollars.

If the President's emergency request for 2005 is approved, the Congress will have approved over $210 billion just for the war in Iraq. While the budget deficit grows to record levels, the President tells us we have to cut domestic programs by $192 billion over the next 5 years. The President tells us we have to charge veterans for their medical care, that we have to cut grants for firefighters and first responders, that we cannot adequately fund the No Child Left Behind Act, and that we should cut funding for the National Institutes of Health. The list goes on and on.

Since the President took office, he has taken a Federal budget that was in surplus for 4 straight years and produced deficits as far as the human eye can see. For 2006, the President is projecting a deficit of $390 billion, but that deficit estimate does not—does not, does not—include new spending for the war in Iraq. We are not fighting that war on the cheap. It is costing you money, you citizens out there. It is your money; it is costing you money. That deficit estimate does not include new spending, I say, for the war in Iraq. Why? Why does it not? Why does that deficit estimate not include new spending for the war in Iraq? Because the President pretends he cannot project what the war will cost in 2006. Well, Mr. President, I assure you the costs will not be zero.

The President will not tell the American people what the war in Iraq will cost. By understating the deficits, the American people are being led down a primrose path. That is dishonesty. Neither the White House nor Congress is making any tough choices about how to pay for the cost of the war because the administration is not telling Congress how much it thinks the war might cost in the next year. And as a result, there is no talk of raising taxes or cutting spending in order to pay for the costs of the wars.

The United States is sinking deeper and deeper into debt, and the administration's failure to budget for the wars in Iraq and Afghanistan is sending our country even deeper into red ink. For as brilliantly as our troops have performed on the battlefield, as brilliantly as they have fought and died on the battlefield, the administration's budgeteers are creating a budgetary catastrophe. But the executive branch has not always been so neglectful of the need to include in its budget the cost of ongoing wars. According to the Congressional Research Service, there is a long history of Presidents moving the cost of ongoing military operations into their annual budget requests rather than relying completely on supplemental appropriations bills.

For example, the Congressional Research Service reports President Franklin D. Roosevelt included funds for World War II in his fiscal year 1943 budget request. President Lyndon B. Johnson included funds for the Vietnam war in his fiscal year 1966 request. Military operations in Bosnia and the U.S. operations to enforce the no-fly zone over Iraq were initially funded through supplemental appropriations. But in 1995, Congress forced President Bill Clinton to include those costs in his fiscal year 1997 budget, which he did. Upon assuming the Presidency, George W. Bush began to include the cost of the peacekeeping mission in Kosovo in his fiscal year 2001 budget request. I supported President Bush on that initiative because it made good fiscal sense. Twice I have offered amendments to the Defense appropriations bills to urge the President to add the costs of the wars in Iraq and Afghanistan to his budget.

These amendments were approved by strong bipartisan majorities of the Senate. The first time I offered the amendment on July 17, 2003, it was approved 81 to 15. The second time I offered the amendment on June 24, 2004, it received even broader support and was approved 89 to 9. Each time, this sense-of-the-Senate provision was included in the Defense Appropriations Act and signed into law by the President.

Today, I offer an amendment that follows up on the Senate's call for the President to budget for the cost of the wars in Iraq and Afghanistan. Let us just have truth in accounting. This is honest accounting. We are letting the American people know how much they are paying for these wars.

This amendment builds on the sense-of-the-Senate language that has been approved by strong bipartisan majorities of the Senate in each of the last 2 years. Once again, this provision urges the President to budget for the cost of the war in Iraq and the war in Afghanistan. However, my amendment today goes further and urges the President to submit an amended budget request for the cost of the wars to Congress no later than September 1, 2005.

Although the White House should have budgeted for this war long ago, this provision ratchets up the pressure on the administration to submit to Congress an estimate of the cost of the war for fiscal year 2006. Hopefully, this will be the first step in restoring some sanity to the President's budget request that has so far ignored the enormous costs of military operations in Iraq and Afghanistan.

This amendment also contains a section of findings that illustrate many of the points I have already made in urging the President to budget for the war. These findings emphasize the legislative history of the Senate urging the President to budget for the wars in Iraq and Afghanistan. The findings also present some of the conclusions reached by the Congressional Research Service about the funding of previous military operations through the regular appropriations process.

Finally, this amendment includes a reporting requirement that would help keep Congress informed—help keep us informed. We are elected by "we the people," the first three words in the preamble of the Constitution. We are hearing a lot about the Constitution these days, and we are going to hear more. I am going to have a few things to say about it before it is over.

As I said, this amendment includes a reporting requirement that would help to keep Congress informed about the real costs of the wars in Iraq and Afghanistan. This provision would require the Department of Defense to provide Congress with the specific amounts that have been spent to date—what is wrong with that?—for each of the wars in Iraq and Afghanistan. Currently, the Pentagon prefers to report only a single figure that combines the cost of these two wars, but Congress and the American people ought to know the exact cost of the war in Afghanistan. They ought to know the exact cost of the war that was forced upon our country in Afghanistan, and they need to know the cost of the war in Iraq, the war that the administration chose to begin, the invasion that the administration chose to set forth. These wars should not be confused one with the other. They are two different wars, and we should say so right up front. We should know the amount of money we spend in each.

In addition, this report would require the Pentagon to keep the Congress continually informed of estimates of military operations in Iraq and in Afghanistan for the next year so that Congress can have the better lens with which to look upon future budgets for our military.

This is nothing but right. The elected representatives of the people sitting in this body ought to know these things. We are representing the American people in our States and throughout the country. What is wrong with our telling them right up front? We need to know these things. I have a responsibility to my people back home. Not only that, but I have a responsibility to my children, my grandchildren, and to their children. Each of us has that responsibility, and we ought to ask for this information. We ought to insist on it.

Once again, the Senate should send a message to the administration that it ought to budget for the costs of the wars in Iraq and Afghanistan. My amendment sends that message in clear terms. I urge my colleagues to join me in approving this sense-of-the-Senate amendment with another strong bipartisan vote.

I call up my amendment No. 464.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 464.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 169, between lines 8 and 9, insert the following:

REQUESTS FOR FUTURE FUNDING FOR MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

SEC. 1122. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87) and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) The Senate has included in its version of the fiscal year 2006 budget resolution, which was adopted by the Senate on March 17, 2005, a reserve fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(5) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 costs for ongoing military operations in Iraq and Afghanistan could total $65,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 that was submitted to Congress under section 1105(a) of title 31, United States Code, setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

(c) ADDITIONAL REQUIREMENTS FOR CERTAIN REPORTS.—(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

(2) The provisions of law referred to in this paragraph are as follows:

(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I rise to speak about immigration and the issue that will be before us for two very important votes tomorrow. My colleague from Alabama is also in the Chamber. I will take the allotted time under the unanimous consent, and then I think he wants to spend more time on these issues.

What I find very fascinating is that everyone who has come to the Senate floor this afternoon to talk about immigration agrees that our country is in near crisis at this moment for our inability to control our borders, to stem the tide of illegal movement into our country, and to fashion comprehensive or targeted immigration law that effectively works. Simply put, our Federal Government has to do better. It has to move faster in improving our border security and meeting this phenomenally large and important issue of illegal immigration.

Congress is no further along today on a comprehensive bill than it was a year ago at this time when my bill, the AgJOBS bill, had a thorough hearing before the Judiciary Committee. It is now well over 1,300 days since we woke up after 9/11 with thousands of our country men and women dead and a phenomenal frightening awakening on the part of the American people that there were millions of undocumented foreign nationals living in our country.

As I said earlier, while most of them are law-abiding, are here to work, and are extremely hard-working people, we found out tragically enough that there were some here with evil intent, and we began to control our borders. I think that is why Congress then again started beefing up border patrol and buying high-tech verification systems for the Department of Homeland Security, and that is why, whether one agrees on the specific methods or not, the House of Representatives just attached to the legislation we are talking about this afternoon a national driver's license standard and asylum changes, those seeking asylum in our country, in the so-called REAL ID provisions to the Iraq supplemental. That is why I have supported a Byrd amendment on this bill to take money away from certain portions of this bill that are not immediately necessary for our troops for their security and allow our border security to hire more investigators and enforcement agents to boost up that whole area we are so concerned about.

That is why I am cosponsoring a bill that helps States deal with undocumented criminal aliens. We must get it right everywhere if we are going to reinstate in our country secure borders and functional immigration law. That is why I have worked for the last good number of years on AgJOBS. We talk about it here today. What does it mean? It means Agricultural Job Opportunities, Benefits and Security Act. That is why we are on the floor of the Senate today.

Some would argue we ought to be doing the Iraqi supplemental because it is urgent. None of this money is immediately necessary in Iraq. The House took 2 months to craft it. We are going to take a few days to pass it. But I must tell you as I have before, I believe the crisis in immigration today is every bit as significant. No matter the money we pour along the borders, still our borders are not under control, especially our southern border.

Senator KENNEDY came to the floor a few moments ago to give a very comprehensive analysis of how he and I, and now over 500 groups, have come together to try to resolve the issue of immigration, specific to American agriculture. Those are the issues at hand at this moment. We are not in any way obstructing the process. This afternoon could have been filled with amendments on the supplemental if those who have amendments would have been here to offer them. We are simply taking time in the debate. We will have those votes tomorrow. If Senators SAXBY CHAMBLISS and JON KYL do not get the necessary 60 votes, or I do not on these issues, they will be set aside. But they will not go away, because I do believe, as I think most Americans believe, somehow we have to get this right. Somehow it is necessary to do so.

I am committed to making this debate as brief as possible. That is why I agreed to a unanimous consent request to conform it and to shape it, but to allow a full and fair and necessary debate. As far as I am concerned, a thorough debate on AgJOBS does not need to take a multiple of days or months. Every Senator knows this issue. Every Senator knows his and her constituents are upset at this moment because somehow Congress has failed to deal with this issue. I have received my fair share of criticism from some of my constituents for offering AgJOBS. I smiled and said: You sent me to work in Washington to solve a problem. I brought the solution to that problem. I believe it is the right one. No one else, except for those this afternoon, has brought a second solution. I welcome all Senators to get involved in this debate and understand the issues. But most importantly, we cannot do what past Congresses have done or what we have done for the over 1,300 days since 9/11, look over our shoulder and say: Oh, boy, that is a big problem; and, oh, boy, our borders are at risk and, yes, some of those illegals could be here to do us harm, but we can't seem to get our hands around it because it is such a complicated issue.

I do not dispute its complications. But I am frustrated that the Senate and the House have literally not been able to act. I believe the Senate has had enough time. As I mentioned earlier, we have seen this bill when it was before the Judiciary Committee. I think most of my colleagues know about AgJOBS. Yes, 63 Senators supported it last year. We are now nearly at 50 at this time. Clearly a large number do support it. I think that is extremely important that we do. It is so necessary that we move appropriately to solve this problem and solve it in a timely fashion. This now gives us an opportunity to do that.

As I said to my colleagues, I have worked on this issue with numerous communities of interest for nearly 5 years to craft what we believe is one of the best approaches to solving the problem, not only recognizing that illegals, the undocumented are a problem in our country, but once they are here, and if they are here illegally, how do we treat them? How does the agricultural economy provide for them and respond to them while they are so necessary in that workforce? That is what is embodied in AgJOBS. It is not simply a threshold of how you transition through. It is in reality a major reform of the H-2A program.

Let's continue with this issue. I am going to stop at this moment. My colleague Senator SESSIONS is on the floor. I need to step away a few moments. I know he has important things to say—many that I agree with, but there are some I do not agree with.

Don't kick this ball down the field to another day. We look now at a comprehensive piece of legislation. It is very necessary we attempt to solve it now, get this Congress involved, and tell the American people we hear them, we know our national security is at risk, and in this instance our food security is at risk. We need to solve a very important problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Idaho. Senator CRAIG is one of my favorite Members of the Senate. We agree on many things. We have not agreed on this one.

Yes, I think we all understand we are dealing with a broad, important, and complex issue. It does require us to give it some thought. But the point of the matter is we are being asked to vote on AgJOBS tomorrow. People are going to have to cast a vote on this bill. I urge you not to vote for this legislation, because it should not be on the Defense supplemental and, second, because it is flawed, seriously flawed. It is not consistent with what I think are the views of most Members of Congress or the American people on how we ought to handle this matter.

I mentioned briefly earlier how the process toward amnesty works in this legislation. I would like to refer to this chart. I think it makes the point rather simply. I do not think it is disputed.

You have people who came here illegally. Perhaps they are in the country, perhaps they have already gone back to their home country, but they have violated our law by coming here, both in coming here and in working illegally for some firm or company.

If they have done that and if, within 18 months of December 31 of last year, 2004, they have worked 100 workdays—and they have defined a workday in the act as 1 hour, so that could be 100 hours of work—they earn what the proponents of this legislation say they are earning: their right to be here.

They are being paid for this, presumably. They didn't come here to work for not being paid. They came for a salary they are willing to accept. They work here for 100 hours. Then they become a lawful, temporary resident. Then all of a sudden someone who was here unlawfully is now converted to a lawful resident.

A number of things occur after that. If they have family here, a spouse or children—one, two, three, four, five, six—and that spouse or those children may have been here 6 weeks, the spouse and children are entitled to stay as long as the person who now has become a lawful, temporary resident; and within the next 6 years, if that person is employed in agriculture for 2,060 hours—the average worker works about 2000 hours a year, so that would be about 1 year out of 6, being paid for this—they have therefore earned legal permanent resident status. That is pretty significant, legal permanent residency, because if you become a legal permanent resident, then you are no longer an indentured servant. You are not required to work in agriculture. You can work on any job you want.

It might be this court reporting job right here.

I don't know what they want to work on. They became a legal, permanent resident. They can wait for 5 years, and then they are virtually guaranteed a citizenship unless they are convicted—charged, convicted—of a felony or convicted of three misdemeanors. A misdemeanor can be a pretty serious offense sometimes.

I am not sure we want somebody to want to come here to commit a bunch of misdemeanors. You don't usually get caught for all of them. People do things and half the time they do not get caught at all. If you catch a victim twice on a misdemeanor, that can be very serious.

Then they are given citizenship.

By the way, if their children are not here, have never been here, and they became a lawful, permanent resident, they can send for them—one, two, or five members. They can come on down and be a part of the United States and be on the road to citizenship, even though maybe that was never the intention. Maybe it was never the intention, to begin with, for their family to come here.

Mr. CRAIG. Mr. President, will the Senator yield?

Mr. SESSIONS. Yes.

Mr. CRAIG. The Senator is making a very interesting point. Has the Senator looked at the Bureau of Labor Statistics' numbers of those they believe—if the law were passed—are AgJOBS eligible?

Mr. SESSIONS. About a million.

Mr. CRAIG. About 500,000 is what they estimate. When you do all of the very thorough background checks we have within it that are consistent with immigration law today, they figure a certain number would fall out, and then there are the wives and dependents. A very large number of these are not married. They have no immediate family—about 200,000 more. It is reasonable to say the Department of Labor is looking at a total number of workers, spouse, and dependents of upwards of possibly 700,000. I know millions and millions are talked about. I believe that is unrealistic based on the Bureau of Labor Statistics.

Does the Senator disagree with those figures?

Mr. SESSIONS. I will say it this way: I will say it is very likely to be a million.

Mr. CRAIG. Based on what figures?

Mr. SESSIONS. Close to a million, if you take the figure of 700,000. I am not sure we have thought it through.

The Senator, I believe—who was here in 1987 when the 1986 amnesty was passed—would admit that the estimate of how many people would take advantage of it was very low. In fact, I believe three times as many people took advantage of that amnesty as the estimators estimated. It could happen here. I don't know.

Mr. CRAIG. I don't disagree with that. But the criteria was entirely different. If I could be so kind, I think my colleague is mixing apples and oranges and getting an interesting blend of a new juice. An earned status approach has never been used before. The full background check, and the thoroughness of that background check as we anticipate in this legislation, is only used when you have a legal immigrant standing in line. In fact, our law is more stringent for illegal than it is for the legal immigrant because they can get the misdemeanors. We say, if you get a misdemeanor with 6 months' incarceration, that is pretty serious. The Senator from Alabama is an attorney. Would he agree with that? They are out of here. There is a much different criteria when you start comparing the total numbers. That is why I think they would be different.

Mr. SESSIONS. The act says three convictions of misdemeanors. The Senator is right. It can be up to 6 months or a year.

Mr. CRAIG. Then they are deported.

Mr. SESSIONS. Not if there are two convictions.

Mr. CRAIG. That is correct. That is the current law. That is what current law says for the illegal immigrant.

Mr. SESSIONS. It is in the legislation.

Mr. CRAIG. It is in the law.

Mr. SESSIONS. For those here illegally and want amnesty to be given even though they have already violated immigration laws.

Mr. CRAIG. I thank my colleague for yielding. What is important is the bill be read very thoroughly. Extrapolations can be made. But when it says 100 hours of work, I think it is important to assume you would only work 1 hour a day for 100 days. That is not a very logical process.

I thank the Senator for yielding.

Mr. SESSIONS. I agree with the Senator on that. I will disagree with the concept that somehow, by working here, coming here, and getting a job you wanted to get when you came, that that is somehow earning something, if you did it illegally. You are getting what you wanted, which was pay for the work.

That is what I would point out. Then, a family would be automatically eligible to come into the country. I don't think there is any dispute about that.

If a person came here illegally, if they worked here 18 months and met those qualifications of 100 workdays, or 565 hours. I believe—either way, it is not very much—they can come even though they are not here now. In other words, if they did that illegally, worked here and for some reason went back home, then they are getting a letter from Uncle Sam saying, By the way, we know you violated our law but we are in a forgiving mood. You can come on back and join the process toward citizenship and bring your family, too.

I am not sure that is what we want to do. I don't think it is what we want to do. That is the fundamental of this legislation.

I think that is what you call amnesty. Not only does it give the person what they wanted in terms of being able to come into the country and get a job and be paid, that puts them on a track—unless they get seriously conflicted with the law—to be a permanent resident and then even a citizen, and their children and family can be on that same track.

That is a big deal. That is what I am saying. It is not something we need to be rushing into on this legislation today.

Under section 101(d)(8), entitled "Eligibility for Legal Services," it is required under the act that free, federally funded legal counsel be afforded, through the Legal Services Corporation, to assist temporary workers in the application process for adjustment to lawful permanent resident status.

American workers are not always available for that. They have to meet other standards such as need and that sort of thing.

Also, the act gives several advantages to foreign workers not provided to American workers. Look at this.

Section 101(b), rights of aliens granted temporary resident status.

Right here—temporary resident status.

Terms of employment respecting aliens admitted under this section. A, prohibition.

Quoting:

> No alien granted temporary resident status under subsection A may be terminated from employment by any employer during the period of temporary resident status except for just cause.

Then they set up a big process for this. There is a complaint process. The subsection sets out a process for filing complaints for termination without just cause. If reasonable cause exists, the Secretary shall initiate binding arbitration proceedings and pay the fee and expenses of the arbitrator. Attorneys' fees will be the responsibility of each party. The complaint process does not preclude "any other rights an employee may have under applicable law."

That means they could file under this process for unjust termination and hire a plaintiffs lawyer and sue the business for whatever else you want to sue them for.

> Any fact or finding made by the arbitrator shall not be conclusive or binding in any separate action—

That is the action filed in the court by plaintiffs' lawyer—

> or subsequent action or proceeding between the employee and the employer.

I submit to you, by the language of this statute, it would appear they intend for that to be admissible, if not binding. It says not binding but the implication would be it would be admissible.

This means an employer cannot allow that arbitration proceeding to go without an attorney. He will have to hire an attorney and go down there because things will go wrong and that will be used against him in any civil action that might take place. They have to pay counsel in both places.

This section will override State laws in America. In Alabama, unless you enter into a contract that states otherwise for employment, your work for an employer is at will. Contracts of employment at will mean just that: it is the will of either party. Employees can quit at will and employers can terminate at will, with cause or without cause, and for no reason, good or bad reason.

That is the way I think it is in most States. Certainly that is true in my State. This provision will mean illegal aliens who file for amnesty under the AgJOBs amendment, after coming here illegally in violation of our law, are guaranteed to have a job unless they are terminated for just cause. If the AgJOBS amendment passes, employers of aliens given amnesty will be subject to forced and binding arbitration regarding the termination of the alien, and they will have to cover their legal bills for the defense in arbitrations even if the arbitrator finds they had just cause to terminate the alien.

I suggest what we are about here is a provision for greater protection for a foreign worker, one not only who is foreign but who previously violated American law. If you were an employer and you need to lay off one person, and you have two working for you, and one would have the ability to take you through arbitration and argue that you did not have just cause, and the other one had no such rights, you might fire the American citizen first, not the foreigner.

There is another provision I will talk about later that deals with the filing of the application. The Senator says they will be doing background checks. I see nothing in here that provides for background checks. It requires an application to be filed to become a temporary resident. Get this: It can be filed with two groups who are called "qualified designated entities." That can be an employer group who wants workers to come here to work for them, or a labor group. And they are qualified entities. The application is filed with them.

It prohibits giving the application to the Secretary of Homeland Security unless a lawyer has read it first. It says the entities that receive this application cannot give it to the Secretary unless they are conducting a fraud investigation. How would they know to conduct one if they haven't seen the documents? It might be fraudulent.

It is a rather weird idea, is antigovernment, and seems to be far more concerned with protecting an applicant who may be committing fraud than protecting the security and the laws of the United States.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I would like to express my opposition to the AgJOBS bill as it is currently drafted.

This is a very complicated bill. It is a magnet for illegal immigration. It has not been reviewed by the Judiciary Committee. We do not know how many people would be affected by it.

Rather, it has come to the floor as an amendment to the supplemental appropriations bill.

This is not the place for this bill. I believe it is a mistake to pass this bill on an emergency supplemental that is designed to provide help for our military, fighting in extraordinary circumstances.

That is why I cosponsored an amendment with Senator CORNYN saying that the place to do these amendments is through the regular order, beginning in the Immigration Subcommittee of the Judiciary Committee. This amendment passed by a vote of 61 to 38.

And that is why I will vote against cloture on the AgJOBS bill and on the other complicated immigration amendment, the Chambliss-Kyl amendment.

If, however, cloture is invoked, then I plan on offering several amendments that I believe will improve the bill.

If these amendments are approved by the full body, or are later incorporated into the bill through an appropriate Judiciary Committee markup, then I would be prepared to support the bill.

But otherwise, it is my intention to vote against the bill. I simply cannot support the bill in good conscience as it is.

I believe the bill as drafted is a huge magnet. The Judiciary Committee has not had a chance to review it, amend it, mark it up. And it does not belong on a supplemental appropriations bill.

We know that people come to this country illegally.

They come for many different reasons. Some out of fear of persecution, some for work, all for opportunity.

In 2000, it was estimated that there were 7 million unauthorized aliens in this country. And by 2002, this number had grown to 9.3 million. These are Census numbers reported in the CRS Report on Immigration, updated 4/08/05.

In agriculture, approximately 1.25 million, or about 50 percent of the agricultural work force, are illegal workers—600,000 of whom live and work in California. These numbers are from the Department of Labor.

Many of these workers have been here for years, have worked hard, brought their families here, and have built their lives here.

With respect to agricultural work, I know that it is extraordinarily difficult, if not impossible, to get Americans to work in agricultural labor.

I did not believe it. Several years ago we contacted every welfare office in the State. And every welfare office in the State told us that once they put a sign up, no one responded.

So I think it is the right thing to do to give the workers who have been here for a substantial period of time, who have been working in agriculture, who have been good members of society, and who will continue to work in agriculture, a way to adjust their status.

What I do not support is creating a magnet that draws large additional numbers of illegal immigration. Not only would this have a detrimental effect on our society, but it would harm the people we are trying to help through this bill.

Here is why: An influx in illegal immigrants would flood the labor market, make jobs more difficult to find, and drive down wages.

For those of you who doubt the magnet effect, you have only to examine what happened when President Bush announced his guest worker proposal early last year.

Despite the fact that the President's proposal had no path to legalization, the mere announcement of the proposal fueled a rush along the Southwest border.

The Los Angeles Time on May 16, 2004, reported: "detentions of illegal immigrants along the border . . . have risen 30% over the first seven months of the fiscal year, a period that includes the four months since Bush announced his plan."

Similarly, the San Diego Union Tribune on January 27, 2004, reported: "U.S. Border Patrol officials report a 15 percent increase in the use of fraudulent documents at the world's busiest land border crossing [San Ysidro]. And more than half of those caught using phony documents say the president's offer of de facto amnesty motivated them to attempt to sneak into the United States."

Does anyone doubt that this increase was related to anything but the President's proposal? Of course not.

When I raised the concern with the authors of the legislation, that this legislation would be a magnet that would attract large numbers, they seemed to believe that the fact that the bill only applies to those who were in this country and working in agriculture as of December 31, 2004, would be sufficient to deter people from illegal entry.

I do not believe that is the case. I think people will see that they only need 100 days of work to qualify for temporary residence: they will not be deterred by the operative date, and will say, "I'll find a job, work 100 days, and then I'm legal and can bring my family."

The first two of these amendments I would like to offer would increase the time someone must demonstrate he or she has been in the United States working in agriculture in order to qualify for temporary and permanent residence.

This would discourage others from coming to this country, and help those who have been here for many years.

Here is what the first amendment would do. In order to qualify for temporary residence, workers would have to demonstrate that they have worked for at least three years in agricultural work prior to December 31, 2004.

For each of the 3 years, the worker would be required to show 100 workdays, or 575 hours, per year in agriculture.

Here is what the second amendment would do. In order to qualify for permanent residence, a green card, workers would have to show that they have worked at least 5 years in agricultural work following enactment of the bill. For each of the five years, the worker would again have to demonstrate 100 work-days, or 575 hours, per year.

So by extending the length of time a worker needs to have worked both in the past and the future, these amendments reduce the incentives for more illegal immigration.

The next amendment addresses another major concern that I have.

The bill currently allows someone with one or two misdemeanor criminal convictions in the United States to apply for temporary residence or a green card. I think this is a mistake.

So the amendment I am offering strikes this language and ensures that those with criminal records do not qualify for benefits—if they have even one criminal conviction in the United States, or anywhere.

I believe that no one who has a criminal conviction should be the recipient of temporary residence or a green card under this program.

Misdemeanors include petty theft, simple assault against persons, driving under the influence, certain drug offenses, and misdemeanor battery.

In some States, they include cases of child abuse or domestic abuse, public assistance fraud, or abandonment of a child under the age of 10.

I do not believe we should allow anyone to apply for a benefit as significant as a green card under this bill if they have committed any crime, let alone the two misdemeanors that the bill currently allows.

The final amendment I am offering would prohibit workers who are living outside the United States from applying for temporary residence under this bill.

The bill allows those living in other countries to apply for benefits under this bill—as long as they can demonstrate the appropriate time spent in agricultural work in the United States prior to their departure from this country.

This means that someone could come to the United States illegally, work here illegally, return to their home country, and still apply for a green card under this bill. This simply makes no sense.

If we are going to give agricultural workers a way to adjust their status, let us limit it to those who are living and working in this country.

California is the No. 1 agriculture-producing State in the Nation.

I recognize that this status is based on the hard work of people who have been living on the edges of our society, living in fear, and constantly worried about being removed from this country.

It is time for the Government to recognize that these people have made a substantial contribution to our country and offer them a way to adjust their status.

Remember, there are already 1.25 million agricultural workers here illegally, 600,000 in California.

These amendments would concentrate on their adjustment of status, thereby moving the workers and their families from the shadows and allowing them temporary, and subsequently, permanent legal status.

But I think that we have to be careful in how we proceed—if we do it the right way, we can help those who have been working in agriculture for many years and who have been good, upstanding members of society.

These are the people we should be trying to help: They have children, many of whom are born here and are U.S. citizens. They have paid taxes. Some have bought homes. They have worked hard for everything they have gotten. They have been good, productive members of society.

But if we do it the wrong way—we will actually cause great harm to the agriculture workers who have been here for years—we will create a magnet, flooding the borders, pushing down wages, and making it more difficult to find work.

These are simple, commonsense amendments.

As I said before, I would have preferred to do this in committee where we could have the time necessary to consider such complicated legislation.

But if we are to pass an agricultural workers bill, let it be one that helps those who have contributed to our society and one that will not cause great harm to our Nation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I was looking on our desks at the bill that is actually supposed to be the subject of this debate. It is 231 pages long. It provides an emergency appropriation to help pay for our ongoing global war on terror. I remind my colleagues that is the stated purpose for this Senate time.

Indeed, last week 60 of my colleagues joined me in saying that national security demands the passage of this bill unencumbered by a premature debate on immigration reform.

Listening to our colleague from Alabama and others who have spoken to this subject, we are getting a better sense of how complicated this issue is and why it is so important, as 61 of us said last week, that we proceed with this emergency appropriation for the ongoing global war on terror and reserve enactment of comprehensive immigration reform for a few months hence, after we have had a chance to go through the appropriate committees of the Congress, the Subcommittee on Immigration, Border Security, and Citizenship that I chair in the Judiciary Committee. Chairman SPECTER of the full committee has promised an expedited markup once we are able to go through the regular order and develop a comprehensive plan.

Notwithstanding the sense of the Senate by 61 Members that we should not engage in this premature debate and risk bogging down this important bill to provide financing to our troops in the battlefield, here we are.

What is it that the problem of this bill, the so-called AgJOBS amendment, seeks to fix? I suggest it does not purport to fix our porous borders. It does nothing to provide additional resources to our beleaguered Border Patrol and others who are doing the very best they can to try to secure our borders. We know not only do people come across those borders to work, but the same people who will smuggle those workers across the border are the same people who can smuggle terrorists or criminals or others who want to do us ill across those borders. So AgJOBS, just so everyone understands, does not purport to deal with that problem.

Does this bill purport to deal with another glaring deficiency we have; that is, a lack of detention facilities for those people our Border Patrol do catch and detain at the border so we do not have to continue in what is sometimes called a catch and release program where detainees, people who cross illegally are detained but because we do not have adequate facilities are released and they merely try again, and perhaps try and try and try until they finally make their way across the border and into the interior of the United States and simply melt into the landscape? This bill does not have anything to do with that. It will not fix that problem. Nor does this bill provide additional resources and equipment to our Border Patrol who, as I indicate, are outmanned and underequipped.

This AgJOBS amendment, nor the alternative offered by Senator CHAMBLISS and Senator KYL, does not purport to deal with the problem of 40 percent of the illegal immigration in this country coming from overstays. By that I mean people who come here legally on a student visa or a tourist visa or some other short-term legal authorization but simply blow past that deadline and, here again, become part of that population estimated to be somewhere on the order of 10 million people—although we really do not know—who are currently living in the United States outside of our laws. This bill does not purport to even address that.

It does not do a better job of helping identify who is in our country and why they are here, why they chose to come outside of our laws and live in the shadows. It does not help us do a better job of identifying them and asserting what their purposes are in our country—whether they are criminals, whether they are potential terrorists, or whether they are people coming here simply to work.

This AgJOBS bill also does not deal with the difficulty involved with employers who want to try to ascertain the legal status of their workforce. It does not help them by providing them a database of workers who are lawfully in the country and who are authorized to accept employment. So employers have to persist in doing the best they can in trying to fill the jobs that go wanting for lack of workers by hiring people they perhaps do not know but would have to admit, perhaps in private conversations, are people who are here illegally outside of our laws. This bill does not help them one bit. This bill does not provide a database of workers who are actually authorized to work and who are legally present in the country.

My point is, there are a lot of problems that confront our national security, a lot of problems that confront our immigration system that need to be addressed that are not addressed in this legislation. To the contrary, rather than trying to address immigration reform comprehensively, rather than trying to improve our border security, our homeland security, by knowing who is in our country and why, rather than providing us a better means of identifying those who, although they begin in this country legally, overstay their time and become part of the population that is here illegally, rather than help employers, this bill does none of that. Instead, what it does is it deals with one segment of the industry that has grown to depend on undocumented workers, and that is the agriculture industry.

While I am sympathetic to their concerns, the problem is that it is only one of the industries that relies on undocumented workers. You could as easily file a bill and rather than call it an AgJOBS bill, you could call it a restaurant workers bill, or a residential construction workers bill, or a hotel workers bill, or any one of the number of different industries that has, over time, grown to depend on approximately 6 million people who constitute the illegal workforce currently in the United States.

This bill does not purport to deal with any of those other industries and thus chooses one over the other in a way that I think violates one of the fundamental principles of American law, and that is that persons similarly situated ought to be treated as equally as possible and not in any favorable or discriminatory fashion.

So I think this bill, as premature as it is, as well intended as it may be, does not help us solve a lot of the problems that can only be addressed by comprehensive immigration reform. It actually does harm by violating some of our basic principles of equal justice under the law. It is important we deal with these problems.

I failed to mention one of the problems is we have approximately 400,000 absconders present in the country now and we simply do not have the adequate human or other resources necessary to find out where they are and to show them the way out of the country. Among these absconders, unlike the rest of the population I mentioned, the some 10 million people, are individuals who have been convicted of serious crimes, about 80,000 of them, and who simply have melted into the landscape. As I say, we have about 400,000 absconders, including those 80,000, the difference being those who have simply exhausted all means of appeal and review in our immigration system, who are under final orders of deportation, but who, rather than be deported, have simply gone underground. Here again, this is another issue this bill does not deal with that comprehensive immigration reform would and that we should.

What I fear will happen, because it may be tempting to try to fix our immigration problems on a piecemeal basis, is piecemeal solutions and efforts will risk undermining the larger effort and the need to enact comprehensive reform. Indeed, I would venture a guess that if the AgJOBS bill were successful, or even if the alternative offered by the Senator from Georgia and the Senator from Arizona were to be successful, there would be many in this Chamber, and perhaps around this country, who would say: OK, now we have finished that job. We do not need to look at any further immigration reform.

The only problem with that is they would be wrong, given the glaring problems that do exist in our country and the challenges to our national security and our ability to look ourselves in the mirror and say, yes, we are a nation of laws, when, in fact, we have such lawlessness existing among us for any one of us to see, if we take the time to look at it.

Well, besides dealing with one industry, the AgJOBS bill also has some very troublesome provisions which I think undermine its claimed status as a temporary worker provision. Indeed, an estimated 860,000 illegal alien agricultural workers could qualify, and it also permits them to bring their spouses and children, which could bring the total number of AgJOBS beneficiaries to as many as 3 million people.

Now, the interesting thing about that is it does not stop at the people who are already here who came into the country in violation of our laws. Another startling provision of this bill actually invites back to the United States certain aliens who were here illegally and who performed the requisite 100 hours of agricultural work between July 2003 and December 2004 but who have already left. These aliens would be allowed, under this AgJOBS bill, to drop off a "preliminary application" at a designated port of entry along the southern land border, pick up a work permit, and reenter the United States.

So not only are we dealing with people who are here now but people who were here illegally and who have left. We are now saying: Come on back and pick up a work permit and reenter this pathway toward full American citizenship ahead of all of the other people who are playing by the rules and waiting in line. That is wrong.

Another provision of this bill which I have some concerns about is entitled "Eligibility for Legal Services," which requires free, federally funded legal counsel be afforded—that is, paid for—by American taxpayer dollars through the Legal Services Corporation to assist temporary workers in the application process for legal permanent residency.

Not only does this bill deal with a specific industry and ignore the rest of the industries that have come to rely, in significant part, on undocumented workers, this invites into our country the spouses and children of these workers—a total of some 3 million people potentially. And these workers, of course, will not be here temporarily if they are essentially setting up home in the United States.

There is a difference between an approach that says we will set up a framework for people to come and work but then return to their country, which is truly a temporary worker program, and one such as this which says, don't just work and return, but work and stay and break in ahead of the line of all the other people who have applied to come to this country legally, even though you have chosen to do so otherwise. Beyond that, we are going to provide you with a free lawyer.

I think it is not a stretch to say the AgJOBS bill will invite even more lawsuits since it expands the ability of the Legal Services Corporation to sue growers in several areas.

The reasons the current provisions of the law which deal with agricultural workers have been unsuccessful are, No. 1, because the caps are set too low and, No. 2, because it has become so bureaucratic and burdened by regulation that it basically is not a viable alternative for the agricultural industry, and growers have come to expect excessive litigation as a result, which this AgJOBS bill would do nothing to fix but would aggravate.

Let me speak briefly about the bill Senators KYL and CHAMBLISS have offered today. It does compare favorably with some of the provisions in the AgJOBS bill because it does not provide for amnesty. It does not provide a path to U.S. citizenship automatically ahead of all of the other people who have played by the rules and who have applied in the regular course of our laws. It has many of the same failings I mentioned earlier about being a partial solution to a real and comprehensive problem.

I hope my colleagues will recall the vote they cast just last week, when 61 of us voted on a sense of the Senate to say that this appropriations bill, providing emergency funds for the warfighters, the people risking their very lives to defend us in the global war on terrorism, ought to take the front seat and that we ought to reserve comprehensive immigration reform to a later date and not slow this bill down because of that.

Having not resisted the temptation to get embroiled in an immigration debate, I hope our colleagues will listen carefully to the half solutions and the special interest legislation this represents. I don't begrudge employers who need workers from trying to find a legal solution to that. I am for doing that but on a comprehensive basis, not just an industry-specific basis and particularly not on a basis that provides additional benefits to these workers in the form of amnesty that they would not otherwise be entitled to and denies other people equal opportunity to participate in a temporary worker program.

As complicated as this issue is and as important as the debate is, now is not the time to be engaging in it. Certainly now is not the time to pass a partial solution which will undermine our ability to get comprehensive immigration reform done.

It is my distinct impression that there is a big difference between the thinking on the part of the advocates of the AgJOBS bill in this Chamber and our colleagues on the other side of the Capitol. Realistically, as part of this emergency appropriations bill, to get the warfighters what they need in order to do the job we have asked them to do and which they volunteered to do, I cannot see the other Chamber agreeing to this ill-considered and premature immigration legislation at this time.

I urge my colleagues to vote against both the AgJOBS bill, to vote against the alternative offered by the Senators from Georgia and Arizona, but at the same time to say, you are more than welcome, as we work together for comprehensive reform, to work with us. We will try to meet you halfway in working out a consensus on this very tough and complex but important issue that should not be handled in the way they have proposed to handle it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 429

Mr. ISAKSON. I ask unanimous consent to temporarily set aside the amendment, and I ask that we call up amendment No. 429.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 429.

Mr. ISAKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of April 14, 2005 under "Text of Amendments.")

Mr. COCHRAN. Mr. President, I ask unanimous consent that at 5:30 today the Senate proceed to a vote in relation to the Byrd amendment No. 464, with no second-degree amendments in order to the amendment prior to the vote. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, given the pending time prior to the vote we will have in a few minutes, I ask unanimous consent to address the Senate as in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ISAKSON are printed in today's RECORD under "Morning Business.")

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 464

The PRESIDING OFFICER. The question is on agreeing to amendment No. 464 offered by the Senator from West Virginia, Mr. BYRD.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. The following Senators were necessarily absent: the Senator from Missouri, (Mr. BOND), the Senator from Montana, (Mr. BURNS), and the Senator from Kentucky, Mr. MCCONNELL.

Further, if present and voting, the Senator from Montana (Mr. BURNS) would have voted "nay."

Ms. STABENOW. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Illinois, (Mr. DURBIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Illinois (Mr. OBAMA), are necessarily absent. I further announce that, if present and voting, the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) would each vote "aye."

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 31, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—61

Akaka
Allen
Baucus
Bayh
Bennett
Bingaman

Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Coburn
Coleman
Collins
Conrad
Corzine
Craig
Crapo
Dayton
Dodd
Dorgan
Feingold
Feinstein
Hagel
Harkin
Hatch
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thune
Voinovich
Warner
Wyden

NAYS—31

Alexander
Allard
Brownback
Bunning
Burr
Chambliss
Cochran
Cornyn
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
Murkowski
Roberts
Santorum
Sessions
Shelby
Thomas
Vitter

NOT VOTING—8

Biden
Bond
Burns
Durbin
Kerry
Landrieu
McConnell
Obama

The amendment (No. 464) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, the Senators from Illinois, Mr. DURBIN and Mr. OBAMA, are necessarily absent today to attend the dedication and opening of the Abraham Lincoln Presidential Library and Museum in Springfield, IL.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside so I might call up the amendment at the desk, No. 463.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 463

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 463.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a quarterly report on audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan and to address irregularities identified in such reports)

On page 169, between lines 8 and 9, insert the following:

AUDITS OF DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN

SEC. 1122. (a)(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of the Defense Contract Audit Agency, shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives a report that lists and describes audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan.

(2) The Secretary of Defense shall identify in the report submitted under paragraph (1)—

(A) any such task or delivery order contract or other contract that the Director of the Defense Contract Audit Agency determines involves costs that are unjustified, unsupported, or questionable, including any charges assessed on goods or services not provided in connection with such task or delivery order contract or other contract; and

(B) the amount of the unjustified, unsupported, or questionable costs and the percentage of the total value of such task or delivery order contract or other contract that such costs represent.

(3) The Secretary of Defense shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives an update of the report submitted under paragraph (1) every 90 days thereafter.

(b) In the event that any costs under a contract are identified by the Director of the Defense Contract Audit Agency as unjustified, unsupported, or questionable pursuant to subsection (a)(2), the Secretary of Defense shall withhold from amounts otherwise payable to the contractor under such contract a sum equal to 115 percent of the total amount of such costs.

(c) Upon a subsequent determination by the Director of the Defense Contract Audit Agency that any unjustified, unsupported, or questionable cost for which an amount payable was withheld under subsection (b) has been justified, supported, or answered, as the case may be, the Secretary of Defense may release such amount for payment to the contractor concerned.

(d) In each report or update submitted under subsection (a), the Secretary of Defense shall describe each action taken under subsection (b) or (c) during the period covered by such report or update.

Mr. BYRD. Mr. President, with this supplemental appropriations bill, Congress will have appropriated $300 billion for military operations and reconstruction activities in Iraq and Afghanistan. That is an enormous sum of money. We say it is for the troops in the field, for armor, weapons, equipment, and other mechanisms necessary to wage a war. But a significant portion does not make it to the troops. Much of it goes to defense contractors, corporate giants such as Halliburton that profit from the military operations and defense expenditures of the U.S. Government.

Halliburton reportedly has been awarded $11 billion in Iraq contracts. The war in Iraq may symbolize a time of sacrifice for American families, but for some—not all but for some—defense contractors, the cold, hard truth is that Iraq has become an opportunity to reap an enormous profit from American's decision to send America's sons and daughters into war. It is incumbent upon the Congress to be diligent in how these moneys are allocated to defense contractors. It is incumbent upon the Congress to be thorough in its oversight and to be meticulous in its accounting.

The administration has submitted five emergency supplemental spending bills for Iraq and Afghanistan. The size of these supplemental requests is massive, exceeding $80 billion this year, $25 million last year, and $160 billion the year before that. Most of these costs are being considered outside the checks and oversight of the regular budget and appropriations process. It is a confusing and, at times, a beguiling process that results in enormous sums of money flowing to contractors in Iraq, oftentimes without adequate oversight. Such a process invites waste, abuse, and fraud.

I don't belittle the role of defense contractors in Iraq. I belittle the circumstances that the administration has fostered. I belittle the suspicion that this administration has created by veiling its contractor negotiations in secrecy, and the whirlwind of allegations of misconduct and fraud that the administration has invited by not sharing information with the people of the United States, the American public.

The American people have good reason to question the costs emanating from contractors in Iraqi oil fields and Iraqi communities.

Three separate Government auditors have criticized contractor waste in Iraq. Government investigators point to unsubstantiated costs and to sloppy accounting. Fortune magazine's analysis of Government reports found $2 billion of unjustified or undocumented charges. The Pentagon's Defense Contract Audit Agency has cited inadequacies and deficiencies in contractor billing systems, along with unreasonable and illogical cost justification. The Wall Street Journal reports that Pentagon auditors are investigating whether Halliburton overcharged taxpayers by $212 million for delivering fuel to Iraq.

Questions have arisen in the House of Representatives about why these costs had been concealed from international auditors. The Government Accountability Office has cited the risks of inadequate cost controls for contractors in Iraq. The Coalition Provisional Authority's inspector general cited millions of dollars in overcharges from Halliburton employees indulging themselves at the Kuwait Hilton. Imagine U.S. soldiers in the field forced to survive on military rations and suffering the unbearable heat of the desert while Halliburton employees enjoy the breakfast buffet in an air-conditioned Hilton.

The House Government Reform Committee reported hundreds of millions of dollars in waste by some contractors. A glance at the committee Web site reveals tens of millions of dollars in questionable charges—task order after task order showing $86 million in unexplained charges, $34 million in unsupported costs, $36 million in unjustified expenditures, and so on and so on. Incredibly, the Defense Department—your Defense Department, my Defense Department—is paying these charges, even though their own auditors are telling them that the charges are unjustified.

One example reported in the Wall Street Journal: Halliburton's Kellogg, Brown & Root charged taxpayers for dining facility services in Iraq and Kuwait. Pentagon auditors flagged $200 million of unsupported costs—that is a lot of money—$200 million of unsupported costs, but the Defense Department released $145 million in compensation to Kellogg, Brown & Root despite auditors' reservations and despite Halliburton's inability to justify the charge.

It is the taxpayers—you people out there watching through those lenses, those electronic lenses, watching the Senate floor, I am talking about you—it is the taxpayers, your constituents, Mr. President, my constituents, who are being charged for this tripe. It is they who must bear the costs of such rip-offs. It is your money.

Our constituents read in the newspapers how lucrative contracts are awarded without competition, how enormous rewards are handed to campaign donors. Mention the name Halliburton, and, as Fortune magazine quips, an image flashes in the public's mind of "a giant corporation engaged in shameless war profiteering—charging outrageous prices to provide fuel for Iraqis and meals for American troops."

Our constituencies, the people who send us here, are crying out for Congress to assume a stronger oversight role and to assure them, the people, that their moneys are being spent wisely. The amendment I have offered today does exactly that. My amendment requires the Defense Secretary to provide the Committee on Appropriations and the Armed Services Committee with a quarterly report that lists and describes questionable and unsupported contractor charges identified by Pentagon auditors for Iraq and Afghanistan. The amendment requires the Defense Secretary to withhold 100 percent of the payment for these charges and to assess a penalty by withholding an additional amount equal to 15 percent of the unsupported charge. If Pentagon auditors can verify the charges assessed by the contractor, that they are justifiable, then the Defense Secretary can release the payment.

My amendment is common sense. We ought not to be paying for services that have not been rendered. The American people ought not be paying for services that have not been rendered. The American people ought not be paying more than a fair market price. The American people ought not allow contractors to think they can hoodwink the American citizen and get away with it.

The American public is being asked to sacrifice to pay for this war. The President's budget cuts investments in education, in health care, in domestic priorities that impact every State of the Union in order to pay for these military and reconstruction activities. Congress ought to ensure—that is us—we ought to ensure that sacrifice is not wasted. We ought to slap the knuckles—and slap them hard—of any contractor, whether because of sloppy accounting or because of outright fraud, that results in the American taxpayer being bilked.

I urge my colleagues to support the amendment. I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask my distinguished colleague from West Virginia if it would be in order to lay the amendment aside so I can send to the desk another amendment.

Mr. BYRD. I have no objection.

AMENDMENT NO. 499

Mr. WARNER. Mr. President, I send amendment No. 499 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. NELSON of Florida, Mr. ALLEN, Mr. TALENT, Ms. COLLINS, and Mr. WARNER, proposes an amendment numbered 499.

Mr. WARNER. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the aircraft carriers of the Navy)

On page 169, between lines 8 and 9, insert the following:

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1122. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy by this Act, and by the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 954), an aggregate of $288,000,000 may be available only for repair and maintenance of the U.S.S. John F. Kennedy, and available to conduct such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(1) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(2) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to Congress that such agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers as are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

Mr. WARNER. I am joined by the distinguished Senator from Florida, Mr. NELSON, Senator ALLEN, Senator MARTINEZ, Senator TALENT, and Senator COLLINS. I am prepared to give my statement in support.

I see the Senator from Vermont.

Mr. LEAHY. Mr. President, if the Senator will yield, the Senator from California, Mrs. BOXER, and I are waiting to speak about the tragic death of Marla Ruzicka over the weekend in the form of eulogies. I don't want to interrupt the work of the distinguished senior Senator from Virginia, but when he is finished I am going to seek the floor—both Senator BOXER and I—to give the eulogies, which will not take a great deal of time, but they are important.

Mr. WARNER. I think the Senator is asking that he be recognized at the conclusion of the introduction of this amendment. Senator NELSON and I will be brief to accommodate our colleagues.

Mr. President, this amendment ensures that all necessary repair and maintenance be accomplished on the USS *John F. Kennedy* to keep that ship in active status. The amendment also requires the Navy to keep 12 aircraft carriers until the later of several situations comes to the attention of the Senate and the Congress: 180 days after the next Quadrennial Defense Review is delivered to Congress, or the Secretary of Defense has certified to Congress the necessary agreements have been entered into to provide the port facilities for the permanent forward deployed aircraft carriers deemed necessary to carry out the mission in their area of responsibility.

The ship, the USS *Kennedy*, was scheduled to start overhaul this coming summer. There was $334.7 million authorized and appropriated in the fiscal year 2005 for that purpose. So none of the funds in the underlying bill in any way are garnered by this amendment.

In the last-minute budget cut in late December, the decision was made by the Department of Defense to defer maintenance and to decommission the *Kennedy*.

The Chief of Naval Operations testified before the Senate Armed Services Committee on February 10 of this year that all 12 aircraft carriers were in his original budget request. He stated, however, that "this action was driven by guidance" from the office of Management and Budget that "led to the reduction of our overall budget."

That repair and maintenance should go forward, starting this summer as originally planned. It is premature to decommission this ship, which was until this past December scheduled to remain in the fleet until 2018.

The great ship, the *John F. Kennedy*, returned from deployment on December 13, 2004. I understand the ship is in good shape. In fact, in the words of the battle group commander, whose flagship was the *Kennedy*, the ship returned from deployment in "outstanding material condition."

The primary analytical document on military force structure is the Quadrennial Defense Review, or QDR. The QDR is, in the end, a compilation of detailed analyses of what the Nation requires to execute the National Military Strategy.

I believe Congress should show restraint when it comes to making force structure decisions, and only do so in the context of the reports and the analyses produced by the Department of Defense and such other reports that may be relevant. In this case, however, the analyses that are available to us supports a force structure of 12 aircraft carriers, not 11.

I also believe that, at some point, the number of aircraft carriers matters. If the aircraft carrier is not where the President needs it to be when a crisis erupts, its capabilities, however awesome, are not very meaningful.

The deliberations on the next QDR have already begun, in accordance with the law, and it should be delivered by this time next year. It may show, with analytical rigor, that the number of aircraft carriers can be reduced. It may not.

Nowhere is naval power more important to the National Military Strategy than in the Pacific Command Area of Responsibility.

After retirement of the USS *Kitty Hawk* in fiscal year 2008, the *Kennedy*, if retained, would be the last remaining conventional aircraft carrier.

This amendment ensures we have the aircraft carriers necessary to keep this area of the world covered until such time that the QDR, the Global Posture Review, and other uncertainties have been resolved.

I ask my colleagues to support this amendment.

Mr. President, the CNO appeared before our committee here of recent.

Now I will yield to my distinguished colleague from Florida, who was present during the course of that testimony, to insert that part which was in open session, which I think we should share with our colleagues. Mr. President, I see the distinguished Senator from Florida, my principal cosponsor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, because Senator LEAHY is waiting to speak, I will make very brief comments. The comments to which the distinguished chairman of the Senate Armed Services Committee has referred is the Chief of Naval Operations saying it is absolutely essential that he have a carrier home ported in Japan. The fact is, as he projects his forces in the defense of our country in the Pacific area of operations, he needs a carrier in that region so if it has to respond to an emergency, say, off of the coast of Taiwan, it is within a day and a half of sailing to respond to the emergency instead of a week's sailing from a port on the west coast of the United States.

Now, how all this ties in to the *John F. Kennedy* is that we do not know at this point that the Government of Japan—since so much of this decision is influenced by the municipal government in the region of the port—is going to receive a nuclear carrier. Therefore, when the present, conventionally powered carrier, the *Kitty Hawk*, in Japan, is ready to go out of service in 2008, if Japan's posture is they will not accept a nuclear carrier, then we do not have another one that could replace it.

So what the distinguished chairman of the Armed Services Committee is suggesting in this amendment that many of us are sponsoring with him is to keep alive the *John F. Kennedy* through its drydocking, with the funds that have already been appropriated, the $335 million, of which there are some $287 million left, to go on through the overhaul process so we have it as a backup.

This, of course, also keeps us then with two major ports for carriers on the east coast so that all of our east coast carrier assets are not in one port. In this era of terrorism, that clearly is one of the lessons we should have learned way back in December of 1941 in the experience of Pearl Harbor: Keep your assets spread out.

I am very grateful to Senator WARNER, who has offered this amendment for the sake of the defense of our country. And for the sake of those of us who have been working this problem, we are very grateful in order to get this in front of the Senate so a policy decision can be made.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SESSIONS. Will the Senator from Vermont allow me the opportunity to offer an amendment? I do not know how long he will be speaking.

Mr. LEAHY. Mr. President, am I correct that the Senator from Alabama only needs a minute or so?

Mr. SESSIONS. Less than that.

Mr. LEAHY. Mr. President, I will withhold my recognition so he can do that.

Mr. SESSIONS. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Alabama is recognized to offer an amendment.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 456

Mr. SESSIONS. Mr. President, I call up amendment No. 456.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 456.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for accountability in the United Nations Headquarters renovation project)

On page 183, after line 23, insert the following:

UNITED NATIONS HEADQUARTERS RENOVATION LOAN

SEC. 2105. (a) Notwithstanding any other provision of law, and subject to subsection (b), no loan in excess of $600,000,000 may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York.

(b) No loan may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York until after the date on which the President certifies to Congress that the renovation project has been fairly and competitively bid and that such bid is a reasonable cost for the renovation project.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from California, Mrs. BOXER, be recognized following me, and that the two of us be recognized as in morning business to speak about the tragic death this weekend of Marla Ruzicka.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

MARLA RUZICKA

Mr. LEAHY. Mr. President, I join my good friend, the Senator from California, in paying tribute to a remarkable young woman from Lakeport, CA, Marla Ruzicka.

There are times when we are called upon to give speeches such as this on the floor. They are never easy. Sometimes they are speeches given about somebody at the end of a long and full life. Here we are speaking about a young woman at the beginning of a life already full but with promise for decades to come.

Marla was the founder of a humanitarian organization called Campaign for Innocent Victims in Conflict which is devoted to helping the families of Afghan and Iraqi citizens who have been killed or suffered other losses, such as their homes destroyed, businesses destroyed, as a result of U.S. military operations. We know such suffering occurs no matter how careful the military may be.

But Saturday, Marla died in Baghdad. She died from a car bomb, a car bomb not directed at her but directed at a convoy. She was doing the work she loved and which so many people around the world admired her for. She was on her way to help somebody else. It was the case of being at the wrong place at the wrong time. But it was not unusual because she had risked her life so many times in Afghanistan and Iraq.

I met Marla 3 years ago when she first came to Washington. She was barely 26 years old. She had been in Afghanistan. She had seen the effects of the U.S. bombing mistakes that destroyed the homes and lives of innocent Afghan citizens. In one or two incidents, wedding parties had been bombed. In others, the bombs missed their targets and instead destroyed homes and neighborhoods.

I remember one incident she spoke of where every member of a family—16 people—was killed except a young child and that child's grandfather. These were the cases Marla spoke about. She spoke about them passionately because she felt passionately that the United States should help those families put their lives back together.

She met with me. She met in my office with Tim Rieser, who works on appropriations for me in the Foreign Operations Subcommittee. It did not take her long to convince either Tim or myself that she was so obviously right. We knew we not only had a moral responsibility to those people who had suffered because of the mistakes of the United States, we also had an interest in mitigating the hatred, the resentment toward Americans that those incidents had caused.

It was Marla's initiative—going to Afghanistan, meeting those families, getting the media's attention, coming back here and meeting with me and Tim and others—that led to the creation of a program that has contributed more than $8 million for medical assistance, or to rebuild homes, provide loans to start businesses, and provide other aid to innocent Afghan victims of the military operations.

From Afghanistan, Marla went to Iraq. She arrived, as I recall, a day or two after Saddam's statue fell. She and her Iraqi colleague, Faiez Ali Salem, who died at the same time, the same place as Marla, organized dozens of Iraqi volunteers to conduct surveys around the country of civilian casualties. Then she returned to Washington and again her efforts—I have to emphasize, her efforts, her personal efforts, her pounding on doors, her going person to person with her irrepressible energy—led to the creation of a program now known as the Civilian Assistance Program which has provided $10 million to the families and communities of Iraqi citizens killed by the U.S. and other coalition forces—another $10 million was allocated for this program last week—all by this happy, young woman you see depicted here, sitting with the people she helped.

To my knowledge, this is the first time we have ever provided this type of assistance to civilian victims of U.S. military operations. It would never have happened without the initiative, the courage, the incomparable force of character of Marla Ruzicka.

In my 31 years as a Senator, I have met a lot of interesting, accomplished people from all over the world, as all of us do—Nobel Prize recipients, heads of State, people who have achieved remarkable and even heroic things in their lives. I have never met anyone like Marla. She made sure we knew what she was doing and how we could help. Tim Rieser received an e-mail from her within an hour of the time she was killed. He sent it on to me during the middle of the night, Saturday night, with the photographs of Marla and the little girl she had helped.

I know how both my wife Marcelle and I felt, looking at those pictures, knowing we would never see another. There are so many stories about her, and some of them are being recounted now in the hundreds of press articles that have appeared in just the past 48 hours.

One story I remember the day after Marla arrived in Washington from Kabul. She had heard there was a hearing in the Senate where Secretary Rumsfeld and General Franks were going to testify. Thinking, perhaps a bit naively, that they might talk about the problem of civilian casualties, she decided to go hear what they would say. After the hearing was over, obviously disappointed that the issue she cared so deeply about hadn't even been mentioned, Marla walked straight up to Secretary Rumsfeld at the witness table and started talking to him.

He heads down the hallway; she heads down the hallway with him. I can imagine what the security people felt. She followed him right outside to his car, and she did not stop talking to him about the families of civilians she had met who had been killed and injured and the need to do something to help them.

Anybody who knew Marla can see that. Secretary of Defense? Secretary of State. Senator, it didn't make any difference. She had a story to tell and, by golly, you were going to hear that story. You could run down the hall, you could go to the elevator, but you were going to hear her story. She was not someone who was easy to say no to.

Not easy? It was almost impossible to say no to her. That was not simply because she was insistent. We all have insistent people who come to our offices. We have all developed ways to say no. But in her case, she was not just insistent, she was credible. She had been there. She knew what the war was about. She had seen the tragic results, and she was not about blaming anyone. She wasn't there to blame others. She just said: Look, there are people who need help. I want to help in whatever way I can.

That is what made it different. She saw her work as part of the best of what this country is about. It was the face of a compassionate America she believed in. She wanted the people of Afghanistan and Iraq to see the face of the America she believed in, a compassionate, humanitarian face.

It took time for some of us to realize she was not just a blond bundle of energy and charisma, which she was, but she was also a person of great intellect and courage who realized she wanted to help more victims. It wasn't enough to protest; that you can do easily. She needed to work with people who could help her do it. Of course, that meant the Congress, the U.S. military, the U.S. Embassy, the press, everybody else involved. She understood that. So she put aside politics and focused on the victims. But she made sure the Congress, the U.S. military, the U.S. Embassy and the press and everybody else heard from her. It didn't take long before the U.S. military saw the importance of what she was doing and they started to help. There were several civil affairs officers with whom Marla worked as a team. She would find the cases. They would arrange for the plane to airlift a wounded child to a hospital or some other type of assistance. She became one of our most beloved ambassadors because she was doing what our ambassadors want to do—put the good face, the humanitarian face, the loving and caring face of America first and foremost.

I think one of the reasons so many people around the world feel Marla's loss so deeply is because we saw how important her work was, and that meant taking risks the rest of us are unwilling take. In a way, she was not only helping the families of Iraqi war victims; she was also helping us, until she finally became an innocent victim of war herself. Yesterday, my phone rang so many times, people calling from Baghdad, calling me at home. Every one of them had a different story of something she had done, some way in which she had made somebody's life different. She has been called many things: an angel of mercy, a ray of sunshine in an often dangerous and dark world.

One person who knew her well described Marla as being as close to a living saint as they come. I suspect that is how many of us feel. She probably didn't feel that way herself. Many of us feel that way.

I don't think I have ever met, and I probably will never meet again, someone so young who gave so much of herself to so many people and who made such a difference doing it. Our hearts go out to her parents, Cliff and Nancy. I talked to her father yesterday. I said: Think how much she did in her short lifetime, more than most of us will get to do in a lifetime. But I thanked them for having the courage to let her be the person she wanted to be—not that I suspected anybody could have stopped her from being what she wanted to be.

One of the articles talks about her going to a checkpoint and the guard stopping her and she didn't have the proper papers. She stuck her head forward and pulled back the scarf. They saw the blond hair. She started talking to them about why she had to go here and there. Next thing you know, she is being sent on her way.

So our job is really to carry on the work Marla started not just in memory of a wonderful and heroic young woman, although that should be enough reason, but because the work is so important. That is what I am committed to. I know I will work with my friend from California to honor Marla in that way. I think it would be safe to say to my friend from California, I suspect there will be others in this Chamber who will do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator LEAHY, from the bottom of my heart, for his words about this extraordinary young woman; more than that, to him and his staff for believing in her. That took a leap of faith, that a woman so young could come in and present as compelling a case as she did.

Of course, she went right to the Senator, that is for sure, because of the work he has done for human rights in the world. She knew what she was doing. But you heard her and Tim and you rolled up your sleeves and created a program that the entire Senate backed and the entire Congress backed to help the innocent victims of war—those who are unfortunately sometimes called "collateral damage"; we have names for that.

Clearly, what Marla did, by recognizing that these people needed help, she was doing God's work. But she also, as the good Senator pointed out, was helping the United States of America because we are in the battle for the hearts and minds of the world. Marla understood that.

AMENDMENT NO. 444

Mrs. BOXER. Before I make further remarks, I ask unanimous consent that the pending amendment be temporarily laid aside so I can call up amendment No. 444.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, and Mr. BINGAMAN, proposes an amendment numbered 444.

Mrs. BOXER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate an additional $35,000,000 for Other Procurement, Army, and make the amount available for the fielding of Warlock systems and other field jamming systems)

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $35,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OTHER PROCUREMENT, ARMY", as increased by subsection (a), $60,000,000 shall be available under the Tactical Intelligence and Related Activities (TIARA) program to facilitate the rapid deployment of Warlock systems and other field jamming systems.

Mrs. BOXER. My amendment would increase funding for jamming devices that would deactivate roadside bombs. They are one of the leading causes of the casualties in Iraq.

Mr. President, I will get back to the tribute I want to give to Marla. I thank Laura Schiller, my staff member, who is sitting here with me. She helped me put together these remarks. She was a friend of Marla's, and it was very hard for her to get through writing these remarks.

This morning, in northern California, where I was—I just got here—the people woke up to the San Francisco Chronicle's front page. It is this magnificent picture of Marla and a little girl she helped, along with an Iraqi woman who had clearly also been working with this little child.

It is interesting because on either side of this beautiful photograph of Marla and this little girl are two very negative stories about the world we live in—Medicare fraud and oil companies trying to lower their taxes in light of their highest profits ever—and it just spoke to me about Marla because there she was in the middle of all these negative forces, the worst kinds of negative forces—war, hatred, sectarian violence, all these things, there she was right in the middle, something good for us to cling to.

My heart breaks for Marla's family and her friends. Some of them were here, so many whose lives she touched. One of Marla's friends was my daughter Nicole who called me with the news of Marla's death on Saturday night. It was hard to understand her at first, so heavy were her tears. Between sobs, she told me Marla had been killed along the treacherous road leading to the Baghdad airport. It was a road so dangerous that when Senators travel there—and I just got back from there a couple weeks ago—they don't go on that road. Instead, they go on a Blackhawk helicopter and speed through a city with machine guns on either side looking down to the ground. It is a road so dangerous that even limited protection costs thousands of dollars—tens of thousands of dollars just to go one way on that road, if you were to hire people to help protect you. That is how dangerous it is.

Who among us would have found the courage to travel on that road on Saturday, or the road that Marla had traveled during her courageous, committed, and very short life? Who among us can say we have spent so much of our lives serving other people in the way that truly makes a difference? How many 28-year-olds can say that?

Imagine, in this the most powerful and greatest country in the world, it was this remarkable woman who went door to door counting Iraqi civilian victims, when nobody else would. It was this young woman who lobbied the Senate for assistance for these families, and we heard from Senator LEAHY about how incredible she was when she made the case. She risked her own life to make sure they received the support they deserved.

"Marla was something close to a saint," one friend wrote this morning, "but a very realistic saint." I personally met Marla for the first time recently when she and her mother came to my home in California to celebrate an occasion for my daughter. When Marla walked through our front door with her mom, she had an infectious smile, and my daughter's face lit up. "This is the amazing woman I've been telling you about, Mom," she said.

This is how it always was for the thousands around the world lucky enough to call Marla a friend. It didn't matter if you lived in the streets of Baghdad or the dusty villages of Afghanistan or the corridors of power in Washington, DC. It didn't matter whether you knew Marla. She would come up to you and you would feel as if you had known her for a lifetime.

She treated every conversation as a chance to tell you about the righteousness of her cause, and she treated everyone with the same respect, openness, and unconditional love.

We so often hear:

> And now three remain: faith, hope, and love. But the greatest of these is love.

My office was flooded today with e-mails and phone calls from the people whose lives were touched by Marla's faith, hope, and love. Everyone has a story to tell, and I brought a few photos to share with you because words are not enough.

In this photo she sent hours before her death, we see her holding tightly an Iraqi child who was thrown from a vehicle just before it was blown up in a rocket attack. The child's entire family was killed. Marla saved that child.

Here we see one of the countless civilians brutally injured and now beaming and healthy next to the person, Marla, who helped her heal.

We see Marla's trusted Iraqi colleague, Faiz, whom she wrote, "was sent to me by angels from the sky." He worked tirelessly beside her, and he died bravely beside her.

And we see this beautiful, vibrant, young woman, red scarf around her neck, surrounded by the soldiers she befriended and entreated in her quest to help Iraqi civilians. Senator LEAHY made the point that everyone wanted to help Marla—everyone. The U.S. military wanted to make up for the damage that was caused. They desperately wanted to do that, but they needed someone who could give them accurate information, and she did that.

> Inside the green zone—

One friend wrote last night—

> she would encourage military officers and U.S. officials to hug each other—just to remember that they were still human, and reward them with a big smile if they actually did it.

There are many other pictures that her friends wanted to share of a woman who was a great friend to all and a beloved Ambassador for the United States at a time when our actions may not be so popular.

There were images of the notes she sent, when their spirits were at their lowest, telling them how beautiful they are, how much their work mattered, how much she cared.

I think we are going to leave this picture up because it is exquisite. There are other pictures of Marla sleeping on the floor for nights on end so she could use her limited resources to help Iraqi victims. Behind her happy-go-lucky demeanor, there was a picture of an effective advocate cornering a Defense Secretary, a general, or, yes, a U.S. Senator, and refusing to go away until our country helped care for the innocent victims of war.

There was a picture of the room full of journalists waiting that last night for their host to show up for another party she had planned to buoy their spirits, and no doubt try to persuade them to write about the victims she saw suffering terrible damage—not collateral damage but critical damage.

A few days before she died, Marla wrote her own op-ed for the Washington Post. She talked about her most recent discovery—that the U.S. military was counting Iraqi civilian casualties in some places, despite its claims to the contrary. She ended with these words:

> . . . To me, each number is a story of someone whose hopes, dreams, and potential will never be realized, and who left behind a family.

The same can be said of Marla. Her hopes, her dreams, and her potential will never be realized, and she left behind a family. In all the years I have lived, I do not know too many people who have made an impact the way she has in those 28 short years. But I guarantee you, if Marla were here, she would not want us to weep, she would not want us to hide our heads. She would want us to keep fighting for the people and causes she had championed even before she was old enough to drive a car. She would want us to remember the words of encouragement and action she sent constantly to friends and colleagues. Once she wrote, "Their tragedies are my responsibilities," and now her work must be ours.

I hope a message goes out to the suicide bombers to stop what they are doing, to stop it now, and to those who would put together these roadside bombs to stop it now because everyone who is injured by this—everyone—has hopes and dreams and families and potential.

So her work must be ours. She was the voice of these victims to whom no one seems to pay much attention. We need to be her voice now.

"And now these three remain: Faith, hope and love: But the greatest of these is love."

Mr. President, may we join the grieving Ruzicka family and thousands around the world in paying tribute to a young woman of great faith, hope, and love by finishing the work she so courageously began and by working to make sure this war will soon come to an end.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. First, I commend my colleagues from California and Vermont for recognizing such a remarkable woman, someone who represents everything that is good and peaceful about America and who set an example in such a tumultuous time and place but clearly giving all of the love she had to give at a time when it was needed the most. I thank my colleagues for taking the time to recognize that.

AMENDMENT NO. 481

Mrs. LINCOLN. Mr. President, I ask unanimous consent to lay aside the pending amendment, and I call up amendment No. 481.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 481.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To modify the accumulation of leave by members of the National Guard)
>
> On page 169, between lines 8 and 9, insert the following:
>
> ACCUMULATION OF LEAVE BY MEMBERS OF THE NATIONAL GUARD
>
> SEC. 1122. Section 701(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of a member of the Army National Guard of the United States or the Air National Guard of the United States who serves on active duty for more than 179 consecutive days, full-time training or other full-time duty performed by such member during the 5-year period ending on the 180th day of such service under a provision of law referred to in the preceding sentence, while such member was in the status as a member of the National Guard, and for which such member was entitled to pay, is active service for the purposes of this section.".

Mrs. LINCOLN. Mr. President, I rise today to offer an amendment of great importance to the returning guardsmen and reservists in my home State and in many other States. I think many of my colleagues, in understanding what I am trying to do, will agree that it is the right approach and the right thing to do for the men and women from our States who have done such an incredible job serving our Nation in Iraq and on behalf of not just Americans but the Iraqi people.

When our soldiers return home, some of them are finding they might only have a week or less before they are expected to reenter the workforce and return to civilian life. It is confusing at best to know with what they are going to be faced. The price of gasoline has gone up tremendously since they deployed almost 2 years ago. They have seen a lot of changes in their communities, perhaps changes in their work.

changes in their families, the loss of loved ones, certainly the growing of their little biddies. But many of the soldiers of Arkansas's 39th Infantry Brigade found they had absolutely no leave left when they returned to our home State of Arkansas. This left them with very few options other than to return to work immediately or, in some cases, to begin looking for work immediately, within a week of when they returned to their home soil.

These soldiers had just spent nearly 18 months in Iraq, risking their lives to defend the freedoms we cherish as Americans. They witnessed scenes of tragedy and violence they never expected to encounter but willingly accepted as part of their mission in service of this great Nation. It is part of our job as legislators to make sure they are taken care of when they return home, that we honor their sacrifices, their duty, and their courage. We are not doing our job if soldiers are forced to return to civilian life within a week of returning home from theater.

I have been out to Walter Reed, as have many of my colleagues, and seen our soldiers recovering from horrific wounds suffered in this conflict. One of the soldiers from Arkansas had taken a rocket-propelled grenade directly to his chest. You would not have known it, though, from talking to him. He was proud of the work he and his fellow soldiers had been doing in Iraq. He missed his unit and was ready to return to them and finish the rebuilding process they had begun.

As I left his room, one of the nurses approached one of my staffers and said that while many of the soldiers were doing very well, she was very concerned for them once they got back to their homes, into their communities, trying to readjust themselves to a way of life from which they had been absent while they were in Iraq, while they were experiencing events that oftentimes only they could think of in their own hearts.

Many of them underwent daily therapy sessions where they discussed these experiences with their fellow soldiers. Unfortunately for our guardsmen and reservists, they do not come back to a base where they are surrounded by people who have had a similar experience, people to whom they can talk, people with whom they can empathize, those who can understand the unbelievable circumstances and situations they experienced in Iraq.

The nurse was also concerned that what they were receiving in the hospital there would all end once they returned to their hometowns—the therapy, the discussions, certainly the medical treatment.

Imagine you are a soldier who, thankfully, has made it home from Iraq or Afghanistan without serious injury, the joyousness of coming home to your home, to your family, to your community, and upon returning to a pace of life 180 degrees from anything you have witnessed within the last year and a half, you are expected to turn on a dime and adjust immediately to the world you left behind. This is a great injustice and one that cannot be ignored.

My amendment is very simple. It would allow a guardsman to accrue bonus leave when he or she was placed on active duty for 6 months. This would give guardsmen more leave by altering how training days for the National Guard and Reserve are counted for the purposes of determining their leave. Currently, any training less than 29 consecutive days does not count toward accruement of leave.

This amendment would change current policy when a guardsman is placed on active duty for a period of 180 consecutive days. Upon that 180th consecutive day of active duty, all previous days spent training in the past 5 years, no matter their duration, would be counted for the purpose of determining how many days of leave the guardsmen would have. This would effectively give the guardsmen and reservist a bonus period of leave when they were deployed for longer than 6 months.

The look-back period for determining the new leave, as I mentioned, would be capped at 5 years. This would prevent substantial disparities in accrued leave from occurring between a guardsman with 20 years of service and a guardsman with only 3, perhaps.

We must do all we can to ensure our guardsmen are given every opportunity to readjust to life outside of the combat zone. When they return to our arms, we must embrace them and give them the time and the elements they need to readjust themselves. For some, it may be as simple as getting their finances back in order or perhaps spending time with their spouse or their children or their extended family. Maybe it is getting re-equipped back in their household or in their community. Maybe it is getting re-engaged, remembering those people who surround them who can provide them the unconditional love and support they need to put behind them the experiences they may have had, so they can look forward and be proud of the service they have given and know their country embraces them.

For others, it may be more difficult. Either way, they deserve an opportunity to deal with these issues without having to worry about returning to or finding work in order to put food on the table so soon after giving so much in service to this great country.

Our guardsmen found themselves in two circumstances where they were given passes, but were required to take leave when they have returned now from that 180-plus days of service, of giving their heart and soul to make sure the freedoms we enjoy are protected.

We should do all we can to make sure as they come back into our American communities, they come back into their families, they can do it with dignity and the support of this great country and the military service they have served.

I urge the Senate to adopt my amendment. I ask my colleagues to take a look at it. I think it is very simple and something we could do without much folderol. We could get it done and make sure all these soldiers are well taken care of.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to talk a little bit regretfully about the issue of immigration—regretfully, because the supplemental Defense bill that came out of the House of Representatives included the issue of immigration and therefore has opened it up for discussion here in the Senate.

Tonight I rise in support of the Craig amendment which will enact important reforms to the H–2A program that will help ensure Ohio's agricultural industry remains strong and vibrant. That has a lot to do with immigration.

Agribusiness is the largest industry in the State of Ohio, contributing $73 billion to our economy each year. I would like to keep it that way. My State ranks sixth nationally in the production of nursery and greenhouse crops, with a value of over a half billion dollars. We grow almost a quarter of a billion dollars worth of fruits and vegetables each year.

I want to stress how important these businesses are to Ohio and how vulnerable they are. These industries live and die in a very competitive marketplace, and having a stable and sufficient workforce is vital to their competitiveness in the global marketplace. Unfortunately, right now they have a major labor crisis. Without the guest workers who are essential to getting work done during peak seasons, agribusiness in Ohio as well as the rest of the country simply would not have the workforce necessary to do their work and their customers would have to look elsewhere, very likely to overseas businesses for agricultural products.

I am told in the early 1990s our Nation exported twice the value of nursery and greenhouse crops to Canada than we imported. In the last decade, Canada has overtaken us, and now the numbers have reversed, adding to our Nation's trade deficit. I would like to note that our neighbor, Ontario, has a very good guest worker program.

If we offshore our fruit, vegetable, nursery crops, and other production to Mexico and Canada, think of what we lose. We lose control of our food supply, and you know that is a national security issue. We lose jobs, and not just farmworker jobs. Agricultural economists tell us each farmworker job in these industries supports 3½ jobs in the surrounding economy: processing, packaging, transportation, equipment, supplies, lending, and insurance. They are good jobs, filled by Americans. We lose them if we do not do this the right way.

Work in these industries in Ohio is seasonal, demanding, and out in the weather. Many of our producers have tried to use the existing H–2A program. This is especially true of our nursery, sod, and Christmas tree growers. They represent 79 percent of the H–2A use in Ohio.

The program is expensive, bureaucratic, and a litigation nightmare—that is the current program. The program is failing and it needs fixing. Many agricultural employers would like to use the program but do not because of the uncertainty associated with the program. Not having access to legal, timely workers hurts these businesses. Crops are lost because workers are not available for the harvest. I understand from my colleague Senator CRAIG that out in California lettuce is rotting in the field because there are not workers there to pick it.

Many of my H–2A-user growers and producers have been closely involved in the negotiations of AgJOBS, the amendment before us. They know immigration and guest worker reform cannot be a partisan undertaking. They have been creative and determined in finding common ground and producing bipartisan legislation. Their survival depends on this Senate passing AgJOBS.

The toughest issue is what to do about the trained and trusted farm workforce, 70 percent or more working without proper documents. Their labor is critical to Ohio and America. These farmworkers are hard-working, law-abiding people. They are paying Federal and State taxes and Social Security. They are part of the fabric of our society already in so many ways.

AgJOBS allows them to come forward and rehabilitate their status over time through the time-honored values of hard work and good behavior. The failure of this country to create a practical agricultural guest worker program has forced most of the country's agribusiness to live between a rock and a hard place. It has been said our farmers have one foot in jail and the other in the bankruptcy court. Every day, each time my constituents open the door in the morning, they know this much, if and when the Government decides to get serious about Social Security mismatch letters, about enforcement, it is all over.

They tell me: We are following the law in our hiring. Yet we know if Immigration enforcement came in tomorrow, our business would be irreparably damaged. My constituents and yours could lose their workforce tomorrow.

Some of my colleagues are critical of this legislation because they claim it provides amnesty. I disagree. Amnesty is an unconditional pardon to a group of people who have committed an illegal act, and Webster's Dictionary agrees that is the definition. There is nothing unconditional about the path to rehabilitation provided in AgJOBS. To earn adjustment to legal status, a worker must have worked in U.S. agriculture before January 1, 2005. Accordingly, this legislation imposes conditions on obtaining adjustment to legal status, including, more importantly, a work history.

These are people who have worked in the United States, many of them for many years. A lot of them are not legal. What this legislation does is it provides an opportunity for them to become legal, after supporting certain conditions.

If you believe that any forgiveness at all constitutes amnesty, then every serious proposal that comes forward to solve this problem will be amnesty. But in the end, isn't the worst amnesty of all the status quo? Ignoring and tacitly condoning this problem will not provide a solution. It has been going on too long. Let us take a step forward now toward reconciling our laws with reality.

This legislation will help illegal immigrants working in agriculture to come clean and become part of our legal workforce, allowing this country to focus its efforts on more serious immigration problems. Furthermore, providing a means for such workers to obtain legal status provides a real incentive for them to participate in this program.

I read a portion of a letter Senator CRAIG and Congressman CANNON received from Grover Norquist, chairman of the Americans for Tax Reform. He said:

> I'd like to take this opportunity to commend for you the introduction of S. 1645 and H.R. 3142. The AgJOBS bill is a great step in bringing fundamental reform to our Nation's broken immigration system. AgJOBS would make America more secure. Fifty to seventy-five percent of the agriculture workforce in this country is underground due to the highly impractical worker quota restrictions. Up to 500,000 workers would be given approved worker status screened by the Department of Homeland Security and accounted for while they are here. Any future workers coming into America looking for agriculture work would be screened at the border where malcontents can most easily be turned back. The current H2–A agriculture worker program only supplies about 2 to 3 percent of the farm workforce.

It goes on to say:

> Workers that are here to work in jobs Native Americans are not willing to do must stay if food production is to remain adequate. However, those already here and new workers from overseas should have a screening system that works, both for our States' safety and for their human rights. Your bill does just that.

Mr. President, I would also like to point out that AgJOBS is endorsed by a historic bipartisan coalition of 500 and counting, national, State, and local organizations, including 200 agricultural organizations representing fruit and vegetable growers, dairy producers, nursery and landscape, ranching and others, as well as the National Association of the State Departments of Agriculture; that is, the national association of all of the 50 States' agriculture departments have come forward to support this. There is bipartisan support of this legislation by elected and appointed State directors of agriculture.

Yesterday I received a letter from Ambassador Clayton Yeutter. Clayton Yeutter has been a tireless advocate for American agriculture. You will remember that he served as Secretary of Agriculture under Ronald Reagan and as U.S. Trade Representative under George H.W. Bush. In his letter, he started out by saying:

> History demonstrates that there are moments in time when special opportunities arise for political action that successfully addresses multiple challenges. Today is one of those occasions.

I agree.

He went on to describe the substance and the partisanship of the AgJOBS bill.

He ended as follows:

> As President Bush has stated, we can and must do better to match a willing and hard-working immigrant worker with producers who are in desperate need of a lawful workforce. It is in our country's best interest to enact these reforms and reap the harvest of political action at a special moment in time.

That is what our President had to say.

Again, I agree.

I stand ready to take a first and most important step on this difficult issue that has plagued this Nation for too long.

As I stated, I would have preferred that immigration would not have been a part of this legislation that is before us. But as I mentioned, it came before us because of the fact that the House decided to make immigration a part of the emergency supplemental bill.

Those of us who have been concerned about immigration are taking this opportunity to clearly state what we think needs to be done. I am hopeful that tomorrow 59 of my colleagues will vote for cloture so we can get on and deal with this issue and bring the relief to thousands of people, thousands of businesses, and agribusiness in this country.

I yield the floor.

Mr. INHOFE. Mr. President, Edmundo Garcia said he had heard that the new Bush immigration plan, which would grant work visas to millions of illegal immigrants inside the United States and to others who can prove they have a job, was "amnesty," and he wondered why he was arrested.

> He said he would try to cross [the border from Mexico to the U.S. through the Sonoran Desert] again in a few days.

This quote from the New York Times on May 23, 2004, shows just how bad things have gotten since the administration's initial immigration policy proposal was announced.

The New York Times article goes on to say:

> Apprehensions of crossers in the desert south of Tucson have jumped 60 percent over the previous year.

Nearly 300,000 people were caught trying to enter the U.S. through the desert border since last October 1st (that's October 2003)."

It continues:

> After a four-year drop, apprehensions which the Border Patrol uses to measure human smuggling are up 30 percent over last year along the entire southern border, with over 660,000 people detained from October 1st through the end of April.

There are an estimated 8 to 12 million illegal immigrants in this country, with about 1 million new illegal aliens coming into this country every year. Legal immigration is even at unprecedented levels about five times the traditional levels. We now have about 1.2 million legal immigrants coming into this country each year, as opposed to an average of about 250,000 legal immigrants before 1976.

S. 359, the AgJOBS bill, could offer amnesty to at least 800,000 more illegal aliens, and if they all bring family members, which they would be eligible to do, it could be up to 3 million more, according to Numbers USA.

I greatly respect my friend and colleague, the Senator from Idaho, Mr. CRAIG, and I understand he has many cosponsors for his bill, but I firmly believe S. 359 has some major flaws and is not the way to remedy our problem with illegal immigration.

Even though there are certain criteria these illegal aliens must meet to qualify for temporary work status and eventual citizenship under this bill, it still rewards them by allowing them to stay in this country and work rather than penalizing them for breaking the law this is amnesty.

I also agree with my colleague from Texas, Senator CORNYN, the chairman of the Immigration Subcommittee, who said in Tuesday's Congress Daily when asked about the supplemental bill H.R. 1268, said that he did not want it to "be a magnet for other unrelated immigration proposals . . . regular order is the best way. . . ."

I agree with my colleague and think we should focus on the supplemental and debate immigration reform separately.

Furthermore, in section 2, paragraph 7, the AgJOBS bill defines a workday as "any day in which the individual is employed one or more hours in agriculture."

In order for an alien to apply for temporary work status, section 101, subsection A, subparagraph A states that the aliens "must establish that they have performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months. . . ."

So if a workday is defined as working at least 1 hour and the alien only has to work 100 work days in a year to qualify for temporary status under the AgJOBS bill, then illegal aliens only have to find some kind of agricultural work, and not necessarily be paid, for 100 hours, or merely 2 weeks, in a year in order to stay temporarily, while robbing Americans of these jobs.

An article from May 18, 2004, by Frank Gaffney, Jr., from the Washington Times entitled "Stealth Amnesty" states that once an illegal alien has established lawful temporary residency, "they can stay in the U.S. indefinitely while applying for permanent resident status."

"From there it is a matter of time before they can become citizens, so long as they work in the agricultural sector for 675 hours over the next 6 years."

Furthermore, in referring to the REAL ID Act, which was attached to the supplemental in the House, and I believe is true reform, another article from the week of April 6, appeared in the Washington Times stating:

> . . . REAL ID is a bill that will strengthen homeland security, while Mr. Craig's AgJOBS bill will not.

One more article in the Washington Times, again by Frank Gaffney, Jr., from April 5 refers to the REAL ID Act as well as AgJOBS says:

> The REAL ID legislation is aimed at denying future terrorists the ability exploited by the September 11, 2001, hijackers namely, to hold numerous valid driver's licenses, which they used to gain access to airports and their targeted aircraft.
>
> It is no small irony, therefore, that the presence of the REAL ID provisions on the military's supplemental funding bill is being cited by the Senate parliamentarian as grounds for Senator Larry Craig, Idaho Republican, to try to attach to it legislation that would help eviscerate what passes for restrictions on illegal immigration.

The article continues:

> The agriculture sector of the US economy needs cheap labor.

So let's legalize the presence in this country of anyone who can claim to have once worked for a little more than three months in that sector.

We must not reward lawbreakers especially while we have so many people coming to this country legally.

Last summer, I had an intern in my office from Rwanda. She fled during the genocide in 1994. She then came to this country as a refugee and became a legal permanent resident. It took her a year to get all her paperwork for becoming a legal resident and she will probably have to wade through similar bureaucracy to become a citizen as well. It frustrates me that people like her follow the rules and have to wait in the lines and wait for all the paperwork to be processed, while the illegal aliens can sneak into our country, and then, if they do apply for legal status, they slow down the process for those who came here legally. Not only does AgJOBS reward lawbreakers, it also robs many Americans of jobs they are willing to do.

Roy Beck from Numbers USA in his testimony on March 24, 2004, before the Subcommittee on Immigration, Border Security and Claims, quoted Alan Greenspan from February of last year as saying that America has an "oversupply of low-skilled, low-educated workers." In fact, according to Mr. Beck's testimony, the Bureau of Labor Statistics reports that the number of unemployed Americans includes a majority of workers without a high school diploma.

Basically, we have a great supply of lower educated American workers without jobs, while ironically, the main purpose of the AgJOBS bill is to bring in low-educated, low-skilled foreign workers for jobs that these Americans are able and willing to fill.

A recent article from March 31 of this year in the San Diego Union-Tribune entitled "Importing a Peasant Class", written by Jerry Kammer, emphasizes this point by saying:

> Nearly two decades after a sweeping amnesty for illegal immigrants [referring to the 1986 Amnesty] gave Gerardo Jimenez a ticket out of a San Diego County avocado orchard, he worries that the unyielding tide of low-wage workers from Latin America might pull the economic rug out from under his feet.

Jimenez, who is from Mexico and supervises a drywall crew that worked all winter remodeling an office building three blocks from the White House says, "There are too many people coming."

The article goes on to say:

> Jimenez's concern reflects an ambivalence about immigration among established immigrants in America.
>
> It also challenges a key assumption of President Bush's proposal for a massive new guest-worker program: that the United States has a dearth of low-skill workers.

This is not true, we do not have a dearth of low-skill workers.

Not only does S. 359 keep able Americans from performing these jobs; it also drives down wages and stifles innovation and technology for these jobs.

The same San Diego Union-Tribune article I just quoted from continues saying:

> In Atlanta, house painter Moises Milano says competition for jobs is so stiff among immigrants that house painters' wages have been flat since he came to the United States in the late 1980.
>
> They're still $9 an hour, he said, which would mean they've actually fallen significantly when adjusted for inflation.
>
> And yet many more aspiring house painters arrive every day from Latin America.

Similar concerns can be heard throughout low-wage industries that

Latino immigrants have come to dominate during recent decades, including housekeeping, landscaping, janitorial, chicken processing, meat packing, restaurants, hotels and fast food.

The article goes on to say:

> Jimenez says his company competes for contracts against subcontractors using illegal workers who are prepared to work for less and who don't expect health insurance, overtime or other employment benefits.

"It puts pressure on his employer to cut labor costs, he said."

Jimenez explains why the migrants come and how it hurts current immigrants: "The migrants come because of hunger, because of necessity . . . but I would benefit if someone imposed order," he says. "My work would be worth more."

Jimenez says that he won't be able to compete with companies that hire illegal workers so that they can pay lower wages.

Not only are workers like Jimenez facing tough competition from companies who hire illegals, but a GAO study from 1988 found that other fields, such as cleaning office buildings, were also experiencing lower wages and more competition as a result of foreign workers.

Cleaning office buildings used to pay a decent wage, however as more foreign workers entered the field, wages, benefits and working conditions began to collapse.

Other labor-intensive fields, such as the construction and the meatpacking industry, have also experienced a drop in pay after an influx of foreign workers. By allowing employers to flood the labor market with foreign workers in these sectors, wages and working conditions have gone down drastically and made these jobs much less attractive to American workers; while making them much more attractive to alien workers.

As for stifling technological advances, according to a February 9, 2004, article appearing in National Review:

> the huge supply of low-wage illegal aliens encourages American farmers to lag technologically behind farmers in other countries.

The article continues:

> Raisin production in California still requires that grapes be cut off by hand and manually turned on the drying tray.
>
> In other countries, farmers use a labor-saving technique called drying on the vine.
>
> A cutoff of the illegal-alien flow would encourage American farmers to adopt many of these technological innovations, and come up with new ones.

Another, and possibly more important problem with S. 359, is the risk it poses to our homeland security. It has some of the same loopholes that the 1986 Immigration Reform and Control Act, IRCA, contained.

It also overwhelms the already burdened immigration system, not to mention that there are no criminal or terrorist records for these people. For example, an Egyptian illegal immigrant named Mahmud Abouhalima came to America on a tourist visa in 1985. The visa expired in 1986, but Abouhalima stayed here, working illegally as a cab driver.

Abouhalima received permanent residency, a green card, in 1988, after winning amnesty under the 1986 IRCA law. Although he had never worked in agriculture in the United States, Abouhalima acquired legal status through the special agricultural workers program—which is essentially what the AgJobs bill does. Once he had become legalized, Abouhalima was able to travel freely to Afghanistan. He received combat training during several trips there. Abouhalima used his amnesty/legalization and his terrorist training as a lead organizer of the 1993 plot to bomb the World Trade Center and other New York landmarks.

The special agricultural worker amnesty program enacted as part of the 1986 Amnesty saw many ineligible illegal aliens fraudulently apply for, and successfully receive, amnesty. Up to two-thirds of illegal aliens receiving amnesty under that program had submitted fraudulent applications, just like Abouhalima. We cannot afford to allow ourselves to be vulnerable to terrorists by allowing these people to stay in our country. I want to work with my colleague to address this problem of illegal immigration.

Over the last century, several Presidential and congressionally mandated Commissions including the 1907 Roosevelt Commission on Country Life to the 1990 Barbara Jordan Commission on Immigration Reform have been appointed to study immigration to the United States. These seven Commissions each possessing different mandates, membership makeup, studies and historical context in which their work was performed had some similar findings including: U.S. policy should actively discourage the dependence of any industry on foreign workers.

Dependence on a foreign agricultural labor force is especially problematic because of the seasonal nature of the work, which leads to high un- and under-employment and results in the inefficient use of labor.

Strict enforcement of immigration and labor laws is the key to a successful immigration policy that benefits the nation. Unfortunately, AgJOBS violates each of these principles.

It ensures the dependence of the agricultural industry on foreign workers by eliminating any possibility that wages and working conditions in agriculture will improve sufficiently to attract U.S. workers, whether citizens or lawful permanent residents.

AgJOBS actually reduces wages statutorily by freezing the required wage rate for new foreign workers, known as H–2A nonimmigrants, at its January 1, 2003, level for 3 years. In Oklahoma it is currently $7.89.

It also actually discourages agricultural employers from pursuing innovations, such as mechanization, that would reduce their reliance on seasonal labor.

AgJOBS guarantees employers an "indentured" labor force for at last the first 6 years after enactment. Employers can pay as little as minimum wage while the newly amnestied workers have no choice but to accept whatever the employer offers them since they are required to continue working in agriculture in order to get a green card.

Additionally, AgJOBS requires the American taxpayer to foot the bill for maintaining this large, seasonal workforce by allowing: Illegal aliens who apply for amnesty under AgJOBS to receive taxpayer-funded counsel from Legal Services Corporation to assist them with filling out their applications; the amnestied aliens to be eligible for unemployment insurance benefits if they are unable to find other unskilled work during the off-season, the amnestied aliens to use publicly funded services like education and emergency health care this is almost free since many of these aliens have artificially low wages thus making their tax contributions extremely low.

Finally, AgJOBS does not contain any provisions to tighten enforcement of U.S. immigration or labor laws. In fact, by rewarding illegal aliens with amnesty, AgJOBS will encourage even more illegal immigration.

By the time the amnestied aliens are released from "indentured servitude" under AgJOBS, agricultural employers will have access to a whole new population of illegal-alien workers and the cycle will be well on its way to repeating itself, just as it did after the "one-time-only" amnesty for agricultural workers in 1986.

I also believe both the REAL ID Act, sponsored by my colleague in the House, Congressman SENSENBRENNER, as well as a bill I supported in the last Congress, are sound ways to strengthen our immigration system. The REAL ID Act would make it more difficult for people who are violating our laws by being in our country illegally, as well as engaging in terrorist activities, to stay in the United States. Unfortunately, I was forced to vote against the intelligence bill in December because the provisions that are in the REAL ID Act were excluded from the intelligence bill.

One such provision in the current REAL ID Act has to do with a 3.5-mile gap in a border fence between San Diego and Tijuana. People are able to come and go as they please. This is where many illegal immigrants are coming through; some of them could even be terrorists.

Apparently, this gap has been left open because of a maritime succulent shrub, which is the environment in which two pairs of endangered birds live. These two pairs of birds, the vireo and the flycatcher, might be harassed—not killed—but harassed if the fence is completed.

I checked with the U.S. Geological Survey and found that there are an estimated 2,000 vireos and 1,000 flycatchers in existence today, and at the most, not building the fence prevents two pairs of birds from being harassed. Is it better to harass two pairs of birds or leave this 3.5-mile gap open for terrorists or other law-breakers to come through? I assume that not building the fence, leaving it open for aliens to trample on this environment, the home to these birds causes more harassment than actually building a fence.

Another provision in the REAL ID Act is the requirement for proof of lawful presence in the United States. This requirement applies to immigration law provisions passed in 1996, which I supported.

The temporary license requirement, including a requirement that the license term should expire on the same date as a visa or other temporary lawful presence-authorizing document, is in the REAL ID Act. This means if you are here on a document—such as a visa—and it expires, your driver's license should expire at the same time. Under current law, this is not the case

The REAL ID Act requires official identification to expire on the same date as a person's visa or other presence-authorizing document. Electronic confirmation by various State departments of motor vehicles to validate other States' driver's licenses is another important item in the REAL ID Act. Had Virginia officials referenced the Florida records of Mohammed Atta, one of the hijackers and masterminds behind 9/11, when he was stopped in Virginia, it is likely they would have discovered that his license was not current. The REAL ID Act will make it difficult for instances such as this to take place.

While I strongly support the steps taken in the REAL ID Act to strengthen our immigration laws, I remain vigilant, and look forward to working with my colleagues to ensure that American citizens' individual liberties are not infringed upon.

I also want to be aware of and oppose efforts to explicitly create a national ID card which could contain all of a person's personal information.

Finally, in the 108th Congress, I cosponsored S. 1906, the Homeland Security Enhancement Act of 2003, which was introduced by my colleague from Alabama, Senator SESSIONS, and my former colleague from Georgia, Senator Miller, and was also cosponsored by my colleague from Idaho, Senator CRAIG. S. 1906 would give our law enforcement and immigration and border officers the tools and funding they need to do their jobs. More specifically, S. 1906 would: clarify for law enforcement officers that they have the legal authority to enforce immigration violations while carrying out their routine duties; increase the amount of information regarding deportable illegal aliens entered into the FBI's National Crime Information Center database, making the information more readily available to state and local officials; supply additional facilities and beds to retain criminal aliens once they have been apprehended, instead of releasing them, which occurs quite frequently; require the Federal Government to either take illegal aliens into custody or pay the locality or State to detain them, instead of telling those officials to release the aliens because no one is available to take custody; require that criminal aliens be retained until deportation under the Institutional Removal Program, so that they are not released back into the community; mandate that States only give driver's licenses to legal immigrants and make the license expire the same day the alien's permission to be in the country expires.

In conclusion, let's work to improve and enforce our laws and not reward those who break them.

I ask unanimous consent that several pertinent articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 23, 2004]

BORDER DESERT PROVES DEADLY FOR MEXICANS

(By Timothy Egan)

At the bottleneck of human smuggling here in the Sonoran Desert, illegal immigrants are dying in record numbers as they try to cross from Mexico into the United States in the wake of a new Bush administration amnesty proposal that is being perceived by some migrants as a magnet to cross.

"The season of death," as Robert C. Bonner, the commissioner in charge of the Border Patrol, calls the hot months, has only just begun, and already 61 people have died in the Arizona border region since last Oct. 1, according to the Mexican Interior Ministry—triple the pace of the previous year.

The Border Patrol, which counts only bodies that it processes, says 43 people have died near the Arizona border since the start of its fiscal year on Oct. 1, more than in any other year in the same period.

Leon Stroud, a Border Patrol agent who is part of a squad that has the dual job of arresting illegal immigrants and trying to save their lives, said he had seen 34 bodies in the last year. In Border Patrol parlance, a dead car and a dead migrant are the same thing—a "10-7"—but Mr. Stroud said he had never gotten used to the loss of life.

"The hardest thing was, I sat with this 15-year-old kid next to the body of his dad," said Mr. Stroud, a Texan who speaks fluent Spanish. "His dad had been a cook. He was too fat to be trying to cross this border. We built a fire and I tried to console him. It was tough."

If the pace keeps up, even with new initiatives to limit border crossings by using unmanned drones and Blackhawk helicopters in the air and beefed-up patrols on the ground, this will be the deadliest year ever to cross the nation's busiest smuggling corridor. The 154 deaths in the Border Patrol's Tucson and Yuma sectors last year set a record.

"This is unprecedented," said the Rev. John Fife, a Presbyterian minister in Tucson who is active in border humanitarian efforts. "Ten years ago there were almost no deaths on the southern Arizona border. What they've done is created this gauntlet of death. It's Darwinian—only the strongest survive."

For years, deaths of people trying to cross the border usually occurred at night on highways near urban areas, killed by cars. But now, because urban entries in places like San Diego and El Paso have been nearly sealed by fences, technology and agents, illegal immigrants have been forced to try to cross here in southern Arizona, one of the most inhospitable places on earth.

They die from the sun, baking on the prickled floor of the Sonoran Desert, where ground temperatures reach 130 degrees before the first day of summer. They die freezing, higher up in the cold rocks of the Baboquivari Mountains on moonless nights. They die from bandits who prey on them, in cars that break down on them, and from hearts that give out on them at a young age.

The mountainous Sonoran Desert, between Yuma in the west and Nogales in the east, is the top smuggling entry point along the entire 1,951-mile line with Mexico, the Border Patrol says. Through the middle of May, apprehensions of crossers in the desert south of Tucson had jumped 60 percent over the previous year. Nearly 300,000 people were caught trying to enter the United States through the desert border since last Oct. 1.

After a four-year drop, apprehensions—which the Border Patrol uses to measure human smuggling—are up 30 percent over last year along the entire southern border, with 660,390 people detained from Oct. 1 through the end of April, federal officials said.

The crossing here, over a simple barbed-wire fence, is followed by a walk of two or three days, up to 50 miles on ancient trails through a desert wilderness, to reach the nearest road, on the Tohono O'odham Nation Indian Reservation, a wedge of desert the size of Connecticut that is overrun with illegal immigrants, or on adjacent federal park or wildlife land. Most people start off with no more than two gallons of water, weighing almost 17 pounds, in plastic jugs. In recent days, with daytime temperatures over 100 degrees in the desert, a person needed a gallon of water just to survive walking five miles.

The desert is littered with garbage—empty plastic jugs, discarded clothes, toilet paper.

"My feet hurt and I'm thirsty, but I will try again after a rest," said Edmundo Saënz García, 28, who was apprehended on the reservation one morning near the end of his journey. His toes were swollen and blistered. He walked in cowboy boots. After being fingerprinted for security, he will be sent back to Mexico, agents said.

Mr. García said he had heard that the new Bush immigration plan, which would grant work visas to millions of illegal immigrants inside the United States and to others who can prove they have a job, was "amnesty," and he wondered why he was arrested. He said he would try to cross again in a few days.

"It's like catch-and-release fishing," Mr. Stroud, the Border Patrol agent, said with a shrug after helping Mr. García with his blisters. "One week, I arrested the same guy three times. If I dwell on it, it can be frustrating."

Agents and groups opposed to open borders say the spike in crossings and deaths are the fault of the Bush proposal, which is stalled in Congress and unlikely to be acted on this year. But it has created a stir in Mexico, they say.

"They've dangled this carrot, and as a result apprehensions in Arizona are just spiking beyond belief," said T. J. Bonner, president of the National Border Patrol Council, which represents about 9,000 agents. "The average field agent is just mystified by the administration's throwing in the towel on this."

Mr. Bonner, who is not related to the border commissioner, said the people were crossing in huge numbers, even at the high risk of dying in the desert, because "they're trying to get in line for the big lottery we've offered them."

With an estimated 8 million to 12 million immigrants in this country illegally—and only a handful of prosecutions of employers who hire them—the southern border is more broken now than at any time in recent history, said Mark Krikorian, executive director of the Center for Immigration Studies, a research group opposed to increased immigration.

"We've created an incentive to take foolish risks," Mr. Krikorian said. "In effect, we're saying if you run this gauntlet and can get over here, you're home free."

Bush administration officials say there is only anecdotal evidence, from field agents, that their proposal has caused the spike in crossings. They point to a new $10 million border initiative and indications in recent weeks that apprehensions have leveled off as evidence that they are getting the upper hand on the Arizona border. It is the last uncontrolled part of the line between Mexico and the United States, they said.

"Unfortunately, there have always been deaths on the border," said Mario Villareal, a spokesman for the Border Patrol in Washington.

It was 3 years ago this month that 14 people died trying to walk cross the desert near this small tribal hamlet, dying of heat-related stress in what the poet Luis Alberto Urrea called "the largest death event in border history." Mr. Urrea is the author of "The Devil's Highway" (Little, Brown and Company), an account of the crossing and border policy.

He wrote that the Sonoran Desert here "is known as the most terrible place on earth," where people die "of heat, thirst and misadventure."

To curb deaths, the American government has been running an advertising campaign in Mexico, warning people of the horrors.

"The message is, 'No ḿas cruces en la frontera,' 'no more crosses on the border,'" Commissioner Bonner said in unveiling the new plan earlier this month in Texas. He said 80 percent of the deaths in a given year happen between May and August.

The government has also increased staffing of Border Patrol Search Trauma and Rescue Units, called Borstar, which deploys emergency medical technicians like Mr. Stroud, to assist people found in desperate condition in the desert.

The publicity campaign seems to have had little effect, say border agents and illegal immigrants.

Raminez Bermúdez, 26, walked for four days in 100-degree heat, and said he knew full well what he was getting into. He had been caught four times before his apprehension this week, he said.

Though he has a 25-acre farm in southern Mexico, Mr. Bermúdez said he could earn up to $200 a day picking cherries in California. He was distressed, though, at getting caught and at the failure to meet a coyote, or smuggler, who had agreed to pick him up and members of his group for $1,200 each.

Mr. Stroud has developed a ritual to cope with the increased number of bodies he has seen among the mesquite bushes and barrel cactus of the Sonoran. He has seen children as young as 10, their bodies bloated after decomposing in the heat, and mothers wailing next to them.

"I say a little prayer for every body," he said. "You try not to let it get to you. But every one of these bodies is somebody's son or daughter, somebody's mother or father."

[From the Washington Times, May 18, 2004]

STEALTH AMNESTY

(By Frank J. Gaffney, Jr.)

The issue that has the potential to be the most volatile politically in the 2004 election is not Iraq, the economy or same-sex marriages. At this writing, it would appear to be the wildly unpopular idea of granting illegal aliens what amounts to amnesty—the opportunity to stay in this country, work, secure social services, become citizens and, in some jurisdictions, perhaps vote even prior to becoming citizens.

So radioactive is this idea across party, demographic, class and geographic lines that President Bush has wisely decided effectively to shelve the immigration reform plan he announced with much fanfare earlier this year. With the lowest job approval ratings of his presidency, the last thing he needs is a legislative brawl that will at best fracture, and at worst massively alienate his base.

It appears unlikely to help him much with Americans of other stripes, either. Significant numbers of independents and Democrats (although, to be sure, not John Kerry's left-wing constituency)—even Hispanic ones—feel as conservative Republicans do: Rewarding those who violate our immigration statutes is corrosive to the rule of law, on net detrimental to our economy and a serious national security vulnerability.

Unfortunately for Mr. Bush, one of his most loyal friends in the U.S. Senate, Republican conservative Larry Craig of Idaho, is poised to saddle the president's re-election bid with just such a divisive initiative: S. 1645, the Agricultural Job Opportunity, Benefits and Security Act of 2003 (better known as the AgJobs bill). AgJobs is, in some ways, even worse than the president's plan for temporary workers. While most experts disagree, at least Mr. Bush insists that his initiative will not amount to amnesty for illegal aliens.

No such demurral is possible about S. 1645. By the legislation's own terms, an illegal alien will be turned into "an alien lawfully admitted for temporary residence," provided they had managed to work unlawfully in an agricultural job in the United States for a minimum of 100 hours—in other words, for just 2½ workweeks—during the 18 months prior to August 31, 2003.

Once so transformed, they can stay in the U.S. indefinitely while applying for permanent resident status. From there, it is a matter of time before they can become citizens, so long as they work in the agricultural sector for 675 hours over the next six years.

The Craig bill would confer this amnesty not only on farmworking illegal aliens who are in this country—estimates of those eligible run to more than 800,000. It would also extend the opportunity to those who otherwise qualified but had previously left the United States. No one knows how many would fall in this category and want to return as legal workers. But, a safe bet is that there are hundreds of thousands of them.

If any were needed, S. 1645 offers a further incentive to the illegals: Your family can stay, as well. Alternatively, if they are not with you, you can bring them in, too—cutting in line ahead of others who made the mistake of abiding by, rather than ignoring, our laws. And just in case the illegal aliens are daunted by the prospect of filling out such paperwork as would be required to effect the changes in status authorized by the AgJobs bill, S. 1645 offers still more: free counsel from, ironically, the bane of conservatives like Sen. Larry Craig and many of his Republican co-sponsors—the highly controversial, leftist and taxpayer-underwritten Legal Services Corp.

Needless to say, such provisions seem unlikely to be well-received by the majority of law abiding Americans. Nor, for that matter, do they appear to have much prospect of passage in the less-self-destructive House of Representatives.

Yet, if Mr. Craig presses for action on his legislation, the Senate leadership might be unable to spare either President Bush or itself the predictable blow-back: As of today, the Senate Web site indicates the Idahoan has 61 cosponsors, two more than are needed to cut off debate and bring the legislation to a vote; 11 more than would be needed for its passage.

In short, thanks to intense pressure from an unusual coalition forged by the agricultural industry and illegal alien advocacy groups, the Senate might endorse the sort of election altering initiative that precipitates voter response—like that made famous by the movie "Network News": "I am mad as hell and I am not going to take it anymore." Some, perhaps including the normally shrewd Mr. Craig, may calculate that such voters will have nowhere to go if the alternative to Republican control of the White House and Senate would be Democrats who are, if anything, even less responsible when it comes to amnesty (and social services, voting rights, etc.) for illegal aliens.

The truth of the matter, though—as President Bush's political operatives apparently concluded after they trotted out their amnesty-light initiative last January—is voters don't have to vote Democratic to change Washington's political line-up. They just have to stay home on Election Day. And S. 1645 could give them powerful reason to do so.

[From the New York Times, Mar. 22, 2004]

IN FLORIDA GROVES, CHEAP LABOR MEANS MACHINES

(By Eduardo Porter)

IMMOKALEE, FLA.—Chugging down a row of trees, the pair of canopy shakers in Paul Meador's orange grove here seem like a cross between a bulldozer and a hairbrush, their hungry steel bristles working through the tree crowns as if untangling colossal heads of hair.

In under 15 minutes, the machines shake loose 36,000 pounds of oranges from 100 trees, catch the fruit and drop it into a large storage car. "This would have taken four pickers all day long," Mr. Meador said.

Canopy shakers are still an unusual sight in Florida's orange groves. Most of the crop is harvested by hand, mainly by illegal Mexican immigrants. Nylon sacks slung across their backs, perched atop 16-foot ladders, they pluck oranges at a rate of 70 to 90 cents per 90-pound box, or less than $75 a day.

But as globalization creeps into the groves, it is threatening to displace the workers. Facing increased competition from Brazil and a glut of oranges on world markets, alarmed growers here have been turning to labor-saving technology as their best hope for survival.

"The Florida industry has to reduce costs to stay in business," said Everett Loukonen, agribusiness manager for the Barron Collier Company, which uses shakers to harvest about half of the 40.5 million pounds of oranges reaped annually from its 10,000 acres in southwestern Florida. "Mechanical harvesting is the only available way to do that today."

Global competition is pressing American farmers on many fronts. American raisins are facing competition from Chile and Turkey. For fresh tomatoes, the challenge comes from Mexico. China, whose Fuji apples have displaced Washington's Golden Delicious from most Asian markets—and whose apple juice has swamped the United States—is cutting into American farmers' markets for garlic, broccoli and a host of other crops.

So even while President Bush advances a plan to invite legal guest workers into American fields, farmers for the first time in a generation are working to replace hand laborers with machines.

"The rest of the world hand-picks everything, but their wage rates are a fraction of ours," said Galen Brown, who led the mechanical harvesting program at the Florida Department of Citrus until his retirement last year. Lee Simpson, a raisin grape grower in California's San Joaquin Valley, is more blunt. "The cheap labor," he said, "isn't cheap enough."

Mr. Simpson and other growers have devised a system that increases yields and cuts the demand for workers during the peak harvest time by 90 percent; rather than cutting grapes by hand and laying them out to dry, the farmers let the fruit dry on the vine before it is harvested mechanically.

Some fruit-tree growers in Washington State have introduced a machine that knocks cherries off the tree onto a conveyor belt; they are trying to perfect a similar system for apples. Strawberry growers in Ventura County, Calif., developed a mobile conveyor belt to move full strawberry boxes from the fields to storage bins, cutting demand for workers by a third. And producers of leaf lettuce and spinach for bag mixes have introduced mechanical cutters.

American farmers have been dragging machines into their fields at least since the mid-19th century, when labor shortages during the Civil War drove a first wave of mechanical harvesting. Mechanization grew apace for the following 100-plus years, taking over the harvesting of crops including wheat, corn, cotton and sugar cane.

But not all crops were easily adaptable to machines. Whole fruit and vegetables—the most lucrative and labor intensive crops, employing four of every five seasonal field workers—require delicate handling. Mechanization sometimes meant rearranging the fields, planting new types of vines or trees and retrofitting packing plants.

Rather than make such investments, farmers mostly focused on lobbying government for easier access to inexpensive labor. California growers, the biggest fruit and vegetable producers in the nation, persuaded the government to admit Mexican workers during World War I. Later, from 1942 to 1964, 4.6 million Mexican farm workers were admitted into the country under the bracero guest-worker program.

Investment in technology generally happened when the immigrant spigot was shut. After the bracero program ended and some farm wages began to rise, scientists at the University of California at Davis began work on both a machine to harvest tomatoes mechanically and a tomato better suited to mechanical harvesting.

By 1970, the number of tomato-harvest jobs had been cut by two-thirds. But the tomato harvester's success proved to be a kiss of death for mechanical harvesting. In 1979, the farm worker advocacy group California Rural Legal Assistance, with support from the United Farm Workers union of Cesar Chavez, sued U.C. Davis, charging that it was using public money for research that displaced workers and helped only big growers.

The lawsuit was eventually settled. But even before that, in 1980, President Jimmy Carter's agriculture secretary, Bob Bergland, declared that the government would no longer finance research projects intended to replace "an adequate and willing work force with machines." Today, the Agricultural Research Service employs just one agricultural engineer: Donald Peterson, a longtime researcher at the Appalachian Fruit Research Station in Kearneysville, W. Va.

"At one time I was told to keep a low profile and not to publicize what I was doing," Mr. Peterson said.

As the government pulled out, growers lost interest as well, refocusing on Congress instead. In 1986, farmers were instrumental in winning passage of the Immigration Reform and Control Act, which legalized nearly three million illegal immigrants—more than a third under a special program for agriculture.

Farmers' investments in labor-saving technology all but froze, and gains in labor productivity slowed. From 1986 to 1999, farm labor inputs fell 2.4 percent, after a drop of 35 percent in the preceding 14 years. Meanwhile, farmers' capital investments fell 46.7 percent from their peak in 1980 through 1999.

About 45 vegetable and fruit crops planted over 3.6 million acres of land, and worth about $13 billion at the farm gate, are still harvested by hand, by a labor force made up mostly of illegal immigrants. On average, farm workers earned $6.18 an hour, less than half the average wage for private, nonfarm workers, in 1998, the year of the Labor Department's most recent survey of agricultural workers.

Florida's orange groves have reflected the broader trends. In the 1980's, a 20-year research effort into mechanical harvesting ground to a halt. With frosts upstate taking 200,000 acres out of production, orange prices soared and the demand for labor fell.

But as is often the case in agriculture, farmers overreacted to the market's strength, flocking to plant groves among the vegetable patches, pastures and swamps in the southwestern part of the state. By the early 1990's, the market looked poised for a glut. With the prospect of bumper crops in Brazil, where harvesting costs are about one-third as high as in Florida, a crisis loomed—driving orange growers back into technology's embrace.

In 1995, the growers decided to plow $1 million to $1.5 million a year into research in mechanical harvesting. By the 1999–2000 harvest, the growers had achieved their technological breakthrough, with four different harvesting machines working commercially. Last year, machines harvested 17,000 acres of the state's 600,000 acres planted in juice oranges, said Fritz M. Roka, an agricultural economist at the University of Florida.

"Mechanical harvesting is the biggest change in the Florida citrus industry since we switched to aluminum ladders," said Will Elliott, general manager of Coe-Collier Citrus Harvesting, one of seven commercial contractors that are shaking trunks and brushing canopies around the state.

Mr. Brown, the retired Department of Citrus official, estimates that in five years, machines will harvest 100,000 acres of oranges here. But there are obstacles. Machines work best on the big, regularly spaced, groomed young groves in the southwest, and some do not work at all on the smaller, older, more irregular acreage in central Florida. Machines are hard to use on Valencia orange trees, because shaking them risks prematurely dislodging much of the following year's harvest.

Still, the economics are in mechanization's favor. A tariff of 29 cents per pound on imports of frozen concentrated orange juice lets Florida growers resist the Brazilian onslaught—but not by much. According to Ronald Muraro and Thomas Spreen, researchers at the University of Florida, Brazil could deliver a pound of frozen concentrate in the United States for under 75 cents, versus 99 cents for a Florida grower.

Mechanical harvesting can help cut the gap. Mr. Loukonen of Barron Collier estimates that machine harvesting shaves costs by 8 to 10 cents a pound of frozen concentrate.

The spread of mechanization could redraw the profile of Immokalee, which today is a rather typical American farming town. Seventy-one percent of the population of 20,000 is Latino—with much of the balance coming from Haiti—and 46 percent of the residents are foreign born, according to the 2000 census. About 40 percent of the residents live under the poverty line, and the median family income is below $23,000—less than half that of the United States as a whole.

Philip Martin, an economist at U.C. Davis, points to the poverty as an argument in favor of labor-saving technology. He estimates that about 10 percent of immigrant farm workers leave the fields every year to seek better jobs. Rather than push more farmhands out of work, he contends, introducing machines will simply reduce the demand for new workers to replenish the labor pool.

And there are some beneficiaries among workers: those lucky enough to operate the new gear. Perched in the air-conditioned booth of Mr. Meador's canopy shaker, a jumpy ranchera tune crackling from the radio, Felix Real, a former picker, said he can make up to $120 a day driving the contraption down the rows, about twice as much as he used to make.

Yet many Immokalee workers are nervous. "They are using the machines on the good groves and leaving us with the scraggly ones," said Venancio Torres, an immigrant from Mexico's coastal state of Veracruz who has been picking oranges in Florida for three years.

Mr. Loukonen, the Barron Collier manager, said the farm workers were right to be anxious. "If there's no demand for labor, supply will end," he said. "They will have to find another place to work, or stay in their country."

Mr. CRAIG. Mr. President, our Federal Government has got to do better, faster, in improving our border security and meeting the growing problem of illegal immigration.

That is why Congress has been beefing up the border patrol and buying high-tech verification systems for the Department of Homeland Security.

That is why, whether you agree on the specific methods or not, the House of Representatives attached national drivers' license standards and asylum changes, in the so-called REAL ID provisions, to the Iraq supplemental appropriations bill.

That is why I have supported Senator BYRD on an amendment to this bill to increase border security, hire more investigators and enforcement agents, and boost resources for detention.

That is why I am cosponsoring a bill to help States deal with undocumented criminal aliens.

And that is why I have worked to bring the AgJOBS—bill the Agricultural Job Opportunities, Benefits, and Security Act—to the Senate floor.

I truly wish we did not have to have this debate on this bill on the Senate floor.

However, the House of Representatives has forced this opportunity upon us. By putting border, identification, and asylum provisions in the supplemental, the House has turned this bill into an immigration bill.

I am committed to making this debate as brief as possible, and as full and fair as necessary. As far as I am concerned, a thorough debate on AgJOBS does not need to take more than a couple hours, if we can get agreement from Senators who oppose the amendment.

The Senate has enough time for this amendment. If anyone is going to unduly delay this bill, it is not this Senator. As a member of the Appropriations Committee and on this floor, I fully support prompt appropriations for our men and women in uniform and for operations necessary in the war on terrorism.

AgJOBS is only an installment toward an overall solution to our nation's growing problem of illegal immigration. However, it is a significant installment, a logical installment, and one that is fully matured and ready to go forward.

I have worked with my colleagues and numerous communities of interest on AgJOBS issues for several years. The amendment I bring forward this week has been, in all its major essentials, well-known and much discussed in the Senate and the House for more than a year and a half.

This bipartisan effort builds upon years of discussion and suggestions among growers, farm worker advocates, Latino and immigration issue advocates, Members of both parties in both Houses of Congress, and others.

We have now built the largest bipartisan coalition ever for a single immigration bill. This letter was just delivered this week to Senate offices. There are about 100 more signatures on this letter than a similar letter delivered a year ago. Support for AgJOBS is growing.

That support reflects the fact that, in agriculture as in other sectors, the current immigration and labor market system is profoundly broken.

An enforcement-only policy is not the answer and doesn't work.

The United States has 7,458 miles of land borders and 88,600 miles of tidal shoreline. We can secure those frontiers well but not perfectly. As we have stepped up border enforcement, we have locked undocumented immigrants in this country at least as effectively as we have locked any out.

With an estimated 10 million undocumented persons in the United States, to find them and flush them out of homes, schools, churches, and work places would mean an intrusion on the civil liberties of Americans that they will not tolerate. We fought our revolution, in part, over troops at our doors and in our homes.

History has shown us what does work: A coupling of more secure borders, better internal enforcement, and a guest worker program that faces up to economic reality.

The only experience our country has had with a legal farm guest worker program—used widely in the 1950s but repealed in the 1960s—taught us conclusive lessons. While it was criticized on other grounds, that program dramatically reduced illegal immigration from high levels to almost nothing, while meeting labor market needs.

AgJOBS is a groundbreaking, necessary part of this balanced, realistic approach. American agriculture has boldly stepped forward and admitted the problem. AgJOBS is a critical part of the solution.

Agriculture is the sector of the economy for which the problem is the worst. Fifty to 75 percent of farm workers are undocumented. As internal enforcement has stepped up, family farms are going out of business because they cannot find legal workers.

This mighty machine we call American agriculture is on a dangerous precipice—perhaps the most dangerous in our history. This year, for the first time since records have been kept, the United States is on the verge of becoming a net importer of agricultural products.

To keep American-grown food on our families' tables, we need a stable, legal, labor supply. To keep suppliers, processors, and other rural jobs alive, American agriculture needs a stable, legal, labor supply. It has been said, foreign workers are going to harvest our food; the only question is whether they do it here or in another country.

Whatever the case is in other industries, in agriculture, we really are talking about jobs that Americans can't or won't take. This physically demanding labor is seasonal and migrant in nature. Few Americans can or will leave home and family behind, to travel from State to State, crop to crop, for only part of the year, living in temporary structures. The planting, growing, and harvesting seasons occur at different times in different States—usually when students are not available.

AgJOBS is also part of a humane solution. Legal workers can demand a living wage and assert legal rights that undocumented workers—smuggled into the country and kept "underground"—cannot. Every year, more than 300 persons die in the desert, the boxcar, or the back of a truck trailer. For a civilized, humane country, that is intolerable.

For the long term, AgJOBS reforms and streamlines the profoundly broken H–2A program that is supposed to provide legal, farm guest workers. It is now so bureaucratic and burdensome, it admits only about 40,000 workers a year—2 to 3 percent of farm workers.

However, we cannot expand the H–2A program overnight. A system of consulate system, a Homeland Security bureaucracy, and a Department of Labor bureaucracy that, today, chokes on processing 40,000 workers a year will need several years to ramp up to several times that amount. Growers, almost all of which do not use H–2A today, will need time to get into the system. Also, growers will need time to build housing and prepare for the other labor standards that H–2A has always required to prevent foreign workers from taking jobs from Americans.

As a bridge to stabilize the workforce while H–2A reforms are being implemented, AgJOBS includes a one-time-only earned adjustment program, to let about 500,000 trusted farm workers, with a proven, substantial work history here, continue working here, legally. The permanent H–2A reforms would make future farm worker adjustments unnecessary.

AgJOBS is not amnesty or a reward for illegal behavior.

Requiring several years of demanding, physical labor in the fields is an opportunity to rehabilitate to legal status—to earn the adjustment to legal status.

Adjusting AgJOBS workers would have to meet a higher standard of good behavior than other, legal immigrants, in the future. Once a worker is in the adjustment program, he or she has to obey all the laws that other, legal immigrants have to. In addition, an adjusting worker would be deported for conviction of one felony; or three misdemeanors, however minor; or, in the amendment before, a single serious misdemeanor, defined as an offense that results in 6 months of jail time.

Part of earning adjustment involves the immigrant surrendering to some limits on his or her legal rights—including a substantial prospective work requirement in agriculture and meeting a higher legal standard of good behavior than other, legal immigrants.

The adjusting worker can apply for permanent residence—a green card—at the end of the adjustment process. As a practical matter, obtaining a green card would take about 6 to 9 years after the worker enters the adjustment process. For the work involved, the economic contributions made, and the diligence required over a long period of time, this is fair. Sharing the American dream with persons who want to be—and will be—law-abiding members of the community, is fair.

AgJOBS workers, both adjusting and H-2A, would be free to leave the country at the end of the work season and not be "locked in" the country, between jobs.

Finally, AgJOBS is good for our homeland security.

With background checks, AgJOBS would let American families know who is putting the food on our tables. That means ensuring a safe and stable food supply for American families.

When we stop sending investigators and enforcement agents into the potato fields and apple orchards, we will be able to devote critical resources where they belong—hunting down real criminals and stopping terrorists.

AgJOBS is a win-win-win, for growers, workers, taxpayers, and homeland security. I urge my colleagues to support this amendment.

I also ask unanimous consent to have printed in the Record several documents setting out facts about AgJOBS, the need for AgJOBS, frequently asked questions, and letters of endorsement from the New England Apple Council, Americans for Tax Reform, and from former U.S. Trade Representative and Secretary of Agriculture, Clayton Yeutter.

There being no objection, the material was ordered to be printed in the Record, as follows:

FACTS ABOUT AGJOBS

THE AGRICULTURAL JOB OPPORTUNITY, BENEFITS, AND SECURITY ACT OF 2005—S. 359/H.R. 884

The Problem: Some 50 to 75 percent of America's farm work force is undocumented. As border and internal enforcement improves, work force disruptions are increasing and some operations are simply shutting down because growers cannot find a reliable, legal labor supply. This comes at a time when American agriculture is in perhaps its most precarious condition in our history, and we are on the verge of importing more food than we grow, for the first time since records have been kept.

Long-Term Solution: A permanently reformed H–2A program would be streamlined, easier to use, and more economical, providing a legal work force for farm jobs Americans won't take. Legal guest workers would go back to their home countries when the work season is over. The current H–2A system is profoundly broken and supplies only 2 to 3 percent of farm workers (30,000 to 40,000 a year out of a work force of 1.6 million).

Short-Term "Bridge": A one-time-only earned adjustment program would allow growers to retain trusted, tax-paying employees with a proven work history, to stabilize the ag work force as the industry (and the government bureaucracy) transitions to greater use of a reformed H-2A program. Based on DOL statistics, about 500,000 workers would be eligible to apply.

Rehabilitation, not "amnesty": A significant prospective work requirement (at least 360 days over 3 to 6 years, including at least 240 days in the first 3 years) in agriculture—among the most physically demanding work in the country—means adjusting workers could earn the right to stay and work toward legal status. Adjusting workers would have to meet a higher standard of good behavior than other, legal immigrants, being subject to deportation for any 3 misdemeanors, regardless how minor.

Good for homeland security: Hundreds of thousands of undocumented workers would be brought out of the shadows and given background checks. DHS could re-focus more resources on fighting more dangerous threats.

Good for American consumers: American families would be more certain of a safe, stable, food supply grown in America, and we would know who is growing our food.

Not a "magnet" for new illegal immigration: Only workers with a substantial, proven work history (at least 100 days) in agriculture in the USA before January 1, 2005, would be eligible to apply for the earned adjustment program.

Not "taking jobs away" from American workers: H–2A labor standards (including wages, housing, and transportation) ensure that American workers are not "underbid" for H-2A jobs. Whatever arguments some may make about other industries, most of the work in labor-intensive agriculture is seasonal and migrant in nature. Most American workers cannot and will not leave their families and homes behind, to move from farm to farm, living in temporary quarters, following temporary work.

Humane, good for workers: It is intolerable that, every year, hundreds of workers die packed in boxcars or truck trailers or crossing the desert. Many thousands are preyed upon by human smugglers. Stepped-up border enforcement has locked in as many as it has locked out, as returning home at the end of the work season becomes as treacherous and deadly as entering the country. Workers with legal status can assert legal rights against exploitation and safely leave the country when the work is done.

THE NEED FOR AGJOBS LEGISLATION—NOW

Americans need and expect a stable predictable, legal work force in American agriculture. Willing American workers deserve a system that puts them first in line for available jobs with fair, market wages. All workers deserve decent treatment and protection of basic rights under the law. Consumers deserve a safe, stable, domestic food supply. American citizens and taxpayers deserve secure borders, a safe homeland, and a government that works. Yet we are being threatened on all these fronts, because of a growing shortage of legal workers in agriculture.

To address these challenges, a bipartisan group of Members of Congress, including Senators Larry Craig (ID) and Ted Kennedy (MA) and Representative Chris Cannon (UT) and Howard Berman (CA), is introducing the Agricultural Job Opportunity, Benefits, and Security (AgJOBS) Act of 2005. This bipartisan effort builds upon years of discussion and suggestions among growers, farm worker advocates, Latino and immigration issue advocates, Members of both parties in both Houses of Congress, and others. In all substantive essentials, this bill is the same as S. 1645/H.R. 3142 in the 108th Congress.

THE PROBLEMS

Of the USA's 1.6 million agricultural work force, more than half is made up of workers not legally authorized to work here—according to a conservative estimate by the Department of Labor, based, astoundingly, on self-disclosure in worker surveys. Reasonable private sector estimates run to 75 percent or more.

With stepped up documentation enforcement by the Social Security Administration and the Bureau of Immigration and Customs Enforcement (the successor to the old INS), persons working here without legal documentation are not leaving the country, but just being scattered. The work force is being constantly and increasingly disrupted. Ag employers want a legal work force and must have a stable work force to survive—but federal law actually punishes "too much diligence" in checking worker documentation. Some growers already have gone out of business, lacking workers to work their crops at critical times.

Undocumented workers are among the most vulnerable persons in our country, and know they must live in hiding, not attract attention at work, and move furtively. They cannot claim the most basic legal rights and protections. They are vulnerable to predation and exploitation. Many have paid "coyotes"—labor smugglers—thousands of dollars to be transported into and around this country, often under inhumane and perilous conditions. Reports continue to mount of horrible deaths suffered by workers smuggled in enclosed truck trailers.

Meanwhile, the only program currently in place to respond to such needs, the H–2A legal guest worker program, is profoundly broken. The H–2A status quo is slow, bureaucratic, and inflexible. The program is complicated and legalistic. DOL's compliance manual alone is over 300 pages. The current H–2A process is so expensive and hard to use, it places only about 30,000–50,000 legal guest workers a year—2 percent to 3 percent of the total ag work force. A General Accounting Office study found DOL missing statutory deadlines for processing employer applications to participate in H-2A more than 40% percent of the time. Worker advocates have expressed concerns that enforcement is inadequate.

THE SOLUTION—AGJOBS REFORMS

AgJOBS legislation provides a two-step approach to a stable, legal, safe, ag work force: (1) Streamlining and expanding the H–2A legal, temporary, guest worker program, and making it more affordable and used more—the long-term solution, which will take time to implement; (2) Outside the H–2A program, a one-time adjustment to legal status for experienced farm workers already working here, who currently lack legal documentation—the bridge to allow American agriculture to adjust to a changing economy.

H-2A Reforms: Currently, when enough domestic farm workers are not available for upcoming work, growers are required to go through a lengthy, complicated, expensive, and uncertain process of demonstrating that fact to the satisfaction of the federal government. They are then allowed to arrange for the hiring of legal, temporary, nonimmigrant guest workers. These guest workers are registered with the U.S. Government to work with specific employers and return to their home countries when the work is done. Needed reforms would:

Replace the current quagmire for qualifying employers and prospective workers with a streamlined "attestation" process like the one now used for H-1B high-tech workers, speeding up certification of H–2A employers and the hiring of legal guest workers.

Participating employers would continue to provide for the housing and transportation needs of H-2A workers. New adjustments to the Adverse Effect Wage Rate would be suspended during a 3-year period pending extensive study of its impact and alternatives. Other current H-2A labor protections for both H-2A and domestic workers would be continued. H-2A workers would have new rights to seek redress through mediation and federal court enforcement of specific rights. Growers would be protected from frivolous claims, exorbitant damages, and duplicative contract claims in state courts.

The only experience our country has had with a broadly-used farm guest worker program (used widely in the 1950s but repealed in the 1960s) demonstrated conclusive, and instructive, results. While it was criticized on other grounds, it dramatically reduced illegal immigration while meeting labor market needs.

Adjustment of workers to legal status

To provide a "bridge" to stabilize the ag work force while H-2A reforms are being implemented, AgJOBS would create a new earned adjustment program, in which farm workers already here, but working without legal authorization, could earn adjustment to legal status. To qualify, an incumbent worker must have worked in the United States in agriculture, before January 1, 2005, for at least 100 days in a 12-month period over the last 18 months prior to the bill's introduction. (The average migrant farm worker works 120 days a year.)

This would not spur new immigration, because adjustment would be limited to incumbent, trusted farm workers with a significant work history in U.S. agriculture. The adjusting worker would have non-immigrant, but legal, status. Adjustment would not be complete until a worker completes a substantial work requirement in agriculture (at least 360 days over the next 3-6 years, including 240 days in the first 3 years).

Approximately 500,000 workers would be eligible to apply (based on current workforce estimates). Their spouses and minor children would be given limited rights to stay in the U.S., protected from deportation. The worker would have to verify compliance with the law and continue to report his or her work history to the government. Upon completion of adjustment, the worker would be eligible for legal permanent resident status. Considering the time elapsed from when a worker first applies to enter the adjustment process, this gives adjusting workers no advantage over regular immigrants beginning the legal immigration process at the same time.

AgJOBS would not create an amnestv program. Neither would it require anything unduly onerous of workers. Eligible workers who are already in the United States could continue to work in agriculture, but now could do so legally, and prospectively earn adjustment to legal status. Adjusting workers may also work in another industry, as long as the agriculture work requirement is satisfied.

AGJOBS IS A WIN-WIN-WIN APPROACH

Workers would be better off than under the status quo. Legal guest workers in the H-2A program need the assurance that government red tape won't eliminate their jobs. For workers not now in the H-2A program, every farmworker who gains legal status finally will be able to assert legal protection—which leads to higher wages, better working conditions, and safer travel. Growers and workers would get a stable, legal work force. Consumers would get better assurance of a safe, stable, American-grown, food supply—not an increased dependence on imported food. Law-abiding Americans want to make sure the legal right to stay in our country is earned, and that illegal behavior is not rewarded now or encouraged in the future. Border and homeland security would be improved by bringing workers out of the underground economy and registering them with the AgJOBS adjustment program. Overall, AgJOBS takes a balanced approach, and would work to benefit everyone.

FREQUENTLY ASKED QUESTIONS ON AGJOBS AND EARNED ADJUSTMENT

Q. Amnesty doesn't work. Why try it again?

A. Amnesty doesn't work. That's why I never have supported it. The country has tried amnesty in the past and it's failed. Our current immigration law is flawed and enforcement has been a miserable failure. The government has pretended to control the borders while the country has looked the other way and ignored the problem. That's precisely why we need to try a new, innovative approach like AgJOBS.

Q. How can you justify rewarding people who came here illegally by allowing them to become legal?

A. The only workers who apply for the adjustment program will be those who want to become law-abiding in every respect. They will have to register with the government and verify their continued employment. Their adjustment to legal status will be complete only after they earn it with continued, demanding labor in agriculture for the next 3-6 years. If an adjusting worker breaks other laws, he or she is out. The Adjustment Program would be there to benefit hard-working, known, trusted farm workers who did and will obey our laws in every other way. This is not a reward, but rehabilitation.

Q. Won't the promise of status adjustment encourage more illegal immigration?

A. Not in our AgJOBS bill. If someone wants to enter the United States to take advantage of our bill, they are already too late. To begin applying for adjustment, the worker must have been here before January 1, 2005—3 weeks before the bill was introduced—with a substantial record of work in agriculture. We are talking about stabilizing the current farm work force—working with persons who already are here.

Q. Why should agriculture get this special treatment?

A. That's the sector of our economy most impacted by illegal immigration. The crisis in agriculture must be addressed immediately—and it took us years just to get agreement between growers and labor, between key Republicans and Democrats, on this new approach. If AgJOBS works—and I believe it will—it will help us figure out how to solve the much bigger problem of an estimated million illegal aliens in this country.

Q. Illegal aliens have broken the law. Why not just round them up and deport them?

A. (1) We can't, as a practical matter. The official 2000 Census estimated that there are more than 8.7 million illegal aliens in the U.S. There are more today. That's the consequence of looking the other way for decades. Finding and forcibly removing all of them would make the War on Terrorism look cheap and would disrupt communities and work places to an extent most Americans simply wouldn't tolerate. If a law has failed, you can ignore it or fix it. Looking the other way only encourages more disrespect for the law. We need a new, innovative solution. AgJOBS is the pilot program.

(2) Up to 85 percent of all farm workers are here illegally. If we could round up and deport every illegal farm worker, that would be pretty much the end of American agriculture—the end of our safe, secure, homegrown food supply. That's how I first got involved in this issue, because agriculture is critical to the economy of Idaho—and the nation. We need to bring these workers out of the shadows, out of the underground economy, and turn them into law-abiding workers.

Q. Won't more illegals to sneak across the border, claim they were already here as farm workers, and abuse this new program?

A. Unlike the 1986 program—which was amnesty and was very different—our bill requires workers to provide documentary proof that they already were established here as farm workers—for example, tax records or employers' records.

Q. Once this wave of "adjusting workers" settle in, what's to prevent the demand for ANOTHER amnesty program in a few years?

A. Our bill would help stabilize the farm work force in the short term so that American farmers can adjust to the economy of the 21st Century for the long term. The Adjustment Program would give us the time we need to reform and significantly grow the other program in the bill, the H-2A Program, which employs legal, temporary "guest workers" who enter the U.S. only under government supervision and leave when the work is done. Because the H-2A Program has been broken for decades, there's been no effective vehicle for workers to come here legally to work in agriculture when domestic workers aren't available.

Q. Aren't these illegals stealing jobs from Americans?

A. I hear about that in other industries. I don't know that I've ever received one complaint from an American citizen who wanted to do the physically demanding labor of a migrant farm worker and felt an illegal alien had kept him or her out of that job. But I have heard from farmers who have gone out of business because they couldn't find a legal work force. This is why many of our legal visa programs are industry-specific—because the economy and labor markets are different for different industries. This is precisely the reason to try the AgJOBS solution in agriculture.

Q. How will this bill help us control our borders?

A. We can't possibly seal off thousands of miles of borders and coastlines. But we can control them better and improve our homeland security. Thousands of AgJOBS workers would be registered with, and in a job program supervised by, the Federal Government. This would be a major step forward toward a longer-term, more comprehensive solution.

Q. Who's going to pay for the medical bills and social services for adjusting workers?

A. Remember, in the AgJOBS Adjustment Program, we are talking only about workers who already are here, with substantial jobs in agriculture. So, AgJOBS does not add one bit to this burden. In fact, if anything, it starts helping to provide relief. When these workers gain legal status, they will be in a better position to earn more and do more to provide for themselves than they can today.

NEW ENGLAND APPLE COUNCIL INC.,
April 18, 2005.

Hon. SENATOR CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: The New England Apple Council was formed more than 35 years ago, at the end of the Bracero program. Our

185 growers, me included, have used H2A workers or workers under previous programs for more than 50 years. The first foreign workers to come to New England to harvest crops were in 1943. Over the last decade we have been struggling to keep the H2A program working. I don't need to tell you the program is broken and in order for our growers to keep a legal workforce the program needs fixing.

I listened to Senators Sessions and Byrd speaking against Ag-Jobs on Friday and was extremely disturbed by what they were saying. They read from letters sent by a few associations and agents who are opposed to Ag-Jobs. The growers using the H2A program ARE IN FAVOR OF AG-JOBS!! Some associations and agents are not. Why? Because if we reform H2A so that it really works many growers will be able to use it without an association or agent. That's what H2A reform is all about, and we are in favor of it!! Workers who have held H2A jobs and meet the required days of employment will be rewarded for playing by the rules. Senator Sessions stated Friday that "only people who break the law will be rewarded", that is not true!! We have many workers who for many years, some since before 1986, have been coming yearly and going home at the end of their contract. Nationwide between 7 and 10% of the adjusting workers will be those H2A workers who have obeyed the law, and they will finally be rewarded. Some agents and some associations see that as a bad move, which will cause disruption in the workforce, most growers say it's time to reward those workers who have obeyed the law.

As a longtime user of H2A workers and Executive Director of New England Apple Council and past President of the National Council of Agricultural employers I believe I have the feel of most agricultural employers in the United States. They are overwhelmingly in favor of Ag-Jobs. The Jamaica Central Labour Organization, which supplies most of the H2A workers to employers in the Northeast, is in favor of Ag-Jobs. The Association of Employers of Jamaican Workers, which I am Chairman of, supports Ag-Jobs. And lastly the 520 Organizations who signed the letter to congress sent on April 11th. Support Ag-Jobs. Please tell the Senate that an overwhelming number of the U.S. employers of H2A labor support Ag-Jobs.

Thank you for your support on this very difficult issue.

Sincerely,

JOHN YOUNG.

AMERICANS FOR TAX REFORM,
Washington, DC, April 12, 2005.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.
Hon. CHRIS CANNON,
House of Representatives,
Washington, DC.

DEAR SENATOR CRAIG AND CONGRESSMAN CANNON: I would like to take this opportunity to commend you for the introduction of S. 1645 and H.R. 3142, "The Agricultural Job Opportunity, Benefits, and Security Act of 2005." The "AgJobs" bill is a great first step in bringing fundamental reform to our nation's broken immigration system.

AgJobs would make America more secure. 50 to 75 percent of the agricultural workforce in this country is underground due to highly-impractical worker quota restrictions. Up to 500,000 workers would be given approved worker status, screened by the Department of Homeland Security, and accounted for while they are here. Any future workers coming into America looking for agricultural work would be screened at the border, where malcontents can most easily be turned back.

The current H–2A agricultural worker program only supplies about 2–3 percent of the farm workforce. That means that the great majority of workers who pick our fruit and vegetables have never been through security screening. In a post-9/11 world, this is simply intolerable. Workers that are here to work in jobs native-born Americans are not willing to do must stay if food production is to remain adequate. However, those already here and new workers from overseas should have a screening system that works, both for our safety and for their human rights. Your bill does just that.

Sincerely,

GROVER G. NORQUIST,
President.

POTOMAC, MD,
April 13, 2005.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: History demonstrates that there are moments in time when special opportunities arise for political action that successfully addresses multiple challenges. Today is one of those occasions. The opportunity is Senator Larry Craig's AgJobs bill, S. 359.

News headlines are alerting American voters of concerns about our trade deficit, American jobs lost to off-shore competition, long-term funding of the Social Security system, and a seemingly irreversible pattern of increasing illegal immigration. A significant opportunity for political action that begins to address all of these challenges is within reach.

That opportunity, if taken, will strengthen American labor-intensive agriculture and ensure its future role as a major U.S. export industry. A growing agriculture sector will keep jobs in America, because studies show that every laborer in production agriculture generates 3.5 additional jobs in related businesses. The workers in all these jobs will be participants in the Social Security system that is dependent upon a large workforce. Perhaps most significantly, reputable studies confirm that the best solution for stemming the tide of illegal immigration is guest worker programs that function.

Government statistics and other evidence suggest that at least 50 percent and perhaps 70 percent of the current agricultural workforce is not in this country legally. The immediate reaction of some is to say that these workers have broken the law and should be deported, and that U.S. farmers would not have a labor problem if wages were increased.

That "easy" answer ignores the reality that few Americans are drawn to highly seasonal and physically demanding work in agriculture. At chaotic harvest times, a stable, dependable workforce is essential. My experience over many years tells me that agricultural employers do not want to hire illegal immigrants. What they want is a stable, viable program with integrity that will meet their labor force needs in a timely, effective way. What they do not want is a program with major shortcomings, for which they will inevitably be blamed. Unfortunately, that is what our laws have imposed upon them.

As a Nation, we can and must do better—for agricultural employers, for immigrant workers, and as insurance to secure a strong agriculture business sector. Many of these workers have come to the U.S. on a regular basis. Many have lived here for years doing our toughest jobs, and some would like to earn the privilege of living here permanently. Why not permit them to do so, over a specified timeframe, thereby keeping the best workers here? That has the additional advantage of permitting our government to better focus its limited monitoring/enforcement resources, particularly where security may be a concern. Let's use entry/exit tracking, tamper proof documentation, biometric identification, etc. where it will truly pay security dividends, and let's stop painting all immigrants with the same brush.

A limited, earned legalization for agriculture is nothing like an amnesty program. It would apply only to immigrants who are at work, paying taxes, and are willing to earn their way to citizenship so that they too can share in the American dream. These workers form the foundation of much of our Nation's agricultural workforce. We need them!

Agricultural employers need an updated guest work program to replace the antiquated "H2A" temporary worker system, which is too expensive and too bureaucratic to be of practical use. Necessary reforms include fair and stronger security and identification measures, market-based wage rates, and comprehensive application procedures.

The reform program I have outlined already has broad bipartisan support, thanks to the good work and leadership of Senators LARRY CRAIG and TED KENNEDY, among others, and a bipartisan group of House colleagues. Their approach deserves immediate and serious consideration by the Senate. The status quo is simply unacceptable. The reforms now being proposed are a practical solution to a serious problem that is a genuine threat to the future of American agriculture.

As President Bush has stated, we can and must do better to match a willing and hard-working immigrant worker with producers who are in desperate need of a lawful workforce. It is in our great country's interest to enact these reforms and reap the harvest of political action at a special moment in time.

Sincerely,

CLAYTON YEUTTER,
Former Secretary of Agriculture and
Former U.S. Trade Representative.

APRIL 11, 2005.

DEAR MEMBER OF CONGRESS: The undersigned organizations and individuals, representing a broad cross-section of America, join together to ask you to support enactment of S. 359 and H.R. 884, the Agricultural Job Opportunities, Benefits and Security Act of 2005 (AgJOBS). This landmark bipartisan legislation would achieve historic reforms to our nation's labor and immigration laws as they pertain to agriculture. The legislation reflects years of negotiations on complex and contentious issues among employer and worker representatives and leaders in Congress.

A growing number of our leaders in Congress, as well as the President, recognize that our nation's immigration policy is flawed and that, from virtually every perspective, the status quo is untenable. America needs reforms that are compassionate, realistic and economically sensible—reforms that also enhance the rule of law and contribute to national security. AgJOBS represents the coming together of historic adversaries in a rare opportunity to achieve reforms supportive of these goals, as well as our nation's agricultural productivity and food security.

AgJOBS represents a balanced solution for American agriculture, a critical element of a comprehensive solution, and one that can be enacted now with broad bipartisan support. For these reasons, we join together to encourage the Congress to enact promptly S. 359 and H.R. 884, the Agricultural Job Opportunities, Benefits, and Security Act of 2005.

Thank you.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 496

Mr. COCHRAN. Mr. President, I have requests to make in behalf of the managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

I call up amendment No. 496 on behalf of Mr. REID of Nevada which is technical in nature.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] for Mr. REID, proposes an amendment numbered 496.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend title XVIII of the Social Security Act to make a technical correction regarding the entities eligible to participate in the Health Care Infrastructure Improvement Program, and for other purposes)

At the appropriate place, insert the following:

SEC. . TECHNICAL CORRECTION TO THE MEDICARE HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 1897(c) of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting "or an entity described in paragraph (3)" after "means a hospital"; and

(B) in subparagraph (B)—

(i) by inserting "legislature" after "State" the first place it appears; and

(ii) by inserting "and such designation by the State legislature occurred prior to December 8, 2003" before the period at the end; and

(2) by adding at the end the following new paragraph:

"(3) ENTITY DESCRIBED.—An entity described in this paragraph is an entity that—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

"(B) has at least 1 existing memorandum of understanding or affiliation agreement with a hospital located in the State in which the entity is located; and

"(C) retains clinical outpatient treatment for cancer on site as well as lab research and education and outreach for cancer in the same facility.".

(b) LIMITATION ON REVIEW.—Section 1897 of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended by adding at the end the following new subsection:

"(i) LIMITATION ON REVIEW.—There shall be no administrative or judicial review of any determination made by the Secretary under this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2447).

Mr. COCHRAN. Mr. President, I think we can have a voice vote on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 496) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 473

Mr. COCHRAN. Mr. President, I call up amendment No. 473 on my own behalf regarding the business and industry loan program.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 473.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the use of funds to deny the provision of certain business and industry direct and guaranteed loans)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. None of the funds made available by this or any other Act may be used to deny the provision of assistance under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)) solely due to the failure of the Secretary of Labor to respond to a request to certify assistance within the time period specified in section 310B(d)(4) of that Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 473) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 536

Mr. COCHRAN. Mr. President, I send to the desk an amendment on behalf of Mr. BOND regarding insurance fee requirements.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BOND, proposes an amendment numbered 536.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Make technical correction to mortgage insurance fee requirements contained in the FY 2005 Omnibus Appropriations bill)

Insert the following (and renumber if appropriate) on page 231, after line 3:

"SEC. 6047. (a) Section 222 of title II of Division I of Public Law 108-447 is deleted; and

(b) Section 203(c)(1) of the National Housing Act (12 U.S.C. 1709(c)) is amended by—

(1) striking "subsections" and inserting "subsection", and

(2) striking "or (k)" each place that it appears.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 536) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 491

Mr. COCHRAN. Mr. President, I call up amendment No. 491 on behalf of Mr. MCCONNELL regarding debt relief in tsunami-affected countries.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, proposes an amendment numbered 491.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide deferral and rescheduling of debt to tsunami affected countries)

On page 194, line 19 after the colon insert the following:

Provided further, That the President is hereby authorized to defer and reschedule for such period as he may deem appropriate any amounts owed to the United States or any agency of the United States by those countries significantly affected by the tsunami and earthquakes of December 2004, including the Republic of Indonesia, the Republic of Maldives and the Democratic Socialist Republic of Sri Lanka; *Provided further*, That of the funds appropriated under this heading, up to $45,000,000 may be made available for the modification costs, as defined in section 502 of the Congressional Budget Act of 1974, if any, associated with any deferral and rescheduling authorized under this heading: *Provided further*, That such amounts shall not be considered "assistance" for the purposes of provisions of law limiting assistance to any such affected country:

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 491) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 492

Mr. COCHRAN. Mr. President, I call up amendment No. 492 on behalf of Mr. LEAHY regarding Nepal.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], FOR MR. LEAHY, proposes an amendment numbered 492.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the Sense of the Senate in support of the immediate release from detention of political detainees and the restoration of constitutional liberties and democracy in Nepal)

At the appropriate place in the bill, insert the following:

NEPAL

SEC. (a) FINDINGS.—The Senate makes the following findings—

That, on February 1, 2005, Nepal's King Gyanendra dissolved the multi-party government, suspended constitutional liberties, and arrested political party leaders, human rights activists and representatives of civil society organizations.

That, despite condemnation of the King's actions and the suspension of military aid to Nepal by India and Great Britain, and similar steps by the United States, the King has refused to restore constitutional liberties and democracy.

That, there are concerns that the King's actions will strengthen Nepal's Maoist insurgency.

That, while some political leaders have been released from custody, there have been new arrests of human rights activists and representatives of other civil society organizations.

That, the King has thwarted efforts of member of the National Human Rights Commission to conduct monitoring activities, but recently agreed to permit the United Nations High Commissioners for Human Rights to open an office in Katmandu to monitor and investigate violations.

That, the Maoists have committed atrocities against civilians and poses a threat to democracy in Nepal.

That, the Nepalese Army has also committed gross violations of human rights.

That, King Gyanendra has said that he intends to pursue a military strategy against the Maoists.

That, Nepal needs an effective military strategy to counter the Maoists and pressure them to negotiate an end to the conflict, but such a strategy must include the Nepalese Army's respect for the human rights and dignity of the Nepalese people.

That, an effective strategy to counter the Maoists also requires a political process that is inclusive and democratic in which constitutional rights are protected, and government policies that improve the lives of the Nepalese people.

(b) It is the Sense of the Senate that King Gyanendra should immediately release all political detainees, restore constitutional liberties, and undertake good faith negotiations with the leaders of Nepal's political parties to restore democracy.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 492) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I ask unanimous consent that it be in order that three amendments en bloc be called up.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENTS NOS. 388, 443, 459, AND 537

Mr. REID. Mr. President, I send to the desk amendments on behalf of Mr. DURBIN, No. 443; Mr. BAYH, No. 338; Mr. BIDEN, No. 537; and Mr. FEINGOLD, No. 459; and I ask unanimous consent that they be set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments en bloc are as follows:

AMENDMENT NO. 388

(Purpose: To appropriate an additional $742,000,000 for Other Procurement, Army, for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs))

On page 169, between lines 8 and 9, insert the following:

UP ARMORED HIGH MOBILITY MULTIPURPOSE WHEELED VEHICLES

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $742,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OTHER PROCUREMENT, ARMY", as increased by subsection (a), $742,000,000 shall be available for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

(c) REPORTS.—(1) Not later 60 days after the date of the enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the current requirements of the Armed Forces for armored security vehicles.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the most effective and efficient options available to the Department of Defense for transporting Up Armored High Mobility Multipurpose Wheeled Vehicles to Iraq and Afghanistan.

AMENDMENT NO. 443

Purpose: To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances)

On page 231, after line 3, insert the following:

AFFIRMING THE PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT

SEC. 6047. (a)(1) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) As used in this section—

(1) the term "torture" has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States.

AMENDMENT NO. 459

(Purpose: To extend the termination date of Office of the Special Inspector General for Iraq Reconstruction, expand the duties of the Inspector General, and provide additional funds for the Office)

On page 169, between lines 8 and 9, insert the following:

OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

SEC. 1122. (a) Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) is amended by striking "obligated" and inserting "expended".

(b) Subsection (f)(1) of such section is amended in the matter preceding subparagraph (A) by inserting "appropriated funds by the Coalition Provisional Authority in Iraq during the period from May 1, 2003 through June 28, 2004 and" after "expenditure of".

(c) Notwithstanding any other provision of law, of the amount appropriated in chapter 2 of title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224) under the heading "OTHER BILATERAL ECONOMIC ASSISTANCE" and under the subheading "IRAQ RELIEF AND RECONSTRUCTION FUND", $50,000,000 shall be available to carry out section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234). Such amount shall be in addition to any other amount available for such purpose and available until the date of the termination of the Office of the Special Inspector General for Iraq Reconstruction.

AMENDMENT NO. 537

(Purpose: To provide funds for the security and stabilization of Iraq and Afghanistan and for other defense-related activities by suspending a portion of the reduction in the highest income tax rate for individual taxpayers)

At the appropriate place, insert the following:

SEC. ____. (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ AND AFGHANISTAN AND FOR OTHER DEFENSE-RELATED ACTIVITIES THROUGH PARTIAL SUSPENSION OF REDUCTION IN HIGHEST INCOME TAX RATE FOR INDIVIDUAL TAXPAYERS.—The table contained in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 (relating to (relating to reductions in rates after June 30, 2001) is amended to read as follows:

"In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003, 2004, and 2005	25.0%	28.0%	33.0%	35.0%
2006 and thereafter	25.0%	28.0%	33.0%	38.6%".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

(c) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF MARK FITZGERALD

Mr. ISAKSON. Mr. President, as we are in the midst of this important debate on the war supplemental, immigration, and other pressing issues, all over America things are happening that don't always make it to this floor.

This week in my State and in my home city, where I was born, Atlanta, GA, there will be a retirement. Mr. Mark Fitzgerald will retire from his years of service with the Home Builders Association of Metropolitan Atlanta, an association he has built to become one of the largest in the United States of America. He will be honored. There will be testimonials. There will be gifts. But the greatest gift is the service he and his association have given to the economy of our State, for the betterment of our State, and in the entrepreneurship and freedom that we all love in this great country of ours.

So I want to pause this moment and let the RECORD of the Senate reflect that this week, as we debate the issues of the day, all over America there are those who have given their lives in service to their country through the free enterprise system.

Today and this week, in Georgia, one Mark Fitzgerald is one who will be honored. I commend him for his service, his commitment, and his citizenship in this great country and in our home State.

CAMERAS IN THE COURTROOM

Mr. FEINGOLD. Mr. President, I am proud to once again support the Grassley-Schumer bill on cameras in the courtroom. This proposal was reported by the Judiciary Committee on a bipartisan vote in the last two congresses, and I very much hope we can get it signed into law this year.

When the workings of Government are transparent, the people understand their Government better and can more constructively participate in it. They can also more easily hold their public officials accountable. I believe this principle can and should be applied to the judicial as well as the legislative and executive branches of Government, while still respecting the unique role of the Federal judiciary.

We have a long tradition of press access to trials, but in this day and age, it is no longer sufficient to read in the morning paper what happened in a trial the day before. The public wants to see for itself what goes on in our courts of law and I think it should be allowed to do so.

Concerns about cameras interfering with the fair administration of justice in this county are, I believe, overstated. Experience in the State courts—and the vast majority of States now allow trials to be televised—has shown that it is possible to permit the public to see trials on television without compromising the defendant's right to a fair trial or the safety or privacy interests of witnesses and jurors. There is no question in my mind that the highly trained judges and lawyers who sit on and argue before our Nation's Federal appellate courts would continue to conduct themselves with dignity and professionalism if cameras were recording their work.

Let me note also that I believe the arguments against allowing cameras in the courtroom are least persuasive in the case of appellate proceedings, including the Supreme Court. In fact, I had the opportunity to watch the oral argument when the Supreme Court considered the constitutionality of the McCain-Feingold bill in 2003. It was a fascinating experience, and one that I wish all Americans could have. Of course, the entire country was able to hear delayed audio feeds of the two Supreme Court oral arguments in Bush v. Gore and the arguments on affirmative action. This allowed the public and important look at the making of decisions that affect them in a profound way. Seeing the arguments live would have been even better. I do not believe that a discreet camera in the courtroom would have changed the character or quality of the arguments one iota.

My State of Wisconsin has a long and proud tradition of open government, and it has served us well. Coming from that tradition, I look with skepticism on any remnant of secrecy that lingers in our governmental processes. Trials and court hearings are public proceedings, paid for by the taxpayers. Except in the most rare and unusual circumstances, the public is entitled to see what happens in those proceedings.

The bill that my friends from Iowa and New York have proposed is a responsible and measured bill. It gives discretion to individual Federal judges to allow cameras in their courtrooms. At the same time, it assures that witnesses will be able to request that their identities not be revealed in televised proceedings. This bill gives deference to the experience and judgment of Federal judges who remain in charge of their own courtrooms. That is the right approach.

Cameras in the courtroom is an idea whose time came some time ago. It is high time we brought it to the Federal courts. I am proud to support the Grassley-Schumer bill, and I hope we can enact it this year.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each day I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last March, a Bronx man was assaulted by a group of teenagers because of his sexual orientation. The teenage boys allegedly jumped the man near his home on the evening of March 19, 2005. The assailants repeatedly punched and kicked the man while yelling antigay epithets.

I believe that the government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

MEDICAL MALPRACTICE

Mr. GRASSLEY. Mr. President, one of my constituents, James W. Carney, an attorney practicing in Des Moines, IA, recently requested that I bring to the attention of my colleagues in the Senate some aspects of the medical malpractice situation in Iowa he believes should be more widely known. I ask unanimous consent that his March 30 letter to me, and his e-mail to John Whitaker, a Representative in the Iowa State House of Representatives, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CARNEY, APPLEBY,
KIELSEN & SKINNER, P.L.C.,
Des Moines, IA, March 30, 2005.

Re medical malpractice reform.

Senator CHARLES GRASSLEY,
Federal Building,
Des Moines, IA.

DEAR SENATOR GRASSLEY: I was just listening to WHO and heard your comment that if we had medical malpractice reform we wouldn't have to perform all the tests that are unneeded. As a supporter of yours going back to the days when you were in the Iowa Capitol, I cry foul. I am attaching an email which we sent to all members of the Iowa Legislature.

I would request that you make known to the US Senate the true facts of what is going out in real Iowa—real America.

Malpractice cases are down 29.6% over the last three years. Civil filings are down in the state of Iowa. Civil jury trials are down in the state of Iowa. There were only 22 malpractice cases tried in the entire state of Iowa last year. Verdicts are down.

Meanwhile, guess what? Our physicians are having their malpractice premiums increased by 10, 15 and 20%. It is ridiculous to blame lawyers.

Doctors perform tests because they believe it is the best patient care and the tests are necessary. I have yet to talk to a doctor who is willing to admit that the only reason they perform a test is because they fear they are going to be sued or it might be malpractice. Doctors perform tests because their patients deserve the best medical care they can give them. I believe they are motivated from an altruistic point of view and they truly care about their patients. I have heard it said many times that it might also be in their best financial interest to order tests, as they obviously get paid for the services. Blaming Iowa lawyers for unnecessary medical tests is like blaming a farmer for drought or floods. I am attaching the civil filing statistics from the Supreme Court of the State of Iowa. I hope these come in handy for your reference the next time you are asked about malpractice. You have always been a very no-nonsense guy and a person driven by the facts. These are the facts. As my mentor, Mr. Jones, used to say "end of report".

Thank you for your good service in the US Senate, but I sure hope this information may help you on the issue of medical malpractice. In my home town of Centerville, I can assure you the number one issue for doctors is Medicaid-Medicare reimbursement—not malpractice. The second major issue for them is lifestyle and the fact that they have very few nights and/or weekends off. The third issue is culture and/or the lack of such. Way down the list malpractice, because there has never even been a malpractice case filed in approximately half the counties in Iowa.

Sincerely yours,
JAMES W. CARNEY.

Although you hear all types of stories about lawsuits and anecdotal stories about litigation, you should know what the facts are here in Iowa. It is the farthest thing from the truth to argue that Iowa is a litigious state. Consider the following:

Fact 1: Medical malpractice lawsuits are down 29.6% over the last three years.

Fact 2: According to the National Association of Insurance Commissioners own reporting, Iowa has one of the lowest loss experiences in the United States. Medical malpractice insurance companies collected over $60 million in premiums from Iowa physicians and paid out $41 million for direct losses, defense and cost containment expenses. The Iowa loss ratio is 67.64%, one of the lowest in the country.

Fact 3: Independent rating services substantiate that capping recoveries will not have any effect on insurance premiums or the availability of insurance.

Fact 4: Iowa has already adopted significant tort reform measures, and because of this, is rated as having one of the most reasonable and fair litigation systems in the United States by the U.S. Chamber of Commerce.

Iowa's civil justice system, conservative jurors and low verdicts are not the cause of high insurance rates for Iowa physicians. Caps on non-economic damages will not do anything to help Iowa physicians obtain lower insurance premiums. Caps will hurt innocent Iowa citizens who, through no fault of their own, have been severely injured. Should not professionals who cause injuries to innocent patients be responsible for their negligent conduct?

ADDITIONAL STATEMENTS

HONORING STUDENTS FROM WEST WARWICK HIGH SCHOOL

• Mr. CHAFEE. Mr. President, from April 30 to May 2, 2005, more than 1,200 students from across the United States will visit Washington, D.C. to take part in the national finals of "We the People: The Citizen and the Constitution," an educational program developed specifically to educate young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the "We the People" program is funded by the U.S. Department of Education by an act of Congress.

I am proud to announce that, because of their knowledge of the U.S. Constitution, the following students from West Warwick High School from the city of West Warwick will represent the State of Rhode Island in this national event: Mikaela Condon, Ahmahd Elshanawany, Michela Fleury, Katelyn Grandchamp, Jaclyn Henry, Katelyn Kelly, Shaina Lamchick, Adam Larocque, Lyndsey Miller, Johnathon Myers, Cheryl Nary, Amanda Simas, William Stranahan, Larissa Swenson, and David Yates. Led by their teacher Mr. Marc Leblanc, these outstanding students won their statewide competition and earned the chance to come to Washington and compete at the national level.

The three-day "We the People" National Finals Competition is modeled after hearings in the U.S. Congress. The students are given an opportunity to demonstrate their knowledge before a panel of judges while they evaluate, take, and defend positions on relevant historical and contemporary issues.

I wish the students of West Warwick High School the best of luck at the "We the People" national finals and applaud their achievement. I am sure this valuable experience will encourage these young Rhode Islanders to remain engaged with government and public policy issues in the future.•

HONORING ANNE L. BLUMENBERG

• Mr. SARBANES. Mr. President, I rise today to pay special tribute to Anne L. Blumenberg, one of Baltimore's most skillful attorneys and equally one of its most dedicated and visionary citizens. Anne recently retired as executive director of the Community Law Center, which develops innovative legal strategies to assist Baltimore's community organizations and neighborhoods.

Anne was born and raised in Baltimore's Waverly neighborhood, and she returned to Baltimore after receiving her law degree from Catholic University's Columbus School of Law. In 1983, she and a group of like-minded lawyers and community activists founded the Community Law Center. In its early days the center focused primarily on public safety as the path to neighborhood survival, depending on volunteer lawyers to carry out its work. Under Anne's leadership, the center's attorneys pioneered the use of nuisance laws as a litigation strategy to address quality-of-life issues, including housing conditions and drug activity, in Baltimore neighborhoods. The center had such great success with these suits that in 1996, the Maryland General Assembly passed the community rights bill—developed in large measure by the center—granting Baltimore City community associations legal standing to seek direct enforcement of housing, building, zoning, and health codes as a remedy to a public nuisance.

Recognizing that creating healthy neighborhoods begins but does not end with public safety, Anne Blumenberg expanded the Community Law Center's programs to include economic development and real estate issues. Today the center has successful projects to end predatory lending and flipping practices and to end the blight of vacant properties in city neighborhoods. Further, the volunteer spirit that gave the center its start lives on in its pro bono project, which currently has 185 active pro bono attorneys and has opened over 500 cases serving hundreds of organizations in the Baltimore area.

In addition to the hours she has dedicated to the Community Law Center, Anne Blumenberg has generously donated her time to serve as a board member to numerous other community organizations, including Civil Justice, Inc., Empowerment Legal Services, the Coalition to End Childhood Lead Poisoning, and the Lawyer's Clearinghouse. And she has literally "written the book" on starting a nonprofit organization: her manual, "Starting a Non-Profit Organization: A Practical Guide," is now in its fourth edition.

Anne Blumenberg was truly a visionary. She saw, earlier than most, how legal tools could be used to improve the lives of some of the city of Baltimore's poorest and most vulnerable citizens, and she transformed her vision into a creative, vigorous and effective public services law firm. As a result of the programs Anne Blumenberg built at the Community Law Center, Baltimore's neighborhoods have come alive again. Residents now have the tools they need to fight the flipping of homes by unscrupulous lenders; to remove drug dealers from their corners; to acquire vacant houses, renovate them, and put them up for sale; and more broadly, to promote citywide policies that will improve the quality of their lives. In short, thanks to Anne Blumenberg's hard work and dedication, Baltimoreans are once again in control of their neighborhoods, and the neighborhoods, which do so much to define Baltimore's character, are blooming.•

HONORING THE RETIREMENT OF ROBERT H. McKINNEY

• Mr. LUGAR. Mr. President, I inform my colleagues of the retirement of a remarkable figure in my home State of Indiana, Robert H. McKinney.

Bob McKinney has been a friend of mine since my days as Mayor of Indianapolis. During that time he was critical to the passage of Uni-Gov, the massive restructuring of the boundaries and governmental structure of the City of Indianapolis. His bipartisan support of this shared vision was instrumental in allowing for the progress and prosperity of Indianapolis.

Bob's commitment to public service began at an early age. After graduating from the United States Naval Academy Bob, served for 3 years in the Pacific Theater. Additionally, he served two more years in the Pacific during the Korean War. He is a fine product of both the Naval Justice School and the Indiana University School of Law. Bob also holds Honorary Doctorates of Law from Marian College and Butler University.

Supplementing his impressive academic and military careers, Bob remains a consistent voice in public service throughout the State of Indiana and nationally. From 1989 to 1998 he was a trustee of Indiana University, including a term as President of the Board from 1993–1994. He was Chairman of the Board of Advisors of Indiana University-Purdue University at Indianapolis and was formerly a director and Chairman of the Board of Trustees of Marian College. Additionally, as a trustee of the Hudson Institute, the U.S. Naval Academy Foundation, the Indiana University Foundation, and the Sierra Club Foundation, Bob continues to encourage sound public policy.

During the administration of President Carter, he served as Chairman of the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, the Federal Savings & Loan Insurance Corporation, and the Neighborhood Reinvestment Corporation. Currently, he is a member of the Presidential Advisory Board for Cuba.

Bob has likewise achieved numerous successes in the private sector. After cofounding one of the largest law firms in Indianapolis, Bose McKinney & Evans LLP, Bob served as Chairman of The Somerset Group, Inc., a publicly traded financial services company. In 2000, The Somerset Group merged into the First Indiana Corporation, a publicly traded bank holding company that operates First Indiana Bank, the largest bank based in Indianapolis. Now, Bob is preparing to turn those duties over to his able daughter, Marni McKinney.

I am pleased to have had this opportunity to call to the attention of my colleagues the extraordinary accomplishments of Bob McKinney. I admire his idealism and sustained energy and I join his wife, Arlene, his five children and five grandchildren, in wishing him every continuing success as he enters this new chapter of his life.•

ACCOLADES TO REVEREND T.F. TENNEY

• Mr. VITTER. Mr. President, I thank the Reverend T.F. Tenney for more than 25 years of guidance, service and leadership throughout the great state of Louisiana.

I recognize Reverend T.F. Tenney, United Pentecostal Church District Superintendent for the State of Louisiana. Reverend Tenney retired on March 31, 2005, after 26 years of service in central Louisiana and throughout the state. More than 4,000 people came to offer heartfelt appreciation and best wishes at his retirement ceremony.

Through his role as district superintendent, he was responsible for overseeing all of Louisiana's United Pentecostal Churches. During his 26 years of service, he created a level of stability in the church and brought the United Pentecostal Church to a new level. His professionalism and guidance in handling Louisiana's churches and their congregations will be missed, as well as his great wisdom and leadership.

I personally commend, honor and thank Reverend Tenney on the occasion of his retirement from service to the people of Louisiana after 26 years as United Pentecostal Church District Superintendent for the State of Louisiana.•

CONGRATULATIONS TO "WE THE PEOPLE" FINALISTS FROM THE STATE OF ARKANSAS

• Mr. PRYOR. Mr. President, I congratulate students from Valley View High School in Jonesboro, AR for winning their statewide competition and earning the chance to come to our Nation's capital to compete in the national finals of "We the People: The Citizen and the Constitution". Led by their teacher Dana Shoemaker, students Jarrett Clark, Virginia Gray, Tyler Isbell, Zachery Lesley, Ryan McCormack, Ashley Perryman, Whitney Philamlee, Olga Redko, Elizabeth Renshaw, Laura Stahl, and Molly Throgmorton will join more than 1,200 students from across the country to take part in the weekend-long competition.

"We the People" is a nationwide program developed specifically to educate young people about the U.S. Constitution and Bill of Rights. The program is funded by the U.S. Department of Education, and it provides a unique and valuable opportunity for high school students to learn about the foundations of the Federal Government while spending time in Washington, D.C., the center of American civic engagement.

It is a wonderful thing that these students have taken such an interest in government and the political system. The vibrancy of our democracy depends on the active participation of its citizens. And with every new generation, we are faced with the challenge of educating our future leaders in the value of civic engagement. I am happy that the parents and teachers of these students from Jonesboro are meeting that important challenge and that the students are taking an active role in their own education by participating in such an enriching program.

While in Washington, the students will participate in a 3-day academic competition that simulates a congressional hearing, in which they testify before a panel of judges. Students demonstrate their knowledge and understanding of constitutional principles and have opportunities to evaluate and debate positions on relevant historical and contemporary issues. It is important to note that the Educational Testing Service—ETS, the world's largest private educational testing and research organization, characterizes the "We the People" program as a "great instructional success." Independent studies by ETS have revealed that "We the People" students "significantly outperformed comparison students on every topic of the tests taken." I am delighted that the Valley View Blazers can take advantage of such a great opportunity.

These 11 students from Jonesboro certainly deserve recognition for their hard work and talent. Through their knowledge of the U.S. Constitution and our political system, they have earned the right to compete at the highest level. I am proud that such fine young ladies and gentlemen will be representing my state on the national stage, and I am honored to acknowledge their accomplishment.

I wish these students the best of luck at the "We the People" national finals, and I applaud their outstanding achievement.•

WORLD WAR II REMEMBRANCE

• Mrs. MURRAY. Mr. President, I rise today to share with you a remarkable story from World War II and the remembrance shown by our friends in Germany.

Lindlar, Germany a small town outside of Cologne, is honoring the memory of an American war hero who lost his life during World War II. First Lieutenant Victor Rutkowski was a 24 year old, B–17 co-pilot assigned to the 390th Bombardment Group stationed in England. Lindlar will be dedicating a monument to Victor's memory and holding a memorial service to honor him this weekend.

Doug Johnson was the pilot of the B–17 during Victor's last mission. The following is his account of that final mission.

Oct. 15, 1944: My 35th and final mission started about like most of the others we had flown during the previous few months. Two of our earlier missions had extended all the way from England, over Germany landing in Russia for a short stay. Leaving Russia and bombing in Poland and Rumania before proceeding on to Italy for a couple days before our final leg back into Framlingham, England. But this time we were going on a relatively short mission to Cologne, Germany. We were to fly the lead position, high element of "B" squadron. Take off went according to schedule and we were airborne at about 0534. Climb out and assembly was simply routine. We reached the IP and turned toward the target area. No enemy fighters were sighted and it looked like the flak was going to be light and inaccurate. Hey, this was going to be a piece of cake.

Just before bombs away the flak became moderate and their gunners were beginning to home in on us. Suddenly we received a burst right under the right wing. We lost number 4 engine and Victor Rutkowski, my co-pilot, feathered it immediately then informed me that number three engine was on fire. Now things were beginning to get pretty tense. We attempted to extinguish the fire with no success and it's about time for bombs away. We continued and dropped our bombs in the target area. We notified the squadron leader and immediately pulled away from the formation. I called out on the intercom that "we had better get out of here before this plane blows up". Things looked pretty bad. I called back later to the crew but got no answer because all of them except the copilot, engineer and myself had already bailed out.

The fire continued in number 3 engine so the engineer bailed out and Victor followed him. I climbed down to bail out but decided to take one last look at number 3. The fire appeared to have gone out. The plane was in a slight dive as I climbed back into the seat. Upon returning the plane to level flight I noticed that the fire reappeared. I then put the plane in a fairly steep dive. I remember saying to myself "come on baby we've gotten this far, don't blow up on me now". The fire blew out shortly thereafter. My luck was still holding.

I was down to about 4000 feet by now and found myself flying through some more flak, and small arms fire. I didn't realize at the time that I was flying directly over the ground fighting between our troops and the Germans somewhere north of Aachen. I really did not know who was shooting at me then but luckily I was out of it in a minute or so. I finally contacted a P–47 fighter pilot in the area who led me into St. Trond, Belgium, Site A92, where the landing was not the best I had ever made. A flat right tire that had been shot out by flak didn't help. After exiting the plane and walking around to inspect the damage, I noticed that the tail gunner was still at his post. A flak burst had killed him. The plane had about 200 holes in it and the fuel was still leaking from the number 3 engine. I still can't figure out why that plane didn't blow up.

I later learned that my copilot was killed on the ground by German civilians and that my bombardier had been wounded but evaded and my engineer also escaped capture and returned to base. The rest of my crew spent the balance of the war as POWs.

A truly remarkable story that speaks vividly to the sacrifice soldiers such as Victor made fighting for their countries.

I would like to commend the citizens of Lindlar for honoring the memory of Victor Rutkowski and all those who died during in World War II. I would like to add the thanks of the Rutkowski family and the United States Senate to Lindlar for this special tribute.•

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on Friday, April 15, 2005, she had presented to the President of the United States the following enrolled bill:

S. 256. An act to amend title II of the United States Code, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1767. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2005 Season" (RIN1018–AT77) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1768. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: New Mexico; Albuquerque/Bernalillo County" (FRL NO. 7897–6) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1769. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Substitute Refrigerant Recycling; Amendment to the Definition of Refrigerant" (FRL NO. 7899–3) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1770. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Outer Continental Shelf Air Regulations Consistency Update for California" (FRL NO. 7896–2) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1771. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards; and National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations" (FRL NO. 7899–1) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1772. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled

"Approval and Promulgation of Implementation Plans; Texas; Agreed Orders in the Beaumont/Port Arthur Ozone Nonattainment Area" (FRL NO. 7898–7) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1773. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; 15% Rate-of-Progress Plan and Motor Vehicle Emissions Budgets, Dallas/Fort Worth Ozone Nonattainment Area" (FRL NO. 7897–7) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1774. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan" (FRL NO. 7898–5) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1775. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, a report relative to the District of Columbia Family Court Act; to the Committee on Homeland Security and Governmental Affairs.

EC–1776. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Fiscal Year 2004 Annual Report on Advisory Neighborhood Commissions"; to the Committee on Homeland Security and Governmental Affairs.

EC–1777. A communication from the Solicitor, Federal Labor Relations Authority, transmitting, pursuant to law, the report of a vacancy in the position of General Counsel, received on April 13, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1778. A communication from the Acting Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Absence and Leave; SES Annual Leave" (RIN3206–AK72) received on April 13, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1779. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, a report entitled "Report on Acquisitions Made from Foreign Manufacturers for Fiscal Year 2004"; to the Committee on Finance.

EC–1780. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Health Reimbursement Arrangements" (Rev. Rul. 2005–24) received on April 11, 2005; to the Committee on Finance.

EC–1781. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Maquiladora—Section 168(g)" (UIL: 168.29–06) received on April 11, 2005; to the Committee on Finance.

EC–1782. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Fair Market Value in a Section 412(i) Plan" (Rev. Proc. 2005–25) received on April 11, 2005; to the Committee on Finance.

EC–1783. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Residence and Source Rules Involving U.S. Possessions and Other Conforming Changes" ((RIN1545–BE22) (TD 9194)) received on April 11, 2005; to the Committee on Finance.

EC–1784. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004" (Notice 2005–34) received on April 11, 2005; to the Committee on Finance.

EC–1785. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Procedures for the Extended Period of Limitations on Assessment for Listed Transactions" (Rev. Proc. 2005–26) received on April 13, 2005; to the Committee on Finance.

EC–1786. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—February 2005" (Rev. Rul. 2005–26) received on April 13, 2005; to the Committee on Finance.

EC–1787. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Russia and Kazakhstan; to the Committee on Foreign Relations.

EC–1788. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report relative to the Development Assistance and Child Survival and Health Programs Allocations; to the Committee on Foreign Relations.

EC–1789. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–1790. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a correction to the Department's Fiscal Year 2000 report relative to the Arms Export Control Act; to the Committee on Foreign Relations.

EC–1791. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a draft bill to reauthorize United States participation in and appropriations for the U.S. contribution to, the tenth replenishment of the resources of the African Development Fund, received on April 11, 2005; to the Committee on Foreign Relations.

EC–1792. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a draft bill to reauthorize United States participation in and appropriations for the U.S. contribution to, the fourteenth replenishment of the resources of the International Development Association, received on April 11, 2005; to the Committee on Foreign Relations.

EC–1793. A communication from the General Counsel, Department of the Treasury, transmitting, the report of a draft bill entitled "To expand the list of statutes contained in the original HIPC debt reduction legislation to include the Lend-Lease Act of 1941", received on April 11, 2005; to the Committee on Foreign Relations.

EC–1794. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a draft bill to reauthorize United States participation in and appropriations for the U.S. contribution to, the eighth replenishment of the resources of the Asian Development Fund, received on April 11, 2005; to the Committee on Foreign Relations.

EC–1795. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the web site address of reports entitled "Supporting Democracy and Human Rights: The U.S. Record 2004–2005" and "Country Reports on Human Rights Practices" prepared by the Bureau of Democracy, Human Rights and Labor, Department of State; to the Committee on Foreign Relations.

EC–1796. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–1797. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled "Update on Progress Toward Regional Nuclear Nonproliferation in South Asia"; to the Committee on Foreign Relations.

EC–1798. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled "Overseas Surplus Property"; to the Committee on Foreign Relations.

EC–1799. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Abatement of Highway Traffic Noise and Construction Noise" (RIN2125–AF03) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1800. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operations (Including 4 Regulations): [CGD01–04–129], [CGD01–04–127], [CGD01–04–047], [CGD01–04–143]" (RIN1625–AA09) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1801. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operations (Including 4 Regulations): [CGD01–05–019], [CGD08–05–017], [CGD01–05–023], [CGD08–05–018]" (RIN1625–AA09) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1802. A communication from the Chief, Regulations and Administrative Law, U.S.

Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (Including 3 Regulations): [CGD05-05-007], [CGD05-05-021], [COTP Jacksonville 05-033]" (RIN1625-AA00) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1803. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (Including 2 Regulations): [CGD01-05-011], [COTP San Francisco Bay 05-003]" (RIN1625-AA00) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1804. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Terms Imposed by States on Numbering of Vessels; Electronic Submission, [USCG-2003-15708]" (RIN1625-AA75) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1805. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zone; Cape Fear River, Eagle Island, North Carolina State Port Authority Terminal, Wilmington, NC, [CGD05-05-018]" (RIN1625-AA87) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1806. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Final Rule for FMVSS No. 138, Tire Pressure Monitoring Systems" (RIN2127-AJ23) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1807. A communication from the Senior Attorney, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Applicability of the Hazardous Regulations to Loading, Unloading, and Storage" (RIN2137-AC68) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1808. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closing Pollock in Statistical Area 620 of the Gulf of Alaska" (I.D. No. 031805A) received on April 13, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1809. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category" (I.D. No. 030905G) received on April 13, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1810. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report entitled "Congressional Justification Budget Request for Fiscal Year 2006"; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BURNS:

S. 823. A bill to provide for the establishment of summer health career introductory programs for middle and high school students; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURNS:

S. 824. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to primary health providers who establish practices in health professional shortage areas; to the Committee on Finance.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 825. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 826. A bill to provide that the conveyance of the former radar bomb scoring site to the city of Conrad, Montana, is not subject to reversion; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. SCHUMER, and Mrs. CLINTON):

S. 827. A bill to prohibit products that contain dry ultra-filtered milk products, milk protein concentrate, or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. GRAHAM, Mrs. CLINTON, Mr. BINGAMAN, and Mr. KERRY):

S. 828. A bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. CORNYN, Mr. LEAHY, Mr. CRAIG, Mr. FEINGOLD, Mr. ALLEN, Mr. DURBIN, Mr. GRAHAM, Mr. DEWINE, and Mr. ALLARD):

S. 829. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 830. A bill to amend the Federal Water Pollution Control Act to insert a new definition relating to oil and gas exploration and production; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 831. A bill to provide for the establishment of a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. SMITH, Mr. BAUCUS, Mr. GRASSLEY, Mr. AKAKA, Mr. SCHUMER, and Mr. PRYOR):

S. 832. A bill to amend the Internal Revenue Code of 1986 to provide taxpayer protection and assistance, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 833. A bill to amend the Workforce Investment Act of 1998 to authorize the Secretary of Labor to provide for 5-year pilot projects to establish a system of industry-validated national certifications of skills in high-technology industries and a cross-disciplinary national certification of skills in homeland security technology; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN:

S. 834. A bill to amend the Workforce Investment Act of 1998 to provide for integrated workforce training programs for adults with limited English proficiency, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAIG (for himself and Mr. BURNS):

S. 835. A bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses; to the Committee on Finance.

By Ms. CANTWELL:

S. 836. A bill to require accurate fuel economy testing procedures; to the Committee on Environment and Public Works.

By Mr. INHOFE:

S. 837. A bill to amend the Safe Drinking Water Act to clarify the definition of the term "underground injection"; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. HAGEL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 44, a bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $100,000.

S. 58

At the request of Mr. INOUYE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 58, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 132

At the request of Mr. SMITH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 246

At the request of Mr. BUNNING, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 246, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 333

At the request of Mr. SANTORUM, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 339

At the request of Mr. REID, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 339, a bill to reaffirm the authority of States to regulate certain hunting and fishing activities.

S. 423

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 423, a bill to amend title 38, United States Code, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 440

At the request of Mr. BUNNING, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 473

At the request of Ms. CANTWELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 473, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 484

At the request of Mr. WARNER, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 515

At the request of Mr. BYRD, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 518

At the request of Mr. SESSIONS, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 518, a bill to provide for the establishment of a controlled substance monitoring program in each State.

S. 536

At the request of Mr. MCCAIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 536, a bill to make technical corrections to laws relating to Native Americans, and for other purposes.

S. 551

At the request of Mr. ALLARD, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 551, a bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Colorado Springs, Colorado, metropolitan area.

S. 577

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 577, a bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities.

S. 580

At the request of Mr. SMITH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 580, a bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 610

At the request of Mr. TALENT, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 610, a bill to amend the Internal Revenue Code of 1986 to provide for a small agri-biodiesel producer credit and to improve the small ethanol producer credit.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from New Jersey (Mr. CORZINE) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 675

At the request of Mr. DORGAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 675, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

S. 749

At the request of Mr. THOMAS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 749, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, and for other purposes.

S. 767

At the request of Mr. BOND, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 767, a bill to establish a Division of Food and Agricultural Science within the National Science Foundation and to authorize funding for the support of fundamental agricultural research of the highest quality, and for other purposes.

S. CON. RES. 9

At the request of Mr. ENSIGN, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Con. Res. 9, a concurrent resolution recognizing the second century of Big Brothers Big Sisters, and supporting the mission and goals of that organization.

S. RES. 82

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. Res. 82, a resolution urging the European Union to add Hezbollah to the Eurpoean Union's wide-ranging list of terrorist organizations.

At the request of Mr. ALLEN, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. Res. 82, supra.

AMENDMENT NO. 338

At the request of Ms. SNOWE, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of amendment No. 338 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 340

At the request of Mr. DEWINE, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 340 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 387

At the request of Ms. MIKULSKI, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Wyoming (Mr . ENZI) were added as cosponsors of amendment No. 387 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 388

At the request of Mr. BAYH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 388 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 399

At the request of Mr. DORGAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 399 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 418

At the request of Mr. CHAMBLISS, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of amendment No. 418 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 451

At the request of Mr. SCHUMER, the names of the Senator from Nevada (Mr. REID) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 451 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 459

At the request of Mr. FEINGOLD, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Oregon (Mr. WYDEN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 459 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 825. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today, along with Senator LAUTENBERG, I am introducing legislation, the Crossroads of the American Revolution National Heritage Area Act, to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey. I am proud to be joining my New Jersey colleagues, Representatives RODNEY FRELINGHUYSEN and RUSH HOLT, who have introduced this legislation in the House of Representatives, with the support of the entire New Jersey delegation.

This legislation recognizes the critical role that New Jersey played during the American Revolution. In fact, New Jersey was the site of nearly 300 military engagements that helped determine the course of our history as a Nation. Many of these locations, like the site where George Washington made his historic crossing of the Delaware River, are well known and preserved. Others, such as the Monmouth Battlefield State Park in Manalapan and Freehold, and New Bridge Landing in River Edge, are less well known and are threatened by development or in critical need of funding for rehabilitation.

To help preserve New Jersey's Revolutionary War sites, this legislation would establish a Crossroads of the American Revolution National Heritage Area, linking about 250 sites in 15 counties. This designation would authorize $10 million to assist preservation, recreational and educational efforts by the State, county and local governments as well as private cultural and tourism groups. The program would be managed by the non-profit Crossroads of the American Revolution Association.

Simply put, we are the Nation that we are today because of the critical events that occurred in New Jersey during the American Revolution and the many who died fighting there. By enacting the Crossroads of the American Revolution National Heritage Area Act of 2005, we will pay tribute to the patriots who fought and died in New Jersey so that we might become a Nation free from tyranny.

In the 107th Congress, I was proud to see the Senate approve this legislation as part of a bipartisan package of heritage area bills. Unfortunately, the bill was not approved in the House of Representatives. I will work even harder in the 109th Congress to see that this important legislation passes both houses and goes to the President's desk for his signature. I hope my colleagues will support this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crossroads of the American Revolution National Heritage Area Act of 2005".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the State of New Jersey was critically important during the American Revolution because of the strategic location of the State between the British armies headquartered in New York City, New York, and the Continental Congress in the city of Philadelphia, Pennsylvania;

(2) General George Washington spent almost half of the period of the American Revolution personally commanding troops of the

Continental Army in the State of New Jersey, including 2 severe winters spent in encampments in the area that is now Morristown National Historical Park, a unit of the National Park System;

(3) it was during the 10 crucial days of the American Revolution between December 25, 1776, and January 3, 1777, that General Washington, after retreating across the State of New Jersey from the State of New York to the State of Pennsylvania in the face of total defeat, recrossed the Delaware River on the night of December 25, 1776, and went on to win crucial battles at Trenton and Princeton in the State of New Jersey;

(4) Thomas Paine, who accompanied the troops during the retreat, described the events during those days as "the times that try men's souls";

(5) the sites of 296 military engagements are located in the State of New Jersey, including—

(A) several important battles of the American Revolution that were significant to—

(i) the outcome of the American Revolution; and

(ii) the history of the United States; and

(B) several national historic landmarks, including Washington's Crossing, the Old Trenton Barracks, and Princeton, Monmouth, and Red Bank Battlefields;

(6) additional national historic landmarks in the State of New Jersey include the homes of—

(A) Richard Stockton, Joseph Hewes, John Witherspoon, and Francis Hopkinson, signers of the Declaration of Independence;

(B) Elias Boudinout, President of the Continental Congress; and

(C) William Livingston, patriot and Governor of the State of New Jersey from 1776 to 1790;

(7) portions of the landscapes important to the strategies of the British and Continental armies, including waterways, mountains, farms, wetlands, villages, and roadways—

(A) retain the integrity of the period of the American Revolution; and

(B) offer outstanding opportunities for conservation, education, and recreation;

(8) the National Register of Historic Places lists 251 buildings and sites in the National Park Service study area for the Crossroads of the American Revolution that are associated with the period of the American Revolution;

(9) civilian populations residing in the State of New Jersey during the American Revolution suffered extreme hardships because of—

(A) the continuous conflict in the State;

(B) foraging armies; and

(C) marauding contingents of loyalist Tories and rebel sympathizers;

(10) because of the important role that the State of New Jersey played in the successful outcome of the American Revolution, there is a Federal interest in developing a regional framework to assist the State of New Jersey, local governments and organizations, and private citizens in—

(A) preserving and protecting cultural, historic, and natural resources of the period; and

(B) bringing recognition to those resources for the educational and recreational benefit of the present and future generations of citizens of the United States; and

(11) the National Park Service has conducted a national heritage area feasibility study in the State of New Jersey that demonstrates that there is a sufficient assemblage of nationally distinctive cultural, historic, and natural resources necessary to establish the Crossroads of the American Revolution National Heritage Area.

(b) PURPOSES.—The purposes of this Act are—

(1) to assist communities, organizations, and citizens in the State of New Jersey in preserving—

(A) the special historic identity of the State; and

(B) the importance of the State to the United States;

(2) to foster a close working relationship among all levels of government, the private sector, and local communities in the State;

(3) to provide for the management, preservation, protection, and interpretation of the cultural, historic, and natural resources of the State for the educational and inspirational benefit of future generations;

(4) to strengthen the value of Morristown National Historical Park as an asset to the State by—

(A) establishing a network of related historic resources, protected landscapes, educational opportunities, and events depicting the landscape of the State of New Jersey during the American Revolution; and

(B) establishing partnerships between Morristown National Historical Park and other public and privately owned resources in the Heritage Area that represent the strategic fulcrum of the American Revolution; and

(5) to authorize Federal financial and technical assistance for the purposes described in paragraphs (1) through (4).

SEC. 3. DEFINITIONS.

In this Act:

(1) ASSOCIATION.—The term "Association" means the Crossroads of the American Revolution Association, Inc., a nonprofit corporation in the State.

(2) HERITAGE AREA.—The term "Heritage Area" means the Crossroads of the American Revolution National Heritage Area established by section 4(a).

(3) MANAGEMENT ENTITY.—The term "management entity" means the management entity for the Heritage Area designated by section 4(d).

(4) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 5.

(5) MAP.—The term "map" means the map entitled "Crossroads of the American Revolution National Heritage Area", numbered CRREL80,000, and dated April 2002.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) STATE.—The term "State" means the State of New Jersey.

SEC. 4. CROSSROADS OF THE AMERICAN REVOLUTION NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Crossroads of the American Revolution National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the land and water within the boundaries of the Heritage Area, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) MANAGEMENT ENTITY.—The Association shall be the management entity for the Heritage Area.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this Act, the management entity shall submit to the Secretary for approval a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) describe actions that units of local government, private organizations, and individuals have agreed to take to protect the cultural, historic, and natural resources of the Heritage Area;

(4) identify existing and potential sources of funding for the protection, management, and development of the Heritage Area during the first 5 years of implementation of the management plan; and

(5) include—

(A) an inventory of the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area relating to the themes of the Heritage Area that should be restored, managed, or developed;

(B) recommendations of policies and strategies for resource management that result in—

(i) application of appropriate land and water management techniques; and

(ii) development of intergovernmental and interagency cooperative agreements to protect the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area;

(C) a program of implementation of the management plan that includes for the first 5 years of implementation—

(i) plans for resource protection, restoration, construction; and

(ii) specific commitments for implementation that have been made by the management entity or any government, organization, or individual;

(D) an analysis of and recommendations for ways in which Federal, State, and local programs, including programs of the National Park Service, may be best coordinated to promote the purposes of this Act; and

(E) an interpretive plan for the Heritage Area.

(c) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of receipt of the management plan under subsection (a), the Secretary shall approve or disapprove the management plan.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the Board of Directors of the management entity is representative of the diverse interests of the Heritage Area, including—

(i) governments;

(ii) natural and historic resource protection organizations;

(iii) educational institutions;

(iv) businesses; and

(v) recreational organizations;

(B) the management entity provided adequate opportunity for public and governmental involvement in the preparation of the management plan, including public hearings;

(C) the resource protection and interpretation strategies in the management plan would adequately protect the cultural, historic, and natural resources of the Heritage Area; and

(D) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary shall—

(A) advise the management entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 60 days after the receipt of any proposed revision of the management plan from the management entity, approve or disapprove the proposed revision.

(d) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) USE OF FUNDS.—Funds made available under this Act shall not be expended by the management entity to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

(e) IMPLEMENTATION.—On completion of the 3-year period described in subsection (a), any funding made available under this Act shall be made available to the management entity only for implementation of the approved management plan.

SEC. 6. AUTHORITIES, DUTIES, AND PROHIBITIONS APPLICABLE TO THE MANAGEMENT ENTITY.

(a) AUTHORITIES.—For purposes of preparing and implementing the management plan, the management entity may use funds made available under this Act to—

(1) make grants to, provide technical assistance to, and enter into cooperative agreements with, the State (including a political subdivision), a nonprofit organization, or any other person;

(2) hire and compensate staff, including individuals with expertise in—

(A) cultural, historic, or natural resource protection; or

(B) heritage programming;

(3) obtain funds or services from any source (including a Federal law or program);

(4) contract for goods or services; and

(5) support any other activity—

(A) that furthers the purposes of the Heritage Area; and

(B) that is consistent with the management plan.

(b) DUTIES.—In addition to developing the management plan, the management entity shall—

(1) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for cultural, historic, and natural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are installed throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(2) in preparing and implementing the management plan, consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area;

(3) conduct public meetings at least semiannually regarding the development and implementation of the management plan;

(4) for any fiscal year for which Federal funds are received under this Act—

(A) submit to the Secretary a report that describes for the year—

(i) the accomplishments of the management entity;

(ii) the expenses and income of the management entity; and

(iii) each entity to which a grant was made;

(B) make available for audit all information relating to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing expenditures of Federal funds by any entity, that the receiving entity make available for audit all records and other information relating to the expenditure of the funds;

(5) encourage, by appropriate means, economic viability that is consistent with the purposes of the Heritage Area; and

(6) maintain headquarters for the management entity at Morristown National Historical Park and in Mercer County.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—

(1) FEDERAL FUNDS.—The management entity shall not use Federal funds made available under this Act to acquire real property or any interest in real property.

(2) OTHER FUNDS.—Notwithstanding paragraph (1), the management entity may acquire real property or an interest in real property using any other source of funding, including other Federal funding.

SEC. 7. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the management entity, the Secretary may provide technical and financial assistance to the Heritage Area for the development and implementation of the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant cultural, historic, natural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Superintendent of Morristown National Historical Park may, on request, provide to public and private organizations in the Heritage Area, including the management entity, any operational assistance that is appropriate for the purpose of supporting the implementation of the management plan.

(4) PRESERVATION OF HISTORIC PROPERTIES.—To carry out the purposes of this Act, the Secretary may provide assistance to a State or local government or nonprofit organization to provide for the appropriate treatment of—

(A) historic objects; or

(B) structures that are listed or eligible for listing on the National Register of Historic Places.

(5) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the management entity and other public or private entities to carry out this subsection.

(b) OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting an activity that directly affects the Heritage Area shall—

(1) consult with the Secretary and the management entity regarding the activity;

(2)(A) cooperate with the Secretary and the management entity in carrying out the of the Federal agency under this Act; and

(B) to the maximum extent practicable, coordinate the activity with the carrying out of those duties; and

(3) to the maximum extent practicable, conduct the activity to avoid adverse effects on the Heritage Area.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity assisted under this Act shall be not more than 50 percent.

SEC. 9. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Mr. BURNS:

S. 826. A bill to provide that the conveyance of the former radar bomb scoring site to the city of Conrad, Montana, is not subject to reversion; to the Committee on Armed Services.

Mr. BURNS. Mr. President, I take the floor today to ask that we finally help the town of Conrad, MT, continue its successful program of providing affordable housing for our seniors. I renew my commitment to making sure this occurs.

In the defense authorization act of 1994, the Air Force conveyed an unused 42-acre parcel of land to the city of Conrad, which then built a retirement home for Montana seniors. The home has been a great success, and the city of Conrad has begun the process of expanding the facility.

When the city proposed using the land as collateral for the home, it ran into a problem. In the quitclaim deed where we conveyed the land to the city, we included a customary reversion clause that would transfer the property back to the Department of Defense in the event that the land stopped being used for the purpose of housing or public recreation.

While the intent of this clause is and will continue to be met, a small city like Conrad must use the title to the land to secure construction loans, rather than issuing a municipal bond or some other measure to raise funds used by larger cities. The reversion clause prevents banks from using the land to secure the loan, as the city does not have clear title to the land.

Therefore, I ask the Senate to approve this modification to public law 103-160, section 2816 regarding the 42 acre site of the Blue Sky Villa, which removes the reversion clause for this land, giving the city of Conrad clear title. I thank the Senate for it's consideration of this important matter for our senior citizens in Montana.

By Mr. FEINGOLD (for himself, Mr. SCHUMER, and Mrs. CLINTON):

S. 827. A bill to prohibit products that contain dry ultra-filtered milk products, milk protein concentrate, or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I am pleased to re-introduce the Quality Cheese Act of 2005. This legislation will protect the consumer, save taxpayer dollars and provide support to America's dairy farmers, who have taken a beating in the marketplace in recent years.

When Wisconsin consumers have the choice, they will choose natural Wisconsin cheese. But some in the food industry have pushed the Food and Drug Administration (FDA) to change current law, which would leave consumers not knowing whether cheese is really all natural or not.

If the Federal Government creates a loophole for imitation cheese ingredients to be used in U.S. cheese vats, some cheese labels saying "domestic" and "natural" will no longer be truly accurate.

If USDA and FDA allow a change in Federal rules, imitation milk proteins known as milk protein concentrate, casein, or dry ultra filtered milk could be used to make cheese in place of the wholesome natural milk produced by cows in Wisconsin or other parts of the U.S.

I was deeply concerned by these efforts to change America's natural cheese standard. This effort to allow milk protein concentrate and casein into natural cheese products flies in the face of logic and could create a loophole that could allow unlimited amounts of substandard imported milk proteins to enter U.S. cheese vats.

While the industry proposal was withdrawn, my legislation would permanently prevent a similar back-door attempt to allow imitation milk as a cheese ingredient and ensure that consumers could be confident that they were buying natural cheese when they saw the natural label.

Over the past decade, cheese consumption has risen at a strong pace due in part to promotional and marketing efforts and investments by dairy farmers across the country. Year after year, per capita cheese consumption has risen at a steady rate.

These proposals to change our natural cheese standards, however, could decrease consumption of natural cheese by raising concerns about the origin of casein and milk protein concentrate. Use of such products could significantly tarnish the wholesome reputation of natural cheese in the eyes of the consumer and have unknown effects on quality and flavor.

This change could seriously compromise decades of work by America's dairy farmers to build up domestic cheese consumption levels. It is simply not fair to America's farmers or to consumers. After all, consumers have a right to know if the cheese that they buy is unnatural. And by allowing milk protein concentrate milk into supposedly natural cheese, we are denying consumers the entire picture.

Allowing MPCs or dry ultra-filtered milk into natural cheeses would also harm dairy producers throughout the United States. Some estimate that the annual effect of the change on the dairy farm sector of the economy could be more than $100 million.

The proposed change to our natural cheese standard would also harm the American taxpayer. If we allow MPCs to be used in cheese, we will effectively permit unrestricted importation of these ingredients into the United States. Because there are no tariffs and quotas on these ingredients, these heavily subsidized products would quickly displace natural domestic dairy ingredients.

These unnatural domestic dairy products would enter our domestic cheese market and could depress dairy prices paid to American dairy producers. Low dairy prices, in turn, could result in increased costs to the dairy price support program as the federal government is forced to buy domestic milk products when they are displaced in the market by cheap imports. So, at the same time that U.S. dairy farmers would receive lower prices, the U.S. taxpayer would pay more for the dairy price support program.

This change does not benefit the dairy farmer, consumer or taxpayer. Who then is it good for?

It would benefit only the subsidized foreign MPC producers out to make a fast buck by exploiting a system put in place to support our dairy farmers.

This legislation addresses the concerns of farmers, consumers and taxpayers by prohibiting dry ultra-filtered milk, casein, and MPCs from being included in America's natural cheese standard.

Congress must shut the door on any backdoor efforts to undermine America's dairy farmers. I urge my colleagues to pass my legislation and prevent a loophole that would allow changes that hurt the consumer, taxpayer, and dairy farmer.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality Cheese Act of 2005".

SEC. 2. NATURAL CHEESE STANDARD.

(a) FINDINGS.—Congress finds that—

(1)(A) any change in domestic natural cheese standards to allow dry ultra-filtered milk products, milk protein concentrate, or casein to be labeled as domestic natural cheese would result in increased costs to the dairy price support program; and

(B) that change would be unfair to taxpayers, who would be forced to pay more program costs;

(2) any change in domestic natural cheese standards to allow dry ultra-filtered milk products, milk protein concentrate, or casein to be labeled as domestic natural cheese would result in lower revenues for dairy farmers;

(3) any change in domestic natural cheese standards to allow dry ultra-filtered milk products, milk protein concentrate, or casein to be labeled as domestic natural cheese would cause dairy products containing dry ultra-filtered milk, milk protein concentrate, or casein to become vulnerable to contamination and would compromise the sanitation, hydrosanitary, and phytosanitary standards of the United States dairy industry; and

(4) changing the labeling standard for domestic natural cheese would be misleading to the consumer.

(b) PROHIBITION.—Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended—

(1) by striking "Whenever" and inserting "(a) Whenever"; and

(2) by adding at the end the following:

"(b) The Commissioner may not use any Federal funds to amend section 133.3 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling), to include dry ultra-filtered milk, milk protein concentrate, or casein in the definition of the term 'milk' or 'nonfat milk', as specified in the standards of identity for cheese and cheese products published at part 133 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling).".

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. CORNYN, Mr. LEAHY, Mr. CRAIG, Mr. FEINGOLD, Mr. ALLEN, Mr. DURBIN, Mr. GRAHAM, Mr. DEWINE, and Mr. ALLARD):

S. 829. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce the "Sunshine in the Courtroom Act." This bill will give Federal judges the discretion to allow for the photographing, electronic recording, broadcasting and televising of Federal court proceedings. The Sunshine in the Courtroom Act will help the public become better informed about the judicial process. Moreover, this bill will help produce a healthier judiciary. Increased public scrutiny will bring about greater accountability and help judges to do a better job. The sun needs to shine in on the Federal courts.

Allowing cameras in the Federal courtrooms is consistent with our Founding Fathers' intent that trials be held in front of as many people as choose to attend. I believe that the First Amendment requires that court proceedings be open to the public and, by extension, the news media. The Constitution and Supreme Court have said, "what transpires in the courtroom is public property." Clearly, the American values of openness and education are served by using electronic media in Federal courtrooms.

There are many benefits and no substantial detrimental effects to allowing greater public access to the inner workings of our Federal courts. Fifteen States conducted studies aimed specifically at the educational benefits derived from camera access courtrooms. They all determined that camera coverage contributed to greater public understanding of the judicial system.

Moreover, the widespread use in State court proceedings show that still and video cameras can be used without any problems, and that procedural discipline is preserved. According to the National Center for State Courts, all 50 states allow for some modern audiovisual coverage of court proceedings under a variety of rules and conditions. My own State of Iowa has operated successfully in this open manner for over 20 years. Further, at the Federal level, the Federal Judicial Center conducted a pilot program in 1994 which studied the effect of cameras in a select number of Federal courts. That study found "small or no effects of camera presence on participants in the proceeding, courtroom decorum, or the administration of justice."

I would like to note that even the Supreme Court has recognized that there is a serious public interest in the open airing of important court cases. At the urging of Senator SCHUMER and myself, Chief Justice Rehnquist allowed the delayed audio broadcasting of the oral arguments before the Supreme Court in the 2000 presidential election dispute. The Supreme Court's response to our request was an historic, major step in the right direction. Since then, the Supreme Court has allowed for audio broadcasting in other landmark cases. Other courts have followed suit, such as the live audio broadcast of oral arguments before the D.C. Circuit in the Microsoft antitrust case and the televising of appellate proceedings before the Ninth Circuit in the Napster copyright case. The public wants to see what is happening in these important judicial proceedings, and the benefits are significant in terms of public knowledge and discussion.

We've introduced the Sunshine in the Courtroom Act with a well-founded confidence based on the experience of the States as well as State and Federal studies. However, in order to be certain of the safety and integrity of our judicial system, we have included a 3-year sunset provision allowing a reasonable amount of time to determine how the process is working before making the provisions of the bill permanent.

It is also important to note that the bill simply gives judges the discretion to use cameras in the courtroom. It does not require judges to have cameras in their courtroom if they do not want them. The bill also protects the anonymity of non-party witnesses by giving them the right to have their voices and images obscured during testimony.

So, the bill does not require cameras, but allows judges to exercise their discretion to permit camera in appropriate cases. The bill protects witnesses and does not compromise safety. The bill preserves the integrity of the judicial system. The bill is based on the experience of the States and the Federal courts. And the bill's net result will be greater openness and accountability of the nation's Federal courts. The best way to maintain confidence in our judicial system, where the Federal judiciary holds tremendous power, is to let the sun shine in by opening up the Federal courtrooms to public view through broadcasting. And allowing cameras in the courtroom will bring the judiciary into the 21st century. I urge my colleagues to join me in supporting the Sunshine in the Courtroom Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sunshine in the Courtroom Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) PRESIDING JUDGE.—The term "presiding judge" means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term "appellate court of the United States" means any United States circuit court of appeals and the Supreme Court of the United States.

SEC. 3. AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.

(a) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(b) AUTHORITY OF DISTRICT COURTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) OBSCURING OF WITNESSES.—

(A) IN GENERAL.—Upon the request of any witness in a trial proceeding other than a party, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding.

(B) NOTIFICATION TO WITNESSES.—The presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request that the image and voice of that witness be obscured during the witness' testimony.

(c) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, in the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under subsections (a) and (b).

SEC. 4. SUNSET.

The authority under section 3(b) shall terminate 3 years after the date of the enactment of this Act.

By Mr. INHOFE:

S. 830. A bill to amend the Federal Water Pollution Control Act to insert a new definition relating to oil and gas exploration and production; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION RELATING TO OIL AND GAS EXPLORATION AND PRODUCTION.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, TREATMENT OPERATION, OR TRANSMISSION.—

"(A) IN GENERAL.—The term 'oil and gas exploration, production, processing, treatment operation, or transmission' means all field activities or operations associated with oil or gas exploration, production, or processing, or oil or gas treatment operations or transmission facilities.

"(B) INCLUSIONS.—The term 'oil and gas exploration, production, processing, treatment operation, or transmission' includes activities necessary to prepare a site for oil or gas drilling and for the movement and placement of drilling equipment, whether or not the field activities or operations may be considered to be construction activities.".

By Mr. BINGAMAN:

S. 831. A bill to provide for the establishment of a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will help address the devastating health workforce shortages we will be facing in this country. Health care expenditures represent 15.3 percent of U.S. gross domestic product. These expenditures are expected to rise to 18.7 percent by 2014. As health care needs grow, society faces increasing challenges related to the health care workforce. By 2020, 29 percent nursing positions are projected to be vacant. From 2000–2010, an additional 1.2 million aides will be needed to cover projected growth in long-term care positions and replacement of departing workers. An aging health care workforce means that by 2008, almost half of the workforce will be 45 years of age and older. Currently, U.S. providers rely on international medical graduate and foreign trained nurses to fill some critical roles, while continuing to face a shortage of providers in health professional shortage areas. Health workforce challenges need to analyzed, understood, and alleviated, to ensure better access and better quality of care.

The Health Workforce Advisory Commission Act of 2005 will help to create a national vision to serve as a roadmap for investing in the health workforce. Through analysis and recommendation, an 18 member commission of national workforce and health experts will provide insight regarding the solutions necessary to enhance our health workforce. Key areas for commission focus will include forecasting of supply and distribution of physicians, nurses and other health professionals, studying the national and global impact of workforce policies related to the utilization of internationally trained practitioners, and developing appropriate measures to ensure diversity of the U.S. health workforce. The commission will make recommendations to Congress on health workforce policy.

It is vital that the U.S. take new measures to ensure that workforce challenges are met and overcome for current and future generations. By undertaking and overcoming the challenges before us, we will enhance both the quality of healthcare and the quality of life, provide access nationwide, and build a health care system that is consistent with our current and future health and economic needs. The Health Workforce Advisory Commission can serve a new and integral role for our health care system and our society, now and in the future.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Workforce Advisory Commission Act of 2005".

SEC. 2. HEALTH WORKFORCE ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The Comptroller General shall establish a commission to be known as the Health Workforce Advisory Commission (referred to in this Act as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 18 members to be appointed by the Comptroller General not later than 90 days after the date of enactment of this Act, and an ex-officio member who shall serve as the Director of the Commission.

(2) QUALIFICATIONS.—In appointing members to the Commission under paragraph (1), the Comptroller General shall ensure that—

(A) the Commission includes individuals with national recognition for their expertise in health care workforce issues, including workforce forecasting, undergraduate and graduate training, economics, health care and health care systems financing, public health policy, and other fields;

(B) the members are geographically representative of the United States and maintain a balance between urban and rural representatives;

(C) the members includes a representative from the commissioned corps of the Public Health Service;

(D) the members represent the spectrum of professions in the current and future healthcare workforce, including physicians, nurses, and other health professionals and personnel, and are skilled in the conduct and interpretation of health workforce measurement, monitoring and analysis, health services, economic, and other workforce related research and technology assessment;

(E) at least 25 percent of the members who are health care providers are from rural areas; and

(F) a majority of the members are individuals who are not currently primarily involved in the provision or management of health professions education and training programs.

(3) TERMS AND VACANCIES.—

(A) TERMS.—The term of service of the members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for members initially appointed under paragraph (1).

(B) VACANCIES.—Any member who is appointed to fill a vacancy on the Commission that occurs before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(4) CHAIRPERSON.—

(A) DESIGNATION.—The Comptroller General shall designate a member of the Commission, at the time of the appointment of such member—

(i) to serve as the Chairperson of the Commission; and

(ii) to serve as the Vice Chairperson of the Commission.

(B) TERM.—A member shall serve as the Chairperson or Vice Chairperson of the Commission under subparagraph (A) for the term of such member.

(C) VACANCY.—In the case of a vacancy in the Chairpersonship or Vice Chairpersonship, the Comptroller General shall designate another member to serve for the remainder of the vacant member's term.

(c) DUTIES.—The Commission shall—

(1) review the health workforce policies implemented—

(A) under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395, 1396 et seq.);

(B) under titles VII and VIII of the Public Health Service Act (42 U.S.C. 292, 296 et seq.);

(C) by the National Institutes of Health;

(D) by the Department of Health and Human Services;

(E) by the Department of Veterans Affairs; and

(F) by other departments and agencies as appropriate;

(2) analyze and make recommendations to improve the methods used to measure and monitor the health workforce and the relationship between the number and make up of such personnel and the access of individuals to appropriate health care;

(3) review the impact of health workforce policies and other factors on the ability of the health care system to provide optimal medical and health care services;

(4) analyze and make recommendations pertaining to Federal incentives (financial, regulatory, and otherwise) and Federal programs that are in place to promote the education of an appropriate number and mix of health professionals to provide access to appropriate health care in the United States;

(5) analyze and make recommendations about the appropriate supply and distribution of physicians, nurses, and other health professionals and personnel to achieve a health care system that is safe, effective, patient centered, timely, equitable, and efficient;

(6) analyze the role and global implications of internationally trained physicians, nurses, and other health professionals and personnel in the United States health workforce;

(7) analyze and make recommendations about achieving appropriate diversity in the United States health workforce;

(8) conduct public meetings to discuss health workforce policy issues and help formulate recommendations for Congress and the Secretary of Health and Human Services;

(9) in the course of meetings conducted under paragraph (8), consider the results of staff research, presentations by policy experts, and comments from interested parties;

(10) make recommendations to Congress concerning health workforce policy issues;

(11) not later than April 15, 2006, and each April 15 thereafter, submit a report to Congress containing the results of the reviews conducted under this subsection and the recommendations developed under this subsection;

(12) periodically, as determined appropriate by the Commission, submit reports to Congress concerning specific issues that the Commission determines are of high importance; and

(13) carry out any other activities determined appropriate by the Secretary of Health and Human Services.

(d) ONGOING DUTIES CONCERNING REPORTS AND REVIEWS.—

(1) COMMENTING ON REPORTS.—

(A) SUBMISSION TO COMMISSION.—The Secretary of Health and Human Services shall transmit to the Commission a copy of each report that is submitted by the Secretary to Congress if such report is required by law and relates to health workforce policy.

(B) REVIEW.—The Commission shall review a report transmitted under subparagraph (A) and, not later than 6 months after the date on which the report is transmitted, submit to the appropriate committees of Congress written comments concerning such report. Such comments may include such recommendations as the Commission determines appropriate.

(2) AGENDA AND ADDITIONAL REVIEWS.—

(A) IN GENERAL.—The Commission shall consult periodically with the chairman and ranking members of the appropriate committees of Congress concerning the agenda and progress of the Commission.

(B) ADDITIONAL REVIEWS.—The Commission may from time to time conduct additional reviews and submit additional reports to the appropriate committees of Congress on topics relating to Federal health workforce-related programs and as may be requested by the chairman and ranking members of such committees.

(3) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary of Health and Human Services a copy of each report submitted by the Commission under this section and shall make such reports available to the public.

(e) POWERS OF THE COMMISSION.—

(1) GENERAL POWERS.—Subject to such review as the Comptroller General determines to be necessary to ensure the efficient administration of the Commission, the Commission may—

(A) employ and fix the compensation of the Executive Director and such other personnel as may be necessary to carry out its duties;

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments *and agencies;

(C) enter into contracts or make other arrangements as may be necessary for the conduct of the work of the Commission;

(D) make advance, progress, and other payments that relate to the work of the Commission;

(E) provide transportation and subsistence for personnel who are serving without compensation; and

(F) prescribe such rules and regulations at the Commission determined necessary with respect to the internal organization and operation of the Commission.

(2) INFORMATION.—To carry out its duties under this section, the Commission—

(A) shall have unrestricted access to all deliberations, records, and nonproprietary data maintained by the General Accounting Office;

(B) may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties under this section, on a schedule that is agreed upon between the Chairperson and the head of the department or agency involved;

(C) shall utilize existing information (published and unpublished) collected and assessed either by the staff of the Commission or under other arrangements;

(D) may conduct, or award grants or contracts for the conduct of, original research and experimentation where information available under subparagraphs (A) and (B) is inadequate;

(E) may adopt procedures to permit any interested party to submit information to be used by the Commission in making reports and recommendations under this section; and

(F) may carry out other activities determined appropriate by the Commission.

(f) ADMINISTRATIVE PROVISIONS.—

(1) COMPENSATION.—While serving on the business of the Commission a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for under level IV of the Executive Schedule under title 5, United States Code.

(2) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(3) EXECUTIVE DIRECTOR AND STAFF.—The Comptroller General shall appoint an individual to serve as the interim Executive Director of the Commission until the members of the Commission are able to select a permanent Executive Director under subsection (e)(1)(A).

(4) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

(5) AUDITS.—The Commission shall be subject to periodic audit by the Comptroller General.

(g) FUNDING.—

(1) REQUESTS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits such requests. Amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 2006, and such sums as may be necessary for each subsequent fiscal year, of which—

(A) 80 percent of such appropriated amount shall be made available from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i); and

(B) 20 percent of such appropriation shall be made available for amounts appropriated to carry out title XIX of such Act (42 U.S.C. 1396 et seq.).

(h) DEFINITION.—In this Act, the term "appropriate committees of Congress" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

By Mr. BINGAMAN (for himself, Mr. SMITH, Mr. BAUCUS, Mr. GRASSLEY, Mr. AKAKA, Mr. SCHUMER, and Mr. PRYOR):

S. 832. A bill to amend the Internal Revenue Code of 1986 to provide taxpayer protection and assistance, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the "Taxpayer Protection and Assistance Act of 2005" with Senators SMITH, BAUCUS, GRASSLEY, AKAKA, SCHUMER and PRYOR. This legislation combines various provisions intended to ensure that our nation's taxpayers are better able to prepare and file their tax returns each year in a fashion that is fair, reasonable and affordable. As long as we continue to require taxpayers to determine their own tax liability each year, we have a responsibility to ensure that we do not leave taxpayers vulnerable to abuses from those masquerading as tax professionals. This is bad for everyone including the majority of tax return preparers who provide professional and much needed services to taxpayers in their communities. I encourage my colleagues to work with us to ensure that the improvements that would be brought about by this bill are in place before the next filing season begins.

As I previously stated, this legislation is composed of several provisions. The first section would create a $10 million matching grant program for lower income tax preparation clinics much like the program we have currently have in place for tax controversies. I have seen first hand the impact free tax preparation clinics can have on taxpayers and their communities, as we are fortunate to have one of the best state-wide programs in the nation in New Mexico. TaxHelp New Mexico, which was started only a couple of years ago, helped 17,000 New Mexicans prepare and file their returns last year, resulting in over $14 million in refunds—all without refund anticipation loans. This year they are on pace to pass their goal of helping 25,000 elderly and economically disadvantaged taxpayers with free tax preparation and electronic filing of their returns. This program, started by Fred Gordon and Robin Brule from TVI and Carol Radosevich and Jeff Sterba from PNM, has turned into one of the best delivery mechanisms for public assistance I have seen in the state. This program has been fortunate to receive additional funding from the Annie E. Casey Foundation and the McCune Foundation. In order to continue to grow, though, we need to do our part in Congress and give them matching funding so they can continue their outreach into new communities in need of assistance.

The second set of provisions contained in this legislation would ensure that when taxpayers hire someone to help them with their tax returns they can be sure that the person is competent and professional. The first part of the bill makes sure that an enrolled agent, a tax professional licensed to practice before the IRS, shall have the exclusive right to describe him or herself as an "enrolled agent," "EA," or "E.A." In New Mexico, enrolled agents play an important role in helping taxpayers with problems with the IRS and with preparing their returns. They have earned the right to use their credentials, and we should prohibit those who have not taken the rigorous exams and do not have their experience to confuse the public into thinking they too have the same credentials. The second part of the bill requires the Treasury to determine what standards need to be met in order for a person to prepare tax returns commercially. Like all other tax professionals, this will require people who make a living preparing tax returns to pass a minimum competency exam and take brush up courses each year to keep abreast of tax law changes. The majority of tax return preparers already meet these standards, and it is clear that those who do not need to in order to prepare returns for a fee. The Treasury Department will also be required to operate a public awareness campaign so that taxpayers will know that they need to check to be sure that someone preparing their tax returns for a fee is qualified.

The third set of provisions would directly address the problems with refund anticipation loans (RALs), which is a problem throughout the country, but is particularly bad in New Mexico. First, this bill requires refund loan facilitators to register with the Treasury Department. Refund loan facilitators are those people who solicit, process, or otherwise facilitate the making of a refund anticipation loan in relation to a tax return being electronically filed. The legislation also requires these refund loan facilitators to properly disclose to taxpayers that they do not have to get a RAL in order to file their return electronically, as well as clearly disclose what all the costs involved with the loan. Finally, the refund loan facilitators must disclose to taxpayers when the loans would allow their refunds to be offset by the amount of the loan. Failure to follow these new rules will empower Treasury to impose penalties as appropriate. Like the credentials required for preparing returns, the Treasury Department would need to operate a public awareness campaign to educate the public on the real costs of RALs as compared to other forms of credit. This program will be funded, at least in part, by amounts collected from penalties imposed on refund loan facilitators.

The last section of the bill is an issue that my colleague from Hawaii, Senator AKAKA, has been actively working on for the last several years. This provision would authorize the Treasury Department to award grants to financial institutions or charitable groups that help low income taxpayers set up accounts at bank or credit union. Because many taxpayers do not have checking or savings accounts, their refund from IRS cannot be electronically wired to them. The alternative is to have the check mailed to the taxpayer or to have the refund immediately loaned to the taxpayer in the form of a RAL. Of course, getting people to set up a checking or savings account for purposes of receiving their tax refund will also have the benefit of getting many of these people to start saving for the first time.

Before I conclude, I would specifically like to thank Anita Horn Rizek from the Finance Committee for her tireless dedication to improving our nation's tax system and ensuring that all taxpayers are treated fairly regardless of their income class. Without her efforts this legislation would not have been possible.

I hope my colleagues will join with us to ensure that another tax year does not go by without making these modest changes. In order for our voluntary tax system to continue to function, taxpayers must have access to tax professionals with the highest ethical standards and greatest substantive knowledge possible. This bill will go a long way toward maintaining the integrity of the tax administration system.

I ask unanimous consent that the text of the bill and an analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Protection and Assistance Act of 2005".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. LOW-INCOME TAXPAYER CLINICS.

(a) GRANTS FOR RETURN PREPARATION CLINICS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

"SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

"(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED RETURN PREPARATION CLINIC.—

"(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii) operates programs which assist low-income taxpayers, including individuals for whom English is a second language, in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

"(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(2) CLINIC.—The term 'clinic' includes—

"(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

"(c) SPECIAL RULES AND LIMITATIONS.—

"(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

"Sec. 7526A Return preparation clinics for low-income taxpayers.".

(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—

(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking "$6,000,000" and inserting "$10,000,000".

(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

"(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.".

(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—

(i) by inserting "qualified" before "low-income", and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

"(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

SEC. 3. CLARIFICATION OF ENROLLED AGENT CREDENTIALS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7529. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under subsection (a) shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7529 Enrolled agents.".

(c) PRIOR REGULATIONS.—The authorization to prescribe regulations under the amendments made by this section may not be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other related Federal rule or regulation issued before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. REGULATION OF INCOME TAX RETURN PREPARERS.

(a) AUTHORIZATION.—Section 330(a)(1) of title 31, United States Code, is amended by inserting "(including compensated preparers of tax returns, documents, and other submissions)" after "representatives".

(b) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations under section 330 of title 31, United States Code—

(A) to regulate those compensated preparers not otherwise regulated under regulations promulgated under such section on the date of the enactment of this Act, and

(B) to carry out the provisions of, and amendments made by, this section.

(2) EXAMINATION.—In promulgating the regulations under paragraph (1), the Secretary shall develop (or approve) and administer an eligibility examination designed to test—

(A) the technical knowledge and competency of each preparer described in paragraph (1)(A)—

(i) to prepare Federal tax returns, including individual and business income tax returns, and

(ii) to properly claim the earned income tax credit under section 32 of the Internal Revenue Code of 1986 with respect to such individual returns, and

(B) the knowledge of each such preparer regarding such ethical standards for the preparation of such returns as determined appropriate by the Secretary.

(3) CONTINUING ELIGIBILITY.—

(A) IN GENERAL.—The regulations under paragraph (1) shall require a renewal of eligibility every 3 years and shall set forth the manner in which a preparer described in paragraph (1)(A) must renew such eligibility.

(B) CONTINUING EDUCATION REQUIREMENTS.—As part of the renewal of eligibility, such regulations shall require that each such preparer show evidence of completion of such continuing education requirements as specified by the Secretary.

(C) NONMONETARY SANCTIONS.—The regulations under paragraph (1) shall provide for the suspension or termination of such eligibility in the event of any failure to comply with the requirements for such eligibility.

(c) OFFICE OF PROFESSIONAL RESPONSIBILITY.—Section 330 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—

"(1) IN GENERAL.—There shall be in the Internal Revenue Service an Office of Professional Responsibility the functions of which shall be as prescribed by the Secretary of the Treasury, including the carrying out of the purposes of this section.

"(2) DIRECTOR.—

"(A) IN GENERAL.—The Office of Professional Responsibility shall be under the supervision and direction of an official known as the 'Director, Office of Professional Responsibility'. The Director, Office of Professional Responsibility, shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title.

"(B) APPOINTMENT.—The Director, Office of Professional Responsibility, shall be appointed by the Secretary of the Treasury without regard to the provisions of title 5 relating to appointments in the competitive service or the Senior Executive Service.

"(3) HEARING.—Any hearing on an action initiated by the Director, Office of Professional Responsibility to impose a sanction under regulations promulgated under this section shall be conducted in accordance with sections 556 and 557 of title 5 by 1 or more administrative law judges appointed by the Secretary of the Treasury under section 3105 of title 5.

"(4) INFORMATION ON SANCTIONS TO BE AVAILABLE TO THE PUBLIC.—

"(A) SANCTIONS INITIATED BY ACTION.—When an action is initiated by the Director, Office of Professional Responsibility, to impose a sanction under regulations promulgated under this section, the pleadings, and the record of the proceeding and hearing shall be open to the public (subject to restrictions imposed under subparagraph (C)).

"(B) SANCTION NOT INITIATED BY ACTION.—When a sanction under regulations promulgated under this section (other than a private reprimand) is imposed without initiation of an action, the Director, Office of Professional Responsibility, shall make available to the public information identifying the representative, employer, firm or other entity sanctioned, as well as information about the conduct which gave rise to the sanction (subject to restrictions imposed under subparagraph (C)).

"(C) RESTRICTIONS ON RELEASE OF INFORMATION.—Information about clients of the representative, employer, firm or other entity and medical information with respect to the representative shall not be released to the public or discussed in an open hearing, except to the extent necessary to understand the nature, scope, and impact of the conduct giving rise to the sanction or proposed sanction. Disagreements regarding the application of this subparagraph shall be resolved by the administrative law judge or, when a sanction is imposed without initiation of an action, by the Director, Office of Professional Responsibility.

"(5) FEES.—Any fees imposed under regulations promulgated under this section shall be available without fiscal year limitation to the Office of Professional Responsibility for the purpose of reimbursement of the costs of administering and enforcing the requirements of such regulations.".

(d) PENALTIES.—

(1) INCREASE IN CERTAIN PENALTIES.—Subsections (b) and (c) of section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) are each amended by striking "$50" and inserting "$500".

(2) USE OF PENALTIES.—Unless specifically appropriated otherwise, there is authorized to be appropriated and is appropriated to the Office of Professional Responsibility for each fiscal year for the administration of the public awareness campaign described in subsection (f) an amount equal to the penalties collected during the preceding fiscal year under sections 6694 and 6695 of the Internal Revenue Code of 1986 and under the regulations promulgated under section 330 of title 31, United States Code (by reason of subsection (b)(1)).

(e) COORDINATION WITH SECTION 6060(A).—The Secretary of the Treasury shall coordinate the requirements under the regulations promulgated under section 330 of title 31, United States Code, with the return requirements of section 6060 of the Internal Revenue Code of 1986.

(f) PUBLIC AWARENESS CAMPAIGN.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising—

(1) to encourage taxpayers to use for Federal tax matters only professionals who establish their competency under the regulations promulgated under section 330 of title 31, United States Code, and

(2) to inform the public of the requirements that any compensated preparer of tax returns, documents, and submissions subject to the requirements under the regulations promulgated under such section must sign the return, document, or submission prepared for a fee and display notice of such preparer's compliance under such regulations.

(g) ADDITIONAL FUNDS AVAILABLE FOR COMPLIANCE ACTIVITIES.—The Secretary of the Treasury may use any specifically appropriated funds for earned income tax credit compliance to improve and expand enforcement of the regulations promulgated under section 330 of title 31, United States Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5. CONTRACT AUTHORITY FOR EXAMINATIONS OF PREPARERS.

The Secretary of the Treasury is authorized to contract for the development or administration, or both, of any examinations under the regulations promulgated under section 330 of title 31, United States Code.

SEC. 6. REGULATION OF REFUND ANTICIPATION LOAN FACILITATORS.

(a) REGULATION OF REFUND ANTICIPATION LOAN FACILITATORS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by this Act, is amended by inserting at the end the following new section:

"SEC. 7530. REFUND ANTICIPATION LOAN FACILITATORS.

"(a) REGISTRATION.—Each refund loan facilitator shall register with the Secretary on an annual basis. As a part of such registration, each refund loan facilitator shall provide the Secretary with the taxpayer identification number of such facilitator.

"(b) DISCLOSURE.—Each refund loan facilitator shall disclose to a taxpayer both orally and on a separate written form at the time such taxpayer applies for a refund anticipation loan the following information:

"(1) NATURE OF THE TRANSACTION.—The refund loan facilitator shall disclose—

"(A) that the taxpayer is applying for a loan that is based upon the taxpayer's anticipated income tax refund,

"(B) the expected time within which the loan will be paid to the taxpayer if such loan is approved,

"(C) the time frame in which tax refunds are typically paid based upon the different filing options available to the taxpayer,

"(D) that there is no guarantee that a refund will be paid in full or received within a specified time period and that the taxpayer is responsible for the repayment of the loan even if the refund is not paid in full or has been delayed,

"(E) if the refund loan facilitator has an agreement with another refund loan facilitator (or any lender working in conjunction with another refund loan facilitator) to offset outstanding liabilities for previous refund anticipation loans provided by such other refund loan facilitator, that any refund paid to the taxpayer may be so offset and the implication of any such offset,

"(F) that the taxpayer may file an electronic return without applying for a refund anticipation loan and the fee for filing such an electronic return, and

"(G) that the loan may have substantial fees and interest charges that may exceed those of other sources of credit and the taxpayer should carefully consider—

"(i) whether such a loan is appropriate for the taxpayer, and

"(ii) other sources of credit.

"(2) Fees and interest.—The refund loan facilitator shall disclose all refund anticipation loan fees with respect to the refund anticipation loan. Such disclosure shall include—

"(A) a copy of the fee schedule of the refund loan facilitator,

"(B) the typical fees and interest rates (using annual percentage rates as defined by section 107 of the Truth in Lending Act (15 U.S.C. 1606)) for several typical amounts of such loans,

"(C) typical fees and interest charges if a refund is not paid or delayed, and

"(D) the amount of a fee (if any) that will be charged if the loan is not approved.

"(3) Other information.—The refund loan facilitator shall disclose any other information required to be disclosed by the Secretary.

"(c) Fines and Sanctions.—

"(1) In general.—The Secretary may impose a monetary penalty on any refund loan facilitator who—

"(A) fails to register under subsection (a), or

"(B) fails to disclose any information required under subsection (b).

"(2) Maximum monetary penalty.—Any monetary penalty imposed under paragraph (1) shall not exceed—

"(A) in the case of a failure to register, the gross income derived from all refund anticipation loans made during the period the refund loan facilitator was not registered, and

"(B) in the case of a failure to disclose information, the gross income derived from all refund anticipation loans with respect to which such failure applied.

"(3) Reasonable cause exceptions.—No penalty may be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

"(d) Definitions.—For purposes of this section—

"(1) Refund loan facilitator.—

"(A) In general.—The term 'refund loan facilitator' means any electronic return originator who—

"(i) solicits for, processes, receives, or accepts delivery of an application for a refund anticipation loan, or

"(ii) facilitates the making of a refund anticipation loan in any other manner.

"(B) Electronic return originator.—For purposes of subparagraph (A), the term 'electronic return originator' means a person who originates the 'electronic submission of income tax returns for another person.

"(2) Refund anticipation loan.—The term 'refund anticipation loan' means any loan of money or any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund. Such term includes a loan secured by the tax refund or an arrangement to repay a loan from the tax refund.

"(3) Refund anticipation loan fees.—The term 'refund anticipation loan fees' means the fees, charges, interest, and other consideration charged or imposed by the lender or facilitator for the making of a refund anticipation loan.

"(e) Regulations.—The Secretary may prescribe such regulation as necessary to implement the requirements of this section.".

(2) Clerical amendment.—The table of sections for chapter 77, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 7530 Refund anticipation loan facilitators.".

(b) Disclosure of Penalty.—Subsection (k) of section 6103 is amended by adding at the end the following new paragraph:

"(10) Disclosure of penalties on refund anticipation loan facilitators.—The Secretary may disclose the name of any person with respect to whom a penalty has been imposed under section 7530 and the amount of any such penalty.".

(c) Use of Penalties.—Unless specifically appropriated otherwise, there is authorized to be appropriated and is appropriated to the Internal Revenue Service for each fiscal year for the administration of the public awareness campaign described in subsection (d) an amount equal to the penalties collected during the preceding fiscal year under section 7530 of the Internal Revenue Code of 1986.

(d) Public Awareness Campaign.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising, to educate the public on making sound financial decisions with respect to refund anticipation loans (as defined under section 7530 of the Internal Revenue Code of 1986), including the need to compare—

(1) the rates and fees of such loans with the rates and fees of conventional loans; and

(2) the amount of money received under the loan after taking into consideration such costs and fees with the total amount of the refund.

(e) Effective Date.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act.

SEC. 7. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.

(a) Establishment of Program.—The Secretary is authorized to award demonstration project grants (including multi-year grants) to eligible entities which partner with volunteer and low-income preparation organizations to provide tax preparation services and assistance in connection with establishing an account in a federally insured depository institution for individuals that currently do not have such an account.

(b) Eligible Entities.—

(1) In general.—An entity is eligible to receive a grant under this section if such an entity is—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

(B) a federally insured depository institution,

(C) an agency of a State or local government,

(D) a community development financial institution,

(E) an Indian tribal organization,

(F) an Alaska Native Corporation,

(G) a Native Hawaiian organization,

(H) a labor organization, or

(I) a partnership comprised of 1 or more of the entities described in the preceding subparagraphs.

(2) Definitions.—For purposes of this section—

(A) Federally insured depository institution.—The term "federally insured depository institution" means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(B) Community development financial institution.—The term "community development financial institution" means any organization that has been certified as such pursuant to section 1805.201 of title 12, Code of Federal Regulations.

(C) Alaska native corporation.—The term "Alaska Native Corporation" has the same meaning as the term "Native Corporation" under section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(D) Native hawaiian organization.—The term "Native Hawaiian organization" means any organization that—

(i) serves and represents the interests of Native Hawaiians, and

(ii) has as a primary and stated purpose the provision of services to Native Hawaiians.

(E) Labor organization.—The term "labor organization" means an organization—

(i) in which employees participate,

(ii) which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and

(iii) which is described in section 501(c)(5).

(c) Application.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) Limitation on Administrative Costs.—A recipient of a grant under this section may not use more than 6 percent of the total amount of such grant in any fiscal year for the administrative costs of carrying out the programs funded by such grant in such fiscal year.

(e) Evaluation and Report.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

(f) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary, for the grant program described in this section, $10,000,000, or such additional amounts as deemed necessary, to remain available until expended.

(g) Regulations.—The Secretary is authorized to promulgate regulations to implement and administer the grant program under this section.

(h) Study on Delivery of Tax Refunds.—

(1) In general.—The Secretary of the Treasury, in consultation with the National Taxpayer Advocate, shall conduct a study on the payment of tax refunds through debit cards or other electronic means to assist individuals that do not have access to financial accounts or institutions.

(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to Congress containing the result of the study conducted under subsection (a).

SEC. 8. EXPANDED USE OF TAX COURT PRACTICE FEES FOR PRO SE TAXPAYERS.

(a) In General.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Analysis of Taxpayer Protection and Assistance Act

(1) LOW-INCOME TAXPAYER CLINICS

Present Law. The Internal Revenue Code (the "Code") provides that the Secretary is authorized to provide up to $6 million per year in matching grants to certain low-income taxpayer clinics. Eligible clinics are those that charge no more than a nominal fee to either represent low-income taxpayers in controversies with the IRS or provide tax information to individuals for whom English is a second language ("controversy clinics"). No clinic can receive more than $100,000 per year.

A "clinic" includes (1) a clinical program at an accredited law, business, or accounting school, in which students represent low-income taxpayers, or (2) an organization exempt from tax under Code section 501(c) which either represents low-income taxpayers or provides referral to qualified representatives.

Explanation of Provision. The provision authorizes $10 million in matching grants for low-income taxpayer return preparation clinics ("preparation clinics"). These clinics may provide tax return preparation and filing services to low-income taxpayers, including those for whom English is a second language. The authorization of $6 million for low-income controversy clinics under present law is also increased to $10 million.

The provision expands the scope of clinics eligible to receive preparation clinic grants to encompass clinics at all educational institutions. The provision prohibits the use of grants for overhead expenses at both controversy clinics and preparation clinics. The provision also authorizes the IRS to use mass communications, referrals, and other means to promote the benefits and encourage the use of low-income controversy and preparation clinics.

Effective Date. The provision is effective for grants made after the date of enactment.

(2) ENROLLED AGENTS

Present Law. The Secretary is authorized to regulate the practice of representatives of persons before the Department of the Treasury. Circular No. 230, promulgated by the Secretary, provides rules relating to practice before the Department of the Treasury by attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others.

Explanation of Provision. The provision adds a new section to the Code permitting the Secretary to prescribe regulations to regulate the conduct of enrolled agents in regard to their practice before the IRS and to permit enrolled agents meeting the Secretary's qualifications to use the credentials or designation "enrolled agent", "EA", or "E.A.".

Effective Date. The provision is effective on the date of enactment.

(3) REGULATION OF PRACTICE BEFORE THE DEPARTMENT OF THE TREASURY

Present Law. The Secretary of the Treasury is authorized to regulate the practice of representatives of persons before the Department of the Treasury. The Secretary is also authorized to suspend or disbar from practice before the Department a representative who is incompetent, who is disreputable, who violates the rules regulating practice before the Department, or who (with intent to defraud) willfully and knowingly misleads or threatens the person being represented (or a person who may be represented). The rules promulgated by the Secretary pursuant to this provision are contained in Circular 230. Although permitted by statute, the preparation and filing of tax returns and other submissions (absent further involvement) has not been considered within the scope of these Circular 230 provisions.

Reasons for Change. In her 2003 annual report to the Congress, the National Taxpayer Advocate noted that over 55 percent of the 130 million U.S. individual taxpayers paid a return preparer to prepare their 2001 Federal income tax returns and that of the 1.2 million known tax return preparers, one-quarter to one-half are not regulated by any licensing entity or subject to minimum competency requirements. Fifty-seven percent of the earned income credit overclaims were attributable to returns prepared by paid preparers.

Tax practitioners play an important role in the tax system. While certain individuals authorized to practice before the IRS are already subject to oversight, many are not. For those taxpayers who use a paid tax practitioner, compliance with the tax laws hinges on the practitioners competence and ethical standards. The IRS's lack of oversight over such practitioners therefore contributes to noncompliance. Further, improving the accuracy of tax returns at the front-end of the process, should reduce government burden and intrusion on taxpayers through enforcement.

Requiring regulation of individuals preparing Federal income tax returns and other documents for submission to the IRS will improve the fairness and administration of the tax system. Testing, education, ethical training, and effective oversight of enrolled preparers are critical elements to improving tax compliance.

Description of Proposal. The proposal expands the Secretary's authority to regulate representatives practicing before the Treasury to include individuals preparing for compensation Federal income tax returns and other submissions to the IRS ("enrolled preparers"). The types of practitioners authorized to practice before the IRS that are subject to oversight under regulations in effect on the date of enactment of the proposal are excluded from the regulations establishing eligibility requirements for compensated preparers (i.e., Enrolled Agents, Certified Public Accountants, and attorneys).

The Secretary of the Treasury is required to issue regulations no later than one year after the date of enactment establishing eligibility requirements for enrolled preparers to practice before the Treasury. Such regulations will require the initial registration of enrolled preparers, as well as a process for regularly renewing the initial registration. Enrolled preparers renewing their registration shall be required to establish completion of continuing education requirements in a manner set forth by the Treasury in regulations. The Secretary is expected to minimize the burden and cost on those subject to the registration requirement to the extent feasible. Thus, the Secretary is authorized to define the scope of the registration requirement in a manner that accomplishes this goal.

The proposal requires the Secretary to develop and administer an examination to establish the competency of enrolled preparers. The examination for the enrolled preparers should test the applicant's technical knowledge to prepare Federal tax returns and knowledge of ethical standards. Moreover, the examination shall be designed to include testing on technical issues with high rates of erroneous reporting, such as claims for the earned income credit. The Secretary is authorized to contract for both the development and administration of any examination. The contract authority includes allowing the Secretary to establish the parameters that the examination must meet and authorize the use of an examination that is not, however, developed or administered by the IRS. Further, efficiencies will be gained by coordinating the examination requirement with the enrolled agent exam (the Special Enrollment Examination (SEE)).

To enhance the regulation of practice before Treasury, the proposal establishes the Office of Professional Responsibility within the IRS under the supervision and direction of the Director, an official reporting directly to the Commissioner, IRS. The Director, Office of Professional Responsibility will be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service, or, if higher, at a rate fixed under the critical pay authority established under section 9503 of title 5. The proposal also authorizes the Secretary to appoint administrative law judges to conduct hearing of sanctions imposed on representatives practicing before the Treasury and allows transparent proceedings involving practitioners to provide accountability for both the practitioners and the discipline authority (i.e., the IRS).

The Secretary may impose fees for the registration and renewal of enrolled preparers. The proposal provides that the fees paid for registration and renewal shall be available to the Office of Professional Responsibility for the purpose of reimbursing the costs of administering and enforcing rules promulgated by the Secretary regulating practice before the Treasury.

The proposal also provides that the Secretary shall conduct a public awareness campaign to encourage taxpayers to use only those professionals who establish their competency under the regulations promulgated under section 330 of title 31. The public awareness campaign shall be conducted in a manner to inform the public of the registration requirements imposed on enrolled preparers and the general requirement that preparers must sign the return and provide their registration number on the return.

The proposal increases the penalties on tax return preparers who fail to sign a return or fail to provide an identifying number on a return from $50 to $500 per return. In addition, amounts collected from the imposition of penalties under section 6694 and 6695 or under the regulations promulgated under section 330 of title 31 shall be directed to the Office of Professional Responsibility for the administration of the public awareness campaign. The proposal also permits the Secretary to use any funds specifically appropriated for earned income credit compliance to improve compliance with the rules regulating practice before the Treasury.

Effective date. The provision is effective on the date of enactment.

(4) REGULATION OF REFUND ANTICIPATION LOAN FACILITATORS

Present Law. The Secretary of the Treasury is authorized to regulate the practice of representatives of persons before the Department of the Treasury. The rules promulgated by the Secretary pursuant to this provision are contained in Circular 230. In general, the preparation and filing of tax returns (absent further involvement) has not been considered within the scope of these Circular 230 provisions.

The tax code also imposes penalties on persons who fail to follow various tax code requirements in the process of preparing and filing tax returns on behalf of taxpayers. Present law does not contain any provision regulating the conduct of persons who provide refund anticipation loans to individual taxpayers in connection with the filing of tax returns.

Reasons for Change. There is concern with the use of tax refunds and the IRS's direct deposit indicator acknowledgement as a means for selling refund anticipation loans to taxpayers, particularly low-income taxpayers. Requiring regulation of refund anticipation loan facilitators will increase the ability of the IRS to hold such facilitators accountable. Increasing the information that must be disclosed, both orally and in writing, to the taxpayer in connection with a refund anticipation loan will heighten taxpayer awareness of the true costs and consequences of a refund anticipation loan.

Description of Proposal. The proposal requires the annual registration of refund loan facilitators with the Secretary of the Department of the Treasury. A refund loan facilitator is any person who originates the electronic submission of income tax returns for another person and, in connection with the electronic submission, solicits, processes, or otherwise facilitates the making of a refund anticipation loan to the individual taxpayer on whose behalf the tax return is submitted. It is intended that the Secretary, in promulgating regulations under this proposal, will require refund loan facilitators to submit an annual application that includes the name, address, and TIN of the applicant and a schedule of the applicant's fees for such year.

The proposal requires refund loan facilitators to disclose to taxpayers, both orally and in writing, that they may file an electronic tax return without applying for a refund anticipation loan and the cost of filing such an electronic return compared to the cost of the refund anticipation loan. In addition, the proposal requires refund loan facilitators to disclose to taxpayers all fees and interest charges associated with a refund anticipation loan and provide a comparison with fees and interest charges associated with other types of consumer credit, as well as fees and interest charges for similar refund anticipation loans. Refund loan facilitators also must disclose to taxpayers the expected time within which tax refunds are typically paid based on different filing options, the risk that the full amount of the refund may not be paid or received within the expected time, and additional costs the taxpayer may incur in connection with the refund anticipation loan if the tax refund is delayed or not paid.

In addition to the above disclosure requirements, refund loan facilitators must disclose to taxpayers whether the refund anticipation loan agreement includes a debt collection offset arrangement. Debt collection offsets are arrangements between refund loan facilitators and a taxpayer's creditor to offset the taxpayer's expected refund against an outstanding liability owed to the creditor. There is concern with the potential abuse of individual taxpayers through the use of such arrangements by refund loan facilitators. To discourage their use, refund loan facilitators must fully disclose to taxpayers any arrangements to offset a taxpayer's expected refund against an outstanding liability. The Secretary is authorized to require refund loan facilitators to disclose any other information deemed necessary. The provision does not preempt state laws or political subdivision thereof.

The proposal permits the Secretary to impose monetary penalties on refund loan facilitators who fail to meet the registration or disclosure requirements, unless such failure was due to reasonable cause. The penalty for failure to register is not to exceed the gross income derived from all refund anticipation loans during the period the refund loan facilitator was not registered. The penalty for failure to disclose the information required by the proposal is not to exceed the gross income derived from all refund anticipation loans with respect to which the refund loan facilitator failed to provide the required disclosure information. The proposal also permits the Secretary to disclose the name of or penalty imposed upon any refund loan facilitator who fails to meet the registration or disclosure requirements.

The proposal provides that the Secretary shall conduct a public awareness campaign to educate the public on the costs associated with refund anticipation loans, including the costs as compared to other forms of credit. The public awareness campaign shall be conducted in a manner that educates the public on making sound financial decisions with respect to refund anticipation loans. Amounts collected from the imposition of penalties on refund loan facilitators shall be directed to the IRS for the administration of the public awareness campaign.

Effective date. The proposal is effective on the date of enactment.

(5) TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS

Present Law. A large number of individual taxpayers do not have bank accounts. Because of this, these taxpayers are unable to participate fully in electronic filing, because IRS cannot electronically transmit to them their tax refunds.

Reasons for Change. Effectiveness of tax incentives and assistance programs are diminished when individuals do not have an account at a financial institution. For example, the benefits received through the Earned Income Tax Credit incentive diminishes when taxpayers redirect their tax refund in exchange for a refund anticipation loan. In contrast, if such taxpayers had an account at an insured financial institution, such tax refund could be directly deposited into the taxpayer's account without a reduction for fees paid to a refund anticipation loan facilitator.

Between 25 and 56 million adults are do not have an account with an insured financial institution. These individuals rely on alternative financial service providers to cash checks, pay bills, send remittances, and obtain credit. Many of these individuals are low- and moderate-income families. Promoting the establishment of accounts with an insured financial institution will allow the taxpayer to keep more of his or her tax refund and encourage savings.

Description of Proposal. The proposal authorizes the Secretary of the Department of the Treasury to award demonstration project grants (totaling up to $10 million) to eligible entities to provide tax preparation assistance in connection with establishing an account in a federally insured depository institution for individuals that do not have such an account. Entities eligible to receive grants are: tax-exempt organizations described in section 501(c)(3), federally insured depository institutions, State or local governmental agencies, community development financial institutions, Indian tribal organizations, Alaska native corporations, native Hawaiian organizations, and labor organizations.

The provision requires the Secretary, in consultation with the National Taxpayer Advocate, to study the delivery of tax refunds through debit cards or other electronic means, in addition to those methods presently available. The purpose of the study is to assist those individuals who do not have access to financial accounts or institutions to obtain access to their tax refunds. The Secretary shall submit a report to Congress with the results of the study not later than one year after the date of enactment.

Effective Date. The proposal is effective on the date of enactment.

(6) USE OF PRACTITIONER FEES

Present Law. The Tax Court is authorized to impose on practitioners admitted to practice before the Tax Court a fee of up to $30 per year. These fees are to be used to employ independent counsel to pursue disciplinary matters.

Explanation of Provision. The provision provides that Tax Court fees imposed on practitioners also are available to provide services to pro se taxpayers who may not be familiar with Tax Court procedures and applicable legal requirements. Fees may be used for education programs for pro se taxpayers.

Effective Date. The provision is effective on the date of enactment.

Mr. AKAKA Mr. President, I am proud to cosponsor the Taxpayer Protection and Assistance Act of 2005. I thank Senator BINGAMAN for introducing this bill and working closely with me over the years to protect taxpayers and expand access to financial services. I also appreciate all of the efforts of Senators BAUCUS, SMITH, GRASSLEY, and PRYOR on this important piece of consumer protection legislation.

The earned income tax credit (EITC) helps working families meet their food, clothing, housing, transportation, and education needs. Unfortunately, EITC refunds intended for working families are unnecessarily diminished by excessive tax preparation fees and the use of refund anticipation loans (RALs). According to the Brookings Institution, an estimated $1.9 billion intended to assist low-income families via the EITC was received by commercial tax preparers and affiliated national banks to pay for tax assistance, electronic filing of returns, and high-cost refund anticipation loans in 2002. Interest rates on RALs can range from 97 percent to more than 2,000 percent. The interest rates and fees charged on this type of product are not justified given the short duration and low repayment risk of this type of loan.

This legislation is a good start towards improving the quality of tax preparation services, providing relevant and useful disclosures about the use of RALs, and expanding access to low- and moderate-income families to mainstream financial services. The Act will provide the Department of the Treasury with the authority to regulate individuals preparing federal income tax returns and other documents for submission to the Internal Revenue Service. Fifty-seven percent of EITC overclaims were made on returns put together by paid preparers. This Act requires examinations, education, and oversight of paid preparers and urges citizens to utilize the services of an accredited or licensed tax preparer. This should improve the quality of tax preparation services available to our citizens.

In addition, the Act will require RAL facilitators to register with the Department of the Treasury, and comply with minimum disclosure requirements intended to improve the understanding of consumers about the costs associated with RALs. The Act also requires that the Department of the Treasury conduct a public awareness campaign intended to improve the knowledge of consumers about the costs associated with RALs. We need consumers to know more about the high fees associated with RALs and what alternatives are available, such as opening a bank or credit union account and having their refund directly deposited into it.

I am pleased that authorization language for a grant program to link tax preparation services with the opening of a bank or credit union account is included in this legislation. It is estimated that four million EITC recipients are classified as unbanked, and lack a formal relationship with a financial institution. Approximately 45 percent of EITC recipients pay for check cashing services. Check cashing services reduce EITC benefits by $130 million. Having a bank account allows individuals to take advantage of electronic filing, thus eliminating the excessive fees that check cashing services and refund anticipation loan providers assess. An account at a bank or credit union provides consumers alternatives to rapid refund loans, check cashing services, and lower cost remittances. In addition, bank and credit union accounts provide access to products and services found at mainstream financial institutions, such as savings accounts and reasonably priced loans.

This grant program builds upon the First Accounts initiative which has funded pilot projects that have coupled tax preparation services with the establishment of bank accounts. An example of such a project is the partnership that has been established by The Center for Economic Progress in Chicago. We need more of these types of programs intended to provide much needed tax preparation assistance, and encourage the use of mainstream financial services.

I urge all of my colleagues to support this legislation. This is an important first step towards improving the quality of tax preparation services. I look forward to continuing to work with my colleagues on additional consumer protections and initiatives to bring more people into mainstream financial services, such as what I included in S. 324, the Taxpayer Abuse Prevention Act.

By Mr. BINGAMAN:

S. 833. A bill to amend the Workforce Investment Act of 1998 to authroize the Secretary of Labor to provide for 5-year pilot projects to establish a system of industry-validated national certifications of skills in high-technology industries and a cross-disciplinary national certification of skills in homeland security technology; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN:

S. 834. A bill to amend the Workforce Investment Act of 1998 to provide for integrated workforce training programs for adults with limited English proficiency, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Workforce Investment for Next-Generation Technologies Act" or the "WING Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Science- and technology-based industries have been and will continue to be engines of United States economic growth and national security.

(2) The United States faces great challenges in the global economy from nations with highly trained technical workforces.

(3) Occupations requiring technical and scientific training are projected to grow rapidly over the next decade, at 3 times the rate of all occupations (according to Science & Engineering Indicators, 2002).

(4) The need for trained technology workers in national security fields has increased as a result of the events of September 11, 2001.

(5) National certification systems are well established and accepted in fields such as health and information technology and have succeeded in attracting more workers into those fields.

(6) Business and workers could both be well served by expanding the certification concept to other high technology industries.

(7) National certification systems allow workers to develop skills transportable to other States in response to layoffs and other economic changes.

(8) National certification systems facilitate interstate comparisons of education and training programs and help identify best practices and reduce cost and development redundancies.

(9) National certification systems promote quality and encourage educational institutions to modernize programs to ensure graduates pass industry-required exams.

(10) National certification based on industry-validated skill standards introduces stricter accountability for technical and vocational education programs.

(11) Certification signals value to employers and increases applicants' employability.

(12) Certification offers a planned skill development route into employment or professional advancement for working adults and displaced workers.

(13) The National Science Foundation's Advanced Technological Education Program, authorized by Congress in 1992, has created national centers of excellence at community colleges that have established unique linkages with industry to prepare individuals for the technical workforce under the program.

(14) The Advanced Technological Education Program should be expanded to all institutions of higher education, as the Nation should invest more resources in training and education programs that are responsive to marketplace needs.

(15) The one-stop delivery systems authorized under the Workforce Investment Act of 1998 have proved to be effective providers of information and resources for job seekers.

(16) The one-stop delivery systems offer special opportunities for directing displaced workers to certification programs that build skills for technical fields where rewarding jobs are plentiful.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To increase the numbers of workers educated for employment in high technology industries.

(2) To align the technical and vocational programs of educational institutions with the workforce needs of high-growth, next generation industries.

(3) To offer individuals expanded opportunities for rapid training and retraining in portable skills needed to keep and change jobs in a volatile economy.

(4) To provide United States businesses with adequate numbers of skilled technical workers.

(5) To encourage a student's or worker's progress toward an advanced degree while providing training, education, and useful credentials for workforce entry or reentry.

SEC. 4. SKILL CERTIFICATION PILOT PROJECTS.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

"(e) SKILL CERTIFICATION PILOT PROJECTS.—

"(1) PILOT PROJECTS.—In accordance with subsection (b), the Secretary of Labor shall establish and carry out not more than 20 pilot projects to establish a system of industry-validated national certifications of skills, including—

"(A) not more than 16 national certifications of skills in high-technology industries, including biotechnology, telecommunications, highly automated manufacturing (including semiconductors), advanced materials technology, nanotechnology, and energy technology (including technology relating to next-generation lighting); and

"(B) not more than 4 cross-disciplinary national certifications of skills in homeland security technology.

"(2) GRANTS TO ELIGIBLE ENTITIES.—In carrying out the pilot projects, the Secretary of Labor shall make grants to eligible entities, for periods of not less than 36 months and not more than 48 months, to carry out the authorized activities described in paragraph (7) with respect to the certifications described in paragraph (1).

"(3) ELIGIBLE ENTITIES.—

"(A) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means an entity that shall include as a principal participant one or more of the following:

"(i) An institution of higher education (as defined in section 101 or 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002)).

"(ii) An advanced technology education center.

"(iii) A local workforce investment board.

"(iv) A representative of a business in a target industry for the certification involved.

"(v) A representative of an industry association, labor organization, or community development organization.

"(B) HISTORY OF DEMONSTRATED CAPABILITY REQUIRED.—To be eligible to receive a grant under this subsection, an eligible entity shall have a history of demonstrated capability for effective collaboration with industry on workforce development activities that is consistent with the goals of this Act.

"(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary of Labor at such time, in such manner, and containing such information as the Secretary may require.

"(5) CRITERIA.—The Secretary of Labor shall establish criteria, consistent with paragraph (6), for awarding grants under this subsection.

"(6) PRIORITY.—In selecting eligible entities to receive grants under this subsection, the Secretary of Labor shall give priority to eligible entities that demonstrate the availability of and ability to provide matching funds from industry or nonprofit sources. Such matching funds may be provided in cash or in kind.

"(7) AUTHORIZED ACTIVITIES.—

"(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the funds made available through the grant—

"(i) to establish certification requirements for a certification described in paragraph (1) for an industry;

"(ii) to develop and initiate a certification program that includes preparatory courses, course materials, procedures, and examinations, for the certification; and

"(iii) to collect and analyze data related to the program at the program's completion, and to identify best practices (consistent with paragraph (8)) that may be used by local and State workforce investment boards in the future.

"(B) BASIS FOR REQUIREMENTS.—The certification requirements shall be based on applicable skill standards for the industry involved that have been developed by or linked to national centers of excellence under the National Science Foundation's Advanced Technological Education Program. The requirements shall require an individual to demonstrate an identifiable set of competencies relevant to the industry in order to receive certification. The requirements shall be designed to provide evidence of a transferable skill set that allows flexibility and mobility of workers within a high technology industry.

"(C) RELATIONSHIP TO TRAINING AND EDUCATION PROGRAMS.—The eligible entity shall ensure that—

"(i) a training and education program related to competencies for the industry involved, that is flexible in mode and timeframe for delivery and that meets the needs of those seeking the certification, is offered; and

"(ii) the certification program is offered at the completion of the training and education program.

"(D) RELATIONSHIP TO THE ASSOCIATE DEGREE.—The eligible entity shall ensure that the certification program is consistent with the requirements for a 2-year associate degree.

"(E) AVAILABILITY.—The eligible entity shall ensure that the certification program is open to students pursuing associate degrees, employed workers, and displaced workers.

"(8) CONSULTATION.—The Secretary of Labor shall consult with the Director of the National Science Foundation and the Secretary of Education to ensure that the pilot projects build on the expertise and information about best practices gained through the implementation of the National Science Foundation's Advanced Technological Education Program.

"(9) CORE COMPONENTS; GUIDELINES; REPORTS.—After collecting and analyzing the data obtained from the pilot programs, the Secretary of Labor shall—

"(A) establish the core components of a model high-technology certification program;

"(B) establish guidelines to assure development of a uniform set of standards and policies for such programs;

"(C) submit and prepare a report on the pilot projects to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives; and

"(D) make available to the public both the data and the report.

"(10) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $60,000,000 for fiscal year 2006 to carry out this subsection.".

S. 834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Limited English Proficiency and Integrated Workforce Training Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Workforce Investment Act of 1998 system is designed—

(A) to ensure universal access for individuals in need of employment and training systems; and

(B) to equip workers with those skills that contribute to lifelong education.

(2) The Workforce Investment Act of 1998 system is designed to recognize and reinforce the link between economic development and workforce development to meet the joint demands of employers and workers.

(3) The Workforce Investment Act of 1998 system should address the ongoing shortage of essential skills in the United States workforce in sectors with economic growth to ensure the United States remains competitive in the global economy.

(4) Immigrants accounted for over 50 percent of the growth in the civilian workforce between 1990 and 2001, and assuming today's levels of immigration remain constant, immigrants will account for half of the growth in the working age population between 2006 and 2015.

(5) The growth of the United States workforce and the competitiveness of the United States economy is directly linked to immigrants, some of whom are limited English proficient.

(6) The Workforce Investment Act of 1998 system may be significantly strengthened by funding the development of an employer centered integrated workforce training program for adults with limited English proficiency, taking into account the needs of the local and regional economy and the linguistic, social, and cultural characteristics of the individual.

SEC. 3. INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

"(e) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—

"(1) DEFINITIONS.—In this subsection:

"(A) INTEGRATED WORKFORCE TRAINING.—The term 'integrated workforce training' means training that integrates occupational skills training with language acquisition.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of Labor in consultation with the Secretary of Education.

"(2) DEMONSTRATION PROJECT.—In accordance with subsection (b), the Secretary shall establish and implement a national demonstration project designed to both analyze and provide data on workforce training programs that integrate English language acquisition and occupational training.

"(3) GRANTS.—

"(A) IN GENERAL.—In carrying out the demonstration project, the Secretary shall make not less than 10 grants, on a competitive basis, to eligible entities to provide the integrated workforce training programs. In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

"(B) PERIODS.—The Secretary shall make the grants for periods of not less than 24 months and not more than 48 months.

"(4) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall work in conjunction with a local board and shall include as a principal participant one or more of the following:

"(i) An employer or employer association.

"(ii) A nonprofit provider of English language instruction.

"(iii) A provider of occupational or skills training.

"(iv) A community-based organization.

"(v) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

"(vi) A labor organization.

"(vii) A local board.

"(B) EXPERTISE.—To be eligible to receive a grant under this subsection, an eligible entity shall have proven expertise in—

"(i) serving individuals with limited English proficiency, including individuals with lower levels of oral and written English; and

"(ii) providing workforce programs with training and English language instruction.

"(5) APPLICATIONS.—

"(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

"(i) contain information, including capability statements, that demonstrates that the eligible entity has the expertise described in paragraph (4)(B); and

"(ii) include an assurance that the program to be assisted shall—

"(I) establish a generalized adult bilingual workforce training and education model that integrates English language acquisition and occupational training, and incorporates the unique linguistic and cultural factors of the participants;

"(II) establish a framework by which the employer, employee, and other relevant members of the eligible entity can create a career development and training plan that assists both the employer and the employee to meet their long-term needs;

"(III) ensure that the framework established under subclause (II) takes into consideration the knowledge, skills, and abilities of the employee with respect to both the current and economic conditions of the employer and future labor market conditions relevant to the local area; and

"(IV) establish identifiable measures so that the progress of the employee and employer and the relative efficacy of the program can be evaluated and best practices identified.

"(6) Criteria.—The Secretary shall establish criteria for awarding grants under this subsection.

"(7) Integrated workforce training programs.—

"(A) Program components.—

"(i) Required components.—Each program that receives funding under this subsection shall—

"(I) test an individual's English language proficiency levels to assess oral and literacy gains from the beginning and throughout program enrollment;

"(II) combine training specific to a particular occupation or occupational cluster, with—

"(aa) English language instruction, such as instruction through an English as a Second Language program, or an English for Speakers of Other Languages program;

"(bb) basic skills instruction; and

"(cc) supportive services;

"(III) effectively integrate public and private sector entities, including the local workforce investment system and its functions, to achieve the goals of the program; and

"(IV) require matching or in-kind resources from private and nonprofit entities.

"(ii) Permissible components.—The program may offer other services, as necessary to promote successful participation and completion, including work-based learning, substance abuse treatment, and mental health services.

"(B) Goal.—Each program that receives funding under this subsection shall be designed to prepare limited English proficient adults for, and place such adults in, employment in growing industries with identifiable career ladder paths.

"(C) Program types.—In selecting programs to receive funding under this subsection, the Secretary shall select programs that meet 1 or more of the following criteria:

"(i) A program that—

"(I) serves unemployed, limited English proficient individuals with significant work experience or substantial education but persistently low wages; and

"(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, defined for purposes of this subparagraph as employment that provides at least 75 percent of the median wage in the local area.

"(ii) A program that—

"(I) serves limited English proficient individuals with lower levels of oral and written fluency, who are working but at persistently low wages; and

"(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services provided at the work site, or at a location central to several work sites, during work hours.

"(iii) A program that—

"(I) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

"(II) aims to prepare such individuals for, and place such individuals in, employment through services that include subsidized employment, in addition to the components required in subparagraph (A)(i).

"(iv) A program that includes funds from private and nonprofit entities.

"(D) Program approaches.—In selecting programs to receive funding under this subsection, the Secretary shall select programs with different approaches to integrated workforce training, in different contexts, in order to obtain comparative data on multiple approaches to integrated workforce training and English language instruction, to ensure programs are tailored to characteristics of individuals with varying skill levels and to assess how different curricula work for limited English proficient populations. Such approaches may include—

"(i) bilingual programs in which the workplace language component and the training are conducted in a combination of an individual's native language and English;

"(ii) integrated workforce training programs that combine basic skills, language instruction, and job specific skills training; or

"(iii) sequential programs that provide a progression of skills, language, and training to ensure success upon an individual's completion of the program.

"(8) Evaluation by eligible entity.—Each eligible entity that receives a grant under this subsection for a program shall carry out a continuous program evaluation and an evaluation specific to the last phase of the program operations.

"(9) Evaluation by secretary.—

"(A) In general.—The Secretary shall conduct an evaluation of program impacts of the programs funded under the demonstration project, with a random assignment, experimental design impact study done at each worksite at which such a program is carried out.

"(B) Data collection and analysis.—The Secretary shall collect and analyze the data from the demonstration project to determine program effectiveness, including gains in language proficiency, acquisition of skills, and job advancement for program participants.

"(C) Report.—The Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, and make available to the public, a report on the demonstration project, including the results of the evaluation.

"(10) Technical assistance.—The Secretary shall provide technical assistance to recipients of grants under this subsection throughout the grant periods.

"(11) Authorization of appropriations.—In addition to amounts authorized to be appropriated under section 174(b), there are authorized to be appropriated for fiscal year 2006—

"(A) $10,000,000 to make grants under paragraph (3); and

"(B) $1,000,000 to carry out paragraph (9).".

By Mr. CRAIG (for himself and Mr. BURNS):

S. 835. A bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses; to the Committee on Finance.

Mr. CRAIG. Mr. President, today I am introducing the Senior Elder Care Relief and Empowerment Act—the SECURE Act.

The SECURE Act would provide eligible taxpayers with a nonrefundable tax credit equal to 50 percent of qualified expenses incurred on behalf of senior citizens above a $1,000 spending floor.

The Senate Special Committee on Aging, which I chaired in the 108th Congress and of which I remain a member, held several hearings over the last couple years on different facets of the growing long-term care crisis in this country. A major concern of mine is that the Federal long-term care policy mix may not have the right incentives—especially when it comes to the tough choices faced by families who want to care for their frail and aging relatives.

More and more families are facing the stress and financial difficulties that come with caring for their aging parents.

It is critical to note that families, not government, provide 80 percent of long-term care for older persons in the United States. This is an enormous strength of our long-term care system. The U.S. Administration on Aging reports that about 22 million people serve as informal caregivers for seniors with at least one limitation on their activities of daily living.

These caregivers often face extreme stress and financial burden—especially those we call the sandwich generation. The sandwich generation refers to those sandwiched between caring for their aging parents and caring for their own children.

It is difficult for families to balance caring for children and saving or paying for college, while at the same time struggling with financing care for frail and aging parents.

Many caregivers forgo job promotions, reduce their hours on the job, cut back to part-time, or take extended leaves of absence to stay at home and care for their aging family members. Direct expenses include the cost of prescription drugs, durable medical equipment, home modifications, and physical therapy.

Caregivers also endure emotional and personal health strains.

The average age of a caregiver is 57, with one-third over age 65 themselves. Caregivers suffer from higher rates of depression or anxiety. These conditions often lead to higher risk of heart disease, cancer, diabetes, or other chronic conditions.

For many families, the nursing home is the only solution for providing long-term care, and that can be a good choice. For other families, keeping aging and vulnerable relatives in their own home or in the caregiver's home makes sense.

Family caregiving for aging and vulnerable relatives requires a flexible national response to ensure seniors and their families have the most appropriate high quality choices.

That is why I am introducing the SECURE Act. This legislation would help reduce the financial strain and related emotional and medical stress faced by family caregivers, as they care for their frail and aging parents, by providing much-needed tax relief for qualified expenses.

The SECURE Act would increase the eldercare choices available to families and has the potential to reduce the number of seniors forced to spend down their nest-egg in order to qualify for Medicaid services.

Qualified expenses include costs that are not reimbursable—those not covered by Medicare or other insurance—for physical assistance with essential daily activities to prevent injury; long-term care expenses, including normal household services; architectural expenses necessary to modify the senior's residence; respite care; adult daycare; assisted living services that are non-housing related expenses; independent living; home care; and home health care.

Seniors with long-term care needs also would be able to use the tax credit on their own behalf.

The SECURE Act should not preclude seniors or those near retirement from purchasing long-term care insurance. The Act would provide tax relief for high-risk seniors who cannot qualify for long-term care insurance policies.

I invite my colleagues to cosponsor this compassionate legislation.

I ask unanimous consent that the text of the bill and a brief description be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Elder Care Relief and Empowerment (SECURE) Act".

SEC. 2. CREDIT FOR ELDER CARE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

"SEC. 25C. ELDER CARE EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter 50 percent of so much of the qualified elder care expenses paid or incurred by the taxpayer with respect to each qualified senior citizen as exceeds $1,000.

"(b) QUALIFIED SENIOR CITIZEN.—For purposes of this section, the term 'qualified senior citizen' means an individual—

"(1) who has attained normal retirement age (as determined under section 216 of the Social Security Act) before the close of the taxable year,

"(2) who is a chronically ill individual (within the meaning of section 7702B(c)(2)(B)), and

"(3) who is—

"(A) the taxpayer,

"(B) a family member (within the meaning of section 529(e)(2)) of the taxpayer, or

"(C) a dependent (within the meaning of section 152) of the taxpayer.

"(c) QUALIFIED ELDER CARE EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified elder care expenses' means expenses paid or incurred by the taxpayer with respect to the qualified senior citizen for—

"(A) qualified long-term care services (as defined in section 7702B(c)),

"(B) respite care, or

"(C) adult day care.

"(2) EXCEPTIONS.—The term 'qualified elder care expenses' does not include—

"(A) any expense to the extent such expense is compensated for by insurance or otherwise, and

"(B) any expense paid to a nursing facility (as defined in section 1919 of the Social Security Act).

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) ADULT DAY CARE.—The term 'adult day care' means care provided for a qualified senior citizen through a structured, community-based group program which provides health, social, and other related support services on a less than 16-hour per day basis.

"(2) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to a qualified senior citizen in order to provide temporary relief to a caregiver of such senior citizen.

"(3) MARRIED INDIVIDUALS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

"(4) NO DOUBLE BENEFIT.—No deduction or other credit under this chapter shall take into account any expense taken into account for purposes of determining the credit under this section.

"(5) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No credit shall be allowed under subsection (a) for any amount paid to any person unless—

"(A) the name, address, and taxpayer identification number of such person are included on the return claiming the credit, or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

"(6) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFIED SENIOR CITIZENS.—No credit shall be allowed under this section with respect to any qualified senior citizen unless the TIN of such senior citizen is included on the return claiming the credit.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6213(g)(2)(H) of the Internal Revenue Code of 1986 (relating to mathematical or clerical error) is amended by inserting ", section 25C (relating to elder care expenses)," after "employment)".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C Elder care expenses.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred in taxable years beginning after December 31, 2004.

SENIOR ELDER CARE RELIEF AND EMPOWERMENT (SECURE) ACT

BRIEF SUMMARY OF PROVISIONS

April 2005

How is the tax credit structured?

50% tax credit rate for qualified expenses for elder care provided to a qualified senior citizen with long-term care needs, for all qualified expenses above a "floor" of $1,000 already provided by the taxpayer (for example: $500 credit on first $2,000 spent; $10,000 credit on first $21,000 spent).

What are the qualifications for beneficiaries of the tax credit?

Must have reached at least normal retirement age under Social Security (currently age 65), Certification by a licensed physician that the cared-for senior is unable to perform at least two basic activities of daily living.

Who can claim the credit?

Senior for his/her own care, Taxpaying family member, Any taxpaying family claiming the cared-for senior as a dependent.

What are the qualified expenses?

Un-reimbursable costs (those not covered by Medicare or other insurance), Physical assistance with essential daily activities to prevent injury, Long-term care expenses including normal household services, Architectural expenses necessary to modify the senior's residence, Respite care, Adult daycare, Assisted living services (non-housing related expenses), Independent living, Home care, Home health care.

AMENDMENTS SUBMITTED AND PROPOSED

SA 466. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 467. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 468. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 469. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 470. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 471. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 472. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 473. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 474. Mr. CRAIG (for himself and Mr. Akaka) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 475. Mr. CRAIG (for himself, Mr. Baucus, Mr. Roberts, and Mr. Enzi) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 476. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 477. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 478. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 479. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 480. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 481. Mrs. LINCOLN (for herself and Mr. Pryor) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra.

SA 482. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 483. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 484. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 485. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 486. Mrs. DOLE (for herself and Mr. Burr) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 487. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 488. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 489. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 490. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 491. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 492. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 493. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 494. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 495. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 496. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 497. Ms. MIKULSKI (for herself and Mr. Corzine) submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table.

SA 498. Mr. WARNER (for himself, Mr. Nelson of Florida, Mr. Allen, and Mr. Talent) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 499. Mr. WARNER (for himself, Mr. Nelson of Florida, Mr. Allen, Mr. Talent, Ms. Collins, and Mr. Martinez) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 500. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 501. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 502. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 503. Mr. DURBIN (for himself, Mr. Levin, and Mr. Kennedy) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 504. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 505. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 506. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 507. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 508. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 509. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 510. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

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SA 515. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 516. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 517. Mr. CORZINE (for himself and Mr. Brownback) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 518. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 519. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 520. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 521. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 522. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 523. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 524. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 525. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 526. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. Craig (for himself and Mr. Kennedy) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 527. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 528. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 529. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 530. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 531. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. Craig (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 532. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 533. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 534. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 535. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 536. Mr. COCHRAN (for Mr. BOND) proposed an amendment to the bill H.R. 1268, supra.

SA 537. Mr. REID (for Mr. BIDEN (for himself, Mr. LAUTENBERG, and Mrs. BOXER)) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 1268, supra.

TEXT OF AMENDMENTS

THURSDAY, APRIL 14, 2005

SA 375. Mr. CRAIG (for himself and Mr. KENNEDY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY ACT OF 2005

SEC. 701. SHORT TITLE.

This title may be cited as the "Agricultural Job Opportunities, Benefits, and Security Act of 2005" or the "AgJOBS Act of 2005".

SEC. 702. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) EMPLOYER.—The term "employer" means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(3) JOB OPPORTUNITY.—The term "job opportunity" means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(4) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(5) TEMPORARY.—A worker is employed on a "temporary" basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term "United States worker" means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term "work day" means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of "man-day" under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

Subtitle A—Adjustment to Lawful Status

SEC. 711. AGRICULTURAL WORKERS.

(a) TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer upon an alien who qualifies under this subsection the status of an alien lawfully admitted for temporary residence if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on December 31, 2004;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF TEMPORARY RESIDENT STATUS.—

(A) IN GENERAL.—During the period of temporary resident status granted an alien under this subsection, the Secretary may terminate such status only upon a determination under this Act that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF TEMPORARY RESIDENT STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to temporary resident status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a), such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a) as described in paragraph (1) shall not be eligible, by reason of such acquisition of that status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers permanent resident status upon that alien under subsection (a).

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition in accordance with this subparagraph of complaints by aliens granted temporary resident status under subsection (a) who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such

Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted temporary resident status under subsection (a) without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted temporary resident status under subsection (a) has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 360 work days or 2,060 hours, but in no case less than 2,060 hours, of agricultural employment in the United States, during the 6-year period beginning after the date of enactment of this Act.

(ii) QUALIFYING YEARS.—The alien has performed at least 75 work days or 430 hours, but in no case less than 430 hours, of agricultural employment in the United States in at least 3 nonoverlapping periods of 12 consecutive months during the 6-year period beginning after the date of enactment of this Act. Qualifying periods under this clause may include nonconsecutive 12-month periods.

(iii) QUALIFYING WORK IN FIRST 3 YEARS.—The alien has performed at least 240 work days or 1,380 hours, but in no case less than 1,380 hours, of agricultural employment during the 3-year period beginning after the date of enactment of this Act.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(v) PROOF.—In meeting the requirements of clauses (i), (ii), and (iii), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(vi) DISABILITY.—In determining whether an alien has met the requirements of clauses (i), (ii), and (iii), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the temporary resident status granted such alien under subsection (a), if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) GROUNDS FOR REMOVAL.—Any alien granted temporary resident status under subsection (a) who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a). The Secretary shall issue regulations establishing grounds to waive subparagraph (A)(iii) with respect to an alien who has completed at least 200 days of the work requirement specified in such subparagraph in the event of a natural disaster which substantially limits the availability of agricultural employment or a personal emergency that prevents compliance with such subparagraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted temporary resident status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—A spouse and minor child of an alien granted temporary resident status under subsection (a) may not be—

(i) removed while such alien maintains such status, except as provided in subparagraph (C); and

(ii) granted authorization to engage in employment in the United States or be provided an "employment authorized" endorsement or other work permit, unless such employment authorization is granted under another provision of law.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary, but only if the applicant is represented by an attorney; or

(II) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B) OUTSIDE THE UNITED STATES.—The Secretary, in cooperation with the Secretary of State, shall establish a procedure whereby an alien may apply for temporary resident status under subsection (a) at an appropriate consular office outside the United States.

(C) PRELIMINARY APPLICATIONS.—

(i) IN GENERAL.—During the application period described in subsection (a)(1)(B), the Secretary may grant admission to the

United States as a temporary resident and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a preliminary application for such status under subsection (a) at a designated port of entry on the southern land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(ii) DEFINITION.—For purposes of clause (i), the term "preliminary application" means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.

(iii) ELIGIBILITY.—An applicant under clause (i) shall otherwise be admissible to the United States under subsection (e)(2) and shall establish to the satisfaction of the examining officer during an interview that the applicant's claim to eligibility for temporary resident status is credible.

(D) TRAVEL DOCUMENTATION.—The Secretary shall provide each alien granted status under this section with a counterfeit-resistant document of authorization to enter or reenter the United States that meets the requirements established by the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this Act as "qualified designated entities".

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department of Homeland Security, or bureau or agency thereof, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department of Homeland Security, or bureau or agency thereof, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department of Homeland Security pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the "Agricultural Worker Immigration Status Adjustment Account". Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the "Agricultural Worker Immigration Status Adjustment Account" shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for temporary resident status under subsection (a) (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for temporary resident status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for temporary resident status under subsection (a) during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $40,000,000 for each of fiscal years 2006 through 2009.

SEC. 712. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking "or" at the end;

(2) in subparagraph (C), by inserting "or" at the end;

(3) by inserting after subparagraph (C) the following:

"(D) who is granted status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2005,"; and

(4) by striking "1990." and inserting "1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted lawful temporary resident status.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of enactment of this Act.

Subtitle B—Reform of H–2A Worker Program

SEC. 721. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by striking section 218 (8 U.S.C. 1188) and inserting the following:

"H-2A EMPLOYER APPLICATIONS

"SEC. 218. (a) APPLICATIONS TO THE SECRETARY OF LABOR.—

"(1) IN GENERAL.—No alien may be admitted to the United States as an H-2A worker, or otherwise provided status as an H-2A worker, unless the employer has filed with the Secretary of Labor an application containing—

"(A) the assurances described in subsection (b);

"(B) a description of the nature and location of the work to be performed;

"(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

"(D) the number of job opportunities in which the employer seeks to employ the workers.

"(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

"(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

"(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

"(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

"(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

"(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

"(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

"(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

"(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

"(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

"(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

“(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

“(E) REQUIREMENTS FOR PLACEMENT OF NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

“(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

“(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

“(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

“(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

“(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

“(H) EMPLOYMENT OF UNITED STATES WORKERS.—

“(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

“(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

“(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on ‘America's Job Bank’ or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

“(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

“(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

“(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

“(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

“(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

“(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

“(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

“(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

“(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

“(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A through 218C.

“(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

“(d) WITHDRAWAL OF APPLICATIONS.—

“(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

“(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

“(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

“(e) REVIEW AND APPROVAL OF APPLICATIONS.—

“(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

“(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

“(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

“(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.

“H–2A EMPLOYMENT REQUIREMENTS

“SEC. 218A. (a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

“(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

“(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

“(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

“(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

“(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

“(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

“(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

“(F) CHARGES FOR HOUSING.—

“(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

“(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

“(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

“(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

“(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(iii) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(2) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(3) REQUIRED WAGES.—

“(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

“(B) LIMITATION.—Effective on the date of enactment of the Agricultural Job Opportunity, Benefits, and Security Act of 2005 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

“(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

“(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

"(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

"(II) 4 percent.

"(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

"(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

"(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

"(i) the worker's total earnings for the pay period;

"(ii) the worker's hourly rate of pay, piece rate of pay, or both;

"(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

"(iv) the hours actually worked by the worker;

"(v) an itemization of the deductions made from the worker's wages; and

"(vi) if piece rates of pay are used, the units produced daily.

"(G) REPORT ON WAGE PROTECTIONS.—Not later than June 1, 2007, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

"(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

"(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

"(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

"(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

"(v) recommendations for future wage protection under this section.

"(H) COMMISSION ON WAGE STANDARDS.—

"(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

"(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

"(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

"(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

"(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

"(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

"(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

"(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

"(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

"(V) recommendations for future wage protection under this section.

"(iv) FINAL REPORT.—Not later than June 1, 2007, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

"(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

"(4) GUARANTEE OF EMPLOYMENT.—

"(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

"(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

"(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

"(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

"(5) MOTOR VEHICLE SAFETY.—

"(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

"(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

"(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

"(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

"(II) does not apply to—

"(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

"(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

"(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

"(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

"(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

"(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

"(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

"(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

“(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

“(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

“(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

“(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

“(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

“(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

“(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

“(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

“(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

“PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS

“SEC. 218B. (a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

“(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

“(c) CRITERIA FOR ADMISSIBILITY.—

“(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

“(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

“(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

“(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

“(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

“(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

“(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

“(d) PERIOD OF ADMISSION.—

“(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

“(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

“(B) the total period of employment, including such 14-day period, may not exceed 10 months.

“(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

“(e) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

“(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

“(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

“(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

“(f) REPLACEMENT OF ALIEN.—

“(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

“(A) who abandons or prematurely terminates employment; or

“(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

“(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

“(g) IDENTIFICATION DOCUMENT.—

“(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

“(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

“(A) The document shall be capable of reliably determining whether—

“(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

“(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

“(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

“(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

“(C) The document shall—

“(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

“(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

“(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

"(A) for a period of more than 10 months; or

"(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

"(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

"(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

"(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

"(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

"(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

"(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

"(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

"(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

"(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

"(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

"(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

"(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS.—Notwithstanding any provision of the Agricultural Job Opportunity, Benefits, and Security Act of 2005, aliens admitted under section 101(a)(15)(H)(ii)(a) for employment as sheepherders—

"(1) may be admitted for a period of 12 months;

"(2) may be extended for a continuous period of up to 3 years; and

"(3) shall not be subject to the requirements of subsection (h)(5) relating to periods of absence from the United States.

"WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT

"SEC. 218C. (a) ENFORCEMENT AUTHORITY.—

"(1) INVESTIGATION OF COMPLAINTS.—

"(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

"(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

"(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

"(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

"(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

"(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

"(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

"(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

"(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

"(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

"(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

"(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

"(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

"(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

"(2) The reimbursement of transportation as required under section 218A(b)(2).

"(3) The payment of wages required under section 218A(b)(3) when due.

"(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

“(5) The guarantee of employment required under section 218A(b)(4).

“(6) The motor vehicle safety requirements under section 218A(b)(5).

“(7) The prohibition of discrimination under subsection (d)(2).

“(c) PRIVATE RIGHT OF ACTION.—

“(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

“(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

“(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

“(C) AUTHORIZATION.—

“(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

“(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

“(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

“(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

“(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

“(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

“(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

“(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

“(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

“(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

“(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

“(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

“(i) a recovery under a State workers' compensation law; or

“(ii) rights conferred under a State workers' compensation law.

“(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

“(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and H–2A employer reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(d) DISCRIMINATION PROHIBITED.—

“(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

“(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

“(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

“(f) ROLE OF ASSOCIATIONS.—

“(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

“(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

“DEFINITIONS

“SEC. 218D. For purposes of sections 218 through 218D:

“(1) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

"(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

"(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

"(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A(h)(3)).

"(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

"(6) H-2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

"(7) H-2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

"(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

"(9) LAYS OFF.—

"(A) IN GENERAL.—The term 'lays off', with respect to a worker—

"(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

"(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

"(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

"(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

"(B) from its nature, it may not be continuous or carried on throughout the year.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

"(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

"(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).".

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

"Sec. 218 H–2A employer applications.
"Sec. 218A H–2A employment requirements.
"Sec. 218B Procedure for admission and extension of stay of H–2A workers.
"Sec. 218C Worker protections and labor standards enforcement.
"Sec. 218D Definitions.".

Subtitle C—Miscellaneous Provisions

SEC. 731. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this title and the amendments made by this title, and a collection process for such fees from employers participating in the program provided under this Act. Such fees shall be the only fees chargeable to employers for services provided under this Act.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as added by section 721 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as added by section 721 of this Act, and the provisions of this Act.

SEC. 732. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, and 218C of the Immigration and Nationality Act, as added by section 721 of this Act, shall take effect on the effective date of section 721 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 733. RELIGIOUS ORGANIZATIONS.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following:

"(C) It is not a violation of clauses (ii), (iii), or (iv) of subparagraph (A) for a religious denomination described in section 101(a)(27)(C)(i) or an affiliated religious organization described in section 101(a)(27)(C)(ii)(III), or their agents or officers, to encourage, invite, call, allow, or enable an alien who is present in the United States in violation of law to carry on the vocation described in section 101(a)(27)(C)(ii)(I), as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, and other basic living expenses.".

SEC. 734. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 721 and 731 shall take effect 1 year after the date of enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the measures being taken and the progress made in implementing this title.

TEXT OF AMENDMENTS

SA 466. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REFUNDABLE WAGE DIFFERENTIAL CREDIT FOR ACTIVATED MILITARY RESERVISTS

SEC. 1122. (a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. WAGE DIFFERENTIAL FOR ACTIVATED RESERVISTS.

"(a) IN GENERAL.—In the case of a qualified reservist, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the qualified active duty wage differential of such qualified reservist for the taxable year.

"(b) QUALIFIED ACTIVE DUTY WAGE DIFFERENTIAL.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified active duty wage differential' means the daily wage differential of the qualified active duty reservist multiplied by the number of days such qualified reservist participates in qualified reserve component duty during the taxable year, including time spent in a travel status.

"(2) DAILY WAGE DIFFERENTIAL.—The daily wage differential is an amount equal to the lesser of—

"(A) the excess of—

"(i) the qualified reservist's average daily qualified compensation, over

"(ii) the qualified reservist's average daily military pay while participating in qualified reserve component duty to the exclusion of the qualified reservist's normal employment duties, or

"(B) $54.80.

"(3) AVERAGE DAILY QUALIFIED COMPENSATION.—

"(A) IN GENERAL.—The term 'average daily qualified compensation' means—

"(i) the qualified compensation of the qualified reservist for the one-year period ending on the day before the date the qualified reservist begins qualified reserve component duty, divided by

"(ii) 365.

"(B) QUALIFIED COMPENSATION.—The term 'qualified compensation' means—

"(i) compensation which is normally contingent on the qualified reservist's presence for work and which would be includible in gross income, and

"(ii) compensation which is not characterized by the qualified reservist's employer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence.

"(4) AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—

"(A) IN GENERAL.—The term 'average daily military pay and allowances' means—

"(i) the amount paid to the qualified reservist during the taxable year as military pay and allowances on account of the qualified reservist's participation in qualified reserve component duty, determined as of the date the qualified reservist begins qualified reserve component duty, divided by

"(ii) the total number of days the qualified reservist participates in qualified reserve component duty during the taxable year, including time spent in travel status.

"(B) MILITARY PAY AND ALLOWANCES.—The term 'military pay' means pay as that term is defined in section 101(21) of title 37, United States Code, and the term 'allowances' means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

"(5) QUALIFIED RESERVE COMPONENT DUTY.—The term 'qualified reserve component duty' means—

"(A) active duty performed, as designated in the reservist's military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code, or

"(B) full-time National Guard duty (as defined in section 101(19) of title 32, United States Code) which is ordered pursuant to a request by the President, for a period under 1 or more orders described in subparagraph (A) or (B) of more than 90 consecutive days.

"(c) QUALIFIED RESERVIST.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified reservist' means an individual who is engaged in normal employment and is a member of—

"(A) the National Guard (as defined by section 101(c)(1) of title 10, United States Code), or

"(B) the Ready Reserve (as defined by section 10142 of title 10, United States Code).

"(2) NORMAL EMPLOYMENT.—The term 'normal employment duties' includes self-employment.

"(d) DISALLOWANCE WITH RESPECT TO PERSONS ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit shall be allowed under subsection (a) to a qualified reservist who is called or ordered to active duty for any of the following types of duty:

"(1) Active duty for training under any provision of title 10, United States Code.

"(2) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

"(3) Full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

"(e) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed the taxpayer under this section.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36 of such Code".

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 36. Wage differential for activated reservists.

"Sec. 37. Overpayments of tax.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SA 467. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30. 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal. to ensure expeditious construction of the San Diego border fence. and for other purposes: which was ordered to lie on the table; as follows:

On page 202, strike lines 1 through 13.

SA 468. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table: as follows:

On page 166, strike lines 10 through 20 and insert the following:

108–199 is amended by striking all after "made available" and substituting", notwithstanding section 2218(c)(1) of title 10, United States Code, for a grant to Philadelphia Regional Port Authority, to be used solely for the purpose of construction, by and for a Philadelphia-based company established to operate high-speed, advanced-design vessels for the transport of high-value, time-sensitive cargoes in the foreign commerce of the United States, of a marine cargo terminal and IT network for high-speed commercial vessels that is capable of supporting military sealift requirements, and that in making a grant to carry out this section, the Secretary of Defense shall solicit applications from not fewer than 4 such companies.

SA 469. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Strike title IV and insert the following:

TITLE IV—INDIAN OCEAN TSUNAMI RELIEF

CHAPTER 1

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction", $10,170,000, to remain available until September 30, 2008, for United States tsunami warning capabilities: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $124,100,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $2,800,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $30,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $29,150,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For an additional amount for "Overseas Humanitarian, Disaster, and Civic Aid", $36,000,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $3,600,000 for Operation and maintenance: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 3

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $350,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

TSUNAMI RECOVERY AND RECONSTRUCTION FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Foreign Assistance Act of 1961, for emergency relief, rehabilitation, and reconstruction aid to countries affected by the tsunami and earthquakes of December 2004 and March 2005, $304,370,000, to remain available until September 30, 2006: *Provided*, That these funds may be transferred by the Secretary of State to Federal agencies or accounts for any activity authorized under part I (including chapter 4 of part II) of the Foreign Assistance Act, or under the Agricultural Trade Development and Assistance Act of 1954, to accomplish the purposes provided herein: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That funds appropriated under this heading may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act, including Public Law 480 Title II grants: *Provided further*, That of the amounts provided herein: up to $10,000,000 may be transferred to and consolidated with "Development Credit Authority" for the cost of direct loans and loan guarantees as authorized by sections 256 and 635 of the Foreign Assistance Act of 1961 in furtherance of the purposes of this heading; up to $20,000,000 may be transferred to and consolidated with "Operating Expenses of the United States Agency for International Development", of which up to $2,000,000 may be used for administrative expenses to carry out credit programs administered by the United States Agency for International Development in furtherance of the purposes of this heading; up to $500,000 may be transferred to and consolidated with "Operating Expenses of the United States Agency for International Development Office of Inspector General"; and up to $5,000,000 may be transferred to and consolidated with "Emergencies in the Diplomatic and Consular Service" for the purpose of providing support services for United States citizen victims and related operations: *Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for environmental recovery activities in Aceh, Indonesia, to be administered by the United States Fish and Wildlife Service: *Provided further*, That of the funds appropriated under this heading, not less than $12,000,000 should be made available for programs to address the needs of people with physical and mental disabilities resulting from the tsunami: *Provided further*, That of the funds appropriated under this heading, not less than $25,000,000 should be made available for programs to prevent the spread of the Avian flu: *Provided further*, That of the funds appropriated under this heading, $1,500,000 shall be made available for trafficking in persons monitoring and prevention programs and activities in tsunami affected countries: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

ANNUAL LIMITATION

SEC. 4501. Amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2292a), to address relief and rehabilitation needs for countries affected by the Indian Ocean tsunami and earthquakes of December 2004 and March 2005, prior to the enactment of this Act, shall be in addition to the amount that may be obligated in fiscal year 2005 under that section.

AUTHORIZATION OF FUNDS

SEC. 4502. Funds appropriated by this chapter and chapter 2 of title II may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), section 10 of Public Law 91–672 (22 U.S.C. 2412), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SA 470. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Strike title II and insert the following:

TITLE II—INTERNATIONAL PROGRAMS AND ASSISTANCE FOR RECONSTRUCTION AND THE WAR ON TERROR

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For additional expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $58,791,560, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", $757,700,000, to remain available until September 30, 2006, of which $10,000,000 is provided for security requirements in the detection of explosives: *Provided*, That of the funds appropriated under this heading, not less than $250,000 shall be made available for programs to assist Iraqi and Afghan scholars who are in physical danger to travel to the United States to engage in research or other scholarly activities at American institutions of higher education: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", $232,030,691, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

Contributions for International Peacekeeping Activities

For an additional amount for "Contributions for International Peacekeeping Activities", $680,000,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

International Broadcasting Operations

For an additional amount for "International Broadcasting Operations" for activities related to broadcasting to the broader Middle East, $4,800,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Broadcasting Capital Improvements

For an additional amount for "Broadcasting Capital Improvements" for capital improvements related to broadcasting to the broader Middle East, $2,500,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

International Disaster and Famine Assistance

For an additional amount for "International Disaster and Famine Assistance", $17,245,524, to remain available until expended, for emergency expenses related to the humanitarian crisis in the Darfur region of Sudan: *Provided*, That these funds may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Transition Initiatives

For an additional amount for "Transition Initiatives", $24,692,455, to remain available until expended, for necessary international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, to support transition to democracy and the long-term development of Sudan: *Provided*, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further*, That of the funds appropriated under this heading, not less than $2,500,000 shall be made available for criminal case management, case tracking, and the reduction of pre-trial detention in Haiti, notwithstanding any other provision of law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Operating Expenses of the United States Agency for International Development

For an additional amount for "Operating Expenses of the United States Agency for International Development", $24,400,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Operating Expenses of the United States Agency for International Development Office of Inspector General

For an additional amount for "Operating Expenses of the United States Agency for International Development Office of Inspector General", $2,500,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER BILATERAL ECONOMIC ASSISTANCE

Economic Support Fund

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic Support Fund", $1,631,300,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, $200,000,000 should be made available for programs, activities, and efforts to support Palestinians, of which $50,000,000 should be made available for assistance for Israel to help ease the movement of Palestinian people and goods in and out of Israel: *Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for assistance for displaced persons in Afghanistan: *Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 should be made available to support Afghan women's organizations that work to defend the legal rights of women and to increase women's political participation: *Provided further*, That of the funds appropriated under this heading, up to $10,000,000 may be transferred to the Overseas Private Investment Corporation for the cost of direct and guaranteed loans as authorized by section 234 of the Foreign Assistance Act of 1961: *Provided further*, That such costs, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Assistance for the Independent States of the Former Soviet Union

For an additional amount for "Assistance for the Independent States of the Former Soviet Union" for assistance to Ukraine, $70,000,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, $5,000,000 shall be made available for democracy programs in Belarus, which shall be administered by the Bureau of Democracy, Human Rights and Labor, Department of State: *Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available through the United States Agency for International Development for humanitarian, conflict mitigation, and other relief and recovery assistance for needy families and communities in Chechnya, Ingushetia and elsewhere in the North Caucasus: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF STATE

International Narcotics Control and Law Enforcement

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "International Narcotics Control and Law Enforcement", $258,682,864, to remain available until September 30, 2007, of which up to $46,000,000 may be transferred to and merged with "Economic Support Fund" if the Secretary of State, after consultation with the Committees on Appropriations, determines that this transfer is the most effective and timely use of resources to carry out counternarcotics and reconstruction programs: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Migration and Refugee Assistance

For an additional amount for "Migration and Refugee Assistance", $108,400,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, not less than $55,000,000 shall be made available for assistance for refugees in Africa and to fulfill refugee protection goals set by the President for fiscal year 2005: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Nonproliferation, Anti-Terrorism, Demining and Related Programs

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $22,979,156, to remain available until September 30, 2006, of which not to exceed $5,879,156, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

Global War on Terror Partners Fund

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the purposes of the Foreign Assistance Act of 1961 for responding to urgent economic support requirements in countries supporting the United States in the Global War on Terror, $15,677,749, to remain available until expended: *Provided*, That these funds may be used only pursuant to a determination by the President, and after consultation with the Committees on Appropriations, that such use will support the global war on terrorism to furnish economic assistance to partners on such terms and conditions as he may determine for such purposes, including funds on a grant basis as a cash transfer: *Provided further*, That funds made available under this heading may be transferred by the

Secretary of State to other Federal agencies or accounts to carry out the purposes under this heading: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in the Act for the use of economic assistance: *Provided further*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program", $250,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations", $210,000,000, to remain available until September 30, 2006, of which $200,000,000 is for military and other security assistance to coalition partners in Iraq and Afghanistan: *Provided*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

VOLUNTARY CONTRIBUTION

SEC. 2101. Section 307(a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), is further amended by striking "Iraq,".

REPORTING REQUIREMENT

SEC. 2102. Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress detailing: (1) information regarding the Palestinian security services, including their numbers, accountability, and chains of command, and steps taken to purge from their ranks individuals with ties to terrorist entities; (2) specific steps taken by the Palestinian Authority to dismantle the terrorist infrastructure, confiscate unauthorized weapons, arrest and bring terrorists to justice, destroy unauthorized arms factories, thwart and preempt terrorist attacks, and cooperate with Israel's security services; (3) specific actions taken by the Palestinian Authority to stop incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and to promote peace and coexistence with Israel; (4) specific steps the Palestinian Authority has taken to ensure democracy, the rule of law, and an independent judiciary, and transparent and accountable governance; (5) the Palestinian Authority's cooperation with United States officials in investigations into the late Palestinian leader Yasser Arafat's finances; and (6) the amount of assistance pledged and actually provided to the Palestinian Authority by other donors: *Provided*, That not later than 180 days after enactment of this Act, the President shall submit to the Congress an update of this report: *Provided further*, That up to $5,000,000 of the funds made available for assistance for the West Bank and Gaza by this chapter under "Economic Support Fund" shall be used for an outside, independent evaluation by an internationally recognized accounting firm of the transparency and accountability of Palestinian Authority accounting procedures and an audit of expenditures by the Palestinian Authority.

(RESCISSION OF FUNDS)

SEC. 2103. The unexpended balance appropriated by Public Law 108–11 under the heading "Economic Support Fund" and made available for Turkey is rescinded.

DEMOCRACY EXCEPTION

SEC. 2104. Funds appropriated for fiscal year 2005 under the heading "Economic Support Fund" may be made available for democracy and rule of law programs and activities, notwithstanding the provisions of section 574 of division D of Public Law 108–447.

SA 471. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 172, strike "$592,000,000" and insert "$106,000,000".

SA 472. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Notwithstanding any other provision of law, beginning in fiscal year 2005 and thereafter, none of the funds made available by this or any other Act shall be used to pay the salaries or expenses of any employee of any agency or office to implement or enforce section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) or any other provision of law in a manner other than a manner that permits payment by the purchaser of an agricultural commodity or product to the seller, and receipt of the payment by the seller, at any time prior to—

(1) the transfer of the title of the commodity or product to the purchaser; and

(2) the release of control of the commodity or product to the purchaser.

SA 473. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. None of the funds made available by this or any other Act may be used to deny the provision of assistance under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)) solely due to the failure of the Secretary of Labor to respond to a request to certify assistance within the time period specified in section 310B(d)(4) of that Act.

SA 474. Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 157, strike line 17 and all that follows through page 158, line 19, and insert the following:

(e) SPOUSAL NOTIFICATION.—Section 1967(a)(3)(B) of title 38, United States Code, is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) The Secretary shall make a good-faith effort to notify the spouse of a member if the member elects to—

"(I) change the amount of insurance coverage under this subsection; or

"(II) add a beneficiary other than the spouse.

"(iii) The failure of the Secretary to provide timely notification under clause (ii) shall not affect the validity of an election by the member.

"(iv) If a servicemember marries or remarries after making an election under clause (ii), the Secretary is not required to notify the spouse of such election. Elections made after marriage or remarriage are subject to the notice requirement under clause (ii)''.

SA 475. Mr. CRAIG (for himself, Mr. Baucus, Mr. Roberts, and Mr. Enzi) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

On page 231, between lines 3 and 4, insert the following:

Sec. 6047. (a) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office to implement or enforce section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) or any other provision of law in a manner other than a manner that permits payment by the purchaser of an agricultural commodity or product to the seller, and receipt of the payment by the seller, at any time prior to—

(1) the transfer of the title of the commodity or product to the purchaser; and

(2) the release of control of the commodity or product to the purchaser.

(b) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office that refuses to authorize the issuance of a general license for travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations, for travel to, from, or within Cuba undertaken in connection with sales and marketing, including the organization and participation in product exhibitions, and the transportation by sea or air of products pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000.

(c) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office that restricts the direct transfers from a Cuban financial institution to a United States financial institution executed in payment for a product authorized for sale under the Trade Sanctions Reform and Export Enhancement Act of 2000.

SA 476. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 198, between lines 21 and 22, insert the following:

Sec. 5134. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108-447) for the Lost River Watershed project, West Virginia, $4,000,000 shall be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 36).

SA 477. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. FLOODED CROP AND GRAZING LAND.

(a) In General.—The Secretary of Agriculture shall compensate eligible owners of flooded crop and grazing land in—

(1) the Devils Lake basin; and

(2) the McHugh, Lake Laretta, and Rose Lake closed drainage areas of the State of North Dakota.

(b) Eligibility.—

(1) In general.—To be eligible to receive compensation under this section, an owner shall own land described in subsection (a) that, during the 2 crop years preceding receipt of compensation, was rendered incapable of use for the production of an agricultural commodity or for grazing purposes (in a manner consistent with the historical use of the land) as the result of flooding, as determined by the Secretary.

(2) Inclusions.—Land described in paragraph (1) shall include—

(A) land that has been flooded;

(B) land that has been rendered inaccessible due to flooding; and

(C) a reasonable buffer strip adjoining the flooded land, as determined by the Secretary.

(3) Administration.—The Secretary may establish—

(A) reasonable minimum acreage levels for individual parcels of land for which owners may receive compensation under this section; and

(B) the location and area of adjoining flooded land for which owners may receive compensation under this section.

(c) Sign-up.—The Secretary shall establish a sign-up program for eligible owners to apply for compensation from the Secretary under this section.

(d) Compensation Payments.—

(1) In general.—Subject to paragraphs (2) and (3), the rate of an annual compensation payment under this section shall be equal to 90 percent of the average annual per acre rental payment rate (at the time of entry into the contract) for comparable crop or grazing land that has not been flooded and remains in production in the county where the flooded land is located, as determined by the Secretary.

(2) Reduction.—An annual compensation payment under this section shall be reduced by the amount of any conservation program rental payments or Federal agricultural commodity program payments received by the owner for the land during any crop year for which compensation is received under this section.

(3) Exclusion.—During any year in which an owner receives compensation for flooded land under this section, the owner shall not be eligible to participate in or receive benefits for the flooded land under—

(A) the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(B) the noninsured crop assistance program established under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); or

(C) any Federal agricultural crop disaster assistance program.

(e) Relationship to Agricultural Commodity Programs.—The Secretary, by regulation, shall provide for the preservation of cropland base, allotment history, and payment yields applicable to land described in subsection (a) that was rendered incapable of use for the production of an agricultural commodity or for grazing purposes as the result of flooding.

(f) Use of Land.—

(1) In general.—An owner that receives compensation under this section for flooded land shall take such actions as are necessary to not degrade any wildlife habitat on the land that has naturally developed as a result of the flooding.

(2) Recreational activities.—To encourage owners that receive compensation for flooded land to allow public access to and use of the land for recreational activities, as determined by the Secretary, the Secretary may—

(A) offer an eligible owner additional compensation; and

(B) provide compensation for additional acreage under this section.

(g) Funding.—

(1) In general.—There is appropriated, out of any money in the Treasury not otherwise appropriated, to carry out this section $20,000,000 for fiscal year 2005, to remain available until expended: *Provided*, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(2) Pro-rated payments.—In a case in which the amount made available under paragraph (1) for a fiscal year is insufficient to compensate all eligible owners under this section, the Secretary shall pro-rate payments for that fiscal year on a per acre basis.

SA 478. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 201, after line 23, insert the following:

INDIAN HEALTH SERVICE

SEC. 5301. (a) In this section, the term "critical access facility" means a comprehensive ambulatory care center that provides services on a regional basis to Native Americans in Albuquerque, New Mexico, and surrounding areas.

(b) The Albuquerque Indian Health Center (also known as the "Albuquerque Indian Hospital") is designated as a critical access facility.

(c) There is authorized to be appropriated for the Albuquerque Indian Health Center $8,000,000 for fiscal year 2006.

SA 479. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

ASSISTANCE PROGRAMS FOR MEMBERS OF THE ARMY RESERVE

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY RESERVE.—The amount appropriated by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE" is hereby increased by $34,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", as increased by subsection (a), $34,000,000 shall be available for assistance programs for members of the Army Reserve as follows:

(1) $17,600,000 shall be available for tuition assistance programs as authorized by law.

(2) $4,300,000 shall be available for the welcome home warrior-citizen program.

(3) $6,500,000 shall be available for the conduct of marriage workshops to assist members of the Army Reserve.

(4) $5,600,000 shall be available for family programs.

SA 480. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

TUITION ASSISTANCE PROGRAMS OF THE ARMY RESERVE

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY RESERVE.—The amount appropriated by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE" is hereby increased by $17,600,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", as increased by subsection (a), $17,600,000 shall be available for tuition assistance programs for members of the Army Reserve as authorized by law.

SA 481. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 169, between lines 8 and 9, insert the following:

ACCUMULATION OF LEAVE BY MEMBERS OF THE NATIONAL GUARD

SEC. 1122. Section 701(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of a member of the Army National Guard of the United States or the Air National Guard of the United States who serves on active duty for more than 179 consecutive days, full-time training or other full-time duty performed by such member during the 5-year period ending on the 180th day of such service under a provision of law referred to in the preceding sentence, while such member was in the status as a member of the National Guard, and for which such member was entitled to pay, is active service for the purposes of this section.".

SA 482. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REPORT ON IMPLEMENTATION OF POST DEPLOYMENT STAND-DOWN PROGRAM BY ARMY NATIONAL GUARD

SEC. 1122. Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report containing the assessment of the Secretary of the feasibility and advisability of implementing for the Army National Guard a program similar to the Post Deployment Stand-Down Program of the Air National Guard. The Secretary of the Army shall prepare the assessment in consultation with the Secretary of the Air Force.

SA 483. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 202, strike line 24, and insert "$65,000,000, to remain available until September 30, 2006, of which $5,000,000 shall be made available for costs associated with increases in immigration-related filings in district courts near the southwestern border of the United States:".

SA 484. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 152, line 2, strike "'$43,000,000'" and insert "'$75,000,000': *Provided*, That the Secretary of Defense is encouraged in the consideration of the use of such amount to give priority to the procurement of man-portable air defense (MANPAD) systems".

SA 485. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SENSE OF CONGRESS ON MEMBERSHIP OF ISRAEL IN THE WESTERN EUROPEAN AND OTHERS GROUP AT THE UNITED NATIONS

SEC. 6047. (a) Congress makes the following findings:

(1) The election of member states of the United Nations to the major bodies of the United Nations is determined by groups organized within the United Nations, most of which are organized on a regional basis.

(2) Israel has been refused admission to the group comprised of member states from the Asian geographical region of the United Nations and is the only member state of the United Nations that remains outside its appropriate geographical region, and is thus denied full participation in the day-to-day work of the United Nations.

(3) On May 30, 2000, Israel accepted an invitation to become a temporary member of the Western European and Others Group of the United Nations.

(4) On May 21, 2004, Israel's membership to the Western European and Others Group was extended indefinitely.

(5) Israel is only allowed to participate in limited activities of the Western European and Others Group in the New York office of the United Nations, is excluded from discussions and consultations of the Group at the United Nations offices in Geneva, Nairobi, Rome, and Vienna, and, may not participate in United Nations conferences on human rights, racism, or other issues held in such locations.

(6) Membership in the Western European and Others Group includes the non-European countries of Canada, Australia, and the United States.

(7) Israel is linked to the member states of the Western European and Others Group by strong economic, political, and cultural ties.

(8) The Western European and Others Group, the only regional group of the United Nations that is not purely geographical, is comprised of countries that share a western democratic tradition.

(9) Israel is a free and democratic country and its voting pattern in the United Nations is consistent with that of the member states of the Western European and Others Group.

(b) It is the sense of Congress that—

(1) the President should direct the United States Permanent Representative to the United Nations to seek an immediate end to the persistent and deplorable inequality experienced by Israel in the United Nations;

(2) Israel should be afforded the benefits of full membership in the Western European and Others Group at the United Nations and such membership would permit Israel to participate fully in the United Nations system and would serve the interests of the United States; and

(3) the Secretary should submit to Congress, on a regular basis, a report that describes actions taken by the United States Government to encourage the member states of the Western European and Others Group to accept Israel as a full member of such Group and the responses of such member states to those actions.

SA 486. Mrs. DOLE (for herself and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5

DEPARTMENT OF DEFENSE

MANTEO (SHALLOWBAG) BAY, NORTH CAROLINA

OPERATIONS AND MAINTENANCE

For an additional amount to the Secretary of the Army, acting through the Chief of Engineers, for activities of the Corps of Engineers at Manteo (Shallowbag) Bay, North Carolina, $6,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 487. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, after line 25, insert the following:

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", for hiring border patrol agents, $105,451,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CONSTRUCTION

For an additional amount for "Construction", $41,500,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

REDUCTION IN FUNDING

The amount appropriated by title II for "Contributions to International Peacekeeping Activities" is hereby reduced by $146,951,000 and the total amount appropriated by title II is hereby reduced by $146,951,000.

SA 488. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, line 23 after the period insert the following:

CANDIDATE COUNTRIES

SEC.   . Section 616(b)(1) of the Millennium Challenge Act of 2003 (Public Law 108–199) is amended—

(1) by striking "subparagraphs (A) and (B) of section 606(a)(1)"; and,

(2) inserting in lieu thereof "subsection (a) or (b) of section 606".

SA 489. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 9, after the colon insert the following:

Provided further, That of the funds appropriated under this heading, not less than $10,000,000 shall be made available for programs and activities which create new economic opportunities for women:

SA 490. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

PROTECTION OF THE GALAPAGOS

SEC. . (a) FINDINGS.—The Senate makes the following findings—

(1) The Galapagos Islands are a global treasure and World Heritage Site, and the future of the Galapagos is in the hands of the Government of Ecuador;

(2) The world depends on the Government of Ecuador to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos, including enforcing the Galapagos Special Law;

(3) There are concerns with the current leadership of the Galapagos National Park Service and that the biodiversity of the Galapagos and the Marine Reserve are not being properly managed or adequately protected; and

(4) The Government of Ecuador has reportedly given preliminary approval for commercial airplane flights to the Island of Isabela, which may cause irreparable harm to the biodiversity of the Galapagos, and has allowed the export of fins from sharks caught accidentally in the Marine Reserve, which encourages illegal fishing.

(b) Whereas, now therefore, be it

Resolved, That—

(1) the Senate strongly encourages the Government of Ecuador to—

(A) refrain from taking any action that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve;

(B) abide by the agreement to select the Directorship of the Galapagos National Park Service though a transparent process based on merit as previously agreed by the Government of Ecuador, international donors, and nongovernmental organizations; and

(C) enforce the Galapagos Special Law in its entirety, including the governance structure defined by the law to ensure effective control of migration to the Galapagos and sustainable fishing practices, and prohibit long-line fishing which threatens the survival of shark and marine turtle populations.

(2) The Department of State should—

(A) emphasize to the Government of Ecuador the importance the United States gives to these issues; and

(B) offer assistance to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos and the Marine Reserve and to sustain the livelihoods of the Galapagos population who depend on the marine ecosystem for survival.

SA 491. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 19 after the colon insert the following:

Provided further, That the President is hereby authorized to defer and reschedule for such period as he may deem appropriate any amounts owed to the United States or any agency of the United States by those countries significantly affected by the tsunami and earthquakes of December 2004, including the Republic of Indonesia, the Republic of Maldives and the Democratic Socialist Republic of Sri Lanka: Provided further, That of the funds appropriated under this heading, up to $45,000,000 may be made available for the modification costs, as defined in section 502 of the Congressional Budget Act of 1974, if any, associated with any deferral and rescheduling authorized under this heading: Provided further, That such amounts shall not be considered "assistance" for the purposes of provisions of law limiting assistance to any such affected country:

SA 492. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268. Making emergency supplemental appropriations for the fiscal year ending September 30, 2005. to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

NEPAL

SEC. (a) FINDINGS.—The Senate makes the following findings—

That, on February 1, 2005, Nepal's King Gyanendra dissolved the multi-party government, suspended constitutional liberties, and arrested political party leaders, human rights activists and representatives of civil society organizations.

That, despite condemnation of the King's actions and the suspension of military aid to Nepal by India and Great Britain, and similar steps by the United States, the King has refused to restore constitutional liberties and democracy.

That, there are concerns that the King's actions will strengthen Nepal's Maoist Insurgency.

That, while some political leaders have been released from custody, there have been new arrests of human rights activists and representatives of other civil society organizations.

That, the King has thwarted efforts of members of the National Human Rights Commission to conduct monitoring activities, but recently agreed to permit the United Nations High Commissioner for Human Rights to open an office in Katmandu to monitor and investigate violations.

That, the Maoists have committed atrocities agamst civilians and poses a threat to democracy in Nepal.

That, the Nepalese Army has also committed gross violations of human rights.

That, King Gyanendra has said that he intends to pursue a military strategy against the Maoists.

That, Nepal needs an effective military strategy to counter the Maoists and pressure ry them to negotiate an end to the conflict, but such a strategy must include the Nepalese Anny's respect for the human rights and dignity of the Nepalese people.

That, an effective strategy to counter the Maoists also requires a political process that is inclusive and democratic in which constitutional rights are protected, and government policies that improve the lives of the Nepalese people.

(b) Now therefore, be it

Resolved, that it is the Sense of the Senate that King Gyanendra should immediately release all political detainees, restore constitutional liberties, and undertake good faith negotiations with the leaders of Nepal's political parties to restore democracy.

SA 493. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, line 12, after the colon insert the following:

Provided further, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for assistance for families and communities of Afghan civilians who have suffered losses as a result of the military operations:

On page 183, line 23, add the following new section:

MARLA RUZICKA IRAQI WAR VICTIMS FUND

SEC. . Of the funds appropriated by chapter 2 of title II of PL 108–106 under the heading "Iraq Relief and Reconstruction Fund", not less than $30,000,000 shall be made available for assistance for families and communities of Iraqi civilians who have suffered losses as a result of the military operations: Provided, That such assistance shall be designated as the "Marla Ruzicka Iraqi War Victims Fund".

SA 494. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

REPORTING REQUIREMENTS ON SPENDING ON RECONSTRUCTION IN IRAQ

SEC. 6047. (a) Subsection (a) of section 2207 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 22 U.S.C. 2151 note) is amended—

(1) in the matter preceding paragraph (1), by striking “the Committees on Appropriations” and inserting “the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives, and make available to the public on the Department of State's website”; and

(2) by inserting after paragraph (4) the following new paragraphs:

“(5) The number and costs of projects started and completed by governorate and sector, and a list of projects expected to be completed within the next quarter.

“(6) A strategy for using reconstruction funds to develop Iraq's governing capacity, including—

“(A) a description of the governing capacity of the Iraqi government ministries, the standards used to measure that capacity, and how reconstruction funds are helping to develop that capacity;

“(B) a description of how projects will lead to material benefits to the Iraqi people;

“(C) the proportion of reconstruction funds, by sector, spent on training Iraqi civil servants and public sector employees;

“(D) a description of the training curricula and goals;

“(E) the number of Iraqi civil servants and public sector employees receiving training, including technical, financial or managerial training; and

“(F) the efforts made to reduce corruption in the performance of these funds and in the Iraqi government ministries.

“(7) Information on employment created using such funds, including—

“(A) the average number of Iraqi citizens employed, by governorate, during the preceding 3 months;

“(B) the average number of United States citizens employed during the preceding 3 months;

“(C) the average number of citizens of other countries employed during the preceding 3 months;

“(D) the proportion of total salary payments to Iraqi citizens during the preceding 3 months; and

“(E) the proportion and value of subcontracts awarded to Iraqi firms, by sector.

“(8) Data on reconstruction spending by governorate, including a description of the role of municipal or local councils and provincial governments in determining reconstruction priorities and the proportion of funds programmed in direct consultation with such institutions.

“(9) The costs of security in the use of such funds, including—

“(A) security subcontractor costs and physical and ongoing security costs;

“(B) indirect costs, such as construction delays lost to security concerns;

“(C) insurance costs; and

“(D) the extent to which insurgent activity has resulted in projects requiring additional reconstruction.

“(10) The status of international reconstruction assistance to Iraq and how such assistance is coordinated with United States efforts.

“(11) Estimates of public and private debt owed by the Government of Iraq, disaggregated by lender country, and efforts made to reduce such debt.”.

(b) Subsection (c) of such section is amended by striking “the Committees on Appropriations” and inserting “the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives”.

(c) Subsection (d) of such section is amended by striking “on October 1, 2007” and inserting “90 days after the date on which 100 percent of the funds described in this section are expended”.

(d) Such section is further amended by adding at the end the following new subsections:

“(e) The Administrator of the United States Agency for International Development shall work with the government of Iraq to conduct and include in each report or update submitted under this section, a quarterly standardized household survey, with a representative sample at the provincial level in Iraq, to assess the availability and access to certain essential services in Iraq, including, at a minimum, the following services:

“(1) Health services.

“(2) Education.

“(3) Electricity.

“(4) Potable water.

“(5) Sewage.

“(6) Solid waste removal.

“(7) Law enforcement.

“(8) Transportation.

“(9) Communications.

“(f) The Secretary of State shall have each report or update submitted under this section translated into Arabic, posted on the website of the United States embassy in Baghdad, and made available to the Government of Iraq.”.

SA 495. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. . (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated under the heading “OTHER PROCUREMENT, ARMY” is hereby increased by $35,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available under the heading “OTHER PROCUREMENT, ARMY”, as increased by subsection (a), $60,000,000 shall be available under the Tactical Intelligence and Related Activities (TIARA) program to facilitate the rapid deployment of Warlock systems and other field jamming systems.

SA 496. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. TECHNICAL CORRECTION TO THE MEDICARE HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 1897(c) of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting “or an entity described in paragraph (3)” after “means a hospital”; and

(B) in subparagraph (B)—

(i) by inserting “legislature” after “State” the first place it appears; and

(ii) by inserting “and such designation by the State legislature occurred prior to December 8, 2003” before the period at the end; and

(2) by adding at the end the following new paragraph:

“(3) ENTITY DESCRIBED.—An entity described in this paragraph is an entity that—

“(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

“(B) has at least 1 existing memorandum of understanding or affiliation agreement with a hospital located in the State in which the entity is located; and

“(C) retains clinical outpatient treatment for cancer on site as well as lab research and education and outreach for cancer in the same facility.”.

(b) LIMITATION ON REVIEW.—Section 1897 of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended by adding at the end the following new subsection:

“(i) LIMITATION ON REVIEW.—There shall be no administrative or judicial review of any determination made by the Secretary under this section.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2447).

SA 497. Ms. MIKULSKI (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill H.R. 1298, to amend title XVIII of the Social Security Act to improve the benefits under the Medicare Program for beneficiaries with kidney disease, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, between lines 22 and 23, insert the following:

(5) TREATMENT.—Any payment made under this subsection shall be treated as a payment of a death gratuity payable under chapter 75 of title 10, United States Code.

SA 498. Mr. WARNER (for himself, Mr. NELSON of Florida, Mr. ALLEN, and Mr. TALENT) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1122. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy by this Act, necessary funding will be made available for such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available by this Act may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(1) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(2) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to Congress that such agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers as are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

SA 499. Mr. WARNER (for himself, Mr. NELSON of Florida, Mr. ALLEN, Mr. TALENT, Ms. COLLINS, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 169, between lines 8 and 9, insert the following:

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1122. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy by this Act, and by the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 954), an aggregate of $288,000,000 may be available only for repair and maintenance of the U.S.S. John F. Kennedy, and available to conduct such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(1) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(2) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to Congress that such agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers as are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

SA 500. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5

DEPARTMENT OF DEFENSE

HOUSTON-GALVESTON NAVIGATION CHANNELS, TEXAS

CONSTRUCTION

For an additional amount to the Secretary of the Army, acting through the Chief of Engineers, for construction at the Houston-Galveston Navigation Channels, Texas, $10,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 501. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, between lines 17 and 18, insert the following:

CHAPTER ___

ELECTION REFORM

ELECTION ASSISTANCE COMMISSION

ELECTION REFORM PROGRAMS

For necessary expenses to carry out a program of requirements payments to States as authorized by section 257 of the Help America Vote Act of 2002, $727,000,000, to remain available until expended: *Provided*, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DISABLED VOTER SERVICES

For necessary expenses to carry out programs as authorized by the Help America Vote Act of 2002, $95,000,000, to remain available until expended: *Provided*, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 502. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

MEDICAL SUPPORT FOR TACTICAL UNITS

SEC. 1122. Of the amount appropriated or otherwise made available by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY", up to $11,500,000 may be available for—

(1) the replenishment of medical supply and equipment needs within the combat theaters of the Army, including bandages and other blood-clotting supplies that utilize hemostatic, wound-dressing technologies; and

(2) the provision of medical care for members of the Army who have returned to the United States from a combat theater and are in a medical holdover status.

SA 503. Mr. DURBIN (for himself, Mr. LEVIN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 141, line 7, strike "That the Secretary" and all that follows through "appropriation:" on lines 10 and 11, and insert "That, not later than 30 days after the last day of each fiscal quarter, the Secretary shall submit to the congressional defense committees a report that summarizes the details of the transfer of funds from this appropriation and that includes a description of (1) the extent to which funding provided by this appropriation and such transfers will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq; (2) the extent to which funding provided by this appropriation and such transfers will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel and Iraqi battalions expected to be trained, equipped, and capable of leading counterinsurgency operations independently by the end of 2005 and 2006; and (3) the extent to which funding provided by this appropriation and such transfers will result in reducing the level of the United States Armed Forces in Iraq in 6, 12, and 18 months after the date of such report and an estimate of the number of United States Armed Forces who will be needed in Iraq 6, 12, and 18 months after the date of such report:".

SA 504. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, line 17, after "1961:" insert "*Provided further*, That, notwithstanding any other provision of law, of the funds appropriated under this heading not less than $3,000,000 shall be transferred to the United Nations Population Fund to provide assistance to tsunami victims in Indonesia, the Maldives, and Sri Lanka to (1) provide and distribute equipment, including safe delivery kits and hygiene kits, medicines, and supplies, including soap and sanitary napkins, to ensure safe childbirth and emergency obstetric care, (2) reestablish maternal health services in areas where medical infrastructure and such services have been destroyed by the tsunami, (3) prevent and treat cases of violence against women and youth, (4) offer psychological support and counseling to women and youth, (5) promote the access of unaccompanied women and other vulnerable people to vital services, including access to water, sanitation facilities, food, and health care, and (6) make available supplies of contraceptives for the prevention of pregnancy and the spread of sexually transmitted diseases, including HIV/AIDS: *Provided further*, That nothing in the preceding provision may be construed to alter any existing statutory prohibitions against abortion set out in section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b):".

SA 505. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . (a) The annex, located on the 200 block of 3rd Street Northwest in the District of Columbia, to the E. Barrett Prettyman Federal Building and United States Courthouse located at Constitution Avenue Northwest in the District of Columbia shall be known and designated as the "William B. Bryant Annex."

(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in section 1 shall be deemed to be a reference to the "William B. Bryant Annex."

SA 506. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

REDUCTION OF APPROPRIATIONS

SEC. 6047. Notwithstanding any other provision of this Act, the total amount appropriated under this Act may not exceed $62,122,000,000.

SA 507. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

REPORT ON IMPROVING AIR SAFETY OF MEMBERS OF THE UNITED STATES ARMED FORCES SERVING IN AFGHANISTAN

SEC. 6047. (a) Congress makes the following findings:

(1) The operation by the Department of Defense of aircraft between Europe and Afghanistan involves travel through an area of mountainous, hostile, and remote terrain along an air corridor that possesses minimal or no air safety capabilities.

(2) Recent aircraft crashes in Afghanistan involving members of the United States Armed Forces have claimed over 100 lives, and more than 40 other incidents have been documented in which maneuvers were required to avoid collisions.

(3) The United States Government has facilitated for several NATO allies the acquisition of important air safety improvement technologies that could be used to improve the safety of air routes between Europe and Afghanistan and within Afghanistan.

(b) Not later than September 1, 2005, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a comprehensive report containing a detailed plan, timeline, and budget for significantly improving the air safety of aircraft carrying members of the United States Armed Forces between Europe and Afghanistan and within Afghanistan.

SA 508. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, after line 22, insert the following:

For an additional amount for "Economic Support Fund", $2,000,000 for the Third Border Initiative to remain available until September 30, 2006: *Provided*, That the amount provided under this paragraph is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

On page 178, after line 16, insert the following:

For an additional amount for "International Narcotics Control and Law Enforcement", $40,530,000, to remain available until September 30, 2006, of which $18,400,000 shall be available for Latin America regional account for law enforcement and drug interdiction programs in 17 countries, $8,300,000 shall be available for continuance of the C–26 surveillance aircraft for aerial drug interdiction efforts in the Caribbean, $9,780,000 shall be available for Mexico border security, law enforcement and drug interdiction programs, and $4,500,000 shall be available for contributions to the Inter-American Committee Against Terrorism (CICTE) and the Inter-American Drug Abuse Control Commission (CICAD): *Provided*, That the amount provided under this paragraph is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

On page 179, after line 16, insert the following:

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $5,000,000, to remain available until September 30, 2006, which shall be available for destruction of MANPADS in the Western Hemisphere: *Provided*, That the amount provided under this paragraph is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 509. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268. Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, line 11, strike the comma and all that follows through "goal" on line 19.

SA 510. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

EVALUATION OF SUBCONTRACT PARTICIPATION BY SMALL BUSINESSES

SEC. 6047. (a) Section 8(d)(4)(G) of the Small Business Act (15 U.S.C. 637(d)(4)(G)) is amended by striking "a bundled" and inserting "any".

(b) Section 8(d)(10) of the Small Business Act (15 U.S.C. 637(d)(10)) is amended—

(1) by striking "is authorized to" and inserting "shall";

(2) in subparagraph (B), by striking "and" at the end;

(3) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(D) report the results of each evaluation under subparagraph (C) to the appropriate contracting officers.".

(c) Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by redesignating paragraph (11) as paragraph (14); and

(2) by inserting after paragraph (10) the following:

"(11) CERTIFICATION.—A report submitted by the prime contractor pursuant to paragraph (6)(E) to determine the attainment of a subcontract utilization goal under any subcontracting plan entered into with a Federal agency under this subsection shall contain the name and signature of the president or chief executive officer of the contractor, certifying that the subcontracting data provided in the report are accurate and complete.

"(12) CENTRALIZED DATABASE.—The results of an evaluation under paragraph (10)(C) shall be included in a national centralized governmentwide database.

"(13) PAYMENTS PENDING REPORTS.—Each Federal agency having contracting authority shall ensure that the terms of each contract for goods and services includes a provision allowing the contracting officer of an agency to withhold an appropriate amount of payment with respect to a contract (depending on the size of the contract) until the date of receipt of complete, accurate, and timely subcontracting reports in accordance with paragraph (11).".

(d) Section 8(d)(8) of the Small Business Act (15 U.S.C. 637(d)(8)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "The failure" and inserting "(A) The failure"; and

(3) by adding at the end the following:

"(B) A material breach described in this paragraph shall be referred for investigation to the Inspector General (or the equivalent) of the affected agency.".

SA 511. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SMALL BUSINESS PARTICIPATION IN SUBCONTRACTING

SEC. 6047. (a) Section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) certification that the offeror or bidder will acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from small business concerns in the amount and quality used in preparing the bid or proposal, unless such small business concerns are no longer in business or can no longer meet the quality, quantity, or delivery date.".

(b) Section 16(f) of the Small Business Act (15 U.S.C. 645(f)) is amended by inserting "or the reporting requirements of section 8(d)(6)(G)" after "section 7(j)(10)(I)".

SA 512. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

DIRECT PAYMENTS TO SUBCONTRACTORS

SEC. 6047. (a) Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) amended by adding at the end the following:

"(12) TIMELY PAYMENT TO SMALL BUSINESS SUBCONTRACTORS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the failure of a civilian agency prime contractor, as defined in subparagraph (D), to make a timely payment, as determined by the contract with the subcontractor, to a subcontractor that is a small business concern shall be a material breach of the contract with the Federal agency.

"(B) CONSIDERATION OF PERFORMANCE.—Before making a determination under subparagraph (A), the contracting officer shall consider all reasonable issues regarding the circumstances surrounding the failure to make the timely payment described in subparagraph (A).

"(C) WITHHOLDING OF PAYMENTS.—Not later than 30 days after the date on which a material breach under subparagraph (A) is determined by the contracting officer, the Federal agency may withhold any amounts due and owing the subcontractor from payments due to the prime contractor and pay such amounts directly to the subcontractor.

"(D) DEFINED TERM.—As used in this paragraph, the term 'civilian agency prime contractor' means a prime contractor that offers any combination of services or manufactured goods to Federal agencies other than the Department of Defense or agencies with responsibility for homeland security or national security.".

SA 513. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 712. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

(a) CONGRESSIONAL FINDINGS AND REAFFIRMATION OF EXISTING POLICY.—

(1) FINDINGS.—Congress finds that—

(A) small business contracting in support of overseas activities of the Federal Government strengthens the trade posture of the United States in the global marketplace;

(B) small business contractors are a vital component of the civilian and defense industrial base, and they have provided outstanding value in support of the activities of the Federal Government domestically and internationally, especially in the international reconstruction, stabilization, and assistance activities in the Global War on Terror;

(C) maintaining a vital small business industrial base protects the Federal Government from higher costs and reduced innovation that accompany undue consolidation of Government contracts;

(D) Congress has a strong interest in preserving the competitive nature of the Government contracting marketplace, particularly with regard to performance of Federal contracts and subcontracts overseas;

(E) small business contractors suffer competitive harm and the Federal Government suffers a needless reduction in competition and a needless shrinkage of its industrial base when Federal agencies exempt contracts and subcontracts awarded for performance overseas from the application of the Small Business Act;

(F) small businesses desiring to support the troops deployed in the Global War on Terror and the reconstruction of Iraq and Afghanistan have faced needless hurdles to meaningful participation in Government contracts and subcontracts; and

(G) Congress has a strong interest in holding large prime contractors accountable for fulfilling their subcontracting plans on overseas assistance and reconstruction projects.

(2) REAFFIRMATION OF POLICY.—In light of the findings in subparagraph (A), Congress reaffirms its policy contained in sections 2 and 15 of the Small Business Act (15 U.S.C. 631, 644) and section 302 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631a) to promote international competitiveness of United States small businesses and to ensure that small business concerns are awarded a fair portion of all Federal prime contracts, and subcontracts, regardless of geographic area.

(b) COMPLIANCE.—Not later than 270 days after the date of enactment of this Act, the head of each Federal agency, office, and department having jurisdiction over acquisition regulations shall conduct regulatory reviews to ensure that such regulations require compliance with the Small Business Act in Federal prime contracts and subcontracts, regardless of the geographic place of award or performance, and shall promulgate any necessary conforming changes to such regulations.

(c) COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION.—The Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall be consulted for recommendations concerning regulatory reviews and changes required by this section.

(d) CONFLICTING PROVISIONS OF LAW.—In conducting any regulatory review or promulgating any changes required by this section, due note and recognition shall be given to the specific requirements and procedures of any other Federal statute or treaty which may exempt any Federal prime contract or subcontract from the application of the Small Business Act in whole or in part.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report containing their views on the compliance status of Federal agencies, offices, and departments in carrying out this section.

SA 514. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 712. CONFLICT ZONE SMALL BUSINESS CONCERNS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(s) CONFLICT ZONE SMALL BUSINESS CONCERNS.—

"(1) CONFLICT ZONE SMALL BUSINESS SIZE STANDARDS.—

"(A) IN GENERAL.—The Administrator shall establish, by rule, regulation, or order, size standards for treatment of a business concern performing services in a qualified area as a small business concern for purposes of this Act.

"(B) TIMING.—The size standards established under subparagraph (A) shall become effective not later than 12 months after the date of enactment of this subsection.

"(C) CRITERIA.—The Administrator shall develop size standards under subparagraph (A) with the purpose of reducing the burdens on small business concerns, in connection with the need—

"(i) to provide security for business operations;

"(ii) to incur costs under any provision of Federal law which may require government contractors and subcontractors to provide particular benefits or to obtain particular types of insurance in order to operate in a qualified area; and

"(iii) to hire additional employees in order to successfully perform contracts or subcontracts in or near a zone of military conflict.

"(2) PROVISIONAL RULE.—Notwithstanding any other provision of law, until the rule, regulation or order established under paragraph (1)(A) becomes effective, the Administrator may not consider, in determining whether a business concern performing services in a qualified area qualifies as a small business concern for purposes of this Act—

"(A) receipts received under a qualified contract or subcontract; or

"(B) employees hired solely for the purpose of performing services in a qualified area pursuant to a qualified contract or subcontract.

"(3) ADDITIONAL DEFINITIONS.—

"(A) QUALIFIED AREA.—In this subsection, the term 'qualified area' means—

"(i) Iraq;

"(ii) Afghanistan; and

"(iii) any other country, area, or territory outside of the United States, its territories, and possessions, as may be designated by the Administrator in consultation with the Secretary of Defense, the Secretary of Homeland Security, or the Secretary of State, as appropriate, where contracts or subcontracts are performed in support of the Global War on Terror, United States military operations, or related reconstruction, stabilization, and assistance activities.

"(B) QUALIFIED CONTRACT OR SUBCONTRACT.—In this subsection, the term 'qualified contract or subcontract' means any contract, portion of a contract, subcontract, or portion of a subcontract awarded by an agency or instrumentality of the United States, or using funds made available through an appropriations Act, requiring the business concern to perform services in a qualified area.

"(C) SERVICES.—In this subsection, the term 'services' includes sales, marketing, installation, translation, security, and other similar services performed in a qualified area under a qualified contract or subcontract.".

SA 515. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 3, insert the following:

CONTRACT CONSOLIDATION

SEC. 6047. (a) Section 3(o) of the Small Business Act (15 U.S.C. 632(o)) is amended to read as follows:cc

"(o) DEFINITIONS RELATING TO CONSOLIDATION OF CONTRACT REQUIREMENTS.—In this Act—

"(1) the terms 'consolidation of contract requirements' and 'consolidation', with respect to contract requirements of a military department, defense agency, Department of

Defense Field Activity, or any other Federal department or agency having contracting authority, mean a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy 2 or more requirements of that department, agency, or activity for goods or services that—

"(A) have previously been provided to or performed for that department, agency, or activity under 2 or more separate contracts that are smaller in cost than the total cost of the contract for which the offers are solicited; or

"(B) are of a type capable of being provided or performed by a small business concern for that department, agency, or activity under 2 or more separate contracts that are smaller in cost than the total cost of the contract for which the offers are solicited;

"(2) the term 'multiple award contract' means—

"(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of title 10, United States Code;

"(B) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

"(C) any other indeterminate delivery, indeterminate quantity contract that is entered into by the head of a Federal agency with 2 or more sources pursuant to the same solicitation; and

"(3) the term 'senior procurement executive' means—

"(A) with respect to a military department, the official designated under section 16(k) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) as the senior procurement executive for the military department;

"(B) with respect to a defense agency or a Department of Defense Field Activity, the official so designated for the Department of Defense; and

"(C) with respect to a Federal department or agency other than those referred to in subparagraphs (A) and (B), the official so designated by that department or agency.".

(b) Section 15(e) of the Small Business Act (15 U.S.C. 644(e)) is amended—

(1) in paragraph (2)—

(A) by striking "RESEARCH.—

(A) IN GENERAL.—Before" and inserting "RESEARCH.—Before"; and

(B) by striking subparagraphs (B) and (C); and

(2) by striking paragraph (3) and inserting the following:

"(3) LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.—

"(A) CERTAIN DEFENSE CONTRACT REQUIREMENTS.—An official of a military department, defense agency, or Department of Defense Field Activity shall not execute an acquisition strategy that includes a consolidation of contract requirements of the military department, agency, or activity with a total value in excess of $5,000,000, unless the senior procurement executive first—

"(i) conducts market research;

"(ii) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

"(iii) determines that the consolidation is necessary and justified.

"(B) CERTAIN CIVILIAN AGENCY CONTRACT REQUIREMENTS.—The head of a Federal agency not covered under subparagraph (A) that has contracting authority shall not execute an acquisition strategy that includes a consolidation of contract requirements of the agency with a total value in excess of $2,000,000, unless the senior procurement executive of the agency first—

"(i) conducts market research;

"(ii) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

"(iii) determines that the consolidation is necessary and justified.

"(C) ADDITIONAL REQUIREMENTS FOR HIGHER VALUE CONSOLIDATED CONTRACTS.—In addition to meeting the requirements under subparagraph (A) or (B), a procurement strategy by a civilian agency that includes a consolidated contract with a total value in excess of $5,000,000, or by a defense agency that includes a consolidated contract with a total value in excess of $7,000,000 shall include—

"(i) an assessment of the specific impediments to participation by small business concerns as prime contractors that will result from the consolidation;

"(ii) actions designed to maximize small business participation as prime contractors, including provisions that encourage small business teaming for the consolidated requirement;

"(iii) actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements; and

"(iv) the identification of the alternative strategies that would reduce or minimize the scope of the consolidation and the rationale for not choosing those alternatives.

"(D) NECESSARY AND JUSTIFIED.—A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for purposes of subparagraph (A), (B), or (C), if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under clause (ii) of any of those subparagraphs, as applicable. However, savings in administrative or personnel costs alone do not constitute, for such purpose, a sufficient justification for a consolidation of contract requirements in a procurement, unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

"(E) BENEFITS.—Benefits considered for purposes of this paragraph may include cost and, regardless of whether quantifiable in dollar amounts—

"(i) quality;

"(ii) acquisition cycle;

"(iii) terms and conditions; and

"(iv) any other benefit directly related to national security or homeland defense.".

(c) Section 15(p)(4)(B) of the Small Business Act (15 U.S.C. 644(p)(4)(B)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end and inserting the following: "; and"; and

(3) by adding at the end the following:

"(iii) a description of best practices for maximizing small business prime and subcontracting opportunities.".

(d) Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is amended—

(1) in the subsection heading, by striking "BUNDLED CONTRACTS" and inserting "CONSOLIDATED CONTRACTS";

(2) in paragraph (1), in the paragraph heading, by striking "BUNDLED CONTRACT" and inserting "CONSOLIDATED CONTRACT";

(3) in paragraph (4), in the paragraph heading, by striking "CONTRACT BUNDLING" and inserting "CONTRACT CONSOLIDATION";

(4) by striking "bundled contracts" each place that term appears and inserting "consolidated contracts";

(5) by striking "bundled contract" each place that term appears and inserting "consolidated contract";

(6) by striking "bundling of contract requirements" each place that term appears and inserting "consolidation of contract requirements";

(7) in paragraph (4)(B)(ii), by striking "previously bundled" and inserting "previously consolidated";

(8) in paragraph (4)(B)(ii)(I), by striking "were bundled" and inserting "were consolidated";

(9) in paragraph (4)(B)(ii)(II)(bb), by striking "bundling the contract requirements" and inserting "the consolidation of contract requirements"; and

(10) in paragraph (4)(B)(ii)(II)(cc), by striking "bundled status" and inserting "consolidated status".

SA 516. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 187, after line 4, insert the following:

REDUCTION IN FUNDING FOR DIPLOMATIC AND CONSULAR PROGRAMS

The amount for "Diplomatic and Consular Programs" under chapter 2 of title II shall be $357,700,000.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $389,613,000, of which $128,000,000, to remain available until September 30, 2006, shall be available for the enforcement of immigration and customs laws, detention and removal, and investigations, including the hiring of immigration investigators, enforcement agents, and deportation officers, and the provision of detention bed space, and of which the Assistant Secretary for Immigration and Customs Enforcement shall transfer (1) $179,745,000, to Customs and Border Protection, to remain available until September 30, 2006, for "SALARIES AND EXPENSES", for the hiring of Border Patrol agents and related mission support expenses and continued operation of unmanned aerial vehicles along the Southwest Border; (2) $67,438,000, to Customs and Border Protection, to remain available until expended, for "CONSTRUCTION"; (3) $10,471,000, to the Federal Law Enforcement Training Center, to remain available until September 30, 2006, for "SALARIES AND EXPENSES"; and (4) $3,959,000, to the Federal Law Enforcement Training Center, to remain available until expended, for "ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES", for the provision of training at the Border Patrol Academy.

SA 517. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, insert the following:

DARFUR ACCOUNTABILITY

SEC. 2105. (a) It is the sense of the Senate that—

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that—

(A) imposes additional sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the Government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as the Government of Sudan fully complies with all relevant United Nations Security Council resolutions;

(B) establishes a military no-fly zone in Darfur and calls on the Government of Sudan to immediately withdraw all military aircraft from the region;

(C) urges member states to accelerate assistance to the African Union force in Darfur, sufficient to achieve the expanded mandate described in paragraph (5);

(D) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force, the United Nations Mission in Sudan (UNMIS), international humanitarian organizations, and United Nations monitors;

(E) extends the embargo of military equipment established by paragraphs 7 through 9 of United Nations Security Council Resolution 1556 and expanded by Security Council Resolution 1591 to include a total prohibition of sale or supply to the Government of Sudan; and

(F) expands the mandate of UNMIS to include the protection of civilians throughout Sudan, including Darfur, and increases the number of UNMIS personnel to achieve such mandate;

(3) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that the Government of Sudan has fully complied with all relevant United Nations Security Council resolutions and the conditions established by the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018);

(4) the President should work with international organizations, including the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union to undertake action as soon as practicable to eliminate the ability of the Government of Sudan to engage in aerial bombardment of civilians in Darfur and establish mechanisms for the enforcement of a no-fly zone in Darfur;

(5) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence;

(6) the President should accelerate assistance to the African Union in Darfur and discussions with the African Union, the European Union, NATO, and other supporters of the African Union force on the needs of the African Union force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and command and control assistance, and intelligence;

(7) the President should appoint a Presidential Envoy for Sudan to support peace, security and stability in Darfur and seek a comprehensive peace throughout Sudan;

(8) United States officials, at the highest levels, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and other relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur; and

(9) the United States should actively participate in the UN Committee and the Panel of Experts established pursuant to Security Council Resolution 1591, and work to support the Secretary-General and the United Nations High Commissioner for Human Rights in their efforts to increase the number and deployment rate of human rights monitors to Darfur.

(b)(1) At such time as the United States has access to any of the names of those named by the UN Commission of Inquiry or those designated by the UN Committee the President shall—

(A) submit to the appropriate congressional committees a report listing such names;

(B) determine whether the individuals named by the UN Commission of Inquiry or designated by the UN Committee have committed the acts for which they were named or designated;

(C) except as described under paragraph (2), take such action as may be necessary to immediately freeze the funds and other assets belonging to such individuals, their family members, and any associates of such individuals to whom assets or property of such individuals were transferred on or after July 1, 2002, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control; and

(D) except as described under paragraph (2), deny visas and entry to such individuals, their family members, and anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(2) The President may elect not to take action described in paragraphs (1)(C) and (1)(D) if the President submits to the appropriate congressional committees, a report—

(A) naming the individual named by the UN Commission of Inquiry or designated by the UN Committee with respect to whom the President has made such election, on behalf of the individual or the individual's family member or associate; and

(B) describing the reasons for such election, and including the determination described in paragraph (1)(B).

(3) Not later than 30 days after United States has access to any of the names of those named by the UN Commission of Inquiry or those designated by the UN Committee, the President shall submit to the appropriate congressional committees notification of the sanctions imposed under paragraphs (1)(C) and (1)(D) and the individuals affected, or the report described in paragraph (2).

(4) Not later than 30 days prior to waiving the sanctions provisions of any other Act with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons for such waiver.

(c)(1) The Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to achieve such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, and the status of United States and other assistance to the African Union force.

(2)(A) The report described in paragraph (1) shall be submitted every 90 days during the 1-year period beginning on the date of the enactment of this Act, or until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(B) After such 1-year period, and if the President has not made the certification described in subparagraph (A), the report described in paragraph (1) shall be included in the report required under section 8(b) of the Sudan Peace Act (50 U.S.C. 1701 note), as amended by section 5(b) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018).

(d) In this section:

(1) The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) The term "Government of Sudan" means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this title.

(3) The term "member states" means the member states of the United Nations.

(4) The term "Sudan North-South Peace Agreement" means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People's Liberation Army/Movement on January 9, 2005.

(5) The term "those named by the UN Commission of Inquiry" means those individuals whose names appear in the sealed file delivered to the Secretary-General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Security Council.

(6) The term "UN Committee" means the Committee of the Security Council established in United Nations Security Council Resolution 1591 (29 March 2005); paragraph 3.

SA 518. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. . SILICON CARBIDE ARMOR INITIATIVE.

Of amounts available to the Department of Defense in this Act, $5,000,000 may be used for the purpose of funding a silicon carbide armor initiative to meet the critical needs for silicon carbide powders used in the production of ceramic armor plates for military vehicles.

SA 519. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. . RAPID WALL BREACHING KITS.

Of amounts available to the Department of Defense in this Act, $5,000,000 may be used for procurement of Rapid Wall Breaching Kits.

SA 520. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

UP-ARMORED HIGH MOBILITY MULTIPURPOSE WHEELED VEHICLES

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $213,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OTHER PROCUREMENT, ARMY", as increased by subsection (a), $213,000,000 shall be available for the procurement of Up-Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMWVs).

(c) REPORTS.—(1) Not later 60 days after the date of the enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the current requirements of the Armed Forces for Up-Armored High Mobility Multipurpose Wheeled Vehicles.

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the most effective and efficient options available to the Department of Defense for transporting Up Armored High Mobility Multipurpose Wheeled Vehicles to Iraq and Afghanistan.

SA 521. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

APPLICATION PROCESSING AND ENFORCEMENT FEES

SEC. 6047. Section 286(s)(6) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(6)) is amended in the second sentence by inserting "and section 212(a)(5)(A)" before the period at the end.

SA 522. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

REPEAL OF CERTAIN VISA REVOCATION PROVISIONS

SEC. 6047. (a) Section 5304 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) is repealed.

(b) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be applied and administered as if such section 5304 had not been enacted.

(c) Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: "There shall be no means of administrative or judicial review of a revocation under this subsection, and no court or other person otherwise shall have jurisdiction to consider any claim challenging the validity of such a revocation.".

(d) Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking "United States is" and inserting the following: "United States, or whose nonimmigrant visa (or other documentation authorizing admission into the United States) has been revoked under section 221(i), is".

(e) The amendments made by subsections (c) and (d) shall take effect on the date of the enactment of this Act and shall apply to revocations under section 221(i) of the Immigration and Nationality Act made before, on, or after such date.

SA 523. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REQUIRING CERTAIN FEDERAL SERVICE CONTRACTORS TO PARTICIPATE IN PILOT PROGRAM.

Section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following:

"(C) CERTAIN FEDERAL SERVICE CONTRACTORS.—The following entities shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election:

"(i) A contractor who has entered into a contract with the Department of Defense to which section 2(b)(1) of the Service Contract Act of 1965 (41 U.S.C. 351(b)(1)) applies, and any subcontractor under such contract.

"(ii) A contractor who has entered into a contract with the Department of Defense that is exempted from the application of such Act by section 6 of such Act (41 U.S.C. 356), and any subcontractor under such contract.".

SA 524. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for

the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 197, between lines 13 and 14, insert the following:

Cooperative State Research, Education and Extension

For an additional amount for grants to States for the prevention, detection, and treatment of Asian soybean rust, $2,340,000, to remain available until expended: *Provided*, That the funds shall be made available to land grant universities in southern States where Asian soybean rust has been detected as of the date of enactment of this Act, as determined by the Secretary of Agriculture: *Provided further*, That the funds shall be targeted to States with harvested soybean acreage in crop year 2004 of at least 1,600,000 acres: *Provided further*, That to be eligible, a State land grant university shall have developed a plan for the prevention, detection, and treatment of Asian soybean rust: *Provided further*, That the plan shall include, at a minimum, the development of informational materials, including the use of a website, training sessions for producers, crop monitoring, and the development of a regional network: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 525. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 197, between lines 13 and 14, insert the following:

Agricultural Research Service

For an additional amount for grants to States for the prevention, detection, and treatment of Asian soybean rust, $2,340,000, to remain available until expended: *Provided*, That the funds shall be made available to the cooperative extension service in southern States where Asian soybean rust has been detected as of the date of enactment of this Act, as determined by the Secretary of Agriculture: *Provided further*, That the funds shall be targeted to States with harvested soybean acreage in crop year 2004 of at least 1,600,000 acres: *Provided further*, That to be eligible, a State shall have developed a plan for the prevention, detection, and treatment of Asian soybean rust: *Provided further*, That the plan shall include, at a minimum, the development of informational materials, including the use of a website, training sessions for producers, crop monitoring, and the development of a regional network: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 526. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. Craig (for himself and Mr. Kennedy) to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, lines 11 through 14, strike "at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on" and insert "the previous 3 years, for at least 575 hours or 100 work days per year, before".

SA 527. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, lines 15 and 16, strike "benefits" and insert "value".

SA 528. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, line 24, strike "$40,000,000" and insert "$20,000,000".

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. FLOODED CROP AND GRAZING LAND.

(a) In General.—The Secretary of Agriculture shall compensate eligible owners of flooded crop and grazing land in—

(1) the Devils Lake basin; and

(2) the McHugh, Lake Laretta, and Rose Lake closed drainage areas of the State of North Dakota.

(b) Eligibility.—

(1) In general.—To be eligible to receive compensation under this section, an owner shall own land described in subsection (a) that, during the 2 crop years preceding receipt of compensation, was rendered incapable of use for the production of an agricultural commodity or for grazing purposes (in a manner consistent with the historical use of the land) as the result of flooding, as determined by the Secretary.

(2) Inclusions.—Land described in paragraph (1) shall include—

(A) land that has been flooded;

(B) land that has been rendered inaccessible due to flooding; and

(C) a reasonable buffer strip adjoining the flooded land, as determined by the Secretary.

(3) Administration.—The Secretary may establish—

(A) reasonable minimum acreage levels for individual parcels of land for which owners may receive compensation under this section; and

(B) the location and area of adjoining flooded land for which owners may receive compensation under this section.

(c) Sign-Up.—The Secretary shall establish a sign-up program for eligible owners to apply for compensation from the Secretary under this section.

(d) Compensation Payments.—

(1) In general.—Subject to paragraphs (2) and (3), the rate of an annual compensation payment under this section shall be equal to 90 percent of the average annual per acre rental payment rate (at the time of entry into the contract) for comparable crop or grazing land that has not been flooded and remains in production in the county where the flooded land is located, as determined by the Secretary.

(2) Reduction.—An annual compensation payment under this section shall be reduced by the amount of any conservation program rental payments or Federal agricultural commodity program payments received by the owner for the land during any crop year for which compensation is received under this section.

(3) Exclusion.—During any year in which an owner receives compensation for flooded land under this section, the owner shall not be eligible to participate in or receive benefits for the flooded land under—

(A) the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(B) the noninsured crop assistance program established under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); or

(C) any Federal agricultural crop disaster assistance program.

(e) Relationship to Agricultural Commodity Programs.—The Secretary, by regulation, shall provide for the preservation of cropland base, allotment history, and payment yields applicable to land described in subsection (a) that was rendered incapable of use for the production of an agricultural commodity or for grazing purposes as the result of flooding.

(f) Use of Land.—

(1) In general.—An owner that receives compensation under this section for flooded

land shall take such actions as are necessary to not degrade any wildlife habitat on the land that has naturally developed as a result of the flooding.

(2) RECREATIONAL ACTIVITIES.—To encourage owners that receive compensation for flooded land to allow public access to and use of the land for recreational activities, as determined by the Secretary, the Secretary may—

(A) offer an eligible owner additional compensation; and

(B) provide compensation for additional acreage under this section.

(g) FUNDING.—

(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, to carry out this section $20,000,000 for fiscal year 2005, to remain available until expended: *Provided*, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(2) PRO-RATED PAYMENTS.—In a case in which the amount made available under paragraph (1) for a fiscal year is insufficient to compensate all eligible owners under this section, the Secretary shall pro-rate payments for that fiscal year on a per acre basis.

SA 529. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In the language proposed to be striken strike line 6 through 19 and insert the following:

On page 214, strike lines 6 through 19 and insert the following:

SEC. 6023.(a) Not later than September 30, 2005, the Department of Energy and the Small Business Administration shall enter into a memorandum of understanding setting forth an appropriate methodology for measuring the achievement of the Department of Energy with respect to awarding contracts to small businesses.

(b) In recognition of the historical and successful practice by the Department of Energy of operating many of its facilities and sites through management and operating contractors who subcontract significant amounts of work to small businesses, the methodology set forth in the memorandum of understanding entered into under subsection (a) shall, at a minimum, include—

(1) a method of counting the achievement of the Department of Energy in awarding—

(A) prime contracts; and

(B) subcontracts to small businesses awarded by Department of Energy management and operating, management and integration, and other facility management prime contractors;

(2) uniform criteria that could be used by prime contractors described under paragraph (1)(B) when measuring the value of subcontracts awarded to small businesses; and

(3) prime contract provisions that could impose certain requirements on prime contractors described under paragraph (1)(B), such as prompt payment requirements, with respect to the administration of subcontracts awarded to small businesses that, when such provisions were included within a prime contract, the Department of Energy could count the subcontracts awarded under such prime contract toward its small business contracting goals established pursuant to Section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

SA 530. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, strike lines 6 through 19 and insert the following:

SEC. 6023.(a) Not later than September 30, 2005, the Department of Energy and the Small Business Administration shall enter into a memorandum of understanding setting forth an appropriate methodology for measuring the achievement of the Department of Energy with respect to awarding contracts to small businesses.

(b) In recognition of the historical and successful practice by the Department of Energy of operating many of its facilities and sites through management and operating contractors who subcontract significant amounts of work to small businesses, the methodology set forth in the memorandum of understanding entered into under subsection (a) shall, at a minimum, include—

(1) a method of counting the achievement of the Department of Energy in awarding—

(A) prime contracts; and

(B) subcontracts to small businesses awarded by Department of Energy management and operating, management and integration, and other facility management prime contractors;

(2) uniform criteria that could be used by prime contractors described under paragraph (1)(B) when measuring the value of subcontracts awarded to small businesses; and

(3) prime contract provisions that could impose certain requirements on prime contractors described under paragraph (1)(B), such as prompt payment requirements, with respect to the administration of subcontracts awarded to small businesses that, when such provisions were included within a prime contract, the Department of Energy could count the subcontracts awarded under such prime contract toward its small business contracting goals established pursuant to Section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

SA 531. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, line 16, strike "(e)(2)" and all that follows through line 22, and insert the following: "(e)(2); or

"(ii) is convicted of a felony or misdemeanor committed in the United States.".

SA 532. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, strike line 24 and all that follows through page 21, line 11, and insert the following:

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) applications for temporary resident status under subsection (a) may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney; or

(ii) with a qualified entity designated under paragraph (2), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

SA 533. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, line 2, strike "(e)(2)" and all that follows through line 8, and insert the following: "(e)(2); or

"(II) is convicted of a felony or misdemeanor committed in the United States.".

SA 534. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike line 13 and all that follows through page 15, line 24, and insert the following:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 5 years of agricultural employment in the United States, for at least 575 hours or 100 work days per year, during the 6-year period beginning on the date of enactment of this Act.

(ii) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(iii) PROOF.—In meeting the requirement under clause (i), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(iv) DISABILITY.—In determining whether an alien has met the requirement under clause (i), the Secretary.

SA 535. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, line 12, strike "(e)(2)" and all that follows through line 18, and insert the following: "(e)(2); or

"(II) is convicted of a felony or misdemeanor committed in the United States.".

SA 536. Mr. COCHRAN (for Mr. BOND) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

Insert the following (and renumber if appropriate) on page 231, after line 3:

"SEC. 6047. (a) Section 222 of title II of Division I of Public Law 108–447 is deleted; and

(b) Section 203(c)(1) of the National Housing Act (12 U.S.C. 1709(c)) is amended by—

(1) striking "subsections" and inserting "subsection", and

(2) striking "or (k)" each place that it appears.".

SA 537. Mr. REID (for Mr. BIDEN (for himself, Mr. LAUTENBERG, and Mrs. BOXER)) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ AND AFGHANISTAN AND FOR OTHER DEFENSE-RELATED ACTIVITIES THROUGH PARTIAL SUSPENSION OF REDUCTION IN HIGHEST INCOME TAX RATE FOR INDIVIDUAL TAXPAYERS.—The table contained in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 (relating to (relating to reductions in rates after June 30, 2001) is amended to read as follows:

"In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003, 2004, and 2005	25.0%	28.0%	33.0%	35.0%
2006 and thereafter	25.0%	28.0%	33.0%	38.6%".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

(c) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

NOTICES OF HEARING/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources on Tuesday, April 26, at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony regarding the status of the Department of Energy's Nuclear Power 2010 program.

For further information, please contact Clint Williamson at 202–224–7556 or David Marks at 202–228–6195.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Thursday, April 28, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills: S. 242, a bill to establish four memorials to the Space Shuttle Columbia in the State of Texas; S. 262, a bill to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California; S. 336, a bill to direct the Secretary of the Interior to carry out a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail; S. 670, a bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; S. 777, a bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes; and H.R. 126, a bill to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, D.C. 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Brian Carlstrom at (202) 224–6293.

AUTHORIZING AN ANNUAL APPROPRIATION FOR MENTAL HEALTH COURTS THROUGH FISCAL YEAR 2011

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 289 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 289) to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is going to pass

S. 289, a bill to reauthorize the Mental Health Court Program and provide $10 million in grant funding annually for mental health courts through fiscal year 2011. I am the lead Democratic sponsor of this bill, and cosponsored similar legislation in the last Congress.

Senator DEWINE and I have worked together on a number of mental health issues. Last year, we worked together to enact the Mentally Ill Offender Treatment and Crime Reduction Act, which authorizes $50 million annually for a range of State and local projects designed to reduce the number of crimes committed by mentally ill individuals. We are now working together to obtain appropriations to fund the new law.

As former prosecutors, Senator DEWINE and I both realize the tremendous impact of mental illness on our criminal justice system. We need to stop the "revolving door" whereby mentally ill offenders cycle in and out of the criminal justice system for relatively minor offenses, taking up the time and resources of law enforcement officers, judges, and the community as a whole. My State of Vermont has benefited from funding under the Mental Health Court Program, and I know firsthand the good that mental health courts can do.

I hope the House will take up this bipartisan and uncontroversial legislation promptly and ensure that Federal support for mental health courts will continue.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 289) was read the third time and passed, as follows:

S. 289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended by striking "fiscal years 2001 through 2004" and inserting "fiscal years 2006 through 2011".

ORDERS FOR TUESDAY, APRIL 19, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, April 19. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill; provided that the time until 11:45 be divided with Senator CHAMBLISS in control of one-half of the time and the other half divided equally between Senators CRAIG and KENNEDY; provided further that at 11:45 a.m. the Senate proceed to the vote on the motion to invoke cloture on the Chambliss amendment, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow, the Senate will resume consideration of the Iraq-Afghanistan supplemental appropriations bill. At 11:45 a.m., the Senate will proceed to the cloture vote on the Chambliss immigration amendment, to be followed by a vote on invoking cloture on the Craig AgJOBS amendment. Therefore, Senators should expect two cloture votes beginning at 11:45 tomorrow morning.

If cloture is not invoked on either of those amendments, the Chambliss amendment or the Craig amendment, the Senate will continue working through additional amendments to the bill. Under a previous order, if the Senate is not in a postcloture period, we will proceed to the cloture vote on the Mikulski language, and that is the Mikulski immigration amendment, at 4:30 tomorrow afternoon. After we dispose of the Mikulski amendment, the Senate will proceed to the cloture vote on the overall bill, the underlying bill.

I also announce to my colleagues that, as they can see, we will have a very busy day over the course of tomorrow. Rollcall votes are likely to occur throughout the day, beginning at 11:45 a.m. As a reminder, there is an 11 a.m. filing deadline for second-degree amendments to the Chambliss and Craig amendments. The filing deadline for second-degree amendments to the Mikulski amendment and the bill itself will be determined by the outcome of those two earlier cloture votes tomorrow morning, and Senators will be notified once those deadlines can be established.

Once again, I hope the Senate will invoke cloture on the bill so that the Senate can complete this underlying, important, critical emergency funding bill, an emergency funding bill for our troops in Afghanistan, in Iraq, as well as tsunami relief.

Over the last week, week and a half, I have encouraged and will continue to encourage my colleagues not to offer extraneous amendments. I know people see this as a bill that is going to ultimately pass this floor, and it is very tempting to throw your outbox on this bill.

To be honest, I have been disappointed in the number of extraneous, unrelated amendments that have been brought forward. We have 20 pending amendments to the supplemental appropriations bill. In addition to that, I have on each of these pages about 30 amendments, 4 pages of amendments Senators have brought forward.

I appeal to my colleagues: Let us stay on this bill, the supplemental emergency spending bill. We are at war. We have troops who need this money now. All I can do is continue to appeal. We will have these immigration amendments tomorrow. We will have the opportunity to vote on these three amendments. That process will begin with the cloture votes at 11:45 in the morning.

Once again, use restraint in bringing amendments forward, unless they are directed at supplemental emergency spending for our troops overseas or tsunami relief.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:41 p.m., adjourned until Tuesday, April 19, 2005, at 9:45 a.m.

EXTENSIONS OF REMARKS

A LEADER IN CENTRAL VALLEY HEALTH CARE

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. COSTA. Mr. Speaker, for the past 20 years, Saint Agnes Medical Center has been blessed by the presence of Sister Ruth Marie Nickerson. Since her arrival to Fresno in January of 1984, she has embraced her position as President and CEO of Saint Agnes Medical Center. Now, as Sister Ruth moves forward in her life-long commitment to help those people in most need, it is clear that she has left a lasting mark upon the Medical Center, as well as upon the entire Fresno community. During her tenure at Saint Agnes, employee size grew from 1,500 to its present size of 2,700. Several new wings and centers opened under her direction, including the California Eye Institute, the Cancer Center, the Heart and Vascular Center, and the medical center's East and North Wing expansions.

In addition to these projects, Sister Ruth was also influential in the expansion of the Holy Cross Center for Women. At the women's center, she oversaw the establishment of the Gathering Place, a safe spot where children now learn and play; MaryHaven, an educational facility designed to teach women important life skills; and Naomi's House, an overnight respite for women.

Beyond her position at the medical center, Sister Ruth Marie Nickerson serves on the board of many organizations, including the Fresno Business Council, Fresno Compact, Poverello House, and The California Endowment (TCE). She was also a past board chair of the Catholic Health Association of the USA, the Alliance of Catholic Health Care, and the Hospital Council of Northern & Central California. Currently, Sister Ruth serves as chair of the Regional Advisory Council of the Central Valley Health Policy Institute.

While these numerous projects and board positions are impressive and speak volumes of her commitment to providing quality health care to the people of the Central Valley, what is most notable about Sister Ruth Marie Nickerson is the warmth and compassion with which she conducts her daily activities. She possesses the distinct ability to bring people together to work for the good of the community, and she accomplishes such with both a kind heart and revered sense of humor.

HONORING OFFICER DAVID M. RANES

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Officer David M. Ranes for his exemplary service with Turlock Police Services and to his community. An event to celebrate the retirement of Officer Ranes will be held on Friday, April 15, 2005 in Turlock, CA.

David Ranes was born in China Lake, CA on March 9, 1955. After graduating from Turlock High School in 1972, David enrolled in the Modesto Regional Criminal Justice Training Academy, class number F–1. Upon completing his training, David was hired by Turlock Police Chief James Greenway to serve and protect his community on August 16, 1979.

Throughout his entire career, Officer Ranes worked various special assignments. He has served as patrol officer, detective, narcotics agent, and background investigator. While in Detectives, he investigated a homicide that is now going to trial as a death penalty case. Officer Ranes was privileged to serve under the tenures of former Turlock Police Services Chief(s) James Greenway, John Johnson, Robert Johnson, and current Chief Lonald Lott.

Mr. Speaker, I rise to honor Officer David M. Ranes for his 26 years of service with Turlock Police Services. I invite my colleagues to join me in congratulating Mr. Ranes upon retirement and in wishing him many more years of continued success.

* * *

INTRODUCTION OF THE U.S. TSUNAMI WARNING AND EDUCATION ACT

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. BOEHLERT. Mr. Speaker, I rise today, along with my colleague Mr. INSLEE from Washington State, to introduce the U.S. Tsunami Warning and Education Act of 2005. On December 26 of last year, we all watched with horror and complete bewilderment as a massive tsunami swept across the Indian Ocean Basin ravaging 11 nations, killing more than 150,000 people, and affecting the day-to-day lives of millions.

This event was a wake up call for coastal communities around the world, and certainly for coastal communities in the U.S. While the U.S. does have a tsunami detection and warning system in the Pacific, this event forced us to reexamine that system and we found that most of the vulnerable communities in the U.S. are not adequately protected or prepared for a similar event.

The Administration responded quickly to the Indian Ocean Tsunami with a proposal in January to strengthen and expand the current U.S. tsunami detection and warning system. The Science Committee took the lead in Congress and held a hearing on the Administration's proposal and heard from experts who expressed some concerns about the Administration's proposal and had numerous recommendations to improve it.

We took the Administration's proposal and the comments from many experts and developed the U.S. Tsunami Warning and Education Act. The bill would authorize $30 million a year for 30 years for the National Oceanic and Atmospheric Administration to: strengthen the current tsunami detection system in the Pacific and expand it to the Atlantic Ocean, Caribbean Sea and Gulf of Mexico regions; conduct a community-based tsunami hazard mitigation program to improve preparedness of at-risk areas; maintain a dedicated tsunami research program; and provide technical assistance and training to the international community on the development of a global tsunami detection and warning system.

While tsunamis are going to continue to threaten our coasts, this legislation ensures that we can be better prepared through early detection, instant warnings, and an educated population.

* * *

CONGRATULATIONS TO UNIVERSITY OF CALIFORNIA SAN FRANCISCO-FRESNO ON THE OPENING OF THE MEDICAL EDUCATION AND RESEARCH CENTER

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. COSTA. Mr. Speaker, I rise today to congratulate University of California San Francisco Fresno Medical Education Program on this ceremonious occasion of the opening of the Medical Education and Research Center.

As UCSF School of Medicine celebrates it 30th anniversary in the Valley, the program deserves congratulations for providing much needed medical services to our area. With 175 medical residents trained each year in the program, over 50 percent of these residents remain in the Greater San Joaquin Valley to set up their practices. The Medical Education Program offers a unique community development experience. Medical students can train with some of the best and brightest doctors, at the same time deliver services to community members that may not have been previously accessible.

This Center is a product of a bipartisan effort to provide medical resources to a program

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

that offers unsurpassed benefits to the community. As one of nine Central Valley members of the California State Legislature who sought funding for the Medical Education and Research Center, it is certainly uplifting to see this project come to fruition. By constructing a new Center, UCSF-Fresno will no longer be forced to make do with facilities that are functionally obsolete or geographically separated over a wide area.

The new Medical Education and Research Center will serve as the operating location for the Medical Education Program and house both the administrative and educational components of this program. The facility will allow the Medical Education Program to expand and fill its role as a leader in health and education in the 21st Century. Just as important, this facility is yet another critical addition to the Community Regional Medical Center campus in downtown Fresno, a long time vision for this community and now a reality.

In this building, students of medicine will have the opportunity to learn the intricacies of medicine and its impact on the broader community. Simultaneously, the center will provide individuals the insight to the various health issues challenging the residents of this region.

This facility has been years in the making, and the entire community will reap the rewards of the newest addition to UCSF-Fresno.

HONORING OFFICER WILLIAM S. KIMBLE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Officer William "Bill" S. Kimble for his exemplary service with Turlock Police Services and to his community. An event to celebrate the retirement of Officer Kimble will be held on Friday, April 15, 2005 in Turlock, CA.

Bill Kimble was born in Patterson, CA on April 12, 1955. After graduating from Patterson High School in 1973, Bill enrolled in the Modesto Regional Criminal Justice Training Academy, class number F–2. Upon completing his training, Bill was hired by Turlock Police Chief John Johnson to serve and protect his community on June 5, 1980.

Throughout his entire career, Officer Kimble has served in various capacities, he has functioned as field training officer, officer in charge, traffic officer, school resource officer, D.A.R.E. officer, SWAT officer—sniper, community services supervisor, and detective. He served as President and on the Board of Directors of the Turlock Associated Police Officers. Since 1985, Officer Kimble has been a senior Major Accident Investigation Team investigator. He was privileged to serve under the tenures of former Turlock Police Services Chief(s) John Johnson, Robert Johnson, and current Chief Lonald Lott.

Mr. Speaker, I rise to honor Officer William "Bill" S. Kimble for his 25 years of service with Turlock Police Services. I invite my colleagues to join me in congratulating Mr. Kimble upon retirement and in wishing him many more years of continued success.

IN MEMORY OF POLLY GONZALEZ

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. PORTER. Mr. Speaker, I would like to express my condolences to the family and friends of Polly Gonzalez. Anyone that lives in the Las Vegas Valley knows the contribution that Polly gave not only to Channel 8 Eye Witness News, but also to her family, friends, and community. This was even exemplified in her death on March 28th as she was taking her two daughters to see the wildflowers in Death Valley.

Polly Gonzalez started her career in journalism 20 years ago at the San Jose State University. Overcoming a rough and troubled childhood living in a home where her mother would sell street drugs to provide food for her children, Polly became an award winning anchorwoman. As an anchorwoman in Salina, California she was one of the first journalists to uncover the growing gang problem within this tiny community. She eventually joined Channel 8 in 1994 and became a co-anchor for the twelve o'clock and four thirty news casts. During her career at Channel 8 she covered such stories as the Oklahoma Bombing in 1995.

She was the first Latino anchor in Las Vegas and was very proud of this fact. She considered herself to be a role model to her two daughters and to the other Latino women she knew and represented. She wanted them to know that anything is achievable through hard work and dedication and used her life story as an example.

As a Nevadan and Channel 8 viewer, I will always remember the professional, yet warm and friendly way Polly delivered the news into my home. I felt that Polly had a sincere desire to bring accurate and fair news to my family as if she were a close personal friend or family member herself.

I would like to express my sincere sympathy to the family, friends, and co-workers of Polly Gonzalez. Our hearts go out to those individuals mourning the loss of a family member, friend, and role model. As we move forward in our lives, may we never forget the achievements and contributions of Ms. Polly Gonzalez.

HONORING MS. ELLEN GIBSON

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. COSTA. Mr. Speaker, I rise today to honor and wish well in retirement Ms. Ellen Gibson of Fresno, California. Ellen has diligently served her community for over 30 years.

Ms. Gibson began her public service career in 1972 with Congressman Bernie Sisk. Through the years Ellen became an instrumental team member in the district offices of two other Congressional Representatives. She joined the staff of Congressman Tony Coelho in 1979 and, my predecessor, Congressman Cal Dooley in 1991.

Ellen began as a District Aide to Congressmen Sisk where she generated press releases, performed general office duties and handled constituent casework. After her time there she joined Congressman Coelho as an Office Director. In this capacity Ellen managed the Fresno district office, trained new staff people, and was responsible for federal casework. Finally, Ellen became Congressman Dooley's Senior Casework Manager.

While her responsibilities were many, Ellen was devoted to, and excellent at, one of the most important aspect of a district office—casework. To this day her coworkers laud Ellen's assiduous efforts to help the people of the San Joaquin Valley. This type of work is one of the most demanding tasks a Congressional staff member faces, and Ellen not only embraced, but also effectively managed this large responsibility.

Ellen's work positively impacted the lives of the many people she touched. Whether she helped somebody attain their citizenship, or their social security benefits, Ellen met each and every case with renewed energy and desire to help.

Ellen has set the standard for individuals who follow in her footsteps, and her shoes will be difficult to fill. Her retirement is bittersweet. While we will miss her greatly, this time is much deserved.

TRIBUTE TO COL. JOHN W. IVES, INSTALLATION COMMANDER OF FT. GEORGE G. MEADE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to Colonel John W. Ives, Installation Commander of Ft. George G. Meade. Colonel Ives will retire from the military in June, and I want to personally thank him for his years of service to our Nation.

Colonel Ives began his distinguished Army career as an enlisted soldier in 1972. In 1981, he was commissioned as a military intelligence officer, and he has spent much of his Army career in military intelligence. Colonel Ives became Installation Commander of Ft. Meade in 2002 and he has been instrumental in efforts to modernize and upgrade the 5,400-acre base located in Anne Arundel County, Maryland.

As Installation Commander, he has overseen the first stages of a $400 million housing redevelopment, the demolition of 100 aging structures from World War I and World War II, and the continuing environmental cleanup of the Army post, which is listed as a Superfund site. In addition, he has supervised important security improvements that have become necessary since 9/11.

The Colonel also has positioned Ft. Meade for the future. He understands that Ft. Meade is part of a larger community and has worked with Anne Arundel County officials to enhance future development opportunities, both on and off the base. He understands that Ft. Meade must keep pace with the future needs of our Nation.

I hope my colleagues in the U.S. House of Representatives will join me in saluting Colonel Ives for his dedication and service to our nation. His leadership and understanding of complex issues have made him one of the most successful Installation Commanders in recent memory.

SUPPORT FOR VICTIMS OF CRIME ACT

HON. BEN CHANDLER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. CHANDLER. Mr. Speaker. I want to thank my colleague from Texas, Mr. TED POE, for his leadership on this important subject and for inviting me during Nation Crime Victim's Week to express my support for the Victims of Crime Act.

As many of you know, Congress enacted this landmark legislation over two decades ago to make sure victims of crime receive the care and treatment they need to recover from tragic incidents. This legislation sent a clear message to victims across America that Congress will not turn its back on anyone during these difficult times. Unfortunately, the President's proposed budget is on the verge of breaking that promise. His budget would cut $1.2 billion from this successful program and use it to pay off mounting deficits. This cut will translate directly into less money for programs that help victims throughout our Nation.

The people in my home district of Central Kentucky will immediately feel the effects of this cut. This program has provided millions of dollars for the Bluegrass Rape Crisis Center, which this year alone helped over 750 rape victims. For the last 30 years, the Bluegrass Rape Crisis Center has served 17 counties throughout Central Kentucky. It was the first rape crisis center in the state and one of the first in the nation.

Thanks to the Center's services, over 750 women this year have had a friend to face what could have been the most traumatic event of their life. If the President's budget goes through, the Bluegrass Rape Crisis Center will have to drastically cut its services, layoff experienced staff, and close the doors of their offices throughout Central Kentucky. Without this funding, there will be fewer staff members to answer calls at the Center's 24-hour crisis line.

Do we really want to leave a 19 year old young woman on hold as she is reaching out for help after a tragic incident? Or even worse, less funding will result in fewer rape crisis counselors to meet a woman at the hospital and sit with her as she undergoes a rape exam and a police interview. Are we willing to have a woman wait alone in the hospital because her hometown does not have a designated rape counselor? And what are we going to say to the women who continue to experience trauma beyond the hospital or the police station. A funding cut would also leave hundreds of rape victims without counselors to help them as they experience flashbacks or relapses. How is a woman expected to rebuild her life if we strip away the tools she needs to do so?

On behalf of all the residents in Kentucky who have suffered terrible crimes and are working to put their lives back in order, I encourage all of my colleagues to support a budget that protects victim's rights. We must keep our promise to these individuals and not leave them waiting at the hospital alone without a friend or counselor to provide relief. We made a promise in 1984 to care for these individuals and we have a responsibility to fulfill that promise. All I am asking is that we do what Congress said it would do in the first place.

IN MEMORY OF DR. VINCENT LEEROY BLOOM OF FRESNO, CALIFORNIA

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. COSTA. Mr. Speaker, I rise today to honor the memory of Dr. Vincent Leeroy Bloom of Fresno, California. He is survived by his wife, Melanie, son, David and daughter, Rebecca.

Dr. Bloom, retired chair of the Communication Department at California State University, Fresno, is remembered by all as a dedicated scholar, a loving husband, a passionate teacher, and a strong community member. Students, faculty, colleagues, family and friends not only mourn his passing, but also celebrate his life.

Born in Cambridge, Minnesota, Vince received his Bachelor of Arts Degree from Bethel College in St. Paul, Minnesota. He continued his education at Colorado State College and received his Master of Arts Degree in Speech Communication in 1967. Ever the dedicated student, Vince attained his Ph.D. in Communication from Ohio University in 1970.

Fresnans were soon to enjoy the intellectual stimulation of the Doctors Bloom when Vince and his wife Melanie moved to California and joined the Communication Department at California State University, Fresno.

While at CSU Fresno, Dr. Bloom managed to touch the lives of many. He served as department chair for three years, developed a course for shy students, and served as chair of the Academic Senate Standards and Grading Committee. Vince was also chair of the Athletic Advisory Council. In this capacity, Dr. Bloom was instrumental in forming the committees on campus that upheld athletic academic standards.

Dr. Bloom's efforts, however, did not solely focus on Fresno State. Vince served as chair of the National Communication Association Commission on Communication Apprehension and Avoidance; whose newsletter he edited. He was also active in the Western States Communication Association.

While he effectively negotiated the scholastic sphere of his life, Vince also ventured outside of academia. He was a member of Northwest Church, where he served on its Deacon Board. In his efforts to motivate youth he sponsored the College Age Group at his church and taught Sunday school.

It goes without saying that Dr. Vince Bloom was an integral part of the community. His journey through life was guided by his level of commitment to others—a level matched by very few. Although he has passed on, his memory will forever have an impact on the lives of the people who knew him.

IN SUPPORT OF THE VICTIMS OF CRIME ACT FUND

HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. CHABOT. Mr. Speaker, too often the dignity and respect that crime victims deserve are lost in the system, a system that is supposed to ensure justice for all.

Last October Congress passed and the President signed into law the Justice For All Act which brought some justice back to victims through an established and enforceable set of rights, including the right to be present during proceedings, the right to confront assailants in proceedings, and the right to be notified about the release or escape of the perpetrator from custody.

If these funds are diverted from the Victims of Crime Act Fund, crime victims will suffer again.

The Victims of Crime Act Fund, VOCA, was established by Congress in 1984 as a way to ensure the continued support and protection for the victims of crime. It is funded through fines, forfeitures, and fees assessed against criminal defendants and is directed toward states where it is used to provide services to those organizations that serve crime victims. It is not funded through general tax revenue.

In my own district in Cincinnati the organization ProKids is one such organization that benefits from VOCA funding. ProKids trains special court appointed advocates to serve as a voice for children who have been abused or neglected. VOCA funds provide a substantial portion of the organization's operating budget, without which the protection that ProKids provides to children will end.

We cannot continue to deny those who suffer most from crime. I urge my colleagues to oppose using these funds for any purpose other than for which Congress intended.

PERSONAL EXPLANATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. LANTOS. Mr. Speaker, April 14, 2005, through an inadvertent error during voting on S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act, I was recorded as not voting. I ask unanimous consent that the permanent record indicates that on rollcall vote No. 108 I would have been recorded as having voted in the negative.

CHINA'S "ANTI-SECESSION LAW"

HON. TOM FEENEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 2005

Mr. FEENEY. Mr. Speaker, on December 29 of last year, the Standing Committee of the Chinese National People's Congress took a highly provocative action when it voted to submit an "Anti-Secession Law" to the full Congress which convenes on March 5.

The text of this proposed law was not made public, but there can be absolutely no doubt about its intent. It is intended to create in China's national law the legal justification for a military attack against Taiwan.

The law would spell out a range of activities which, if taken by the Taiwanese people and their democratically elected leaders, would legally constitute secession. Many of these activities, such as Constitutional reform and popular referenda, are the mainstay of any democracy. Yet the Chinese would use them as a legal excuse for a military attack.

We all know that Taiwan is caught in a very different bind. On the one hand it is a flourishing democracy, one of the most vibrant in Asia, with unfettered freedoms of speech, the press and assembly and intensely competitive free political parties.

On the other hand it is claimed as sovereign territory by its gargantuan neighbor, the very antithesis of a free and open democratic society! And this neighbor regularly threatens to annex Taiwan by force.

The United States, under the terms of the Taiwan Relations Act, which is the legal bedrock of our policy, insists that the future of Taiwan be determined by peaceful means. And we have demanded that no actions be taken by either Taiwan or the People's Republic of China, that endanger the tenuous peace and stability that now exists across the Taiwan Strait.

Mr. Speaker, we call this situation, difficult as it is, the status quo. We have had, on occasion, to caution Taiwan about actions which might appear to challenge this status quo.

Now the PRC, through belligerent and dangerous legislation, would substantially change the so-called status quo.

There is still time for China to alter its course. It has seemed to change its normally shrill tone toward Taiwan in recent weeks. I urge the Chinese leadership to put this legislation aside, leave the status quo intact and open itself, instead, to meaningful dialogue and negotiations with the leaders of Taiwan.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 19, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 20

9:30 a.m.
Environment and Public Works
To hold hearings to examine the nominations of Gregory B. Jaczko, of the District of Columbia, and Peter B. Lyons, of Virginia, each to be a Member of the Nuclear Regulatory Commission.
SD–406

10 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine proposals to improve the regulation of the Housing Government-Sponsored Enterprises.
SD–538

Appropriations
Defense Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the National Guard and Reserve Budget.
SD–192

Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine the Federal role in helping parents of young children.
SD–430

Commerce, Science, and Transportation
Science and Space Subcommittee
To hold hearings to examine International Space Station research benefits.
SR–253

Small Business and Entrepreneurship
To hold hearings to examine the small business health care crisis, focusing on alternatives for lowering costs and covering the uninsured.
SR–428A

10:30 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the government of the District of Columbia, focusing on the District of Columbia Courts, the Court Services and Offender Supervision Agency, and the Public Defender Service.
SD–138

Appropriations
Homeland Security Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Homeland Security.
SD–124

2 p.m.
Armed Services
Readiness and Management Support Subcommittee
To hold hearings to examine the readiness of military units deployed in support of Operation Iraqi Freedom and Operation Enduring Freedom in review of the Defense Authorization Request for fiscal year 2006.
SR–222

2:30 p.m.
Judiciary
Terrorism, Technology and Homeland Security Subcommittee
To hold hearings to examine a review of the material support to Terrorism Prohibition Improvements Act.
SD–226

Intelligence
Closed business meeting to consider certain intelligence matters.
SH–219

APRIL 21

9:30 a.m.
Foreign Relations
To hold hearings to examine the anti-corruption strategies of the African Development Bank, Asian Development Bank and European Bank on Reconstruction and Development.
SD–419

Judiciary
Business meeting to consider pending calendar business.
SD–226

Commerce, Science, and Transportation
Surface Transportation and Merchant Marine Subcommittee
To hold hearings to examine reauthorization of Amtrak.
SR–253

Appropriations
Transportation, Treasury and General Government Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Office of Management and Budget.
SD–138

10 a.m.
Armed Services
To hold hearings to examine the nominations of Kenneth J. Krieg, of Virginia, to be Under Secretary of Defense for Acquisition, Technology, and Logistics, and Lieutenant General Michael V. Hayden, United States Air Force, for appointment to the grade of general and to be Principal Deputy Director of National Intelligence.
SD–106

Banking, Housing, and Urban Affairs
To continue hearings to examine proposals to improve the regulation of Housing Government-Sponsored Enterprises.
SD–538

Budget
To hold hearings to examine structural deficits and budget process reform.
SH–216

Finance
To hold hearings to examine the nomination of Robert J. Portman, of Ohio, to be United States Trade Representative, with the rank of Ambassador.
SD–628

Health, Education, Labor, and Pensions
To hold hearings to examine easing costs and expanding access relating to small businesses and health insurance.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.
345 CHOB

10:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings to examine an overview of methamphetamine abuse.

SD–192

Homeland Security and Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold an oversight hearing to examine governmentwide workforce flexibilities available to federal agencies including the implementation, use by agencies, and training and education related to using the new flexibilities.

SD–562

1:30 p.m.

Armed Services

Personnel Subcommittee

To hold hearings to examine present and future costs of Department of Defense health care, and national health care trends in the civilian sector.

SR–232A

2 p.m.

Printing

Business meeting to consider organizational matters.

S–219, Capitol

2:30 p.m.

Homeland Security and Governmental Affairs

Federal Financial Management, Government Information, and International Security Subcommittee

To hold hearings to examine the President's management agenda, including Federal financial performance, best practices, and program accountability.

SD–562

Banking, Housing, and Urban Affairs

Housing and Transportation Subcommittee

To hold hearings to examine the President's proposed budget request for fiscal year 2006 for the Department of Housing and Urban Development.

SD–538

Judiciary

Intellectual Property Subcommittee

To hold hearings to examine the patent system today and tomorrow.

SD–226

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH–219

APRIL 22

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine United States Special Operations Command in review of the Defense Authorization Request for Fiscal Year 2006; to be followed by a closed session in S-407, Capitol.

SR–222

APRIL 26

9:30 a.m.

Foreign Relations

To hold hearings to examine the Millennium Challenge Corporation's global impact.

SD–419

10 a.m.

Energy and Natural Resources

To hold hearings to examine the status of the Department of Energy's Nuclear Power 2010 program.

SD–366

Health, Education, Labor, and Pensions

Retirement Security and Aging Subcommittee

To hold hearings to examine pensions.

SD–430

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine the preparedness of the Department of Agriculture and the Interior for the 2005 wildfire season, including the agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies ability to deal with the upcoming fire season.

SD–366

APRIL 27

9:30 a.m.

Indian Affairs

To hold oversight hearings to examine regulation of Indian gaming.

SR–485

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

10:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the nominations of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development, and to be a Member of the Board of Directors of the Commodity Credit Corporation.

SR–328A

APRIL 28

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the Higher Education Act.

SD–430

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 242, to establish 4 memorials to the Space Shuttle Columbia in the State of Texas, S. 262, to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California, S. 336, to direct the Secretary of the Interior to carry out a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail, S. 670, to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement, S. 777, to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and H.R. 126, to amend Public Law 89-366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

SD–366

MAY 11

9:30 a.m.

Judiciary

To hold an oversight hearing to examine the Federal Bureau of Investigation's translation program.

SD–226

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

345 CHOB

CANCELLATIONS

APRIL 28

10 a.m.

Foreign Relations

To hold hearings to examine U.S. Assistance to Sudan and the Darfur Crisis.

SH–216

SENATE—*Tuesday, April 19, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable JIM DEMINT, a Senator from the State of South Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, the skies display Your marvelous craftsmanship. When we consider Your heavens, the works of Your fingers, we become aware of our deficiencies. Lord, we are flawed people seeking salvation. We are lost people seeking direction. We are doubting people seeking faith. Show us the path to meaningful life. Reveal to us the steps of faith. Quicken our hearts and purify our minds. Broaden our concerns and strengthen our commitments.

Bless our Senators today. Show them the duties left undone. Reveal to them tasks unattended. Lead each of them to a richer and more rewarding experience with You. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM DEMINT led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April, 19, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM DEMINT, a Senator from the State of South Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. DEMINT thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority whip is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, this morning we will resume consideration of the emergency supplemental appropriations bill. Under the consent agreement reached last night, the time until 11:45 this morning will be divided for debate in relation to the two pending AgJOBS amendments. At 11:45, we will proceed to two cloture votes on those amendments. Following those votes, the Senate will recess until 2:15 for the weekly policy luncheons. We will return then to the supplemental bill this afternoon, and as a reminder there will be two additional cloture votes today.

If cloture is not invoked on either of the AgJOBS amendments, then at 4:30 today we will have another cloture vote in relation to the Mikulski visa amendment. Upon the disposition of that amendment, the Senate will proceed to a cloture vote on the underlying emergency appropriations bill.

As the majority leader stated last night, it is hoped that the Senate will invoke cloture this afternoon on the underlying bill. This is the only way of assuring that this important bill will be completed this week. I remind all of our colleagues that if cloture is invoked on the bill, it will still be open for debate and amendments for up to 30 more hours.

It is clear we have a lot of work to do over the course of today and tomorrow.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Feinstein amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

Durbin amendment No. 427, to require reports on Iraqi security services.

Salazar amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families.

Dorgan/Durbin amendment No. 399, to prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO.

Reid amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq.

Frist (for Chambliss/Kyl) amendment No. 432, to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers.

Frist (for Craig/Kennedy) modified amendment No. 375, to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers.

DeWine amendment No. 340, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

DeWine amendment No. 342, to appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement.

Schumer amendment No. 451, to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

Reid (for Reed/Chafee) amendment No. 452, to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

Chambliss modified amendment No. 418, to prohibit the termination of the existing joint-service multiyear procurement contract for C/KC–130J aircraft.

Bingaman amendment No. 483, to increase the appropriation to Federal courts by $5,000,000 to cover increased immigration-related filings in the southwestern United States.

Bingaman (for Grassley) amendment No. 417, to provide emergency funding to the Office of the United States Trade Representative.

Isakson amendment No. 429, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, and to ensure expeditious construction of the San Diego border fence.

Byrd amendment No. 463, to require a quarterly report on audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan and to address irregularities identified in such reports.

Warner amendment No. 499, relative to the aircraft carriers of the Navy.

Sessions amendment No. 456, to provide for accountability in the United Nations Headquarters renovation project.

Boxer/Bingaman amendment No. 444, to appropriate an additional $35,000,000 for Other Procurement, Army, and make the amount available for the fielding of Warlock systems and other field jamming systems.

Lincoln amendment No. 481, to modify the accumulation of leave by members of the National Guard.

Reid (for Durbin) amendment No. 443, to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances.

Reid (for Bayh) amendment No. 388, to appropriate an additional $742,000,000 for Other Procurement, Army, for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

Reid (for Biden) amendment No. 537, to provide funds for the security and stabilization of Iraq and Afghanistan and for other defense-related activities by suspending a portion of the reduction in the highest income tax rate for individual taxpayers.

Reid (for Feingold) amendment No. 459, to extend the termination date of Office of the Special Inspector General for Iraq Reconstruction, expand the duties of the Inspector General, and provide additional funds for the Office.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11:45 a.m. shall be equally divided with the Senator from Georgia, Mr. CHAMBLISS, in control of half of the time, and the Senator from Idaho, Mr. CRAIG, and the Senator from Massachusetts, Mr. KENNEDY, in control of the other half of the time.

Who yields time?

Mr. CRAIG. Mr. President, could I understand the time allocation? The Senator from Georgia has 1 hour.

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 58 minutes.

Mr. CRAIG. The Senator from Idaho has?

The ACTING PRESIDENT pro tempore. The Senator from Idaho has 29 minutes.

Mr. CRAIG. And the Senator from Massachusetts has?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 29 minutes.

Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. I yield to the coauthor of our amendment, the Senator from Arizona, Mr. KYL.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Arizona.

AMENDMENT NO. 432

Mr. KYL. Mr. President, first I compliment my colleague from Idaho for bringing to the Nation's attention a problem which does deserve consideration, and that is how to both fulfill our need for workers in this country for difficult labor that some Americans have not been willing to perform and at the same time deal with the very difficult problem of the status of illegal immigrants who are currently in the country and who have been relied upon by employers in the field of agriculture to perform some of this work.

Both the Senator from Georgia and I intend to work with the Senator from Idaho in the future to try to develop the very best kind of guest worker program we can to achieve the objective of providing matching, willing employers and willing employees and at the same time doing it within the construct of the rule of law. We look forward to that debate at a later time.

Earlier in the debate on the supplemental appropriations bill, which is the legislation before us, the Senate adopted overwhelmingly a sense-of-the-Senate resolution that we should not be trying to deal with these immigration problems in this legislation. This bill is too important. It requires that we provide funding for our war efforts in Iraq and Afghanistan. The reason it is called a supplemental appropriations bill is because it is supplemental to the regular process. It accounts for the fact that there are unforeseen expenditures in the conduct of this war we have to fund and we have to get the money to our troops as soon as we possibly can.

With that in mind, the full Senate voted we should be deferring the debate on these difficult and complicated issues such as immigration reform to a later date when we can take that up in the full consideration it deserves and not delay important legislation such as the funding of the war effort. We are already into the second week on the supplemental appropriation for that purpose. We hoped to finish this bill last Thursday.

I provide that as background to simply note this: We have two votes this morning. The first is on an alternative proposal that has been set out by the Senator from Georgia and myself that would provide a way to match these willing employers and employees but to do so without granting amnesty to illegal immigrants. We will then vote on a second alternative of the Senator from Idaho and the Senator from Massachusetts.

The key point I want to make to my colleagues is if both of these propositions are defeated—and they both require 60 votes to pass under the agreement—then we can move on to complete the work on the supplemental appropriations bill and we might be able to finish that bill this week. In fact, hopefully, presumably, ideally, we will finish that bill this week. There is no reason why we cannot do our work and fund our troops. However, if the Craig-Kennedy legislation were to receive 60 votes, we are in for a tough time because that bill is then open for amendment, and we are already aware of numerous amendments that are going to be filed, all of which are going to delay consideration of the supplemental appropriations bill.

Some of my colleagues signed on to this legislation before the bill was actually printed or before they realized it contained amnesty. The point I would make to anybody who is in that position is whether they support the Craig-Kennedy version or the Chambliss-Kyl version of guest worker legislation, it is not the time to be considering that legislation. We voted already to not have that debate but rather to get on to the supplemental appropriation bill. Therefore, anyone wishing to move on should vote literally against the first vote we will have on Chambliss-Kyl and the second vote on Craig-Kennedy. If either one of them gets 60 votes, then we are in for a long time of debate on immigration, with an awful lot of amendments on that subject and delaying the time that we can get back to considering the supplemental appropriations bill.

Even though it argues against an affirmative vote on our proposition, for those who are interested in moving on to the supplemental appropriation bill, frankly, the correct vote is a "no" vote on both of these amendments.

Let me explain to my colleagues a second reason to vote "no" on the second vote and "yes" on the first vote. The first vote is Chambliss-Kyl. What we have attempted to do in our guest worker legislation is provide an expedited, streamlined, simplified way for employers to hire the people they need in agriculture, something they are not able to do today. We have a law today, but they do not use it because it is so cumbersome, expensive, and time consuming. The idea is to make it more streamlined so it will work.

In that respect, we think we have a much superior product and that is why I think the Farm Bureau supports our legislation, because they realize farmers will actually use it. I am very concerned that they would not use the Craig-Kennedy legislation because it has so many other things built into it that I believe would make it difficult, at least as difficult to use as the current law.

I will cite one of the reasons now. Up to now it has been the law in the United States that Legal Services Corporation does not represent illegal immigrants or illegal aliens. It represents Americans, people who are here either on legal permanent residency status, green card status, or citizens. There is little funding available to begin representing illegal immigrants and I am afraid the representation of American citizens who are residents would significantly suffer if the Legal Services Corporation is now going to begin representing these illegal immigrants as is called for under the Craig-Kennedy legislation. That represents a significant departure from current law and it certainly will make it more complicated for employers to use that law.

I will move to the other point, because the primary question is whether we want to embark on a road to granting amnesty to illegal immigrants.

Folks on the other side will say it is earned amnesty, but it is still amnesty by any name one wants to call it. It reminds me of that old saying, put lipstick on a pig and it is still a pig. The fact of the matter is it is still amnesty and here is why specifically Craig-Kennedy is amnesty.

Under section 101 of S. 359, an illegal alien shall—it is not "may" but "shall"—be given status after working, and then the periods of time are laid out, but essentially in as little as 2½ weeks, one could accomplish the accumulated 3½-month labor period, but a maximum of 3½ months, minimum of 2½ weeks. They then have a legal status in the country. One year later, they get their green card.

A green card is legal permanent residency, and I underline the word permanent. When one gets their card in this country, they have a status which enables them to live here for the rest of their life. Under existing law, it enables them to do something else. They can also apply for citizenship. They can apply to chain migrate their family into the country.

The point is that while that status should be available to anyone who desires to immigrate to the United States, we believe it should be available to people who abide by the law. We also do not discriminate against those who have violated the law and who seek to apply for this status. We simply urge that they not be given an advantage over those who have done everything right, who have followed the law, applied for the legal permanent residency status from their country of origin, and have sought to get in line the same as everybody else. As the President says, if one wants to come here and stay, they need to get in line with everybody else. They should not be given an advantage. That is what amnesty is. When one is given an advantage over those who have conformed to the law, who have abided by the law, and one is given an advantage because they violated the law, that is frankly a concept I think most Americans would deem not only very unfair but getting on a very slippery slope in this country where people who do it wrong, who violate the law, have an advantage over those who are willing to do it right. That is not the American way and that is the key difference between the Craig-Kennedy legislation and the Chambliss-Kyl legislation.

We say one can work here and continue to work here. In fact, we have three different 3-year periods, one right after the other, in which one can work in the United States. But we say if they seek to become a legal permanent resident, as opposed to a legal temporary resident, that permanent residency should require them to apply for it the same as everybody else. They have to go home, make the application—it takes 1 year to do it—and then they have their green card. Once they get their green card, it is true they can apply for citizenship, but at least they have to follow the rules. They have done it the same as everybody else and they have not gotten an advantage because they came here illegally and stayed in this country illegally.

The final point I want to make is there is another provision of the Craig-Kennedy legislation which I do not understand. It has been alluded to by the Senator from California, Mrs. FEINSTEIN, and others. It is a provision which actually attracts people who have previously violated the law. They snuck in, they came into the United States illegally, they illegally used documents to gain employment, they have been employed illegally in the United States, and the fact of all of those illegal activities is what permits them to come back into the United States. In other words, they have gone home for some reason, and if they can establish that they were here illegally, then they get to come back into the country legally. I don't know of anything that stands the law on its head more than that. Why would somebody try to abide by the law if they realized that, with counterfeit documents, they can simply show up at the border and say, Hey, I worked in the United States illegally and I want to come back in now and get this new status you are creating for me.

It is a magnet not only for counterfeit and fraud but for people to come back into the United States who are now not here illegally, claiming that they have a right to do so on one basis and one basis only—because they violated our law. It seems to me to be totally upside-down to grant legal status to people, to invite them into our country, on the basis that they violated our law when there are not enough visas to grant to people who are trying to do it legally.

This is amnesty, and it is wrong. What we are saying is there is a perfectly legal way to do this, to get all of the employers matched up that we need. We have no cap on the number of people who can apply through our streamlined H-2A process. As many workers as we need, we can get. I think that is why the Farm Bureau supports this. They know whatever labor needs we have in this country, we can fulfill them through a legal process, and there will not be any magnet for illegal immigrants to come to the country anymore.

To conclude, there are two reasons to vote against the Craig-Kennedy legislation and one good reason to vote for the Chambliss-Kyl legislation. The reason to vote against both, frankly, is that unless both of these are defeated, we are going to be on this immigration issue for a long, long time. Who knows when we are going to conclude the supplemental appropriations legislation? We are certainly not going to finish it this week again. This will be the second full week we have been on it.

Second, I don't think at the end of the day we are going to pass legislation—through the Senate and House and have it signed by the President—that grants amnesty to illegal immigrants or invites illegal immigrants back into the United States because of their illegal status. For that reason, we suggest we have a better approach, an approach which can meet our labor needs but do so within the rule of law and without granting a reward to those who have violated our law.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CRAIG. Mr. President, I will yield to the Senator from Nevada for the purpose of the introduction of an amendment to the underlying bill. It would not take time from me. Then I will claim the floor for a few moments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 487

Mr. ENSIGN. I ask unanimous consent the pending business be set aside and Senate amendment No. 487 be called up.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 487.

Mr. ENSIGN. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for additional border patrol agents for the remainder of fiscal year 2005)

On page 191, after line 25, insert the following:

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", for hiring border patrol agents, $105,451,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CONSTRUCTION

For an additional amount for "Construction", $41,500,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

REDUCTION IN FUNDING

The amount appropriated by title II for "Contributions to International Peacekeeping Activities" is hereby reduced by $146,951,000 and the total amount appropriated by title II is hereby reduced by $146,951,000.

Mr. ENSIGN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

AMENDMENT NO. 432

Mr. CRAIG. Mr. President, the Senator from Arizona has come up with some fascinating and interesting explanations of why his is not and ours is amnesty. By that I simply mean there are a lot of people who believe that if people have broken the law and that you grant them any forgiveness whatsoever, that is amnesty. But now, according to Mr. CHAMBLISS and Mr. KYL, we have a whole new definition of why theirs is not, even though they grant those who have broken the law a blue card to continue to stay and work. They say there is a difference.

You know, there really is not a difference in this respect. If I am not amnestied by the Chambliss-Kyl amendment, there is no stretch of the imagination that would suggest otherwise about the Craig-Kennedy bill. I do not believe our bill has amnesty, because I think when you ask someone who has broken the law to pay back to society and to limit their rights, then recognizing that they have done so and allowing them to earn that legal status—and certainly that is what we do in the Craig-Kennedy bill. We demand, if you will, 360 days over 3 to 6 years in the field, working hard, so you gain the right to apply for a green card. I do not call that amnesty; I call that hard-earned, labor-paid-for, to get the ability to stay and work. You can have your own thoughts about amnesty, but nowadays I am finding out anyone can have his or her own definition of amnesty. Amnesty is in the eye of the beholder. The word is an epithet, like calling someone a communist.

In other ways, there is a very real difference between these two approaches. Let me outline it. We have 200-some-odd agriculture groups, part of a coalition of 509 groups, supporting our bill. It is very bipartisan. It is a significant reform of the H-2A program. It is not just crafted in the last minutes as a stopgap measure to block and divide. It is not so narrowly crafted that it delivers almost no real benefit. Most important, we say something that is fundamental to Americans who are concerned that our border to the south is now out of control and people are pouring over it. We say you had to be here last year, working for 100 days last year, not just here on April 1 of this year, like the other amendment. So regarding that problem we are all hearing about on our borders to the south, where people are pouring over, if they made it by April 1, the Kyl-Chambliss bill says: You get a blue card. You can stay 3 years, 6 years, 9 years, and in 9 years, if you are capable of developing your job into a supervisory position, you can stay permanently.

That is not amnesty? Again, I think I have well established, no matter who tries to interpret what amnesty is, that it is in the mind of the beholder.

The reason I am on the floor today and the reason we have been allowed to come to the floor is because in this particular bill we became germane by an action of the House. I know the Senator from Arizona talks urgency. We have been 3 months producing an urgent supplemental. It has been 3 months since the President asked us to respond. That is not the fault of the Senate. The House took 2 of those months. The House turned this appropriations bill into an immigration bill. We can take a few more hours to discuss AgJOBS.

Can't we take a day and a half to solve what Americans believe is the No. 1 problem in our country, or a problem that is in the top three, and that is uncontrolled immigration and uncontrolled borders? What we are trying to do with a segment of our economy and a segment of our workforce that works predominantly in agriculture is to gain control of the process, shape it, identify it, and stop the flood that is coming across our borders.

Let me show you some of the work we have done. I think it better explains to America the urgency of the problem. They hear the reports on the borders. Now let's look at the statistics as to what we have been doing since 9/11.

The morning of 9/11, we woke up to a rude awakening, that America had slacked off way too long on its immigration laws and that we had 8 to 12 million undocumented foreign nationals in our country—undocumented. That meant that they were here, by definition, illegally. Most were hard working, and most are hard working. Most are law abiding. But some were here to do us evil. Some were here to kill us. We found that out to our great surprise.

That was more than 1,300 days ago, and Congress has done nothing about the laws that were so slack as to create that problem. So over the last 5 years—prior to that and now after that—I have worked with a diverse bunch of groups across the country to come up with a significant change in policy specific to a segment of that larger group—about 1.6 million in that particular workforce. But on this chart is a good example of what we are attempting to do at this moment.

Here is 1994 through the year 2005: total funding level from all sources in the billions of dollars that we are spending on the borders of America today to try to control our borders, and on enforcement of our immigration laws within those borders. Here this red line on this chart goes. Starting in 2001 and up, you see this tremendous increase in what we spend on enforcement. We are now, today, spending $7 billion a year on the borders and on internal enforcement. That is "b," $7 billion on enforcement. The Senator from Arizona would be the first to admit that the borders south of his State are still like sieves—people are pouring across them in an illegal way. Yet, today, for America's sake, we are spending $7 billion on our borders and on internal enforcement.

Look at the green line that represents apprehensions in millions of individuals. Last year we apprehended more than 1.2 million individuals and sent them back across the border. These are dramatic increases. Did it stem the tide of illegality? No, it didn't. The Senator from Arizona is sitting there agreeing with me. They are pouring over the border. Seven billion dollars later, with thousands more new law enforcement people on the borders and with apprehensions up, more people are coming. What is wrong with that picture?

Let me show you what is wrong with that picture. We could build a fence along the border. We could build it high and dig it deep, and we could man it with people every few feet, but if the laws that backed up the fence were not working, somebody would come through. Somebody would get through. They would dig under it. They would go around it. There are more than 7,000 miles of land borders in our country and more than 88,000 miles of tidal shoreline and water inlets. They would come. The reason they would come is that the law is not effective, nor is it deterring them. They would come because our economy and our way of life are a powerful magnet and because our laws provide no reasonable way to match those willing workers with jobs here that would go begging.

Here is another interesting graph. There was a time in our country when the laws did work. Starting in the 1950s we had a program for guest workers to come into our country and work. They were identified and the worker matched to the work. They came and worked, and they went home. As a result of that, this green line represents the developing of the Bracero Program, which did just that.

From a humanitarian point of view, it was not a good program. Many of these people were not well treated. But the side of it that worked was the side that identified the worker and the work, and here is the result. The red line represents apprehensions, those illegally crossing the border who were caught. Look at the drop, the dramatic drop in illegal activity going on in our country in the 1950s. Illegal immigration dropped more than 90 percent stayed low for a long period of time.

Here we are in 1954: over 1 million apprehensions. What did I say about last year? Over a million apprehensions. Millions were coming across the border illegally before we changed the law. We changed it and, in 1953 and 1954, and we implemented it. These crossings stayed law all through the 1950s and into the 1960s, until somebody did not like it anymore because of the way people were being treated, and they repealed it. Eventually we wound up with the law we have today, the H–2A program. Guest workers in the 1950s, you can see, remained relatively constant at a few hundred thousand, but those numbers dropped and flattened out because there were those in Congress who did not like the old law. They repealed it and up went the number of illegals again. Why? The system did not work. Over the years, the government and the people knew it. We watched it. We ignored it. That is why we are here today, because Americans are asking us not to ignore it any longer. It is almost the same scenario—my goodness, 40 years later, 50 years later.

Did we learn lessons? History has a way of repeating itself, and it appears it is repeating itself today—1954, apprehension of illegals, 1.2 million; last year, 1.2 million. But in the interim we had laws working for a period of time that clearly demonstrated that if this Congress has the will to deal with the problem, it can. My legislation, the Craig-Kennedy legislation, clearly does so. We would dramatically changed the underlying H–2A program in a way that has produced support of over 500 organizations, 200 of them agricultural organizations, and we do so in a bipartisan way and a broad-based way.

The Kyl-Chambliss bill is very narrow in who benefits from limited changes in the current program, and it does not reflect that bipartisan approach, nor does it reflect a national approach in large part on this issue. Their bill would benefit a few employers and a few labor contractors in some parts of the country. We have brought all stakeholders, all communities of interest to the table with our bill. That is why it is significant for all of us to understand that there are very real differences in these bills. Besides, as long as you just made it here by April 1 of this year, you can stay under the Kyl-Chambliss bill. You get a blue card, and you can stay 3 years, 6 years, 9 years, and if you elevate yourself to a supervisory position, you stay forever.

Under our legislation you have to have been here last year. By January 1, 2005, you will have to have proved you worked 100 days and then you get a temporary card, and then you continue to work, and meet a higher standard of good behavior under the law than other, legal immigrants, to pay for your right to stay to work, to pay for your right to eventually apply for a green card, to be able to move back and forth in a continuum and to be, if you will, a permanent employee in this country.

The Senator from Arizona is talking about a quick pathway to citizenship in our bill. I would not suggest that 10 to 15 years of hard work, standing in line and making application is a quick path to anything. Most Americans would never stand in line for 10 years for anything, let alone work at least 360 days in temporary, seasonal farm labor, over several years in 100-degree heat in fields in Yuma, AR, or Twin Falls, ID. There are some who will, and they work very hard to earn that right. But they will work to earn the right, it will not be given to them unconditionally.

There is one thing the Craig-Kennedy and Chambliss-Kyl bills have in common. We do not make a free gift, of citizenship regardless of circumstance, unconditionally. I would call that amnesty. We give people—our legislation gives people—the right to come here and work, to earn the right to stay, and the right to continue to work. So there is a very real difference. Don't fall off on the idea of this quick fix in the substitute amendment that was just produced in the last few weeks because they know that I knew I was going to be here on the Senate floor with a bill that has been 5 years in the crafting and has literally a nationwide base of support from all groups—from labor, from agriculture, from Hispanic groups, from taxpayer groups, from religious and community groups, and has strong bipartisanship.

Last year, it was cosponsored by 63 Republicans and Democrats alike. This year, we are again building the numbers, and cosponsorship is now nearly 50—again, Democrats and Republicans alike—supporting this. That is why we are here on the Senate floor. Americans are demanding that we control this immigration problem. We are offering an approach, a solution to a portion of that.

I hope the Congress will then continue to work its will to get to a much broader based, comprehensive program.

I retain the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, let me respond to a couple of comments which my colleague just made. He characterized his legislation as enabling people to earn the right to stay. This is the earned amnesty provision. But the point is, there is no difference between coming across the border illegally and working here illegally and working under the Craig-Kennedy bill. You are working in the field, and after a period of time you get permanent legal residency. Between 2½ weeks and 3½ months, you get legal status. Then a year later you get legal permanent residency by doing the very same thing you are illegally doing today.

Mr. CRAIG. Mr. President, will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. CRAIG. There is a difference. If you come forth and say, I have been here and have worked 100 days and I want to get a temporary green card, we do a background check.

Mr. KYL. The green card is permanent, not temporary.

Mr. CRAIG. The temporary card is for people working 360 days over 3 to 6 years, and then you apply for permanency. It is at least 3 years, and maybe 6 years before you can even apply for permanent residency. Then that processing and adjudication takes about 2 to 3 additional years, because there are backlogs. It is not immediately permanent. It is at least 5 years, and maybe 9 years before you have permanent residency. Then it takes another 5 years before citizenship, if you qualify. Do you do a background check? And do you make those who have a blue card—those whom you are giving the right to stay here legally—go through a full background check in full compliance with immigration law today? Are they drug dealers, felons, three-misdemeanor conductors? We do that. We do a thorough background check to make sure we have the right people working here and not have criminals slipping through our borders. Do you do the same?

Mr. KYL. Will the Senator yield 2 minutes to me on his time?

Mr. CRAIG. I would be happy to yield.

Mr. KYL. The answer is yes. We have a much more effective way because we have biometric identifiers, a fingerprint check, or other kinds of biometric identifiers so the individual identifies himself both as being in legal status for employment and being the person he says he is. That, of course, requires documents to demonstrate legality, in the first instance, so we can absolutely confirm that the only people who are being hired are here legally. You can make the card whatever color you want to, but under today's law, legal permanent residency is called green card status. Everybody knows you get a green card when you have legal permanent residency.

Under your legislation, it is, in fact, the case that with as little as 2½ weeks but no more than 3½ months a status of legality is granted. After 1 year an application can be made for legal permanent residency. The only question is how much time it takes to complete that application process. That is when you can apply for it, 1 year. It may take several more months to gain the status. Once the application has been made, you are a legal permanent resident in this country.

Mr. CRAIG. If the Senator will yield, then we both have identification with the background check. We would require a Homeland Security identifier program. They are working on those kinds of efforts now. We would require the same.

The real difference is your folks could work 1 hour and get a blue card. Ours have to work at least 100 days and have been here prior to January 1. I think we agree on that. I do not know where the Senator gets his reference to 2½ weeks. No one last year worked in agriculture one hour a day for 100 days. That was before AgJOBS was even introduced. That kind of employment arrangement would be irrational. If someone did show up and claim they had worked 1 hour a day for 100 days, that would be a reason to investigate them for fraud.

Mr. KYL. Mr. President, let me reclaim my time.

The key difference is how you gain the status of legal permanent resident. Under the Craig-Kennedy bill, you get that after working here doing the very same thing that you are doing illegally today. You are not doing anything different. You are just doing it now under a new status as opposed to the old status. Once you do that, you get legal permanent residency. That is the difference. Under the Chambliss-Kyl legislation, you never get legal permanent residency.

Second, under the Craig-Kennedy legislation, I think the Senator from Idaho misspoke when he said we don't grant citizenship. I think it is fair to say we don't grant citizenship, but it is that status of legal permanent residency which entitles you to apply for citizenship under the United States Code—8, United States Code, section 1427(a).

The point is, the granting of the legal permanent status under the Craig-Kennedy legislation automatically entitles you to apply for citizenship. That is the amnesty. You can't do that under the Chambliss-Kyl legislation. There is no path to citizenship for people who violated the law except to go back to the country of origin and do it just like everybody else—to get in line like everybody else.

The final point I want to make is this: I think it is a very dangerous proposition to argue that we can't control our borders. We can. I have talked to the Tucson sector chief of the Border Patrol who says if we have enough resources, we can get control of our borders. It has largely been accomplished in California and Texas. It is not accomplished in Arizona because illegal immigrants came to where we don't have the control. We spent the money in California, we spent the money in Texas, and sure enough they are coming through Arizona. Over half of the illegal immigrants are coming through one sector in the State of Arizona.

The statistic which the Senator from Idaho pointed out is exactly correct in that regard. They are mushrooming.

He is also correct in saying we need two things. I hope he will agree with me we need both. We need both an effort to enforce the law—after all, if the country cannot protect its own borders, it cannot protect its sovereignty. If we do that, we need to devote the resources to do that. We also need enforceable legislation for people who work in this country. We can do that by having a simplified H–2A program and some language similar to what we are talking about here, matching willing workers and employers within the legal construct, and with combined efforts to control the border and enforce those laws we can end up with a legal regime.

But I think it is a very dangerous proposition for us to say we can't, under any circumstances, control our borders. We can, and we must.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, this is going to be a very interesting debate. I hope all of our colleagues are watching this.

I wish to respond to a couple of things my friend said relative to our legislation.

First of all, this is not a stop-gap measure. This is not something we conceived over the last several weeks—even the last several months. I have actually been working on this issue for the entire 11 years I have served in the House of Representatives and now in this body. In fact, on the floor of the House of Representatives in 1995, Congressman RICHARD POMBO of California and myself proposed a very similar piece of legislation to what the Chambliss-Kyl amendment is today to reform the H–2A program. We weren't as expansive back then because we didn't conceive the blue card concept. But we had a very similar proposition relative to H–2A because H–2A has been a good program, if it were streamlined. And if it were not so cumbersome for employees to use, it would be used more often than what it is today.

Second, I want to talk about this issue relative to the control of the borders. Senator KYL is exactly right. I think it is very dangerous for anybody to argue during this process or any other process that we cannot control the borders. We can control the borders, and we must control the borders. If we don't control the borders to our country during this process or conceive of some way to make sure that Homeland Security does so during this process, then we are going to accomplish nothing.

Our goal is—I know what the goal of Senator CRAIG and Senator KENNEDY is—to provide our agricultural sector in this country with a stable, with a quality, and with an abundant labor force pool from which to choose, and that they must be legal. That we can agree on. But we can control the border, and under our legislation—it is absent from Senator CRAIG's legislation—we demand that the Department of Homeland Security, within 6 months after the effective date of this amendment, come forward to Congress with a proposal as to how they want to seal the border and control it from allowing illegal immigrants to come across that border.

It can be done, it should be done, and it must be done as a part of this process.

I want to go back to the AgJOBS bill and talk about what is truly the major significant difference; that is, the issue of amnesty.

Under the AgJOBS bill that Senator CRAIG and Senator KENNEDY have, first, illegal aliens are eligible for temporary work visas if they have worked in agriculture a minimal amount of time. I will not go through what Senator KYL just said but, basically, if they have been here for 100 days and worked 1 hour each day, then they can apply for what is known as "temporary adjustment status" under the Craig-Kennedy bill. That makes them legal. We simply do not do that. We intentionally put the burden on the employer to make sure the employee is who he says he is.

First of all, I need the workers; second, that these workers will be coming here as law-abiding citizens; and, they have not violated the law—as you can do under Senator CRAIG's and Senator KENNEDY's amendment, not once, not twice, but you can have three misdemeanors on your record and still get the legal adjustment status.

We have zero tolerance. We think folks who come here and say they want to work in the United States must be law-abiding citizens, if that is what they want to do. We say, unlike Craig-Kennedy, that the burden must be on the employer to, first of all, go out and say, I want to hire American workers to fill these jobs. Then, if he can't do that, it is the employer who comes in and says: I have tried to hire American workers to fill these jobs. I cannot find the American workers to do it. Therefore, under the H–2A reform provision, I need these workers for a temporary period of time—X number of days—to do this job. Then they will return to their native country.

In the case of the blue card, it is a little bit different. There are some agricultural industries in this country—for example, the landscape or the nursery business—where employees are needed for a 12-month period every time, not just for a temporary 90-day or 120-day period of time. In that particular instance, these employers—again, the burden is on the employer—make the estimation that they need these employees—this individual is here, is law abiding, and that they want to have a blue card issued to that individual.

That individual, again, can work only for that employer. When he leaves the employ of that individual, the burden is on the employer to let the Department of Labor know he has left. If he goes to work for another employer, which he can do in the agricultural sector, the employer for whom he goes to work must again file the proper documentation with the Department of Labor as well as with the Department of Homeland Security so they can track that individual. That is critically important.

The major difference in that provision versus the Craig-Kennedy provision is they grant the temporary adjustment status which says they are here illegally. After a 3½ month period of time, they can then work for a year and get a green card, which means they basically can stay in the United States forever with that green card. If they want to apply for citizenship, they can apply for citizenship while they are in the United States.

Under Chambliss-Kyl, they must comply with current law in order to get a green card. In order to do that, you must go back to your native country. You must stand in line, as everyone else is required to do today, in order to make application for a green card. They do not get any preferential treatment.

If they want to secure what we think is the most precious asset an American has, and that is American citizenship, that individual, under the Craig-Kennedy amendment, simply can stay in this country legally with a green card, and while they are here under that green card—even though they came illegally—they can make application for citizenship. I don't know whether it will be granted in 5, 6, 7 years, but that is immaterial. They can do so outside of what is current law.

Under the Chambliss-Kyl amendment, you cannot do that. If you are going to apply for a green card, you must go back to your native country and stand in line with everyone else and come in under the cap provided for in current law, make application, go through all the process, and maybe get your green card. If you want to apply for citizenship, again, you have to follow current law. You have to go back to your native country, you have to make the proper application, and go through all the appropriate steps before you can secure citizenship.

That major difference of rewarding those people here illegally in the Craig-Kennedy AgJOBS amendment versus not rewarding individuals who are here illegally but only granting them a temporary status under the Chambliss-Kyl amendment is the major difference in these two bills.

Why should we even grant anyone here illegally the right to stay in this country? The Department of Labor estimated 2 years ago we have between 8 million and 13 million people in this country illegally. We have no idea who they are. Sure, we see them standing on the street corner from time to time looking for jobs. We know, in the agriculture sector, about 85 percent of the employees are here illegally. They all have false documentations. They are pretty easy to get. You can go to almost any street corner, unfortunately, or across the border in Senator KYL's State of Arizona and pay somebody somewhere between $300 and $1,000—I understand is the current market rate—and you will get a fake Social Security card and other fake documentation that will allow you to stay here.

It is illegal for an employer, before he hires somebody, whether it is the agricultural sector or not, to ask that person for further verification of the fact they are here legally in this country. That is a weird provision in our law, but it is a fact, so we don't know who these people are. The mere fact we have a 5-million gap between 8 million and 13 million tells how serious the problem is. It is serious from the standpoint these people are taxing our education system, our judicial system, and our health care system. We need to identify who these people are.

We are firing the first rifle shot. Again, on this, Senator CRAIG, Senator KENNEDY, and I agree. I applaud them, particularly Senator CRAIG, for continuing to push this ball forward. We need this debate in the Senate as well as in the House of Representatives. Once we identify those people who are involved in agriculture and are here illegally, we have to make a fundamental determination, as legislators, and that is are we going to try to round those people up? Are we going to try to hire the hundreds of thousands of additional border patrol agents and INS agents, round those people up, and send them back from where they came and expect them to stay there? Or are we going to be practical, and are we going to identify those people—we will not look at them and say: We will give you permanent status in this country, but we will allow you to stay here legally for a temporary period of time if you are law abiding. As I say, we have zero tolerance. The AgJOBS bill will allow for three misdemeanors and still allow them to stay here.

Second, we ask: Are you displacing an American worker? We agree on that. Both of us say we should not displace an American worker. But if they are not displacing American workers, if they are law abiding, and if their employer—one other critical difference in the two bills—if their employers make the attestation here he has complied with all the laws, he has sought to hire American workers, and he cannot do so, the employer will be granted the right to either have those workers come in under the streamlined H2-A process or the employer will be the one who secures the blue card for that employee that he needs on more of a full-time basis.

I submit there are significant differences in these two bills but the basic overall difference is we think the Federal Government has the obligation, No. 1, to control the border. We think you can control the border. We think, if you did not control the border, I don't care how sophisticated a piece of legislation we pass in this Senate or the House of Representatives, or it might go to the President's desk, we will have accomplished nothing.

We do request and mandate the Department of Homeland Security give us that plan within 6 months as to how they will control the border. As Senator KYL said, they have a plan in place in Texas and California that is working better than what we have in place in Arizona, where it simply is not working. It is working much better than what we have in my home county of Colquitt County, GA, where it is not working. They are getting into our county somehow. We need a provision to control the border.

Second, the major difference is a question of whether you want to vote to grant somebody who is here illegally, who may have violated our law on three separate occasions with misdemeanors, a pathway to citizenship or whether you want to give somebody who is here for the right reasons, and who has not violated the law but who is needed by an agricultural employer, give them the opportunity to work for that agricultural employer for a temporary period of time and never, during the whole time he stays in the United States, be given anything other than a temporary status.

Mr. KYL. Might I ask the Senator from Georgia to yield for a quick question?

Mr. CHAMBLISS. Sure.

Mr. KYL. I was told a colleague was watching this debate from his office and is under the impression a point was made, under our legislation, a supervisor could apply for citizenship or be granted citizenship or legal permanent residency under the Chambliss-Kyl legislation. I wonder if the Senator would clarify that is not the case.

Mr. CHAMBLISS. That is absolutely not the case. There is no way, under the Chambliss-Kyl amendment, anyone, anybody who is here illegally and who gets a blue card by virtue of the employer of that individual requesting the blue card, ever becomes anything other than a temporary resident of this country.

Under our law—and we maintain current law—under current law, there is no way someone who is in this country on a temporary basis can ever apply for a green card—and can never apply for citizenship.

Mr. CRAIG. Will the Senator yield?

Mr. CHAMBLISS. I am happy to yield.

Mr. CRAIG. I ask you to respond on my time. I appreciate that.

I understand what you are saying, "greening" versus "blueing," but if you give someone a blue card and he becomes a supervisor, he may not be a permanent resident but he is permanently in this country by your legislation.

We all identify with the green card today because it has been around a long time. When you get a permanent green card, you can become a permanent resident and not a citizen. I suggest, and you may disagree, if you become a supervisor after 9 years of being here with a blue card, it is permanent, is it not?

Mr. CHAMBLISS. I appreciate the question of the Senator from Idaho. That is exactly the opposite from what is the truth. The truth is, he is always a temporary employee, and if he has a supervisory position and if he is granted additional time after 9 years, his temporary status never changes.

Mr. CRAIG. But he is permanently here if he wants to be.

Mr. CHAMBLISS. That is not true because if his employer ever released him from his employment, he has to notify the Department of Homeland Security and the Department of Labor, and that individual must go back to where he came from. Or if he secures a——

Mr. CRAIG. So I am right, but under certain conditions I am wrong. Thank you.

Mr. CHAMBLISS. You are wrong, but there are exceptions to everything.

Mr. CRAIG. I thought so.

Mr. CHAMBLISS. He is never a permanent citizen as he becomes under your bill after about 2½ weeks.

Mr. CRAIG. Mr. President, I have to come back on that. Not after 2½ weeks.

He gets a temporary green card for 360 days or 5 years. Then he applies for permanency. That is the way the bill reads. That is an additional 2 years. Math is math and it adds up and that is 6 years. I am sorry, that is not 2 weeks. It does not work that way. That we disagree on.

Mr. CHAMBLISS. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. CHAMBLISS. Is it not true, under your bill, an individual can get the temporary adjustment status after working 100 hours?

Mr. CRAIG. As of 2004, not in 2005. January 1, he had to be here last year working, cannot come across the border through Arizona. March 29, before April 1 of this year.

Mr. CHAMBLISS. Is it true that 1 hour is defined in the Fair Labor Standards Act, or 1 day's work is defined as 1 hour, and it is actually 100 days?

Mr. CRAIG. I understand it is kind of the semantics we played a few moments ago. Temporary is not permanent, even though they are permanently here temporarily. I understand those semantics, yes.

Under the Fair Labor Standards Act, 1 hour is a day. But I do require not 1 hour, I require 100 days. You require 1 hour.

Mr. CHAMBLISS. Is it not true this is a fundamental difference in our two amendments? Under your amendment, the employee or the illegal alien comes in and says: I worked here for those 100 hours last year or 2 years ago.

Mr. CRAIG. And must demonstrate through tax returns——

Mr. CHAMBLISS. Where under our bill they come in and an employer says: I need this employee, and I want to make application for the H2-A or the blue card.

Mr. CRAIG. That employee must demonstrate tax records and an employment record during that 100-hour period by an employee prior to January 1, 2005.

Mr. CHAMBLISS. Would the Senator not agree a fundamental difference is, under your bill, the employee is the one who makes that attestation. Whereas, under our bill, it is the employer—the American employer—says: I need you.

Under your bill, the employee says: I have been here for this period of time, and therefore I deserve to receive this adjustment.

Mr. CRAIG. In my situation, they must have worked and, of course, they must do that full background check we all go through.

It is a time-consuming thing. One of the things the American people want that we are both doing is to control the current illegal population, to identify and find out who they are, to make sure they are not bad people, if we are going to grant them the right to stay and work. That we both accomplish.

It is not just, oh, get a card because you got 100 hours or, oh, you get a card because you got 1 hour, in your circumstance. It is because you have submitted yourself to a full background check. That is 14 pages in the current code of this country as it relates to immigration. That is very significant for all of us.

Mr. CHAMBLISS. Mr. President, I yield the Senator from Alabama 10 minutes.

Mr. SESSIONS. I thank the Senator from Georgia. I appreciate the debate that has been going on. It is an important debate. It is something we need to be discussing.

I say, with real conviction, we can improve the immigration system in America. We can make it work better. We must do that.

This is a defense supplemental bill, early in this Senate calendar. We are not ready, in any way, shape or form, to be debating this comprehensive legislation today.

If the American people were to know what is being proposed, they would be very unhappy with us. I certainly hope we are not about to make this law.

I understand, at one point, there were over 50 cosponsors to the Craig-Kennedy legislation, which is breathtaking, in a way. But I don't think the American people and Members of this body fully understand the import of it. It is a big deal.

I say to my colleagues, you will be voting on this soon. I urge you to get your mind focused on what we are about to vote on and I urge you to say, "I am not ready to vote on such comprehensive legislation—this is a Defense bill"—and vote no. That is the first thing we ought to do.

Let me see if I can summarize, from reading this legislation carefully, what I think the AgJOBS amendment says without any doubt.

People who are here illegally, for any number of reasons, who should not be here contrary to the law, and, therefore, are who also working illegally and violating American law—under this bill, if they have worked 100 hours in 100 days, meaning 1 hour per day, within 18 months—virtually no real work is required in the 18 months—they become, immediately, just like that, a lawful temporary resident. They immediately become able, legally, to stay here. If they have brought their families here unlawfully, their families also get to stay and can not be deported.

Then, in the next 6 years, if they work 2,060 hours—this has been explained as somehow earning your citizenship. I want to remind us that these people are here voluntarily, they are working and they are being paid what they earn. They are simply doing what they wanted to come here and do. This should not earn them a path to citizenship. They are not doing volunteer work in the community. They are earning a living and being paid for their work. Some say they should be earning more than their pay, that they are earning amnesty as well. But if they work 2,060 hours in 6 years—now, 2,060 hours is about 1 year's work for an American worker; that is how much you work a year—if they do that, some say they are then entitled to legal permanent resident status. At that point, they can bring in their family if they are out of the country. They can come into the country with you and also become legal permanent residents—even if you never intended for your family to follow you when you decided to come to the U.S. illegally and work illegally.

Then, if you wait 5 years, as a legal permanent resident in the United States, and you work, and you are not convicted of a felony, you are not convicted of three misdemeanors—three will block you, but two will not. You can be convicted of two misdemeanors. You can be investigated for drug smuggling, for murder, for child exploitation, all of these things. You can even be indicted for those charges. But the statute says, if you are not convicted, the Secretary shall make you a lawful temporary resident and shall make you a legal permanent resident. It is mandatory on the Secretary. They are not able to do a background check and say: Well, the FBI is investigating this guy for drug smuggling or being a member of some gang or involved in child sexual exploitation. It says "conviction" is necessary to keep you from getting amnesty. Otherwise, you shall be approved as a temporary and permanent resident. And being a legal permanent resident puts you on the road to citizenship.

That is what it is all about. If, indeed, a person has in 18 months met this 100-hour work status and has gone back to their home country, maybe without any intention of returning to America—this amendment will effectively be a notice to them from Uncle Sam that says: By the way, you once worked here illegally. We know you have left and gone back, but you should come back and become a temporary resident, then a permanent resident, and then a citizen.

So it says: Come on back. They may not even have been intending to do this, but this may be an offer they feel they can't refuse because they may think: Well, the illegal alien is thinking—"I can go to the U.S. and become a lawful temporary resident, and then I can become a legal permanent resident. And, I can bring my family. I will move to the U.S."

That is not the way we want to be doing immigration in America. It is not the way we need to be doing it. There is no dispute that this is amnesty. How can it not be amnesty? If this is not amnesty, what is amnesty? You take someone who violated the law, give them a guaranteed path to citizenship, not subject to review by the Department of Homeland Security and the Immigration and Customs Enforcement, ICE, people—a guaranteed path. You shall be made a temporary resident if you meet these qualities. You shall be made a permanent resident if you meet this standard. And if you meet the legal permanent resident status, you are on the road to citizenship. That is what it is all about.

If we ever want to create a legal immigration system—and I know we do—that is generous and allows people to come here who will be contributors to our country, that has any integrity whatsoever, we must not adopt this AgJOBS bill. It is a capitulation. It is a total collapse of any attempt to create an enforceable legal system. I must say that. We absolutely do not need to be sneaking it in on a Defense supplemental without the American people knowing what is going on here. They are not going to be happy.

Now, how do these amnesty programs work? My colleague earlier challenged my numbers. I said it could be a million or even more people. He said it would be a half a million, plus children. But Dr. Phillip Martin, professor of agricultural economics of UC Davis and a member of the Agricultural Workers Commission says that at least 860,000 workers will come, and then their family members on top of that.

We know last time we had an agricultural workers amnesty, in 1986, that amnesty drastically underestimated the number that would be approved. I think the number was two or three times as many as expected that were approved. So I think the numbers will be huge.

Now, the commission that was called upon to study the 1986 amnesty said the program legalized "many more workers than expected. It appears that the number of undocumented workers who had worked in agricultural seasonal services prior to the IRCA was generally underestimated."

The commission also said that the 1986 agricultural amnesty, which was similar to the amnesty we are voting on today in fundamental principles, did not solve agriculture worker problems, rather they found that "six years after IRCA was signed into law, the problems within the system of agricultural labor continue to exist." That was an official finding of a commission created by that act. Additionally, the commission found that "an increasing number of newly arriving undocumented workers" were still coming to the U.S.

And finally, they said, "Worker-specific and/or industry-specific legalization programs, as contained in IRCA, should not be the basis of future immigration policy." That is exactly what we will be doing if we pass this amendment.

Mr. President, I do not know how much time I have.

The ACTING PRESIDENT pro tempore. The Senator has 1 additional minute.

Mr. SESSIONS. Mr. President, I am going to put this chart up and make a couple of points in relation to some of the details in the act that are really breathtaking in their scope.

I mentioned the amnesty provisions already. The AgJOBS amendment also overrides State law by eliminating "at will" employment, where an employer or employee can leave the employment whenever they chose. This says, if you come in under this act, unlike an American citizen, you cannot be terminated, except for just cause. To make sure that happens, this act has about six pages creating an arbitration situation where the Federal Government pays to arbitrate these disputes, an arbitration system that is not made available to an American citizen worker. They do not get that protection. It will also provide illegal aliens with taxpayer-funded legal assistance through the Legal Services Corporation to process their applications for legal status.

The ACTING PRESIDENT pro tempore. The Senator from Alabama has used 10 minutes.

Mr. SESSIONS. Mr. President, I ask if the Senator would not mind if I have 3 additional minutes.

Mr. CHAMBLISS. How about 2?

Mr. SESSIONS. Two minutes.

Mr. CHAMBLISS. Mr. President, I yield 2 additional minutes to the Senator from Alabama.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. I thank the Senator.

By the way, the AgJOBS amendment also provides they shall be given fully paid-for health insurance, which American workers do not get.

It provides that the worker organizations and employer associations are the ones to receive the applications for temporary status. But, they cannot provide that application or the information in the application to the Department of Homeland Security unless the alien consents. They might receive information or evidence in the application pertaining to a crime, but, apparently the sponsors of this amendment are not concerned about that. Instead, they want the applications and the information that is given to the organizations and associations that are authorized to receive them kept from the Department of Homeland Security. As a matter of fact, the only way your application is allowed to go to the Department Homeland Security and its Secretary—the only way it can go there—is if you have a lawyer. If you do not have a lawyer, your application has to go to one of these groups who will send it to DHS for you. These groups are not independent, fair groups.

The employer groups and the worker organizations are groups that have a special interest in promoting this. So this is not protecting the interests of the people of the United States to give this process over to two groups, both of which have a special interest in promoting people coming into this country. And, of course, there are no numerical limits on the number of aliens who would be given amnesty.

Also, finally, I would note, as the Senator from Georgia is well aware, group after group that are said to have been in favor of this legislation have changed their mind or oppose it. The National Farm Bureau no longer supports AgJOBS. Farm groups all over the country are opposed to it. I know that the largest individual H2A employer in the country opposes the AgJOBS amendment. I also know that the largest co-op user of the H2A program—the North Carolina Growers Association—oppose the amendment. I have received letters from Mid-Atlantic Solutions, the Georgia Peach Council, AgWorks, the Georgia Fruit and Vegetable Growers Association, the Virginia Agricultural Growers Association, the Vidalia Onion Business Council, and the Kentucky-Tennessee Growers Association all of which oppose the passage of AgJOBS.

The ACTING PRESIDENT pro tempore. The Senator has used his additional 2 minutes.

Mr. SESSIONS. I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, how much time remains on each side?

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 11 minutes 10 seconds. The Senator from Idaho has 9 minutes. The Senator from Massachusetts has 29 minutes.

Mr. CHAMBLISS. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I believe the Senator from Massachusetts will be arriving soon. His time and my time are for the same purpose. He has given me the ability to use up some of that time. I will not, at this moment, ask unanimous consent for those purposes because there is no one on the floor from the other side to visit with about that.

Senator CHAMBLISS mentioned year round work in the nursery and landscape industry. The nation's premiere nursery and landscape association is the co-chair of the vast coalition supporting AgJOBS. Why? Because they know AgJOBS will work. It will provide the workers they need. The blue card system in the substitute amendment will not. It is written so narrowly that there will be little incentive for workers to come forward and it will be cumbersome to use.

The Senator mentioned misdemeanors. AgJOBS goes beyond current law in the good behavior it requires. We would deport for a single felony, for any three misdemeanors, however minor, and for any one serious misdemeanor, which involves 6 months jail time. But if you say deport for any misdemeanor, you are talking about some truly minor things, like loitering, jaywalking, parking a house trailer in a roadside park, depositing trash from a home or farm in a roadside trash can, having untethered animal stock on a highway, or making known in any manner what library book another person borrowed. These are misdemeanors in different states. We do tighten up the law. We do require better behavior than current law and better than that of other, legal immigrants. But the punishment should be proportional to the offense. We provide for that.

I want to go through one thing again in some of the time we have left because what Americans are frustrated about today—whether it is the solution we have offered up or the solution our other colleagues have offered up—is that history has shown us what works and what does not work. For border security alone—and I know I have been corrected by the Senator from Arizona for the language I have used, and appropriately so—my guess is, if we did not put $7 billion on the border and into internal enforcement, if we put $14 or $15 or $20 billion on the border, we could probably finally do a fairly good job of locking that border up. Of course, the more persons we lock out, the more undocumented persons we lock in. We need to deal with that, too.

Americans are frustrated. They want that border controlled, as do all of us. But what we know works well is the coupling of more security with a law that provides for a legal work force. And that is what we are offering today, some $7 billion a year worth of certification and better internal enforcement. We are putting law enforcement money on the ground in the local communities. And because there is a segment of our economy that needs this particular type of employee, we have a guest worker program that faces up to the economic reality of our country.

That is what we are talking about. We did that some time ago. We did that in the 1950s, and it worked. We were, here on this chart in 1954, apprehending nearly 1.2 million illegals a year and taking them back across the border. Then we created the Bracero Program. Now, the program worked because it matched employee and employer. It received a lot of criticism, and I will not step back from being very clear about it in the way the employee was treated. That is partly what brought the program down. But we literally saw numbers of illegals drop almost to nothing and flat-lined from through the 1950s into the early 1960s, as the Bracero Program worked.

What had we done? We matched Border Patrol along with effective law enforcement along with a guest worker program that worked. Along came the 1960s. We changed it and eventually wound up with the current law. We flat-lined, by bureaucracy, the number of guest workers we allowed legally into the program on an annual basis.

You can see what happened. Here it is, as shown on this chart. Apprehensions of illegals and illegal entry began to rise. What happened last year, as this very dysfunctional program all but broke down? We were back at 1.2 million apprehensions. America has asked for a solution. We have brought a solution to the floor. The only experience our country has had on a broad basis with the a legal guest worker program is the one I have outlined.

AgJOBS is a groundbreaking, necessary part of balancing a realistic approach to solving this problem. American agriculture has boldly stepped forward and admitted they have a problem.

They are not hiding behind lobbyists saying: Lift the lid in a certain program, allow more people in. They are almost in a panicked way saying to us: We have a 70-plus-percent illegal problem that we are dependent upon for the harvesting of our fruits and vegetables, for the supplying of the American food shelf with its food. Please do something about it. Please provide a vehicle that allows these people to be legal, and we will agree to work with you in setting up the necessary mechanisms to make sure they are treated right, the housing is there, they are paid well, and all of those kinds of things.

If we don't have a legal work force in place, and we continue to lock up the border—and we should—and we do all of the other things such as uncounterfeitable ID cards, we literally could collapse American agriculture. That is something this Congress should not be responsible for doing simply by being negligent.

That is why for the last 5 years and more I have worked on this issue. We have worked cooperatively, Democrat and Republican alike—Congressman HOWARD BERMAN, who is on the floor at this moment from the House, Congressman CHRIS CANNON, Senator TED KENNEDY, and I—for hours and hours, with all the interested groups, now 509 groups, over 200 of them in agriculture. We have come up with this approach. We didn't come up with it, as my colleagues have, as a blocking measure to stop this legislation by throwing at the last minute something into the mix, by changing the color from green to blue and suggesting that it is new because it is blue. They do a few of the things we do, but ours is a much broader program and bipartisan. That is significant as we try to move legislation forward to solve this problem.

As I have said, the agricultural sector is facing its worst problems ever. Fifty to 75 percent of its farmworkers are undocumented. As internal law enforcement has stepped up, farms large and small are going out of business because they can't get the workforce at the right time to plant the crop, to tend the crop, to harvest the crop. This mighty machine we call American agriculture, which has fed us so well for hundreds of years, is at a very dangerous precipice, perhaps the most dangerous it has ever seen in its history.

This year for the first time since records were kept, the United States will be on the verge of becoming a net importer of foodstuffs. Hard to imagine, isn't it? The great American agricultural machine, and now we are at a point of being a near net importer of foodstuffs. We did that with energy. When I came to Congress in 1980, we supplied the majority of our own energy. Now we are a net importer. We did that with minerals. When I got here, we were supplying most all of our minerals. Now we are a net importer. Are we going to let this happen with food because we can't agree on a reasonable program to have one of the most valuable inputs into agriculture stabilized, secured, and legal, and that is the workforce?

No, we have all come together, Democrats and Republicans, labor, farmworker organizations, Hispanic groups. That is what you have before you in AgJOBS. That is why it got 63 cosponsors last year. We are nearly at 50 today, and building. Its time is now. It is important we have this vote that will occur this morning. It is a critical piece of legislation.

Aside from that, every year on the Arizona border, the California border, New Mexico, Texas border, over 300 people die trying to get into this country to earn a wage. They do that because of a dysfunctional H–2A law, because of a system that does not provide for a legal work force, and because of bad people who prey upon them as victims, and they are literally victims of a law and victims of a broken process. We ought not stand idly by and allow that to happen, either. Control our borders? You bet. Create a legal work force? Absolutely. Apprehend illegals after we have created this system that works well? Absolutely. The integrity of a country is based on the control of its borders and the ability to openly and fairly assimilate into its culture immigrants who come here for the purpose of benefiting not only from the American dream but by being a part of us. That is one side of it.

The other side is the realistic understanding that there will be those who simply want to come and work and go home. There are types of work that they can qualify for that Americans cannot do or choose not to qualify for, and they ought to be allowed to do that. American agriculture depends on it, as do many other segments of our economy. It is critically important that we respond accordingly.

Last year under the program, the broken law, about 40 plus thousand H–2A workers were identified and brought in legally by that law. Yet, in the same agricultural group, there are a total of 1.6 million workers. That is how we come up with those numbers of some 70-plus percent undocumented workers or somewhere in that area. There has been a great effort by the other side to confuse the argument. We believe in the Department of Labor Statistics. The Department of Labor statistics show that, under the Craig-Kennedy provision, about 500,000 workers would be eligible to apply for adjustment, to start the process, and they have about 200,000, maybe 300,000 dependents who would qualify, not millions and millions and millions. That is so unrealistic when we are looking only at a field of 1.6 million to begin with. That is the reality. That is the honest figure. We didn't come up with it just in the dark of night. This has been 5 years and more of study, working with the Department of Labor and analyzing and understanding what the workforce is, who would stay and who would go home, who would not come forth to be identified and who would.

That is why it is time now that we allow this legislation to move forward for the purpose of it becoming law. America demands that we respond. Thirteen hundred days after 9/11 and we have not yet responded to the reality that is probably one of the most significant challenges the United States as a nation has ever faced—to control our borders, control our destiny, recognize our needs, understand our economy, be humane and fair to people, and do all of those things within the law. That is our responsibility to make that happen. It is without question a very important process.

I ask unanimous consent that time under the quorum call be equally divided.

Mr. KYL. Mr. President, reserving the right to object, we don't have very much time on our side, and that would mean that we could get out of time without the other side even coming down here until the very end. May I ask the Chair—I would like to pose a parliamentary question—under the agreement that was entered into, the time is not taken equally off of both sides in a quorum call, is it?

The ACTING PRESIDENT pro tempore. No, it is not. That requires unanimous consent.

Mr. KYL. Further reserving the right to object, because I think there is only about 10 minutes left on this side and a half hour left on the other side, that would mean our time could be wiped out without another word even being spoken. I would not agree to that at this time.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is currently using the time of the Senator from Massachusetts.

Mr. CRAIG. How much time, then, is left on all three?

The ACTING PRESIDENT pro tempore. The Senator from Idaho has consumed his time. The Senator from Massachusetts now has 24 minutes. The Senator from Georgia has 11 minutes.

Mr. CRAIG. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAIG. I will continue to consume time of the Senator from Massachusetts. I understand he is en route to speak on behalf of AgJOBS. We will continue to do that. Over the course of the last day, I have sent to the desk and provided to my colleagues a comprehensive list of over 509 organizations nationwide, some 200 of them in agriculture, that have been a part of this growing broad coalition of Democrats, Republicans, liberals, conservatives, labor, employer, and other groups that have recognized the very critical nature of American agriculture today and the importance of stabilizing its workforce and causing that workforce to become legal. That is exactly why the Senator from Massachusetts and I are here.

We have obviously had other colleagues of ours come forward with legislation proposing another approach. It is nowhere near as broad based, nor does it solve the kinds of very real problems all of us want to solve; that is, clearly creating a legal workforce.

Here are some of the frustrations I wish to talk about for a few moments that are important. There is an opinion in this country that if you just throw money at it, the problem will go away. Let me suggest right now that that is what we are doing. We are throwing a lot of money at it. In so doing, we are throwing about $7 billion a year at the border and at internal enforcement, $7 billion well spent. In part, it is beginning to build systems that are getting better as they relate to controlling dominantly our southern border, but our northern border, as well, and our shoreline.

We did it for two reasons. Actually, we started doing it after 9/11 for terrorist purposes because we were fearful that we would see terrorists coming up through Mexico and into the southern part of the United States or across our southern border or, for that matter, across our northern border. At the same time we were recognizing a near flood of people coming across those borders attempting to identify with work in our country. As you can see, the number of apprehensions of illegals peaked in about the year 2000. It was dropping. We started pushing heavy money at it. But it has begun to climb again.

The reality is, we are now putting about $7 billion a year into it and last year apprehended approximately 1.2 million illegals. We are stepping up to that plate now and stepping up aggressively, and we will do more.

I have just joined with the Senator from West Virginia, Mr. BYRD, to take money out of this supplemental in areas where we didn't think it was needed to put more into Border Patrol.

But as I have said earlier, there is not just a single solution to this problem. We have to be able to control the numbers of people coming across by stopping their belief that if they get across the border, there is a job. We have to provide a legal work force system that works. You do that by identifying the employees and the employers, and doing so as we did historically in the past, and as AgJOBS clearly does in the major reform of the existing law, the old H-2A program, which has allowed these problems to occur and is totally not functional today.

That is what we have offered. We think it is tremendously important. It is not without criticism, and we certainly know that. Any time you touch the immigration issue, it is not without criticism because there are those who simply don't believe anybody ought to be allowed into the country under nearly any circumstance, even though we are a nation of immigrants. Our strength, energy, and dynamics have been based on the phenomenal immigration from all over the world that has produced the great American story as we know it. That immigration, to keep our economy moving, to keep our culture where it is, strong and vital, is going to need to continue. But we need to control it in a way that allows the reasonable kind of assimilation that successful cultures have been able to accomplish down through the centuries, as we have allowed controlled, managed immigration into our country. We are not doing that, and we have not done it for 2 decades.

As I have said several times on the floor in the last day and a half, awakening from 9/11 was a clear demonstration of that reality, that there were 8 million to 12 million undocumented foreign nationals in our country whom we were ignoring. No longer can that happen, we say. Well, it is happening. We have let it happen for more than 1,300 days since 9/11. That is why we are on the floor at this moment. That is why we should not wait for a better day and push this back. Several Senators have been saying: Oh, we will get something done by late this year or early next year. There is nothing on the drafting table. There are some hearings being held. No comprehensive work is going on that will identify the broader picture and the very important, specific segment of our economy. Meanwhile, there will be crops in the fields, and we need a legal work force, identified and trusted, to put that food on the tables of American families.

The authors of this legislation, AgJOBS, recognize this is not a comprehensive piece but it is a piece that deals with a segment of our economy that is in the most critical need of their problems being solved today—the economy that feeds us, puts the food on the market shelves for consumers in a safe, reliable, healthy fashion. That is what we are talking about today. We are talking about the need of American agriculture to be able to respond to what is so very important on a seasonal basis—planting, tending, harvesting of America's food supply.

So that is why I am here, and I am not taking it lightly. We are most serious about our effort to try to respond to this problem. We have been attempting to gain access to the floor for well over a year for this debate and not to deny it as something we simply put off. That is the importance of what we do. That is why the Senator from Massachusetts—who is much different from I politically—and I have come together, as that broad-based coalition demonstrates. All politics have come together on this issue—left, right, and center, Democrat, Republican, labor, employer. Why? Because of the very critical nature of the problem before us and the importance that we effectively respond, for the sake of America, to control our borders, to identify the undocumenteds who are within, to provide American agriculture with a safe, identifiable and, most importantly, legal labor supply. I see my colleague from Massachusetts has joined us on the floor. With that, I retain the balance of our time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask the Chair, what is the time allocation presently?

The ACTING PRESIDENT pro tempore. The Senator has 13 minutes 40 seconds.

Mr. KENNEDY. I yield myself 8 minutes.

Mr. President, I want to thank my friend, Senator CRAIG, for his leadership in this area. As he just mentioned at the end of his comments, Senator CRAIG and I do not share a great many common positions but we both are enthusiastic about this legislation. We come to it from different interests, over long periods of time. He may remember, as I very well do, in the early 1960s, we had what was called the Bracero issue and problem. It was a very deep problem, where we had this extraordinary exploitation of workers who came across the border living in these absolutely inhumane conditions and being exploited like workers in no other part of the world. It took us a long time to get away from the Bracero problem and issue. There was enormous conflict between the workers and the growers for many years. I remember very distinctly the work of Cesar Chavez and the great interest that my brother Robert Kennedy had in the rights of immigrant workers. It was a poisonous atmosphere year after year.

And now, through the hard work of many of those who were enlightened in the agribusiness, as well as the leadership with farmworkers, they came together to recommend legislation. I paid great respect to our House colleagues, Congressman BERMAN and Congressman CANNON, for their constancy in watching this issue develop.

Mr. President, we have an opportunity in the Senate now to take a dramatic step forward toward true, meaningful, significant immigration reform. Agribusiness is only about 10 or 12 percent of the total problem. But should the Senate of the United States, in a bipartisan way, come to grips with this issue in a meaningful way, it will open the path for further action in these next few weeks and months so we can have a total kind of different view and way of handling immigration in our country.

The current system is a disaster. It is enormously costly and unworkable. We have spent more than $24 billion over the period of the last 6 years, and the problem has gotten worse and worse. We hear talk about extending a fence across the borders in southern California for a number of miles. We have to be reminded the total border in the South is 1,880 miles. Are we going to have a fence that is going to extend that far, that long, over the period of the future? This system just does not work. We do not have enough border guards or policemen out there who are going to the borders. We have to have a dramatic alteration and change. We are not going to deport the 7 million or 8 million undocumented that are here, that are absolutely indispensable, primarily in the agricultural sector, but are playing increasing roles in other sectors as well.

So we have an extraordinary problem. With all due respect to those who have tried the hard-line way of doing it, they have not been able to demonstrate any success. We hear those voices in the Senate, again: Give us another 500 border guards or some more barbed wire or another extension of the fence, let us just provide some additional kinds of technology, and we will solve our problem.

No way. We have learned that lesson. We should have learned that lesson. Now we have an opportunity, under the proposal Senator CRAIG and I have proposed, and in a bipartisan way, to try a different way.

With all respect to those who oppose this, we believe this is absolutely consistent in terms of our national security issues. The dangers to national security are what happens in the shadows, the alleyways. What is happening in the shadows and alleyways is happening among the undocumented. People are able to hide in those areas. If we bring the sunlight of legality to an immigration policy, we are going to make it much more difficult. We are going to free up border guards to be able to go after those who might be terrorists, instead of constantly looking out for the undocumented that are traveling back and forth across the border. If we have learned something over the period of time, it is immigration is not the problem. The problem is the terrorists. The best way to deal with that is to focus both manpower and technology to be able to deal with that.

Now, our effort also responds to and rebuts the idea that this is amnesty. That is the quickest way to kill the legislation. People can say, look, this is amnesty, and then go back to their offices, and that shakes people up enough to say they are not going to support that. We are talking about men and women who have lived and worked here, paid their taxes here, and they have to have done it some time ago. We are not talking over the last year; we are talking about people who have worked and have been a part of the communities a number of years ago, to permit them a long period of time, probably stretched over a period of 7 to 9 years before they would even be eligible to start down the path toward citizenship—a long period of time, Mr. President. It just seems to me that these issues have been debated and discussed. Some have been misrepresented.

Finally, this has a dramatic impact in terms of both working conditions and labor conditions for those who are going to be impacted by this issue. It is going to have a similar kind of impact in terms of American workers. You have undocumented, you have illegal workers; they are going to be exploited, and they are going to drive wages down, they are going to fear their boss or their employer might tell on them. Therefore, they are going to settle for less in terms of payment. That is only natural. We can understand that. We have the figures and statistics to demonstrate that. But when you drive those wages down, you drive the wages down for American workers in related industries in those areas, and we have the figures to show that, too. This has a depressing impact in terms of legitimate American workers as well.

So I think this is an enormously important vote. If we are able to get support for this legislation, this will be a pathway to try to deal with the rest of the scene on immigration. If we are able to get the downpayment, which this is, this will open a new day and new opportunity.

I don't often agree with the President of the United States, but he has at least addressed this issue. We come to different conclusions with regard to the ability to be able to earn their way into legitimacy on this issue. Nonetheless, he understands. We can understand why; he has been a Governor of a border State. I hope we can find a way of developing a common ground here—Republicans and Democrats, those who have been interested and have followed the challenges out there in terms of agribusiness, those of us who have been proud to represent the workers who, over a long period of time, have been exploited in too many instances and who have suffered. All they are looking for is fairness and respect and some ability to rejoin with members of their families. Not long ago, the Senate considered fast-track legislation regarding those individuals who were serving in the Armed Forces overseas—a number of them had actually lost their lives—who were permanent resident aliens—not even citizens, but were permanent resident aliens who served in our Armed Forces. The President gave citizenship to some who were killed in Iraq. We were able to try to provide for those going into the military at least some ability to faster citizenship. They were prepared to go to Iraq to die and fight for this country. All they wanted to do was be able to live in this country as well. If they were going to do that, we were going to understand and respect their service to this Nation. We provided an opportunity to move their process toward citizenship faster, if they were going to serve in the Armed Forces or be in the Guard and Reserve, with the real prospects of going to Iraq. Are we going to say those individuals, they are going to be able to get consideration, and their brothers and sisters who may not have gone into the service are still going to have to live in the shadows of illegality?

It seems to me we ought to be able to find common ground. We ought to be able to provide common ground here when we recognize the current process and system is a disaster.

We have an unregulated system where illegality is running rampant and, quite frankly, those who are opposed to us and offer alternatives are offering more of the same.

This is an opportunity for a breakthrough. This is an opportunity for a new start. This is an opportunity for a bipartisan effort that is going to do something significant about the challenges we are facing with immigration. I hope it will be successful.

I withhold the remainder of our time.

Mr. LEAHY. Mr. President, I am a cosponsor of the AgJOBS bill, which will do a world of good for farmers and farmworkers in Vermont and around our Nation.

First, this amendment would reform the H2A program for temporary agricultural labor. As it currently exists, this program is cumbersome and deeply unpopular with farmers. As a result, it is underused and promotes the widespread use of illegal labor on our Nation's farms. Indeed, experts estimate that more than half of our Nation's farmworkers are here illegally.

Second, this amendment would provide an opportunity for that illegal workforce to come out of the shadows and obtain legal permanent residency in return for the contributions they have made and will make to American agriculture, both before and after enactment. It would allow undocumented aliens who can demonstrate that they have worked in agriculture for 100 or more days in a 12-month period during the last 18 months to apply for legal status. Eligible applicants would be granted temporary resident status. If the farmworker then works at least 360 days in agriculture during the next 6 years, he or she may apply for permanent resident status. Workers would be free to choose from any employer. These provisions would create a substantially larger legal, stable workforce from which farmers around the country could hire. And without these provisions, it is difficult to see why farmworkers currently here illegally would come forward and announce their presence.

The AgJOBS bill is supported by a broad coalition of the agriculture industry and farmworker union and advocacy groups. It has broad bipartisan support in the Senate, and I urge all Senators to vote for cloture.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CHAMBLISS. Mr. President, what is the time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 11 minutes. The Senator from Massachusetts has 2 minutes 45 seconds.

Mr. CHAMBLISS. Mr. President, I yield myself 5½ minutes.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, we are coming to the close of the debate on this issue. I think it is important that we review for those of our colleagues who are listening, as well as to the American people who are listening relative to this issue, concerning whether we should grant amnesty to illegal aliens who are in this country, who are working in the agricultural field and given a pathway to citizenship, or should we grant to those individuals an accommodation to stay here, assuming they are law abiding, assuming they are working in agriculture for an employer who needs them and they are not displacing an American worker, and where they will always be categorized as a temporary worker. That is the fundamental difference between our two bills.

I say to the Senator from Idaho, as well as the Senator from Massachusetts, again, I appreciate the debate we have had this morning because we have struck at the nerve of this issue relative to the agricultural sector.

The Senator from Massachusetts is right. This is, in all probability, going to lay the groundwork for the broader overall issue we will deal with relative to immigration. I hoped we could have dealt with this issue in a broader immigration bill, but with the rules of the Senate being what they are, we are here today talking about the supplemental for the Iraq war, and this is an issue which, under our rules, can be brought forth, has been brought forth, and that is obviously why we are here.

There are a number of organizations on both sides that have come out in favor of the AgJOBS bill, as well as the Chambliss-Kyl amendment. I want to make sure that all of my colleagues understand that the most recognized agricultural group in America, the American Farm Bureau, has endorsed the Chambliss-Kyl amendment. They have sent a letter to every Member of the Senate. They have sent letters to all of their membership around the country, as well as being on the telephone calling those folks today asking that they contact their Senators and request that they vote for the Chambliss-Kyl amendment.

The reason the American Farm Bureau has done that is the American Farm Bureau knows and understands that we do need that stable, quality supply of agricultural employees for our farmers and ranchers around America, and they agree with Senator KYL and myself that we need to do it in a way that gives these workers a temporary status, does not displace American workers, allows our employers—our farmers and ranchers—to only hire those individuals who have had a background check by the Department of Homeland Security and have no criminal record whatsoever, as we provide for in the Chambliss-Kyl amendment. Only then can you come to the United States and be recognized as an eligible agricultural employee under the Chambliss-Kyl amendment.

Under the AgJOBS bill, you can have up to three misdemeanors and still qualify for the adjusted status, which means you are here legally, which means you can apply for a green card while you are here, which then means you can apply for citizenship while you are here, even though you came to this country illegally to start with and even though you have committed up to three misdemeanors and have been convicted of three misdemeanors while you have been here.

We know a supply of agricultural workers is needed. Senator KYL and I have worked very hard on this measure over the last several months to try to ensure that we accommodate all of our farmers' and ranchers' needs across America. Today we think streamlining the H-2A process, which will give us a prevailing wage rate that our employers can pay to their agricultural employees, will provide a streamlined paperwork process to allow our H-2A employers to have that ready supply of labor in a short period of time and to make sure that when they complete the job they have been allowed to come here to do, they go back to their country as available to our farmers and ranchers.

Also, with the blue card provision we have in our bill, farmers and ranchers who need employees for a period in excess of a small window will have available to them employees who can be here for up to 3 years provided the Department of Homeland Security has done a background check and determined that they have never violated the law in this country, provided that those employees never be given anything but a temporary status, and provided that those employees agree and acknowledge that they will never be allowed to apply for a green card for permanent status or for citizenship in any way whatsoever, other than under what is existing law today.

Mr. President, I yield the floor and reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, what is the time situation again?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 2 minutes 45 seconds.

Mr. KENNEDY. The other side?

The ACTING PRESIDENT pro tempore. Four minutes 51 seconds.

Mr. KENNEDY. I yield myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, one of the favorite techniques around here is people misstate what is in a particular proposal and then differ with it. I do not accuse anyone of doing that on this particular legislation, but I do believe they ought to listen to Senator CRAIG and myself as to exactly what our bill does and what it is intended to do. If there are some changes that will make these points clear, we are glad to do it. We want to free ourselves from distortions and misrepresentations.

Opponents of reform continually mislabel any initiative they oppose as amnesty in a desperate attempt to stop any significant reform. Instead of proposing ways to fix our current broken system, they are calling for more of the same—increased enforcement of broken laws. However, enforcing a dysfunctional system only leads to greater dysfunction.

To be eligible for legal status, applicants must present no criminal or national security problems. All applicants will be required to undergo rigorous security clearances. Their names and birth dates have to be checked against our Government's criminal and terrorist databases. Applicants' fingerprints will be sent to the FBI for a criminal background check which includes comparing the applicants' fingerprints with all arrest records in the FBI's database.

Contrary to arguments made by detractors of AgJOBS, terrorists will not be able to exploit this program to obtain legal status. Anyone with any terrorist activity is ineligible for legal status under our current immigration laws and would be ineligible under the AgJOBS bill. Our proposal has no loopholes for terrorists.

Opponents of AgJOBS claim this bill is soft on criminals. Wrong again. AgJOBS has the toughest provisions against those who commit crimes—tougher than current immigration law. Convictions for most crimes will make them ineligible to obtain a green card. Applicants can also be denied legal status if they commit a felony or three misdemeanors. It does not matter whether the misdemeanors involve minor offenses. In addition, anyone convicted of a single misdemeanor who served a sentence of 6 months or more would also be ineligible.

Finally, opponents of the AgJOBS bill also claim it will be a magnet for further illegal immigration. Once again, they are wrong. To be eligible for the earned adjustment program, farmworkers must establish that they worked in agriculture in the past. Farmworkers must have entered the United States prior to October 2004; otherwise, they are not eligible. The magnet argument is false. New entrants who have worked in agriculture will not qualify for this program.

This is a sensible, responsible, well-thought-out program that has had days of hearings and weeks and months of negotiations. It is a sensible answer, a downpayment to a problem this country needs to address. I believe, with all respect to my friends and colleagues on the other side, their proposal is more of the same. I hope the Senate will support our amendment.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields the time?

Mr. CHAMBLISS. Mr. President, I yield the remainder of our time to the Senator from Arizona, Mr. KYL.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, let me try to summarize the status of this debate over the last couple of hours as pertains to both of these propositions.

The first to be voted on is the Chambliss-Kyl proposal, and then the second will be the Craig-Kennedy proposal. Both need 60 votes to proceed.

The first point I make to my colleagues is that we voted in this body on a sense-of-the-Senate resolution saying we should have this immigration debate later when we can do it right and can take all the time we need, where everybody can participate in it and know how to approach the problem not just from the standpoint of agriculture, in fact, but for a total attempt to solve our immigration reform issues in this country.

We decided that it would not be a good idea to try to have that debate on the supplemental appropriations bill because it would hold up the bill. Guess what has happened. We are in the second week of debate on this bill to fund our troops in Afghanistan and Iraq, and there is still no end in sight. If either one of these proposals gets 60 votes, we are off to the races with lots more amendments, debate time, and I do not know when we will get to finish the supplemental appropriations bill, which the distinguished chairman of the committee has been urging us to get about the business doing. In that sense, it would be a shame if either one of these two propositions got the 60 votes. That is my first point.

The second point is that as between the two, both attempt to reform our immigration system and match willing employer with willing employee, but one of them does so in a way that is going to, in fact, attract people to this country who have been here illegally in the past and under the provisions of the bill would enable them to come back.

People who have already gone home would be able to present themselves at the border and simply claim and try to document that they worked in this country illegally in the past and, therefore, they get to come back in again. I do not know of anything that makes less sense than having an illegal immigrant who worked here illegally go back home and then we invite them to come back into the country to get legal status simply by working in the fields again. That makes no sense.

Secondly, it is very clear that one version is amnesty and the other version is not. One simply cannot argue that when you give an advantage to people who broke the law in terms of obtaining legal permanent residency, which Chambliss-Kyl does not do, and, therefore, a path to citizenship, which Chambliss-Kyl does not do, you cannot argue that advantage given to these people who have broken our laws is not a form of amnesty.

That is the key substantive difference between these two bills. Both try to match willing employer and willing employee. One does it without amnesty and the other does it with amnesty. What we mean by that is amnesty meaning legal permanent residency and a pathway to citizenship which is achieved by virtue of the fact that somebody worked here illegally in the past. That is not, we believe, a good idea and a way to start off with a new guest worker program that we all agree needs to be enforceable and enforced.

We need to control our borders. We need to have a workable law. It needs to be a law that matches willing employer and willing employee and does not do so with amnesty, and until we are ready to do that, I suggest we should defer that debate, get on with our supplemental appropriations bill, and have that debate when we consider it in the context of overall immigration reform.

Therefore, how do people vote on the first vote? As I said, the first vote is on the Chambliss-Kyl proposal. We urge a "yes" vote on that proposal. The second vote is on the Kennedy-Craig proposal. We urge a "no" vote on that. If they both fail, then we can get on with the business of the supplemental appropriations bill to fund our troops in Afghanistan and Iraq.

Mr. President, if there is no other speaker, I suggest we yield back all time and proceed with the votes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

> CLOTURE MOTION
>
> We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Chambliss amendment to Calendar No. 67, H.R. 1268.
>
> Bill Frist, Saxby Chambliss, Mitch McConnell, Elizabeth Dole, Larry E. Craig, Judd Gregg, Norm Coleman, Trent Lott, Arlen Specter, George V. Voinovich, Bob Bennett, Pete Domenici, Pat Roberts, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 432, offered by the Senator from Georgia, Mr. CHAMBLISS, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The bill clerk called the roll.

Ms. STABENOW announced that the Senator from Illinois (Mr. DURBIN), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 21, nays 77, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—21

Allard
Bond
Burns
Burr
Chambliss
Cochran
Collins
DeMint
Dole
Graham
Grassley
Gregg
Kyl
Landrieu
Lott
Salazar
Santorum
Stevens
Sununu
Thomas
Warner

NAYS—77

Akaka
Alexander
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Brownback
Bunning
Byrd
Cantwell
Carper
Chafee
Clinton
Coburn
Coleman
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeWine
Dodd
Domenici
Dorgan
Ensign
Enzi
Feingold
Feinstein
Frist
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Talent
Thune
Vitter
Voinovich
Wyden

NOT VOTING—2

Durbin
Obama

The PRESIDING OFFICER. On this vote, the yeas are 21, the nays are 77. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. COCHRAN. I move to reconsider the vote.

Mr. KYL. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETINGS

Mr. FRIST. Before we vote, I have 10 unanimous consent requests for committees to meet. The request has been cleared on both sides, and I ask for these requests and ask that the requests be printed in the RECORD.

Mr. REID. Reserving the right to object, does this include—

Mr. FRIST. This is for 10 requests for committees to meet, other than the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I add that there was one committee left out of this request due to an objection on the other side of the aisle. Chairman LUGAR is holding a business meeting in the Foreign Relations Committee at 2:15, and there is an objection. I ask unanimous consent that committee request be granted and the committee be allowed to meet at 2:15.

Mr. REID. I object.

Mr. FRIST. I am disappointed there is an objection to allowing this important committee to do its work. That will make it necessary to recess for a period this afternoon to give Chairman LUGAR an opportunity to have his committee meeting. I understand there may be a request from the other side for a vote on the motion to recess. Senators should be on notice that if we are unable to work out this objection, we will vote at 2:15 this afternoon. Unfortunately, this recess will not allow debate and votes on additional amendments to the underlying emergency appropriations prior to this afternoon's cloture vote.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

> CLOTURE MOTION
>
> We the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Craig amendment to Calendar No. 67, H.R. 1268.

Bill Frist, Larry E. Craig, Mitch McConnell, Elizabeth Dole, Judd Gregg, Saxby Chambliss, Trent Lott, George V. Voinovich, Arlen Specter, Bob Bennett, Pete Domenici, Pat Roberts, John E. Sununu, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that the debate on amendment No. 375, offered by the Senator from Idaho, Mr. CRAIG, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. STABENOW. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—53

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Burns
Cantwell
Carper
Chafee
Clinton
Coleman
Corzine
Craig
Dayton
DeWine
Dodd
Domenici
Feingold
Hagel
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Voinovich
Warner
Wyden

NAYS—45

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burr
Byrd
Chambliss
Coburn
Cochran
Collins
Conrad
Cornyn
Crapo
DeMint
Dole
Dorgan
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
McConnell
Murkowski
Roberts
Rockefeller
Santorum
Sessions
Shelby
Stevens
Sununu
Talent
Thomas
Thune
Vitter

NOT VOTING—2

Durbin
Obama

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we have several amendments that have been cleared on both sides, and I am prepared to bring those to the attention of the Senate.

AMENDMENT NO. 547

Mr. President, I send to the desk an amendment on behalf of Mr. BOND regarding Federal Housing Enterprises Oversight, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BOND, proposes an amendment numbered 547.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate $5,000,000 for OFHEO to meet emergency funding needs; these funds are supported by fees collected from the regulated GSEs)

Insert the following on page 203, after line 17:

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT SALARIES AND EXPENSES (INCLUDING TRANSFER OF FUNDS)

For an additional amount of the "Office of Federal Housing Enterprise Oversight" for carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, $5,000,000 to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund: *Provided*, That not to exceed the amount provided herein shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: *Provided further*, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than $0..

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 547) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 527

Mr. COCHRAN. Mr. President, I call up amendment No. 527 on behalf of Ms. LANDRIEU regarding oil and gas fabrication ports.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Ms. LANDRIEU, proposes an amendment numbered 527.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the provision relating to offshore oil and gas fabrication ports)

On page 209, lines 15 and 16, strike "benefits" and insert "value".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 441

Mr. COCHRAN. Mr. President, I call up amendment No. 441 on behalf of Mr. SANTORUM regarding loan guarantees.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SANTORUM, proposes an amendment numbered 441.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow certain appropriated funds to be used to provide loan guarantees)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Notwithstanding any other provision of law, funds that have been appropriated to and awarded by the Secretary of Energy under the Clean Coal Power Initiative in accordance with financial assistance solicitation number DE-PS26-02NT41428 (as described in 67 Fed. Reg. 575) to construct a Fischer-Tropsch coal-to-oil project may be used by the Secretary to provide a loan guarantee for the project.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 441) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 407

Mr. COCHRAN. Mr. President, I call up amendment No. 407 on behalf of Mr. REID regarding the Walker River Basin.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. REID of Nevada, proposes an amendment numbered 407.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide assistance for the conduct of agricultural and natural resource conservation activities in the Walker River Basin, Nevada)

On page 211, strike lines 3 through 8 and insert the following:

AGRICULTURAL AND NATURAL RESOURCES OF THE WALKER RIVER BASIN

SEC. 6017. (a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary of the Interior (referred to in this section as the "Secretary"), acting through the Commissioner of Reclamation, shall provide not more than $850,000 to pay the State of Nevada's share of the costs for the Humboldt Project conveyance required under—

(A) title VIII of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2016); and

(B) section 217(a)(3) of the Energy and Water Development Appropriations Act, 2004 (117 Stat. 1853).

(2) Amounts provided under paragraph (1) may be used to pay—

(A) administrative costs;

(B) the costs associated with complying with—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(C) real estate transfer costs.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide not more than $70,000,000 to the University of Nevada—

(A) to acquire from willing sellers land, water, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

(i) innovative agricultural water conservation;

(ii) cooperative programs for environmental restoration;

(iii) fish and wildlife habitat restoration; and

(iv) wild horse and burro research and adoption marketing.

(2) In acquiring land, water, and related interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to—

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(c)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide not more than $10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be—

(A) acquired only from willing sellers; and

(B) designed to maximize water conveyances to Walker Lake.

(d) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide—

(1) $10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to Walker Lake, with priority given to activities that are expected to result in the greatest increased water flows to Walker Lake; and

(2) $5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 476

Mr. COCHRAN. Mr. President, I call up amendment No. 476 on behalf of Mr. BYRD regarding the Upper Tygart Watershed project.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BYRD, proposes an amendment numbered 476.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To transfer funds relating to certain watershed programs of the Department of Agriculture)

On page 198, between lines 21 and 22, insert the following:

SEC. 5134. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108–447) for the Lost River Watershed project, West Virginia, $4,000,000 shall be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 36).

Mr. BYRD. Mr. President, the amendment I am offering today is technical in nature in that it will provide for the transfer of previously appropriated funds from one ongoing Natural Resources Conservation Service, NRCS, project in West Virginia to another. The two projects involved are the Upper Tygart Valley Watershed project and the Lost River Watershed project. The Upper Tygart project will, once completed, provide water service to at least 16,000 residents in Randolph County, WV. The Lost River project is a series of dams that were designed to provide flood control, water supply, and recreation in Hardy County, WV.

The Upper Tygart Valley Watershed project requires a final $4 million in funding to initiate construction. The additional funds are necessary due to the fact that the project design was not yet completed when cost estimates for the project were formed. There has also been a dramatic rise in the cost of building materials for the project.

Funding in the amount of $4.2 million was provided to the Lost River Watershed project in the fiscal year 2005 Agriculture Appropriations bill. However, the project cannot proceed to construction in the current fiscal year due to a change in the project purpose requested by the project sponsor and subsequent requirements for the NRCS to reevaluate the project.

Due to these circumstances, I am offering this amendment which will provide the Natural Resources Conservation Service authority to transfer the previously appropriated construction funds from the Lost River Watershed project to the Upper Tygart Valley Watershed project. This action will enable the NRCS to initiate construction of the Upper Tygart project during the coming months. Again, I would like to reemphasize to my colleagues that this amendment does not appropriate new funds but instead transfers previously appropriated funds between two existing Natural Resources Conservation Service projects in West Virginia.

I thank my colleagues for their support of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 476) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 548

Mr. COCHRAN. Mr. President, I send to the desk an amendment on behalf of Mr. LEAHY regarding the protection of the Galapogas.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 548.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To encourage the Government of Ecuador to take urgent measures to protect the biodiversity of the Galapagos.

At the appropriate place in the bill, insert the following:

PROTECTION OF THE GALAPAGOS

SEC. . (a) FINDINGS.—The Senate makes the following findings—

(1) The Galapagos Islands are a global treasure and World Heritage Site, and the future of the Galapagos is in the hands of the Government of Ecuador;

(2) The world depends on the Government of Ecuador to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos, including enforcing the Galapagos Special Law;

(3) There are concerns with the current leadership of the Galapagos National Park Service and that the biodiversity of the Galapagos and the Marine Reserve are not being properly managed or adequately protected; and

(4) The Government of Ecuador has reportedly given preliminary approval for commercial airplane flights to the Island of Isabela, which may cause irreparable harm to the biodiversity of the Galapagos, and has allowed the export of fins from sharks caught accidentally in the Marine Reserve, which encourages illegal fishing.

(b) Whereas, now therefore, be it

Resolved, That—

(1) the Senate strongly encourages the Government of Ecuador to—

(A) refrain from taking any action that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve;

(B) abide by the agreement to select the Directorship of the Galapagos National Park Service through a transparent process based on merit as previously agreed by the Government of Ecuador, international donors, and nongovernmental organizations; and

(C) enforce the Galapagos Special Law in its entirety, including the governance structure defined by the law to ensure effective control of migration to the Galapagos and sustainable fishing practices, and prohibit long-line fishing which threatens the survival of shark and marine turtle populations.

(2) The Department of State should—

(A) emphasize to the Government of Ecuador the importance the United States gives to these issues; and

(B) offer assistance to implement the necessary policies and programs to ensure the long-term protection of the biodiversity of the Galapagos and the Marine Reserve and to sustain the livelihoods of the Galapagos population who depend on the marine ecosystem for survival.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 548.

The amendment (No. 548) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I have no further amendments to present to the Senate at this time.

I yield the floor.

AMENDMENT NO. 199

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise in support of the amendment offered by the senior Senator from Virginia, Mr. WARNER, of which I am a cosponsor as well as the two Senators from Florida.

The Department of Defense is on an ill-timed course to weaken our military strength by reducing the number of aircraft carriers from 12 to 11 and maybe even more. This decision is completely inconsistent with recent past statements on the absolute number of carriers needed to conduct operations.

According to ADM Vernon Clark, Chief of Naval Operations, just a little over 2 years ago:

> The current force of 12 carriers and 12 amphibious groups is the minimum we can have and sustain the kind of operations we are in.

According to the 2002 Naval Posture Statement:

> Aircraft carrier force levels have been set at 12 ships as a result of fiscal constraints; however, real-world experience and analysis indicate that a carrier force level of 15 ships is necessary to meet the warfighting Commander in Chief's requirements for carrier presence in all regions of importance to the United States.

I am not convinced that reducing our carrier fleet is the best strategic decision in the midst of our global war against terrorism. Realistically, it looks like the Department of Defense and the Navy are maneuvering quickly to negate any legislative oversight. But we in Congress should make sure that all considerations are taken into account before we rush into a decision that may hamper our military's ability to fight this global war on terrorism. That is why this amendment is being offered.

What does this amendment achieve? First, the amendment ensures that the Navy proceeds on the scheduled necessary maintenance of the USS *John F. Kennedy* so that the carrier is kept in active status. In addition, this amendment requires the Navy to keep 12 carriers until the latter of the following: 180 days after the quadrennial defense review comes before Congress or that the Secretary of Defense has certified to Congress that agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers that are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that command.

Moreover, it is important that we keep the *Kennedy* available because Admiral Clark stated that it is essential to have a carrier home ported in Japan. However, we know that Japan has serious reservations—in fact, prohibitions—about allowing us to port a nuclear carrier there, and currently there is no sign that that prohibition would be removed for nuclear carriers. Therefore, with Japan's prohibition on nuclear vessels, it is unwise to limit our options by retiring one of the only two nonnuclear aircraft carriers. The other is the *Kitty Hawk*, which is actually an older vessel than the *JFK*.

The bottom line is that the United States must have maximum flexibility in protecting our security interests in the Pacific and the Indian oceans. I believe any plan to mothball the *Kennedy* is shortsighted, especially during this time of war and with China's rapid naval buildup. In addition, as far as China is concerned, with the continued tension between China and Taiwan, it is imperative that we have a carrier in the region that can respond quickly to any possible conflict that may arise.

In that regard, the Washington Post published a story written by Edward Cody on April 12, 2005, entitled "China Builds A Smaller, Stronger Military; Modernization Can Alter Regional Balance Of Power Raising Stakes For The U.S."

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 12, 2005]

CHINA BUILDS A SMALLER, STRONGER MILITARY; MODERNIZATION COULD ALTER REGIONAL BALANCE OF POWER, RAISING STAKES FOR U.S.

(By Edward Cody)

A top-to-bottom modernization is transforming the Chinese military, raising the stakes for U.S. forces long dominant in the Pacific.

Several programs to improve China's armed forces could soon produce a stronger nuclear deterrent against the United States, soldiers better trained to use high-technology weapons, and more effective cruise and anti-ship missiles for use in the waters around Taiwan, according to foreign specialists and U.S. officials.

In the past several weeks, President Bush and his senior aides, including Defense Secretary Donald H. Rumsfeld, Secretary of State Condoleezza Rice and Director of Central Intelligence Porter J. Goss, have expressed concern over the recent pace of China's military progress and its effect on the regional balance of power.

Their comments suggested the modernization program might be on the brink of reaching one of its principal goals. For the last decade—at least since two U.S. aircraft carrier battle groups steamed in to show resolve during a moment of high tension over Taiwan in 1996—Chinese leaders have sought to field enough modern weaponry to ensure that any U.S. decision to intervene again would be painful and fraught with risk.

As far as is known, China's military has not come up with a weapon system that suddenly changes the equation in the Taiwan Strait or surrounding waters where Japanese and U.S. forces deploy, the specialists said. China has been trying to update its military for more than two decades, seeking to push the low-tech, manpower-heavy force it calls a people's army into the 21st-century world of computers, satellites and electronic weapons. Although results have been slow in coming, they added, several programs will come to fruition simultaneously in the next few years, promising a new level of firepower in one of the world's most volatile regions.

"This is the harvest time," said Lin Chong-pin, a former Taiwanese deputy defense minister and an expert on the Chinese military at the Foundation on International and Cross-Strait Studies in Taipei.

U.S. and Taiwanese military officials pointed in particular to China's rapid development of cruise and other antiship missiles designed to pierce the electronic defenses of U.S. vessels that might be dispatched to the Taiwan Strait in case of conflict.

The Chinese navy has taken delivery of two Russian-built Sovremenny-class guided missile destroyers and has six more on order, equipped with Sunburn missiles able to skim 4½ feet above the water at a speed of Mach 2.5 to evade radar. In addition, it has contracted with Russia to buy eight Kilo-class diesel submarines that carry Club anti-ship missiles with a range of 145 miles.

"These systems will present significant challenges in the event of a U.S. naval force response to a Taiwan crisis," Vice Adm. Lowell E. Jacoby, director of the Defense Intelligence Agency, told the Senate Armed Services Committee in testimony March 17.

Strategically, China's military is also close to achieving an improved nuclear deterrent against the United States, according to foreign officials and specialists.

The Type 094 nuclear missile submarine, launched last July to replace a trouble-prone Xia-class vessel, can carry 16 intercontinental ballistic missiles. Married with the newly developed Julang–2 missile, which has a range of more than 5,000 miles and the ability to carry independently targeted warheads, the 094 will give China a survivable nuclear deterrent against the continental United States, according to "Modernizing China's Military," a study by David Shambaugh of George Washington University.

In addition, the Dongfeng–31 solid-fuel mobile ballistic missile, a three-stage, land-based equivalent of the Julang-2, has been deployed in recent years to augment the approximately 20 Dongfeng–5 liquid-fuel missiles already in service, according to academic specialists citing U.S. intelligence reports.

It will be joined in coming years by an 8,000-mile Dongfeng–41, these reports said, putting the entire United States within range of land-based Chinese ICBMs as well. "The main purpose of that is not to attack the United States," Lin said. "The main purpose is to throw a monkey wrench into the decision-making process in Washington, to make the Americans think, and think again, about intervening in Taiwan, and by then the Chinese have moved in."

With a $1.3 trillion economy growing at more than 9 percent a year, China has acquired more than enough wealth to make these investments in a modern military. The announced defense budget has risen by double digits in most recent years. For 2005, it jumped 12.6 percent to hit nearly $30 billion.

The Pentagon estimates that real military expenditures, including weapons acquisitions and research tucked into other budgets, should be calculated at two or three times the announced figure. That would make China's defense expenditures among the world's largest, but still far behind the $400 billion budgeted this year by the United States.

Taiwan, the self-ruled island that China insists must reunite with the mainland, has long been at the center of this growth in military spending; one of the military's chief missions is to project a threat of force should Taiwan's rulers take steps toward formal independence.

Embodying the threat, the 2nd Artillery Corps has deployed more than 600 short-range ballistic missiles aimed at Taiwan from southeastern China's Fujian and Jiangxi provinces, according to Taiwan's deputy defense minister, Michael M. Tsai. Medium-range missiles have also been developed, he said, and much of China's modernization campaign is directed at acquiring weapons and support systems that would give it air and sea superiority in any conflict over the 100-mile-wide Taiwan Strait.

But the expansion of China's interests abroad, particularly energy needs, has also broadened the military's mission in recent years. Increasingly, according to foreign specialists and Chinese commentators, China's navy and air force have set out to project power in the South China Sea, where several islands are under dispute and vital oil supplies pass through, and in the East China Sea, where China and Japan are at loggerheads over mineral rights and several contested islands.

China has acquired signals-monitoring facilities on Burma's Coco Islands and, according to U.S. reports, at a port it is building in cooperation with Pakistan near the Iranian border at Gwadar, which looks out over tankers exiting the Persian Gulf. According to a report prepared for Rumsfeld's office by Booz Allen Hamilton, the consulting firm, China has developed a "string of pearls" strategy, seeking military-related agreements with Bangladesh, Cambodia and Thailand in addition to those with Burma and Pakistan.

Against this background, unifying Taiwan with the mainland has become more than just a nationalist goal. The 13,500-square-mile territory has also become a platform that China needs to protect southern sea lanes, through which pass 80 percent of its imported oil and tons of other imported raw materials. It could serve as a base for Chinese submarines to have unfettered access to the deep Pacific, according to Tsai, Taiwan's deputy defense minister. "Taiwan for them now is a strategic must and no longer just a sacred mission," Lin said.

Traditionally, China's threat against Taiwan has been envisaged as a Normandy-style assault by troops hitting the beaches. French, German, British and Mexican military attaches were invited to observe such landing exercises by specialized Chinese troops last September.

Also in that vein, specialists noted, the Chinese navy's fast-paced ship construction program includes landing vessels and troop transports. Two giant transports that were seen under construction in Shanghai's shipyards a year ago, for instance, have disappeared, presumably to the next stage of their preparation for deployment.

But U.S. and Taiwanese officials noted that China's amphibious forces had the ability to move across the strait only one armored division—about 12,000 men with their vehicles. That would be enough to occupy an outlying Taiwanese island as a gesture, they said, but not to seize the main island.

Instead, Taiwanese officials said, if a conflict arose, they would expect a graduated campaign of high-tech pinpoint attacks, including cruise missile strikes on key government offices or computer sabotage, designed to force the leadership in Taipei to negotiate short of all-out war. The 1996 crisis, when China test-fired missiles off the coast, cost the Taiwanese economy $20 billion in lost business and mobilization expenses, a senior security official recalled.

A little-discussed but key facet of China's military modernization has been a reduction in personnel and an intensive effort to better train and equip the soldiers who remain, particularly those who operate high-technology weapons. Dennis J. Blasko, a former U.S. military attache in Beijing who is writing a book on the People's Liberation Army, said that forming a core of skilled commissioned and noncommissioned officers and other specialists who can make the military run in a high-tech environment may be just as important in the long run as buying sophisticated weapons.

Premier Wen Jiabao told the National People's Congress last month that his government would soon complete a 200,000–soldier reduction that has been underway since 2003. That would leave about 2.3 million troops in the Chinese military, making it still the world's biggest, according to a report issued recently by the Defense Ministry.

Because of pensions and retraining for dismissed soldiers, the training and personnel reduction program has so far been an expense rather than a cost-cutter, according to foreign specialists. But it has encountered competition for funds from the high-tech and high-expense program to make China's military capable of waging what former president Jiang Zemin called "war under informationalized conditions."

The emphasis on high-tech warfare, as opposed to China's traditional reliance on masses of ground troops, was dramatized by shifts last September in the Communist Party's decision-making Central Military Commission, which had long been dominated by the People's Liberation Army. Air force commander Qiao Qingchen, Navy commander Zhang Dingfa and 2nd Artillery commander Jing Zhiyuan, whose units control China's ballistic missiles, joined the commission for the first time, signaling the importance of their responsibilities under the modernization drive.

Striving for air superiority over the Taiwan Strait, the air force has acquired from Russia more than 250 Sukhoi Su27 single-role and Su–30 all-weather, multi-role fighter planes, according to Richard D. Fisher, vice president of the International Assessment and Strategy Center in Washington. The Pentagon has forecast that, as the Sukhoi program continues to add to China's aging inventory, the air force will field about 2,000 warplanes by 2020, of which about 150 will be fourth-generation craft equipped with sophisticated avionics.

But specialists noted that many of China's Su–27s have spent most of the time on the ground for lack of maintenance. In addition, according to U.S. and Taiwanese experts, China has remained at the beginning stages of its effort to acquire the equipment and skills necessary for midair refueling, space-based information systems, and airborne reconnaissance and battle management platforms.

A senior Taiwanese military source said Chinese pilots started training on refueling and airborne battle management several years ago, but so far have neither the equipment nor the technique to integrate such operations into their order of battle. Similarly, he said, China has been testing use of Global Positioning System devices to guide its cruise missiles but remains some time away from deploying such technology.

Buying such electronic equipment would be China's most likely objective if the European Union goes ahead with plans to lift its arms sales embargo despite objections from Washington, a senior European diplomat in Beijing said. A Chinese effort to acquire Israel's Phalcon airborne radar system was stymied in 2000 when the United States prevailed on Israel to back out of the $1 billion deal.

Mr. ALLEN. At a time when our military is already stretched thin, why would we want to eliminate one of the most effective methods of projecting our power and possibly opening up an area of vulnerability for the United States and our allies. The decision is clear: We must preserve at least a 12-carrier minimum for the safety of Americans and for the rest of the world, particularly our allies.

I strongly support this amendment and urge my colleagues to do the same. This amendment offers a lifeline to the USS *John F. Kennedy*, and I am pleased that my good partner, Senator WARNER, was able to offer this commonsense approach to keeping the Kennedy viable as well as our deterrence and our ability to protect our interests in the western Pacific.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 407, AS MODIFIED

Mr. COCHRAN. Mr. President, in the amendments we cleared and approved a moment ago, there were two modifications which I neglected to send to the desk. The first was a modification of the Reid amendment. I ask unanimous consent that the Reid amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment, as previously agreed to, is so modified.

The amendment, as modified, is as follows:

On page 211, strike lines 3 through 8 and insert the following:

AGRICULTURAL AND NATURAL RESOURCES OF THE WALKER RIVER BASIN

SEC. 6017. (a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary of the Interior (referred to in this section as the "Secretary"), acting through the Commissioner of Reclamation, shall provide not more than $850,000 to pay the State of Nevada's share of the costs for the Humboldt Project conveyance required under—

(A) title VIII of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2016); and

(B) section 217(a)(3) of the Energy and Water Development Appropriations Act, 2004 (117 Stat. 1853).

(2) Amounts provided under paragraph (1) may be used to pay—

(A) administrative costs;

(B) the costs associated with complying with—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(C) real estate transfer costs.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide not more than $70,000,000 to the University of Nevada—

(A) to acquire from willing sellers land, water, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

(i) innovative agricultural water conservation;

(ii) cooperative programs for environmental restoration;

(iii) fish and wildlife habitat restoration; and

(iv) wild horse and burro research and adoption marketing.

(2) In acquiring land, water, and related interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to—

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(c)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide not more than $10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be—

(A) acquired only from willing sellers; and

(B) designed to maximize water conveyances to Walker Lake.

(d) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary, acting through the Commissioner of Reclamation, shall provide—

(1) $10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to Walker Lake, with priority given to activities that are expected to result in the greatest increased water flows to Walker Lake; and

(2) $5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

AMENDMENT NO. 476, AS MODIFIED

Mr. COCHRAN. Mr. President, I make the same request with respect to modification of the amendment previously agreed to by the Senate on behalf of Senator BYRD.

The PRESIDING OFFICER. Without objection, the amendment, as previously agreed to, is so modified.

The amendment, as modified, is as follows:

On page 198, between lines 21 and 22, insert the following:

SEC. 5134. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108-447) for the Lost River Watershed project, West Virginia, $4,000,000 may be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 36).

Mr. COCHRAN. I thank the Chair and yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:17 p.m.

Thereupon, at 12:52 p.m., the Senate recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. COBURN).

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005—Continued

Mr. FRIST. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, Senators have until 4:30 p.m. today to file second-degree amendments to both the Mikulski amendment and the underlying bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. FRIST. Mr. President, given the objection to the Foreign Relations Committee meeting, I ask unanimous consent that the Senate stand in recess until 4:20.

Mrs. BOXER. I object.

Mr. REED. I object.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate recess until 4:20.

Mrs. BOXER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2]

Coburn
Cornyn
Frist

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. FRIST. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. STABENOW. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—91

Akaka
Alexander
Allard
Bayh
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—7

Allen
Baucus
Boxer
Dodd
Feingold
Leahy
Mikulski

NOT VOTING—2

Durbin
Obama

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

MOTION TO RECESS

Mr. FRIST. Mr. President, I modify the pending motion to recess until 5 p.m. I send the motion to the desk.

The PRESIDING OFFICER. The motion is so modified.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. FRIST. I ask unanimous consent that at 5 p.m., Senator MIKULSKI have 5 minutes before the cloture vote.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Reserving the right to object.

Mr. WARNER. Mr. President, as a cosponsor, I would like to have 2 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Is the Senator saying we are going to go immediately to cloture on the whole bill or the Mikulski amendment at 5 o'clock?

Mr. FRIST. For clarification, at 5 o'clock Senator MIKULSKI will be given 5 minutes before the cloture vote on her amendment.

Mrs. HUTCHISON. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, as a cosponsor, may I have 2 minutes?

Mr. FRIST. Mr. President, I think that will be fine, with the leadership on both sides for 2 additional minutes, Senator MIKULSKI for 5 minutes, and Senator WARNER for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Ms. STABENOW. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—56

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kohl
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—42

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Durbin
Obama

The motion was agreed to.

RECESS

Thereupon, the Senate, at 3:16 p.m., recessed until 5 p.m. and reassembled when called to order by the Presiding Officer (Mr. GRAHAM).

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005—Continued

AMENDMENT NO. 387

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland, Ms. MIKULSKI, will be recognized for 5 minutes, and the Senator from Virginia, Mr. WARNER, will be recognized for 2 minutes.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to ask my colleagues to support cloture on the amendment I offered last week on the H-2B visas. This amendment is desperately needed by small and seasonal business throughout the United States. This amendment is identical to the bipartisan bill I introduced in February called the Save Our Small and Seasonal Business Act. It is designed to be a temporary solution to the seasonal worker shortage that many coastal and resort States are facing.

My amendment helps keep American jobs, keep American companies open, and yet retains control of our borders. Small and seasonal businesses all over our country are in crisis. They need seasonal workers before the summer can begin so they can survive. For years they relied on an H-2B visa program to meet their needs. The program allows businesses to hire temporary seasonal foreign workers with a mandated return to their home country when no other American workers are available. But this year they can't get temporary labor. They have been facing this for the last couple of years because they have been shut out of the program because there is a cap and the cap is reached by the wintertime.

My amendment will help these employers by doing three things. One, it temporarily exempts good actor workers from the H-2B cap so employers can apply for and name employees who have already come back and forth to the United States. It protects against fraud, and it provides a fair and balanced allocation of the H-2B visas between winter and summer people.

Let me be clear about my amendment. First, it protects American jobs. Second, it is a short-term remedy because it is only a 2-year solution. What it does is exempt seasonal workers from the cap. That means there are no new workers. There are no new immigrants. It means no more new guest workers. It means people who have worked here before, who have played by the rules and gone back home, are the only ones who will be eligible. They have to have been here in the last 3 years, worked in absolute compliance with the law, and returned back home to Mexico as required. So it is not new people who will be exempt. It is an employment program for them and for us.

The employer has to go through the whole Department of Labor and Homeland Security process so we are in compliance with labor rules and we also ensure our national security.

Like my colleagues, I worry about fraud, so we have very strong antifraud provisions. We also make the system better by creating this fair allocation. We recognize that States need them in the winter, but summertime people need them, too.

There is a crisis. Thousands of small businesses are affected by this. Hitting the cap so early had a great impact on my own State of Maryland. We had a lot of summer seasonal business, particularly over there on the Eastern

Shore, working that wonderful, fabulous Chesapeake Bay I share with my colleagues from Virginia. Many of our businesses used this program year after year. First they hire all the American workers they can find. Then they turn to the H–2B to find additional workers. I could give example after example, but I can tell you, if they don't get this legislation, they will have to either lay off their permanent workers or close their doors.

So what my legislation is all about is a simple legislative remedy with strong bipartisan support. It is realistic. It is specific. It is narrow. It stands up for American companies, protects our borders.

I know there is great urgency about this. We absolutely need it. Many of my companies have been around for 100 years working in the Chesapeake Bay. Many of them provide the livelihoods not only on the Eastern Shore but because of our fabulous seafood processing industry. We provide jobs also in Baltimore and Bethesda and other parts. We have to pass this legislation because if they can't start to hire within the next few weeks, we are going to close American companies and end up with an even more porous border.

I urge the adoption of my amendment, but now I urge my colleagues to vote for cloture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Maryland. We have in the Senate a great respect and admiration for the junior Senator from Maryland for her commitment for the little person. I cannot think of another example in her long and distinguished career in the Senate where there is a clearer case for the small business, that individual who is struggling to make an honest living and provide jobs for others.

We have before us today a tremendous challenge as it relates to immigration on a wide range of issues. This program works. It is very small in comparison to others, but it works. It serves the small businesses, not only seafood, which we have talked about before in the context of this amendment, but other small things—the bed and breakfasts, the small hotels that are so important in our respective States and elsewhere in America.

I say to our colleagues, as they come to join us, it is essential that we pass this to help this category of small businesspersons and to lend credence to a program that works. For every one of these individuals who is brought in, it would be my judgment—and I concur, with my distinguished colleague—that there are two or three permanent American workers whose jobs are supported by their efforts. Oftentimes most of these come in for a short period, some several months, largely in the summertime; some in the fall. Then they go back to their homes beyond the borders of the United States. But the American worker then takes their work product and it enables them to have a full-time, 12-month means of employment.

This is one on which my colleagues will be proud to vote for cloture. In effect, it will enable this legislation to pass.

On behalf of the leadership of the Senate, I ask unanimous consent that the filing deadline for second-degree amendments be extended until the beginning of the cloture vote on the Mikulski amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I yield whatever time I have remaining to the other Senator from Virginia.

Mr. WARNER. Do I not have a bit of time on mine? On behalf of my colleague from Virginia, I ask unanimous consent that he proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

Mr. ALLEN. Mr. President, I thank my colleague from Virginia and the Senator from Maryland. I urge my colleagues to support the cloture motion on this amendment. It is an immigration issue, but it is more importantly a small business issue.

There are a lot of small businesses that are seasonal in nature. It may be construction, landscaping, tourism, or the seafood industry. It is vitally important that we get this immigration, this H–2B visa issue, in order logically. These are law-abiding citizens who want to keep their small business in operation, providing the services that people in their communities so desire.

I thank the Chair and my colleagues. I hope all colleagues will vote for small businesses, to keep them operating in States all across the Nation and bring some common sense with this temporary remedy, to bring some common sense and reasonableness to a program that every year ends up in a crisis. I thank Senator MIKULSKI of Maryland and my colleague from Virginia, Senator WARNER, of course. All of us are working together for the betterment of many family businesses.

Mr. WARNER. Mr. President, the two Senators from Virginia accept the challenge of the Senator from Maryland to a cookoff on crabcakes. Before we started this, the Senator talked about her mother's formula. We have ours.

Ms. MIKULSKI. I thank the Senator from Virginia. I accept the challenge. If it takes two of you to take me on, so be it.

Mr. WARNER. With that, I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Mikulski amendment No. 387 to H.R. 1268.

B.A. Mikulski, J. Lieberman, Jon Corzine, Jeff Bingaman, Byron Dorgan, Ron Wyden, Ken Salazar, Hillary Clinton, Mark Pryor, Dick Durbin, Bill Nelson, Chuck Schumer, Barack Obama, Frank Lautenberg, Patrick Leahy, Debbie Stabenow, Chris Dodd.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 387, offered by the Senator from Maryland, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 83, nays 17, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—83

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Burns
Burr
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Coleman
Collins
Conrad
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Graham
Gregg
Hagel
Harkin
Hatch
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
McCain
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Voinovich
Warner
Wyden

NAYS—17

Alexander
Brownback
Bunning
Byrd
Cochran
Cornyn
Ensign
Frist
Grassley
Hutchison
Inhofe
Lott
McConnell
Roberts
Sessions
Shelby
Vitter

The PRESIDING OFFICER. On this vote, the yeas are 83, the nays are 17. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Ms. MIKULSKI. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENZI. Mr. President, I rise today in support of the Save Our Small and Seasonal Business Act, offered as an amendment by Senator MIKULSKI to the Supplemental Appropriations Act.

As many of my colleagues have stated, this amendment is very simple and straightforward. It is a temporary fix and does not reward illegal workers. It basically allows those workers who have followed the rules and returned home at the end of their season to come back to work in the United States and not count against the H-2B visa cap.

As the situation stands right now, the many businesses across our Nation that use the visas are limited by how many can be approved each year. The demand of the visas is high and the Department of Labor has certified that there are positions that cannot be filled locally. With the cap being for the entire fiscal year, those businesses with their season in the fall and winter have a better chance of getting the employees they need. In Wyoming, we have strong summer and winter seasons. Our winter businesses have been able to get their workers and yet see the impact of not having enough employees in the summer.

The H-2B visas are used in Wyoming by small businesses in a variety of areas. I have heard from hotels, restaurants, touring companies, hunting companies, art and framing stores, and others. Many of these people depend on their return workers to keep their businesses going. While some may consider this unskilled labor, a return worker who knows the job and knows the customers is invaluable for a small business.

This amendment is about helping our small and seasonal businesses survive another year—to give them a chance to stay in business until the Senate can fully debate needed changes in immigration reform. It does not provide amnesty or benefit those who have broken our laws.

This type of visa actually puts such a high level of responsibility on the employers that we should consider putting some of these requirements on other types of visas. Under Federal law, the employer must certify that they cannot hire locally, the employer must guarantee wages, and the employer accepts responsibility for the worker. The amendment we are considering today keeps that built-in protection. It also increases fraud protection to help us ensure that those who have the visa applications approved are those who need the employees.

The support we have already heard for this amendment is evidence of the wide impact of the H-2B visa program. Businesses from mountain States and coastal States are in need of help. We have an opportunity to take positive action in support of the small businesses that drive our economy. I encourage all my colleagues to support the Mikulski amendment.

AMENDMENT NO. 555

Mr. KYL. Mr. President, I have an amendment at the desk, No. 555.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 555.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the criteria for excluding certain H-2B workers from the numerical limitations under section 214(g)(1)(B) of the Immigration and Nationality Act)

On page 2, strike lines 5 through 11, and insert the following:

"(9)(A) Subject to subparagraphs (B) and (C), an alien counted toward the numerical limitations of paragraph (1)(B) during any 1 of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved.

"(B) A petition referred to in subparagraph (A) shall include, with respect to an alien—

"(i) the full name of the alien; and

"(ii) a certification to the Department of Homeland Security that the alien is a returning worker.

"(C) An H–2B visa for a returning worker shall be approved only if the name of the individual on the petition is confirmed by—

"(i) the Department of State; or

"(ii) if the alien is visa exempt, the Department of Homeland Security.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 555) was agreed to.

Mr. KYL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 387, AS AMENDED

Ms. MIKULSKI. Mr. President, there is no further debate on the amendment. I yield all of my time and, therefore, request a vote on my amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—94

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Voinovich
Warner
Wyden

NAYS—6

Byrd
Inhofe
Nelson (FL)
Sessions
Shelby
Vitter

The amendment (No. 387), as amended, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. ENSIGN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, the next vote will be on invoking cloture on the bill. I hope we will, in fact, invoke cloture. If cloture is invoked this evening, it will be the last vote of the evening. This will give the two managers time to work through the pending amendments to determine which are germane. We will resume consideration of the bill tomorrow and complete action on it. I say this in advance of the cloture vote. If cloture is not invoked tonight, then we would have additional votes this evening.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, for the purpose of completing action on cleared amendments, there are two amendments that do not require a rollcall vote. Senator HUTCHISON has an amendment and Senator CHAMBLISS has an amendment. I ask unanimous consent that it be in order for them to offer those amendments at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

AMENDMENT NO. 379, AS MODIFIED

Mrs. HUTCHISON. Mr. President, I call up amendment No. 379 and send a modification to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. SCHUMER, and Mr. DOMENICI, proposes an amendment numbered 379, as modified.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To make unused EB3 visas available to bring nurses to the United States through Department of State procedures)

On page 231, between lines 3 and 4, insert the following new section:

RECAPTURE OF VISAS

SEC. 6047. Section 106(d)(2)(A) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1), by inserting before the period at the end of the second sentence "and any such visa that is made available due to the difference between the number of employment-based visas that were made available in fiscal year 2001, 2002, 2003, or 2004 and the number of such visas that were actually used in such fiscal year shall be available only to employment-based immigrants, and the dependents of such immigrants, and 50% of such visas shall be made available to those whose immigrant worker petitions were approved based on schedule A, as defined in section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor"; and

(2) in paragraph (2)(A), by striking "and 2000" and inserting "through 2004".

Mrs. HUTCHISON. Mr. President, this is an amendment to recapture unused EB–3 visas. Senator SCHUMER, Senator KENNEDY and I have worked on this to try to assure that 50 percent of the unused EB–3 visas help resolve our serious nursing shortage. It is very important. These visas go out of existence and cannot be recaptured except by an act of Congress. They have already been authorized. We need to recapture the unused visas from 2001 to 2004, add to the number of nurses we can bring to our country, as well as the EB–3 engineers and educated workforce that are waiting in the wings.

Mr. President, I ask all of my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague from Texas. This is an amendment we have worked on together. As she said, it fills some badly needed positions without increasing the overall number. I hope we will support it.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Texas.

The Senator from Georgia.

AMENDMENT NO. 418, AS FURTHER MODIFIED

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to further modify my amendment No. 418 with the changes that are at the desk, and also add a number of cosponsors whose names are also at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as further modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC–130J AIRCRAFT

SEC. 1122. No funds in this Act may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC-130J aircraft that is in effect on the date of the enactment of this Act.

Mr. CHAMBLISS. I thank the Chair.

Mr. PRYOR. Mr. President, I stand with Senator SAXBY CHAMBLISS and strongly support his amendment to ensure the C–130J contracts continue without interruption this year.

The C–130J has quickly been adapted to play vital and unique roles in our national defense efforts. Today, both U.S. and Allied C–130Js are performing operational missions in CENTCOM with a mission capable rate of over 90 percent. The J performs missions in Iraq in 1 day that requires the C–130E or H model 2 days. It is equally critical for relief operations like the Tsunami effort in Asia, where lives were spared due to the C–130Js quick capabilities.

I have made several visits to the Little Rock Air Force Base, the premier training facility for the C–130J, and I have seen first hand the J model's new features and capabilities. The C–130Js climb higher and faster, flies at higher cruise speeds, takes off and lands in a shorter distance, and is easier, safer and cheaper to operate than its predecessor.

The military officials and troops who I have talked with want to continue using C–130Js and they depend on the model's new features on the ground. Cutting production of the C–130Js would not only deny our soldiers the cutting-edge technology they need on today's battlefield, but it would leave the Air Force and Marine Corps with an aging and far less capable tactical airlift.

As I am sure my colleagues are aware, the Air Force recently grounded or severely restricted the flying of 90 C–130s due to old age. Eighty-four of these carriers are assigned to the Active-Duty Air Force. By further terminating the contracts for C–130Js, we would be leaving the Air Force unable to meet its future tactical requirements. The Air Force will be 116 aircraft short of requirement and the Marine Corps will be short 18 aircraft.

Terminating the C–130J contracts is short-sighted from a tactical standpoint, but it is also foolish from a financial standpoint. Terminating the current contracts could cost taxpayers more than the cost of building new carriers. Liability fees for ending the C–130J multiyear contracts are estimated at $1.3 billion for the Air Force and $0.3 billion for the Marine Corps for a total of $1.6 billion. This estimate does not include the increased costs of maintaining aging planes.

I urge my colleagues to support this amendment and help ensure our military has the equipment it needs to effectively and safely carry out their missions, now and in the future.

AMENDMENT NO. 379, AS MODIFIED

Mrs. HUTCHISON. Mr. President, I ask for a voice vote on my amendment. We need to dispose of amendment No. 379, as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 379), as modified, was agreed to.

Mrs. HUTCHISON. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 67, H.R. 1268.

Bill Frist, Mitch McConnell, Elizabeth Dole, Olympia Snowe, Norm Coleman, Pat Roberts, Orrin Hatch, John Cornyn, Craig Thomas, Michael Enzi, Larry E. Craig, Trent Lott, George V. Voinovich, Bob Bennett, Pete Domenici, Richard Burr, James Talent.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 1268, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Humanitarian Assistance Code of Conduct Act of 2005, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The yeas and nays resulted—yeas 100, nays 0, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—100

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 100, the nays are 0.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to yield to the Senator from West Virginia for the purposes of proposing an amendment and then following that, I regain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 516

Mr. BYRD. Mr. President, I thank the very distinguished Senator from Arizona for his characteristic courtesy.

I call up amendment No. 516 and ask that it be stated and temporarily laid aside.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 516.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for border security)

On page 187, after line 4, insert the following:

REDUCTION IN FUNDING FOR DIPLOMATIC AND CONSULAR PROGRAMS

The amount for "Diplomatic and Consular Programs" under chapter 2 of title II shall be $357,700,000.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $389,613,000, of which $128,000,000, to remain available until September 30, 2006, shall be available for the enforcement of immigration and customs laws, detention and removal, and investigations, including the hiring of immigration investigators, enforcement agents, and deportation officers, and the provision of detention bed space, and of which the Assistant Secretary for Immigration and Customs Enforcement shall transfer (1) $179,745,000, to Customs and Border Protection, to remain available until September 30, 2006, for "SALARIES AND EXPENSES", for the hiring of Border Patrol agents and related mission support expenses and continued operation of unmanned aerial vehicles along the Southwest Border; (2) $67,438,000, to Customs and Border Protection, to remain available until expended, for "CONSTRUCTION"; (3) $10,471,000, to the Federal Law Enforcement Training Center, to remain available until September 30, 2006, for "SALARIES AND EXPENSES"; and (4) $3,959,000, to the Federal Law Enforcement Training Center, to remain available until expended, for "ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES", for the provision of training at the Border Patrol Academy.

Mr. BYRD. Mr. President, I ask that the amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I am obviously always glad to accommodate the most distinguished Member of the Senate from West Virginia.

The emergency supplemental appropriations for Defense, the global war on terror, and tsunami relief for 2005 provides critical resources for our men and women in uniform and for our foremost foreign policy priorities. While I recognize the importance of its timely passage, I am concerned it includes a number of provisions that do not constitute "emergency spending." These items clearly should be debated and funded under the regular order.

Before I go further, I would like to congratulate the distinguished chairman of the Appropriations Committee for the hard work that he and his staff have done in putting together this very vital appropriations measure to pursue the war on terror and, of course, the war in Afghanistan and Iraq.

We ought to ask a basic question: What is the purpose of emergency appropriations? It is twofold. First, it is supposed to provide funding for critical expenditures beyond what was anticipated in the President's annual budget request; second, it is supposed to pay for vital priorities that simply cannot wait until next year's budget.

What are the common elements? The unexpected and the time sensitive. Simply put, the purpose of the supplemental appropriations bill is to fund our country's urgent and unanticipated needs.

We have to consider this in the context of a couple of comments that have been made recently. At a conference in February, David Walker, the Comptroller General of the United States, said:

> If we are to continue on our present path, we'll see pressure for deep spending cuts or dramatic tax increases. GAO's long-term budget simulations paint a chilling picture. If we do nothing, by 2040 we may have to cut federal spending by more than half or raise federal taxes by more than two and a half times to balance the budget. Clearly, the status quo is both unsustainable and difficult choices are unavoidable. And the longer we wait, the more onerous our options will become and the less transition time we will have.

Is that really the kind of legacy we should leave to future generations of Americans?

Referring to our economic outlook, Federal Reserve Chairman Alan Greenspan testified before Congress:

> (T)he dimension of the challenge is enormous. The one certainty is that the resolution of this situation will require difficult choices and that the future performance of the economy will depend on those choices. No changes will be easy, as they all will involve lowering claims on resources or raising financial obligations. It falls on the Congress to determine how best to address the competing claims.

He said it falls on Congress. The head of the U.S. Government's chief watchdog agency and the Nation's chief economist agree we are in real trouble. We are in real trouble. Here is a radical idea for my colleagues to consider to help secure our economic future: Stop using scarce Federal dollars, taxpayers' dollars to fund unnecessary earmarks and all the other frivolous projects that do nothing to provide for the greater good of our Nation.

A case in point of what this legislation is and should be all about is the urgent need of Balad Air Base in Iraq, a U.S. Army camp on the very front line of the war on terror. The service members who live there have nicknamed it "Mortaritaville" because of the frequency of insurgent mortar attacks. Balad is quickly becoming a hub for military operations in the Sunni Triangle and is home to more than 20,000 U.S. troops. As a result, the camp's infrastructure is becoming overwhelmed and requires more than $63 million to remain functional and effective. This camp needs emergency funding.

The Department of Defense listed construction of a hospital facility, command and control buildings, and related equipment among its emergency needs for Balad, and appropriators in the House and Senate have rightly agreed to such funding. The DOD and our appropriators recognize these improvements to Balad are critical to our efforts in Iraq and the broader war on terror, and this is why we have an emergency supplemental appropriations bill to fund these types of needs.

The bill includes many important provisions such as increased death benefits, military operational costs, recapitalization of equipment, and research and development associated with the war on terror to which I lend my strongest support.

For example, this bill provides $1.285 billion in assistance to the security forces of Afghanistan; $5.7 billion for the security forces of Iraq; $227 million for counternarcotics activities in Afghanistan and Pakistan; and $44 million for humanitarian assistance in Darfur, Sudan.

The foreign affairs provisions of this bill are remarkably free of pork. As one who supports ensuring that taxpayers' dollars are spent properly, I commend my colleagues and the chairman for their restraint in this area. Unfortunately, due to its "must pass" nature, a number of unauthorized provisions and funding not requested by the President and unrelated to defense or foreign affairs have been included in this bill, and literally hundreds of amendments have been attempted to be added to the bill. The administration's proposed definition of an emergency requirement is "a necessary expenditure that is sudden, urgent, unforeseen, and not permanent."

We should do everything in our power to ensure this bill passes. But we must also ensure every item in it is of a true emergency nature.

It is evident that some of my colleagues misunderstand the purpose of supplemental appropriations, and continue to seek to add spending to this bill that should be addressed as part of the regular appropriations process. In fact, there is an unmistakable trend turning emergency supplementals into a second budget request. Many programs that should be in the baseline budget are somehow finding their way into this supplemental. We must not allow this trend to continue—we must not allow the supplemental to become a de facto second budget.

Let's look at a few examples of the kind of non-emergency spending that has found its way into this bill.

There is $10 million for the University of Hawaii Library. I was unaware that the war in Iraq and Afghanistan was also being fought at the University of Hawaii's library.

There is $2.4 million to the Forest Service to repair damage to national forest lands—surely a necessary expense—but one that should be funded through the proper process, beginning with an authorization and testimony by officials from the Forest Service in a public hearing.

There is $23 million to the Capitol Police for the construction of an "off-site delivery facility." I'll be the first one around here to praise the U.S. Capitol police for the good work that they do—I am sure this facility is a high priority to them. But, again, let's provide funding for this through the proper process—public hearings, authorizing legislation, and the proper appropriations vehicle.

There is language in the bill to increase authorized funds for a fish hatchery in Fort Peck, Montana, from $20 million to $25 million. I would like to know how a "multi-species fish hatchery" is related to the War on Terror. Does the author of such language believe the hatched fish may enlist in our armed forces? Was it requested by the President as an emergency need? No. Is this authorization related to the stated purpose of the supplemental? No.

The bill also includes language authorizing the Secretary of the Interior to analyze the viability of a sanctuary for the Rio Grande Silvery Minnow in the Middle Rio Grande Valley. The Rio Grande Silvery Minnow is a stout silvery minnow with moderately small eyes and a small mouth. Adults minnows may reach 3.5 inches in total length. Perhaps the silvery minnow could enlist with the Fort Peck, MT fish. I will await the Secretary's study.

The bill includes $500,000 for a study of wind energy in North Dakota and South Dakota. I believe we can all agree that this expenditure earmark is not urgent. In fact, I am not certain there is a need for a study as the wind energy potential in the Dakotas is well-established. And I don't know what it has to do with fighting the war on terror or aiding the tsunami disaster victims.

Another $500,000 is earmarked to the University of Nevada Reno for the Oral History of the Negotiated Settlement project. I ask my colleagues, how is this useful to the war on terror? How is this an emergency need?

No bill would be complete without several projects for the State of Alaska. The bill includes language that addresses how the Agriculture Department pays dairy farmers in Alaska. I certainly don't wish to neglect our Alaskan dairy farmers, but I cannot support prioritizing their payment issues over the needs of our soldiers.

The bill includes $175,000 not requested by the President to remove the sunken vessel *State of Pennsylvania* from the Christina River in Delaware. That particular vessel has been at the bottom of the Christina River for more than a decade, is not endangering commercial traffic on the river, and I am sure Congress can wait to fund its removal during the regular appropriations process.

Another $55 million is earmarked for a wastewater treatment facility in Desoto County, MS. How exactly does this help the troops?

Not only do I have concerns with some of the provisions the Appropriations Committee included in this bill, as I have highlighted, I am very troubled by some of the amendments being proposed. I am well aware that many of my colleagues—and their staffs—have expressed frustrations about my objections to their amendments. I have, and will continue, to object to adopting certain amendments by unanimous consent. This is an "emergency supplemental"—its not a Christmas wish list. I frankly do not understand the managers willingness to agree to some of these proposals. Some of them sound reasonable, but who can be sure? That is why the President's request is so important—it is thought out and designed to carry out specific objectives that are urgent and necessary. I do not particularly care for being in the position of "bad cop", but so be it. But I cannot agree to unanimous approval of amendments that appear more wishful and urgent. For example, $1 million for lobster disease in the northeast. I do not doubt that this may be a problem but it simply does not belong on an emergency supplemental appropriations bill to fund the war. There is legislation regarding State regulation of hunting and fishing. I support this concept, and even cosponsored a bill last year to reaffirm the authority of State governments to regulate their own hunting and fishing programs. But the simple fact remains that tacking this legislation onto a war-time emergency supplemental is both inappropriate and unnecessary. We can and should pass this bill through the regular legislative process.

Tomorrow I will be joining with my friend from Oklahoma, Senator COBURN, in offering amendments to strike the most egregious, unnecessary, and non-emergency provisions from this bill. I urge my colleagues to support our efforts to keep this important legislation free from non-essential, pork barrel projects.

Let me close by noting that I appreciate the hard work of the Appropriations Committee and their staff. Field visits were conducted in Afghanistan and the Middle East as the Committee diligently researched the DoD's many requests pursuant to the war on terror. But I am concerned about their decision to include unnecessary, non-emergency earmarks in this bill and the accompanying report. When considering military construction projects like those in Balad, Iraq, consideration was taken to determine whether the project was truly of an emergency nature. Why did the Committee not apply the same consideration to the fish hatchery in Montana?

As I mentioned, on tomorrow I have a couple of amendments we will be seeking votes on. I hope we realize we have a looming deficit, a trade deficit, and unanticipated expenses concerning the war in Iraq. There was one high-ranking Defense official at the time of the beginning of the war in Iraq who said the oil revenues would pay for United States expenses. We are now up to close to $300 billion and we are not yet able to reduce our forces. I think we ought to take into consideration the fact that we will have continued, very significant expenses associated with the conflict in Iraq and in Afghanistan before we begin appropriating money for fish hatcheries and for libraries.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER and Mr. LEAHY pertaining to the introduction of S. 852 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 440

Mr. REID. Mr. President, on behalf of Senator BIDEN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BIDEN, proposes an amendment numbered 440.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate, with an offset, $6,000,000 for the Defense Health Program for force protection work and medical care at the Vaccine Health Care Centers)

On page 169, between lines 8 and 9, insert the following:

FORCE PROTECTION WORK AND MEDICAL CARE AT VACCINE HEALTH CARE CENTERS

SEC. 1122. (a) INCREASE IN AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount appropriated by this chapter under the heading "DEFENSE HEALTH PROGRAM" is hereby increased by $6,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated or otherwise made available by this chapter under the heading "DEFENSE HEALTH PROGRAM", as increased by subsection (a), $6,000,000 shall be available for force protection work and medical care at the Vaccine Health Care Centers.

(c) OFFSET.—The amount appropriated by chapter 2 of this title under the heading "GLOBAL WAR ON TERROR PARTNERS FUND" is hereby reduced by $6,000,000.

Mr. BIDEN. Mr. President, I rise to offer amendment No. 440 on behalf of myself, Senator BINGAMAN, and Senator CARPER to fully protect the health of our military personnel. Let me explain. The military regularly protects our troops by vaccinating them. There are vaccines to keep personnel healthy in the face of common illnesses like the flu and to protect them from biological warfare agents such as anthrax or smallpox.

These force protection measures are important. Equally important is the recognition that not every person will react positively to a vaccination.

Vaccines, even those generally considered safe, are still drugs put into the body. There will always be a small number of personnel whose bodies have an adverse reaction to a safe vaccine. In order to deal with this, the Vaccine Health Care Centers Network was established in 2001.

The centers act as a specialized medical unit that can provide the best possible clinical care to any military member, active duty, Guard or Reserve, or their family that has a severe reaction. They also advise the Department of Defense regarding vaccine administration policies and educate military health care professionals regarding the safest and best practices for vaccine administration. Their overall mission is to promote vaccine safety and provide expert knowledge to patients and physicians.

Why is this so important? As many of my colleagues know, the number of adults who get regular vaccines is fairly small. While we have specialists who deal with childhood vaccinations and problems that might develop, the population of adults regularly vaccinated with anything more than the flu vaccine is small.

In the military, the reverse is true. Military personnel are regularly vaccinated for travel, for threats relating to their theater of operation, and for thinks such as the flu.

For this reason, it is essential that the military have a centralized place to capture the information on those who experience severe problems. In particular, because serious problems are rare, it is difficult for the average base physician to develop the expertise needed to provide the best treatment.

Let me give my colleagues more specifics.

In fiscal year 2004, the centers responded to over 120,000 emails and other consultation inquiries.

They managed over 600 cases of prolonged adverse events, which means literally over 58,000 pages of medical information reviewed. These are very complex and specialized medical cases. They require personnel with expertise and the ability to dedicate significant time.

Since beginning operations in 2001, the total number of cases managed through fiscal year 2004 is 1,341.

Without the centers, that is over one thousand military personnel who would not have gotten the care they deserve. The best possible care we can provide.

In addition to providing care and consultative services, the centers developed clinical guidelines and aids for physicians and nurses giving vaccines. Over 28,000 immunization "tool kits" were distributed. They have also provided ongoing education at bases through lectures and training.

In addition, they have worked collaboratively with outside researchers to get the best possible analysis of the trends in cases that they do see.

This has all been done by an extremely small staff—only one full-time doctor, three nurse practitioners, and five educators and support staff at each of the four regional facilities. The value and medical services they have provided to the entire military family—Army, Navy, Air Force, Marines, and Coast Guard—has been extraordinary.

Military personnel and their dependents are more confident in the vaccination programs and reports from those who do suffer adverse reactions are extremely positive regarding the care they now get from the centers.

Why do we need to provide $6 million on the emergency supplemental for this? The reason is simple. The centers are in danger of losing part of their funding this fiscal year. They are currently funded with Army global war on terror money.

I applaud the Army for recognizing the need for the centers and providing those funds from their wartime allocation. But the Army is only the executive agent for what is a defense-wide service. They cannot be the sole funder. I am very concerned that the funding this year is being redirected because other services have not budgeted for the centers' work, despite the fact that 46 percent of their cases were related to Air Force, Navy, and Marines personnel.

Clearly, force protection in this time of war demands a good vaccination program. Equally clear, that program must include quality care for those who suffer adverse events in every service, not just the Army.

In addition, as we look ahead, we all anticipate a growing need for biological defenses, particularly vaccines. We established Project BioShield for that very reason.

At this point, there is no civilian equivalent to the Vaccine Health Care Centers Network, but I think we are going to need to consider setting up some collaborative effort to take advantage of their knowledge should a mass civilian inoculation become necessary.

Let me also remind my colleagues that the Department of Defense asked for and received an emergency authority from the Department of Health and Human Services to begin administering the anthrax vaccine.

I will not go into the technicalities of that, but it basically allows the military to vaccinate personnel with informed consent. If the Department believes it is an emergency to resume that vaccine, how can we consider preserving the Vaccine Health Care Centers any less?

At the end of the day, this is very simple. We simply cannot mandate that military personnel take these vaccines and then abandon them when a problem arises.

This is the same as providing a prosthesis to someone who loses a limb.

If military personnel are injured because of their service to this Nation, we have an absolute obligation to give them the best possible care. Anything less is unconscionable.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we have some requests to make on behalf of the managers of the bill with respect to amendments that have been cleared on both sides of the aisle. We understand there has been a review undertaken by staff to try to ensure that the amendments which are going to be presented to the Senate are consistent with the vote taken on cloture earlier in the day.

AMENDMENT NO. 343

With that information, I call up amendment No. 343 on behalf of Mr. PRYOR regarding Camp Joseph T. Robinson.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. PRYOR, proposes an amendment numbered 343.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To release to the State of Arkansas a reversionary interest in Camp Joseph T. Robinson)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. The United States releases to the State of Arkansas the reversionary interest described in sections 2 and 3 of the Act entitled "An Act authorizing the transfer of part of Camp Joseph T. Robinson to the State of Arkansas", approved June 30, 1950 (64 Stat. 311, chapter 429), in and to the surface estate of the land constituting Camp Joseph T. Robinson, Arkansas, which lies east of the Batesville Pike county road, in sections 24, 25, and 36, township 3 north, range 12 west, Pulaski County, Arkansas.

Mr. COCHRAN. Mr. President, I know of no request for debate on the amendment.

The PRESIDING OFFICER. If there is no debate, the question is on agreeing to the amendment.

The amendment (No. 343) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 427, AS MODIFIED

Mr. COCHRAN. Mr. President, I call up amendment No. 427 on behalf of Mr. DURBIN regarding Iraqi security services.

Mr. President, I also send a modification of the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 427), as modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

REPORTS ON IRAQI SECURITY FORCES

SEC. 1122. Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit an unclassified report to Congress, which may include a classified annex, that includes a description of the following:

(1) The extent to which funding appropriated by this Act will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq.

(2) The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqi fighters, and any changes over the previous 90-day period.

(3) A description of all militias operating in Iraq, including their number, size, strength, military effectiveness, leadership, sources of external support, sources of internal support, estimated types and numbers of equipment and armaments in their possession, legal status, and the status of efforts to disarm, demobilize, and reintegrate each militia.

(4) The extent to which recruiting, training, and equipping goals and standards for Iraqi security forces are being met, including the number of Iraqis recruited and trained for the army, air force, navy, and other Ministry of Defense forces, police, and highway patrol of Iraq, and all other Ministry of Interior forces, and the extent to which personal and unit equipment requirements have been met.

(5) A description of the criteria for assessing the capabilities and readiness of Iraqi security forces.

(6) An evaluation of the operational readiness status of Iraqi military forces and special police, including the type, number, size, and organizational structure of Iraqi battalions that are—

(A) capable of conducting counterinsurgency operations independently;

(B) capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers; or

(C) not ready to conduct counterinsurgency operations.

(7) The extent to which funding appropriated by this Act will be used to train capable, well-equipped, and effectively led Iraqi police forces, and an evaluation of Iraqi police forces, including—

(A) the number of police recruits that have received classroom instruction and the duration of such instruction;

(B) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(C) the number of police candidates screened by the Iraqi Police Screening Service screening project, the number of candidates derived from other entry procedures, and the overall success rates of those groups of candidates;

(D) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(E) a description of the field training program, including the number, the planned number, and nationality of international field trainers;

(F) the number of police present for duty;

(G) data related to attrition rates; and

(H) a description of the training that Iraqi police have received regarding human rights and the rule of law.

(8) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by the Coalition Forces, including defending Iraq's borders, defeating the insurgency, and providing law and order.

(9) The extent to which funding appropriated by this Act will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(10) The estimated total number of adequately trained, equipped, and led Iraqi battalions expected to be capable of conducting counterinsurgency operations independently and the estimated total number expected to be capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers by the end of 2005 and of 2006.

(11) An assessment of the effectiveness of the chain of command of the Iraqi military.

(12) The number and nationality of Coalition mentors and advisers working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(13) A list of countries of the North Atlantic Treaty Organisation ("NATO") participating in the NATO mission for training of Iraqi security forces and the number of troops from each country dedicated to the mission.

(14) A list of countries participating in training Iraqi security forces outside the NATO training mission and the number of troops from each country dedicated to the mission.

(15) For any country, which made an offer to provide forces for training that has not been accepted, an explanation of the reasons why the offer was not accepted.

(16) For offers to provide forces for training that have been accepted by the Iraqi government, a report on the status of such training efforts, including the number of troops involved by country and the number of Iraqi security forces trained.

(17) An assessment of the progress of the National Assembly of Iraq in drafting and ratifying the permanent constitution of Iraq, and the performance of the new Iraqi Government in its protection of the rights of minorities and individual human rights, and its adherence to common democratic practices.

(18) The estimated number of United States military forces who will be needed in Iraq 6, 12, and 18 months from the date of the report.

Mr. COCHRAN. Mr. President, I know of no requests for debate on the amendment as modified.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 427), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 399

Mr. COCHRAN. I call up amendment numbered 399, on behalf of Mr. DORGAN, regarding the independent counsel investigation of Henry Cisneros.

I know of no requests for debate on the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 399) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 560

Mr. COCHRAN. I send to the desk an amendment on behalf of Mr. SHELBY, regarding judicial security enhancements.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi, [Mr. COCHRAN], for Mr. SHELBY, for Mr. KENNEDY, for himself, Mr. DURBIN and Mr. OBAMA, proposes an amendment numbered 560.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify funding for judicial security enhancements)

On page 184, line 16, after "$11,935,000,", insert "for increased judicial security outside of courthouse facilities, including priority consideration of home intrusion detection systems in the homes of federal judges,".

Mr. COCHRAN. I know of no requests for debate on the amendment

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 560) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 561

Mr. COCHRAN. I send to the desk an amendment on behalf of Mr. REID of Nevada—technical in nature—and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi, [Mr. COCHRAN], for Mr. REID of Nevada, proposes an amendment numbered 561.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the provision relating to agricultural and natural resource conservation activities in the Walker River Basin, Nevada)

In section 6017(b)(1)(A), insert "appurtenant to the land" after "water".

Mr. COCHRAN. Mr. President, I know of no requests for debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 561) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 562

Mr. COCHRAN. My final request is to send to the desk another amendment on behalf of Mr. REID of Nevada that is technical in nature. I ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. REID of Nevada, proposes an amendment numbered 562.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the provision relating to the water lease and purchase program for the Walker River Paiute Tribe)

In section 6017(c)(2), strike subparagraphs (A) and (B) and insert the following:

(A) acquired only from willing sellers;

(B) designed to maximize water conveyances to Walker Lake; and

(C) located only within the Walker River Paiute Indian Reservation.

Mr. COCHRAN. Mr. President, I know of no requests for debate.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 562) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator, my friend from Vermont. He is a valuable member of the Appropriations Committee.

Mr. President, I am pleased with the progress we have been able to make on this supplemental appropriations bill today. The Senate is working hard to ensure we consider requests that have merit which should be included in this bill.

The focus of the bill, as everyone realizes, though, is on assisting and providing for our troops, the Department of Defense facilities that are located in Iraq, trying to help ensure we protect the forces we have there, giving them what they need to bring these operations to a successful conclusion. We have made tremendous progress there, as well as in Afghanistan, bringing an opportunity for peace and freedom to the people of both of those countries. It is quite amazing to see the success that has been achieved in that direction, as those nations continue to work to build the infrastructure for democracy and a growing economy.

Our troops still need additional assistance, and that is why it is important for us to respond in a positive way to the requests of the administration to fund those needs and provide that assistance which will play such a critical role in their success.

The funds appropriated in this bill will provide support, pay in allowances. It will provide additional equipment, more modern and more effective equipment, so that the chances of success will be enhanced.

We do not want to drag out this supplemental unnecessarily. We need to complete action on the bill so we can go to conference with our counterpart committee, the Appropriations Committee in the House, and work out differences between the two bodies on this bill.

We do not want to delay this supplemental. We do not want to endanger our troops and our national interests in those areas of the world and here at home by unnecessary delay.

We appreciate the cooperation of all Senators. I thank everyone who has played a part today in our success in moving forward with this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each day I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last March, 29-year-old Jason Gage, who is gay, was beaten and stabbed in his home. According to police reports, his attacker acknowledged striking Gage twice with a bottle in the head and stabbing him with a piece of glass. There have been reports that the victim was targeted solely because of his sexual orientation.

I believe that the government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HONORING OUR ARMED FORCES

SPECIALIST SASCHA STRUBLE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Hanna. SPC

Struble, twenty years old, died on April 6 in a military helicopter crash near Ghazni city, 80 miles southwest of Kabul. With his entire life before him, Sascha risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Two years out of high school, Sascha had joined the Army in the hopes of getting the education he needed to become a paralegal, even working in the Army Judge Advocate General unit while stationed in Afghanistan. A former teacher recounted that Sascha was "a terrific kid . . . Sascha made us all want to be a better person." Described as a father figure to his younger siblings, Sascha never liked conflict and was often the family peacekeeper. His younger sister described Sascha to a local television station as "always a happy person, always making us laugh. I can't think of a time that he wasn't smiling."

Sascha was killed while serving his country in Operation Enduring Freedom. He served in the 1st Battalion, 173rd Airborne Brigade, 508 Infantry.

Today, I join Sascha's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Sascha, a memory that will burn brightly during these continuing days of conflict and grief.

Sascha was known for his dedication to his family and his love of country. Today and always, Sascha will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Sascha's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Sascha's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Specialist Sascha Struble in the Official Record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Sascha's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Sascha.

FAMILY ENTERTAINMENT AND COPYRIGHT ACT OF 2005

Mr. LEAHY. Mr. President, I am pleased that today the House has voted to pass the Family Entertainment and Copyright Act of 2005, clearing the way for the President to sign this important bill into law. That signature will mark the completion of our unfinished intellectual property business from last year. As we work to enact an equally ambitious intellectual property agenda in this new Congress, we have started off on the right foot.

The Family Entertainment and Copyright Act will help protect the rights of our innovators and support efforts at preserving America's cultural heritage. Title I of the bill, the "Artists' Rights and Theft Prevention Act," will criminalize a growing scourge: the use of camcorders to surreptitiously swipe movies from the big screen. Theft of intellectual property does not involve stealing something tangible, but the economic impact is very real. According to the Motion Picture Association of America, our film industries lose $3 billion annually due to piracy. We already know of high profile examples of movies showing up in other parts of the world on DVD while still in theaters in the United States. Theft of intellectual property is a global problem, and we need to ensure that our own IP house is in order even as we continue efforts at stronger international enforcement.

I have long been an enthusiastic proponent of the Library of Congress's efforts at protecting and promoting our nation's rich and diverse film heritage. Thus, I am particularly pleased that the bill passed today also contains the National Film Preservation Act, legislation that I sponsored in the last Congress to continue support for this extraordinary project. It reauthorizes a Library of Congress program dedicated to preserving precisely those types of films most in need of archival preservation: "orphaned" works that do not enjoy the protection of the major studios. The movies saved include culturally significant silent-era films, ethnic films, newsreels, and avant-garde works. The Act will allow the Library of Congress to continue its important work, and to provide assistance to libraries, museums, and archives in preserving films and in making these works available to researchers and the public. We know that more than 50 percent of the works made before 1950 have disintegrated and that only 10 percent of films made before 1929 still exist. Once these works are gone, they are lost to history forever. The Librarian of Congress, James Billington, has referred to our film heritage as "America's living past." The National Film Preservation Act will help ensure that this past is accessible in order to entertain and enlighten future generations.

I am also glad that a small but significant component of the bill is the Preservation of Orphan Works Act, which corrects a drafting error in the Sonny Bono Copyright Term Extension Act. Correction of this error will allow libraries to create copies of orphan works, copyrighted materials that are in the last 20 years of their copyright term, are no longer commercially exploited, and are not available at a reasonable price. The last provision in the bill is the Family Movie Act, which ensures that in-home viewing of movies can be done as families see fit.

I noted when this bill was introduced that while I might well have drafted specific components of this package differently, the Family Entertainment and Copyright Act was built around collegiality and compromise, both across the aisle and between chambers. As a result, we have produced good law worthy of the broad support it has enjoyed. I thank the bill's Senate cosponsors, Senators HATCH, CORNYN, FEINSTEIN, and ALEXANDER, for all of their hard work. I also wish to thank in particular Chairmen SENSENBRENNER, Congressman CONYERS, Congressman SMITH, and Congressman BERMAN, without whose efforts this bill could not become law.

EQUAL PAY DAY

Mr. CORZINE. Mr. President, I stand today to speak in support of an issue that affects every woman in this country—the fight for equal pay for men and women.

Today is Equal Pay Day—the day when the wages paid to American women "catch up" to the wages paid to men last year. So, essentially, women have to work almost four months more than men who do the same job just to bring home the same amount of income.

Until the early 1960s, newspapers published separate want-ads for men and women. Some newspapers even printed the same job in the male and female listings, but with separate pay scales. Full-time working women would earn on average between 59-64 cents for every dollar their male counterparts earned doing the exact same job.

Finally, in 1963, Congress passed the Equal Pay Act making it illegal to pay women lower rates for the same job strictly on the basis of gender. Since its passage, we have made significant progress in the fight for equal pay.

Women now earn 76 cents for every dollar earned by a man in the same position.

While we have improved over the last 40 years, however, we still have a long way to go. Apparently this Administration, however, thinks we can stop fighting for equal pay. The Department of Labor quietly eliminated its Equal Pay Matters Initiative, removed all information about narrowing the wage gap from its Web site, and refused to use available tools to identify violations of equal pay laws.

Today, we teach our young girls that they can be anything they want to be, that no job or career is out of their reach. What we do not tell our young girls is that once they get that job and start their career, they will make 24 percent less than their fellow male coworker even if they do the same exact and work just as hard. And if they are women of color, they will make 34 percent less. If the U.S. Department of Labor thinks that this is acceptable, then we may as well tell those young girls to stop dreaming because their work will not be valued as much as their brother's will.

I think we should continue to encourage women who are in the workforce and young girls who will be in the workforce that working hard will payoff. That is why I am proud to be a cosponsor of two bills that will move this country toward equal pay for women—Senator CLINTON's Paycheck Fairness Act and Senator HARKIN's Fair Pay Act.

The Paycheck Fairness Act will enforce equal pay laws for Federal contractors and prohibit employers from retaliating against employees who share salary information with their coworkers. This bill also addresses what is known as the "negotiation gap." Women are eight times less likely to negotiate their starting salaries then men. In order to empower women to negotiate their salaries, the Paycheck Fairness Act creates a training program to help women strengthen their negotiation skills. Finally, the bill requires the Department of Labor to continue collecting and disseminating information about women workers.

While the Paycheck Fairness Act addresses pay inequity among men and women for performing the same job, the Fair Pay Act addresses the problem of women not getting paid what they are worth for doing jobs that may be different than those performed by men, but are of equal value to the employer. The Fair Pay Act requires employers to provide equal pay for jobs that are comparable in skill, effort, responsibility and working conditions. The Fair Pay Act would apply to each company individually and would prohibit companies from reducing other employees' wages to achieve pay equity.

This issue is not just one of equality among men and women—it is a bread-and-butter issue for working families. According to the National Women's Law Center, if working women earned the same as men, those who work the same number of hours; have the same education, age, and union status; and live in the same region of the country, their annual family incomes would rise by $4,000 and poverty rates would be cut in half. As we all know, family earnings determine where and how a family lives, the education of their children, the family's health care, their standard of living, including whether workers have a pension on which to retire comfortably. We're talking about serious consequences to this pervasive problem.

Since the beginning of my tenure, I have been very involved with this issue. When the administration wanted to eliminate the Equal Pay Initiative within the Department of Labor's Women's Bureau, I wrote a letter to President Bush expressing my outrage at the Department's actions. In addition, I was also a co-sponsor of the Civil Rights Act of 2004, which included the Paycheck Fairness Act.

I commend my colleagues, Senator CLINTON and Senator HARKIN, for their commitment to the equal pay issue. I am proud to join them as co-sponsors of the Paycheck Fairness Act and the Fair Pay Act. I believe that these two pieces of legislation will help put an end to the pay disparity between men and women and bring us closer to the year when we celebrate Equal Pay Day on January 1.

COMMEMORATING THE LIFE OF MARLA RUZICKA

Mrs. FEINSTEIN. Mr. President, I rise today to commemorate the life and work of Marla Ruzicka, a remarkable woman and humanitarian who was killed last Saturday in a car bomb blast in Baghdad.

My thoughts and prayers go out to her parents, Cliff and Nancy, her siblings, and her friends and coworkers. She will be sorely missed.

Born and raised in Lakeport, CA, Marla dedicated her life to helping the innocent victims of war who needed a voice and needed a champion.

She traveled to war zones like Afghanistan and Iraq on her own and at her own risk to document civilian casualties and find ways to provide the needed humanitarian assistance.

Two years ago, at the age of 26, she founded the Campaign for Innocent Victims in Conflict to "mitigate the impact of the conflict and its aftermath on the people of Iraq by ensuring that timely and effective life-saving assistance is provided to those in need".

A tireless and relentless advocate for her cause, she talked to anyone who would listen and would win over doubters with her smile, kindness, and compassion.

In fact, in no small part to her own initiative, she helped convince Congress and the U.S. military to provide $30 million for innocent victims of the wars in Afghanistan and Iraq, something that had not been accomplished before.

Few have done so much and helped so many at such a young age.

Her father said he would remember her as a "lady with a tremendously open heart and warm feelings toward the people who've been in conflict and war."

As we mourn the loss of a loving and caring American, let us also celebrate the life of Marla Ruzicka and rededicate ourselves to the cause she personified. In her memory, let us reach out to Afghan and Iraqi civilians who have suffered in silence and be their voice and champion.

I can think of no finer tribute.

ADDITIONAL STATEMENTS

CONGRATULATING EL CAMINO REAL HIGH SCHOOL

• Mrs. FEINSTEIN. Mr. President, I rise today to congratulate El Camino Real High School of Woodland Hills, CA, on winning the prestigious U.S. Academic Decathlon for a second year in a row an astonishing achievement for all the students, teachers, and parents involved.

Each year, the U.S. Academic Decathlon brings together some of our Nation's brightest students for 2 days of competition on a broad range of subjects including mathematics, literature, economics, art, science, and music. I am very proud to report that in the 24 years of this competition, schools representing California have finished first or second every year except for one.

El Camino's tremendous victory represents an incredible fourth title in the last 8 years. Only one other school in the Nation has been more successful. El Camino is the first school to win back-to-back championships since their fellow Californians, Palo Alto High School, achieved that distinction in 1982 and 1983.

This triumph is the result of much effort and sacrifice. These amazingly dedicated students have given up spring and summer vacations and spent up to 10 hours a day preparing. Their hard work and commitment have certainly paid great dividends.

El Camino finished first with 49,009 points out of a possible 60,000, beating their nearest opponent by 723, and were led by their top scorer—Laura Descher.

It is important to note that the Academic Decathlon is set up to award versatility and breadth of knowledge, requiring each student to prepare for all the various academic events. This means that each student has developed a diverse and robust degree of scholarship rather than just specializing in one given topic.

The nine students whose effort and determination have made our State so proud are Micah Roth, Benjamin Farahmand, Jihwan Kim, Lindsey Cohen, Laura Descher, Lindsay Gibbs, Sean Follmer, Brian Hwang, and Kevin Rosenberg.

A great deal of the credit must be given to the dedicated coaches—Christian Cerone and Lissa Gregorio. This whole experience has certainly been just as memorable for them as it has for their students.

Of course, no congratulations would be complete without mentioning the contributions of the parents and family members who have been there each step of the way to cheer these young people on and support them in their lofty goals.

Again, I congratulate El Camino Real High School on this great achievement and wish all the students involved continued success in whatever they decide to do. You have made your State, your parents, your school, and your Senator very proud.•

MRS. SUE PANETTA-LEE

• Mr. BOND. Mr. President, Mrs. Sue Panetta-Lee will soon be installed as president of the Business and Professional Women's Clubs, Incorporated, of Missouri for 2005–2006. Sue is dedicated to the mission and vision of Business and Professional Women, BMW, and supports the legislative platform at the State and national levels.

Sue has been an active member since 1990 when she was introduced to BMW through the Young Careerist Program. She is a member of the St. Louis Metropolitan BMW in good standing and has served on and chaired many committees. Sue has experience in grant writing, program creation and implementation. She has presented training on numerous occasions in the community and for BMW on leadership, legislation, and many other topics of interest. Sue was instrumental in planning the state legislative conference in February 2000.

Sue is a team player and is a self-starter with decision making and leadership abilities. She has experience as a mentor and is devoted to empowering all persons to be equal as human beings. Sue is a dedicated and creative person who will speak up for ideas that promote BMW and women's issues. She believes that we grow more from embracing our differences and learning from each other's experiences and knowledge.

Sue is currently self-employed since 1998 in private practice as a Licensed Mental Health Therapist. Prior to that, Sue was clinical director for a community health agency for eight years. She has worked in other capacities as a social worker in the community for hospitals and in long-term care facilities, working with all age groups. Sue has a total of 22 years of work experience in the mental health field.

Currently Sue is serving as part of the Executive Board in the position of First Vice President, and is a member of American Association of University Women, Illinois Counselors' Association, and the Illinois Coalition to End Homelessness. Sue was a Young Careerist representing her district at the state level. She has held all positions at the local level with the exception of treasurer. At the state level Sue has served as Legislative, Membership, and Fund-raising Chairs. At the National level Sue has served on the Governance Task Force Committee.

As President of BMW, Sue will make executive committee and various other appointments. She will represent the State Federation at numerous national and state functions, and interpret the BMW/USA programs, policies, procedures, and objectives to the State Federation. I commend Sue for her outstanding service to the St. Louis Metropolitan Area. I wish Mrs. Panetta-Lee and her husband all the best.•

KEN MURPHREE

• Mr. COCHRAN. Mr. President, I am pleased to commend Ken Murphree of Tunica for his distinguished service as president of Delta Council this year.

Delta Council is an economic development organization representing the 18 Delta and part-Delta counties of northwest Mississippi. Delta Council was organized in 1935 to bring together the agriculture and business leadership of the region to focus on the challenges which face the economy and society of the Delta.

Ken Murphree has served admirably as president of Delta Council; and with his distinguished record of public service as a county administrator for DeSoto County during its early years as a growth-area for the Memphis metropolitan region, and more recently, as the county administrator for Tunica County, MS, he has provided careful and responsible leadership for orderly economic growth in our State. The growth of the local tax base in Tunica County, MS, resulting from the rapid expansion of the gaming industry in that area, has ben characterized as a model and a standard by which other rural growth areas are measured.

Ken Murphree has been a strong proponent of Delta Council's programs of education and health care during the past year. His history of involvement in transportation improvements has served Delta Council well this year. The progress being registered on the development of Interstate 69 and the U.S. Highway 82—Mississippi River Bridge has also benefited from his leadership.

Ken has coordinated the activities of Delta Council in a way which has brought consensus throughout the region in areas such as flood control, industrial development, higher education funding, and transportation improvements.

Ken has been a leader in his community, and as he concludes his year as president of Delta Council I congratulate him for the contributions which he has made to this special region of our country. I look forward to his future contributions in improving the quality of life for our citizens in the Mississippi Delta.•

NEW MEXICO TECH

• Mr. DOMENICI. Mr. President, I rise today to congratulate the New Mexico Institute of Mining and Technology in Socorro, NM for the school's No. 2 ranking in The Princeton Review's 2006 edition of the Nation's "best value" colleges. New Mexico Tech is an outstanding school and I am very proud of what they have accomplished. This is a well deserved recognition for the excellent work being done by the faculty and students at this fine university.

The New Mexico Institute of Mining and Technology, known to New Mexicans as New Mexico Tech, was originally founded in 1889 as the New Mexico School of Mines. At that time the Territorial Legislature, wanting to boost New Mexico's economy, decided to establish a School of Mines to train young mining engineers. Silver and lead ores taken from the nearby Magdalena Mountains were processed nearby and the new School of Mines would allow young mining engineers to train near the eventual site of their work. The New Mexico school of mines opened with one building, two professors, and seven students.

Over the years, their mission has expanded to say the least. Today the enrollment at this university exceeds 1,800 students from different parts of the country and the world. New Mexico Tech is an outstanding research university, recognized for their excellence as a leader in many areas of research, including homeland security, hydrology, astrophysics, atmospheric physics, geophysics, information technology, geosciences, energetic materials engineering, and petroleum recovery. Students come to tech for its outstanding academic reputation, hands-on laboratory learning experiences, opportunities for employment in one of their many research facilities, and its beautiful Southwestern setting.

In the past, I have strongly supported New Mexico Tech and have helped them secure defense and homeland security appropriations funding. In return, they have provided the country with first rate research giving American defense and homeland security planners' better technology to protect military personnel and civilians from attack. They have been on the forefront of homeland security research, antiterrorism efforts, and bringing new job opportunities to the central New Mexico region. The school's hard work and record of success has made it easy for me to convince my colleagues that New Mexico Tech is a good investment. I am very pleased with the dynamic coming out of this wonderful school and I encourage them to keep up the good work.

I ask unanimous consent that a copy of a article entitled "New Mexico Tech Second on 'Best Value' College List" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the ABQJOURNAL, Apr. 18, 2005]

NEW MEXICO TECH SECOND ON 'BEST VALUE' COLLEGE LIST

SOCORRO—The New Mexico Institute of Mining and Technology ranked second on The Princeton Review's 2006 edition of the nation's "best value" colleges.

New Mexico Tech's Web site listed its annual undergraduate cost for tuition, room and board and books as $8,750 for 2004–2005 academic year, which includes $3.280 a year in tuition and fees. Earlier this month, Tech's regents approved a 10 percent tuition increase.

Bates College in Lewiston, Maine, whose tuition, room and board costs roughly $40,000 a year, was ranked the nation's "best value" college. Bates, fifth in the previous year's rankings, topped the new "America's Best Value Colleges," which hits the bookstores Tuesday.

The Princeton Review said all 81 schools on the list offer outstanding academics, generous financial aid packages and relatively low costs.

"It's always pleasing to be recognized and acknowledged for the good work of our faculty as well as our students," Dan Lopez, president of Tech, said Monday. "It does give us a certain amount of presence in the higher education community."

And, he said, it makes people aware of a small school in a more remote area.

"We really have an outstanding school," Lopez said. "We're very proud of it."

George Zamora, a spokesman for Tech, said it's the first time the school has cracked the top 10, although it has been on the overall "best value" list for years.

New Mexico Tech primarily focuses on science and engineering at both the undergraduate and graduate level.

The rest of the 2006 top 10: Brigham Young University of Provo, Utah; Hendrix College, Conway, Ark.; University of California-Los Angeles; New College of Florida, Sarasota; City University of New York-Brooklyn College; City University of New York-Queens College; William Jewell College, Liberty, Mo.; and Hanover College, Hanover, Ind.

The Princeton Review, an education services company with no connection to Princeton University, compiled the list and its book from data obtained from administrators at more than 350 colleges and from surveys of college students.

The Princeton Review said its rankings were based on more than 30 factors in four categories: academics, tuition, financial aid and student borrowing.

"Bottom line: the 81 schools that met our criteria for this book are all great college education deals,'" said Robert Franek, the company's vice president for publishing.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:07 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to 22 U.S.C. 276h, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Mexico-United States Interparliamentary Group: Mr. KOLBE of Arizona, Chairman and Ms. HARRIS of Florida, Vice Chairman.

The message also announced that pursuant to 14 U.S.C. 194(a), and the order of the House of January 4, 2005, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Coast Guard Academy: Mr. SIMMONS of Connecticut.

The message also announced that pursuant to 10 U.S.C. 4355(a), and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Military Academy: Mrs. KELLY of New York and Mr. TAYLOR of North Carolina.

The message also announced that pursuant to 46 U.S.C. 1295b(h), and the order of the House of January 4, 2005, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Merchant Marine Academy: Mr. KING of New York.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 8. An act Reserved.

S. 839. A bill to repeal the law that gags doctors and denies women information and referrals concerning their reproductive health options.

S. 844. A bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

S. 845. A bill to amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt.

S. 846. A bill to provide fair wages for America's workers.

S. 847. A bill to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

S. 848. A bill to improve education, and for other purposes.

S. 851. A bill to reduce budget deficits by restoring budget enforcement and strengthening fiscal responsibility.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1811. A communication from the Secretary of Transportation, transmitting, the report of a proposed bill entitled "Passenger Rail Investment Reform Act" received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1812. A communication from the Commandant, United States Coast Guard, transmitting, pursuant to law, a report of proposed legislation entitled "Coast Guard Authorization Act of 2005"; to the Committee on Commerce, Science, and Transportation.

EC-1813. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, the report of a rule entitled "Food Stamp Program, Regulatory Review: Standards for Approval and Operation of the Food Stamp Electronic Benefit Transfer (EBT) Systems" (RIN0584-AC37) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1814. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State and Zone Designations; California" (APHIS Docket No. 05-010-1) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1815. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Northeast Marketing Area—Final Order" (DA–02–01; AO–14–A70) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1816. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Pacific Northwest Marketing Area—Final Order" (DA–01–08–PNW; AO-368-A30) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1817. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax Exempt Bond Partnership Lookthrough II" (Rev. Proc. 2005–20) received on April 18, 2005; to the Committee on Finance.

EC–1818. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Withholding Exemptions" ((RIN1545–BE21) (TD 9196)) received on April 18, 2005; to the Committee on Finance.

EC–1819. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Classification of Certain Foreign Entities" ((RIN1545–BD78) (TD 9197)) received on April 18, 2005; to the Committee on Finance.

EC–1820. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Kenya; to the Committee on Banking, Housing, and Urban Affairs.

EC–1821. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report of the Bank's operations for Fiscal Year 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–1822. A communication from the Deputy Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Rule 4–01(a)(3) of Regulation S–X, Form, Order, and Terminology" (RIN3235–AJ39) received on April 18, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1823. A communication from the General Counsel, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report of a rule entitled "Corporate Governance; Final Amendments" (RIN2550–AA24) received on April 18, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1824. A communication from the Assistant Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "First-Time Application of International Financial Reporting Standards" (RIN3235–AI92) received on April 18, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1825. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of the authorization to wear the insignia of the grade of rear admiral (lower half); to the Committee on Armed Services.

EC–1826. A communication from the Principal Deputy, Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of officers authorized to wear the insignia of the next higher grade; to the Committee on Armed Services.

EC–1827. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–1828. A communication from the Secretary of the Air Force, transmitting, pursuant to law, the report of an Average Procurement Unit Cost (APUC) breach; to the Committee on Armed Services.

EC–1829. A communication from the Director of the Defense Finance and Accounting Service, transmitting, pursuant to law, a report on Conversion of Department of Defense Commercial Activity to a Government most Efficient Organization; to the Committee on Armed Services.

EC–1830. A communication from the General Counsel of the Department of Defense, transmitting, the report of legislative proposals; to the Committee on Armed Services.

EC–1831. A communication from the Assistant Secretary of the Army (Acquisition, Logistics and Technology), Department of the Army, transmitting, pursuant to law, a report entitled "Annual Status Report on the Disposal of Chemical Weapons and Materiel for Fiscal Year 2004"; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 50. A bill to authorize and strengthen the National Oceanic and Atmospheric Administration's tsunami detection, forecast, warning, and mitigation program, and for other purposes (Rept. No. 109–59).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 361. A bill to develop and maintain an integrated system of ocean and coastal observations for the Nation's coasts, oceans and Great Lakes, improve warnings of tsunamis and other natural hazards, enhance homeland security, support maritime operations, and for other purposes (Rept. No. 109–60).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD:

S. 838. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. BOXER:

S. 839. A bill to repeal the law that gags doctors and denies women information and referrals concerning their reproductive health options; read the first time.

By Mr. HARKIN (for himself, Mrs. Murray, Mr. Kennedy, Ms. Mikulski, Mr. Durbin, Mr. Leahy, Mr. Akaka, Mr. Feingold, Mrs. Lincoln, Mr. Corzine, and Mr. Kerry):

S. 840. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Mr. Reid, Mr. Kennedy, Mr. Harkin, Mr. Durbin, Ms. Landrieu, Mr. Corzine, Mr. Leahy, Mr. Schumer, and Ms. Stabenow):

S. 841. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. Specter, Mr. Reid, Mr. Durbin, Mr. Schumer, Mr. Dodd, Mr. Bingaman, Mr. Harkin, Ms. Mikulski, Mrs. Murray, Mrs. Clinton, Mr. Byrd, Mr. Inouye, Mr. Biden, Mr. Leahy, Mr. Sarbanes, Mr. Levin, Mr. Kerry, Mr. Rockefeller, Mr. Lieberman, Mr. Akaka, Mr. Dorgan, Mrs. Boxer, Mr. Feingold, Mr. Wyden, Ms. Landrieu, Mr. Bayh, Mr. Carper, Ms. Stabenow, Ms. Cantwell, Mr. Corzine, Mr. Dayton, Mr. Lautenberg, Mr. Obama, Mr. Salazar, and Mr. Reed):

S. 842. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself and Mr. Dodd):

S. 843. A bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. Reid):

S. 844. A bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care; read the first time.

By Mr. REID:

S. 845. A bill to amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt; read the first time.

By Mr. DURBIN:

S. 846. A bill to provide fair wages for America's workers; read the first time.

By Ms. STABENOW (for herself and Mr. Schumer):

S. 847. A bill to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits; read the first time.

By Mr. BINGAMAN:

S. 848. A bill to improve education, and for other purposes; read the first time.

By Mr. ALLEN (for himself, Mr. Wyden, Mr. Sununu, Mr. Ensign, Mr. Leahy, Mr. Burns, Mr. Smith, Mr. Warner, and Mr. McCain):

S. 849. A bill to make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST (for himself and Mr. Lugar):

S. 850. A bill to establish the Global Health Corps, and for other purposes; to the Committee on Foreign Relations.

By Mr. CONRAD (for himself, Mr. Reid, Mr. Feingold, Ms. Mikulski, Ms. Stabenow, Mr. Inouye, Mr. Leahy, Mr. Salazar, Mr. Rockefeller, Mr. Schumer, Mrs. Feinstein, Mr. Dayton, Mr. Dodd, Mrs. Clinton, Mrs. Boxer, Mr. Dorgan, Mr. Kohl, Mr. Levin, and Mr. Nelson of Florida):

S. 851. A bill to reduce budget deficits by restoring budget enforcement and strengthening fiscal responsibility; read the first time.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. HATCH, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. DEWINE, Mr. BAUCUS, and Mr. VOINOVICH):

S. 852. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. CRAPO, and Mr. SMITH):

S.J. Res. 14. A joint resolution providing for the recognition of Jerusalem as the undivided capital of Israel before the United States recognizes a Palestinian state, and for other purposes; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself, Mr. DORGAN, and Mr. DODD):

S.J. Res. 15. A joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. DOLE (for herself and Mr. BURR):

S. Res. 113. A resolution expressing support for the International Home Furnishings Market in High Point, North Carolina; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 173

At the request of Mr. DEWINE, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 173, a bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare program that have received an organ transplant.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 260

At the request of Mr. INHOFE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 260, a bill to authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program.

S. 267

At the request of Mr. CRAIG, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 337

At the request of Mr. GRAHAM, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 365

At the request of Mr. COLEMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 365, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

S. 378

At the request of Mr. BIDEN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 378, a bill to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes.

S. 391

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 391, a bill to amend the Federal Election Campaign Act of 1971 to prohibit certain State election administration officials from actively participating in electoral campaigns.

S. 420

At the request of Mr. KYL, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 420, a bill to make the repeal of the estate tax permanent.

S. 467

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 495

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 603

At the request of Ms. LANDRIEU, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 649

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 649, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to make volunteer members of the Civil Air Patrol eligible for Public Safety Officer death benefits.

S. 806

At the request of Mr. CRAIG, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 806, a bill to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title.

S. 815

At the request of Mr. THOMAS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 815, a bill to amend the Internal Revenue Code of 1986 to allow a 15-year applicable recovery period for depreciation of certain electric transmission property.

S. 830

At the request of Mr. INHOFE, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Kansas (Mr. ROBERTS) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 830, a bill to amend the Federal Water Pollution Control Act to insert a new definition relating to oil and gas exploration and production.

S.J. RES. 7

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S.J. Res. 7, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

S. RES. 64

At the request of Mr. JEFFORDS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 64, a resolution expressing the sense of the Senate that the United States should prepare a comprehensive strategy for advancing and entering into international negotiations on a binding agreement that would swiftly reduce global mercury use and pollution to levels sufficient to protect public health and the environment.

AMENDMENT NO. 338

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 338 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 379

At the request of Mrs. HUTCHISON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of amendment No. 379 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 409

At the request of Mr. JEFFORDS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of amendment No. 409 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 418

At the request of Mr. ROBERTS, his name was added as a cosponsor of amendment No. 418 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 427

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of amendment No. 427 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 441

At the request of Mr. SPECTER, his name was added as a cosponsor of amendment No. 441 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 502

At the request of Mr. DODD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 502 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 504

At the request of Mrs. CLINTON, the names of the Senator from Washington (Mrs. MURRAY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Jersey (Mr. CORZINE) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of amendment No. 504 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 838. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, today I am re-introducing a measure that will begin to restore democracy for dairy farmers throughout the Nation.

When dairy farmers across the country voted on a referendum six years ago, perhaps the most significant change in dairy policy in sixty years, they didn't actually get to vote. Instead, their dairy marketing cooperatives cast their votes for them.

This procedure is called "bloc voting" and it is used all the time. Basically, a Cooperative's Board of Directors decides that, in the interest of time, bloc voting will be implemented for that particular vote. It may serve the interest of time, but it doesn't always serve the interests of their producer owner-members.

While I think that bloc voting can be a useful tool in some circumstances, I have serious concerns about its use in every circumstance. Farmers in Wisconsin and in other States tell me that they do not agree with their cooperative's view on every vote. Yet, they have no way to preserve their right to make their single vote count.

I have learned from farmers and officials at the U.S. Department of Agriculture (USDA) that if a cooperative bloc votes, individual members have no opportunity to voice opinions separately. That seems unfair when you consider what significant issues may be at stake. Co-ops and their individual members do not always have identical interests. Considering our nation's longstanding commitment to freedom of expression, our Federal rules should allow farmers to express a differing opinion from their co-ops, if they choose to.

The Democracy for Dairy Producers Act of 2005 is simple and fair. It provides that a cooperative cannot deny any of its members a ballot to opt to vote separately from the co-op.

This will in no way slow down the process at USDA; implementation of any rule or regulation would proceed on schedule. Also, I do not expect that this would often change the final outcome of any given vote. Co-ops could still cast votes for their members who do not exercise their right to vote individually. And to the extent that co-ops represent farmers' interests, in the majority of cases farmers are likely to vote the same as their co-ops. But whether they join the co-ops or not in voting for or against a measure, farmers deserve the right to vote according to their own views.

I urge my colleagues to return the democratic process to America's farmers, by supporting the Democracy for Dairy Producers Act.

I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The Act may be cited as the "Democracy for Dairy Producers Act of 2005".

SEC. 2. MODIFIED BLOC VOTING.

(a) In General.—Notwithstanding paragraph (12) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in the case of the referendum conducted as part of the consolidation of Federal milk marketing orders and related reforms under section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253), if a cooperative association of milk producers elects to hold a vote on behalf of its members as authorized by that paragraph, the cooperative association shall provide to each producer, on behalf of which the cooperative association is expressing approval or disapproval, written notice containing—

(1) a description of the questions presented in the referendum;

(2) a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership; and

(3) information regarding the procedures by which a producer may cast an individual ballot.

(b) Tabulation of Ballots.—At the time at which ballots from a vote under subsection (a) are tabulated by the Secretary of Agriculture, the Secretary shall adjust the vote of a cooperative association to reflect individual votes submitted by producers that are members of, stockholders in, or under contract with, the cooperative association.

By Mr. HARKIN (for himself, Mrs. Murray, Mr. Kennedy, Ms. Mikulski, Mr. Durbin, Mr. Leahy, Mr. Akaka, Mr. Feingold, Mrs. Lincoln, Mr. Corzine, and Mr. Kerry):

S. 840. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, on behalf of myself and Senators Murray, Kennedy, Mikulski, Durbin, Leahy, Akaka, Feingold, Lincoln, Corzine and Kerry, I am introducing the Fair Pay Act.

April 19th is Equal Pay Day. Even though the Equal Pay Act was passed more than 40 years ago, women working full time, year-round, still make only 76 cents for every dollar that a man makes. On April 19th, four days after tax returns for 2004 are due, U.S. women will finally reach the earnings mark that their male counterparts achieved by December 31st of last year. April 19th reminds us that the 60 million working women in this country are suffering economically because equal pay is still not a reality.

We've got millions of families struggling to make ends meet. The White House and the Republican House leadership believes a $750 billion tax cut for the rich is the solution, a permanent one.

I disagree. One way we can put more money in the pockets of working families is to pay women what they're worth. Nearly 40 years after the Equal Pay Act became law, women are still paid only 76 cents for every dollar a man earns.

Working women at all income and education levels are affected by the wage gap. In 2003, the GAO found that the pay gap continues to affect women in management and that, for these women, the pay gap has actually widened since 1995.

Regardless of education, the impact is the same. These women work as hard as men, but have less money to pay the bills, to put food on the table, or to save for their retirement or their child's education. That is simply wrong and it must end. We must close the wage gap once and for all.

First, we need to do a better job by enforcing and strengthening the penalties for the law that demands equal pay for equal work. That's why I support the Paycheck Fairness Act, sponsored by Senator Clinton and Congresswoman DeLauro.

However, an even more important part of discrimination against women in the work place is the historic pattern of undervaluing and underpaying so-called "women's jobs."

Millions of women today working in female-dominated jobs—as social workers, teachers, child care workers and nurses—are "equivalent" in skills, effort, responsibility and working conditions to similar jobs dominated by men, but these women aren't paid the same as men.

That's what the Fair Pay Act—that Congresswoman Norton and I are reintroducing today—would address. Unfairly low pay in jobs dominated by women is un-American, it is discriminatory and our bill would make it illegal.

Twenty States have "fair pay" laws and policies in place for their employees, including my State of Iowa. And Iowa had a Republican legislature and Governor when this bill passed into law, so ending wage discrimination against women is a nonpartisan issue.

Some say we don't need any more laws; market forces will take care of the wage gap. If we had relied on market forces we would have never passed the Equal Pay Act, the Civil Rights Act, the Family Medical Leave Act or the Americans with Disabilities Act.

I first introduced the Fair Pay Act in 1996 after the Iowa Business and Professional Women alerted me to this problem. And as long as I'm in the U.S. Senate, I will continue to fight to pass this important legislation so we can end wage discrimination against women once and for all.

By Mrs. CLINTON (for herself, Mr. Reid, Mr. Kennedy, Mr. Harkin, Mr. Durbin, Ms. Landrieu, Mr. Corzine, Mr. Leahy, Mr. Schumer, and Ms. Stabenow):

S. 841. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to discuss the Paycheck Fairness Act, which I am introducing along with my colleagues Senators Reid, Kennedy, Harkin, Durbin, Landrieu, Corzine, Leahy, Schumer, and Stabenow. I also want to acknowledge Senator Daschle for his longstanding support of this critical issue and Congresswoman DeLauro for being a champion in the House of Representatives.

This morning I met Brenda Wholey, a plaintiff in the Wal-Mart class action sex discrimination lawsuit. Brenda came all the way to Washington from Philadelphia to share her story with us. She worked hard, put in her time, and watched as time in and time out, men were promoted above her and compensated with higher salaries.

Too often when we talk about equal pay we talk about numbers—the 76 cents on the dollar that women earn, the 54 cents that Hispanic women earn. We talk about GAO reports and violations and litigation. But what this is really about is women like Brenda. Women who get up every day and go to work so they can provide for their families. Women who work hard and play by the rules and want to build a better life for their children. Women like Brenda who just want to be treated fairly.

The Equal Pay Act was an important step forward for women. It gave women a real chance to be full, equal participants in the workforce and to earn equal pay for equal work.

In the 42 years since the Equal Pay Act was enacted, women have shattered so many barriers. And for young women entering the workforce today, the sky is the limit. But we still have work to do to truly level the playing field.

That means making sure that employers treat men and women equally in the workplace. It also means giving women the tools they need to acquire the pay and recognition they deserve.

That is why I am pleased to be introducing the Paycheck Fairness Act—a bill that will build on the promise of the Equal Pay Act and help close the pay gap.

The Paycheck Fairness Act has three main components.

First, it prevents pay discrimination before it starts. By helping women strengthen their negotiation skills and providing outreach and technical assistance to employers to ensure they fairly evaluate and pay their employees, the Paycheck Fairness Act gives employers the tools they need to level the playing field between men and women.

Second, the Paycheck Fairness Act creates strong penalties to punish those who do violate the act. By strengthening the penalties for employers who violate the Equal Pay Act, this bill sends a strong message—Equal Pay is a matter to be taken seriously.

And finally, the Paycheck Fairness Act ensures that the Federal Government, which should be a model employer when it comes to enforcing Federal employment laws, uses every tool in its toolbox to ensure that women are paid the same amount as men for doing the same jobs.

From ending the Clinton administration's Equal Pay Matters Initiative, to halting the collection of data on women workers, to removing important information about the wage gap from the Department of Labor's website, to tying its own hands in enforcing the Equal Pay Act among Federal contractors, the Bush administration has taken this country backwards in the fight for equal pay. You might say the Bush administration has taken one giant step backwards for womenkind.

The Paycheck Fairness Act would stop the Bush administration's rollbacks and make sure, once again, that our Federal Government sets a standard of excellence for making sure women are paid the same as men.

There is no question that we've come a long way since the Equal Pay Act became law 42 years ago. And women have earned every step they have gained in the journey toward equality.

But what has made this country great is that we have never accepted that "less discrimination" is "good enough." The history of our country is one of constant striving to live up to the ideal of our founding. And the most basic element of our American character is the belief that all of us deserve to be treated as equals.

Our country in its history has faced lots of difficult questions, questions on which reasonable people could disagree. Equal pay is not one of those hard questions. It is common sense, it is basic fairness. It is simply right.

And frankly, when it comes to equal pay, we still have a lot of work to do. Women's compensation still lags behind men's in nearly every occupation and every field. As the American Association of University Women study being unveiled today shows us, this fact is not lost on most Americans. Young, old, Democrat, Republican, male, female—there is universal recognition that a wage gap exists. Well, the Paycheck Fairness Act will do something about it.

This issue is about our mothers, our sisters, our daughters. It's about women being able to earn an equal wage for equal work. It is in all of our interests to allow women to support their families and to live with the dignity and respect accorded to fully engaged members of the workforce.

Equality works for all of us. Now is the time to make sure that we all work towards equality.

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. REID, Mr. DURBIN, Mr. SCHUMER, Mr. DODD, Mr. BINGAMAN, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mr. BYRD, Mr. INOUYE, Mr. BIDEN, Mr. LEAHY, Mr. SARBANES, Mr. LEVIN, Mr. KERRY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. AKAKA, Mr. DORGAN, Mrs. BOXER, Mr. FEINGOLD, Mr. WYDEN, Ms. LANDRIEU, Mr. BAYH, Mr. CARPER, Ms. STABENOW, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. LAUTENBERG, Mr. OBAMA, Mr. SALAZAR, and Mr. REED):

S. 842. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, in recognition of our country's longstanding commitment to basic fairness for the Nation's hard-working men and women, I am introducing the Employee Free Choice Act. I want to thank my distinguished colleague, Senator ARLEN SPECTER, for also supporting this important legislation to protect workers' right to free association.

The essence of the American dream is the ability to provide a better life for yourself and your family. At the very heart of that dream are a good job, a good workplace, good health care, and a good retirement. Unfortunately, too many families today find that dream increasingly beyond their reach in today's global economy. Vast numbers of citizens suddenly find themselves in a race to the bottom against workers in other countries. Whoever is willing to work for the lowest pay gets the work.

That is why the labor movement is more important today than ever. It's not the profits of business that are being shipped overseas. They're higher than ever. It is the jobs of American workers that are being outsourced, and they're being outsourced in droves. Hardworking Americans are paying a high price for this intense new era of worldwide competition. Our economy is growing, but workers are not benefiting. Business profits are up 70 percent since 2001, but wages have been stagnant.

Labor unions have always led the fight for working families—for the 8-hour day and the 40-hour week—for overtime protections—for a fair minimum wage—for a safe and healthy workplace—for decent health insurance and a decent pension. Every working American deserves these protections. But when they try to organize, employers typically respond with threats and intimidation. They hire union-busting firms and force employees to listen to anti-union speeches. Companies close down departments—or even entire operations—to avoid negotiating a union contract.

These are not isolated abuses. Every year, over 20,000 workers are illegally fired or discriminated against for exercising their labor rights. In at least one quarter of all organizing efforts, an employer illegally fires a worker for supporting the union. For these anti-union employers, union-busting is just another cost of doing business. America's workers deserve better, and our democracy deserves better.

That is why I am introducing the Employee Free Choice Act, to protect the right of workers to choose a union. This bill seeks to level the playing field for employees attempting to organize a union or negotiate their first contract. It requires employers to come to the table to talk. And it puts real teeth in existing protections by strengthening the penalties for discriminating against workers who support a union.

These protections are long overdue. For too long, Congress has failed to act against the anti-labor, anti-worker, anti-union tactics now far too prevalent in the workplace. This bill is an important step towards ensuring that millions of American workers and their families can do better in today's economy. I urge my colleagues to join me in this fight to support the Employee Free Choice Act.

By Mr. REID:

S. 845. A bill to amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) For more than 100 years before 1999, all disabled military retirees were required to fund their own veterans' disability compensation by forfeiting $1 of earned retired pay for each $1 received in veterans' disability compensation.

(2) Since 1999, Congress has enacted legislation every year to progressively expand eligibility criteria for relief of the retired pay disability offset and further reduce the burden of financial sacrifice on disabled military retirees.

(3) Absent adequate funding to eliminate the sacrifice for all disabled retirees, Congress has given initial priority to easing financial inequities for the most severely disabled and for combat-disabled retirees.

(4) In the interest of maximizing eligibility within cost constraints, Congress effectively has authorized full concurrent receipt for all qualifying retirees with 100 percent disability ratings and all with combat-related disability ratings, while phasing out the disability offset to retired pay over 10 years for retired members with noncombat-related, service-connected disability ratings of 50 percent to 90 percent.

(5) In pursuing these good-faith efforts, Congress acknowledges the regrettable necessity of creating new thresholds of eligibility that understandably are disappointing to disabled retirees who fall short of meeting those new thresholds.

(6) Congress is not content with the status quo.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that military retired pay earned by service and sacrifice in defending the Nation should not be reduced because a military retiree is also eligible for veterans' disability compensation awarded for service-connected disability.

SEC. 3. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN ADDITIONAL MILITARY RETIREES WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—Section 1414(a) of title 10, United States Code, is amended to read as follows:

"(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—

"(1) IN GENERAL.—Subject to subsection (b), an individual who is a qualified retiree for any month is entitled to be paid both retired pay and veterans' disability compensation for that month without regard to sections 5304 and 5305 of title 38.

"(2) QUALIFIED RETIREES.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

"(A) is entitled to retired pay, other than in the case of a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

"(B) is entitled for that month to veterans' disability compensation.".

(b) REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.—Section 1414 of title 10, United States Code, is further amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) in subsection (d), as redesignated, by striking subparagraph (4).

(c) CLERICAL AMENDMENTS.—

(1) The heading for section 1414 of title 10, United States Code, is amended to read as follows:

"§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation".

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation.".

SEC. 4. COORDINATION OF SERVICE ELIGIBILITY FOR COMBAT-RELATED SPECIAL COMPENSATION AND CONCURRENT RECEIPT.

(a) ELIGIBILITY FOR TERA RETIREES.—Section of section 1413a(c) of title 10, United States Code, is amended by striking "entitled to retired pay who—" and all that follows and inserting "who—

"(1) is entitled to retired pay, other than a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

"(2) has a combat-related disability".

(b) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

(1) CLERICAL AMENDMENT.—The heading for paragraph (3) of section 1413a(b) of title 10, United States Code, is amended by striking "RULES" and inserting "RULE".

(2) STANDARDIZATION WITH CRSC RULE FOR CHAPTER 61 RETIREES.—Section 1414(b) of such title is amended—

(A) by striking "SPECIAL RULES" and all that follows through "is subject to" in paragraph (1) and inserting "SPECIAL RULE FOR CHAPTER 61 DISABILITY RETIREES.—In the case of a qualified retiree who is retired under chapter 61 of this title, the retired pay of the member is subject to"; and

(B) by striking paragraph (2).

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as of January 1, 2006, and shall apply to payments for months beginning on or after that date.

By Mr. DURBIN:

S. 846. A bill to provide fair wages for America's workers; read the first time.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—OVERTIME RIGHTS PROTECTION

SEC. 101. CLARIFICATION OF REGULATIONS RELATING TO OVERTIME COMPENSATION.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

"(k)(1) Notwithstanding the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) or any other provision of law, any portion of the final rule promulgated on April 23, 2004, revising part 541 of title 29, Code of Federal Regulations, that exempts from the overtime pay provision of section 7 of this Act any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003, remained in effect, shall have no force or effect and that portion of such regulations (as in effect on March 31, 2003) that would prevent such employee from being exempt shall be reinstated.

"(2) The Secretary shall adjust the minimum salary level for exemption under section 13(a)(1) in the following manner:

"(A) Not later than 60 days after the date of enactment of this subsection, the Secretary shall increase the minimum salary level for exemption under subsection (a)(1) for executive, administrative, and managerial occupations from the level of $155 per week in 1975 to $591 per week (an amount equal to the increase in the Employment Cost Index (published by the Bureau of Labor Statistics) for executive, administrative, and managerial occupations between 1975 and 2005).

"(B) Not later than December 31 of the calendar year following the increase required in subparagraph (A), and each December 31 thereafter, the Secretary shall increase the minimum salary level for exemption under subsection (a)(1) by an amount equal to the increase in the Employment Cost Index for executive, administrative, and managerial occupations for the year involved.".

TITLE II—FAIR MINIMUM WAGE

SEC. 111. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.85 an hour, beginning on the 60th day after the date of enactment of this paragraph;

"(B) $6.55 an hour, beginning 12 months after that 60th day; and

"(C) $7.25 an hour, beginning 24 months after that 60th day;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

TITLE III—SENSE OF THE SENATE REGARDING MULTIEMPLOYER PENSION PLANS

SEC. 121. SENSE OF THE SENATE REGARDING MULTIEMPLOYER PENSION PLANS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Multiemployer pension plans have been a major force in the delivery of employee benefits to active and retired American workers and their dependents for over half a century.

(2) There are approximately 1,700 multiemployer defined benefit pension plans in which approximately 9,700,000 workers and retirees participate.

(3) Three-quarters of the approximately 60,000 to 65,000 employers that participate in multiemployer plans have fewer that 100 employees.

(4) Multiemployer plans allow for greater access and affordability for smaller employers and pension portability for their employees as they move from one job to another, and permit workers to earn a pension where they might otherwise not be able to do so.

(5) The 2000–2002 drop in the stock market and decline in equity values has affected all investors, including multiemployer plans.

(6) The decline in value sustained by multiemployer defined benefit pension plans have threatened the stability of this private sector source of secure retirement income.

(7) Participating employers could face onerous excise taxes and other penalties as a result of the serious, adverse financial impact due to these market losses.

(8) In 2004, the United States Senate recognized the severity of this situation and passed by an overwhelmingly, large bipartisan margin of 86 to 9 temporary relief provisions for single and multiemployer defined benefit pension plans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate—

(1) expresses its strong support for multiemployer defined benefit pension plans;

(2) recognizes the importance of an environment in which multiemployer plans can continue their vital role in providing benefits to working men and women;

(3) recognizes that multiemployer pension plan relief must be designed for the multiemployer labor-relations environment that supports the plans; and

(4) supports legislation to strengthen and protect the viability of multiemployer pension plans for the continued benefit of current and retired members, and their families and survivors, and to strengthen the ability of all plans to address funding problems that occur.

By Mr. FRIST (for himself and Mr. LUGAR):

S. 850. A bill to establish the Global Health Corps, and for other purposes; to the Committee on Foreign Relations.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Health Corps Act of 2005".

SEC. 2. GLOBAL HEALTH CORPS.

Title II of the Public Health Services Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

PART D—GLOBAL HEALTH CORPS

"SEC. 271. DEFINITIONS.

"In this part:

"(1) AGENCY.—The term 'Agency' means the United States Agency for International Development.

"(2) CANDIDATE.—The term 'candidate' means an individual described in section 273(d).

"(3) CORPS.—Except as otherwise provided, the term 'Corps' means the Global Health Corps established under section 273(a).

"(4) DEPARTMENT.—Except as otherwise provided, the term 'Department' means the Department of Health and Human Services.

"(5) DIRECTOR.—The term 'Director' means the Director of the Global Health Corps described in section 272(a)(3).

"(6) OFFICE.—The term 'Office' means the Office of the Global Health Corps established under section 272(a)(1).

"(7) PARTICIPANT.—The term 'participant' means a member of the Corps as described in section 273(e).

"SEC. 272. OFFICE OF THE GLOBAL HEALTH CORPS.

"(a) OFFICE OF THE GLOBAL HEALTH CORPS.—

"(1) ESTABLISHMENT.—There is established within the Department an Office of the Global Health Corps to assist in improving the health, welfare, and development of communities in foreign countries and regions through the provision of health care personnel, items, and related services.

"(2) PURPOSES.—The purposes of the Office are—

"(A) to expand the availability of health care personnel, items, and related services to improve the health, welfare, and development of communities in select foreign countries and regions;

"(B) to promote United States public diplomacy in such foreign countries and regions by matching the needs of such communities with the services available from the Global Health Corps;

"(C) to provide for the effective management and administration of the Global Health Corps; and

"(D) to coordinate, unify, strengthen, and focus the provision of health care personnel, items, and related services to foreign countries and regions by departments, agencies, and offices of the United States, by non-Federal volunteers, and by private voluntary organizations.

"(3) DIRECTOR.—The head of the Office shall be the Director of the Global Health Corps, who shall be appointed by, and report directly to, the Secretary.

"(b) FUNCTIONS OF THE OFFICE.—The functions of the Office include the following:

"(1) Recruiting individuals to serve in the Corps, including distributing recruiting information to colleges, universities, hospitals, clinics, and nongovernmental organizations. Such individuals may include those with fellowship or scholarship support from private or public institutions and organizations.

"(2) Processing applications for enrollment in the Corps.

"(3) Verifying the training and credentials of candidates seeking to participate in the Corps

"(4) Reviewing requests for Corps personnel and services made by the head of a United States mission, a foreign country, a nongovernmental organization, an agency of the Government of the United States or other person, as determined by the Secretary.

"(5) Matching the skills of participants with the requests for health care personnel, items, and related services described in paragraph (4) to provide such services effectively and efficiently.

"(6) Providing administrative support and management for the Corps, including—

"(A) assisting candidates in the application and training process, as appropriate;

"(B) facilitating the travel of participants to foreign countries and regions and the work of participants in foreign countries and regions;

"(C) ensuring participants have appropriate legal protections and immunities through mechanisms including bilateral agreements with agencies, organizations, or countries receiving participants, hiring non-Federal volunteers as intermittent Federal employees, or providing participants status as employees of the Government of the United States for the purposes of such protections, as appropriate;

"(D) providing strategic guidance and policy for the human resources management of the Corps;

"(E) carrying out activities to retain participants in the Corps, including maintaining a database of current and former participants; and

"(F) ensuring participants have appropriate health, security, and cultural training prior to arriving in a foreign country.

"(7) Serving as a liaison between the Corps and other appropriate persons or government agencies, including—

"(A) leading or participating in interagency working groups, as appropriate;

"(B) coordinating the activities of the Corps with activities carried out by other bureaus of the Department and by the Agency, the Department of Defense, the Department of State, the Peace Corps, and other executive department, as appropriate, to advance and promote the purpose and activities of the Corps as effectively and efficiently as possible;

"(C) meeting routinely with representatives from the Agency, the Peace Corps, the National Disaster Medical System, the Medical Reserve Corps, the Office of Force Readiness and Deployment, Volunteers for Prosperity, the Office of Foreign Disaster Assistance of the Agency, the Bureau of Global Health Affairs of the Agency, the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, and others, as appropriate, to improve the health, welfare, and development of communities in foreign countries and regions through the provision of health care personnel, items, and related services on a short-term or long-term basis; and

"(D) maintaining contact with appropriate international organizations to carry out the purpose of the Corps and with foreign governments that are current or prospective recipients of services provided by the Corps.

"(8) Providing participants with appropriate training and equipment, including—

"(A) ensuring participants have the appropriate medical equipment, supplies, and other resources necessary to provide health care services under austere and challenging conditions while serving in the Corps; and

"(B) establishing, managing, and directing any training provided under section 274(e).

"(9) Maintaining contact with participants during their service in the Corps.

"(10) Establishing performance objectives for the Corps, and appropriate metrics to assess the performance of the Corps in achieving its purposes, consistent with this part, and assessing the performance of the Office in achieving its purposes, consistent with section 272.

"(11) Submitting to Congress an annual report on the objectives and metrics described in paragraph (10) and on the Corps performance in meeting such objectives.

"SEC. 273. ESTABLISHMENT OF THE GLOBAL HEALTH CORPS.

"(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of State, shall establish a Global Health Corps.

“(b) PURPOSE.—The purpose of the Corps is to improve the health, welfare, and development of communities in select foreign countries and regions, to advance United States public diplomacy in such locations, and to provide individuals in the United States with the opportunity to serve such communities by providing a broad range of needed health care and related services in such communities.

“(c) COMPOSITION OF THE CORPS.—

“(1) IN GENERAL.—The Corps shall include the following components:

“(A) Volunteers who are not employees of the Government of the United States or enrolled in the Peace Corps.

“(B) Employees of the Government of the United States.

“(C) Peace Corps volunteers who participate in the Corps under section 5A of the Peace Corps Act.

“(D) The Director and any staff of the Office.

“(E) Any other individual that the Director determines is appropriate to include in the Corps.

“(d) CANDIDATE.—An individual may be a candidate for the Corps if such individual meets the following:

“(1) NON-FEDERAL VOLUNTEER.—A individual who—

“(A)(i) is citizen or national of the United States; or

“(ii) is a resident of the United States, at the discretion of the Secretary;

“(B) is not an employee of the Government of the United States;

“(C)(i) is a trained health care professional and meets the educational and licensure requirements necessary to be such a professional, including a physician, nurse, dentist, veterinarian, or other professional determined to be appropriate by the Director; or

“(ii) is a trained health care practitioner or other professional that meets the educational requirements determined to be appropriate by the Secretary; and

“(D) is seeking membership in the Corps and is willing to work under austere and challenging conditions.

“(2) FEDERAL EMPLOYEE.—A citizen, national, or resident of the United States who—

“(A) is an employee of the Government of the United States;

“(B) meets the requirements of clause (i) or (ii) of paragraph (1)(C); and

“(C) is seeking membership in the Corps, or is designated as a candidate by the head of the executive department that employs such citizen, national, or resident.

“(3) PEACE CORPS VOLUNTEER.—A citizen or national of the United States who—

“(A) is a Peace Corp volunteer

“(B)(i) meets the requirements of clause (i) or (ii) of paragraph (1)(C); or

“(ii) is qualified to participate in the comprehensive training program established under section 274(e)(2), as determined by the Director; and

“(C) is seeking enrollment in the Corps.

“(e) MEMBERSHIP IN THE CORPS.—

“(1) IN GENERAL.—The Director may—

“(A) enroll and accept the services of candidates who are not employees of the Government of the United States in the Corps, without regard to section 1342 of title 31, United States Code;

“(B) designate candidates who are employees of the Government of the United States as members of the Corps, with the approval of the head of the executive department that employs such employee; and

“(C) accept details or assignments of employees of the Government of the United States to serve in the Corps on a reimbursable or nonreimbursable basis.

“(2) APPLICATION.—The Director shall establish procedures for individuals to submit applications for enrollment in the Corps.

“SEC. 274. FUNCTIONS AND TRAINING OF THE CORPS.

“(a) IN GENERAL.—Participants shall be available to provide the services described in subsection (b) to individuals and communities in the locations described in subsection (c).

“(b) SERVICES.—Subject to subsection (f), the services referred to in subsection (a) are services, including assistance and training, provided to individuals and communities to carry out the purpose of the Corps, including the provision of—

“(1) health care items and related services, including dental care;

“(2) preventive care, treatment, and services;

“(3) veterinary and related services;

“(4) sanitation, hygiene, food preparation, and clean water training;

“(5) disease surveillance and basic health care services to individuals and communities affected by diseases or illnesses as identified by the Director;

“(6) education and training related to the services described in paragraphs (1) through (5);

“(7) education and training to local persons to improve health care outcomes, and to assist in the development of local and indigenous health care delivery capacity and self-sufficiency; and

“(8) other health care items and related services determined to be appropriate by the Director, including health care training, health systems development, and technical support.

“(c) LOCATIONS.—The Director is authorized to provide, with the concurrence of the Secretary of State, the services described in subsection (b) to individuals and communities in a foreign country or region if—

“(1) the Secretary of State has determined that such country or region is in need of such services; and

“(2) the Secretary of State has determined that the provision of such services may help promote a better understanding of the people of the United States on the part of the peoples served in such a foreign country or region.

“(d) PLACEMENT OF PARTICIPANTS.—

“(1) IN GENERAL.—The Director shall decide on the placement of a participant in a foreign country or region described in subsection (c) after—

“(A) determining that the location or organization is in need of the services provided by the Corps in which the participant has expertise and training;

“(B) consulting with the Secretary of State on the extent to which the placement of the participant in a particular location or organization advances the foreign policy and public diplomacy objectives of the United States; and

“(C) considering the skills, qualifications, and availability of the participant.

“(2) REQUIRED CONSULTATION.—The Director shall, prior to placing a participant in a foreign country or region, consult with—

“(A) the head of the executive department that employs the participant, if the participant is an employee of the Government of the United States;

“(B) the United States Ambassador to such foreign country; and

“(C) the head of any executive department that is providing health care or related services in such foreign country.

“(e) TRAINING.—

“(1) REQUIREMENT.—The Secretary shall ensure that appropriate training programs are available, including the comprehensive training program described in paragraph (2) and appropriate health, security, and cultural training for participants, to prepare participants to provide the services described in subsection (b).

“(2) COMPREHENSIVE TRAINING PROGRAM.—

“(A) ESTABLISHMENT.—The Director shall establish and carry out a program, either separately or jointly with a Federal, public, or private sector health care provider or health care institution, to provide members of Corps selected by the Director training in a variety of health care disciplines, including basic medical, dental, public health, nursing, epidemiological services, and veterinary care.

“(B) TRAINING PROVIDED.—The program established under subparagraph (A) shall be designed by the Director, in consultation with the Secretary, Administrator of the Agency, the Secretary of Agriculture, the Secretary of Defense, the Secretary of State and the Director of the Peace Corps, to provide comprehensive basic training for a period of not more than 6 months to each participant who is a member of the Peace Corps and each other participant that the Director determines is appropriate to enable such participant to provide the services described in subsection (b), including training in a variety of health care disciplines, including basic medical, dental, public health, nursing, epidemiological service, and veterinary care.

“(C) REIMBURSEMENT.—The Director is authorized to permit a participant who is not a member of the Peace Corps to receive training in the program established under subparagraph (A) on a reimbursable basis, unless determined otherwise by the Secretary.

“(D) PROGRAM MODEL.—The program established under subparagraph (A) should be modeled on successful public and private programs, including the Joint Special Operations Medical Training Center program conducted by the Department of Defense and those conducted by various medical and nursing schools around the country.

“(E) PROHIBITION ON PARTICIPATION IN SIMILAR TRAINING.—A participant may not participate in the Joint Special Operations Medical Training Center program conducted at Fort Bragg, North Carolina.

“(3) SERVICE REQUIREMENT.—

“(A) NON-FEDERAL VOLUNTEERS.—A participant who is not an employee of the Government of the United States or a Peace Corps volunteer and who attends a training program established under paragraph (1), other than the training program established under paragraph (2), shall be obligated to complete the amount of service in the Corps, commensurate with the type and amount of training received, that the Secretary determines is appropriate.

“(B) ALL PARTICIPANTS.—A participant who attends the training program established under paragraph (2) shall be obligated to complete the amount of service in the Corps, commensurate with the type and amount of training received, that the Secretary deems appropriate. Such service shall be at the discretion of the Director, during any 5-year period, and in a manner consistent with this part and with the concurrence of the Director of the Peace Corps if such participant is a Peace Corps volunteer.

“(f) PROHIBITION.—A member of the Corps may not carry out an activity under this part if—

"(1) section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)) prohibits providing funding for such activity; or

"(2) any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that relates to abortion prohibits providing assistance for such activity.

"SEC. 275. PERSONNEL AND ADMINISTRATIVE PROVISIONS.

"(a) Compensation of Participants.—

"(1) Non-federal volunteers.—A participant who is not an employee of the Government of the United States or a Peace Corps volunteer shall serve in the Corps without compensation from the Government of the United States to either the participant or to any other person.

"(2) Federal employees.—A participant who is an officer or employee of the Government of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(3) Peace corps volunteers.—A participant who is a Peace Corps volunteer shall serve without compensation in addition to that received for their services in the Peace Corps under the Peace Corps Act (22 U.S.C. 2501 et seq.).

"(b) Travel Expenses.—

"(1) Non-federal volunteers.—The Director may provide a participant who is a not an employee of the Government of the United States or a Peace Corps volunteer travel expenses, excluding per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while such participant is serving in the Corps.

"(2) Federal employees.—The Director shall provide a participant who is an employee of the Government of the United States travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Corps.

"(3) Peace corps volunteers.—The Director may not provide a participant who is a Peace Corps volunteer travel expenses in addition to such expenses provided for under the Peace Corp Act (22 U.S.C. 2501 et seq.).

"(c) Applicability of Laws to Non-Federal Volunteers.—

"(1) In general.—A member of the Corps who is not an employee of the Government of the United States or a Peace Corps volunteer may not be considered an employee of the Government of the United States, except for the purposes of—

"(A) section 272(b)(6)(C);

"(B) chapter 81 of title 5, United States Code (relating to compensation for work-related injuries); and

"(C) chapter 11 of title 18, United States Code (relating to conflicts of interest).

"(2) Volunteer protection act of 1997.—

"(A) Volunteer status.—A member of the Corps who is not an employee of the United States or a Peace Corps volunteer shall be deemed to be a volunteer for a nonprofit organization or governmental entity for the purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

"(B) Inapplicability of exceptions.—Section 4(d) of such Act (42 U.S.C. 14503(d)) may not apply to a member of the Corps who is not an employee of the United States or a Peace Corps volunteer.

"(d) Terms and Conditions.—With respect to the membership of a candidate in the Corps, the terms and conditions of the enrollment, training, compensation, hours of work, benefits, leave, termination, and all other terms and conditions of the service of such participant shall be exclusively those set forth in this part and those consistent with such terms and conditions which the Secretary may prescribe.

"(e) Termination.—The membership in the Corps of a participant may be terminated at any time at the pleasure of the Director.

"SEC. 276. PUBLIC HEALTH SERVICE MEMBERS IN THE GLOBAL HEALTH CORPS.

"(a) Authority To Enroll.—A member of the Service may enroll in the Corps and provide services as a member of the Corps described in this part.

"(b) Minimum Number.—Not later than 2 years after the date of enactment of the Global Health Corps Act of 2005, the Secretary shall designate not less than 500 employees of the Service as members of the Corps and make such employees available to provide non-emergency, routine health care items and related services in the Corps, as the Secretary and the Secretary of State determine appropriate.

"(c) Rapid Response Capacity.—Not later than 2 years after the date of enactment of the Global Health Corps Act of 2005, the Secretary shall establish within the Commissioned Corps of the Service a rapid response capacity, consisting of not less than 250 individuals, to provide health care items and related services in foreign countries or regions to carry out the purpose of the Corps on short notice, in coordination with the Secretary of State. A member of the Commissioned Corps who is included in such rapid response capacity shall—

"(1) be trained, equipped, and able to deploy to a foreign country or region within 72 hours of notification of such deployment; and

"(2) be considered a participant in the Corps.".

SEC. 3. PEACE CORPS VOLUNTEERS IN THE CORPS.

The Peace Corps Act (22 U.S.C. 2501) is amended by inserting after section 5 the following new section:

"GLOBAL HEALTH CORPS VOLUNTEERS

"Sec. 5A. (a) Volunteers are authorized to participate in the Global Health Corps, established in section 273 of the Public Health Service Act.

"(b) Not later than 2 years after the date of enactment of the Global Health Corps Act of 2005, the Director of the Peace Corps shall make available not less than 250 positions within the Peace Corps for volunteers to serve in the Global Health Corps.

"(c) A volunteer may apply and be approved for enrollment in the Global Health Corps at such time and in such manner as the Director of the Peace Corps and the Secretary of Health and Human Services require.

"(d) A volunteer who is enrolled in the Global Health Corps shall receive training under section 274(e)(2) of the Public Health Service Act, unless such volunteer meets the requirements of clause (i) or (ii) of section 273(d)(1)(C) of such Act.

"(e) A volunteer who is enrolled in the Global Health Corps shall provide services as a member of the Global Health Corps as described in part D of title II of the Public Health Service Act.

"(f) A volunteer who is enrolled in the Global Health Corps shall be subject to all other terms and conditions of service under this Act.".

SEC. 4. VOLUNTEERS FOR PROSPERITY.

(a) Finding.—Congress finds that the Volunteers for Prosperity program, organized pursuant to Executive Order 13317 (42 U.S.C. 12501 note), is a model to link non-Federal volunteers with non-Federal organizations to carry out important initiatives.

(b) Requirement for Corps Initiative.—The head of the Volunteers for Prosperity program shall establish an initiative known as the Health Care for Peace initiative within such program for the purpose of making available non-Federal volunteers to participate in the Global Health Corps established under section 273 of the Public Health Service Act.

SEC. 5. PUBLIC-PRIVATE PARTNERSHIPS.

(a) In General.—Under the authority of subsections (a) and (b) of section 601 of the Foreign Assistance Act of 1961 (22 U.S.C. 2351) and section 635(d) of such Act (22 U.S.C. 2395(d)), the Director of the Global Health Corps may establish private-public partnerships in furtherance of the purposes of this Act and the Global Health Corps. Such partnerships may include activities such as—

(1) corporate volunteer programs;

(2) training;

(3) transportation;

(4) field support;

(5) volunteer identification;

(6) lodging;

(7) communications;

(8) fellowships and scholarships; and

(9) other activities relevant to the mission of the Global Health Corps or the operation of the Office of the Global Health Corps, as determined by the Director of the Global Health Corps.

(b) Consultation.—The Director of the Global Health Corps shall consult with the Global Development Alliance Secretariat at the United States Agency for International Development to develop a model for such public-private partnerships and gain information on established best practices.

SEC. 6. REPORT ON IMPLEMENTATION.

Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a detailed plan for the implementation of this Act and the amendments made by this Act. Such report shall include recommendations for improving the functioning and activities of the Global Health Corps, including the feasibility, cost, utility, and desirability of establishing incentives to recruit candidates into the Corps.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act and the amendments made by this Act.

By Mr. SPECTER (for himself, Mr. Leahy, Mr. Hatch, Mrs. Feinstein, Mr. Grassley, Mr. DeWine, Mr. Baucus, and Mr. Voinovich):

S. 852. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation which may be cited as the Fairness In Asbestos Injury Resolution Act of 2005. I do so on behalf of Senator Leahy, the ranking member of the Judiciary Committee, Senator Hatch, the former chairman of the committee, Senator Feinstein, Senator DeWine, Senator Baucus, Senator Voinovich and Senator Grassley. There are others in the wings waiting to cosponsor, but this is a very complex bill, ranging over 300 pages. Quite a number of my colleagues have told me they are supportive of the bill and are making the final check to determine cosponsorship.

Several months ago, a discussion draft was circulated. Last week, after a great many refinements had been added, the current bill was circulated. There have been a couple of relatively minor changes which have been added to this bill, but it is essentially the same as the circulation bill which was submitted a week ago.

I compliment my distinguished colleague, Senator Leahy, the ranking member, for his diligence, hard work and cooperation in structuring a bill with a great many moving parts, which he and I have been able to agree upon on the core principles.

We have adopted a position that we will work jointly to retain these core provisions. We are open to suggestions and amendments and modifications which do not impact on these core provisions. But it is a very difficult matter to structure an asbestos bill which can pass the Senate. There are 55 Republicans. You need at least five Democrats. It has to be a balanced bill, and it is our submission that this is a balanced bill.

A great deal of credit is due to senior Federal Judge Edward R. Becker, who until May 5, his 70th birthday, in the year 2003 was the chief judge of the Court of Appeals for the Third Circuit who wrote the opinion on the asbestos litigation which reached the Supreme Court of the United States.

When the Judiciary Committee passed out of committee legislation on asbestos in July of 2003, the distinguished Presiding Officer was on the committee at that time and can attest to the 12-hour marathon session we had. We did so significantly along party lines to move the legislation along, recognizing it had many problems. At my request, Judge Becker then convened the so-called stakeholders in his chambers in Philadelphia for 2 days in August, the stakeholders being identified as the manufacturers, the AFL–CIO, the insurance industry, and the trial lawyers.

To recite the power and diversity and difference of opinion of these groups is to suggest the complication of bringing the stakeholders together on a piece of complex legislation.

Following those 2 days of meetings in Judge Becker's chambers, we have had some 36 sessions in my conference room here in the Hart Senate Office Building where Judge Becker presided and I assisted, and we worked out a great many of the issues to the satisfaction of the stakeholders.

One of the core provisions of the bill is that there is a trust fund of $140 billion. It is always difficult on projections to be absolutely certain, but I believe there is a very high probability that this trust fund will be adequate to pay all of the claims.

In very extensive testimony from Goldman Sachs on very carefully calculated projections, it was projected that the total cost of payments would be $118 billion. There is a considerable cushion between $118 billion and $140 billion. If for some unexpected reason the trust fund is insufficient, then those who have been injured by exposure to asbestos will be able to revert to jury trials.

All of us are mindful of the very substantial factor when a claimant gives up a constitutional right to jury trial, but in a program structured largely along lines of workmen's compensation, it is our conclusion that it is a fair exchange.

When you find that there are many people who are suffering deadly ailments from asbestos, mesothelioma and other deadly injuries, who are not being compensated, this is a way to compensate those individuals whose companies have gone bankrupt. Over 75 companies have gone bankrupt at a tremendous impact to the economy. This will relieve the companies of the onerous threat of bankruptcy—and they are taking additional companies with rapidity.

On one development which candidly surprised me, last week, when we circulated the draft bill a week ago today, there was a 25-point bump in the stock market for asbestos companies. When we had a meeting later in the day and deferred production of the bill, the stock market went down to some extent. There is some consideration that the stock market is wiser even than Congress. Perhaps that would take a whole lot. But the reaction of the stock market is an indication of the importance of resolving this asbestos issue in order to give the economy a start.

The hour is late. There are others who wish to seek recognition. The distinguished chairman of the Appropriations Committee is waiting through this nongermane part of his business, and the distinguished Democratic leader, I know, wants to seek recognition.

I shall include the remainder of my statement in the Record and ask unanimous consent that it be printed.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mr. President, I have sought recognition to introduce new legislation, the Fairness in Asbestos Injury Resolution Act of 2005, FAIR Act, the successor to S. 1125 and S. 2290, the FAIR Acts of 2003 and 2004. My colleagues Senator Frist, Senator Hatch and Senator Leahy deserve enormous credit for the drafting of these acts and for the development of this legislation. There is a will in the Senate to enact legislation that should put an end to the ongoing rash of bankruptcies, growing monthly; diverting resources from those who are truly sick; endangering jobs and pensions; and creating the worst litigation crisis in the history of the American judicial system. The Congress plainly wants a more rational asbestos claims system, and I believe that this legislation offers a realistic prospect of accomplishing that result.

This legislation provides substantial assurances of acceptable compensation to asbestos victims and substantial assurances to manufacturers and insurers to resolve, with finality, asbestos claims. For more than two decades, a solution to the asbestos crisis has eluded Congress and the courts. Seventy-four companies have gone bankrupt, thousands of individuals who have been exposed to asbestos have deadly diseases—mesothelioma and other such ailments—and are not being compensated. According to The Rand Institute for Civil Justice, "about two-thirds of the claims are now filed by the unimpaired, while in the past they were filed only by the manifestly ill." According to Rand, the number of claims continues to rise, with over 600,000 claims filed already and 300,000 pending. The number of asbestos defendants also has risen sharply, from about 300 in the 1980s, to more than 8,400 today and most are users of the product, not its manufacturers. These companies span 85 percent of the U.S. economy and nearly every U.S. industry, and include automakers, shipbuilders, textile mills, retailers, insurers, shipbuilders, electric utilities and virtually any company involved in manufacturing or construction in the last 30 years.

Asbestos leaves many victims in its wake. First and foremost, the sick and their families have suffered. But the flawed asbestos litigation system not only hurts the sick and their chance at receiving fair compensation, but also claims other victims. These include employees, retirees and shareholders of affected companies whose jobs, savings and retirement plans are also jeopardized by the tide of asbestos cases. With asbestos litigation affecting so many companies, this also impacts the overall economy, including jobs, pensions, stock prices, tax revenues and insurance costs. According to a 2002 study by Nobel laureate Joseph Stiglitz, asbestos bankruptcies have cost nearly 60,000 workers their jobs and $200 million in lost wages. Employees' retirement funds have shrunken by 25 percent.

In July 2003, the Judiciary Committee voted out S. 1125, a bill with many problems, largely along party lines, in an effort to move the legislation. S. 1125 created the basic structure of the legislation, and made a huge stride in working out the medical criteria. However, the bill floundered on other issues. In August 2003, at my request, Judge Edward R. Becker, a Federal judge for 34 years, convened in his chambers in Philadelphia for 2 days the so-called stakeholders—manufacturers, labor, AFL–CIO, insurers and trial lawyers—to determine if some common ground could be found. Until the preceding May, Judge Becker had been the chief judge of the Third Circuit Court of Appeals and wrote the opinion in the asbestos class action suit which was affirmed by the U.S. Supreme Court.

From September 2003 through January 2005, there were some 36 stakeholder meetings held in my conference room, with Judge Becker as a pro-bono mediator, usually attended by 25 to 40 representatives and sometimes over 75 present. I have also met 15 times since January with various officials from the administration, members of the Senate Judiciary Committee and their staffs, the Senate leadership and other various senators all in an effort to move this bill forward. Judge Becker and I have sought an equitable bill which took into account, to the maximum extent possible, the concerns of the stakeholders and to get their input on drafting of the bill. After analysis and deliberation, we found we could accommodate many of the competing interests.

This process commenced with the blessing of Chairman Hatch and Ranking Member Leahy of the Judiciary Committee. This extended process allowed the stakeholders an extraordinary "hearing" process and really amounted to the longest "mark-up" in Senate history although not in the customary framework. We have had the cooperation of many Senators. Senators Hatch and Leahy have had representatives at all the meetings. The majority leader, Senator Hatch, and Senator Leahy have addressed this "working group" at our meetings. Senator Hatch and Senator Leahy's representatives have been active participants at every meeting, as well as the members of the staffs of Senators Baucus, Biden, Brownback, Burns, Carper, Chafee, Chambliss, Coburn, Cornyn, Craig, DeWine, Dodd, Durbin, Feingold, Feinstein, L. Graham, Grassley, Hagel, Kennedy, Kohl, Kyl, Landrieu, Levin, Lincoln, Murray, Ben Nelson, Pryor, Schumer, Sessions, Snowe, Stabenow, and Voinovich.

The concept of a trust fund is an outstanding idea. Senator Hatch deserves great credit for moving the legislation in the direction of a trust fund with a schedule of payments analogous to workers' compensation so the cases would not have to go through the litigation process. Under this proposal, the Federal Government would establish a national trust fund privately financed by asbestos defendant companies and insurers. No taxpayer money would be involved. Asbestos victims would simply submit their claims to the fund. Claimants would be fairly compensated if they meet medical criteria for certain illnesses and show past asbestos exposure. The trust fund would guarantee compensation for impaired victims.

Through the series of meetings with Judge Becker, we have wrestled with and have been able to solve a number of very complex issues. The size of the trust fund was always a principal issue of dispute, starting at $108 billion. The manufacturers/insurers raised their offer to $140 billion. Last October, Majority Leader Frist and then-Democratic Leader Daschle agreed to $140 billion. When Senator Frist and Senator Daschle, in an adversarial context, agreed to the adequacy of the $140 billion figure, it is difficult to exceed it even though the AFL-CIO did not contemporaneously agree.

It is not possible to say definitely what figure would be adequate because it depends on the uncertainty of how many claims will be filed. There is support for the adequacy of the $140 billion figure from reputable projections. But they are, admittedly, only projections.

The real safety valve, if the fund is unable to pay claims, is for the injured to have the ability to go back to court if the system is not operational and able to pay exigent health claims within 9 months after enactment, and all other valid claims within 24 months of enactment. Upon reversion to the tort system, the bill provides that claimants may file suits either in Federal court or State court in the state in which the plaintiff resides or State court in the state where the asbestos exposure took place.

The claimants object to any hiatus between access to the courts and an operating system; but the reality is that court delays are customarily longer than the delay structured in this system. The defendants and insurers object saying it is too short a time frame, but they have the power to expedite the process by promptly paying their assessments. I am confident that there will be no problem in administering the system and processing the claims. The leaders of the Manville Trust and the Rand Institute study and point out that the volume of claims can be efficiently administered by the fund administrator using a technique developed by the Manville Trust and other similar claims facilities that have processed asbestos claims for many years. The Manville Trust has processed as many as 150,000 claims per year. The number of exigent claims anticipated in the first 9 months of the fund is vastly smaller and even the total number of claims anticipated in the first 24 months is significantly less that which the Manville Trust has handled in a comparable period. Additionally, the bill provides the administrator with the option to contract out the exigent claims to a claims facility for expedited processing under the standards of the fund on a voluntary basis. The short time frame will prod the system to become operative at an early date. The bill sends the claims back to the fund as soon as it is certified operational with a credit for any payment of the scheduled amount.

Similarly, the defendants seek a commitment that the legislation will bar return to the courts for at least 7½ years. It is hard to see how the substantial fund would be expended in a lesser period. Here again, the legislation gives the defendant substantial assurances that the system will last at least 7½ years. If it collapses, the claimants should not bear the burden, but should reclaim their constitutional right to a jury trial. However, sunset cannot take place before there is an extensive and rigorous "program review." This would give the administrator an opportunity re-fashion the program to compensate for any major shortcomings.

The claimants sought $60 billion in startup contributions within 5 years and the defendants countered with a maximum of $40 billion. The fund's borrowing power should enable it to borrow at least the balance of $20 billion because of the defendants continuing substantial financial commitments. Here again, the bill meets the standard of substantial assurances, albeit not perfect certainty, that $60 billion will be in hand within the first 5 years.

A key issue for the claimant has been that of workers' compensation subrogation. This issue is important because the value of an award to the claimant depends on whether the claimant may have to pay a substantial amount of it to others. While the precise picture is different from State to State, in general, workers' compensation laws give employers—and their insurance carriers—subrogation rights against third-party tortfeasors and a lien on the injured employee's recovery from a third-part tortfeasor. This is a big issue because workers' compensation covers the employee's medical costs.

I closely examined and considered including a proposal that would have called for a so-called workers' compensation "holiday." Such a proposal would have provided for a "holiday" from worker's compensation payments during the period of receipt of payments from trust fund except to the extent that the compensation would exceed them, with a waiver of past and future subrogation. However, as each State has different workers' compensation laws and I concluded that such a proposal may go beyond the practice in a number of States, leaving some claimants with a significantly reduced award.

Furthermore, while not undisputed like some other matters on this legislation, there is some significant basis in the assertion by claimants that the award values in the bill were designed with the concept in mind that there would be no liens or rights of subrogation against the claimants based on workers' compensation awards and health insurance payments.

Therefore, in the final analysis, it has been determined that to be fair to victims, claimants should be allowed to retain and receive the full value of both their fund awards and workers' compensation payments. It is important that the bill must extinguish any liens or rights of subrogation that other parties might otherwise assert against the claimants based on workers' compensation awards and health insurance payments.

Another key issue for the claimants has been the legislation's treatment of asbestos disease claims under the Federal Employers' Liability Act, FELA, the workers' compensation system for rail workers. Earlier versions of the bill would have preempted FELA claims for asbestos-related diseases, limiting victim's recovery to compensation under a national asbestos trust fund. Rail labor asserts that such an approach is unfair to rail workers, since for all other workers, the bill maintains workers' compensation rights. Alternative approaches to dealing with the FELA issue have been proposed, including providing for a supplemental payment, in addition to awards under the bill, to provide compensation to rail workers for work-related asbestos diseases. The AFL-CIO's affiliates who represent workers in the rail industry have been engaged in discussions with industry on this issue, and a fair resolution has been reached. The bill provides for a principled compromise that would allow for a special adjustment for railroad workers so that the compensation award would be structured in a manner that would allow for corollary benefits—similar benefits for workers under FELA and workers compensation. It also clarifies that this legislation intends to deal solely with asbestos claims and does not in any manner impact FELA.

In these marathon discussions, plus the January 11 and February 2 hearings, I understand the deep concerns expressed by the stakeholder representatives on more concessions for their clients. On the state of the 20-year record, this choice is not between this bill and one which would give their clients more concessions. The choice is between this bill and the continuation of the present chaotic system which leaves uncompensated thousands of victims suffering from deadly diseases and litigation driving more companies into bankruptcy.

We considered at length the manufactures/insurers objections to medical screening, but concluded such a provision was necessary as an offset to the reduced role of claimant's attorney. With the previous potential of a substantial contingent fee, claimant's attorneys identified those damaged by exposure to asbestos. Absent that motivation, with the attorneys fees capped at 5 percent, it is reasonable to have routine examinations for people who would not be expected to go for such checkups on their own; so as a matter of basic fairness, such screening is provided. By establishing a program with rigorous standards, as we have done in this bill, unmeritorious claims can be avoided with the fair determination of those entitled to compensation under the statutory standard.

The legislation has closely examined the issues of so-called "leakage" in the fund and has provided that all asbestos claims pending on the date of enactment, except for non-consolidated cases actually on trial, and except cases subject to a verdict or final order or final judgment, will be brought into the asbestos trust fund. Furthermore, only written settlement agreements, executed prior to date of enactment, between a defendant and a specifically identifiable plaintiff will be preserved outside of the fund; the settlement agreement must contain an express obligation by the settling defendant to make a future monetary payment to the individual plaintiff, but gives the plaintiff 30 days to fulfill all conditions of the settlement agreement.

The legislation includes language which is designed to ensure prompt judicial review of a variety of regulatory actions and to ensure that any constitutional uncertainties with regard to the legislation are resolved as quickly as possible. Specifically, it provides that any action challenging the constitutionality of any provision of the act must be brought in the United States District Court for the District of Columbia. The bill also authorizes direct appeal to the Supreme Court on an expedited basis. An action under this section is to be filed within 60 days after the date of enactment or 60 days after the final action of the administrator or the commission giving rise to the action, whichever is later. The district court and Supreme Court are required to expedite to the greatest possible extent the disposition of the action and appeal.

Claimants also expressed the need for assurances that the manufacturers payment into the fund. Therefore, the legislation also requires enhanced "transparency" of the payments by the defendants and insurers into the fund. The proposal provides that 20 days after the end of such 60-day period, the administrator shall publish in the Federal Register a list of such submissions, including the name of such persons or ultimate parents and the likely tier to which such persons or affiliated groups may be assigned. After publication of such list, any person may submit to the administrator information on the identity of any other person that may have obligations under the fund. In addition, there are enhanced notice and disclosure requirements included in the draft. It also provides that within 60 days after the date of enactment, any person who, acting in good faith, has knowledge that such person or such person's affiliated group would result in placement in the top tiers, shall submit to the administrator either the name of such person or such person's ultimate parent; and the likely tier to which such person or affiliated group may be assigned under this act.

This legislation deals with a number of very complex issues, one of them being that of "mixed-dust." I held a hearing in the Judiciary Committee on this issue on February 2, 2005. The manufacturers fear that many asbestos claims will be "repackaged" as silica claims in the tort system. Evidence adduced at the hearing reflects that this has been happening in a number of jurisdictions. If a claim is due to asbestos exposure at all, the program should be the exclusive means of compensation. The stakeholders agree that this is an asbestos bill, designed to dispose of all asbestos claims but that workers with genuine silica exposure disease ought to be able to pursue their claims in the tort system. The problem is that with those claims where the point of demarcation is unclear. Silica/asbestos defendants are worried that they will find themselves in court with the burden of proving that the plaintiff's injury is due to asbestos rather than silica. This legislation makes clear that pure silica claims are not preempted, but claims involving asbestos disease are preempted. A claimant must provide rigorous medical evidence establishing by a preponderance of evidence that their functional impairment was caused by exposure to silica, and asbestos exposure was not a significant contributing factor. Although this does impose the burden on the claimant, this is no different than the burden the plaintiff or any party advancing a position has in producing medical evidence in any case that the will physician will state that a disease was caused by some condition or exposure or that it was not caused by some condition or exposure. In addition, the testimony given at the February 2 hearing on the issue established that asbestos and silica are easily distinguishable on xray and that asbestos and silica rarely are found in the same patient.

Another very complicated issue addressed this legislation, is that of providing for award adjustments for exceptional mesothelioma cases based on age and the number of dependents of the claimant. For example, a mesothelioma victim who is 40 years old with two children will be able to get an upwards adjustment in his award amount as compared to a 80 years mesothelioma victim with no dependents. The impact of such adjustments to the fund will remain revenue-neutral.

There has been a strong concern that this bill should not become a "smokers" bill rather than an asbestos bill—that thousands of smokers will claim to be in the Level VII compensation tier in order to get money even if asbestos had nothing to do with their disease. After long discussions with the various sides, it has been decided to remove Level VII cases from the fund, cases which had the potential to bring down the entire fund.

There has also been a concern with the legitimacy of the Level VI compensation tier. I requested that the Institute of Medicine, IOM, commence a study to assess the medical evidence so as to determine whether colorectal, laryngeal, esophageal, pharyngeal or stomach cancer can be caused by asbestos exposure. The IOM will conclude its study of Level VI causation by April 2006. With a 270-day stay on exigent cases and 2-year stay of all other cases, this has the practical impact of the IOM study results being conclusive on inclusion or exclusion of Level VI prior to any claim being filed.

Therefore, the bill retains the Level VI tier pending the IOM study conclusions but continues to provide extensive safeguards to the fund against those individuals with these diseases making claims against the asbestos trust fund. Any Level VI claim must be based on findings by a board certified pathologists accompanied by evidence of a bilateral asbestos-related nonmalignant disease; evidence of 15 or more weighted years of substantial occupations exposure to asbestos; and supporting medical documentation establishing asbestos exposure as a contributing factor in causing the cancer in question. The claim must also be referred to a physicians panel for a determination that it is more probable than not that asbestos exposure was a substantial contributing factor in causing the other cancer in question. Further, the bill mandates that the physicians panel review the claimants smoking history as opposed to "claimant may request."

This is a complicated bill, but one that is both integrated and comprehensive and reflective of a remarkable will to enact legislation. If this bill is rejected, I do not see the agenda of this Senate Judiciary Committee revisiting the issue. I cannot conceive of a more strenuous effort being directed to this subject that has been done over the past two years. This is the last best chance.

I remain confident that we can forge and enact a bill that is fair to the claimants and to business and that will put an end once and for all to this nightmare chapter in American legal, economic and social history. If We can summon the legislative will in a bipartisan spirit, it can be done.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill be printed.

Mr. President, I ask unanimous consent between the comments I have made, which have not been made from a text, and the text of my language which I am currently stating, be included, so that those who read the CONGRESSIONAL RECORD, if anyone does, will know the repetition in the prepared text is occasioned by the fact that the initial statement was made without reference to a text and there will necessarily be some repetition in the prepared text.

I thank the Chair. I yield the floor.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fairness in Asbestos Injury Resolution Act of 2005" or the "FAIR Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.

TITLE I—ASBESTOS CLAIMS RESOLUTION

SUBTITLE A—OFFICE OF ASBESTOS DISEASE COMPENSATION

Sec. 101. Establishment of Office of Asbestos Disease Compensation.
Sec. 102. Advisory Committee on Asbestos Disease Compensation.
Sec. 103. Medical Advisory Committee.
Sec. 104. Claimant assistance.
Sec. 105. Physicians Panels.
Sec. 106. Program startup.
Sec. 107. Authority of the Administrator.

SUBTITLE B—ASBESTOS DISEASE COMPENSATION PROCEDURES

Sec. 111. Essential elements of eligible claim.
Sec. 112. General rule concerning no-fault compensation.
Sec. 113. Filing of claims.
Sec. 114. Eligibility determinations and claim awards.
Sec. 115. Medical evidence auditing procedures.

SUBTITLE C—MEDICAL CRITERIA

Sec. 121. Medical criteria requirements.

SUBTITLE D—AWARDS

Sec. 131. Amount.
Sec. 132. Medical monitoring.
Sec. 133. Payment.
Sec. 134. Reduction in benefit payments for collateral sources.

Sec. 135. Certain claims not affected by payment of awards.

TITLE II—ASBESTOS INJURY CLAIMS RESOLUTION FUND

SUBTITLE A—ASBESTOS DEFENDANTS FUNDING ALLOCATION

Sec. 201. Definitions.
Sec. 202. Authority and tiers.
Sec. 203. Subtiers.
Sec. 204. Assessment administration.
Sec. 205. Stepdowns and funding holidays.

SUBTITLE B—ASBESTOS INSURERS COMMISSION

Sec. 210. Definition.
Sec. 211. Establishment of Asbestos Insurers Commission.
Sec. 212. Duties of Asbestos Insurers Commission.
Sec. 213. Powers of Asbestos Insurers Commission.
Sec. 214. Personnel matters.
Sec. 215. Termination of Asbestos Insurers Commission.
Sec. 216. Expenses and costs of Commission.

SUBTITLE C—ASBESTOS INJURY CLAIMS RESOLUTION FUND

Sec. 221. Establishment of Asbestos Injury Claims Resolution Fund.
Sec. 222. Management of the Fund.
Sec. 223. Enforcement of payment obligations.
Sec. 224. Interest on underpayment or nonpayment.
Sec. 225. Education, consultation, screening, and monitoring.

TITLE III—JUDICIAL REVIEW

Sec. 301. Judicial review of rules and regulations.
Sec. 302. Judicial review of award decisions.
Sec. 303. Judicial review of participants' assessments.
Sec. 304. Other judicial challenges.
Sec. 305. Stays, exclusivity, and constitutional review.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. False information.
Sec. 402. Effect on bankruptcy laws.
Sec. 403. Effect on other laws and existing claims.
Sec. 404. Effect on insurance and reinsurance contracts.
Sec. 405. Annual report of the Administrator and sunset of the Act.
Sec. 406. Rules of construction relating to liability of the United States Government.
Sec. 407. Rules of construction.
Sec. 408. Violation of environmental health and safety requirements.
Sec. 409. Nondiscrimination of health insurance.

TITLE V—ASBESTOS BAN

Sec. 501. Prohibition on asbestos containing products.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Millions of Americans have been exposed to forms of asbestos that can have devastating health effects.

(2) Various injuries can be caused by exposure to some forms of asbestos, including pleural disease and some forms of cancer.

(3) The injuries caused by asbestos can have latency periods of up to 40 years, and even limited exposure to some forms of asbestos may result in injury in some cases.

(4) Asbestos litigation has had a significant detrimental effect on the country's economy, driving companies into bankruptcy, diverting resources from those who are truly sick, and endangering jobs and pensions.

(5) The scope of the asbestos litigation crisis cuts across every State and virtually every industry.

(6) The United States Supreme Court has recognized that Congress must act to create a more rational asbestos claims system. In 1991, a Judicial Conference Ad Hoc Committee on Asbestos Litigation, appointed by Chief Justice William Rehnquist, found that the "ultimate solution should be legislation recognizing the national proportions of the problem . . . and creating a national asbestos dispute resolution scheme . . .". The Court found in 1997 in Amchem Products Inc. v. Windsor, 521 U.S. 591, 595 (1997), that "[t]he argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair, and efficient means of compensating victims of asbestos exposure." In 1999, the Court in Ortiz v. Fibreboard Corp., 527 U.S. 819, 821 (1999), found that the "elephantine mass of asbestos cases . . . defies customary judicial administration and calls for national legislation." That finding was again recognized in 2003 by the Court in Norfolk & Western Railway Co. v. Ayers, 123 S. Ct. 1210 (2003).

(7) This crisis, and its significant effect on the health and welfare of the people of the United States, on interstate and foreign commerce, and on the bankruptcy system, compels Congress to exercise its power to regulate interstate commerce and create this legislative solution in the form of a national asbestos injury claims resolution program to supersede all existing methods to compensate those injured by asbestos, except as specified in this Act.

(8) This crisis has also imposed a deleterious burden upon the United States bankruptcy courts, which have assumed a heavy burden of administering complicated and protracted bankruptcies with limited personnel.

(9) This crisis has devastated many communities across the country, but hardest hit has been Libby, Montana, where tremolite asbestos, 1 of the most deadly forms of asbestos, was contained in the vermiculite ore mined from the area and despite ongoing cleanup by the Environmental Protection Agency, many still suffer from the deadly dust.

(b) PURPOSE.—The purpose of this Act is to—

(1) create a privately funded, publicly administered fund to provide the necessary resources for a fair and efficient system to resolve asbestos injury claims that will provide compensation for legitimate present and future claimants of asbestos exposure as provided in this Act;

(2) provide compensation to those present and future victims based on the severity of their injuries, while establishing a system flexible enough to accommodate individuals whose conditions worsens;

(3) relieve the Federal and State courts of the burden of the asbestos litigation; and

(4) increase economic stability by resolving the asbestos litigation crisis that has bankrupted companies with asbestos liability, diverted resources from the truly sick, and endangered jobs and pensions.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Office of Asbestos Disease Compensation appointed under section 101(b).

(2) ASBESTOS.—The term "asbestos" includes—

(A) chrysotile;

(B) amosite;

(C) crocidolite;

(D) tremolite asbestos;

(E) winchite asbestos;

(F) richterite asbestos;

(G) anthophyllite asbestos;

(H) actinolite asbestos;

(I) amphibole asbestos;

(J) any of the minerals listed under subparagraphs (A) through (I) that has been chemically treated or altered, and any asbestiform variety, type, or component thereof; and

(K) asbestos-containing material, such as asbestos-containing products, automotive or industrial parts or components, equipment, improvements to real property, and any other material that contains asbestos in any physical or chemical form.

(3) ASBESTOS CLAIM.—

(A) IN GENERAL.—The term "asbestos claim" means any claim, premised on any theory, allegation, or cause of action for damages or other relief presented in a civil action or bankruptcy proceeding, directly, indirectly, or derivatively arising out of, based on, or related to, in whole or part, the health effects of exposure to asbestos, including loss of consortium, wrongful death, and any derivative claim made by, or on behalf of, any exposed person or any representative, spouse, parent, child, or other relative of any exposed person.

(B) EXCLUSION.—The term does not include—

(i) claims alleging damage or injury to tangible property;

(ii) claims for benefits under a workers' compensation law or veterans' benefits program;

(iii) claims arising under any governmental or private health, welfare, disability, death or compensation policy, program or plan;

(iv) claims arising under any employment contract or collective bargaining agreement; or

(v) claims arising out of medical malpractice.

(4) ASBESTOS CLAIMANT.—The term "asbestos claimant" means an individual who files a claim under section 113.

(5) CIVIL ACTION.—The term "civil action" means all suits of a civil nature in State or Federal court, whether cognizable as cases at law or in equity or in admiralty, but does not include an action relating to any workers' compensation law, or a proceeding for benefits under any veterans' benefits program.

(6) COLLATERAL SOURCE COMPENSATION.—The term "collateral source compensation" means the compensation that the claimant received, or is entitled to receive, from a defendant or an insurer of that defendant, or compensation trust as a result of a final judgment or settlement for an asbestos-related injury that is the subject of a claim filed under section 113.

(7) ELIGIBLE DISEASE OR CONDITION.—The term "eligible disease or condition" means the extent that an illness meets the medical criteria requirements established under subtitle C of title I.

(8) EMPLOYERS' LIABILITY ACT.—The term "Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employer's Liability Act" shall, for all purposes of this Act, include the Act of June 5, 1920 (46 U.S.C. App. 688), commonly known as the Jones Act, and the related phrase "operations as a common carrier by railroad" shall include operations as an employer of seamen.

(9) FUND.—The term "Fund" means the Asbestos Injury Claims Resolution Fund established under section 221.

(10) INSURANCE RECEIVERSHIP PROCEEDING.—The term "insurance receivership proceeding" means any State proceeding with respect to a financially impaired or insolvent insurer or reinsurer including the liquidation, rehabilitation, conservation, supervision, or ancillary receivership of an insurer under State law.

(11) LAW.—The term "law" includes all law, judicial or administrative decisions, rules, regulations, or any other principle or action having the effect of law.

(12) PARTICIPANT.—

(A) IN GENERAL.—The term "participant" means any person subject to the funding requirements of title II, including—

(i) any defendant participant subject to liability for payments under subtitle A of that title;

(ii) any insurer participant subject to a payment under subtitle B of that title; and

(iii) any successor in interest of a participant.

(B) EXCEPTION.—

(i) IN GENERAL.—A defendant participant shall not include any person protected from any asbestos claim by reason of an injunction entered in connection with a plan of reorganization under chapter 11 of title 11, United States Code, that has been confirmed by a duly entered order or judgment of a court that is no longer subject to any appeal or judicial review, and the substantial consummation, as such term is defined in section 1101(2) of title 11, United States Code, of such plan of reorganization has occurred.

(ii) APPLICABILITY.—Clause (i) shall not apply to a person who may be liable under subtitle A of title II based on prior asbestos expenditures related to asbestos claims that are not covered by an injunction described under clause (i).

(13) PERSON.—The term "person"—

(A) means an individual, trust, firm, joint stock company, partnership, association, insurance company, reinsurance company, or corporation; and

(B) does not include the United States, any State or local government, or subdivision thereof, including school districts and any general or special function governmental unit established under State law.

(14) STATE.—The term "State" means any State of the United States and also includes the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the entities under this paragraph.

(15) SUBSTANTIALLY CONTINUES.—The term "substantially continues" means that the business operations have not been significantly modified by the change in ownership.

(16) SUCCESSOR IN INTEREST.—The term "successor in interest" means any person that acquires assets, and substantially continues the business operations, of a participant. The factors to be considered in determining whether a person is a successor in interest include—

(A) retention of the same facilities or location;

(B) retention of the same employees;

(C) maintaining the same job under the same working conditions;

(D) retention of the same supervisory personnel;

(E) continuity of assets;

(F) production of the same product or offer of the same service;

(G) retention of the same name;

(H) maintenance of the same customer base;

(I) identity of stocks, stockholders, and directors between the asset seller and the purchaser; or

(J) whether the successor holds itself out as continuation of previous enterprise, but expressly does not include whether the person actually knew of the liability of the participant under this Act.

(17) VETERANS' BENEFITS PROGRAM.—The term "veterans' benefits program" means any program for benefits in connection with military service administered by the Veterans' Administration under title 38, United States Code.

(18) WORKERS' COMPENSATION LAW.—The term "workers' compensation law"—

(A) means a law respecting a program administered by a State or the United States to provide benefits, funded by a responsible employer or its insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries;

(B) includes the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) and chapter 81 of title 5, United States Code; and

(C) does not include the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers' Liability Act, or damages recovered by any employee in a liability action against an employer.

TITLE I—ASBESTOS CLAIMS RESOLUTION

Subtitle A—Office of Asbestos Disease Compensation

SEC. 101. ESTABLISHMENT OF OFFICE OF ASBESTOS DISEASE COMPENSATION.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established within the Department of Labor the Office of Asbestos Disease Compensation (hereinafter referred to in this Act as the "Office"), which shall be headed by an Administrator.

(2) PURPOSE.—The purpose of the Office is to provide timely, fair compensation, in the amounts and under the terms specified in this Act, on a no-fault basis and in a non-adversarial manner, to individuals whose health has been adversely affected by exposure to asbestos.

(3) EXPENSES.—There shall be available from the Asbestos Injury Claims Resolution Fund to the Administrator such sums as are necessary for the administrative expenses of the Office, including the sums necessary for conducting the studies provided for in section 121(e).

(b) APPOINTMENT OF ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator of the Office of Asbestos Disease Compensation shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall serve for a term of 5 years.

(2) REPORTING.—The Administrator shall report directly to the Assistant Secretary of Labor for the Employment Standards Administration.

(c) DUTIES OF ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator shall be responsible for—

(A) processing claims for compensation for asbestos-related injuries and paying compensation to eligible claimants under the criteria and procedures established under title I;

(B) determining, levying, and collecting assessments on participants under title II;

(C) appointing or contracting for the services of such personnel, making such expenditures, and taking any other actions as may be necessary and appropriate to carry out the responsibilities of the Office, including entering into cooperative agreements with other Federal agencies or State agencies and entering into contracts with nongovernmental entities;

(D) conducting such audits and additional oversight as necessary to assure the integrity of the program;

(E) managing the Asbestos Injury Claims Resolution Fund established under section 221, including—

(i) administering, in a fiduciary capacity, the assets of the Fund for the exclusive purpose of providing benefits to asbestos claimants and their beneficiaries;

(ii) defraying the reasonable expenses of administering the Fund;

(iii) investing the assets of the Fund in accordance with section 222(b);

(iv) retaining advisers, managers, and custodians who possess the necessary facilities and expertise to provide for the skilled and prudent management of the Fund, to assist in the development, implementation and maintenance of the Fund's investment policies and investment activities, and to provide for the safekeeping and delivery of the Fund's assets; and

(v) borrowing amounts authorized by section 221(b) on appropriate terms and conditions, including pledging the assets of or payments to the Fund as collateral;

(F) promulgating such rules, regulations, and procedures as may be necessary and appropriate to implement the provisions of this Act;

(G) making such expenditures as may be necessary and appropriate in the administration of this Act;

(H) excluding evidence and disqualifying or debarring any attorney, physician, provider of medical or diagnostic services, including laboratories and others who provide evidence in support of a claimant's application for compensation where the Administrator determines that materially false, fraudulent, or fictitious statements or practices have been submitted or engaged in by such individuals or entities; and

(I) having all other powers incidental, necessary, or appropriate to carrying out the functions of the Office.

(2) CERTAIN ENFORCEMENTS.—For each infraction relating to paragraph (1)(H), the Administrator also may impose a civil penalty not to exceed $10,000 on any person or entity found to have submitted or engaged in a materially false, fraudulent, or fictitious statement or practice under this Act. The Administrator shall prescribe appropriate regulations to implement paragraph (1)(H).

(3) SELECTION OF DEPUTY ADMINISTRATORS.—The Administrator shall select a Deputy Administrator for Claims Administration to carry out the Administrator's responsibilities under this title and a Deputy Administrator for Fund Management to carry out the Administrator's responsibilities under title II of this Act. The Deputy Administrators shall report directly to the Administrator and shall be in the Senior Executive Service.

(d) EXPEDITIOUS DETERMINATIONS.—The Administrator shall prescribe rules to expedite claims for asbestos claimants with exigent circumstances in order to expedite the payment of such claims as soon as possible after startup of the Fund. The Administrator shall contract out the processing of such claims.

(e) AUDIT AND PERSONNEL REVIEW PROCEDURES.—The Administrator shall establish audit and personnel review procedures for evaluating the accuracy of eligibility recommendations of agency and contract personnel.

(f) APPLICATION OF FOIA.—

(1) IN GENERAL.—Section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) shall apply to the Office of Asbestos Disease Compensation and the Asbestos Insurers Commission.

(2) CONFIDENTIALITY.—Any person may designate any record submitted under this section as a confidential commercial or financial record for purposes of section 552 of title 5, United States Code. The Administrator and the Chairman of the Asbestos Insurers Commission shall adopt procedures for designating such records as confidential. Information on reserves and asbestos-related liabilities submitted by any participant for the purpose of the allocation of payments under subtitles A and B of title II shall be deemed to be confidential financial records.

SEC. 102. ADVISORY COMMITTEE ON ASBESTOS DISEASE COMPENSATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator shall establish an Advisory Committee on Asbestos Disease Compensation (hereinafter the "Advisory Committee").

(2) COMPOSITION AND APPOINTMENT.—The Advisory Committee shall be composed of 24 members, appointed as follows—

(A) The Majority and Minority Leaders of the Senate, the Speaker of the House, and the Minority Leader of the House shall each appoint 4 members. Of the 4—

(i) 2 shall be selected to represent the interests of claimants, at least 1 of whom shall be selected from among individuals recommended by recognized national labor federations; and

(ii) 2 shall be selected to represent the interests of participants, 1 of whom shall be selected to represent the interests of the insurer participants and 1 of whom shall be selected to represent the interests of the defendant participants.

(B) The Administrator shall appoint 8 members, who shall be individuals with qualifications and expertise in occupational or pulmonary medicine, occupational health, workers' compensation programs, financial administration, investment of funds, program auditing, or other relevant fields.

(3) QUALIFICATIONS.—All of the members described in paragraph (2) shall have expertise or experience relevant to the asbestos compensation program, including experience or expertise in diagnosing asbestos-related diseases and conditions, assessing asbestos exposure and health risks, filing asbestos claims, administering a compensation or insurance program, or as actuaries, auditors, or investment managers. None of the members described in paragraph (2)(B) shall be individuals who, for each of the 5 years before their appointments, earned more than 15 percent of their income by serving in matters related to asbestos litigation as consultants or expert witnesses.

(b) DUTIES.—The Advisory Committee shall advise the Administrator on—

(1) claims filing and claims processing procedures;

(2) claimant assistance programs;

(3) audit procedures and programs to ensure the quality and integrity of the compensation program;

(4) the development of a list of industries, occupations and time periods for which there is a presumption of substantial occupational exposure to asbestos;

(5) recommended analyses or research that should be conducted to evaluate past claims and to project future claims under the program;

(6) the annual report required to be submitted to Congress under section 405; and

(7) such other matters related to the implementation of this Act as the Administrator considers appropriate.

(c) OPERATION OF THE COMMITTEE.—

(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 8 shall be appointed for a term of 1 year;

(B) 8 shall be appointed for a term of 2 years; and

(C) 8 shall be appointed for a term of 3 years, as determined by the Administrator at the time of appointment.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term shall be appointed only for the remainder of such term.

(3) The Administrator shall designate a Chairperson and Vice Chairperson from among members of the Advisory Committee appointed under subsection (a)(2)(B).

(4) The Advisory Committee shall meet at the call of the Chairperson or the majority of its members, and at a minimum shall meet at least 4 times per year during the first 5 years of the asbestos compensation program, and at least 2 times per year thereafter.

(5) The Administrator shall provide to the Committee such information as is necessary and appropriate for the Committee to carry out its responsibilities under this section. The Administrator may, upon request of the Advisory Committee, secure directly from any Federal, State, or local department or agency such information as may be necessary and appropriate to enable the Advisory Committee to carry out its duties under this section. Upon request of the Administrator, the head of such department or agency shall furnish such information to the Advisory Committee.

(6) The Administrator shall provide the Advisory Committee with such administrative support as is reasonably necessary to enable it to perform its functions.

(d) EXPENSES.—Members of the Advisory Committee, other than full-time employees of the United States, while attending meetings of the Advisory Committee or while otherwise serving at the request of the Administrator, and while serving away from their homes or regular places of business, shall be allowed travel and meal expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

SEC. 103. MEDICAL ADVISORY COMMITTEE.

(a) IN GENERAL.—The Administrator shall establish a Medical Advisory Committee to provide expert advice regarding medical issues arising under the statute.

(b) QUALIFICATIONS.—None of the members of the Medical Advisory Committee shall be individuals who, for each of the 5 years before their appointments, earned more than 15 percent of their income by serving in matters related to asbestos litigation as consultants or expert witnesses.

SEC. 104. CLAIMANT ASSISTANCE.

(a) ESTABLISHMENT.—Not later than 180 days after the enactment of this Act, the Administrator shall establish a comprehensive asbestos claimant assistance program to—

(1) publicize and provide information to potential claimants about the availability of benefits for eligible claimants under this Act, and the procedures for filing claims and for obtaining assistance in filing claims;

(2) provide assistance to potential claimants in preparing and submitting claims, including assistance in obtaining the documentation necessary to support a claim;

(3) respond to inquiries from claimants and potential claimants;

(4) provide training with respect to the applicable procedures for the preparation and filing of claims to persons who provide assistance or representation to claimants; and

(5) provide for the establishment of a website where claimants may access all relevant forms and information.

(b) RESOURCE CENTERS.—The claimant assistance program shall provide for the establishment of resource centers in areas where there are determined to be large concentrations of potential claimants. These centers shall be located, to the extent feasible, in facilities of the Department of Labor or other Federal agencies.

(c) CONTRACTS.—The claimant assistance program may be carried out in part through contracts with labor organizations, community-based organizations, and other entities which represent or provide services to potential claimants, except that such organizations may not have a financial interest in the outcome of claims filed with the Office.

(d) LEGAL ASSISTANCE.—

(1) IN GENERAL.—As part of the program established under subsection (a), the Administrator shall establish a legal assistance program to provide assistance to asbestos claimants concerning legal representation issues.

(2) LIST OF QUALIFIED ATTORNEYS.—As part of the program, the Administrator shall maintain a roster of qualified attorneys who have agreed to provide pro bono services to asbestos claimants under rules established by the Administrator. The claimants shall not be required to use the attorneys listed on such roster.

(3) NOTICE.—

(A) NOTICE BY ADMINISTRATOR.—The Administrator shall provide asbestos claimants with notice of, and information relating to—

(i) pro bono services for legal assistance available to those claimants; and

(ii) any limitations on attorneys fees for claims filed under this title.

(B) NOTICE BY ATTORNEYS.—Before a person becomes a client of an attorney with respect to an asbestos claim, that attorney shall provide notice to that person of pro bono services for legal assistance available for that claim.

(e) ATTORNEY'S FEES.—

(1) IN GENERAL.—Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under the Fund, more than 5 percent of a final award made (whether by the Administrator initially or as a result of administrative review) under the Fund on such claim.

(2) PENALTY.—Any representative of an asbestos claimant who violates this subsection shall be fined not more than the greater of—

(A) $5,000; or

(B) twice the amount received by the representative for services rendered in connection with each such violation.

SEC. 105. PHYSICIANS PANELS.

(a) APPOINTMENT.—The Administrator shall, in accordance with section 3109 of title 5, United States Code, appoint physicians with experience and competency in diagnosing asbestos-related diseases to be available to serve on Physicians Panels, as necessary to carry out this Act.

(b) Formation of Panels.—

(1) In general.—The Administrator shall periodically determine—

(A) the number of Physicians Panels necessary for the efficient conduct of the medical review process under section 121;

(B) the number of Physicians Panels necessary for the efficient conduct of the exceptional medical claims process under section 121; and

(C) the particular expertise necessary for each panel.

(2) Expertise.—Each Physicians Panel shall be composed of members having the particular expertise determined necessary by the Administrator, randomly selected from among the physicians appointed under subsection (a) having such expertise.

(3) Panel members.—

(A) In general.—Except as provided under subparagraph (B), each Physicians Panel shall consist of 3 physicians, 2 of whom shall be designated to participate in each case submitted to the Physicians Panel, and the third of whom shall be consulted in the event of disagreement.

(B) Waiver.—The Administrator may waive the provisions of subparagraph (A) and may provide for panels of less than 3 physicians, if the Administrator determines that—

(i) there is a shortage of qualified physicians available for service on panels; and

(ii) such shortage will result in administrative delay in the claims process.

(c) Qualifications.—To be eligible to serve on a Physicians Panel under subsection (a), a person shall be—

(1) a physician licensed in any State;

(2) board-certified in pulmonary medicine, occupational medicine, internal medicine, oncology, or pathology; and

(3) an individual who, for each of the 5 years before and during his or her appointment to a Physicians Panel, has earned not more than 15 percent of his or her income as an employee of a participating defendant or insurer or a law firm representing any party in asbestos litigation or as a consultant or expert witness in matters related to asbestos litigation.

(d) Duties.—Members of a Physicians Panel shall—

(1) make such medical determinations as are required to be made by Physicians Panels under section 121; and

(2) perform such other functions as required under this Act.

(e) Compensation.—Notwithstanding any limitation otherwise established under section 3109 of title 5, United States Code, the Administrator shall be authorized to pay members of a Physician Panel such compensation as is reasonably necessary to obtain their services.

(f) Federal Advisory Committee Act.—A Physicians Panel established under this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2).

SEC. 106. PROGRAM STARTUP.

(a) Interim Regulations.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate interim regulations and procedures for the processing of claims under title I and the operation of the Fund under title II, including procedures for the expediting of exigent health claims.

(b) Interim Personnel.—The Secretary of Labor and the Assistant Secretary of Labor for the Employment Standards Administration may make available to the Administrator on a temporary basis such personnel and other resources as may be necessary to facilitate the expeditious startup of the program. The Administrator may in addition contract with individuals or entities having relevant experience to assist in the expeditious startup of the program. Such relevant experience shall include, but not be limited to, experience with the review of workers' compensation, occupational disease, or similar claims and with financial matters relevant to the operation of the program.

(c) Exigent Health Claims.—

(1) In general.—The Administrator shall develop procedures to provide for an expedited process to categorize, evaluate, and pay exigent health claims. Such procedures shall include, pending promulgation of final regulations, adoption of interim regulations as needed for processing of exigent health claims.

(2) Eligible exigent health claims.—A claim shall qualify for treatment as an exigent health claim if the claimant is living and the claimant provides—

(A) a diagnosis of mesothelioma meeting the requirements of section 121(d)(10); or

(B) a declaration or affidavit, from a physician who has examined the claimant within 120 days before the date of such declaration or affidavit, that the physician has diagnosed the claimant as being terminally ill from an asbestos-related illness and having a life expectancy of less than 1 year.

(3) Additional exigent health claims.—The Administrator may, in final regulations promulgated under section 101(c), designate additional categories of claims that qualify as exigent health claims under this subsection.

(4) Claims facility.—To facilitate the prompt payment of exigent health claims, the Administrator shall contract with a claims facility, which applying the medical criteria of section 121, may enter into settlements with claimants. In the absence of an offer of judgment as provided under section 106(f)(2), the claimant may submit a claim to that claims facility. The claims facility shall receive the claimant's submissions and evaluate the claim in accordance with subtitles B and C. The claims facility shall then submit the file to the Administrator for payment in accordance with subtitle D. This subsection shall not apply to exceptional medical claims under section 121(f). A claimant may appeal any decision at a claims facility with the Administrator in accordance with section 114.

(5) Authorization for contracts with claims facilities.—The Administrator may enter into contracts with claims facilities for the processing of claims (except for exceptional medical claims) in accordance with this title.

(d) Extreme Financial Hardship Claims.—The Administrator shall, in final regulations promulgated under section 101(c), designate categories of claims to be handled on an expedited basis as a result of extreme financial hardship.

(e) Interim Administrator.—Until an Administrator is appointed and confirmed under section 101(b), the responsibilities of the Administrator under this Act shall be performed by the Assistant Secretary of Labor for the Employment Standards Administration, who shall have all the authority conferred by this Act on the Administrator and who shall be deemed to be the Administrator for purposes of this Act. Before final regulations being promulgated relating to claims processing, the Interim Administrator may prioritize claims processing, without regard to the time requirements prescribed in subtitle B of this title, based on severity of illness and likelihood that the illness in question was caused by exposure to asbestos.

(f) Stay of Claims; Return to Tort System.—

(1) Stay of claims.—Notwithstanding any other provision of this Act, any asbestos claim pending as of the date of enactment of this Act, other than a claim to which section 403(d)(2)(A) applies, shall be subject to a stay.

(2) Exigent health claims.—

(A) Procedures for settlement of exigent health claims.—

(i) In general.—Any person that has filed a timely exigent health claim seeking a judgment or order for monetary damages in any Federal or State court before or after the date of enactment of this Act, may immediately seek an offer of judgment of such claim in accordance with this subparagraph.

(ii) Filing.—

(I) In general.—The claimant shall file with the Administrator and serve upon all defendants in the pending court action an election to pursue an offer of judgment—

(aa) within 60 days after the date of enactment of this Act, if the claim was filed in a Federal or State court before such date of enactment; and

(bb) within 60 days after the date of the filing of the claim, if the claim is filed in a Federal or State court on or after the date of enactment of this Act.

(II) Stay.—If the claimant fails to file and serve a timely election under this clause, the stay under subparagraph (B) shall remain in effect.

(iii) Information.—A claimant who has filed a timely election under clause (ii) shall within 60 days after filing provide to each defendant and to the Administrator—

(I) the amount received or due to be received as a result of all settlements that would qualify as a collateral source under section 134, together with copies of all settlement agreements and related documents sufficient to show the accuracy of that amount;

(II) all information that the claimant would be required to provide to the Administrator in support of a claim under sections 115 and 121; and

(III) a certification by the claimant that the information provided is true and complete.

(iv) Certification.—The certification provided under clause (iii) shall be subject to the same penalties for false or misleading statements that would be applicable with regard to information provided to the Administrator in support of a claim.

(v) Offer of judgment.—Within 30 days after service of a complete set of the information described in clause (iii), any defendant may file and serve on all parties a good faith offer of judgment in an aggregate amount not to exceed the total amount to which the claimant may be entitled under section 131 after adjustment for collateral sources under section 134. If the aggregate amount offered by all defendants exceeds the limitation in this clause, all offers shall be deemed reduced pro-rata until the aggregate amount equals the amount provided under section 131.

(vi) Acceptance or rejection.—Within 20 days after the service of the last offer of judgment, the claimant shall either accept or reject such offers. If the amount of the offer made by any defendant individually, or by any defendants jointly, equals or exceeds 100 percent of what the claimant would receive under the Fund, the claimant shall accept such offer and release any outstanding asbestos claims.

(vii) LUMP SUM PAYMENT.—Any accepted offer of judgment shall be payable within 30 days and in 1 lump sum in order to settle the pending claim.

(viii) RECOVERY OF COSTS.—Any defendant whose offer of judgment is accepted and has settled an asbestos claim under clauses (vi) and (vii) may recover the cost of such settlement by deducting from its next and subsequent contributions to the Fund for the full amount of the payment made by such defendant to the exigent health claimant, unless the Administrator finds, on the basis of clear and convincing evidence, that—

(I) the claimant did not meet the requirements of an exigent health claim; and

(II) the defendant's offer was collusive or otherwise not in good faith.

(ix) INDEMNIFICATION.—In any case in which the Administrator refuses to grant full indemnification under clause (viii), the Administrator may provide such partial indemnification as may be fair and just in the circumstances. If Administrator denies indemnification, the defendant may seek contribution from other non-settling defendants, as well as reimbursement under the defendant's applicable insurance policies. If the Administrator refuses to grant full or partial indemnification based on collusive action, the defendant may pursue any available remedy against the claimant.

(x) REFUSAL TO MAKE OFFER.—If a defendant refuses to make an offer of judgment, the claimant may continue to seek a judgment or order for monetary damages from the court where the case is currently pending in an amount not to exceed 150 percent of what the claimant would receive if the claimant had filed a claim with the Fund. Such a judgment or order may also provide an award for claimant's attorneys' fees and the costs of litigation.

(xi) REJECTION OF OFFER.—If the claimant rejects the offer as less than what the claimant would qualify to receive under section 131, the claimant may immediately pursue the claim in court where the claimant shall demonstrate, in addition to all other essential elements of the claimant's claim against any defendant, that the claimant meets the requirements of section 121.

(B) PURSUAL OF EXIGENT HEALTH CLAIMS.—

(i) STAY.—If a claimant does not elect to seek an offer of judgment under subparagraph (A), the pending claim is stayed for 9 months after the date of enactment of this Act.

(ii) DEFENDANT OFFER.—If a claimant does not elect to seek an offer of judgment under subparagraph (A), the defendant may elect to make an offer according to the provisions of this paragraph, except that a claimant shall not be required to accept that offer. The claimant shall accept or reject the offer within 20 days.

(iii) CLAIMS FACILITY.—If a claimant does not elect to seek an offer of judgment under subparagraph (A), the claimant may seek an award from the Fund through the claims facility under section 106 (c)(4).

(iv) CONTINUANCE OF CLAIMS.—If, after 9 months after the date of enactment of this Act, the Administrator cannot certify to Congress that the Fund is operational and paying exigent health claims at a reasonable rate, each person that has filed an exigent health claim before such date of enactment and stayed under this paragraph may continue their exigent health claims in the court where the case was pending on the date of enactment of this Act. For exigent claims filed after the date of enactment of this Act, by claimants who do not elect to seek an offer of judgment under subparagraph (A), the pending claim is stayed for 9 months after the date the claim is filed, unless during that period the Administrator can certify to Congress that the Fund is operational and paying valid claims at a reasonable rate.

(C) CREDIT OF CLAIM AND EFFECT OF OPERATIONAL FUND.—If an asbestos claim is pursued in Federal or State court in accordance with this paragraph, any recovery by the claimant shall be a collateral source compensation for purposes of section 134.

(3) PURSUAL OF ASBESTOS CLAIMS IN FEDERAL OR STATE COURT.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, if, not later than 24 months after the date of enactment of this Act, the Administrator cannot certify to Congress that the Fund is operational and paying all valid claims at a reasonable rate, any person with a non-exigent asbestos claim stayed under this paragraph, except for any person whose claim does not exceed a Level I claim, may pursue that claim in the Federal district court or State court located within—

(i) the State of residence of the claimant; or

(ii) the State in which the asbestos exposure arose.

(B) DEFENDANTS NOT FOUND.—If any defendant cannot be found in the State described in clause (i) or (ii) of subparagraph (A), the claim may be pursued in the Federal district court or State court located within any State in which the defendant may be found.

(C) DETERMINATION OF MOST APPROPRIATE FORUM.—If a person alleges that the asbestos exposure occurred in more than 1 county (or Federal district), the trial court shall determine which State and county (or Federal district) is the most appropriate forum for the claim. If the court determines that another forum would be the most appropriate forum for a claim, the court shall dismiss the claim. Any otherwise applicable statute of limitations shall be tolled beginning on the date the claim was filed and ending on the date the claim is dismissed under this subparagraph.

(D) STATE VENUE REQUIREMENTS.—Nothing in this paragraph shall preempt or supersede any State's law relating to venue requirements within that State which are more restrictive.

(E) CREDIT OF CLAIM AND EFFECT OF OPERATIONAL OR NONOPERATIONAL FUND.—

(i) CREDIT OF CLAIM.—If an asbestos claim is pursued in Federal or State court in accordance with this paragraph, any recovery by the claimant shall be a collateral source compensation for purposes of section 134.

(ii) OPERATIONAL FUND.—If the Administrator subsequently certifies to Congress that the Fund has become operational and paying all valid asbestos claims at a reasonable rate, any claim in a civil action in Federal or State court that is not actually on trial before a jury which has been impaneled and presentation of evidence has commenced, but before its deliberation, or before a judge and is at the presentation of evidence, may, at the option of the claimant, be deemed a reinstated claim against the Fund and the civil action before the Federal or State court shall be null and void.

(iii) NONOPERATIONAL FUND.—Notwithstanding any other provision of this Act, if the Administrator subsequently certifies to Congress that the Fund cannot become operational and paying all valid asbestos claims at a reasonable rate, all asbestos claims that have a stay may be filed or reinstated.

SEC. 107. AUTHORITY OF THE ADMINISTRATOR.

The Administrator, on any matter within the jurisdiction of the Administrator under this Act, may—

(1) issue subpoenas for and compel the attendance of witnesses within a radius of 200 miles;

(2) administer oaths;

(3) examine witnesses;

(4) require the production of books, papers, documents, and other evidence; and

(5) request assistance from other Federal agencies with the performance of the duties of the Administrator under this Act.

Subtitle B—Asbestos Disease Compensation Procedures

SEC. 111. ESSENTIAL ELEMENTS OF ELIGIBLE CLAIM.

To be eligible for an award under this Act for an asbestos-related disease or injury, an individual shall—

(1) file a claim in a timely manner in accordance with section 113; and

(2) prove, by a preponderance of the evidence, that the claimant suffers from an eligible disease or condition, as demonstrated by evidence that meets the requirements established under subtitle C.

SEC. 112. GENERAL RULE CONCERNING NO-FAULT COMPENSATION.

An asbestos claimant shall not be required to demonstrate that the asbestos-related injury for which the claim is being made resulted from the negligence or other fault of any other person.

SEC. 113. FILING OF CLAIMS.

(a) WHO MAY SUBMIT.—

(1) IN GENERAL.—Any individual who has suffered from a disease or condition that is believed to meet the requirements established under subtitle C (or the personal representative of the individual, if the individual is deceased or incompetent) may file a claim with the Office for an award with respect to such injury.

(2) DEFINITION.—In this Act, the term "personal representative" shall have the same meaning as that term is defined in section 104.4 of title 28 of the Code of Federal Regulations, as in effect on December 31, 2004.

(3) LIMITATION.—A claim may not be filed by any person seeking contribution or indemnity.

(b) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, if an individual fails to file a claim with the Office under this section within 5 years after the date on which the individual first—

(A) received a medical diagnosis of an eligible disease or condition as provided for under this subtitle and subtitle C; or

(B) discovered facts that would have led a reasonable person to obtain a medical diagnosis with respect to an eligible disease or condition,

any claim relating to that injury, and any other asbestos claim related to that injury, shall be extinguished, and any recovery thereon shall be prohibited.

(2) EXCEPTION.—The statute of limitations in paragraph (1) does not apply to the progression of nonmalignant diseases once the initial claim has been filed.

(3) EFFECT ON PENDING CLAIMS.—

(A) IN GENERAL.—If, on the date of enactment of this Act, an asbestos claimant has any timely filed asbestos claim that is preempted under section 403(e), such claimant shall file a claim under this section within 5 years after such date of enactment, or any claim relating to that injury, and any other asbestos claim related to that injury shall be extinguished, and recovery there shall be prohibited.

(B) SPECIAL RULE.—For purposes of this paragraph, a claim shall not be treated as pending with a trust established under title 11, United States Code, solely because a claimant whose claim was previously compensated by the trust has or alleges—

(i) a non-contingent right to the payment of future installments of a fixed award; or

(ii) a contingent right to recover some additional amount from the trust on the occurrence of a future event, such as the reevaluation of the trust's funding adequacy or projected claims experience.

(4) EFFECT OF MULTIPLE INJURIES.—

(A) IN GENERAL.—An asbestos claimant who receives an award under this title for an eligible disease or condition, and who subsequently develops another such injury, shall be eligible for additional awards under this title (subject to appropriate setoffs for such prior recovery of any award under this title and from any other collateral source) and the statute of limitations under paragraph (1) shall not begin to run with respect to such subsequent injury until such claimant obtains a medical diagnosis of such other injury or discovers facts that would have led a reasonable person to obtain such a diagnosis.

(B) SETOFFS.—Except as provided in subparagraph (C), any amounts paid or to be paid for a prior award under this Act shall be deducted as a setoff against amounts payable for the second injury claim.

(C) EXCEPTION.—Any amounts paid or to be paid for a prior claim for a nonmalignant disease (Levels I through V) filed against the Fund shall not be deducted as a setoff against amounts payable for the second injury claim for a malignant disease (Levels VI through IX), unless the malignancy was diagnosed, or the asbestos claimant had discovered facts that would have led a reasonable person to obtain such a diagnosis, before the date on which the nonmalignancy claim was compensated.

(c) REQUIRED INFORMATION.—A claim filed under subsection (a) shall be in such form, and contain such information in such detail, as the Administrator shall by regulation prescribe. At a minimum, a claim shall include—

(1) the name, social security number, gender, date of birth, and, if applicable, date of death of the claimant;

(2) information relating to the identity of dependents and beneficiaries of the claimant;

(3) an employment history sufficient to establish required asbestos exposure, accompanied by social security or other payment records or a signed release permitting access to such records;

(4) a description of the asbestos exposure of the claimant, including, to the extent known, information on the site, or location of exposure, and duration and intensity of exposure;

(5) a description of the tobacco product use history of the claimant, including frequency and duration;

(6) an identification and description of the asbestos-related diseases or conditions of the claimant, accompanied by a written report by the claimant's physician with medical diagnoses and x-ray films, and other test results necessary to establish eligibility for an award under this Act;

(7) a description of any prior or pending civil action or other claim brought by the claimant for asbestos-related injury or any other pulmonary, parenchymal, or pleural injury, including an identification of any recovery of compensation or damages through settlement, judgment, or otherwise; and

(8) for any claimant who asserts that he or she is a nonsmoker or an ex-smoker, as defined in section 131, for purposes of an award under Malignant Level VI, Malignant Level VII, or Malignant Level VIII, evidence to support the assertion of nonsmoking or exsmoking, including relevant medical records.

(d) DATE OF FILING.—A claim shall be considered to be filed on the date that the claimant mails the claim to the Office, as determined by postmark, or on the date that the claim is received by the Office, whichever is the earliest determinable date.

(e) INCOMPLETE CLAIMS.—If a claim filed under subsection (a) is incomplete, the Administrator shall notify the claimant of the information necessary to complete the claim and inform the claimant of such services as may be available through the Claimant Assistance Program established under section 104 to assist the claimant in completing the claim. Any time periods for the processing of the claim shall be suspended until such time as the claimant submits the information necessary to complete the claim. If such information is not received within 1 year after the date of such notification, the claim shall be dismissed.

SEC. 114. ELIGIBILITY DETERMINATIONS AND CLAIM AWARDS.

(a) IN GENERAL.—

(1) REVIEW OF CLAIMS.—The Administrator shall, in accordance with this section, determine whether each claim filed under the Fund or claims facility satisfies the requirements for eligibility for an award under this Act and, if so, the value of the award. In making such determinations, the Administrator shall consider the claim presented by the claimant, the factual and medical evidence submitted by the claimant in support of the claim, the medical determinations of any Physicians Panel to which a claim is referred under section 121, and the results of such investigation as the Administrator may deem necessary to determine whether the claim satisfies the criteria for eligibility established by this Act.

(2) ADDITIONAL EVIDENCE.—The Administrator may request the submission of medical evidence in addition to the minimum requirements of section 113(c) if necessary or appropriate to make a determination of eligibility for an award, in which case the cost of obtaining such additional information or testing shall be borne by the Office.

(b) PROPOSED DECISIONS.—Not later than 90 days after the filing of a claim, the Administrator shall provide to the claimant (and the claimant's representative) a proposed decision accepting or rejecting the claim in whole or in part and specifying the amount of the proposed award, if any. The proposed decision shall be in writing, shall contain findings of fact and conclusions of law, and shall contain an explanation of the procedure for obtaining review of the proposed decision.

(c) PAYMENTS IF NO TIMELY PROPOSED DECISION.—If the Administrator has received a complete claim and has not provided a proposed decision to the claimant under subsection (b) within 180 days after the filing of the claim, the claim shall be deemed accepted and the claimant shall be entitled to payment under section 133(a)(2). If the Administrator subsequently rejects the claim the claimant shall receive no further payments under section 133. If the Administrator subsequently rejects the claim in part, the Administrator shall adjust future payments due the claimant under section 133 accordingly. In no event may the Administrator recover amounts properly paid under this section from a claimant.

(d) REVIEW OF PROPOSED DECISIONS.—

(1) RIGHT TO HEARING.—

(A) IN GENERAL.—Any claimant not satisfied with a proposed decision of the Administrator under subsection (b) shall be entitled, on written request made within 90 days after the date of the issuance of the decision, to a hearing on the claim of that claimant before a representative of the Administrator. At the hearing, the claimant shall be entitled to present oral evidence and written testimony in further support of that claim.

(B) CONDUCT OF HEARING.—When practicable, the hearing will be set at a time and place convenient for the claimant. In conducting the hearing, the representative of the Administrator shall not be bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 554 of title 5, United States Code, except as provided by this Act, but shall conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose, the representative shall receive such relevant evidence as the claimant adduces and such other evidence as the representative determines necessary or useful in evaluating the claim.

(C) REQUEST FOR SUBPOENAS.—

(i) IN GENERAL.—A claimant may request a subpoena but the decision to grant or deny such a request is within the discretion of the representative of the Administrator. The representative may issue subpoenas for the attendance and testimony of witnesses, and for the production of books, records, correspondence, papers, or other relevant documents. Subpoenas are issued for documents only if such documents are relevant and cannot be obtained by other means, and for witnesses only where oral testimony is the best way to ascertain the facts.

(ii) REQUEST.—A claimant may request a subpoena only as part of the hearing process. To request a subpoena, the requester shall—

(I) submit the request in writing and send it to the representative as early as possible, but no later than 30 days after the date of the original hearing request; and

(II) explain why the testimony or evidence is directly relevant to the issues at hand, and a subpoena is the best method or opportunity to obtain such evidence because there are no other means by which the documents or testimony could have been obtained.

(iii) FEES AND MILEAGE.—Any person required by such subpoena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States. Such fees and mileage shall be paid from the Fund.

(2) REVIEW OF WRITTEN RECORD.—In lieu of a hearing under paragraph (1), any claimant not satisfied with a proposed decision of the Administrator shall have the option, on written request made within 90 days after the date of the issuance of the decision, of obtaining a review of the written record by a representative of the Administrator. If such review is requested, the claimant shall be afforded an opportunity to submit any written evidence or argument which the claimant believes relevant.

(e) FINAL DECISIONS.—

(1) IN GENERAL.—If the period of time for requesting review of the proposed decision expires and no request has been filed, or if the claimant waives any objections to the proposed decision, the Administrator shall issue a final decision. If such decision materially differs from the proposed decision, the claimant shall be entitled to review of the decision under subsection (d).

(2) TIME AND CONTENT.—If the claimant requests review of all or part of the proposed

decision the Administrator shall issue a final decision on the claim not later than 180 days after the request for review is received, if the claimant requests a hearing, or not later than 90 days after the request for review is received, if the claimant requests review of the written record. Such decision shall be in writing and contain findings of fact and conclusions of law.

(f) Representation.—A claimant may authorize an attorney or other individual to represent him or her in any proceeding under this Act.

SEC. 115. MEDICAL EVIDENCE AUDITING PROCEDURES.

(a) In General.—

(1) Development.—The Administrator shall develop methods for auditing and evaluating the medical evidence submitted as part of a claim. The Administrator may develop additional methods for auditing and evaluating other types of evidence or information received by the Administrator.

(2) Refusal to consider certain evidence.—

(A) In general.—If the Administrator determines that an audit conducted in accordance with the methods developed under paragraph (1) demonstrates that the medical evidence submitted by a specific physician or medical facility is not consistent with prevailing medical practices or the applicable requirements of this Act, any medical evidence from such physician or facility shall be unacceptable for purposes of establishing eligibility for an award under this Act.

(B) Notification.—Upon a determination by the Administrator under subparagraph (A), the Administrator shall notify the physician or medical facility involved of the results of the audit. Such physician or facility shall have a right to appeal such determination under procedures issued by the Administrator.

(b) Review of Certified B-Readers.—

(1) In general.—At a minimum, the Administrator shall prescribe procedures to randomly assign claims for evaluation by an independent certified B-reader of x-rays submitted in support of a claim, the cost of which shall be borne by the Office.

(2) Disagreement.—If an independent certified B-reader assigned under paragraph (1) disagrees with the quality grading or ILO level assigned to an x-ray submitted in support of a claim, the Administrator shall require a review of such x-rays by a second independent certified B-reader.

(3) Effect on claim.—If neither certified B-reader under paragraph (2) agrees with the quality grading and the ILO grade level assigned to an x-ray as part of the claim, the Administrator shall take into account the findings of the 2 independent B readers in making the determination on such claim.

(4) Certified b-readers.—The Administrator shall maintain a list of a minimum of 50 certified B-readers eligible to participate in the independent reviews, chosen from all certified B-readers. When an x-ray is sent for independent review, the Administrator shall choose the certified B-reader at random from that list.

(c) Smoking Assessment.—

(1) In general.—

(A) Records and documents.—To aid in the assessment of the accuracy of claimant representations as to their smoking status for purposes of determining eligibility and amount of award under Malignant Level VI, Malignant Level VII, or Malignant Level VIII, and exceptional medical claims, the Administrator shall have the authority to obtain relevant records and documents, including—

(i) records of past medical treatment and evaluation;

(ii) affidavits of appropriate individuals;

(iii) applications for insurance and supporting materials; and

(iv) employer records of medical examinations.

(B) Consent.—The claimant shall provide consent for the Administrator to obtain such records and documents where required.

(2) Review.—The frequency of review of records and documents submitted under paragraph (1)(A) shall be at the discretion of the Administrator, but shall address at least 5 percent of the claimants asserting status as nonsmokers or ex-smokers.

(3) Consent.—The Administrator may require the performance of blood tests or any other appropriate medical test, such as serum cotinine screening, where claimants assert they are nonsmokers or ex-smokers for purposes of an award under Malignant Level VI, Malignant Level VII, or Malignant Level VIII, or as an exceptional medical claim, the cost of which shall be borne by the Office.

(4) Penalty for false statements.—Any false information submitted under this subsection shall be subject to criminal prosecution or civil penalties as provided under section 1348 of title 18, United States Code (as added by this Act) and section 101(c)(2).

Subtitle C—Medical Criteria

SEC. 121. MEDICAL CRITERIA REQUIREMENTS.

(a) Definitions.—In this section, the following definitions shall apply:

(1) Asbestosis determined by pathology.—The term “asbestosis determined by pathology” means indications of asbestosis based on the pathological grading system for asbestosis described in the Special Issues of the Archives of Pathology and Laboratory Medicine, “Asbestos-associated Diseases”, Vol. 106, No. 11, App. 3 (October 8, 1982).

(2) Bilateral asbestos-related nonmalignant disease.—The term “bilateral asbestos-related nonmalignant disease” means a diagnosis of bilateral asbestos-related nonmalignant disease based on—

(A) an x-ray reading of 1/0 or higher based on the ILO grade scale;

(B) bilateral pleural plaques;

(C) bilateral pleural thickening; or

(D) bilateral pleural calcification.

(3) Bilateral pleural disease of B2.—The term “bilateral pleural disease of B2” means a chest wall pleural thickening or plaque with a maximum width of at least 5 millimeters and a total length of at least ¼ of the projection of the lateral chest wall.

(4) Certified b-reader.—The term “certified B-reader” means an individual who is certified by the National Institute of Occupational Safety and Health and whose certification by the National Institute of Occupational Safety and Health is up to date.

(5) Diffuse pleural thickening.—The term “diffuse pleural thickening” means blunting of either costophrenic angle and bilateral pleural plaque or bilateral pleural thickening.

(6) DLCO.—The term “DLCO” means the single-breath diffusing capacity of the lung (carbon monoxide) technique used to measure the volume of carbon monoxide transferred from the alveoli to blood in the pulmonary capillaries for each unit of driving pressure of the carbon monoxide.

(7) FEV$_1$.—The term “FEV1” means forced expiratory volume (1 second), which is the maximal volume of air expelled in 1 second during performance of the spirometric test for forced vital capacity.

(8) FVC.—The term “FVC” means forced vital capacity, which is the maximal volume of air expired with a maximally forced effort from a position of maximal inspiration.

(9) ILO grade.—The term “ILO grade” means the radiological ratings for the presence of lung changes as determined from a chest x-ray, all as established from time to time by the International Labor Organization.

(10) Lower limits of normal.—The term “lower limits of normal” means the fifth percentile of healthy populations as defined in the American Thoracic Society statement on lung function testing (Amer. Rev. Resp. Disease 1991, 144:1202–1218) and any future revision of the same statement.

(11) Nonsmoker.—The term “nonsmoker” means a claimant who—

(A) never smoked; or

(B) has smoked fewer than 100 cigarettes or the equivalent amount of other tobacco products during the claimant's lifetime.

(12) PO$_2$.—The term “PO$_2$” means the partial pressure (tension) of oxygen, which measures the amount of dissolved oxygen in the blood.

(13) Pulmonary function testing.—The term “pulmonary function testing” means spirometry testing that is in material compliance with the quality criteria established by the American Thoracic Society and is performed on equipment which is in material compliance with the standards of the American Thoracic Society for technical quality and calibration.

(14) Substantial occupational exposure to asbestos.—

(A) In general.—The term “substantial occupational exposure” means employment in an industry and an occupation where for a substantial portion of a normal work year for that occupation, the claimant—

(i) handled raw asbestos fibers;

(ii) fabricated asbestos-containing products so that the claimant in the fabrication process was exposed to raw asbestos fibers;

(iii) altered, repaired, or otherwise worked with an asbestos-containing product such that the claimant was exposed on a regular basis to asbestos fibers; or

(iv) worked in close proximity to other workers engaged in the activities described under clause (i), (ii), or (iii), such that the claimant was exposed on a regular basis to asbestos fibers.

(B) Regular basis.—In this paragraph, the term “on a regular basis” means on a frequent or recurring basis.

(15) TLC.—The term “TLC” means total lung capacity, which is the total volume of air in the lung after maximal inspiration.

(16) Weighted occupational exposure.—

(A) In general.—The term “weighted occupational exposure” means exposure for a period of years calculated according to the exposure weighting formula under subparagraphs (B) through (E).

(B) Moderate exposure.—Subject to subparagraph (E), each year that a claimant's primary occupation, during a substantial portion of a normal work year for that occupation, involved working in areas immediate to where asbestos-containing products were being installed, repaired, or removed under circumstances that involved regular airborne emissions of asbestos fibers, shall count as 1 year of substantial occupational exposure.

(C) Heavy exposure.—Subject to subparagraph (E), each year that a claimant's primary occupation, during a substantial portion of a normal work year for that occupation, involved the direct installation, repair, or removal of asbestos-containing products such that the person was exposed on a regular basis to asbestos fibers, shall count as 2 years of substantial occupational exposure.

(D) VERY HEAVY EXPOSURE.—Subject to subparagraph (E), each year that a claimant's primary occupation, during a substantial portion of a normal work year for that occupation, was in primary asbestos manufacturing, a World War II shipyard, or the asbestos insulation trades, such that the person was exposed on a regular basis to asbestos fibers, shall count as 4 years of substantial occupational exposure.

(E) DATES OF EXPOSURE.—Each year of exposure calculated under subparagraphs (B), (C), and (D) that occurred before 1976 shall be counted at its full value. Each year from 1976 to 1986 shall be counted as ½ of its value. Each year after 1986 shall be counted as 1/10 of its value.

(F) OTHER CLAIMS.—Individuals who do not meet the provisions of subparagraphs (A) through (E) and believe their post-1976 or post-1986 exposures exceeded the Occupational Safety and Health Administration standard may submit evidence, documentation, work history, or other information to substantiate noncompliance with the Occupational Safety and Health Administration standard (such as lack of engineering or work practice controls, or protective equipment) such that exposures would be equivalent to exposures before 1976 or 1986, or to documented exposures in similar jobs or occupations where control measures had not been implemented. Claims under this subparagraph shall be evaluated on an individual basis by a Physicians Panel.

(b) MEDICAL EVIDENCE.—

(1) LATENCY.—Unless otherwise specified, all diagnoses of an asbestos-related disease for a level under this section shall be accompanied by—

(A) a statement by the physician providing the diagnosis that at least 10 years have elapsed between the date of first exposure to asbestos or asbestos-containing products and the diagnosis; or

(B) a history of the claimant's exposure that is sufficient to establish a 10-year latency period between the date of first exposure to asbestos or asbestos-containing products and the diagnosis.

(2) DIAGNOSTIC GUIDELINES.—All diagnoses of asbestos-related diseases shall be based upon—

(A) for disease Levels I through V, in the case of a claimant who was living at the time the claim was filed—

(i) a physical examination of the claimant by the physician providing the diagnosis;

(ii) an evaluation of smoking history and exposure history before making a diagnosis;

(iii) an x-ray reading by a certified B-reader; and

(iv) pulmonary function testing in the case of disease Levels III, IV, and V;

(B) for disease Levels I through V, in the case of a claimant who was deceased at the time the claim was filed, a report from a physician based upon a review of the claimant's medical records which shall include—

(i) pathological evidence of the nonmalignant asbestos-related disease; or

(ii) an x-ray reading by a certified B-reader;

(C) for disease Levels VI through IX, in the case of a claimant who was living at the time the claim was filed—

(i) a physical examination by the claimant's physician providing the diagnosis; or

(ii) a diagnosis of such a malignant asbestos-related disease, as described in this section, by a board-certified pathologist; and

(D) for disease Levels VI through IX, in the case of a claimant who was deceased at the time the claim was filed—

(i) a diagnosis of such a malignant asbestos-related disease, as described in this section, by a board-certified pathologist; and

(ii) a report from a physician based upon a review of the claimant's medical records.

(3) CREDIBILITY OF MEDICAL EVIDENCE.—To ensure the medical evidence provided in support of a claim is credible and consistent with recognized medical standards, a claimant under this title may be required to submit—

(A) x-rays or computerized tomography;

(B) detailed results of pulmonary function tests;

(C) laboratory tests;

(D) tissue samples;

(E) results of medical examinations;

(F) reviews of other medical evidence; and

(G) medical evidence that complies with recognized medical standards regarding equipment, testing methods, and procedure to ensure the reliability of such evidence as may be submitted.

(c) EXPOSURE EVIDENCE.—

(1) IN GENERAL.—To qualify for any disease level, the claimant shall demonstrate—

(A) a minimum exposure to asbestos or asbestos-containing products;

(B) the exposure occurred in the United States, its territories or possessions, or while a United States citizen, while an employee of an entity organized under any Federal or State law regardless of location, or while a United States citizen while serving on any United States flagged or owned ship, provided the exposure results from such employment or service; and

(C) any additional asbestos exposure requirement under this section.

(2) PROOF OF EXPOSURE.—

(A) AFFIDAVITS.—Exposure to asbestos sufficient to satisfy the exposure requirements for any disease level may be established by an affidavit of—

(i) the claimant; or

(ii) if the claimant is deceased, a co-worker or a family member, if the affidavit of the claimant, co-worker or family member is found in proceedings under this title to be reasonably reliable, attesting to the claimant's exposure; and is credible and is not contradicted by other evidence.

(B) OTHER PROOF.—Exposure to asbestos may alternatively be established by invoices, construction or other similar records, or any other reasonably reliable evidence.

(3) TAKE-HOME EXPOSURE.—

(A) IN GENERAL.—A claimant may alternatively satisfy the medical criteria requirements of this section where a claim is filed by a person who alleges their exposure to asbestos was the result of living with a person who, if the claim had been filed by that person, would have met the exposure criteria for the given disease level, and the claimant lived with such person for the time period necessary to satisfy the exposure requirement, for the claimed disease level.

(B) REVIEW.—Except for claims for disease Level IX (mesothelioma), all claims alleging take-home exposure shall be submitted as an exceptional medical claim under section 121(f) for review by a Physicians Panel.

(4) WAIVER FOR WORKERS AND RESIDENTS OF LIBBY, MONTANA.—Because of the unique nature of the asbestos exposure related to the vermiculite mining and milling operations in Libby, Montana, the Administrator shall waive the exposure requirements under this subtitle for individuals who worked at the vermiculite mining and milling facility in Libby, Montana, or lived or worked within a 20-mile radius of Libby, Montana, for at least 12 consecutive months before December 31, 2004. Claimants under this section shall provide such supporting documentation as the Administrator shall require.

(5) EXPOSURE PRESUMPTIONS.—

(A) IN GENERAL.—The Administrator shall prescribe rules identifying specific industries, occupations within such industries, and time periods in which workers employed in those industries or occupations typically had substantial occupational exposure to asbestos as defined under section 121(a). Until 5 years after the Administrator certifies that the Fund is paying claims at a reasonable rate, the industries, occupations and time periods identified by the Administrator shall at a minimum include those identified in the 2002 Trust Distribution Process of the Manville Personal Injury Settlement Trust as of January 1, 2005, as industries, occupations and time periods in which workers were presumed to have had significant occupational exposure to asbestos. Thereafter, the Administrator may by rule modify or eliminate those exposure presumptions required to be adopted from the Manville Personal Injury Settlement Trust, if there is evidence that demonstrates that the typical exposure for workers in such industries and occupations during such time periods did not constitute substantial occupational exposure in asbestos.

(B) CLAIMANTS ENTITLED TO PRESUMPTIONS.—Any claimant who demonstrates through meaningful and credible evidence that such claimant was employed during relevant time periods in industries or occupations identified under subparagraph (A) shall be entitled to a presumption that the claimant had substantial occupational exposure to asbestos during those time periods. That presumption shall not be conclusive, and the Administrator may find that the claimant does not have substantial occupational exposure if other information demonstrates that the claimant did not in fact have substantial occupational exposure during any part of the relevant time periods.

(6) PENALTY FOR FALSE STATEMENT.—Any false information submitted under this subsection shall be subject to section 1348 of title 18, United States Code (as added by this Act).

(d) ASBESTOS DISEASE LEVELS.—

(1) NONMALIGNANT LEVEL I.—To receive Level I compensation, a claimant shall provide—

(A) a diagnosis of bilateral asbestos-related nonmalignant disease; and

(B) evidence of 5 years cumulative occupational exposure to asbestos.

(2) NONMALIGNANT LEVEL II.—To receive Level II compensation, a claimant shall provide—

(A) a diagnosis of bilateral asbestos-related nonmalignant disease with ILO grade of 1/1 or greater, and showing small irregular opacities of shape or size, either ss, st, or tu, and present in both lower lung zones, or asbestosis determined by pathology, or blunting of either costophrenic angle and bilateral pleural plaque or bilateral pleural thickening of at least grade B2 or greater, or bilateral pleural disease of grade B2 or greater;

(B) evidence of TLC less than 80 percent or FVC less than the lower limits of normal, and FEV1/FVC ratio less than 65 percent;

(C) evidence of 5 or more weighted years of substantial occupational exposure to asbestos; and

(D) supporting medical documentation establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question.

(3) NONMALIGNANT LEVEL III.—To receive Level III compensation a claimant shall provide—

(A) a diagnosis of bilateral asbestos-related nonmalignant disease with ILO grade of 1/0 or greater and showing small irregular opacities of shape or size, either ss, st, or tt, and present in both lower lung zones, or asbestosis determined by pathology, or diffuse pleural thickening, or bilateral pleural disease of B2 or greater;

(B) evidence of TLC less than 80 percent, FVC less than the lower limits of normal and FEV1/FVC ratio greater than or equal to 65 percent, or evidence of a decline in FVC of 20 percent or greater, after allowing for the expected decrease due to aging, and an FEV1/FVC ratio greater than or equal to 65 percent documented with a second spirometry;

(C) evidence of 5 or more weighted years of substantial occupational exposure to asbestos; and

(D) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.

(4) NONMALIGNANT LEVEL IV.—To receive Level IV compensation a claimant shall provide—

(A) diagnosis of bilateral asbestos-related nonmalignant disease with ILO grade of 1/1 or greater and showing small irregular opacities of shape or size, either ss, st, or tt, and present in both lower lung zones, or asbestosis determined by pathology, or diffuse pleural thickening, or bilateral pleural disease of B2 or greater;

(B) evidence of TLC less than 60 percent or FVC less than 60 percent, and FEV1/FVC ratio greater than or equal to 65 percent;

(C) evidence of 5 or more weighted years of substantial occupational exposure to asbestos before diagnosis; and

(D) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.

(5) NONMALIGNANT LEVEL V.—To receive Level V compensation a claimant shall provide—

(A) diagnosis of bilateral asbestos-related nonmalignant disease with ILO grade of 1/1 or greater and showing small irregular opacities of shape or size, either ss, st, or tt, and present in both lower lung zones, or asbestosis determined by pathology, or diffuse pleural thickening, or bilateral pleural disease of B2 or greater;

(B)(i) evidence of TLC less than 50 percent or FVC less than 50 percent, and FEV1/FVC ratio greater than or equal to 65 percent;

(ii) DLCO less than 40 percent of predicted, plus a FEV1/FVC ratio not less than 65 percent; or

(iii) PO_2 less than 55 mm/Hg, plus a FEV1/FVC ratio not less than 65 percent;

(C) evidence of 5 or more weighted years of substantial occupational exposure to asbestos; and

(D) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.

(6) MALIGNANT LEVEL VI.—

(A) IN GENERAL.—To receive Level VI compensation a claimant shall provide—

(i) a diagnosis of a primary colorectal, laryngeal, esophageal, pharyngeal, or stomach cancer on the basis of findings by a board certified pathologist;

(ii) evidence of a bilateral asbestos-related nonmalignant disease;

(iii) evidence of 15 or more weighted years of substantial occupational exposure to asbestos; and

(iv) supporting medical documentation establishing asbestos exposure as a substantial contributing factor in causing the cancer in question.

(B) REFERRAL TO PHYSICIANS PANEL.—All claims filed with respect to Level VI under this paragraph shall be referred to a Physicians Panel for a determination that it is more probable than not that asbestos exposure was a substantial contributing factor in causing the other cancer in question. If the claimant meets the requirements of subparagraph (A), there shall be a presumption of eligibility for the scheduled value of compensation unless there is evidence determined by the Physicians Panel that rebuts that presumption. In making its determination under this subparagraph, the Physicians Panel shall consider the intensity and duration of exposure, smoking history, and the quality of evidence relating to exposure and smoking. Claimants shall bear the burden of producing meaningful and credible evidence of their smoking history as part of their claim submission.

(7) MALIGNANT LEVEL VII.—

(A) IN GENERAL.—To receive Level VII compensation, a claimant shall provide—

(i) a diagnosis of a primary lung cancer disease on the basis of findings by a board certified pathologist;

(ii) evidence of bilateral pleural plaques or bilateral pleural thickening or bilateral pleural calcification;

(iii) evidence of 12 or more weighted years of substantial occupational exposure to asbestos; and

(iv) supporting medical documentation establishing asbestos exposure as a substantial contributing factor in causing the lung cancer in question.

(B) PHYSICIANS PANEL.—A claimant filing a claim relating to Level VII under this paragraph may request that the claim be referred to a Physicians Panel for a determination of whether the claimant qualifies for the disease category and relevant smoking status. In making its determination under this subparagraph, the Physicians Panel shall consider the intensity and duration of exposure, smoking history, and the quality of evidence relating to exposure and smoking. Claimants shall bear the burden of producing meaningful and credible evidence of their smoking history as part of their claim submission.

(8) MALIGNANT LEVEL VIII.—

(A) IN GENERAL.—To receive Level VIII compensation, a claimant shall provide a diagnosis of—

(i) a primary lung cancer disease on the basis of findings by a board certified pathologist;

(ii)(I)(aa) asbestosis based on a chest x-ray of at least 1/0 on the ILO scale and showing small irregular opacities of shape or size, either ss, st, or tt, and present in both lower lung zones; and

(bb) 10 or more weighted years of substantial occupational exposure to asbestos;

(II)(aa) asbestosis based on a chest x-ray of at least 1/1 on the ILO scale and showing small irregular opacities of shape or size, either ss, st, or tt, and present in both lower lung zones; and

(bb) 8 or more weighted years of substantial occupational exposure to asbestos;

(III) asbestosis determined by pathology and 10 or more weighted years of substantial occupational exposure to asbestos; or

(IV) asbestosis as determined by CT Scan, the cost of which shall not be borne by the Fund. The CT Scan must be interpreted by a board certified radiologist and confirmed by a board certified radiologist; and

(iii) supporting medical documentation establishing asbestos exposure as a substantial contributing factor in causing the lung cancer in question; and 10 or more weighted years of substantial occupational exposure to asbestos.

(B) PHYSICIANS PANEL.—A claimant filing a claim with respect to Level VIII under this paragraph may request that the claim be referred to a Physicians Panel for a determination of whether the claimant qualifies for the disease category and relevant smoking status. In making its determination under this subparagraph, the Physicians Panel shall consider the intensity and duration of exposure, smoking history, and the quality of evidence relating to exposure and smoking. Claimants shall bear the burden of producing meaningful and credible evidence of their smoking history as part of their claim submission.

(9) MALIGNANT LEVEL IX.—To receive Level IX compensation, a claimant shall provide—

(A) a diagnosis of malignant mesothelioma disease on the basis of findings by a board certified pathologist; and

(B) credible evidence of identifiable exposure to asbestos resulting from—

(i) occupational exposure to asbestos;

(ii) exposure to asbestos fibers brought into the home of the claimant by a worker occupationally exposed to asbestos;

(iii) exposure to asbestos fibers resulting from living or working in the proximate vicinity of a factory, shipyard, building demolition site, or other operation that regularly released asbestos fibers into the air due to operations involving asbestos at that site; or

(iv) other identifiable exposure to asbestos fibers, in which case the claim shall be reviewed by a Physicians Panel under section 121(f) for a determination of eligibility.

(e) INSTITUTE OF MEDICINE STUDY.—Not later than April 1, 2006, the Institute of Medicine of the National Academy of Sciences shall complete a study contracted with the National Institutes of Health of the causal link between asbestos exposure and other cancers, including colorectal, laryngeal, esophageal, pharyngeal, and stomach cancers, except for mesothelioma and lung cancers. The Institute of Medicine shall issue a report on its findings on causation, which shall be transmitted to Congress, the Administrator, the Advisory Committee on Asbestos Disease Compensation or the Medical Advisory Committee, and the Physicians Panels. The Institute of Medicine report shall be binding on the Administrator and the Physicians Panels for purposes of determining whether asbestos exposure is a substantial contributing factor under section 121(d)(6)(B).

(f) EXCEPTIONAL MEDICAL CLAIMS.—

(1) IN GENERAL.—A claimant who does not meet the medical criteria requirements under this section may apply for designation of the claim as an exceptional medical claim.

(2) APPLICATION.—When submitting an application for review of an exceptional medical claim, the claimant shall—

(A) state that the claim does not meet the medical criteria requirements under this section; or

(B) seek designation as an exceptional medical claim within 60 days after a determination that the claim is ineligible solely for failure to meet the medical criteria requirements under subsection (d).

(3) REPORT OF PHYSICIAN.—

(A) IN GENERAL.—Any claimant applying for designation of a claim as an exceptional medical claim shall support an application filed under paragraph (1) with a report from a physician meeting the requirements of this section.

(B) CONTENTS.—A report filed under subparagraph (A) shall include—

(i) a complete review of the claimant's medical history and current condition;

(ii) such additional material by way of analysis and documentation as shall be prescribed by rule of the Administrator; and

(iii) a detailed explanation as to why the claim meets the requirements of paragraph (4)(B).

(4) REVIEW.—

(A) IN GENERAL.—The Administrator shall refer all applications and supporting documentation submitted under paragraph (2) to a Physicians Panel for review for eligibility as an exceptional medical claim.

(B) STANDARD.—A claim shall be designated as an exceptional medical claim if the claimant, for reasons beyond the control of the claimant, cannot satisfy the requirements under this section, but is able, through comparably reliable evidence that meets the standards under this section, to show that the claimant has an asbestos-related condition that is substantially comparable to that of a medical condition that would satisfy the requirements of a category under this section.

(C) ADDITIONAL INFORMATION.—A Physicians Panel may request additional reasonable testing to support the claimant's application.

(D) CT SCAN.—A claimant may submit a CT Scan in addition to an x-ray.

(5) APPROVAL.—

(A) IN GENERAL.—If the Physicians Panel determines that the medical evidence is sufficient to show a comparable asbestos-related condition, it shall issue a certificate of medical eligibility designating the category of asbestos-related injury under this section for which the claimant shall be eligible to seek compensation.

(B) REFERRAL.—Upon the issuance of a certificate under subparagraph (A), the Physicians Panel shall submit the claim to the Administrator, who shall give due consideration to the recommendation of the Physicians Panel in determining whether the claimant meets the requirements for compensation under this Act.

(6) RESUBMISSION.—Any claimant whose application for designation as an exceptional medical claim is rejected may resubmit an application if new evidence becomes available. The application shall identify any prior applications and state the new evidence that forms the basis of the resubmission.

(7) RULES.—The Administrator shall promulgate rules governing the procedures for seeking designation of a claim as an exceptional medical claim.

(8) LIBBY, MONTANA.—

(A) IN GENERAL.—A Libby, Montana, claimant may elect to have the claimant's claims designated as exceptional medical claims and referred to a Physicians Panel for review. In reviewing the medical evidence submitted by a Libby, Montana claimant in support of that claim, the Physicians Panel shall take into consideration the unique and serious nature of asbestos exposure in Libby, Montana, including the nature of the pleural disease related to asbestos exposure in Libby, Montana.

(B) CLAIMS.—For all claims for Levels II through IV filed by Libby, Montana claimants, as described under subsection (c)(4), once the Administrator or the Physicians Panel issues a certificate of medical eligibility to a Libby, Montana claimant, and notwithstanding the disease category designated in the certificate or the eligible disease or condition established in accordance with this section, or the value of the award determined in accordance with section 114, the Libby, Montana claimant shall be entitled to an award that is not less than that awarded to claimants who suffer from asbestosis, Level IV. For all malignant claims filed by Libby, Montana claimants, the Libby, Montana claimant shall be entitled to an award that corresponds to the malignant disease category designated by the Administrator or the Physicians Panel.

Subtitle D—Awards

SEC. 131. AMOUNT.

(a) IN GENERAL.—An asbestos claimant who meets the requirements of section 111 shall be entitled to an award in an amount determined by reference to the benefit table and the matrices developed under subsection (b).

(b) BENEFIT TABLE.—

(1) IN GENERAL.—An asbestos claimant with an eligible disease or condition established in accordance with section 121 shall be eligible for an award as determined under this subsection. The award for all asbestos claimants with an eligible disease or condition established in accordance with section 121 shall be according to the following schedule:

Level	Scheduled Condition or Disease	Scheduled Value
I	Asbestosis/ Pleural Disease A	Medical Monitoring
II	Mixed Disease With Impairment	$25,000
III	Asbestosis/ Pleural Disease B	$100,000
IV	Severe Asbestosis	$400,000
V	Disabling Asbestosis	$850,000
VI	Other Cancer	$200,000
VII	Lung Cancer With Pleural Disease	smokers, $300,000; ex-smokers, $725,000; non-smokers, $800,000
VIII	Lung Cancer With Asbestosis	smokers, $600,000; ex-smokers, $975,000; non-smokers, $1,100,000
IX	Mesothelioma	$1,100,000

(2) DEFINITIONS.—In this section—

(A) the term "nonsmoker" means a claimant who—

(i) never smoked; or

(ii) has smoked fewer than 100 cigarettes or the equivalent of other tobacco products during the claimant's lifetime; and

(B) the term "ex-smoker" means a claimant who has not smoked during any portion of the 12-year period preceding the diagnosis of lung cancer.

(3) LEVEL IX ADJUSTMENTS.—

(A) IN GENERAL.—If the Administrator determines that the impact of all adjustments under this paragraph on the Fund is cost neutral, the Administrator may—

(i) increase awards for Level IX claimants who are less than 51 years of age with dependent children; and

(ii) decrease awards for Level IX claimants who are at least 65 years of age, but in no case shall an award for Level IX be less than $1,000,000.

(B) IMPLEMENTATION.—Before making adjustments under this paragraph, the Administrator shall publish in the Federal Register notice of, and a plan for, making such adjustments.

(4) SPECIAL ADJUSTMENT FOR FELA CASES.—

(A) IN GENERAL.—A claimant who would be eligible to bring a claim under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers' Liability Act, but for section 403 of this Act, shall be eligible for a special adjustment under this paragraph.

(B) REGULATIONS.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate regulations relating to special adjustments under this paragraph.

(ii) JOINT PROPOSAL.—Not later than 45 days after the date of enactment of this Act, representatives of railroad management and representatives of railroad labor shall submit to the Administrator a joint proposal for regulations describing the eligibility for and amount of special adjustments under this paragraph. If a joint proposal is submitted, the Administrator shall promulgate regulations that reflect the joint proposal.

(iii) ABSENCE OF JOINT PROPOSAL.—If railroad management and railroad labor are unable to agree on a joint proposal within 45 days after the date of enactment of this Act, the benefits prescribed in subparagraph (E) shall be the benefits available to claimants, and the Administrator shall promulgate regulations containing such benefits.

(iv) REVIEW.—The parties participating in the arbitration may file in the United States District Court for the District of Columbia a petition for review of the Administrator's order. The court shall have jurisdiction to affirm the order of the Administrator, or to set it aside, in whole or in part, or it may remand the proceedings to the Administrator for such further action as it may direct. On such review, the findings and order of the Administrator shall be conclusive on the parties, except that the order of the Administrator may be set aside, in whole or in parts or remanded to the Administrator, for failure of the Administrator to comply with the requirements of this section, for failure of the order to conform, or confine itself, to matters within the scope of the Administrator's jurisdiction, or for fraud or corruption.

(C) ELIGIBILITY.—An individual eligible to file a claim under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers' Liability Act, shall be eligible for a special adjustment under this paragraph if such individual meets the criteria set forth in subparagraph (F).

(D) AMOUNT.—

(i) IN GENERAL.—The amount of the special adjustment shall be based on the type and severity of asbestos disease, and shall be 110 percent of the average amount an injured individual with a disease caused by asbestos, as described in section 121(d) of this Act, would have received, during the 5-year period before the enactment of this Act, adjusted for inflation. This adjustment shall be in addition to any other award for which the claimant is eligible under this Act. The amount of the special adjustment shall be reduced by an amount reasonably calculated to take into account all expenses of litigation normally borne by plaintiffs, including attorney's fees.

(ii) LIMITATION.—The amount under clause (i) may not exceed the amount the claimant is eligible to receive before applying the special adjustment under that clause.

(E) ARBITRATED BENEFITS.—If railroad management and railroad labor are unable to agree on a joint proposal within 45 days after the date of enactment of this Act, the Administrator shall appoint an arbitrator to determine the benefits under subparagraph (D). The Administrator shall appoint an arbitrator who shall be acceptable to both railroad management and railroad labor. Railroad management and railroad labor shall each designate their representatives to participate in the arbitration. The arbitrator shall submit the benefits levels to the Administrator not later than 30 days after appointment and such benefits levels shall be based on information provided by rail labor and rail management. The information submitted to the arbitrator by railroad management and railroad labor shall be considered confidential and shall be disclosed to the other party upon execution of an appropriate confidentiality agreement. Unless the submitting party provides written consent, neither the arbitrator nor either party to the arbitration shall divulge to any third party any information or data, in any form, submitted to the arbitrator under this section. Nor shall either party use such information or data for any purpose other than participation in the arbitration proceeding, and each party shall return to the other any information it has received from the other party as soon the arbitration is concluded. Information submitted to the arbitrator may not be admitted into evidence, nor discovered, in any civil litigation in Federal or State court. The nature of the information submitted to the arbitrator shall be within the sole discretion of the submitting party, and the arbitrator may not require a party to submit any particular information, including information subject to a prior confidentiality agreement.

(F) DEMONSTRATION OF ELIGIBILITY.—

(i) IN GENERAL.—A claimant under this paragraph shall be required to demonstrate—

(I) employment of the claimant in the railroad industry;

(II) exposure of the claimant to asbestos as part of that employment; and

(III) the nature and severity of the asbestos-related injury.

(ii) MEDICAL CRITERIA.—In order to be eligible for a special adjustment a claimant shall meet the criteria set forth in section 121 that would qualify a claimant for a payment under Level II or greater.

(5) MEDICAL MONITORING.—An asbestos claimant with asymptomatic exposure, based on the criteria under section 121(d)(1), shall only be eligible for medical monitoring reimbursement as provided under section 132.

(6) COST-OF-LIVING ADJUSTMENT.—

(A) IN GENERAL.—Beginning January 1, 2007, award amounts under paragraph (1) shall be annually increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment, rounded to the nearest $1,000 increment.

(B) CALCULATION OF COST-OF-LIVING ADJUSTMENT.—For the purposes of subparagraph (A), the cost-of-living adjustment for any calendar year shall be the percentage, if any, by which the consumer price index for the succeeding calendar year exceeds the consumer price index for calendar year 2005.

(C) CONSUMER PRICE INDEX.—

(i) IN GENERAL.—For the purposes of subparagraph (B), the consumer price index for any calendar year is the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year.

(ii) DEFINITION.—For purposes of clause (i), the term "consumer price index" means the consumer price index published by the Department of Labor. The consumer price index series to be used for award escalations shall include the consumer price index used for all-urban consumers, with an area coverage of the United States city average, for all items, based on the 1982–1984 index based period, as published by the Department of Labor.

SEC. 132. MEDICAL MONITORING.

(a) RELATION TO STATUTE OF LIMITATIONS.—The filing of a claim under this Act that seeks reimbursement for medical monitoring shall not be considered as evidence that the claimant has discovered facts that would otherwise commence the period applicable for purposes of the statute of limitations under section 113(b).

(b) COSTS.—Reimbursable medical monitoring costs shall include the costs of a claimant not covered by health insurance for an examination by the claimant's physician, x-ray tests, and pulmonary function tests every 3 years.

(c) REGULATIONS.—The Administrator shall promulgate regulations that establish—

(1) the reasonable costs for medical monitoring that is reimbursable; and

(2) the procedures applicable to asbestos claimants.

SEC. 133. PAYMENT.

(a) STRUCTURED PAYMENTS.—

(1) IN GENERAL.—An asbestos claimant who is entitled to an award should receive the amount of the award through structured payments from the Fund, made over a period of 3 years, and in no event more than 4 years after the date of final adjudication of the claim.

(2) PAYMENT PERIOD AND AMOUNT.—There shall be a presumption that any award paid under this subsection shall provide for payment of—

(A) 40 percent of the total amount in year 1;

(B) 30 percent of the total amount in year 2; and

(C) 30 percent of the total amount in year 3.

(3) EXTENSION OF PAYMENT PERIOD.—

(A) IN GENERAL.—The Administrator shall develop guidelines to provide for the payment period of an award under subsection (a) to be extended to a 4-year period if such action is warranted in order to preserve the overall solvency of the Fund. Such guidelines shall include reference to the number of claims made to the Fund and the awards made and scheduled to be paid from the Fund as provided under section 405.

(B) LIMITATIONS.—In no event shall less than 50 percent of an award be paid in the first 2 years of the payment period under this subsection.

(4) ACCELERATED PAYMENTS.—The Administrator shall develop guidelines to provide for accelerated payments to asbestos claimants who are mesothelioma victims and who are alive on the date on which the Administrator receives notice of the eligibility of the claimant. Such payments shall be credited against the first regular payment under the structured payment plan for the claimant.

(5) EXPEDITED PAYMENTS.—The Administrator shall develop guidelines to provide for expedited payments to asbestos claimants in cases of exigent circumstances or extreme hardship caused by asbestos-related injury.

(6) ANNUITY.—An asbestos claimant may elect to receive any payments to which that claimant is entitled under this title in the form of an annuity.

(b) LIMITATION ON TRANSFERABILITY.—A claim filed under this Act shall not be assignable or otherwise transferable under this Act.

(c) CREDITORS.—An award under this title shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, and such exemption may not be waived.

(d) MEDICARE AS SECONDARY PAYER.—No award under this title shall be deemed a payment for purposes of section 1862 of the Social Security Act (42 U.S.C. 1395y).

(e) EXEMPT PROPERTY IN ASBESTOS CLAIMANT'S BANKRUPTCY CASE.—If an asbestos claimant files a petition for relief under section 301 of title 11, United States Code, no award granted under this Act shall be treated as property of the bankruptcy estate of the asbestos claimant in accordance with section 541(b)(6) of title 11, United States Code.

SEC. 134. REDUCTION IN BENEFIT PAYMENTS FOR COLLATERAL SOURCES.

(a) IN GENERAL.—The amount of an award otherwise available to an asbestos claimant under this title shall be reduced by the amount of collateral source compensation.

(b) EXCLUSIONS.—In no case shall statutory benefits under workers' compensation laws, special adjustments made under section 131(b)(3), occupational or total disability benefits under the Railroad Retirement Act (45 U.S.C. 201 et seq.), sickness benefits under the Railroad Unemployment Insurance Act (45 U.S.C 351 et seq.), and veterans' benefits programs be deemed as collateral source compensation for purposes of this section.

SEC. 135. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT OF AWARDS.

(a) IN GENERAL.—The payment of an award under section 106 or 133 shall not be considered a form of compensation or reimbursement for a loss for purposes of imposing liability on any asbestos claimant receiving such payment to repay any—

(1) insurance carrier for insurance payments; or

(2) person or governmental entity on account of worker's compensation, health care, or disability payments.

(b) NO EFFECT ON CLAIMS.—The payment of an award to an asbestos claimant under section 106 or 133 shall not affect any claim of an asbestos claimant against—

(1) an insurance carrier with respect to insurance; or

(2) against any person or governmental entity with respect to worker's compensation, healthcare, or disability.

TITLE II—ASBESTOS INJURY CLAIMS RESOLUTION FUND

Subtitle A—Asbestos Defendants Funding Allocation

SEC. 201. DEFINITIONS.

In this subtitle, the following definitions shall apply:

(1) AFFILIATED GROUP.—The term "affiliated group"—

(A) means a defendant participant that is an ultimate parent and any person whose entire beneficial interest is directly or indirectly owned by that ultimate parent on the date of enactment of this Act; and

(B) shall not include any person that is a debtor or any direct or indirect majority-owned subsidiary of a debtor.

(2) CLASS ACTION TRUST.—The term "class action trust" means a trust or similar entity established to hold assets for the payment of asbestos claims asserted against a debtor or

participating defendant, under a settlement that—

(A) is a settlement of class action claims under rule 23 of the Federal Rules of Civil Procedure; and

(B) has been approved by a final judgment of a United States district court before the date of enactment of this Act.

(3) DEBTOR.—The term "debtor"—

(A) means—

(i) a person that is subject to a case pending under a chapter of title 11, United States Code, on the date of enactment of this Act or at any time during the 1-year period immediately preceding that date, irrespective of whether the debtor's case under that title has been dismissed; and

(ii) all of the direct or indirect majority-owned subsidiaries of a person described under clause (i), regardless of whether any such majority-owned subsidiary has a case pending under title 11, United States Code; and

(B) shall not include an entity—

(i) subject to chapter 7 of title 11, United States Code, if a final decree closing the estate shall have been entered before the date of enactment of this Act; or

(ii) subject to chapter 11 of title 11, United States Code, if a plan of reorganization for such entity shall have been confirmed by a duly entered order or judgment of a court that is no longer subject to any appeal or judicial review, and the substantial consummation, as such term is defined in section 1101(2) of title 11, United States Code, of such plan of reorganization has occurred.

(4) INDEMNIFIABLE COST.—The term "indemnifiable cost" means a cost, expense, debt, judgment, or settlement incurred with respect to an asbestos claim that, at any time before December 31, 2002, was or could have been subject to indemnification, contribution, surety, or guaranty.

(5) INDEMNITEE.—The term "indemnitee" means a person against whom any asbestos claim has been asserted before December 31, 2002, who has received from any other person, or on whose behalf a sum has been paid by such other person to any third person, in settlement, judgment, defense, or indemnity in connection with an alleged duty with respect to the defense or indemnification of such person concerning that asbestos claim, other than under a policy of insurance or reinsurance.

(6) INDEMNITOR.—The term "indemnitor" means a person who has paid under a written agreement at any time before December 31, 2002, a sum in settlement, judgment, defense, or indemnity to or on behalf of any person defending against an asbestos claim, in connection with an alleged duty with respect to the defense or indemnification of such person concerning that asbestos claim, except that payments by an insurer or reinsurer under a contract of insurance or reinsurance shall not make the insurer or reinsurer an indemnitor for purposes of this subtitle.

(7) PRIOR ASBESTOS EXPENDITURES.—The term "prior asbestos expenditures"—

(A) means the gross total amount paid by or on behalf of a person at any time before December 31, 2002, in settlement, judgment, defense, or indemnity costs related to all asbestos claims against that person;

(B) includes payments made by insurance carriers to or for the benefit of such person or on such person's behalf with respect to such asbestos claims, except as provided in section 204(g);

(C) shall not include any payment made by a person in connection with or as a result of changes in insurance reserves required by contract or any activity or dispute related to insurance coverage matters for asbestos-related liabilities; and

(D) shall not include any payment made by or on behalf of persons who are or were common carriers by railroad for asbestos claims brought under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers' Liability Act, as a result of operations as a common carrier by railroad, including settlement, judgment, defense, or indemnity costs associated with these claims.

(8) TRUST.—The term "trust" means any trust, as described in sections 524(g)(2)(B)(i) or 524(h) of title 11, United States Code, or established in conjunction with an order issued under section 105 of title 11, United States Code, established or formed under the terms of a chapter 11 plan of reorganization, which in whole or in part provides compensation for asbestos claims.

(9) ULTIMATE PARENT.—The term "ultimate parent" means a person—

(A) that owned, as of December 31, 2002, the entire beneficial interest, directly or indirectly, of at least 1 other person; and

(B) whose entire beneficial interest was not owned, on December 31, 2002, directly or indirectly, by any other single person (other than a natural person).

SEC. 202. AUTHORITY AND TIERS.

(a) LIABILITY FOR PAYMENTS TO THE FUND.—

(1) IN GENERAL.—Defendant participants shall be liable for payments to the Fund in accordance with this section based on tiers and subtiers assigned to defendant participants.

(2) AGGREGATE PAYMENT OBLIGATIONS LEVEL.—The total payments required of all defendant participants over the life of the Fund shall not exceed a sum equal to $90,000,000,000 less any bankruptcy trust credits under section 222(e). The Administrator shall have the authority to allocate the payments required of the defendant participants among the tiers as provided in this title.

(3) ABILITY TO ENTER REORGANIZATION.—Notwithstanding any other provision of this Act, all debtors that, together with all of their direct or indirect majority-owned subsidiaries, have prior asbestos expenditures less than $1,000,000 may proceed with the filing, solicitation, and confirmation of a plan of reorganization that does not comply with the requirements of this Act, including a trust and channeling injunction under section 524(g) of title 11, United States Code. Any asbestos claim made in conjunction with a plan of reorganization allowable under the preceding sentence shall be subject to section 403(d) of this Act.

(b) TIER I.—Tier I shall include all debtors that, together with all of their direct or indirect majority-owned subsidiaries, have prior asbestos expenditures greater than $1,000,000.

(c) TREATMENT OF TIER I BUSINESS ENTITIES IN BANKRUPTCY.—

(1) DEFINITION.—

(A) IN GENERAL.—In this subsection, the term "bankrupt business entity" means a person that is not a natural person that—

(i) filed a petition for relief under chapter 11, of title 11, United States Code, before January 1, 2003;

(ii) has not substantially consummated, as such term is defined under section 1101(2) of title 11, United States Code, a plan of reorganization as of the date of enactment of this Act; and

(iii) the bankruptcy court presiding over the business entity's case determines, after notice and a hearing upon motion filed by the entity within 30 days after the date of enactment of this Act, that asbestos liability was not the sole or precipitating cause of the entity's chapter 11 filing.

(B) MOTION AND RELATED MATTERS.—A motion under subparagraph (A)(iii) shall be supported by—

(i) an affidavit or declaration of the chief executive officer, chief financial officer, or chief legal officer of the business entity; and

(ii) copies of the entity's public statements and securities filings made in connection with the entity's filing for chapter 11 protection.

Notice of such motion shall be as directed by the bankruptcy court, and the hearing shall be limited to consideration of the question of whether or not asbestos liability was the sole or precipitating cause of the entity's chapter 11 filing. The bankruptcy court shall hold a hearing and make its determination with respect to the motion within 60 days after the date the motion is filed. In making its determination, the bankruptcy court shall take into account the affidavits, public statements, and securities filings, and other information, if any, submitted by the entity and all other facts and circumstances presented by an objecting party. Any review of this determination shall be an expedited appeal and limited to whether the decision was against the weight of the evidence. Any appeal of a determination shall be an expedited review to the United States Circuit Court of Appeals for the circuit in which the bankruptcy is filed.

(2) PROCEEDING WITH REORGANIZATION PLAN.—A bankrupt business entity may proceed with the filing, solicitation, confirmation, and consummation of a plan of reorganization that does not comply with the requirements of this Act, including a trust and channeling injunction described in section 524(g) of title 11, United States Code, notwithstanding any other provisions of this Act, if the bankruptcy court makes a favorable determination under paragraph (1)(B), unless the bankruptcy court's determination is overruled on appeal and all appeals are final. Such a bankrupt business entity may continue to so proceed, if—

(A) on request of a party in interest or on a motion of the court, and after a notice and a hearing, the bankruptcy court presiding over the chapter 11 case of the bankrupt business entity determines that—

(i) confirmation is necessary to permit the reorganization of that entity and assure that all creditors and that entity are treated fairly and equitably; and

(ii) confirmation is clearly favored by the balance of the equities; and

(B) an order confirming the plan of reorganization is entered by the bankruptcy court within 9 months after the date of enactment of this Act or such longer period of time approved by the bankruptcy court for cause shown.

(3) APPLICABILITY.—If the bankruptcy court does not make the determination required under paragraph (2), or if an order confirming the plan is not entered within 9 months after the date of enactment of this Act or such longer period of time approved by the bankruptcy court for cause shown, the provisions of this Act shall apply to the bankrupt business entity notwithstanding the certification. Any timely appeal under title 11, United States Code, from a confirmation order entered during the applicable time period shall automatically extend the time during which this Act is inapplicable to the bankrupt business entity, until the appeal is fully and finally resolved.

(4) OFFSETS.—

(A) PAYMENTS BY INSURERS.—To the extent that a bankrupt business entity or debtor successfully confirms a plan of reorganization, including a trust, and channeling injunction that involves payments by insurers who are otherwise subject to this Act as described under section 524(g) of title 11, United States Code, an insurer who makes payments to the trust shall obtain a dollar-for-dollar reduction in the amount otherwise payable by that insurer under this Act to the Fund.

(B) CONTRIBUTIONS TO FUND.—Any cash payments by a bankrupt business entity, if any, to a trust described under section 524(g) of title 11, United States Code, may be counted as a contribution to the Fund.

(d) TIERS II THROUGH VI.—Except as provided in section 204 and subsection (b) of this section, persons or affiliated groups are included in Tier II, III, IV, V, or VI, according to the prior asbestos expenditures paid by such persons or affiliated groups as follows:

(1) Tier II: $75,000,000 or greater.

(2) Tier III: $50,000,000 or greater, but less than $75,000,000.

(3) Tier IV: $10,000,000 or greater, but less than $50,000,000.

(4) Tier V: $5,000,000 or greater, but less than $10,000,000.

(5) Tier VI: $1,000,000 or greater, but less than $5,000,000.

(e) TIER PLACEMENT AND COSTS.—

(1) PERMANENT TIER PLACEMENT.—After a defendant participant or affiliated group is assigned to a tier and subtier under section 204(i)(6), the participant or affiliated group shall remain in that tier and subtier throughout the life of the Fund, regardless of subsequent events, including—

(A) the filing of a petition under a chapter of title 11, United States Code;

(B) a discharge of debt in bankruptcy;

(C) the confirmation of a plan of reorganization; or

(D) the sale or transfer of assets to any other person or affiliated group, unless the Administrator finds that the information submitted by the participant or affiliated group to support its inclusion in that tier was inaccurate.

(2) COSTS.—Payments to the Fund by all persons that are the subject of a case under a chapter of title 11, United States Code, after the date of enactment of this Act—

(A) shall constitute costs and expenses of administration of the case under section 503 of title 11, United States Code, and shall be payable in accordance with the payment provisions under this subtitle notwithstanding the pendency of the case under that title 11;

(B) shall not be stayed or affected as to enforcement or collection by any stay or injunction power of any court; and

(C) shall not be impaired or discharged in any current or future case under title 11, United States Code.

(f) SUPERSEDING PROVISIONS.—

(1) IN GENERAL.—All of the following shall be superseded in their entireties by this Act:

(A) The treatment of any asbestos claim in any plan of reorganization with respect to any debtor included in Tier I.

(B) Any asbestos claim against any debtor included in Tier I.

(C) Any agreement, understanding, or undertaking by any such debtor or any third party with respect to the treatment of any asbestos claim filed in a debtor's bankruptcy case or with respect to a debtor before the date of enactment of this Act, whenever such debtor's case is either still pending, if such case is pending under a chapter other than chapter 11 of title 11, United States Code, or subject to confirmation or substantial consummation of a plan of reorganization under chapter 11 of title 11, United States Code.

(2) PRIOR AGREEMENTS OF NO EFFECT.—Notwithstanding section 403(c)(3), any plan of reorganization, agreement, understanding, or undertaking by any debtor (including any pre-petition agreement, understanding, or undertaking that requires future performance) or any third party under paragraph (1), and any agreement, understanding, or undertaking entered into in anticipation, contemplation, or furtherance of a plan of reorganization, to the extent it relates to any asbestos claim, shall be of no force or effect, and no person shall have any right or claim with respect to any such agreement, understanding, or undertaking.

SEC. 203. SUBTIERS.

(a) IN GENERAL.—

(1) SUBTIER LIABILITY.—Except as otherwise provided under subsections (b), (d), and (l) of section 204, persons or affiliated groups shall be included within Tiers I through VII and shall pay amounts to the Fund in accordance with this section.

(2) REVENUES.—

(A) IN GENERAL.—For purposes of this section, revenues shall be determined in accordance with generally accepted accounting principles, consistently applied, using the amount reported as revenues in the annual report filed with the Securities and Exchange Commission in accordance with the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) for the most recent fiscal year ending on or before December 31, 2002. If the defendant participant or affiliated group does not file reports with the Securities and Exchange Commission, revenues shall be the amount that the defendant participant or affiliated group would have reported as revenues under the rules of the Securities and Exchange Commission in the event that it had been required to file.

(B) INSURANCE PREMIUMS.—Any portion of revenues of a defendant participant that is derived from insurance premiums shall not be used to calculate the payment obligation of that defendant participant under this subtitle.

(C) DEBTORS.—Each debtor's revenues shall include the revenues of the debtor and all of the direct or indirect majority-owned subsidiaries of that debtor, except that the pro forma revenues of a person that is included in Subtier 2 of Tier I shall not be included in calculating the revenues of any debtor that is a direct or indirect majority owner of such Subtier 2 person. If a debtor or affiliated group includes a person in respect of whose liabilities for asbestos claims a class action trust has been established, there shall be excluded from the 2002 revenues of such debtor or affiliated group—

(i) all revenues of the person in respect of whose liabilities for asbestos claims the class action trust was established; and

(ii) all revenues of the debtor and affiliated group attributable to the historical business operations or assets of such person, regardless of whether such business operations or assets were owned or conducted during the year 2002 by such person or by any other person included within such debtor and affiliated group.

(b) TIER I SUBTIERS.—

(1) IN GENERAL.—Each debtor in Tier I shall be included in subtiers and shall pay amounts to the Fund as provided under this section.

(2) SUBTIER 1.—

(A) IN GENERAL.—All persons that are debtors with prior asbestos expenditures of $1,000,000 or greater, shall be included in Subtier 1.

(B) PAYMENT.—Each debtor included in Subtier 1 shall pay on an annual basis 1.67024 percent of the debtor's 2002 revenues.

(C) OTHER ASSETS.—The Administrator, at the sole discretion of the Administrator, may allow a Subtier 1 debtor to satisfy its funding obligation under this paragraph with assets other than cash if the Administrator determines that requiring an all-cash payment of the debtor's funding obligation would render the debtor's reorganization infeasible.

(D) LIABILITY.—

(i) IN GENERAL.—If a person who is subject to a case pending under a chapter of title 11, United States Code, as defined in section 201(3)(A)(i), does not pay when due any payment obligation for the debtor, the Administrator shall have the right to seek payment of all or any portion of the entire amount due (as well as any other amount for which the debtor may be liable under sections 223 and 224) from any of the direct or indirect majority-owned subsidiaries under section 201(3)(A)(ii).

(ii) CAUSE OF ACTION.—Notwithstanding section 221(e), this Act shall not preclude actions among persons within a debtor under section 201(3)(A) (i) and (ii) with respect to the payment obligations under this Act.

(iii) RIGHT OF CONTRIBUTION.—

(I) IN GENERAL.—Notwithstanding any other provision of this Act, if a direct or indirect majority-owned foreign subsidiary of a debtor participant (with such relationship to the debtor participant as determined on the date of enactment of this Act) is or becomes subject to any foreign insolvency proceedings, and such foreign direct or indirect-majority owned subsidiary is liquidated in connection with such foreign insolvency proceedings (or if the debtor participant's interest in such foreign subsidiary is otherwise canceled or terminated in connection with such foreign insolvency proceedings), the debtor participant shall have a claim against such foreign subsidiary or the estate of such foreign subsidiary in an amount equal to the greater of—

(aa) the estimated amount of all current and future asbestos liabilities against such foreign subsidiary; or

(bb) the foreign subsidiary's allocable share of the debtor participant's funding obligations to the Fund as determined by such foreign subsidiary's allocable share of the debtor participant's 2002 gross revenue.

(II) DETERMINATION OF CLAIM AMOUNT.—The claim amount under subclause (I) (aa) or (bb) shall be determined by a court of competent jurisdiction in the United States.

(III) EFFECT ON PAYMENT OBLIGATION.—The right to, or recovery under, any such claim shall not reduce, limit, delay, or otherwise affect the debtor participant's payment obligations under this Act.

(iv) MAXIMUM ANNUAL PAYMENT OBLIGATION.—Subject to any payments under sections 204(l) and 222(d), and paragraphs (3), (4), and (5) of this subsection, the annual payment obligation by a debtor under subparagraph (B) of this paragraph shall not exceed $80,000,000.

(3) SUBTIER 2.—

(A) IN GENERAL.—Notwithstanding paragraph (2), all persons that are debtors that have no material continuing business operations but hold cash or other assets that have been allocated or earmarked for the settlement of asbestos claims shall be included in Subtier 2.

(B) ASSIGNMENT OF ASSETS.—Not later than 90 days after the date of enactment of this

Act, each person included in Subtier 2 shall assign all of its assets to the Fund.

(4) Subtier 3.—

(A) In general.—Notwithstanding paragraph (2), all persons that are debtors other than those included in Subtier 2, which have no material continuing business operations and no cash or other assets allocated or earmarked for the settlement of any asbestos claim, shall be included in Subtier 3.

(B) Assignment of unencumbered assets.—Not later than 90 days after the date of enactment of this Act, each person included in Subtier 3 shall contribute an amount equal to 50 percent of its total unencumbered assets.

(C) Calculation of unencumbered assets.—Unencumbered assets shall be calculated as the Subtier 3 person's total assets, excluding insurance-related assets, less—

(i) all allowable administrative expenses;

(ii) allowable priority claims under section 507 of title 11, United States Code; and

(iii) allowable secured claims.

(5) Class action trust.—The assets of any class action trust that has been established in respect of the liabilities for asbestos claims of any person included within a debtor and affiliated group that has been included in Tier I (exclusive of any assets needed to pay previously incurred expenses and asbestos claims within the meaning of section 403(d)(1), before the date of enactment of this Act) shall be transferred to the Fund not later than 6 months after the date of enactment of this Act.

(c) Tier II Subtiers.—

(1) In general.—Each person or affiliated group in Tier II shall be included in 1 of the 5 subtiers of Tier II, based on the person's or affiliated group's revenues. Such subtiers shall each contain as close to an equal number of total persons and affiliated groups as possible, with—

(A) those persons or affiliated groups with the highest revenues included in Subtier 1;

(B) those persons or affiliated groups with the next highest revenues included in Subtier 2;

(C) those persons or affiliated groups with the lowest revenues included in Subtier 5;

(D) those persons or affiliated groups with the next lowest revenues included in Subtier 4; and

(E) those persons or affiliated groups remaining included in Subtier 3.

(2) Payments.—Each person or affiliated group within each subtier shall pay, on an annual basis, the following:

(A) Subtier 1: $27,500,000.

(B) Subtier 2: $24,750,000.

(C) Subtier 3: $22,000,000.

(D) Subtier 4: $19,250,000.

(E) Subtier 5: $16,500,000.

(d) Tier III Subtiers.—

(1) In general.—Each person or affiliated group in Tier III shall be included in 1 of the 5 subtiers of Tier III, based on the person's or affiliated group's revenues. Such subtiers shall each contain as close to an equal number of total persons and affiliated groups as possible, with—

(A) those persons or affiliated groups with the highest revenues included in Subtier 1;

(B) those persons or affiliated groups with the next highest revenues included in Subtier 2;

(C) those persons or affiliated groups with the lowest revenues included in Subtier 5;

(D) those persons or affiliated groups with the next lowest revenues included in Subtier 4; and

(E) those persons or affiliated groups remaining included in Subtier 3.

(2) Payments.—Each person or affiliated group within each subtier shall pay, on an annual basis, the following:

(A) Subtier 1: $16,500,000.

(B) Subtier 2: $13,750,000.

(C) Subtier 3: $11,000,000.

(D) Subtier 4: $8,250,000.

(E) Subtier 5: $5,500,000.

(e) Tier IV Subtiers.—

(1) In general.—Each person or affiliated group in Tier IV shall be included in 1 of the 4 subtiers of Tier IV, based on the person's or affiliated group's revenues. Such subtiers shall each contain as close to an equal number of total persons and affiliated groups as possible, with those persons or affiliated groups with the highest revenues in Subtier 1, those with the lowest revenues in Subtier 4. Those persons or affiliated groups with the highest revenues among those remaining will be included in Subtier 2 and the rest in Subtier 3.

(2) Payment.—Each person or affiliated group within each subtier shall pay, on an annual basis, the following:

(A) Subtier 1: $3,850,000.

(B) Subtier 2: $2,475,000.

(C) Subtier 3: $1,650,000.

(D) Subtier 4: $550,000.

(f) Tier V Subtiers.—

(1) In general.—Each person or affiliated group in Tier V shall be included in 1 of the 3 subtiers of Tier V, based on the person's or affiliated group's revenues. Such subtiers shall each contain as close to an equal number of total persons and affiliated groups as possible, with those persons or affiliated groups with the highest revenues in Subtier 1, those with the lowest revenues in Subtier 3, and those remaining in Subtier 2.

(2) Payment.—Each person or affiliated group within each subtier shall pay, on an annual basis, the following:

(A) Subtier 1: $1,000,000.

(B) Subtier 2: $500,000.

(C) Subtier 3: $200,000.

(g) Tier VI Subtiers.—

(1) In general.—Each person or affiliated group in Tier VI shall be included in 1 of the 3 subtiers of Tier VI, based on the person's or affiliated group's revenues. Such subtiers shall each contain as close to an equal number of total persons and affiliated groups as possible, with those persons or affiliated groups with the highest revenues in Subtier 1, those with the lowest revenues in Subtier 3, and those remaining in Subtier 2.

(2) Payment.—Each person or affiliated group within each subtier shall pay, on an annual basis, the following:

(A) Subtier 1: $500,000.

(B) Subtier 2: $250,000.

(C) Subtier 3: $100,000.

(h) Tier VII.—

(1) In general.—Notwithstanding prior asbestos expenditures that might qualify a person or affiliated group to be included in Tiers II, III, IV, V, or VI, a person or affiliated group shall also be included in Tier VII, if the person or affiliated group—

(A) is or has at any time been subject to asbestos claims brought under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers' Liability Act, as a result of operations as a common carrier by railroad; and

(B) has paid (including any payments made by others on behalf of such person or affiliated group) not less than $5,000,000 in settlement, judgment, defense, or indemnity costs relating to such claims.

(2) Additional amount.—The payment requirement for persons or affiliated groups included in Tier VII shall be in addition to any payment requirement applicable to such person or affiliated group under Tiers II through VI.

(3) Subtier 1.—Each person or affiliated group in Tier VII with revenues of $6,000,000,000 or more is included in Subtier 1 and shall make annual payments of $11,000,000 to the Fund.

(4) Subtier 2.—Each person or affiliated group in Tier VII with revenues of less than $6,000,000,000, but not less than $4,000,000,000 is included in Subtier 2 and shall make annual payments of $5,500,000 to the Fund.

(5) Subtier 3.—Each person or affiliated group in Tier VII with revenues of less than $4,000,000,000, but not less than $500,000,000 is included in Subtier 3 and shall make annual payments of $550,000 to the Fund.

(6) Joint venture revenues and liability.—

(A) Revenues.—For purposes of this subsection, the revenues of a joint venture shall be included on a pro rata basis reflecting relative joint ownership to calculate the revenues of the parents of that joint venture. The joint venture shall not be responsible for a contribution amount under this subsection.

(B) Liability.—For purposes of this subsection, the liability under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers' Liability Act, shall be attributed to the parent owners of the joint venture on a pro rata basis, reflecting their relative share of ownership. The joint venture shall not be responsible for a payment amount under this provision.

SEC. 204. ASSESSMENT ADMINISTRATION.

(a) In General.—Each defendant participant or affiliated group shall pay to the Fund in the amounts provided under this subtitle as appropriate for its tier and subtier each year until the earlier to occur of the following:

(1) The participant or affiliated group has satisfied its obligations under this subtitle during the 30 annual payment cycles of the operation of the Fund.

(2) The amount received by the Fund from defendant participants, excluding any amounts rebated to defendant participants under subsection (d), equals the maximum aggregate payment obligation of section 202(a)(2).

(b) Small Business Exemption.—Notwithstanding any other provision of this subtitle, a person or affiliated group that is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), on December 31, 2002, is exempt from any payment requirement under this subtitle and shall not be included in the subtier allocations under section 203.

(c) Procedures.—The Administrator shall prescribe procedures on how amounts payable under this subtitle are to be paid, including, to the extent the Administrator determines appropriate, procedures relating to payment in installments.

(d) Adjustments.—

(1) In general.—Under expedited procedures established by the Administrator, a defendant participant may seek adjustment of the amount of its payment obligation based on severe financial hardship or demonstrated inequity. The Administrator may determine whether to grant an adjustment and the size of any such adjustment, in accordance with this subsection. A defendant participant has a right to obtain a rehearing of the Administrator's determination under this subsection under the procedures prescribed in subsection (i)(10). The Administrator may adjust a defendant participant's payment obligations under this subsection, either by forgiving the relevant portion of the otherwise

applicable payment obligation or by providing relevant rebates from the defendant hardship and inequity adjustment account created under subsection (j) after payment of the otherwise applicable payment obligation, at the discretion of the Administrator.

(2) FINANCIAL HARDSHIP ADJUSTMENTS.—

(A) IN GENERAL.—A defendant participant may apply for an adjustment based on financial hardship at any time during the period in which a payment obligation to the Fund remains outstanding and may qualify for such adjustment by demonstrating that the amount of its payment obligation under the statutory allocation would constitute a severe financial hardship.

(B) TERM.—Subject to the annual availability of funds in the defendant hardship and inequity adjustment account established under subsection (j), a financial hardship adjustment under this subsection shall have a term of 3 years.

(C) RENEWAL.—After an initial hardship adjustment is granted under this paragraph, a defendant participant may renew its hardship adjustment by demonstrating that it remains justified.

(D) REINSTATEMENT.—Following the expiration of the hardship adjustment period provided for under this section and during the funding period prescribed under subsection (a), the Administrator shall annually determine whether there has been a material change in the financial condition of the defendant participant such that the Administrator may, consistent with the policies and legislative intent underlying this Act, reinstate under terms and conditions established by the Administrator any part or all of the defendant participant's payment obligation under the statutory allocation that was not paid during the hardship adjustment term.

(3) INEQUITY ADJUSTMENTS.—

(A) IN GENERAL.—A defendant participant—

(i) may qualify for an adjustment based on inequity by demonstrating that the amount of its payment obligation under the statutory allocation is exceptionally inequitable—

(I) when measured against the amount of the likely cost to the defendant participant net of insurance of its future liability in the tort system in the absence of the Fund;

(II) when compared to the median payment rate for all defendant participants in the same tier; or

(III) when measured against the percentage of the prior asbestos expenditures of the defendant that were incurred with respect to claims that neither resulted in an adverse judgment against the defendant, nor were the subject of a settlement that required a payment to a plaintiff by or on behalf of that defendant;

(ii) shall qualify for a two-tier main tier and a two-tier subtier adjustment reducing the defendant participant's payment obligation based on inequity by demonstrating that not less than 95 percent of such person's prior asbestos expenditures arose from claims related to the manufacture and sale of railroad locomotives and related products, so long as such person's manufacture and sale of railroad locomotives and related products is temporally and causally remote, and for purposes of this clause, a person's manufacture and sale of railroad locomotives and related products shall be deemed to be temporally and causally remote if the asbestos claims historically and generally filed against such person relate to the manufacture and sale of railroad locomotives and related products by an entity dissolved more than 25 years before the date of enactment of this Act; and

(iii) shall be granted a two-tier adjustment reducing the defendant participant's payment obligation based on inequity by demonstrating that not less than 95 percent of such participant's prior asbestos expenditures arose from asbestos claims based on successor liability arising from a merger to which the participant or its predecessor was a party that occurred at least 30 years before the date of enactment of this Act, and that such prior asbestos expenditures exceed the inflation-adjusted value of the assets of the company from which such liability was derived in such merger, and upon such demonstration the Administrator shall grant such adjustment for the life of the Fund and amounts paid by such defendant participant prior to such adjustment in excess of its adjusted payment obligation under this clause shall be credited against next succeeding required payment obligations.

(B) PAYMENT RATE.—For purposes of subparagraph (A), the payment rate of a defendant participant is the payment amount of the defendant participant as a percentage of such defendant participant's gross revenues for the year ending December 31, 2002.

(C) TERM.—Subject to the annual availability of funds in the defendant hardship and inequity adjustment account established under subsection (j), an inequity adjustment under this subsection shall have a term of 3 years.

(D) RENEWAL.—A defendant participant may renew an inequity adjustment every 3 years by demonstrating that the adjustment remains justified.

(E) REINSTATEMENT.—

(i) IN GENERAL.—Following the termination of an inequity adjustment under subparagraph (A), and during the funding period prescribed under subsection (a), the Administrator shall annually determine whether there has been a material change in conditions which would support a finding that the amount of the defendant participant's payment under the statutory allocation was not inequitable. Based on this determination, the Administrator may, consistent with the policies and legislative intent underlying this Act, reinstate any or all of the payment obligations of the defendant participant as if the inequity adjustment had not been granted for that 3-year period.

(ii) TERMS AND CONDITIONS.—In the event of a reinstatement under clause (i), the Administrator may require the defendant participant to pay any part or all of amounts not paid due to the inequity adjustment on such terms and conditions as established by the Administrator.

(4) LIMITATION ON ADJUSTMENTS.—The aggregate total of financial hardship adjustments under paragraph (2) and inequity adjustments under paragraph (3) in effect in any given year shall not exceed $300,000,000, except to the extent additional monies are available for such adjustments as a result of carryover of prior years' funds under subsection (j)(3) or as a result of monies being made available in that year under subsection (k)(1)(A).

(5) ADVISORY PANELS.—

(A) APPOINTMENT.—The Administrator shall appoint a Financial Hardship Adjustment Panel and an Inequity Adjustment Panel to advise the Administrator in carrying out this subsection.

(B) MEMBERSHIP.—The membership of the panels appointed under subparagraph (A) may overlap.

(C) COORDINATION.—The panels appointed under subparagraph (A) shall coordinate their deliberations and advice.

(e) LIMITATION ON LIABILITY.—The liability of each defendant participant to pay to the Fund shall be limited to the payment obligations under this Act, and, except as provided in subsection (f) and section 203(b)(2)(D), no defendant participant shall have any liability for the payment obligations of any other defendant participant.

(f) CONSOLIDATION OF PAYMENTS.—

(1) IN GENERAL.—For purposes of determining the payment levels of defendant participants, any affiliated group including 1 or more defendant participants may irrevocably elect, as part of the submissions to be made under paragraphs (1) and (3) of subsection (i), to report on a consolidated basis all of the information necessary to determine the payment level under this subtitle and pay to the Fund on a consolidated basis.

(2) ELECTION.—If an affiliated group elects consolidation as provided in this subsection—

(A) for purposes of this Act other than this subsection, the affiliated group shall be treated as if it were a single participant, including with respect to the assessment of a single annual payment under this subtitle for the entire affiliated group;

(B) the ultimate parent of the affiliated group shall prepare and submit each submission to be made under subsection (i) on behalf of the entire affiliated group and shall be solely liable, as between the Administrator and the affiliated group only, for the payment of the annual amount due from the affiliated group under this subtitle, except that, if the ultimate parent does not pay when due any payment obligation for the affiliated group, the Administrator shall have the right to seek payment of all or any portion of the entire amount due (as well as any other amount for which the affiliated group may be liable under sections 223 and 224) from any member of the affiliated group;

(C) all members of the affiliated group shall be identified in the submission under subsection (i) and shall certify compliance with this subsection and the Administrator's regulations implementing this subsection; and

(D) the obligations under this subtitle shall not change even if, after the date of enactment of this Act, the beneficial ownership interest between any members of the affiliated group shall change.

(3) CAUSE OF ACTION.—Notwithstanding section 221(e), this Act shall not preclude actions among persons within an affiliated group with respect to the payment obligations under this Act.

(g) DETERMINATION OF PRIOR ASBESTOS EXPENDITURES.—

(1) IN GENERAL.—For purposes of determining a defendant participant's prior asbestos expenditures, the Administrator shall prescribe such rules as may be necessary or appropriate to assure that payments by indemnitors before December 31, 2002, shall be counted as part of the indemnitor's prior asbestos expenditures, rather than the indemnitee's prior asbestos expenditures, in accordance with this subsection.

(2) INDEMNIFIABLE COSTS.—If an indemnitor has paid or reimbursed to an indemnitee any indemnifiable cost or otherwise made a payment on behalf of or for the benefit of an indemnitee to a third party for an indemnifiable cost before December 31, 2002, the amount of such indemnifiable cost shall be solely for the account of the indemnitor for purposes under this Act.

(3) INSURANCE PAYMENTS.—When computing the prior asbestos expenditures with respect to an asbestos claim, any amount paid or reimbursed by insurance shall be solely for the

account of the indemnitor, even if the indemnitor would have no direct right to the benefit of the insurance, if—

(A) such insurance has been paid or reimbursed to the indemnitor or the indemnitee, or paid on behalf of or for the benefit of the indemnitee; and

(B) the indemnitor has either, with respect to such asbestos claim or any similar asbestos claim, paid or reimbursed to its indemnitee any indemnifiable cost or paid to any third party on behalf of or for the benefit of the indemnitee any indemnifiable cost.

(4) TREATMENT OF CERTAIN EXPENDITURES.—Notwithstanding any other provision of this Act, where—

(A) an indemnitor entered into a stock purchase agreement in 1988 that involved the sale of the stock of businesses that produced friction and other products; and

(B) the stock purchase agreement provided that the indemnitor indemnified the indemnitee and its affiliates for losses arising from various matters, including asbestos claims—

(i) asserted before the date of the agreement; and

(ii) filed after the date of the agreement and prior to the 10-year anniversary of the stock sale,

then the prior asbestos expenditures arising from the asbestos claims described in clauses (i) and (ii) shall not be for the account of either the indemnitor or indemnitee.

(h) MINIMUM ANNUAL PAYMENTS.—

(1) IN GENERAL.—The aggregate annual payments of defendant participants to the Fund shall be at least $3,000,000,000 for each calendar year in the first 30 years of the Fund, or until such shorter time as the condition set forth in subsection (a)(2) is attained.

(2) GUARANTEED PAYMENT ACCOUNT.—To the extent payments in accordance with sections 202 and 203 (as modified by subsections (b), (d), (f) and (g) of this section) fail in any year to raise at least $3,000,000,000 net of any adjustments under subsection (d), the balance needed to meet this required minimum aggregate annual payment shall be obtained from the defendant guaranteed payment account established under subsection (k).

(3) GUARANTEED PAYMENT SURCHARGE.—To the extent the procedure set forth in paragraph (2) is insufficient to satisfy the required minimum aggregate annual payment net of any adjustments under subsection (d), the Administrator may assess a guaranteed payment surcharge under subsection (l).

(i) PROCEDURES FOR MAKING PAYMENTS.—

(1) INITIAL YEAR: TIERS II–VI.—

(A) IN GENERAL.—Not later than 120 days after enactment of this Act, each defendant participant that is included in Tiers II, III, IV, V, or VI shall file with the Administrator—

(i) a statement of whether the defendant participant irrevocably elects to report on a consolidated basis under subsection (f);

(ii) a good-faith estimate of its prior asbestos expenditures;

(iii) a statement of its 2002 revenues, determined in accordance with section 203(a)(2); and

(iv) payment in the amount specified in section 203 for the lowest subtier of the tier within which the defendant participant falls, except that if the defendant participant, or the affiliated group including the defendant participant, had 2002 revenues exceeding $3,000,000,000, it or its affiliated group shall pay the amount specified for Subtier 3 of Tiers II, III, or IV or Subtier 2 of Tiers V or VI, depending on the applicable Tier.

(B) RELIEF.—

(i) IN GENERAL.—The Administrator shall establish procedures to grant a defendant participant relief from its initial payment obligation if the participant shows that—

(I) the participant is likely to qualify for a financial hardship adjustment; and

(II) failure to provide interim relief would cause severe irreparable harm.

(ii) JUDICIAL RELIEF.—The Administrator's refusal to grant relief under clause (i) is subject to immediate judicial review under section 303.

(2) INITIAL YEAR: TIER I.—Not later than 60 days after enactment of this Act, each debtor shall file with the Administrator—

(A) a statement identifying the bankruptcy case(s) associated with the debtor;

(B) a statement whether its prior asbestos expenditures exceed $1,000,000;

(C) a statement whether it has material continuing business operations and, if not, whether it holds cash or other assets that have been allocated or earmarked for asbestos settlements;

(D) in the case of debtors falling within Subtier 1 of Tier I, a statement of the debtor's 2002 revenues, determined in accordance with section 203(a)(2), and a payment under section 203(b)(2)(B);

(E) in the case of debtors falling within Subtier 2 of Tier I, an assignment of its assets under section 203(b)(3)(B); and

(F) in the case of debtors falling within Subtier 3 of Tier I, a payment under section 203(b)(4)(B), and a statement of how such payment was calculated.

(3) INITIAL YEAR: TIER VII.—Not later than 90 days after enactment of this Act, each defendant participant in Tier VII shall file with the Administrator—

(A) a good-faith estimate of all payments of the type described in section 203(h)(1) (as modified by section 203(h)(6));

(B) a statement of revenues calculated in accordance with sections 203(a)(2) and 203(h); and

(C) payment in the amount specified in section 203(h).

(4) NOTICE TO PARTICIPANTS.—Not later than 240 days after enactment of this Act, the Administrator shall—

(A) directly notify all reasonably identifiable defendant participants of the requirement to submit information necessary to calculate the amount of any required payment to the Fund; and

(B) publish in the Federal Register a notice—

(i) setting forth the criteria in this Act, and as prescribed by the Administrator in accordance with this Act, for paying under this subtitle as a defendant participant and requiring any person who may be a defendant participant to submit such information; and

(ii) that includes a list of all defendant participants notified by the Administrator under subparagraph (A), and provides for 30 days for the submission by the public of comments or information regarding the completeness and accuracy of the list of identified defendant participants.

(5) RESPONSE REQUIRED.—

(A) IN GENERAL.—Any person who receives notice under paragraph (4)(A), and any other person meeting the criteria specified in the notice published under paragraph (4)(B), shall provide the Administrator with an address to send any notice from the Administrator in accordance with this Act and all the information required by the Administrator in accordance with this subsection no later than the earlier of—

(i) 30 days after the receipt of direct notice; or

(ii) 30 days after the publication of notice in the Federal Register.

(B) CERTIFICATION.—The response submitted under subparagraph (A) shall be signed by a responsible corporate officer, general partner, proprietor, or individual of similar authority, who shall certify under penalty of law the completeness and accuracy of the information submitted.

(C) CONSENT TO AUDIT AUTHORITY.—The response submitted under subparagraph (A) shall include, on behalf of the defendant participant or affiliated group, a consent to the Administrator's audit authority under section 221(d).

(6) NOTICE OF INITIAL DETERMINATION.—

(A) IN GENERAL.—

(i) NOTICE TO INDIVIDUAL.—Not later than 60 days after receiving a response under paragraph (5), the Administrator shall send the person a notice of initial determination identifying the tier and subtier, if any, into which the person falls and the annual payment obligation, if any, to the Fund, which determination shall be based on the information received from the person under this subsection and any other pertinent information available to the Administrator and identified to the defendant participant.

(ii) PUBLIC NOTICE.—Not later than 7 days after sending the notification of initial determination to defendant participants, the Administrator shall publish in the Federal Register a notice listing the defendant participants that have been sent such notification, and the initial determination identifying the tier and subtier assignment and annual payment obligation of each identified participant.

(B) NO RESPONSE; INCOMPLETE RESPONSE.—If no response in accordance with paragraph (5) is received from a defendant participant, or if the response is incomplete, the initial determination shall be based on the best information available to the Administrator.

(C) PAYMENTS.—Within 30 days of receiving a notice of initial determination requiring payment, the defendant participant shall pay the Administrator the amount required by the notice, after deducting any previous payment made by the participant under this subsection. If the amount that the defendant participant is required to pay is less than any previous payment made by the participant under this subsection, the Administrator shall credit any excess payment against the future payment obligations of that defendant participant. The pendency of a petition for rehearing under paragraph (10) shall not stay the obligation of the participant to make the payment specified in the Administrator's notice.

(7) EXEMPTIONS FOR INFORMATION REQUIRED.—

(A) PRIOR ASBESTOS EXPENDITURES.—In lieu of submitting information related to prior asbestos expenditures as may be required for purposes of this subtitle, a non-debtor defendant participant may consent to be assigned to Tier II.

(B) REVENUES.—In lieu of submitting information related to revenues as may be required for purposes of this subtitle, a non-debtor defendant participant may consent to be assigned to Subtier 1 of the defendant participant's applicable tier.

(8) NEW INFORMATION.—

(A) EXISTING PARTICIPANT.—The Administrator shall adopt procedures for requiring additional payment, or refunding amounts already paid, based on new information received.

(B) ADDITIONAL PARTICIPANT.—If the Administrator, at any time, receives information that an additional person may qualify as a defendant participant, the Administrator shall require such person to submit information necessary to determine whether that person is required to make payments, and in what amount, under this subtitle and shall make any determination or take any other act consistent with this Act based on such information or any other information available to the Administrator with respect to such person.

(9) SUBPOENAS.—The Administrator may request the Attorney General to subpoena persons to compel testimony, records, and other information relevant to its responsibilities under this section. The Attorney General may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(10) REHEARING.—A defendant participant has a right to obtain rehearing of the Administrator's determination under this subsection of the applicable tier or subtier and of the Administrator's determination under subsection (d) of a financial hardship or inequity adjustment, if the request for rehearing is filed within 30 days after the defendant participant's receipt of notice from the Administrator of the determination. A defendant participant may not file an action under section 303 unless the defendant participant requests a rehearing under this paragraph. The Administrator shall publish a notice in the Federal Register of any change in a defendant participant's tier or subtier assignment or payment obligation as a result of a rehearing.

(j) DEFENDANT HARDSHIP AND INEQUITY ADJUSTMENT ACCOUNT.—

(1) IN GENERAL.—To the extent the total payments by defendant participants in any given year exceed the minimum aggregate annual payments under subsection (h), excess monies up to a maximum of $300,000,000 in any such year shall be placed in a defendant hardship and inequity adjustment account established within the Fund by the Administrator.

(2) USE OF ACCOUNT MONIES.—Monies from the defendant hardship and inequity adjustment account shall be preserved and administered like the remainder of the Fund, but shall be reserved and may be used only—

(A) to make up for any relief granted to a defendant participant for severe financial hardship or demonstrated inequity under subsection (d) or to reimburse any defendant participant granted such relief after its payment of the amount otherwise due; and

(B) if the condition set forth in subsection (a)(2) is met, for any purpose that the Fund may serve under this Act.

(3) CARRYOVER OF UNUSED FUNDS.—To the extent the Administrator does not, in any given year, use all of the funds allocated to the account under paragraph (1) for adjustments granted under subsection (d), remaining funds in the account shall be carried forward for use by the Administrator for adjustments in subsequent years.

(k) DEFENDANT GUARANTEED PAYMENT ACCOUNT.—

(1) IN GENERAL.—Subject to subsections (h) and (j), if there are excess monies paid by defendant participants in any given year, including any bankruptcy trust credits that may be due under section 222(e), such monies—

(A) at the discretion of the Administrator, may be used to provide additional adjustments under subsection (d), up to a maximum aggregate of $50,000,000 in such year; and

(B) to the extent not used under subparagraph (A), shall be placed in a defendant guaranteed payment account established within the Fund by the Administrator.

(2) USE OF ACCOUNT MONIES.—Monies from the defendant guaranteed payment account shall be preserved and administered like the remainder of the Fund, but shall be reserved and may be used only—

(A) to ensure the minimum aggregate annual payment set forth in subsection (h) net of any adjustments under subsection (d) is reached each year; and

(B) if the condition set forth in subsection (a)(2) is met, for any purpose that the Fund may serve under this Act.

(l) GUARANTEED PAYMENT SURCHARGE.—

(1) IN GENERAL.—To the extent there are insufficient monies in the defendant guaranteed payment account established in subsection (k) to attain the minimum aggregate annual payment net of any adjustments under subsection (d) in any given year, the Administrator may impose on each defendant participant a surcharge as necessary to raise the balance required to attain the minimum aggregate annual payment net of any adjustments under subsection (d), as provided in this subsection. Any such surcharge shall be imposed on a pro rata basis, in accordance with each defendant participant's relative annual liability under sections 202 and 203 (as modified by subsections (b), (d), (f), and (g) of this section).

(2) CERTIFICATION.—

(A) IN GENERAL.—Before imposing a guaranteed payment surcharge under this subsection, the Administrator shall certify that he or she has used all reasonable efforts to collect mandatory payments for all defendant participants, including by using the authority in subsection (i)(9) of this section and section 223.

(B) NOTICE AND COMMENT.—Before making a final certification under subparagraph (C), the Administrator shall publish a notice in the Federal Register of a proposed certification and provide in such notice for a public comment period of 30 days.

(C) FINAL CERTIFICATION.—

(i) IN GENERAL.—The Administrator shall publish a notice of the final certification in the Federal Register after consideration of all comments submitted under subparagraph (B).

(ii) WRITTEN NOTICE.—Not later than 30 days after publishing any final certification under clause (i), the Administrator shall provide each defendant participant with written notice of that defendant participant's payment, including the amount of any surcharge.

SEC. 205. STEPDOWNS AND FUNDING HOLIDAYS.

(a) STEPDOWNS.—

(1) IN GENERAL.—Subject to paragraph (2), the minimum aggregate annual funding obligation under section 204(h) shall be reduced by 10 percent of the initial minimum aggregate funding obligation at the end of the tenth, fifteenth, twentieth, and twenty-fifth years after the date of enactment of this Act. The reductions under this paragraph shall be applied on an equal pro rata basis to the funding obligations of all defendant participants, except with respect to defendant participants in Tier 1, Subtiers 2 and 3, and class action trusts.

(2) LIMITATION.—The Administrator shall suspend, cancel, reduce, or delay any reduction under paragraph (1) if at any time the Administrator finds, in accordance with subsection (c), that such action is necessary and appropriate to ensure that the assets of the Fund and expected future payments remain sufficient to satisfy the Fund's anticipated obligations.

(b) FUNDING HOLIDAYS.—

(1) IN GENERAL.—If the Administrator determines, at any time after 10 years following the date of enactment of this Act, that the assets of the Fund at the time of such determination and expected future payments, taking into consideration any reductions under subsection (a), are sufficient to satisfy the Fund's anticipated obligations without the need for all, or any portion of, that year's payment otherwise required under this subtitle, the Administrator shall reduce or waive all or any part of the payments required from defendant participants for that year.

(2) ANNUAL REVIEW.—The Administrator shall undertake the review required by this subsection and make the necessary determination under paragraph (1) every year.

(3) LIMITATIONS ON FUNDING HOLIDAYS.—Any reduction or waiver of the defendant participants' funding obligations shall—

(A) be made only to the extent the Administrator determines that the Fund will still be able to satisfy all of its anticipated obligations; and

(B) be applied on an equal pro rata basis to the funding obligations of all defendant participants, except with respect to defendant participants in Subtiers 2 and 3 of Tier I and class action trusts, for that year.

(4) NEW INFORMATION.—If at any time the Administrator determines that a reduction or waiver under this section may cause the assets of the Fund and expected future payments to decrease to a level at which the Fund may not be able to satisfy all of its anticipated obligations, the Administrator shall revoke all or any part of such reduction or waiver to the extent necessary to ensure that the Fund's obligations are met. Such revocations shall be applied on an equal pro rata basis to the funding obligations of all defendant participants, except defendant participants in Subtiers 2 and 3 of Tier I and class action trusts, for that year.

(c) CERTIFICATION.—

(1) IN GENERAL.—Before suspending, canceling, reducing, or delaying any reduction under subsection (a) or granting or revoking a reduction or waiver under subsection (b), the Administrator shall certify that the requirements of this section are satisfied.

(2) NOTICE AND COMMENT.—Before making a final certification under this subsection, the Administrator shall publish a notice in the Federal Register of a proposed certification and a statement of the basis therefor and provide in such notice for a public comment period of 30 days.

(3) FINAL CERTIFICATION.—

(A) IN GENERAL.—The Administrator shall publish a notice of the final certification in the Federal Register after consideration of all comments submitted under paragraph (2).

(B) WRITTEN NOTICE.—Not later than 30 days after publishing any final certification under subparagraph (A), the Administrator shall provide each defendant participant with written notice of that defendant's funding obligation for that year.

Subtitle B—Asbestos Insurers Commission

SEC. 210. DEFINITION.

In this subtitle, the term "captive insurance company" means a company—

(1) whose entire beneficial interest is owned on the date of enactment of this Act,

directly or indirectly, by a defendant participant or by the ultimate parent or the affiliated group of a defendant participant;

(2) whose primary commercial business during the period from calendar years 1940 through 1986 was to provide insurance to its ultimate parent or affiliated group, or any portion of the affiliated group or a combination thereof: and

(3) that was incorporated or operating no later than December 31, 2003.

SEC. 211. ESTABLISHMENT OF ASBESTOS INSURERS COMMISSION.

(a) ESTABLISHMENT.—There is established the Asbestos Insurers Commission (referred to in this subtitle as the "Commission") to carry out the duties described in section 212.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 5 members who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—

(A) EXPERTISE.—Members of the Commission shall have sufficient expertise to fulfill their responsibilities under this subtitle.

(B) CONFLICT OF INTEREST.—

(i) IN GENERAL.—No member of the Commission appointed under paragraph (1) may be an employee or immediate family member of an employee of an insurer participant. No member of the Commission shall be a shareholder of any insurer participant. No member of the Commission shall be a former officer or director, or a former employee or former shareholder of any insurer participant who was such an employee, shareholder, officer, or director at any time during the 2-year period ending on the date of the appointment, unless that is fully disclosed before consideration in the Senate of the nomination for appointment to the Commission.

(ii) DEFINITION.—In clause (i), the term "shareholder" shall not include a broadly based mutual fund that includes the stocks of insurer participants as a portion of its overall holdings.

(C) FEDERAL EMPLOYMENT.—A member of the Commission may not be an officer or employee of the Federal Government, except by reason of membership on the Commission.

(3) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(5) CHAIRMAN.—The President shall select a Chairman from among the members of the Commission.

(c) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) SUBSEQUENT MEETINGS.—The Commission shall meet at the call of the Chairman, as necessary to accomplish the duties under section 212.

(3) QUORUM.—No business may be conducted or hearings held without the participation of a majority of the members of the Commission.

SEC. 212. DUTIES OF ASBESTOS INSURERS COMMISSION.

(a) DETERMINATION OF INSURER PAYMENT OBLIGATIONS.—

(1) IN GENERAL.—

(A) DEFINITIONS.—For the purposes of this Act, the terms "insurer" and "insurer participant" shall, unless stated otherwise, include direct insurers and reinsurers, as well as any run-off entity established, in whole or in part, to review and pay asbestos claims.

(B) PROCEDURES FOR DETERMINING INSURER PAYMENTS.—The Commission shall determine the amount that each insurer participant shall be required to pay into the Fund under the procedures described in this section. The Commission shall make this determination by first promulgating a rule establishing a methodology for allocation of payments among insurer participants and then applying such methodology to determine the individual payment for each insurer participant. The methodology may include 1 or more allocation formulas to be applied to all insurer participants or groups of similarly situated participants. The Commission's rule shall include a methodology for adjusting payments by insurer participants to make up, during any applicable payment year, any amount by which aggregate insurer payments fall below the level required in paragraph (3)(C). The Commission shall conduct a thorough study (within the time limitations under this subparagraph) of the accuracy of the reserve allocation of each insurer participant, and may request information from the Securities and Exchange Commission or any State regulatory agency. Under this procedure, not later than 120 days after the initial meeting of the Commission, the Commission shall commence a rulemaking proceeding under section 213(a) to propose and adopt a methodology for allocating payments among insurer participants. In proposing an allocation methodology, the Commission may consult with such actuaries and other experts as it deems appropriate. After hearings and public comment on the proposed allocation methodology, the Commission shall as promptly as possible promulgate a final rule establishing such methodology. After promulgation of the final rule, the Commission shall determine the individual payment of each insurer participant under the procedures set forth in subsection (b).

(C) SCOPE.—Every insurer, reinsurer, and runoff entity with asbestos-related obligations in the United States shall be subject to the Commission's and Administrator's authority under this Act, including allocation determinations, and shall be required to fulfill its payment obligation without regard as to whether it is licensed in the United States. Every insurer participant not licensed or domiciled in the United States shall, upon the first payment to the Fund, submit a written consent to the Commission's and Administrator's authority under this Act, and to the jurisdiction of the courts of the United States for purposes of enforcing this Act, in a form determined by the Administrator. Any insurer participant refusing to provide a written consent shall be subject to fines and penalties as provided in section 223.

(D) ISSUERS OF FINITE RISK POLICIES.—

(i) IN GENERAL.—The issuer of any policy of reinsurance purchased by an insurer participant or its affiliate after 1990 that provides for a loss transfer to insure for incurred asbestos losses and other losses (both known and unknown), including those policies commonly referred to as "finite risk", "aggregate stop loss", "aggregate excess of loss", or "loss portfolio transfer" policies, shall be obligated to make payments required under this Act directly to the Fund on behalf of the insurer participant who is the beneficiary of such policy, subject to the underlying retention and the limits of liability applicable to such policy.

(ii) PAYMENTS.—Payments to the Fund required under this Act shall be treated as loss payments for asbestos bodily injury (as if such payments were incurred as liabilities imposed in the tort system) and shall not be subject to exclusion under policies described under clause (i) as a liability with respect to tax or assessment. Within 90 days after the scheduled date to make an annual payment to the Fund, the insurer participant shall, at its discretion, direct the reinsurer issuing such policy to pay all or a portion of the annual payment directly to the Fund up to the full applicable limits of liability under the policy. The reinsurer issuing such policy shall be obligated to make such payments directly to the Fund and shall be subject to the enforcement provisions under section 223. The insurer participant shall remain obligated to make payment to the Fund of that portion of the annual payment not directed to the issuer of such reinsurance policy.

(2) AMOUNT OF PAYMENTS.—

(A) AGGREGATE PAYMENT OBLIGATION.—The total payment required of all insurer participants over the life of the Fund shall be equal to $46,025,000,000.

(B) ACCOUNTING STANDARDS.—In determining the payment obligations of participants that are not licensed or domiciled in the United States or that are runoff entities, the Commission shall use accounting standards required for United States licensed direct insurers.

(C) CAPTIVE INSURANCE COMPANIES.—No payment to the Fund shall be required from a captive insurance company, unless and only to the extent a captive insurance company, on the date of enactment of this Act, has liability, directly or indirectly, for any asbestos claim of a person or persons other than and unaffiliated with its ultimate parent or affiliated group or pool in which the ultimate parent participates or participated, or unaffiliated with a person that was its ultimate parent or a member of its affiliated group or pool at the time the relevant insurance or reinsurance was issued by the captive insurance company.

(D) SEVERAL LIABILITY.—Unless otherwise provided under this Act, each insurer participant's obligation to make payments to the Fund is several. Unless otherwise provided under this Act, there is no joint liability, and the future insolvency by any insurer participant shall not affect the payment required of any other insurer participant.

(3) PAYMENT OF CRITERIA.—

(A) INCLUSION IN INSURER PARTICIPANT CATEGORY.—

(i) IN GENERAL.—Insurers that have paid, or been assessed by a legal judgment or settlement, at least $1,000,000 in defense and indemnity costs before the date of enactment of this Act in response to claims for compensation for asbestos injuries arising from a policy of liability insurance or contract of liability reinsurance or retrocessional reinsurance shall be insurer participants in the Fund. Other insurers shall be exempt from mandatory payments.

(ii) INAPPLICABILITY OF SECTION 202.—Since insurers may be subject in certain jurisdictions to direct action suits, and it is not the intent of this Act to impose upon an insurer, due to its operation as an insurer, payment obligations to the Fund in situations where the insurer is the subject of a direct action, no insurer subject to mandatory payments under section 212 shall also be liable for payments to the Fund as a defendant participant under section 202.

(B) INSURER PARTICIPANT ALLOCATION METHODOLOGY.—

(i) IN GENERAL.—The Commission shall establish the payment obligations of individual insurer participants to reflect, on an equitable basis, the relative tort system liability of the participating insurers in the absence of this Act, considering and weighting, as appropriate (but exclusive of workers' compensation), such factors as—

(I) historic premium for lines of insurance associated with asbestos exposure over relevant periods of time;

(II) recent loss experience for asbestos liability;

(III) amounts reserved for asbestos liability;

(IV) the likely cost to each insurer participant of its future liabilities under applicable insurance policies; and

(V) any other factor the Commission may determine is relevant and appropriate.

(ii) DETERMINATION OF RESERVES.—The Commission may establish procedures and standards for determination of the asbestos reserves of insurer participants. The reserves of a United States licensed reinsurer that is wholly owned by, or under common control of, a United States licensed direct insurer shall be included as part of the direct insurer's reserves when the reinsurer's financial results are included as part of the direct insurer's United States operations, as reflected in footnote 33 of its filings with the National Association of Insurance Commissioners or in published financial statements prepared in accordance with generally accepted accounting principles.

(C) PAYMENT SCHEDULE.—The aggregate annual amount of payments by insurer participants over the life of the Fund shall be as follows:

(i) For years 1 and 2, $2,700,000,000 annually.

(ii) For years 3 through 5, $5,075,000,000 annually.

(iii) For years 6 through 27, $1,147,000,000 annually.

(iv) For year 28, $166,000,000.

(D) CERTAIN RUNOFF ENTITIES.—

(i) IN GENERAL.—Whenever the Commission requires payments by a runoff entity that has assumed asbestos-related liabilities from a Lloyd's syndicate or names that are members of such a syndicate, the Commission shall not require payments from such syndicates and names to the extent that the runoff entity makes its required payments. In addition, such syndicates and names shall be required to make payments to the Fund in the amount of any adjustment granted to the runoff entity for severe financial hardship or exceptional circumstances.

(ii) INCLUDED RUNOFF ENTITIES.—Subject to clause (i), a runoff entity shall include any direct insurer or reinsurer whose asbestos liability reserves have been transferred, directly or indirectly, to the runoff entity and on whose behalf the runoff entity handles or adjusts and, where appropriate, pays asbestos claims.

(E) FINANCIAL HARDSHIP AND EXCEPTIONAL CIRCUMSTANCE ADJUSTMENTS.—

(i) IN GENERAL.—Under the procedures established in subsection (b), an insurer participant may seek adjustment of the amount of its payments based on exceptional circumstances or severe financial hardship.

(ii) FINANCIAL ADJUSTMENTS.—An insurer participant may qualify for an adjustment based on severe financial hardship by demonstrating that payment of the amounts required by the Commission's methodology would jeopardize the solvency of such participant.

(iii) EXCEPTIONAL CIRCUMSTANCE ADJUSTMENT.—An insurer participant may qualify for an adjustment based on exceptional circumstances by demonstrating—

(I) that the amount of its payments under the Commission's allocation methodology is exceptionally inequitable when measured against the amount of the likely cost to the participant of its future liability in the tort system in the absence of the Fund;

(II) an offset credit as described in subparagraphs (A) and (C) of subsection (b)(4); or

(III) other exceptional circumstances.

The Commission may determine whether to grant an adjustment and the size of any such adjustment, but adjustments shall not reduce the aggregate payment obligations of insurer participants specified in paragraph (2)(A) and subparagraph (C) of this paragraph.

(iv) TIME PERIOD OF ADJUSTMENT.—Except for adjustments for offset credits, adjustments granted under this subsection shall have a term not to exceed 3 years. An insurer participant may renew its adjustment by demonstrating to the Administrator that it remains justified.

(b) PROCEDURE FOR NOTIFYING INSURER PARTICIPANTS OF INDIVIDUAL PAYMENT OBLIGATIONS.—

(1) NOTICE TO PARTICIPANTS.—Not later than 30 days after promulgation of the final rule establishing an allocation methodology under subsection (a)(1), the Commission shall—

(A) directly notify all reasonably identifiable insurer participants of the requirement to submit information necessary to calculate the amount of any required payment to the Fund under the allocation methodology; and

(B) publish in the Federal Register a notice—

(i) requiring any person who may be an insurer participant (as determined by criteria outlined in the notice) to submit such information; and

(ii) that includes a list of all insurer participants notified by the Commission under subparagraph (A), and provides for 30 days for the submission of comments or information regarding the completeness and accuracy of the list of identified insurer participants.

(2) RESPONSE REQUIRED BY INDIVIDUAL INSURER PARTICIPANTS.—

(A) IN GENERAL.—Any person who receives notice under paragraph (1)(A), and any other person meeting the criteria specified in the notice published under paragraph (1)(B), shall respond by providing the Commission with all the information requested in the notice under a schedule or by a date established by the Commission.

(B) CERTIFICATION.—The response submitted under subparagraph (A) shall be signed by a responsible corporate officer, general partner, proprietor, or individual of similar authority, who shall certify under penalty of law the completeness and accuracy of the information submitted.

(3) NOTICE TO INSURER PARTICIPANTS OF INITIAL PAYMENT DETERMINATION.—

(A) IN GENERAL.—

(i) NOTICE TO INSURERS.—Not later than 120 days after receipt of the information required by paragraph (2), the Commission shall send each insurer participant a notice of initial determination requiring payments to the Fund, which shall be based on the information received from the participant in response to the Commission's request for information. An insurer participant's payments shall be payable over the schedule established in subsection (a)(3)(C), in annual amounts proportionate to the aggregate annual amount of payments for all insurer participants for the applicable year.

(ii) PUBLIC NOTICE.—Not later than 7 days after sending the notification of initial determination to insurer participants, the Commission shall publish in the Federal Register a notice listing the insurer participants that have been sent such notification, and the initial determination on the payment obligation of each identified participant.

(B) NO RESPONSE; INCOMPLETE RESPONSE.—If no response is received from an insurer participant, or if the response is incomplete, the initial determination requiring a payment from the insurer participant shall be based on the best information available to the Commission.

(4) COMMISSION REVIEW, REVISION, AND FINALIZATION OF INITIAL PAYMENT DETERMINATIONS.—

(A) COMMENTS FROM INSURER PARTICIPANTS.—Not later than 30 days after receiving a notice of initial determination from the Commission, an insurer participant may provide the Commission with additional information to support adjustments to the required payments to reflect severe financial hardship or exceptional circumstances, including the provision of an offset credit for an insurer participant for the amount of any asbestos-related payments it made or was legally obligated to make, including payments released from an escrow, as the result of a bankruptcy judicially confirmed after May 22, 2003, but before the date of enactment of this Act.

(B) ADDITIONAL PARTICIPANTS.—If, before the final determination of the Commission, the Commission receives information that an additional person may qualify as an insurer participant, the Commission shall require such person to submit information necessary to determine whether payments from that person should be required, in accordance with the requirements of this subsection.

(C) REVISION PROCEDURES.—The Commission shall adopt procedures for revising initial payments based on information received under subparagraphs (A) and (B), including a provision requiring an offset credit for an insurer participant for the amount of any asbestos-related payments it made or was legally obligated to make, including payments released from an escrow, as the result of a bankruptcy confirmed after May 22, 2003, but before the date of enactment of this Act.

(5) EXAMINATIONS AND SUBPOENAS.—

(A) EXAMINATIONS.—The Commission may conduct examinations of the books and records of insurer participants to determine the completeness and accuracy of information submitted, or required to be submitted, to the Commission for purposes of determining participant payments.

(B) SUBPOENAS.—The Commission may request the Attorney General to subpoena persons to compel testimony, records, and other information relevant to its responsibilities under this section. The Attorney General may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) ESCROW PAYMENTS.—Without regard to an insurer participant's payment obligation under this section, any escrow or similar account established before the date of enactment of this Act by an insurer participant in connection with an asbestos trust fund that has not been judicially confirmed by final order by the date of enactment of this Act shall be the property of the insurer participant and returned to that insurer participant.

(7) NOTICE TO INSURER PARTICIPANTS OF FINAL PAYMENT DETERMINATIONS.—Not later than 60 days after the notice of initial determination is sent to the insurer participants,

the Commission shall send each insurer participant a notice of final determination.

(c) INSURER PARTICIPANTS VOLUNTARY ALLOCATION AGREEMENT.—

(1) IN GENERAL.—Not later than 30 days after the Commission proposes its rule establishing an allocation methodology under subsection (a)(1), direct insurer participants licensed or domiciled in the United States, other direct insurer participants, reinsurer participants licensed or domiciled in the United States, or other reinsurer participants, may submit an allocation agreement, approved by all of the participants in the applicable group, to the Commission.

(2) ALLOCATION AGREEMENT.—To the extent the participants in any such applicable group voluntarily agree upon an allocation arrangement, any such allocation agreement shall only govern the allocation of payments within that group and shall not determine the aggregate amount due from that group.

(3) CERTIFICATION.—The Commission shall determine whether an allocation agreement submitted under subparagraph (A) meets the requirements of this subtitle and, if so, shall certify the agreement as establishing the allocation methodology governing the individual payment obligations of the participants who are parties to the agreement. The authority of the Commission under this subtitle shall, with respect to participants who are parties to a certified allocation agreement, terminate on the day after the Commission certifies such agreement. Under subsection (f), the Administrator shall assume responsibility, if necessary, for calculating the individual payment obligations of participants who are parties to the certified agreement.

(d) COMMISSION REPORT.—

(1) RECIPIENTS.—Until the work of the Commission has been completed and the Commission terminated, the Commission shall submit an annual report, containing the information described under paragraph (2), to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives; and

(C) the Administrator.

(2) CONTENTS.—The report under paragraph (1) shall state the amount that each insurer participant is required to pay to the Fund, including the payment schedule for such payments.

(e) INTERIM PAYMENTS.—

(1) AUTHORITY OF ADMINISTRATOR.—During the period between the date of enactment of this Act and the date when the Commission issues its final determinations of payments, the Administrator shall have the authority to require insurer participants to make interim payments to the Fund to assure adequate funding by insurer participants during such period.

(2) AMOUNT OF INTERIM PAYMENTS.—During any applicable year, the Administrator may require insurer participants to make aggregate interim payments not to exceed the annual aggregate amount specified in subsection (a)(3)(C).

(3) ALLOCATION OF PAYMENTS.—Interim payments shall be allocated among individual insurer participants on an equitable basis as determined by the Administrator. All payments required under this subparagraph shall be credited against the participant's ultimate payment obligation to the Fund established by the Commission. If an interim payment exceeds the ultimate payment, the Fund shall pay interest on the amount of the overpayment at a rate determined by the Administrator. If the ultimate payment exceeds the interim payment, the participant shall pay interest on the amount of the underpayment at the same rate. Any participant may seek an exemption from or reduction in any payment required under this subsection under the financial hardship and exceptional circumstance standards established in subsection (a)(3)(D).

(4) APPEAL OF INTERIM PAYMENT DECISIONS.—A decision by the Administrator to establish an interim payment obligation shall be considered final agency action and reviewable under section 303, except that the reviewing court may not stay an interim payment during the pendency of the appeal.

(f) TRANSFER OF AUTHORITY FROM THE COMMISSION TO THE ADMINISTRATOR.—

(1) IN GENERAL.—Upon termination of the Commission under section 215, the Administrator shall assume all the responsibilities and authority of the Commission, except that the Administrator shall not have the power to modify the allocation methodology established by the Commission or by certified agreement or to promulgate a rule establishing any such methodology.

(2) FINANCIAL HARDSHIP AND EXCEPTIONAL CIRCUMSTANCE ADJUSTMENTS.—Upon termination of the Commission under section 215, the Administrator shall have the authority, upon application by any insurer participant, to make adjustments to annual payments upon the same grounds as provided in subsection (a)(3)(D). Adjustments granted under this subsection shall have a term not to exceed 3 years. An insurer participant may renew its adjustment by demonstrating that it remains justified. Upon the grant of any adjustment, the Administrator shall increase the payments required of all other insurer participants so that there is no reduction in the aggregate payment required of all insurer participants for the applicable years. The increase in an insurer participant's required payment shall be in proportion to such participant's share of the aggregate payment obligation of all insurer participants.

(3) FINANCIAL SECURITY REQUIREMENTS.—Whenever an insurer participant's A.M. Best's claims payment rating or Standard and Poor's financial strength rating falls below A–, and until such time as either the insurer participant's A.M. Best's Rating or Standard and Poor's rating is equal to or greater than A–, the Administrator shall have the authority to require that the participating insurer either—

(A) pay the present value of its remaining Fund payments at a discount rate determined by the Administrator; or

(B) provide an evergreen letter of credit or financial guarantee for future payments issued by an institution with an A.M. Best's claims payment rating or Standard & Poor's financial strength rating of at least A+.

(g) JUDICIAL REVIEW.—The Commission's rule establishing an allocation methodology, its final determinations of payment obligations and other final action shall be judicially reviewable as provided in title III.

SEC. 213. POWERS OF ASBESTOS INSURERS COMMISSION.

(a) RULEMAKING.—The Commission shall promulgate such rules and regulations as necessary to implement its authority under this Act, including regulations governing an allocation methodology. Such rules and regulations shall be promulgated after providing interested parties with the opportunity for notice and comment.

(b) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission shall also hold a hearing on any proposed regulation establishing an allocation methodology, before the Commission's adoption of a final regulation.

(c) INFORMATION FROM FEDERAL AND STATE AGENCIES.—The Commission may secure directly from any Federal or State department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) GIFTS.—The Commission may not accept, use, or dispose of gifts or donations of services or property.

(f) EXPERT ADVICE.—In carrying out its responsibilities, the Commission may enter into such contracts and agreements as the Commission determines necessary to obtain expert advice and analysis.

SEC. 214. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 215. TERMINATION OF ASBESTOS INSURERS COMMISSION.

The Commission shall terminate 90 days after the last date on which the Commission makes a final determination of contribution under section 212(b) or 90 days after the last appeal of any final action by the Commission is exhausted, whichever occurs later.

SEC. 216. EXPENSES AND COSTS OF COMMISSION.

All expenses of the Commission shall be paid from the Fund.

Subtitle C—Asbestos Injury Claims Resolution Fund

SEC. 221. ESTABLISHMENT OF ASBESTOS INJURY CLAIMS RESOLUTION FUND.

(a) ESTABLISHMENT.—There is established in the Office of Asbestos Disease Compensation the Asbestos Injury Claims Resolution Fund, which shall be available to pay—

(1) claims for awards for an eligible disease or condition determined under title I;

(2) claims for reimbursement for medical monitoring determined under title I;

(3) principal and interest on borrowings under subsection (b);

(4) the remaining obligations to the asbestos trust of a debtor and the class action trust under section 405(f)(8); and

(5) administrative expenses to carry out the provisions of this Act.

(b) BORROWING AUTHORITY.—

(1) IN GENERAL.—The Administrator is authorized to borrow from time to time amounts as set forth in this subsection, for purposes of enhancing liquidity available to the Fund for carrying out the obligations of the Fund under this Act. The Administrator may authorize borrowing in such form, over such term, with such necessary disclosure to its lenders as will most efficiently enhance the Fund's liquidity.

(2) FEDERAL FINANCING BANK.—In addition to the general authority in paragraph (1), the Administrator may borrow from the Federal Financing Bank in accordance with section 6 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2285), as needed for performance of the Administrator's duties under this Act for the first 5 years.

(3) BORROWING CAPACITY.—The maximum amount that may be borrowed under this subsection at any given time is the amount that, taking into account all payment obligations related to all previous amounts borrowed in accordance with this subsection and all committed obligations of the Fund at the time of borrowing, can be repaid in full (with interest) in a timely fashion from—

(A) the available assets of the Fund as of the time of borrowing; and

(B) all amounts expected to be paid by participants during the subsequent 10 years.

(4) REPAYMENT OBLIGATIONS.—Repayment of monies borrowed by the Administrator under this subsection is limited solely to amounts available in the Asbestos Injury Claims Resolution Fund established under this section.

(c) LOCKBOX FOR SEVERE ASBESTOS-RELATED INJURY CLAIMANTS.—

(1) IN GENERAL.—Within the Fund, the Administrator shall establish the following accounts:

(A) A Mesothelioma Account, which shall be used solely to make payments to claimants eligible for an award under the criteria of Level IX.

(B) A Lung Cancer Account, which shall be used solely to make payments to claimants eligible for an award under the criteria of Level VIII.

(C) A Severe Asbestosis Account, which shall be used solely to make payments to claimants eligible for an award under the criteria of Level V.

(D) A Moderate Asbestosis Account, which shall be used solely to make payments to claimants eligible for an award under the criteria of Level IV.

(2) ALLOCATION.—The Administrator shall allocate to each of the 4 accounts established under paragraph (1) a portion of payments made to the Fund adequate to compensate all anticipated claimants for each account. Within 60 days after the date of enactment of this Act, and periodically during the life of the Fund, the Administrator shall determine an appropriate amount to allocate to each account after consulting appropriate epidemiological and statistical studies.

(d) AUDIT AUTHORITY.—

(1) IN GENERAL.—For the purpose of ascertaining the correctness of any information provided or payments made to the Fund, or determining whether a person who has not made a payment to the Fund was required to do so, or determining the liability of any person for a payment to the Fund, or collecting any such liability, or inquiring into any offense connected with the administration or enforcement of this title, the Administrator is authorized—

(A) to examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(B) to summon the person liable for a payment under this title, or officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable or any other person the Administrator may deem proper, to appear before the Administrator at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and

(C) to take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

(2) FALSE, FRAUDULENT, OR FICTITIOUS STATEMENTS OR PRACTICES.—If the Administrator determines that materially false, fraudulent, or fictitious statements or practices have been submitted or engaged in by persons submitting information to the Administrator or to the Asbestos Insurers Commission or any other person who provides evidence in support of such submissions for purposes of determining payment obligations under this Act, the Administrator may impose a civil penalty not to exceed $10,000 on any person found to have submitted or engaged in a materially false, fraudulent, or fictitious statement or practice under this Act. The Administrator shall promulgate appropriate regulations to implement this paragraph.

(e) IDENTITY OF CERTAIN DEFENDANT PARTICIPANTS; TRANSPARENCY.—

(1) SUBMISSION OF INFORMATION.—Not later than 60 days after the date of enactment of this Act, any person who, acting in good faith, has knowledge that such person or such person's affiliated group has prior asbestos expenditures of $1,000,000 or greater, shall submit to the Administrator—

(A) either the name of such person, or such person's ultimate parent; and

(B) the likely tier to which such person or affiliated group may be assigned under this Act.

(2) PUBLICATION.—Not later than 20 days after the end of the 60-day period referred to in paragraph (1), the Administrator or Interim Administrator, if the Administrator is not yet appointed, shall publish in the Federal Register a list of submissions required by this subsection, including the name of such persons or ultimate parents and the likely tier to which such persons or affiliated groups may be assigned. After publication of such list, any person who, acting in good faith, has knowledge that any other person has prior asbestos expenditures of $1,000,000 or greater may submit to the Administrator or Interim Administrator information on the identity of that person and the person's prior asbestos expenditures.

(f) NO PRIVATE RIGHT OF ACTION.—Except as provided in sections 203(b)(2)(D)(ii) and 204(f)(3), there shall be no private right of action under any Federal or State law against any participant based on a claim of compliance or noncompliance with this Act or the involvement of any participant in the enactment of this Act.

SEC. 222. MANAGEMENT OF THE FUND.

(a) IN GENERAL.—Amounts in the Fund shall be held for the exclusive purpose of providing benefits to asbestos claimants and their beneficiaries, including those provided in subsection (c), and to otherwise defray the reasonable expenses of administering the Fund.

(b) INVESTMENTS.—

(1) IN GENERAL.—Amounts in the Fund shall be administered and invested with the care, skill, prudence, and diligence, under the circumstances prevailing at the time of such investment, that a prudent person acting in a like capacity and manner would use.

(2) STRATEGY.—The Administrator shall invest amounts in the Fund in a manner that enables the Fund to make current and future distributions to or for the benefit of asbestos claimants. In pursuing an investment strategy under this subparagraph, the Administrator shall consider, to the extent relevant to an investment decision or action—

(A) the size of the Fund;

(B) the nature and estimated duration of the Fund;

(C) the liquidity and distribution requirements of the Fund;

(D) general economic conditions at the time of the investment;

(E) the possible effect of inflation or deflation on Fund assets;

(F) the role that each investment or course of action plays with respect to the overall assets of the Fund;

(G) the expected amount to be earned (including both income and appreciation of capital) through investment of amounts in the Fund; and

(H) the needs of asbestos claimants for current and future distributions authorized under this Act.

(c) MESOTHELIOMA RESEARCH AND TREATMENT CENTERS.—

(1) IN GENERAL.—The Administrator shall provide $1,000,000 from the Fund for each of fiscal years 2005 through 2009 for each of up to 10 mesothelioma disease research and treatment centers.

(2) REQUIREMENTS.—The Centers shall—

(A) be chosen by the Director of the National Institutes of Health;

(B) be chosen through competitive peer review;

(C) be geographically distributed throughout the United States with special consideration given to areas of high incidence of mesothelioma disease;

(D) be closely associated with Department of Veterans Affairs medical centers to provide research benefits and care to veterans who have suffered excessively from mesothelioma;

(E) be engaged in research to provide mechanisms for detection and prevention of mesothelioma, particularly in the areas of pain management and cures;

(F) be engaged in public education about mesothelioma and prevention, screening, and treatment;

(G) be participants in the National Mesothelioma Registry; and

(H) be coordinated in their research and treatment efforts with other Centers and institutions involved in exemplary mesothelioma research.

(d) BANKRUPTCY TRUST GUARANTEE.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator shall have the authority to impose a pro rata surcharge on all participants under this subsection to ensure the liquidity of the Fund, if—

(A) the declared assets from 1 or more bankruptcy trusts established under a plan of reorganization confirmed and substantially consummated on or before July 31, 2004, are not available to the Fund because a final judgment that has been entered by a court and is no longer subject to any appeal or review has enjoined the transfer of assets required under section 524(j)(2) of title 11, United States Code (as amended by section 402(f) of this Act); and

(B) borrowing is insufficient to assure the Fund's ability to meet its obligations under this Act such that the required borrowed amount is likely to increase the risk of termination of this Act under section 405 based on reasonable claims projections.

(2) ALLOCATION.—Any surcharge imposed under this subsection shall be imposed over a period of 5 years on a pro rata basis upon all participants, in accordance with each participant's relative annual liability under this subtitle and subtitle B for those 5 years.

(3) CERTIFICATION.—

(A) IN GENERAL.—Before imposing a surcharge under this subsection, the Administrator shall publish a notice in the Federal Register and provide in such notice for a public comment period of 30 days.

(B) CONTENTS OF NOTICE.—The notice required under subparagraph (A) shall include—

(i) information explaining the circumstances that make a surcharge necessary and a certification that the requirements under paragraph (1) are met;

(ii) the amount of the declared assets from any trust established under a plan of reorganization confirmed and substantially consummated on or before July 31, 2004, that was not made, or is no longer, available to the Fund;

(iii) the total aggregate amount of the necessary surcharge; and

(iv) the surcharge amount for each tier and subtier of defendant participants and for each insurer participant.

(C) FINAL NOTICE.—The Administrator shall publish a final notice in the Federal Register and provide each participant with written notice of that participant's schedule of payments under this subsection. In no event shall any required surcharge under this subsection be due before 60 days after the Administrator publishes the final notice in the Federal Register and provides each participant with written notice of its schedule of payments.

(4) MAXIMUM AMOUNT.—In no event shall the total aggregate surcharge imposed by the Administrator exceed the lesser of—

(A) the total aggregate amount of the declared assets of the trusts established under a plan of reorganization confirmed and substantially consummated prior to July 31, 2004, that are no longer available to the Fund; or

(B) $4,000,000,000.

(5) DECLARED ASSETS.—

(A) IN GENERAL.—In this subsection, the term "declared assets" means—

(i) the amount of assets transferred by any trust established under a plan of reorganization confirmed and substantially consummated on or before July 31, 2004, to the Fund that is required to be returned to that trust under the final judgment described in paragraph (1)(A); or

(ii) if no assets were transferred by the trust to the Fund, the amount of assets the Administrator determines would have been available for transfer to the Fund from that trust under section 402(f).

(B) DETERMINATION.—In making a determination under subparagraph (A)(ii), the Administrator may rely on any information reasonably available, and may request, and use subpoena authority of the Administrator if necessary to obtain, relevant information from any such trust or its trustees.

(e) BANKRUPTCY TRUST CREDITS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, but subject to paragraph (2) of this subsection, the Administrator shall provide a credit toward the aggregate payment obligations under sections 202(a)(2) and 212(a)(2)(A) for assets received by the Fund from any bankruptcy trust established under a plan of reorganization confirmed and substantially consummated after July 31, 2004.

(2) ALLOCATION OF CREDITS.—The Administrator shall allocate, for each such bankruptcy trust, the credits for such assets between the defendant and insurer aggregate payment obligations as follows:

(A) DEFENDANT PARTICIPANTS.—The aggregate amount that all persons other than insurers contributing to the bankruptcy trust would have been required to pay as Tier I defendants under section 203(b) if the plan of reorganization under which the bankruptcy trust was established had not been confirmed and substantially consummated and the proceeding under chapter 11 of title 11, United States Code, that resulted in the establishment of the bankruptcy trust had remained pending as of the date of enactment of this Act.

(B) INSURER PARTICIPANTS.—The aggregate amount of all credits to which insurers are entitled to under section 202(c)(4)(A) of the Act.

SEC. 223. ENFORCEMENT OF PAYMENT OBLIGATIONS.

(a) DEFAULT.—If any participant fails to make any payment in the amount of and according to the schedule under this Act or as prescribed by the Administrator, after demand and a 30-day opportunity to cure the default, there shall be a lien in favor of the United States for the amount of the delinquent payment (including interest) upon all property and rights to property, whether real or personal, belonging to such participant.

(b) BANKRUPTCY.—In the case of a bankruptcy or insolvency proceeding, the lien imposed under subsection (a) shall be treated in the same manner as a lien for taxes due and owing to the United States for purposes of the provisions of title 11, United States Code, or section 3713(a) of title 31, United States Code. The United States Bankruptcy Court shall have jurisdiction over any issue or controversy regarding lien priority and lien perfection arising in a bankruptcy case due to a lien imposed under subsection (a).

(c) CIVIL ACTION.—

(1) IN GENERAL.—In any case in which there has been a refusal or failure to pay any liability imposed under this Act, the Administrator may bring a civil action in the United States District Court for the District of Columbia, or any other appropriate lawsuit or proceeding outside of the United States—

(A) to enforce the liability and any lien of the United States imposed under this section;

(B) to subject any property of the participant, including any property in which the participant has any right, title, or interest to the payment of such liability; or

(C) for temporary, preliminary, or permanent relief.

(2) ADDITIONAL PENALTIES.—In any action under paragraph (1) in which the refusal or failure to pay was willful, the Administrator may seek recovery—

(A) of punitive damages;

(B) of the costs of any civil action under this subsection, including reasonable fees incurred for collection, expert witnesses, and attorney's fees; and

(C) in addition to any other penalty, of a fine equal to the total amount of the liability that has not been collected.

(d) ENFORCEMENT AUTHORITY AS TO INSURER PARTICIPANTS.—

(1) IN GENERAL.—In addition to or in lieu of the enforcement remedies described in subsection (c), the Administrator may seek to recover amounts in satisfaction of a payment not timely paid by an insurer participant under the procedures under this subsection.

(2) SUBROGATION.—To the extent required to establish personal jurisdiction over nonpaying insurer participants, the Administrator shall be deemed to be subrogated to the contractual rights of participants to seek recovery from nonpaying insuring participants that are domiciled outside the United States under the policies of liability insurance or contracts of liability reinsurance or retrocessional reinsurance applicable to asbestos claims, and the Administrator may bring an action or an arbitration against the nonpaying insurer participants under the provisions of such policies and contracts, provided that—

(A) any amounts collected under this subsection shall not increase the amount of deemed erosion allocated to any policy or contract under section 404, or otherwise reduce coverage available to a participant; and

(B) subrogation under this subsection shall have no effect on the validity of the insurance policies or reinsurance, and any contrary State law is expressly preempted.

(3) RECOVERABILITY OF CONTRIBUTION.—For purposes of this subsection—

(A) all contributions to the Fund required of a participant shall be deemed to be sums legally required to be paid for bodily injury resulting from exposure to asbestos;

(B) all contributions to the Fund required of any participant shall be deemed to be a single loss arising from a single occurrence under each contract to which the Administrator is subrogated; and

(C) with respect to reinsurance contracts, all contributions to the Fund required of a participant shall be deemed to be payments to a single claimant for a single loss.

(4) NO CREDIT OR OFFSET.—In any action brought under this subsection, the nonpaying insurer or reinsurer shall be entitled to no credit or offset for amounts collectible or potentially collectible from any participant nor shall such defaulting participant have any right to collect any sums payable under this section from any participant.

(5) COOPERATION.—Insureds and cedents shall cooperate with the Administrator's reasonable requests for assistance in any such proceeding. The positions taken or

statements made by the Administrator in any such proceeding shall not be binding on or attributed to the insureds or cedents in any other proceeding. The outcome of such a proceeding shall not have a preclusive effect on the insureds or cedents in any other proceeding and shall not be admissible against any subrogee under this section. The Administrator shall have the authority to settle or compromise any claims against a nonpaying insurer participant under this subsection.

(e) Bar on United States Business.—If any direct insurer or reinsurer refuses to furnish any information requested by or to pay any contribution required by this Act, then, in addition to any other penalties imposed by this Act, the Administrator may issue an order barring such entity and its affiliates from insuring risks located within the United States or otherwise doing business within the United States. Insurer participants or their affiliates seeking to obtain a license from any State to write any type of insurance shall be barred from obtaining any such license until payment of all contributions required as of the date of license application.

(f) Credit for Reinsurance.—If the Administrator determines that an insurer participant that is a reinsurer is in default in paying any required contribution or otherwise not in compliance with this Act, the Administrator may issue an order barring any direct insurer participant from receiving credit for reinsurance purchased from the defaulting reinsurer. Any State law governing credit for reinsurance to the contrary is preempted.

(g) Defense Limitation.—In any proceeding under this section, the participant shall be barred from bringing any challenge to any determination of the Administrator or the Asbestos Insurers Commission regarding its liability under this Act, or to the constitutionality of this Act or any provision thereof, if such challenge could have been made during the review provided under section 204(i)(10), or in a judicial review proceeding under section 303.

(h) Deposit of Funds.—

(1) In general.—Any funds collected under subsection (c)(2) (A) or (C) shall be—

(A) deposited in the Fund; and

(B) used only to pay—

(i) claims for awards for an eligible disease or condition determined under title I; or

(ii) claims for reimbursement for medical monitoring determined under title I.

(2) No effect on other liabilities.—The imposition of a fine under subsection (c)(2)(C) shall have no effect on—

(A) the assessment of contributions under subtitles A and B; or

(B) any other provision of this Act.

(i) Property of the Estate.—Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (4)(B)(ii), by striking "or" at the end;

(2) in paragraph (5), by striking "prohibition." and inserting "prohibition; or"; and

(3) by inserting after paragraph (5) and before the last undesignated sentence the following:

"(6) the value of any pending claim against or the amount of an award granted from the Asbestos Injury Claims Resolution Fund established under the Fairness in Asbestos Injury Resolution Act of 2005.".

SEC. 224. INTEREST ON UNDERPAYMENT OR NONPAYMENT.

If any amount of payment obligation under this title is not paid on or before the last date prescribed for payment, the liable party shall pay interest on such amount at the Federal short-term rate determined under section 6621(b) of the Internal Revenue Code of 1986, plus 5 percentage points, for the period from such last date to the date paid.

SEC. 225. EDUCATION, CONSULTATION, SCREENING, AND MONITORING.

(a) In General.—The Administrator shall establish a program for the education, consultation, medical screening, and medical monitoring of persons with exposure to asbestos. The program shall be funded by the Fund.

(b) Outreach and Education.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Administrator shall establish an outreach and education program, including a website designed to provide information about asbestos-related medical conditions to members of populations at risk of developing such conditions.

(2) Information.—The information provided under paragraph (1) shall include information about—

(A) the signs and symptoms of asbestos-related medical conditions;

(B) the value of appropriate medical screening programs; and

(C) actions that the individuals can take to reduce their future health risks related to asbestos exposure.

(3) Contracts.—Preference in any contract under this subsection shall be given to providers that are existing nonprofit organizations with a history and experience of providing occupational health outreach and educational programs for individuals exposed to asbestos.

(c) Medical Screening Program.—

(1) Establishment of program.—Not sooner than 18 months or later than 24 months after the Administrator certifies that the Fund is fully operational and processing claims at a reasonable rate, the Administrator shall adopt guidelines establishing a medical screening program for individuals at high risk of asbestos-related disease resulting from an asbestos-related disease. In promulgating such guidelines, the Administrator shall consider the views of the Advisory Committee on Asbestos Disease Compensation, the Medical Advisory Committee, and the public.

(2) Eligibility criteria.—

(A) In general.—The guidelines promulgated under this subsection shall establish criteria for participation in the medical screening program.

(B) Considerations.—In promulgating eligibility criteria the Administrator shall take into consideration all factors relevant to the individual's effective cumulative exposure to asbestos, including—

(i) any industry in which the individual worked;

(ii) the individual's occupation and work setting;

(iii) the historical period in which exposure took place;

(iv) the duration of the exposure;

(v) the intensity and duration of non-occupational exposures; and

(vi) any other factors that the Administrator determines relevant.

(3) Protocols.—The guidelines developed under this subsection shall establish protocols for medical screening, which shall include—

(A) administration of a health evaluation and work history questionnaire;

(B) an evaluation of smoking history;

(C) a physical examination by a qualified physician with a doctor-patient relationship with the individual;

(D) a chest x-ray read by a certified B-reader as defined under section 121(a)(4); and

(E) pulmonary function testing as defined under section 121(a)(13).

(4) Frequency.—The Administrator shall establish the frequency with which medical screening shall be provided or be made available to eligible individuals, which shall be not less than every 5 years.

(5) Provision of services.—The Administrator shall provide medical screening to eligible individuals directly or by contract with another agency of the Federal Government, with State or local governments, or with private providers of medical services. The Administrator shall establish strict qualifications for the providers of such services, and shall periodically audit the providers of services under this subsection, to ensure their integrity, high degree of competence, and compliance with all applicable technical and professional standards. No provider of medical screening services may have earned more than 15 percent of their income from the provision of services of any kind in connection with asbestos litigation in any of the 3 years preceding the date of enactment of this Act. All contracts with providers of medical screening services under this subsection shall contain provisions allowing the Administrator to terminate such contracts for cause if the Administrator determines that the service provider fails to meet the qualifications established under this subsection.

(6) Limitation of compensation for services.—The compensation required to be paid to a provider of medical screening services for such services furnished to an eligible individual shall be limited to the amount that would be reimbursed at the time of the furnishing of such services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for similar services if—

(A) the individual were entitled to benefits under part A of such title and enrolled under part B of such title; and

(B) such services are covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(7) Funding; periodic review.—

(A) Funding.—The Administrator shall make such funds available from the Fund to implement this section, but not more than $30,000,000 each year in each of the 5 years following the effective date of the medical screening program. Notwithstanding the preceding sentence, the Administrator shall suspend the operation of the program or reduce its funding level if necessary to preserve the solvency of the Fund and to prevent the sunset of the overall program under section 405(f).

(B) Review.—The Administrator's first annual report under section 405 following the close of the 4th year of operation of the medical screening program shall include an analysis of the usage of the program, its cost and effectiveness, its medical value, and the need to continue that program for an additional 5-year period. The Administrator shall also recommend to Congress any improvements that may be required to make the program more effective, efficient, and economical, and shall recommend a funding level for the program for the 5 years following the period of initial funding referred to under subparagraph (A).

(d) Limitation.—In no event shall the total amount allocated to the medical screening program established under this subsection over the lifetime of the Fund exceed $600,000,000.

(e) Medical Monitoring Program and Protocols.—

(1) IN GENERAL.—The Administrator shall establish procedures for a medical monitoring program for persons exposed to asbestos who have been approved for level I compensation under section 131.

(2) PROCEDURES.—The procedures for medical monitoring shall include—

(A) specific medical tests to be provided to eligible individuals and the periodicity of those tests, which shall initially be provided every 3 years and include—

(i) administration of a health evaluation and work history questionnaire;

(ii) physical examinations, including blood pressure measurement, chest examination, and examination for clubbing;

(iii) AP and lateral chest x-ray; and

(iv) spirometry performed according to ATS standards;

(B) qualifications of medical providers who are to provide the tests required under subparagraph (A); and

(C) administrative provisions for reimbursement from the Fund of the costs of monitoring eligible claimants, including the costs associated with the visits of the claimants to physicians in connection with medical monitoring, and with the costs of performing and analyzing the tests.

(3) PREFERENCES.—

(A) IN GENERAL.—In administering the monitoring program under this subsection, preference shall be given to medical and program providers with—

(i) a demonstrated capacity for identifying, contacting, and evaluating populations of workers or others previously exposed to asbestos; and

(ii) experience in establishing networks of medical providers to conduct medical screening and medical monitoring examinations.

(B) PROVISION OF LISTS.—Claimants that are eligible to participate in the medical monitoring program shall be provided with a list of approved providers in their geographic area at the time such claimants become eligible to receive medical monitoring.

(f) CONTRACTS.—The Administrator may enter into contracts with qualified program providers that would permit the program providers to undertake large-scale medical screening and medical monitoring programs by means of subcontracts with a network of medical providers, or other health providers.

(g) REVIEW.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Administrator shall review, and if necessary update, the protocols and procedures established under this section.

TITLE III—JUDICIAL REVIEW

SEC. 301. JUDICIAL REVIEW OF RULES AND REGULATIONS.

(a) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over any action to review rules or regulations promulgated by the Administrator or the Asbestos Insurers Commission under this Act.

(b) PERIOD FOR FILING PETITION.—A petition for review under this section shall be filed not later than 60 days after the date notice of such promulgation appears in the Federal Register.

(c) EXPEDITED PROCEDURES.—The United States Court of Appeals for the District of Columbia shall provide for expedited procedures for reviews under this section.

SEC. 302. JUDICIAL REVIEW OF AWARD DECISIONS.

(a) IN GENERAL.—Any claimant adversely affected or aggrieved by a final decision of the Administrator awarding or denying compensation under title I may petition for judicial review of such decision. Any petition for review under this section shall be filed within 90 days of the issuance of a final decision of the Administrator.

(b) EXCLUSIVE JURISDICTION.—A petition for review may only be filed in the United States Court of Appeals for the circuit in which the claimant resides at the time of the issuance of the final order.

(c) STANDARD OF REVIEW.—The court shall uphold the decision of the Administrator unless the court determines, upon review of the record as a whole, that the decision is not supported by substantial evidence, is contrary to law, or is not in accordance with procedure required by law.

(d) EXPEDITED PROCEDURES.—The United States Court of Appeals shall provide for expedited procedures for reviews under this section.

SEC. 303. JUDICIAL REVIEW OF PARTICIPANTS' ASSESSMENTS.

(a) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over any action to review a final determination by the Administrator or the Asbestos Insurers Commission regarding the liability of any person to make a payment to the Fund, including a notice of applicable subtier assignment under section 204(i), a notice of financial hardship or inequity determination under section 204(d), and a notice of insurer participant obligation under section 212(b).

(b) PERIOD FOR FILING ACTION.—A petition for review under subsection (a) shall be filed not later than 60 days after a final determination by the Administrator or the Commission giving rise to the action. Any defendant participant who receives a notice of its applicable subtier under section 204(i) or a notice of financial hardship or inequity determination under section 204(d) shall commence any action within 30 days after a decision on rehearing under section 204(i)(10), and any insurer participant who receives a notice of a payment obligation under section 212(b) shall commence any action within 30 days after receiving such notice. The court shall give such action expedited consideration.

SEC. 304. OTHER JUDICIAL CHALLENGES.

(a) EXCLUSIVE JURISDICTION.—The United States District Court for the District of Columbia shall have exclusive jurisdiction over any action for declaratory or injunctive relief challenging any provision of this Act. An action under this section shall be filed not later than 60 days after the date of enactment of this Act or 60 days after the final action by the Administrator or the Commission giving rise to the action, whichever is later.

(b) DIRECT APPEAL.—A final decision in the action shall be reviewable on appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 30 days, and the filing of a jurisdictional statement within 60 days, of the entry of the final decision.

(c) EXPEDITED PROCEDURES.—It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

SEC. 305. STAYS, EXCLUSIVITY, AND CONSTITUTIONAL REVIEW.

(a) NO STAYS.—No court may issue a stay of payment by any party into the Fund pending its final judgment.

(b) EXCLUSIVITY OF REVIEW.—An action of the Administrator or the Asbestos Insurers Commission for which review could have been obtained under section 301, 302, or 303 shall not be subject to judicial review in any other proceeding.

(c) CONSTITUTIONAL REVIEW.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any interlocutory or final judgment, decree, or order of a Federal court holding this Act, or any provision or application thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court.

(2) PERIOD FOR FILING APPEAL.—Any such appeal shall be filed not more than 30 days after entry of such judgment, decree, or order.

(3) REPAYMENT TO ASBESTOS TRUST AND CLASS ACTION TRUST.—If the transfer of the assets of any asbestos trust of a debtor or any class action trust (or this Act as a whole) is held to be unconstitutional or otherwise unlawful, the Fund shall transfer the remaining balance of such assets (determined under section 405(f)(1)(A)(iii)) back to the appropriate asbestos trust or class action trust within 90 days after final judicial action on the legal challenge, including the exhaustion of all appeals.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. FALSE INFORMATION.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Fraud and false statements in connection with participation in Asbestos Injury Claims Resolution Fund

"(a) FRAUD RELATING TO ASBESTOS INJURY CLAIMS RESOLUTION FUND.—Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud the Office of Asbestos Disease Compensation or the Asbestos Insurers Commission under title II of the Fairness in Asbestos Injury Resolution Act of 2005 shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) FALSE STATEMENT RELATING TO ASBESTOS INJURY CLAIMS RESOLUTION FUND.—Whoever, in any matter involving the Office of Asbestos Disease Compensation or the Asbestos Insurers Commission, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

"(2) makes any materially false, fictitious, or fraudulent statements or representations; or

"(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the award of a claim or the determination of a participant's payment obligation under title I or II of the Fairness in Asbestos Injury Resolution Act of 2005 shall be fined under this title or imprisoned not more than 10 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1348. Fraud and false statements in connection with participation in Asbestos Injury Claims Resolution Fund.".

SEC. 402. EFFECT ON BANKRUPTCY LAWS.

(a) NO AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (18) the following:

“(19) under subsection (a) of this section of the enforcement of any payment obligations under section 204 of the Fairness in Asbestos Injury Resolution Act of 2005, against a debtor, or the property of the estate of a debtor, that is a participant (as that term is defined in section 3 of that Act).”.

(b) ASSUMPTION OF EXECUTORY CONTRACT.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

“(p) If a debtor is a participant (as that term is defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2005), the trustee shall be deemed to have assumed all executory contracts entered into by the participant under section 204 of that Act. The trustee may not reject any such executory contract.”.

(c) ALLOWED ADMINISTRATIVE EXPENSES.—Section 503 of title 11, United States Code, is amended by adding at the end the following:

“(c)(1) Claims or expenses of the United States, the Attorney General, or the Administrator (as that term is defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2005) based upon the asbestos payment obligations of a debtor that is a Participant (as that term is defined in section 3 of that Act), shall be paid as an allowed administrative expense. The debtor shall not be entitled to either notice or a hearing with respect to such claims.

“(2) For purposes of paragraph (1), the term ‘asbestos payment obligation’ means any payment obligation under title II of the Fairness in Asbestos Injury Resolution Act of 2005.”.

(d) NO DISCHARGE.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

“(f) A discharge under section 727, 1141, 1228, or 1328 of this title does not discharge any debtor that is a participant (as that term is defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2005) of the debtor's payment obligations assessed against the participant under title II of that Act.”.

(e) PAYMENT.—Section 524 of title 11, United States Code, is amended by adding at the end the following:

“(i) PARTICIPANT DEBTORS.—

“(1) IN GENERAL.—Paragraphs (2) and (3) shall apply to a debtor who—

“(A) is a participant that has made prior asbestos expenditures (as such terms are defined in the Fairness in Asbestos Injury Resolution Act of 2005); and

“(B) is subject to a case under this title that is pending—

“(i) on the date of enactment of the Fairness in Asbestos Injury Resolution Act of 2005; or

“(ii) at any time during the 1-year period preceding the date of enactment of that Act.

“(2) TIER I DEBTORS.—A debtor that has been assigned to Tier I under section 202 of the Fairness in Asbestos Injury Resolution Act of 2005, shall make payments in accordance with sections 202 and 203 of that Act.

“(3) TREATMENT OF PAYMENT OBLIGATIONS.—All payment obligations of a debtor under sections 202 and 203 of the Fairness in Asbestos Injury Resolution Act of 2005 shall—

“(A) constitute costs and expenses of administration of a case under section 503 of this title;

“(B) notwithstanding any case pending under this title, be payable in accordance with section 202 of that Act;

“(C) not be stayed;

“(D) not be affected as to enforcement or collection by any stay or injunction of any court; and

“(E) not be impaired or discharged in any current or future case under this title.”.

(f) TREATMENT OF TRUSTS.—Section 524 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(j) ASBESTOS TRUSTS.—

“(1) IN GENERAL.—A trust shall assign a portion of the corpus of the trust to the Asbestos Injury Claims Resolution Fund (referred to in this subsection as the ‘Fund’) as established under the Fairness in Asbestos Injury Resolution Act of 2005 if the trust qualifies as a ‘trust’ under section 201 of that Act.

“(2) TRANSFER OF TRUST ASSETS.—

“(A) IN GENERAL.—

“(i) Except as provided under subparagraphs (B), (C), and (E), the assets in any trust established to provide compensation for asbestos claims (as defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2005) shall be transferred to the Fund not later than 6 months after the date of enactment of the Fairness in Asbestos Injury Resolution Act of 2005 or 30 days following funding of a trust established under a reorganization plan subject to section 202(c) of that Act. Except as provided under subparagraph (B), the Administrator of the Fund shall accept such assets and utilize them for any purposes of the Fund under section 221 of such Act, including the payment of claims for awards under such Act to beneficiaries of the trust from which the assets were transferred.

“(ii) Notwithstanding any other provision of Federal or State law, no liability of any kind may be imposed on a trustee of a trust for transferring assets to the Fund in accordance with clause (i).

“(B) AUTHORITY TO REFUSE ASSETS.—The Administrator of the Fund may refuse to accept any asset that the Administrator determines may create liability for the Fund in excess of the value of the asset.

“(C) ALLOCATION OF TRUST ASSETS.—If a trust under subparagraph (A) has beneficiaries with claims that are not asbestos claims, the assets transferred to the Fund under subparagraph (A) shall not include assets allocable to such beneficiaries. The trustees of any such trust shall determine the amount of such trust assets to be reserved for the continuing operation of the trust in processing and paying claims that are not asbestos claims. The trustees shall demonstrate to the satisfaction of the Administrator, or by clear and convincing evidence in a proceeding brought before the United States District Court for the District of Columbia in accordance with paragraph (4), that the amount reserved is properly allocable to claims other than asbestos claims.

“(D) SALE OF FUND ASSETS.—The investment requirements under section 222 of the Fairness in Asbestos Injury Resolution Act of 2005 shall not be construed to require the Administrator of the Fund to sell assets transferred to the Fund under subparagraph (A).

“(E) LIQUIDATED CLAIMS.—Except as specifically provided in this subparagraph, all asbestos claims against a trust are superseded and preempted as of the date of enactment of the Fairness in Asbestos Injury Resolution Act of 2005, and a trust shall not make any payment relating to asbestos claims after that date. If, in the ordinary course and the normal and usual administration of the trust consistent with past practices, a trust had before the date of enactment of the Fairness in Asbestos Injury Resolution Act of 2005, made all determinations necessary to entitle an individual claimant to a noncontingent cash payment from the trust, the trust shall (i) make any lump-sum cash payment due to that claimant, and (ii) make or provide for all remaining noncontingent payments on any award being paid or scheduled to be paid on an installment basis, in each case only to the same extent that the trust would have made such cash payments in the ordinary course and consistent with past practices before enactment of that Act. A trust shall not make any payment in respect of any alleged contingent right to recover any greater amount than the trust had already paid, or had completed all determinations necessary to pay, to a claimant in cash in accordance with its ordinary distribution procedures in effect as of June 1, 2003.

“(3) INJUNCTION.—

“(A) IN GENERAL.—Any injunction issued as part of the formation of a trust described in paragraph (1) shall remain in full force and effect. No court, Federal or State, may enjoin the transfer of assets by a trust to the Fund in accordance with this subsection pending resolution of any litigation challenging such transfer or the validity of this subsection or of any provision of the Fairness in Asbestos Injury Resolution Act of 2005, and an interlocutory order denying such relief shall not be subject to immediate appeal under section 1291(a) of title 28.

“(B) AVAILABILITY OF FUND ASSETS.—Notwithstanding any other provision of law, once such a transfer has been made, the assets of the Fund shall be available to satisfy any final judgment entered in such an action and such transfer shall no longer be subject to any appeal or review—

“(i) declaring that the transfer effected a taking of a right or property for which an individual is constitutionally entitled to just compensation; or

“(ii) requiring the transfer back to a trust of any or all assets transferred by that trust to the Fund.

“(4) JURISDICTION.—Solely for purposes of implementing this subsection, personal jurisdiction over every covered trust, the trustees thereof, and any other necessary party, and exclusive subject matter jurisdiction over every question arising out of or related to this subsection, shall be vested in the United States District Court for the District of Columbia. Notwithstanding any other provision of law, including section 1127 of this title, that court may make any order necessary and appropriate to facilitate prompt compliance with this subsection, including assuming jurisdiction over and modifying, to the extent necessary, any applicable confirmation order or other order with continuing and prospective application to a covered trust. The court may also resolve any related challenge to the constitutionality of this subsection or of its application to any trust, trustee, or individual claimant. The Administrator of the Fund may bring an action seeking such an order or modification, under the standards of rule 60(b) of the Federal Rules of Civil Procedure or otherwise, and shall be entitled to intervene as of right in any action brought by any other party seeking interpretation, application, or invalidation of this subsection. Any order denying relief that would facilitate prompt compliance with the transfer provisions of this subsection shall be subject to immediate appeal under section 304 of the Fairness in Asbestos Injury Resolution Act of 2005. Notwithstanding any other provision of this paragraph, for purposes of implementing the sunset provisions of section 402(f) of such Act which apply to asbestos trusts and the class action trust, the bankruptcy court or United States district court having jurisdiction over any such trust as of the date of enactment of such Act shall retain such jurisdiction.".

(g) No Avoidance of Transfer.—Section 546 of title 11, United States Code, is amended by adding at the end the following:

"(h) Notwithstanding the rights and powers of a trustee under sections 544, 545, 547, 548, 549, and 550 of this title, if a debtor is a participant (as that term is defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2005), the trustee may not avoid a transfer made by the debtor under its payment obligations under section 202 or 203 of that Act.".

(h) Confirmation of Plan.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

"(14) If the debtor is a participant (as that term is defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2005), the plan provides for the continuation after its effective date of payment of all payment obligations under title II of that Act.".

(i) Effect on Insurance Receivership Proceedings.—

(1) Lien.—In an insurance receivership proceeding involving a direct insurer, reinsurer or runoff participant, there shall be a lien in favor of the Fund for the amount of any assessment and any such lien shall be given priority over all other claims against the participant in receivership, except for the expenses of administration of the receivership and the perfected claims of the secured creditors. Any State law that provides for priorities inconsistent with this provision is preempted by this Act.

(2) Payment of assessment.—Payment of any assessment required by this Act shall not be subject to any automatic or judicially entered stay in any insurance receivership proceeding. This Act shall preempt any State law requiring that payments by a direct insurer, reinsurer or runoff participant in an insurance receivership proceeding be approved by a court, receiver or other person. Payments of assessments by any direct insurer or reinsurer participant under this Act shall not be subject to the avoidance powers of a receiver or a court in or relating to an insurance receivership proceeding.

(j) Standing in Bankruptcy Proceedings.—The Administrator shall have standing in any bankruptcy case involving a debtor participant. No bankruptcy court may require the Administrator to return property seized to satisfy obligations to the Fund.

SEC. 403. EFFECT ON OTHER LAWS AND EXISTING CLAIMS.

(a) Effect on Federal and State Law.—The provisions of this Act shall supersede any Federal or State law insofar as such law may relate to any asbestos claim, including any claim described under subsection (e)(2).

(b) Effect on Silica Claims.—

(1) In general.—

(A) Rule of construction.—Nothing in this Act shall be construed to preempt, bar, or otherwise preclude any personal injury claim attributable to exposure to silica as to which the plaintiff—

(i) pleads with particularity and establishes by a preponderance of evidence either that—

(I) no claim has been asserted or filed by or with respect to the exposed person in any forum for any asbestos-related condition and the exposed person (or another claiming on behalf of or through the exposed person) is not eligible for any monetary award under this Act; or

(II)(aa) the exposed person suffers or has suffered a functional impairment that was caused by exposure to silica; and

(bb) asbestos exposure was not a substantial contributing factor to such functional impairment; and

(ii) satisfies the requirements of paragraph (2) .

(B) Preemption.—Claims attributable to exposure to silica that fail to meet the requirements of subparagraph (A) shall be preempted by this Act.

(2) Required evidence.—

(A) In general.—In any claim to which paragraph (1) applies, the initial pleading (or, for claims pending on the date of enactment of this Act, an amended pleading to be filed within 60 days after such date, but not later than 60 days before trial, shall plead with particularity the elements of subparagraph (A)(i)(I) or (II) and shall be accompanied by the information described under subparagraph (B)(i) through (iv).

(B) Pleadings.—If the claim pleads the elements of paragraph (1)(A)(i)(II) and by the information described under clauses (i) through (iv) of this subparagraph if the claim pleads the elements of paragraph (1)(A)(i)(I)—

(i) admissible evidence, including at a minimum, a B-reader's report, the underlying x-ray film and such other evidence showing that the claim may be maintained and is not preempted under paragraph (1);

(ii) notice of any previous lawsuit or claim for benefits in which the exposed person, or another claiming on behalf of or through the injured person, asserted an injury or disability based wholly or in part on exposure to asbestos;

(iii) if known by the plaintiff after reasonable inquiry by the plaintiff or his representative, the history of the exposed person's exposure, if any, to asbestos; and

(iv) copies of all medical and laboratory reports pertaining to the exposed person that refer to asbestos or asbestos exposure.

(c) Superseding Provisions.—

(1) In general.—Except as provided under paragraph (3), any agreement, understanding, or undertaking by any person or affiliated group with respect to the treatment of any asbestos claim that requires future performance by any party, insurer of such party, settlement administrator, or escrow agent shall be superseded in its entirety by this Act.

(2) No force or effect.—Except as provided under paragraph (3), any such agreement, understanding, or undertaking by any such person or affiliated group shall be of no force or effect, and no person shall have any rights or claims with respect to any such agreement, understanding, or undertaking.

(3) Exception.—

(A) In general.—Except as provided in section 202(f), nothing in this Act shall abrogate a binding and legally enforceable written settlement agreement between any defendant participant or its insurer and a specific named plaintiff with respect to the settlement of an asbestos claim of the plaintiff if—

(i) before the date of enactment of this Act, the settlement agreement was executed directly by the settling defendant or the settling insurer and the individual plaintiff, or on behalf of the plaintiff where the plaintiff is incapacitated and the settlement agreement is signed by an authorized legal representative;

(ii) the settlement agreement contains an express obligation by the settling defendant or settling insurer to make a future direct monetary payment or payments in a fixed amount or amounts to the individual plaintiff; and

(iii) within 30 days after the date of enactment of this Act, or such shorter time period specified in the settlement agreement, all conditions to payment under the settlement agreement have been fulfilled, so that the only remaining performance due under the settlement agreement is the payment or payments by the settling defendant or the settling insurer.

(B) Bankruptcy-related agreements.—The exception set forth in this paragraph shall not apply to any bankruptcy-related agreement.

(C) Collateral source.—Any settlement payment under this section is a collateral source if the plaintiff seeks recovery from the Fund.

(D) Abrogation.—Nothing in subparagraph (A) shall abrogate a settlement agreement otherwise satisfying the requirements of that subparagraph if such settlement agreement expressly anticipates the enactment of this Act and provides for the effects of this Act.

(E) Health care insurance or expenses settlements.—Nothing in this Act shall abrogate or terminate an otherwise fully enforceable settlement agreement which was executed before the date of enactment of this Act directly by the settling defendant or the settling insurer and a specific named plaintiff to pay the health care insurance or health care expenses of the plaintiff.

(d) Exclusive Remedy.—

(1) In general.—Except as provided under paragraph (2), the remedies provided under this Act shall be the exclusive remedy for any asbestos claim, including any claim described in subsection (e)(2), under any Federal or State law.

(2) Civil actions at trial.—

(A) In general.—This Act shall not apply to any asbestos claim that—

(i) is a civil action filed in a Federal or State court (not including a filing in a bankruptcy court);

(ii) is not part of a consolidation of actions or a class action; and

(iii) on the date of enactment of this Act—

(I) in the case of a civil action which includes a jury trial, is before the jury after its impanelling and commencement of presentation of evidence, but before its deliberations;

(II) in the case of a civil action which includes a trial in which a judge is the trier of fact, is at the presentation of evidence at trial; or

(III) a verdict, final order, or final judgment has been entered by a trial court.

(B) Nonapplicability.—This Act shall not apply to a civil action described under subparagraph (A) throughout the final disposition of the action.

(e) Bar on Asbestos Claims.—

(1) In general.—No asbestos claim (including any claim described in paragraph (2)) may be pursued, and no pending asbestos claim may be maintained, in any Federal or State court, except as provided under subsection (d)(2).

(2) Certain specified claims.—

(A) In general.—Subject to section 404 (d) and (e)(3) of this Act, no claim may be brought or pursued in any Federal or State court or insurance receivership proceeding—

(i) relating to any default, confessed or stipulated judgment on an asbestos claim if the judgment debtor expressly agreed, in writing or otherwise, not to contest the entry of judgment against it and the plaintiff expressly agreed, in writing or otherwise, to seek satisfaction of the judgment only against insurers or in bankruptcy;

(ii) relating to the defense, investigation, handling, litigation, settlement, or payment of any asbestos claim by any participant, including claims for bad faith or unfair or deceptive claims handling or breach of any duties of good faith; or

(iii) arising out of or relating to the asbestos-related injury of any individual and—

(I) asserting any conspiracy, concert of action, aiding or abetting, act, conduct, statement, misstatement, undertaking, publication, omission, or failure to detect, speak, disclose, publish, or warn relating to the presence or health effects of asbestos or the use, sale, distribution, manufacture, production, development, inspection, advertising, marketing, or installation of asbestos; or

(II) asserting any conspiracy, act, conduct, statement, omission, or failure to detect, disclose, or warn relating to the presence or health effects of asbestos or the use, sale, distribution, manufacture, production, development, inspection, advertising, marketing, or installation of asbestos, asserted as or in a direct action against an insurer or reinsurer based upon any theory, statutory, contract, tort, or otherwise; or

(iv) by any third party, and premised on any theory, allegation, or cause of action, for reimbursement of healthcare costs allegedly associated with the use of or exposure to asbestos, whether such claim is asserted directly, indirectly or derivatively.

(B) EXCEPTIONS.—Subparagraph (A) (ii) and (iii) shall not apply to claims against participants by persons—

(i) with whom the participant is in privity of contract;

(ii) who have received an assignment of insurance rights not otherwise voided by this Act; or

(iii) who are beneficiaries covered by the express terms of a contract with that participant.

(3) PREEMPTION.—Any action asserting an asbestos claim (including a claim described in paragraph (2)) in any Federal or State court is preempted by this Act, except as provided under subsection (d)(2).

(4) DISMISSAL.—Except as provided under subsection (d)(2), no judgment other than a judgment of dismissal may be entered in any such action, including an action pending on appeal, or on petition or motion for discretionary review, on or after the date of enactment of this Act. A court may dismiss any such action on its motion. If the court denies the motion to dismiss, it shall stay further proceedings until final disposition of any appeal taken under this Act.

(5) REMOVAL.—

(A) IN GENERAL.—If an action in any State court under paragraph (3) is preempted, barred, or otherwise precluded under this Act, and not dismissed, or if an order entered after the date of enactment of this Act purporting to enter judgment or deny review is not rescinded and replaced with an order of dismissal within 30 days after the filing of a motion by any party to the action advising the court of the provisions of this Act, any party may remove the case to the district court of the United States for the district in which such action is pending.

(B) TIME LIMITS.—For actions originally filed after the date of enactment of this Act, the notice of removal shall be filed within the time limits specified in section 1441(b) of title 28, United States Code.

(C) PROCEDURES.—The procedures for removal and proceedings after removal shall be in accordance with sections 1446 through 1450 of title 28, United States Code, except as may be necessary to accommodate removal of any actions pending (including on appeal) on the date of enactment of this Act.

(D) REVIEW OF REMAND ORDERS.—

(i) IN GENERAL.—Section 1447 of title 28, United States Code, shall apply to any removal of a case under this section, except that notwithstanding subsection (d) of that section, a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand an action to the State court from which it was removed if application is made to the court of appeals not less than 7 days after entry of the order.

(ii) TIME PERIOD FOR JUDGMENT.—If the court of appeals accepts an appeal under clause (i), the court shall complete all action on such appeal, including rendering judgment, not later than 60 days after the date on which such appeal was filed, unless an extension is granted under clause (iii).

(iii) EXTENSION OF TIME PERIOD.—The court of appeals may grant an extension of the 60-day period described in clause (ii) if—

(I) all parties to the proceeding agree to such extension, for any period of time; or

(II) such extension is for good cause shown and in the interests of justice, for a period not to exceed 10 days.

(iv) DENIAL OF APPEAL.—If a final judgment on the appeal under clause (i) is not issued before the end of the period described in clause (ii), including any extension under clause (iii), the appeal shall be denied.

(E) JURISDICTION.—The jurisdiction of the district court shall be limited to—

(i) determining whether removal was proper; and

(ii) determining, based on the evidentiary record, whether the claim presented is preempted, barred, or otherwise precluded under this Act.

(6) CREDITS.—

(A) IN GENERAL.—If, notwithstanding the express intent of Congress stated in this section, any court finally determines for any reason that an asbestos claim is not barred under this subsection and is not subject to the exclusive remedy or preemption provisions of this section, then any participant required to satisfy a final judgment executed with respect to any such claim may elect to receive a credit against any assessment owed to the Fund equal to the amount of the payment made with respect to such executed judgment.

(B) REQUIREMENTS.—The Administrator shall require participants seeking credit under this paragraph to demonstrate that the participant—

(i) timely pursued all available remedies, including remedies available under this paragraph to obtain dismissal of the claim; and

(ii) notified the Administrator at least 20 days before the expiration of any period within which to appeal the denial of a motion to dismiss based on this section.

(C) INFORMATION.—The Administrator may require a participant seeking credit under this paragraph to furnish such further information as is necessary and appropriate to establish eligibility for, and the amount of, the credit.

(D) INTERVENTION.—The Administrator may intervene in any action in which a credit may be due under this paragraph.

SEC. 404. EFFECT ON INSURANCE AND REINSURANCE CONTRACTS.

(a) EROSION OF INSURANCE COVERAGE LIMITS.—

(1) DEFINITIONS.—In this section, the following definitions shall apply:

(A) DEEMED EROSION AMOUNT.—The term "deemed erosion amount" means the amount of erosion deemed to occur at enactment under paragraph (2).

(B) EARLY SUNSET.—The term "early sunset" means an event causing termination of the program under section 405(f) which relieves the insurer participants of paying some portion of the aggregate payment level of $46,025,000,000 required under section 212(a)(2)(A).

(C) EARNED EROSION AMOUNT.—The term "earned erosion amount" means, in the event of any early sunset under section 405(f), the percentage, as set forth in the following schedule, depending on the year in which the defendant participants' funding obligations end, of those amounts which, at the time of the early sunset, a defendant participant has paid to the fund and remains obligated to pay into the fund.

Year After Enactment In Which Defendant Participant's Funding Obligation Ends:	**Applicable Percentage:**
2	67.06
3	86.72
4	96.55
5	102.45
6	90.12
7	81.32
8	74.71
9	69.58
10	65.47
11	62.11
12	59.31
13	56.94
14	54.90
15	53.14
16	51.60
17	50.24
18	49.03
19	47.95
20	46.98
21	46.10
22	45.30
23	44.57
24	43.90
25	43.28
26	42.71
27	42.18
28	40.82
29	39.42

(D) REMAINING AGGREGATE PRODUCTS LIMITS.—The term "remaining aggregate products limits" means aggregate limits that apply to insurance coverage granted under the "products hazard", "completed operations hazard", or "Products—Completed Operations Liability" in any comprehensive general liability policy issued between calendar years 1940 and 1986 to cover injury which occurs in any State, as reduced by—

(i) any existing impairment of such aggregate limits as of the date of enactment of this Act; and

(ii) the resolution of claims for reimbursement or coverage of liability or paid or incurred loss for which notice was provided to the insurer before the date of enactment of this Act.

(E) SCHEDULED PAYMENT AMOUNTS.—The term "scheduled payment amounts" means the future payment obligation to the Fund under this Act from a defendant participant in the amount established under sections 203 and 204.

(F) UNEARNED EROSION AMOUNT.—The term "unearned erosion amount" means, in the event of any early sunset under section

405(f), the difference between the deemed erosion amount and the earned erosion amount.

(2) QUANTUM AND TIMING OF EROSION.—

(A) EROSION UPON ENACTMENT.—The collective payment obligations to the Fund of the insurer and reinsurer participants as assessed by the Administrator shall be deemed as of the date of enactment of this Act to erode remaining aggregate products limits available to a defendant participant only in an amount of 38.1 percent of each defendant participant's scheduled payment amount.

(B) NO ASSERTION OF CLAIM.—No insurer or reinsurer may assert any claim against a defendant participant or captive insurer for insurance, reinsurance, payment of a deductible, or retrospective premium adjustment arising out of that insurer's or reinsurer's payments to the Fund or the erosion deemed to occur under this section.

(C) POLICIES WITHOUT CERTAIN LIMITS OR WITH EXCLUSION.—Except as provided under subparagraph (E), nothing in this section shall require or permit the erosion of any insurance policy or limit that does not contain an aggregate products limit, or that contains an asbestos exclusion.

(D) TREATMENT OF CONSOLIDATION ELECTION.—If an affiliated group elects consolidation as provided in section 204(f), the total erosion of limits for the affiliated group under paragraph (2)(A) shall not exceed 59.64 percent of the scheduled payment amount of the single payment obligation for the entire affiliated group. The total erosion of limits for any individual defendant participant in the affiliated group shall not exceed its individual share of 59.64 percent of the affiliated group's scheduled payment amount, as measured by the individual defendant participant's percentage share of the affiliated group's prior asbestos expenditures.

(E) RULE OF CONSTRUCTION.—Notwithstanding any other provision of this section, nothing in this Act shall be deemed to erode remaining aggregate products limits of a defendant participant that can demonstrate by a reponderance of the evidence that 75 percent of its prior asbestos expenditures were made in defense or satisfaction of asbestos claims alleging bodily injury arising exclusively from the exposure to asbestos at premises owned, rented, or controlled by the defendant participant (a "premises defendant"). In calculating such percentage, where expenditures were made in defense or satisfaction of asbestos claims alleging bodily injury due to exposure to the defendant participant's products and to asbestos at premises owned, rented, or controlled by the defendant participant, half of such expenditures shall be deemed to be for such premises exposures. If a defendant participant establishes itself as a premises defendant, 75 percent of the payments by such defendant participant shall erode coverage limits, if any, applicable to premises liabilities under applicable law.

(3) METHOD OF EROSION.—

(A) ALLOCATION.—The amount of erosion allocated to each defendant participant shall be allocated among periods in which policies with remaining aggregate product limits are available to that defendant participant pro rata by policy period, in ascending order by attachment point.

(B) OTHER EROSION METHODS.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), the method of erosion of any remaining aggregate products limits which are subject to—

(I) a coverage-in-place or settlement agreement between a defendant participant and 1 or more insurance participants as of the date of enactment; or

(II) a final and nonappealable judgment as of the date of enactment or resulting from a claim for coverage or reimbursement pending as of such date, shall be as specified in such agreement or judgment with regard to erosion applicable to such insurance participants' policies.

(ii) REMAINING LIMITS.—To the extent that a final nonappealable judgment or settlement agreement to which an insurer participant and a defendant participant are parties in effect as of the date of enactment of this Act extinguished a defendant participant's right to seek coverage for asbestos claims under an insurer participant's policies, any remaining limits in such policies shall not be considered to be remaining aggregate products limits under subsection (a)(1)(A).

(4) RESTORATION OF AGGREGATE PRODUCTS LIMITS UPON EARLY SUNSET.—

(A) RESTORATION.—In the event of an early sunset, any unearned erosion amount will be deemed restored as aggregate products limits available to a defendant participant as of the date of enactment.

(B) METHOD OF RESTORATION.—The unearned erosion amount will be deemed restored to each defendant participant's policies in such a manner that the last limits that were deemed eroded at enactment under this subsection are deemed to be the first limits restored upon early sunset.

(C) TOLLING OF COVERAGE CLAIMS.—In the event of an early sunset, the applicable statute of limitations and contractual provisions for the filing of claims under any insurance policy with restored aggregate products limits shall be deemed tolled after the date of enactment through the date 6 months after the date of early sunset.

(5) PAYMENTS BY DEFENDANT PARTICIPANT.—Payments made by a defendant participant shall be deemed to erode, exhaust, or otherwise satisfy applicable self-insured retentions, deductibles, retrospectively rated premiums, and limits issued by nonparticipating insolvent or captive insurance companies. Reduction of remaining aggregate limits under this subsection shall not limit the right of a defendant participant to collect from any insurer not a participant.

(6) EFFECT ON OTHER INSURANCE CLAIMS.—Other than as specified in this subsection, this Act does not alter, change, modify, or affect insurance for claims other than asbestos claims.

(b) DISPUTE RESOLUTION PROCEDURE.—

(1) ARBITRATION.—The parties to a dispute regarding the erosion of insurance coverage limits under this section may agree in writing to settle such dispute by arbitration. Any such provision or agreement shall be valid, irrevocable, and enforceable, except for any grounds that exist at law or in equity for revocation of a contract.

(2) TITLE 9, UNITED STATES CODE.—Arbitration of such disputes, awards by arbitrators, and confirmation of awards shall be governed by title 9, United States Code, to the extent such title is not inconsistent with this section. In any such arbitration proceeding, the erosion principles provided for under this section shall be binding on the arbitrator, unless the parties agree to the contrary.

(3) FINAL AND BINDING AWARD.—An award by an arbitrator shall be final and binding between the parties to the arbitration, but shall have no force or effect on any other person. The parties to an arbitration may agree that in the event a policy which is the subject matter of an award is subsequently determined to be eroded in a manner different from the manner determined by the arbitration in a judgment rendered by a court of competent jurisdiction from which no appeal can or has been taken, such arbitration award may be modified by any court of competent jurisdiction upon application by any party to the arbitration. Any such modification shall govern the rights and obligations between such parties after the date of such modification.

(c) EFFECT ON NONPARTICIPANTS.—

(1) IN GENERAL.—No insurance company or reinsurance company that is not a participant, other than a captive insurer, shall be entitled to claim that payments to the Fund erode, exhaust, or otherwise limit the nonparticipant's insurance or reinsurance obligations.

(2) OTHER CLAIMS.—Nothing in this Act shall preclude a participant from pursuing any claim for insurance or reinsurance from any person that is not a participant other than a captive insurer.

(d) FINITE RISK POLICIES NOT AFFECTED.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, except subject to section 212(a)(1)(D), this Act shall not alter, affect or impair any rights or obligations of—

(A) any party to an insurance contract that expressly provides coverage for governmental charges or assessments imposed to replace insurance or reinsurance liabilities in effect on the date of enactment of this Act; or

(B) subject to paragraph (2), any person with respect to any insurance or reinsurance purchased by a participant after December 31, 1990, that expressly (but not necessarily exclusively) provides coverage for asbestos liabilities, including those policies commonly referred to as "finite risk" policies.

(2) LIMITATION.—No person may assert that any amounts paid to the Fund in accordance with this Act are covered by any policy described under paragraph (1)(B) purchased by a defendant participant, unless such policy specifically provides coverage for required payments to a Federal trust fund established by a Federal statute to resolve asbestos injury claims.

(e) EFFECT ON CERTAIN INSURANCE AND REINSURANCE CLAIMS.—

(1) NO COVERAGE FOR FUND ASSESSMENTS.—No participant or captive insurer may pursue an insurance or reinsurance claim against another participant or captive insurer for payments to the Fund required under this Act, except under a contract specifically providing insurance or reinsurance for required payments to a Federal trust fund established by a Federal statute to resolve asbestos injury claims or, where applicable, under finite risk policies under subsection (d).

(2) CERTAIN INSURANCE ASSIGNMENTS VOIDED.—Any assignment of any rights to insurance coverage for asbestos claims to any person who has asserted an asbestos claim before the date of enactment of this Act, or to any trust, person, or other entity not part of an affiliated group as defined in section 201(1) of this Act established or appointed for the purpose of paying asbestos claims which were asserted before such date of enactment, or by any Tier I defendant participant, before any sunset of this Act, shall be null and void. This subsection shall not void or affect in any way any assignments of rights to insurance coverage other than to asbestos claimants or to trusts, persons, or other entities not part of an affiliated group as defined in section 201(1) of this Act established or appointed for the purpose of paying asbestos claims, or by Tier I defendant participants.

(3) INSURANCE CLAIMS PRESERVED.—Notwithstanding any other provision of this Act,

this Act shall not alter, affect, or impair any rights or obligations of any person with respect to any insurance or reinsurance for amounts that any person pays, has paid, or becomes legally obligated to pay in respect of asbestos or other claims, except to the extent that—

(A) such person pays or becomes legally obligated to pay claims that are superseded by section 403;

(B) any such rights or obligations of such person with respect to insurance or reinsurance are prohibited by paragraph (1) or (2) of subsection (e); or

(C) the limits of insurance otherwise available to such participant in respect of asbestos claims are deemed to be eroded under subsection (a).

SEC. 405. ANNUAL REPORT OF THE ADMINISTRATOR AND SUNSET OF THE ACT.

(a) In General.—The Administrator shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the operation of the Asbestos Injury Claims Resolution Fund within 6 months after the close of each fiscal year.

(b) Contents of Report.—The annual report submitted under this subsection shall include an analysis of—

(1) the claims experience of the program during the most recent fiscal year, including—

(A) the number of claims made to the Office and a description of the types of medical diagnoses and asbestos exposures underlying those claims;

(B) the number of claims denied by the Office and a description of the types of medical diagnoses and asbestos exposures underlying those claims, and a general description of the reasons for their denial;

(C) a summary of the eligibility determinations made by the Office under section 114;

(D) a summary of the awards made from the Fund, including the amount of the awards; and

(E) for each eligible condition, a statement of the percentage of asbestos claimants who filed claims during the prior calendar year and were determined to be eligible to receive compensation under this Act, who have received the compensation to which such claimants are entitled according to section 131;

(2) the administrative performance of the program, including—

(A) the performance of the program in meeting the time limits prescribed by law and an analysis of the reasons for any systemic delays;

(B) any backlogs of claims that may exist and an explanation of the reasons for such backlogs;

(C) the costs to the Fund of administering the program; and

(D) any other significant factors bearing on the efficiency of the program;

(3) the financial condition of the Fund, including—

(A) statements of the Fund's revenues, expenses, assets, and liabilities;

(B) the identity of all participants, the funding allocations of each participant, and the total amounts of all payments to the Fund;

(C) a list of all financial hardship or inequity adjustments applied for during the fiscal year, and the adjustments that were made during the fiscal year;

(D) a statement of the investments of the Fund; and

(E) a statement of the borrowings of the Fund;

(4) the financial prospects of the Fund, including—

(A) an estimate of the number and types of claims, the amount of awards, and the participant payment obligations for the next fiscal year;

(B) an analysis of the financial condition of the Fund, including an estimation of the Fund's ability to pay claims for the subsequent 5 years in full as and when required, an evaluation of the Fund's ability to retire its existing debt and assume additional debt, and an evaluation of the Fund's ability to satisfy other obligations under the program; and

(C) a report on any changes in projections made in earlier annual reports or sunset analyses regarding the Fund's ability to meet its financial obligations;

(5) any recommendations from the Advisory Committee on Asbestos Disease Compensation and the Medical Advisory Committee of the Fund to improve the diagnostic, exposure, and medical criteria so as to pay only those claimants whose injuries are caused by exposure to asbestos;

(6) a summary of the results of audits conducted under section 115; and

(7) a summary of prosecutions under section 1348 of title 18, United States Code (as added by this Act).

(c) Claims Analysis.—If the Administrator concludes, on the basis of the annual report submitted under this section, that the Fund is compensating claims for injuries that are not caused by exposure to asbestos and compensating such claims may, currently or in the future, undermine the Fund's ability to compensate persons with injuries that are caused by exposure to asbestos, the Administrator shall include in the report an analysis of the reasons for the situation, a description of the range of reasonable alternatives for responding to the situation, and a recommendation as to which alternative best serves the interest of claimants and the public. The report shall include a description of changes in the diagnostic, exposure, or medical criteria of section 121 that the Administrator believes may be necessary to protect the Fund from compensating claims not caused by exposure to asbestos.

(d) Shortfall Analysis.—

(1) In general.—

(A) Analysis.—If the Administrator concludes, on the basis of the information contained in the annual report submitted under this section, that the Fund may not be able to pay claims as such claims become due at any time within the next 5 years, the Administrator shall include in the report an analysis of the reasons for the situation, an estimation of when the Fund will no longer be able to pay claims as such claims become due, a description of the range of reasonable alternatives for responding to the situation, and a recommendation as to which alternative best serves the interest of claimants and the public. The report may include a description of changes in the diagnostic, exposure, or medical criteria of section 121 that the Administrator believes may be necessary to protect the Fund.

(B) Range of alternatives.—The range of alternatives under subparagraph (A) may include—

(i) triggering the termination of this Act under subsection (f) at any time after the date of enactment of this Act; and

(ii) reform of the program set forth in titles I and II of this Act (including changes in the diagnostic, exposure, or medical criteria, changes in the enforcement or application of those criteria, changes in the timing of payments, changes in contributions by defendant participants, insurer participants (or both such participants), or changes in award values).

(2) Considerations.—In formulating recommendations, the Administrator shall take into account the reasons for any shortfall, actual or projected, which may include—

(A) financial factors, including return on investments, borrowing capacity, interest rates, ability to collect contributions, and other relevant factors;

(B) the operation of the Fund generally, including administration of the claims processing, the ability of the Administrator to collect contributions from participants, potential problems of fraud, the adequacy of the criteria to rule out idiopathic mesothelioma, and inadequate flexibility to extend the timing of payments;

(C) the appropriateness of the diagnostic, exposure, and medical criteria, including the adequacy of the criteria to rule out idiopathic mesothelioma;

(D) the actual incidence of asbestos-related diseases, including mesothelioma, based on epidemiological studies and other relevant data;

(E) compensation of diseases with alternative causes; and

(F) other factors that the Administrator considers relevant.

(3) Recommendation of termination.—Any recommendation of termination should include a plan for winding up the affairs of the Fund (and the program generally) within a defined period, including paying in full all claims resolved at the time the report is prepared. Any plan under this paragraph shall provide for priority in payment to the claimants with the most serious illnesses.

(4) Resolved claims.—For purposes of this section, a claim shall be deemed resolved when the Administrator has determined the amount of the award due the claimant, and either the claimant has waived judicial review or the time for judicial review has expired.

(e) Recommendations of Administrator and Commission.—

(1) In general.—If the Administrator recommends changes to this Act under subsection (c), the recommendations and accompanying analysis shall be referred to a special commission consisting of the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of the Treasury, and the Secretary of Commerce, or their designees. The Commission shall hold expedited public hearings on the Administrator's alternatives and recommendations and then make its own recommendations for reform of the program set forth in titles I and II of this Act. Within 180 days after receiving the Administrator's recommendations, the Commission shall transmit its own recommendations to the Congress in the same manner as set forth in subsection (a).

(2) Referral.—If the Administrator recommends changes to, or termination of, this Act under subsection (d), the recommendations and accompanying analysis shall be referred to the Commission. The Commission shall hold expedited public hearings on the Administrator's alternatives and recommendations and then make its own recommendations for reform of the program set forth in titles I and II of this Act. Within 180 days after receiving the Administrator's recommendations, the Commission shall transmit its own recommendations to Congress in the same manner as set forth in subsection (a).

(f) SUNSET OF ACT.—

(1) IN GENERAL.—

(A) TERMINATION.—Subject to paragraph (4), titles I (except subtitle A) and II and sections 403 and 404(e)(2) shall terminate as provided under paragraph (2), if the Administrator—

(i) has begun the processing of claims; and

(ii) as part of the review conducted to prepare an annual report under this section, determines that if any additional claims are resolved, the Fund will not have sufficient resources when needed to pay 100 percent of all resolved claims while also meeting all other obligations of the Fund under this Act, including the payment of—

(I) debt repayment obligations; and

(II) remaining obligations to the asbestos trust of a debtor and the class action trust.

(B) REMAINING OBLIGATIONS.—For purposes of subparagraph (A)(ii), the remaining obligations to the asbestos trust of the debtor and the class action trust shall be determined by the Administrator by assuming that, instead of a lump-sum payment, such trust had transferred its assets to the Fund on an annual basis, taking into consideration relevant factors, including the most recent projections made by the trust's actuary before the date of enactment of this Act of the amount and timing of future claim payments and administrative and operating expenses.

(2) EFFECTIVE DATE OF TERMINATION.—A termination under paragraph (1) shall take effect 180 days after the date of a determination of the Administrator under paragraph (1) and shall apply to all asbestos claims that have not been resolved by the Fund as of the date of the determination.

(3) RESOLVED CLAIMS.—If a termination takes effect under this subsection, all resolved claims shall be paid in full by the Fund.

(4) EXTINGUISHED CLAIMS.—A claim that is extinguished under the statute of limitations provisions in section 113(b) is not revived at the time of sunset under this subsection.

(5) CONTINUED FUNDING.—If a termination takes effect under this subsection, participants will still be required to make payments as provided under subtitles A and B of title II. If the full amount of payments required by title II is not necessary for the Fund to pay claims that have been resolved as of the date of termination, pay the Fund's debt and obligations to the asbestos trusts and class action trust, and support the Fund's continued operation as needed to pay such claims, debt, and obligations, the Administrator may reduce such payments. Any such reductions shall be allocated among participants in approximately the same proportion as the liability under subtitles A and B of title II.

(6) SUNSET CLAIMS.—

(A) DEFINITIONS.—In this paragraph—

(i) the term "sunset claims" means claims filed with the Fund, but not yet resolved, when this Act has terminated; and

(ii) the term "sunset claimants" means persons asserting sunset claims.

(B) IN GENERAL.—If a termination takes effect under this subsection, the applicable statute of limitations for the filing of sunset claims under subsection (g) shall be tolled for any past or pending sunset claimants while such claimants were pursuing claims filed under this Act. For those claimants who decide to pursue a sunset claim in accordance with subsection (g), the applicable statute of limitations shall apply, except that claimants who filed a claim against the Fund under this Act before the date of termination shall have 2 years after the date of termination to file a sunset claim in accordance with subsection (g).

(7) ASBESTOS TRUSTS AND CLASS ACTION TRUST.—On and after the date of termination under this subsection, the trust distribution program of any asbestos trust and the class action trust shall be replaced with the medical criteria requirements of section 121.

(8) PAYMENT TO ASBESTOS TRUSTS AND CLASS ACTION TRUST.—The amounts determined under paragraph (1)(B) for payment to the asbestos trusts and the class action trust shall be transferred to the respective asbestos trusts of the debtor and the class action trust within 90 days.

(g) NATURE OF CLAIM AFTER SUNSET.—

(1) IN GENERAL.—

(A) RELIEF.—On and after the date of termination under subsection (f), any individual with an asbestos claim who has not previously had a claim resolved by the Fund, may in a civil action obtain relief in damages subject to the terms and conditions under this subsection and paragraph (6) of subsection (f).

(B) RESOLVED CLAIMS.—An individual who has had a claim resolved by the Fund may not pursue a court action, except that an individual who received an award for a nonmalignant disease (Levels I through V) from the Fund may assert a claim for a subsequent or progressive disease under this subsection, unless the disease was diagnosed or the claimant had discovered facts that would have led a reasonable person to obtain such a diagnosis before the date on which the previous claim against the Fund was disposed.

(C) MESTHELIOMA CLAIM.—An individual who received an award for a nonmalignant or malignant disease (except mesothelioma) (Levels I through VIII) from the Fund may assert a claim for mesothelioma under this subsection, unless the mesothelioma was diagnosed or the claimant had discovered facts that would have led a reasonable person to obtain such a diagnosis before the date on which the nonmalignant or other malignant claim was disposed.

(2) EXCLUSIVE REMEDY.—As of the effective date of a termination of this Act under subsection (f), an action under paragraph (1) shall be the exclusive remedy for any asbestos claim that might otherwise exist under Federal, State, or other law, regardless of whether such claim arose before or after the date of enactment of this Act or of the termination of this Act, except that claims against the Fund that have been resolved before the date of the termination determination under subsection (f) may be paid by the Fund.

(3) VENUE.—

(A) IN GENERAL.—Actions under paragraph (1) may be brought in—

(i) any Federal district court;

(ii) any State court in the State where the claimant resides; or

(iii) any State court in a State where the asbestos exposure occurred.

(B) DEFENDANTS NOT FOUND.—If any defendant cannot be found in the State described in clause (ii) or (iii) of subparagraph (A), the claim may be pursued only against that defendant in the Federal district court or the State court located within any State in which the defendant may be found.

(C) DETERMINATION OF MOST APPROPRIATE FORUM.—If a person alleges that the asbestos exposure occurred in more than one county (or Federal district), the trial court shall determine which State and county (or Federal district) is the most appropriate forum for the claim. If the court determines that another forum would be the most appropriate forum for a claim, the court shall dismiss the claim. Any otherwise applicable statute of limitations shall be tolled beginning on the date the claim was filed and ending on the date the claim is dismissed under this subparagraph.

(D) STATE VENUE REQUIREMENTS.—Nothing in this paragraph shall preempt or supersede any State's law relating to venue requirements within that State which are more restrictive.

(4) CLASS ACTION TRUSTS.—Notwithstanding any other provision of this section—

(A) after the assets of any class action trust have been transferred to the Fund in accordance with section 203(b)(5), no asbestos claim may be maintained with respect to asbestos liabilities arising from the operations of a person with respect to whose liabilities for asbestos claims a class action trust has been established, whether such claim names the person or its successors or affiliates as defendants; and

(B) if a termination takes effect under subsection (f), the exclusive remedy for all asbestos claims (including sunset claims and claims first arising or first presented after termination of the Fund) arising from such operations will be a claim against the class action trust to which the Administrator has transferred funds under subsection (f)(8) to pay asbestos claims, if necessary in proportionally reduced amounts.

SEC. 406. RULES OF CONSTRUCTION RELATING TO LIABILITY OF THE UNITED STATES GOVERNMENT.

(a) CAUSES OF ACTIONS.—Except as otherwise specifically provided in this Act, nothing in this Act shall be construed as creating a cause of action against the United States Government, any entity established under this Act, or any officer or employee of the United States Government or such entity.

(b) FUNDING LIABILITY.—Nothing in this Act shall be construed to—

(1) create any obligation of funding from the United States Government, other than the funding for personnel and support as provided under this Act; or

(2) obligate the United States Government to pay any award or part of an award, if amounts in the Fund are inadequate.

SEC. 407. RULES OF CONSTRUCTION.

(a) LIBBY, MONTANA CLAIMANTS.—Nothing in this Act shall preclude the formation of a fund for the payment of eligible medical expenses related to treating asbestos-related disease for current and former residents of Libby, Montana. The payment of any such medical expenses shall not be collateral source compensation as defined under section 134(a).

(b) HEALTHCARE FROM PROVIDER OF CHOICE.—Nothing in this Act shall be construed to preclude any eligible claimant from receiving healthcare from the provider of their choice.

SEC. 408. VIOLATIONS OF ENVIRONMENTAL HEALTH AND SAFETY REQUIREMENTS.

(a) ASBESTOS IN COMMERCE.—If the Administrator receives information concerning conduct occurring after the date of enactment of this Act that may have been a violation of standards issued by the Environmental Protection Agency under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), relating to the manufacture, importation, processing, disposal, and distribution in commerce of asbestos-containing products, the Administrator shall refer the matter in writing within 30 days after receiving that information to the Administrator of the Environmental Protection Agency and the

United States attorney for possible civil or criminal penalties, including those under section 17 of the Toxic Substances Control Act (15 U.S.C. 2616), and to the appropriate State authority with jurisdiction to investigate asbestos matters.

(b) ASBESTOS AS AIR POLLUTANT.—If the Administrator receives information concerning conduct occurring after the date of enactment of this Act that may have been a violation of standards issued by the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.), relating to asbestos as a hazardous air pollutant, the Administrator shall refer the matter in writing within 30 days after receiving that information to the Administrator of the Environmental Protection Agency and the United States attorney for possible criminal and civil penalties, including those under section 113 of the Clean Air Act (42 U.S.C. 7413), and to the appropriate State authority with jurisdiction to investigate asbestos matters.

(c) OCCUPATIONAL EXPOSURE.—If the Administrator receives information concerning conduct occurring after the date of enactment of this Act that may have been a violation of standards issued by the Occupational Safety and Health Administration under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), relating to occupational exposure to asbestos, the Administrator shall refer the matter in writing within 30 days after receiving that information and refer the matter to the Secretary of Labor or the appropriate State agency with authority to enforce occupational safety and health standards, for investigation for possible civil or criminal penalties under section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666).

(d) ENHANCED CRIMINAL PENALTIES FOR WILLFUL VIOLATIONS OF OCCUPATIONAL STANDARDS FOR ASBESTOS.—Section 17(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656(e)) is amended—

(1) by striking "Any" and inserting "(1) Except as provided in paragraph (2), any"; and

(2) by adding at the end the following:

"(2) Any employer who willfully violates any standard issued under section 6 with respect to the control of occupational exposure to asbestos, shall upon conviction be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or both, except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or both.".

(e) CONTRIBUTIONS TO THE ASBESTOS TRUST FUND BY EPA AND OSHA ASBESTOS VIOLATORS.—

(1) IN GENERAL.—The Administrator shall assess employers or other individuals determined to have violated asbestos statutes, standards, or regulations administered by the Department of Labor, the Environmental Protection Agency, and their State counterparts, for contributions to the Asbestos Injury Claims Resolution Fund (in this section referred to as the "Fund").

(2) IDENTIFICATION OF VIOLATORS.—Each year, the Administrator shall—

(A) in consultation with the Assistant Secretary of Labor for Occupational Safety and Health, identify all employers that, during the previous year, were subject to final orders finding that they violated standards issued by the Occupational Safety and Health Administration for control of occupational exposure to asbestos (29 CFR 1910.1001, 1915.1001, and 1926.1101) or the equivalent asbestos standards issued by any State under section 18 of the Occupational Safety and Health Act (29 U.S.C. 668);.and

(B) in consultation with the Administrator of the Environmental Protection Agency, identify all employers or other individuals who, during the previous year, were subject to final orders finding that they violated asbestos regulations administered by the Environmental Protection Agency (including the National Emissions Standard for Asbestos established under the Clean Air Act (42 U.S.C. 7401 et seq.), the asbestos worker protection standards established under part 763 of title 40, Code of Federal Regulations, and the regulations banning asbestos promulgated under section 501 of this Act), or equivalent State asbestos regulations.

(3) ASSESSMENT FOR CONTRIBUTION.—The Administrator shall assess each such identified employer or other individual for a contribution to the Fund for that year in an amount equal to—

(A) 2 times the amount of total penalties assessed for the first violation of occupational health and environmental statutes, standards, or regulations;

(B) 4 times the amount of total penalties for a second violation of such statutes, standards, or regulations; and

(C) 6 times the amount of total penalties for any violations thereafter.

(4) LIABILITY.—Any assessment under this subsection shall be considered a liability under this Act.

(5) PAYMENTS.—Each such employer or other individual assessed for a contribution to the Fund under this subsection shall make the required contribution to the Fund within 90 days of the date of receipt of notice from the Administrator requiring payment.

(6) ENFORCEMENT.—The Administrator is authorized to bring a civil action under section 223(c) against any employer or other individual who fails to make timely payment of contributions assessed under this section.

(f) REVIEW OF FEDERAL SENTENCING GUIDELINES FOR ENVIRONMENTAL CRIMES RELATED TO ASBESTOS.—Under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the United States Sentencing Guidelines and related policy statements to ensure that—

(1) appropriate changes are made within the guidelines to reflect any statutory amendments that have occurred since the time that the current guideline was promulgated;

(2) the base offense level, adjustments, and specific offense characteristics contained in section 2Q1.2 of the United States Sentencing Guidelines (relating to mishandling of hazardous or toxic substances or pesticides; recordkeeping, tampering, and falsification; and unlawfully transporting hazardous materials in commerce) are increased as appropriate to ensure that future asbestos-related offenses reflect the seriousness of the offense, the harm to the community, the need for ongoing reform, and the highly regulated nature of asbestos;

(3) the base offense level, adjustments, and specific offense characteristics are sufficient to deter and punish future activity and are adequate in cases in which the relevant offense conduct—

(A) involves asbestos as a hazardous or toxic substance; and

(B) occurs after the date of enactment of this Act;

(4) the adjustments and specific offense characteristics contained in section 2B1.1 of the United States Sentencing Guidelines related to fraud, deceit, and false statements, adequately take into account that asbestos was involved in the offense, and the possibility of death or serious bodily harm as a result;

(5) the guidelines that apply to organizations in chapter 8 of the United States Sentencing Guidelines are sufficient to deter and punish organizational criminal misconduct that involves the use, handling, purchase, sale, disposal, or storage of asbestos; and

(6) the guidelines that apply to organizations in chapter 8 of the United States Sentencing Guidelines are sufficient to deter and punish organizational criminal misconduct that involves fraud, deceit, or false statements against the Office of Asbestos Disease Compensation.

SEC. 409. NONDISCRIMINATION OF HEALTH INSURANCE.

(a) DENIAL, TERMINATION, OR ALTERATION OF HEALTH COVERAGE.—No health insurer offering a health plan may deny or terminate coverage, or in any way alter the terms of coverage, of any claimant or the beneficiary of a claimant, on account of the participation of the claimant or beneficiary in a medical monitoring program under this Act, or as a result of any information discovered as a result of such medical monitoring.

(b) DEFINITIONS.—In this section:

(1) HEALTH INSURER.—The term "health insurer" means—

(A) an insurance company, healthcare service contractor, fraternal benefit organization, insurance agent, third-party administrator, insurance support organization, or other person subject to regulation under the laws related to health insurance of any State;

(B) a managed care organization; or

(C) an employee welfare benefit plan regulated under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(2) HEALTH PLAN.—The term "health plan" means—

(A) a group health plan (as such term is defined in section 607 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167)), and a multiple employer welfare arrangement (as defined in section 3(4) of such Act) that provides health insurance coverage; or

(B) any contractual arrangement for the provision of a payment for healthcare, including any health insurance arrangement or any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organizing subscriber contract.

(c) CONFORMING AMENDMENTS.—

(1) ERISA.—Section 702(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)), is amended by adding at the end the following:

"(I) Participation in a medical monitoring program under the Fairness in Asbestos Injury Resolution Act of 2005.".

(2) PUBLIC SERVICE HEALTH ACT.—Section 2702(a)(1) of the Public Health Service Act (42 U.S.C. 300gg-1(a)(1)) is amended by adding at the end the following:

"(I) Participation in a medical monitoring program under the Fairness in Asbestos Injury Resolution Act of 2005.".

(3) INTERNAL REVENUE CODE OF 1986.—Section 9802(a)(1) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(I) Participation in a medical monitoring program under the Fairness in Asbestos Injury Resolution Act of 2005.".

TITLE V—ASBESTOS BAN

SEC. 501. PROHIBITION ON ASBESTOS CONTAINING PRODUCTS.

(a) IN GENERAL.—Title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) is amended—

(1) by inserting before section 201 (15 U.S.C. 2641) the following:

"Subtitle A—General Provisions";

and

(2) by adding at the end the following:

"Subtitle B—Ban of Asbestos Containing Products

"SEC. 221. BAN OF ASBESTOS CONTAINING PRODUCTS.

"(a) DEFINITIONS.—In this chapter:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) ASBESTOS.—The term 'asbestos' includes—

"(A) chrysotile;

"(B) amosite;

"(C) crocidolite;

"(D) tremolite asbestos;

"(E) winchite asbestos;

"(F) richterite asbestos;

"(G) anthophyllite asbestos;

"(H) actinolite asbestos;

"(I) amphibole asbestos; and

"(J) any of the minerals listed under subparagraphs (A) through (I) that has been chemically treated or altered, and any asbestiform variety, type, or component thereof.

"(3) ASBESTOS CONTAINING PRODUCT.—The term 'asbestos containing product' means any product (including any part) to which asbestos is deliberately or knowingly added or used because the specific properties of asbestos are necessary for product use or function. Under no circumstances shall the term 'asbestos containing product' be construed to include products that contain de minimus levels of naturally occurring asbestos as defined by the Administrator not later than 1 year after the date of enactment of this chapter.

"(4) DISTRIBUTE IN COMMERCE.—The term 'distribute in commerce'—

"(A) has the meaning given the term in section 3 of the Toxic Substances Control Act (15 U.S.C. 2602); and

"(B) shall not include—

"(i) an action taken with respect to an asbestos containing product in connection with the end use of the asbestos containing product by a person that is an end user, or an action taken by a person who purchases or receives a product, directly or indirectly, from an end user; or

"(ii) distribution of an asbestos containing product by a person solely for the purpose of disposal of the asbestos containing product in compliance with applicable Federal, State, and local requirements.

"(b) IN GENERAL.—Subject to subsection (c), the Administrator shall promulgate—

"(1) not later than 1 year after the date of enactment of this chapter, proposed regulations that—

"(A) prohibit persons from manufacturing, processing, or distributing in commerce asbestos containing products; and

"(B) provide for implementation of subsections (c) and (d); and

"(2) not later than 2 years after the date of enactment of this chapter, final regulations that, effective 60 days after the date of promulgation, prohibit persons from manufacturing, processing, or distributing in commerce asbestos containing products.

"(c) EXEMPTIONS.—

"(1) IN GENERAL.—Any person may petition the Administrator for, and the Administrator may grant, an exemption from the requirements of subsection (b), if the Administrator determines that—

"(A) the exemption would not result in an unreasonable risk of injury to public health or the environment; and

"(B) the person has made good faith efforts to develop, but has been unable to develop, a substance, or identify a mineral that does not present an unreasonable risk of injury to public health or the environment and may be substituted for an asbestos containing product.

"(2) TERMS AND CONDITIONS.—An exemption granted under this subsection shall be in effect for such period (not to exceed 5 years) and subject to such terms and conditions as the Administrator may prescribe.

"(3) GOVERNMENTAL USE.—

"(A) IN GENERAL.—The Administrator of the Environmental Protection Agency shall provide an exemption from the requirements of subsection (b), without review or limit on duration, if such exemption for an asbestos containing product is—

"(i) sought by the Secretary of Defense and the Secretary certifies, and provides a copy of that certification to Congress, that—

"(I) use of the asbestos containing product is necessary to the critical functions of the Department;

"(II) no reasonable alternatives to the asbestos containing product exist for the intended purpose; and

"(III) use of the asbestos containing product will not result in an unreasonable risk to health or the environment; or

"(ii) sought by the Administrator of the National Aeronautics and Space Administration and the Administrator of the National Aeronautics and Space Administration certifies, and provides a copy of that certification to Congress, that—

"(I) the asbestos containing product is necessary to the critical functions of the National Aeronautics and Space Administration;

"(II) no reasonable alternatives to the asbestos containing product exist for the intended purpose; and

"(III) the use of the asbestos containing product will not result in an unreasonable risk to health or the environment.

"(B) ADMINISTRATIVE PROCEDURE ACT.—Any certification required under subparagraph (A) shall not be subject to chapter 5 of title 5, United States Code (commonly referred to as the 'Administrative Procedure Act').

"(4) SPECIFIC EXEMPTIONS.—The following are exempted:

"(A) Asbestos diaphragms for use in the manufacture of chlor-alkali and the products and derivative therefrom.

"(B) Roofing cements, coatings, and mastics utilizing asbestos that is totally encapsulated with asphalt, subject to a determination by the Administrator of the Environmental Protection Agency under paragraph (5).

"(5) ENVIRONMENTAL PROTECTION AGENCY REVIEW.—

"(A) REVIEW IN 18 MONTHS.—Not later than 18 months after the date of enactment of this chapter, the Administrator of the Environmental Protection Agency shall complete a review of the exemption for roofing cements, coatings, and mastics utilizing asbestos that are totally encapsulated with asphalt to determine whether—

"(i) the exemption would result in an unreasonable risk of injury to public health or the environment; and

"(ii) there are reasonable, commercial alternatives to the roofing cements, coatings, and mastics utilizing asbestos that is totally encapsulated with asphalt.

"(B) REVOCATION OF EXEMPTION.—Upon completion of the review, the Administrator of the Environmental Protection Agency shall have the authority to revoke the exemption for the products exempted under paragraph (4)(B), if warranted.

"(d) DISPOSAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 3 years after the date of enactment of this chapter, each person that possesses an asbestos containing product that is subject to the prohibition established under this section shall dispose of the asbestos containing product, by a means that is in compliance with applicable Federal, State, and local requirements.

"(2) EXEMPTION.—Nothing in paragraph (1)—

"(A) applies to an asbestos containing product that—

"(i) is no longer in the stream of commerce; or

"(ii) is in the possession of an end user or a person who purchases or receives an asbestos containing product directly or indirectly from an end user; or

"(B) requires that an asbestos containing product described in subparagraph (A) be removed or replaced.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. prec. 2601) is amended—

(1) by inserting before the item relating to section 201 the following:

"SUBTITLE A—GENERAL PROVISIONS";

and

(2) by adding at the end of the items relating to title II the following:

"SUBTITLE B—BAN OF ASBESTOS CONTAINING PRODUCTS

"Sec. 221. Ban of asbestos containing products.".

Mr. LEAHY. Mr. President, this day has been a long time in coming, and I am pleased to join the Chairman of the Judiciary Committee, Senator FEINSTEIN, and others in sponsoring bipartisan legislation to address the serious problem of asbestos-related disease. It is the product of years of difficult and conscientious craftsmanship and negotiation. Building on the Committee's work under Chairman HATCH, we have striven to bring a fair and efficient plan to the Congress, a plan that will ensure adequate compensation to the thousands of victims of asbestos exposure, but that also will give due consideration to the industries and the insurers that should, and will, provide that compensation. Our bipartisan legislation does that. Asbestos exposure has created a maze of arduous problems, and we have worked hard to produce a balanced bill that offers fair solutions.

Senator SPECTER, with whom I have worked so hard on this legislation, rightly calls this one of the most complex issues we have ever tackled. It is not the bill that I would have written, were I alone responsible for its drafting, nor is it the bill that Senator

SPECTER might have produced. Nor should anyone be surprised to hear that the interested groups—the labor organizations, the industrial participants in the trust fund, their insurers, the trial bar—are each less than pleased with some portion of the bill or another. That is the essence of legislative compromise: We have kept the ultimate goal of fair compensation to victims as the lodestar of our efforts, and we have all had to make sacrifices on a variety of subsidiary issues as we worked together to resolve this emergency. What we have achieved is important and a significant step toward a better, more efficient method to compensate asbestos victims.

Asbestos is among the most lethal substances ever to be widely used in the workplace. Between 1940 and 1980, more than 27.5 million workers were exposed to asbestos on the job, and nearly 19 million of them had high levels of exposure over long periods of time. We even know of family members who have suffered asbestos-related disease from washing the clothes of loved ones. The ravages of disease caused by asbestos have affected tens of thousands of American families. We need better health screening and swifter compensation for those affected. In light of the devastating damage it has wreaked, it is hard to believe that asbestos is still being used today, yet it is. This bill will change that as well, protect against yet another generation of victims.

The economic harm caused by asbestos is also real, and the bankruptcies that have resulted are a different kind of tragedy for everyone—for workers and retirees, for shareholders, and for the families that built these companies. In my home State of Vermont, the Rutland Fire and Clay Company is among the more than 70 companies to have declared bankruptcy.

As Chief Justice Rehnquist noted several years ago, "the elephantine mass of asbestos cases cries out for a legislative solution." *Ortiz* v. *Fibreboard Corp.*, 527 U.S. 815, 865 1999). In another Supreme Court opinion, Justice Ginsburg declared that "a nationwide administrative claims processing regime would provide the most secure, fair, and efficient means of compensating victims of asbestos exposure." *Amchem Products* v. *Windsor*, 521 U.S. 591, 628–29, 1997). I agree, the Chairman agrees, Senator FEINSTEIN agrees, and we hope that many others in the Senate will agree.

We are encouraged by the favorable reception that this bill has already generated from a wide array of interested parties. In the past week, I have received letters of support from the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW, the Veterans of Foreign Wars of the United States, VFW, the Asbestos Study Group, and others. The UAW notes in its April 13th letter, "[The Specter-Leahy Proposal] will provide more equitable, timely and certain compensation to the victims of asbestos-related disease." The VFW letter of April 14 declares: "The national trust fund that you are proposing offers our members who are sick and dying the opportunity to secure timely and fair compensation for the injury they suffered in the course of serving their country." The National Association of Manufacturers also released a statement expressing their hope that this legislation will engender broad support.

These statements in many ways tell the story of what we have already accomplished: We have drafted a bill that has garnered a favorable response from labor, manufacturers, and companies with considerable asbestos liabilities. We have worked on this legislation for several years now, and I can assure you that garnering this level of consensus has been no small feat. I ask unanimous consent that the text of these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UAW,
Washington, DC, April 13, 2005.

DEAR SENATOR: Senators Specter and Leahy recently put forward a compromise asbestos compensation proposal, and have indicated that they intend to introduce legislation incorporating this proposal early next week. The UAW supports the Specter-Leahy asbestos compensation proposal because we believe it will provide more equitable, timely and certain compensation to the victims of asbestos-related diseases.

There is widespread agreement that the current tort system fails miserably in compensating asbestos victims. There are often years of delay before victims receive any compensation. Awards to victims are highly unpredictable, with similarly situated individuals receiving vastly different amounts. Too often compensation goes disproportionately to the less sick at the expense of the most seriously ill victims. The transaction costs, including lawyers' fees, are very high and reduce the amounts received by victims. And even when victims are awarded substantial compensation by the courts, these judgments are often not collectable because the defendant companies have filed for bankruptcy, leaving the victims with little effective recourse.

The Specter-Leahy proposal would address these serious problems by replacing the current tort system with a national asbestos trust fund to compensate the victims of asbestos-related diseases. By creating a no-fault administrative system for process claims, this approach would provide victims with speedier compensation, while reducing the substantial lawyers' fees and other transaction costs in the current adversarial litigation system. By compensating victims pursuant to a fixed schedule of payments for specified disease levels, this approach would also provide predictable awards to individuals with similar illnesses, and ensure that the most compensation goes to the most seriously ill victims. Perhaps most importantly, by providing compensation through a national asbestos trust fund, this approach would ensure that victims will receive the full amount of their award regardless of whether a particular company had filed for bankruptcy.

The UAW is especially pleased that the Specter-Leahy proposal does not permit any subrogation against worker compensation or health care payments received by asbestos victims. This will ensure that awards are not largely offset by worker compensation or health care payments to which victims are otherwise entitled. In our judgment, the provisions barring any subrogation are essential to ensuring that victims receive adequate compensation.

The UAW also is pleased that the Specter-Leahy proposal establishes a mechanism for defendant companies and insurers to contribute to the national asbestos compensation fund, thereby spreading the costs of compensating victims across a broad section of the business and insurance community. We believe this broad-based, predictable financing mechanism is vastly preferable to the current tort system, which has driven most asbestos manufacturers into bankruptcy and is threatening the economic viability of many other companies that used products containing asbestos, thereby jeopardizing the jobs of tens of thousands of workers.

The Specter-Leahy proposal provides for reversion of asbestos claims to the tort system in the event the national asbestos trust fund does not have sufficient funds to pay all claims, or in the event the compensation system does not become operational quickly enough. Although the UAW hopes that these reversion provisions will never be triggered, we believe these provisions are essential to ensure that victims will always have some effective recourse for receiving compensation, and to give all stakeholders an incentive to help make the compensation system operate properly.

The UAW recognizes that the Specter-Leahy proposal represents a compromise that reflects countless hours of negotiations with the key stakeholders in this issue. We commend Senator Specter and Senator Leahy for their leadership and persistence in moving forward with efforts to fashion this compromise. We also understand that some issues are still under discussion as the Specter-Leahy proposal is translated into legislative language that will be introduced next week. We look forward to reviewing the final details of the legislation when it is available.

It is easy for critics who want to maintain the current tort system to point to flaws or shortcomings in the Specter-Leahy proposal. But the issue before the Senate is not whether this proposal is perfect or solves all problems. Rather, the issue is whether the Specter-Leahy proposal is better than the current tort system. The UAW believes that the answer to this question is clearly yes. In our judgment, the Specter-Leahy proposal will provide the victims of asbestos-related diseases with speedier, more equitable and more certain compensation than the current tort system. For this reason, we urge you to support the Specter-Leahy proposal when it is considered by the Senate.

Thank you for considering our views on this important issue.

Sincerely,

ALAN REUTHER,
Legislative Director.

APRIL 13, 2005.

Hon. PATRICK J. LEAHY,
Ranking Democratic Member, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: We are writing today to implore you not to forget about our

Nation's veterans as you continue your important work of fixing the broken asbestos litigation system. A lot has been written on this issue in the media recently. Yesterday, Senator Arlen Specter said he expects to formally introduce an asbestos victims compensation fund bill later this week. Even before Specter's announcement, some had raised questions about whether an asbestos victims compensation fund is the best solution to the asbestos crisis.

But the critics often overlook one crucial element: what is best for asbestos victims?

Clearly, the most important outcome for victims, many of whom are veterans dying as a result of asbestos exposure, is a system that provides timely, fair and certain compensation.

We believe the compensation fund approach is the only solution that will provide veterans suffering from asbestos-related illnesses with fair and certain compensation.

Asbestos has taken a heavy toll on our Nation's veterans. This dangerous substance was widely used by the military during and after World War II, particularly in insulation aboard U.S. Navy ships. Because of the long latency periods of asbestos-related diseases, many veterans are still being diagnosed today with life-threatening diseases that are the result of exposure that occurred during military service decades ago.

Veterans are in a unique situation in that we have virtually no avenue for compensation under the current system. Veterans with asbestos-related illnesses are prevented by law from seeking compensation from the U.S. government through the courts. Since most of the companies that supplied the U.S. military with asbestos are long gone, seeking relief from the suppliers is also a dead end.

Some have suggested that a medical criteria bill might provide a better solution to the asbestos problem. A medical criteria bill, however, will do little, if anything, to provide certainty for victims. And because it leaves asbestos claims in the courts, the medical criteria bill certainly wouldn't benefit veterans who are sick from asbestos. Under a medical criteria bill, the asbestos litigation system will remain unchanged for veterans.

The Senate Judiciary Committee shouldn't let special interests hijack veterans' only chance to receive the just compensation they deserve.

We urge the Senate Judiciary Committee to approve the asbestos victims compensation fund as quickly as possible and bring this critically important legislation to the floor. Our Nation's veterans deserve fair compensation—and nothing less.

Sincerely,

Veterans of Foreign Wars of the United States
Military Order of the Purple Heart
Blinded Veterans Association
Veterans of the Vietnam War, Inc.
Women in Military Service for America
Non Commissioned Officers Association
National Association for Uniformed Services
Paralyzed Veterans of America
Jewish War Veterans of the United States
Fleet Reserve Association
The Retired Enlisted Association
National Association of State Directors of Veterans Affairs
Military Officers Association of America
Marine Corps League
American Ex-Prisoners of War
National Association for Black Veterans, Inc.
Pearl Harbor Survivors Association.

ASBESTOS STUDY GROUP,
April 18, 2005.

Hon. ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN SPECTER: The Asbestos Study Group, a group of U.S. companies representing over 1.5 million workers, is greatly appreciative of the Chairman's tireless efforts in working with all interested Senators and private stakeholders to reach a bipartisan consensus that can bring a much needed solution to the Nation's asbestos litigation crisis. We are very pleased and encouraged that the revised April 12th draft has earned bipartisan support. We believe it brings us considerably closer to a long-overdue resolution. While our analysis of the new draft is continuing, we look forward to working with the Chairman and other Senators to obtain final passage of this critically important legislation as soon as possible.

In the last two decades Congress has debated asbestos litigation reform, the opportunity now before us represents our best chance for success. Too much progress has been made and too much is at stake for our Nation to miss this unique opportunity to finally solve the asbestos problem.

Thank you for your continuing leadership and commitment to this critically important issue.

Sincerely,

BARRY B. DIRENFELD,
Counsel, Asbestos Study Group.

[From the National Association of Manufacturers, April 14, 2005]

ENGLER STATEMENT ON SENATOR SPECTER'S LATEST ASBESTOS BILL LANGUAGE DRAFT

WASHINGTON, D.C.—National Association of Manufacturers President John Engler today issued this statement in support of Senator Arlen Specter's (R-PA) ongoing effort to end America's asbestos litigation crisis:

"Manufacturers and the business community more broadly are grateful to Chairman Specter for the energy and determination he has shown in working to craft a legislative solution to our Nation's economy-sapping problem with asbestos litigation.

"The comprehensive Specter draft is now being reviewed by the NAM and the members of the Asbestos Alliance. Since the draft has already earned bipartisan support in the Senate, we are hopeful it will engender similarly broad support in the nationwide business community. When our review and those of our Asbestos Alliance colleagues are complete, we hope a solution will finally be at hand.

"There is much to like in the Chairman's draft, I'm encouraged by the renewed commitment on both sides of the aisle, and I am more hopeful about prospects for consensus than I have been in weeks.

"We look forward to working with Chairman Specter and other Senators toward final passage of a bill that fairly resolves compensation problems and ends the scandal of asbestos lawsuit abuse once and for all."

Mr. LEAHY. The bipartisan efforts of the last 2 years have been productive. With the help of Judge Edward Becker, the primary stakeholders have worked diligently and as a result we have reached a compromise agreement on a national trust fund that will fairly compensate victims of asbestos exposure. With the Chairman's leadership, the disparate interests have reached consensus on many issues such as overall funding of $140 billion and a streamlined administrative process within the Department of Labor. Compensation will be awarded and paid outside of the court system through a simplified administrative claims process. There is no need to prove liability or identify a particular defendant. There is, instead, a claims process wherein all those who exhibit certain medical symptoms and evidence of disease are compensated.

Last Congress I was disappointed by the bill reported by the Judiciary Committee and by the partisan bill, S. 2290, that was subsequently introduced as a substitute for that legislation. As compared to those efforts, our bipartisan bill includes significant and necessary improvements: Our bill provides higher compensation awards for victims, with $1.1 million for victims of mesothelioma, $300,000 to $1.1 million for lung cancer victims, $200,000 for victims of other cancers caused by asbestos, $100,000 to $850,000 for asbestosis, and $25,000 for what we call "mixed disease cases." All likely asbestos victims are eligible for medical monitoring, and unlike last year's bills, this bill provides for medical screening for high-risk workers, a relatively low-cost way to help make sure that those most likely to be harmed are diagnosed.

Another essential improvement is the important provision ensuring that victims' awards under the new trust fund will not be subject to subrogation by insurance companies. This means that victims will not have to give up any of their much-deserved compensation just because they received workers' compensation or other insurance benefits in the past. The initial funding of this trust is both more realistic and more substantial than the partisan bill from the last Congress, providing for almost $43 billion of the total $140 billion in the first five years. And unlike the earlier bill, this bill ensures that the contributors into the fund will be a matter of public record, as are their obligations to the fund. Our bill also guarantees that court cases that are well under way, and certainly those that have reached judgment, will not be upset by the new trust fund. Similarly, last year's bill would also have overridden all civil settlements that had any remaining conduct outstanding. Our bipartisan asbestos bill protects those settlements between named defendants and named victims, and also protects settlements that provide for health insurance or health care.

There are other improvements to the trust fund plan over last year's effort. The previous legislation provided no incentive for the fund to start processing claims. The Specter-Leahy-Feinstein bill creates an incentive for the fund to begin processing claims quickly: If it is not operational within 9 months, the sickest victims will be able to return to the tort system. If the fund is not operational within 24 months, all victims can return to the tort system.

In improving the way the asbestos legislation handles exigent claims—those victims who are sickest and may not have long to live—Senator FEINSTEIN was instrumental in developing a creative solution. I thank the senior Senator from California for her tireless efforts on behalf of sick and dying asbestos victims. These victims should not be forced to wait a year while this new trust fund gets organized and ready to process claims. Under Senator FEINSTEIN's approach, which we adopted, exigent cases would receive an immediate lump-sum payment, and, as I noted earlier, if the fund is not operational in nine months, these sickest victims will be able to continue their cases in court.

As part of this compromise legislation, a particular class of lung cancer sufferers, those who have had significant asbestos exposure but no markings of asbestos-related disease, are not treated as compensable victims for purposes of the asbestos trust fund. Because of the absence of markings, it is not possible to establish asbestos as the cause of their disease. If they develop markings, however, they will become eligible for compensation from the asbestos trust fund. As with many other administrative claims processes, this bill sets a limit on attorneys' fee. In connection with this asbestos fund, the limit is set at 5 percent on victims' awards within the fund. In addition, in order to prevent victims of asbestos exposure from retooling their complaints to circumvent the asbestos trust fund, the bill also imposes a higher burden of proof within the tort system for plaintiffs seeking damages resulting from exposure to silica.

The problems we are addressing are complex, this bill necessarily reflects these complexities, and its drafting was not easy. The compromises we had to make were difficult but necessary to ensure that we created a trust fund that would provide adequate compensation to the thousands of workers who have suffered, and continue to suffer, the devastating health effect of asbestos. The history of asbestos use in our country must come to an end. Under a provision authored by Senator MURRAY that we have included, which was accepted during the last Congress by the Judiciary Committee, this bill will ban its use. We must halt the harm asbestos creates, and ameliorate the harm it has already caused. The industrial and insurer participants in the trust fund will gain the benefits of financial certainty and relief from the stresses of litigation in the tort system, and the victims will have a quicker and more efficient path to recovery.

I thank Chairman SPECTER, Senator FEINSTEIN and others for working so hard with me on this bipartisan legislation. I urge Senators to support this compromise legislation to, at long last, help solve the asbestos problem by providing fair compensation to victims of asbestos exposure.

I think of the staffs who have worked so diligently on this. On my staff, I single out Ed Pagano, who was a lead counsel of the Democrats, along with Kristine Lucius on our side. On Senator SPECTER's side, we were helped so much by Seema Singh.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 113—EXPRESSING SUPPORT FOR THE INTERNATIONAL HOME FURNISHINGS MARKET IN HIGH POINT, NORTH CAROLINA

Mrs. DOLE (for herself and Mr. BURR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 113

Whereas the International Home Furnishings Market in High Point, North Carolina (commonly known as the "High Point Market") is the largest home furnishings industry trade show of its kind in the world;

Whereas the High Point Market takes place every April and October, and is the largest event in North Carolina, attended by more people for a longer period of time over a larger area than any other event in the State;

Whereas an average of 70,000 manufacturers, exhibitors, sales representatives, retail buyers, interior designers, architects, support personnel, suppliers, and news media attend the High Point Market each April and October;

Whereas people from all 50 States and more than 100 foreign countries attend the High Point Market;

Whereas the High Point Market attracts an average of 2,500 exhibitors from around the world, with international exhibitors constituting more than 10 percent of the exhibitors at the event;

Whereas the exhibits at the High Point Market encompass a wide variety of finished products, including case goods (wood furniture), upholstery, accessories, lighting, bedding, and rugs;

Whereas the High Point Market has more than 11,500,000 square feet of permanent showroom space in more than 180 separate buildings in High Point and Thomasville, North Carolina;

Whereas the High Point Market brings $1,140,000,000 and more than 13,000 jobs to North Carolina annually, and creates a significant, lasting, and positive economic impact on a State in which the manufacturing economy is declining due to offshore production;

Whereas the Federal Government has invested in the High Point Market by providing funding to help meet critical transportation infrastructure needs; and

Whereas the High Point Market is a vital engine for economic growth for North Carolina, especially for the region commonly known as the Triad Region: Now, therefore, be it

Resolved, That the Senate—

(1) expresses support for the International Home Furnishings Market in High Point, North Carolina;

(2) commends those who organize and participate in the International Home Furnishings Market for their contributions to economic growth and vitality in North Carolina; and

(3) recognizes that the International Home Furnishings Market has a positive economic impact on North Carolina and is vital to a region and State adversely affected by a decline in traditional manufacturing.

AMENDMENTS SUBMITTED AND PROPOSED

SA 538. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 539. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 540. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 541. Mr. KYL submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 542. Mr. KYL submitted an amendment intended to be proposed to amendment SA 387 proposed by Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr . REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 543. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 544. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 432 proposed by Mr. CHAMBLISS (for himself and Mr. KYL) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 545. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 546. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 547. Mr. COCHRAN (for Mr. BOND) proposed an amendment to the bill H.R. 1268, supra.

SA 548. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 549. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 475 submitted by Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 550. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 551. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 439 submitted by Mr. CRAIG (for himself and Mr. AKAKA) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 552. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 475 submitted by Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 553. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 554. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 555. Mr. KYL submitted an amendment intended to be proposed to amendment SA 387 proposed by Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) to the bill H.R. 1268, supra.

SA 556. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 557. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 530 submitted by Mr. DOMENICI and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 558. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 529 submitted by Mr. DOMENICI and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 559. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 437 submitted by Mr. ROCKEFELLER and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 560. Mr. COCHRAN (for Mr. SHELBY (for himself, Mr. KENNEDY, Mr. DURBIN, and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, supra.

SA 561. Mr. COCHRAN (for Mr. REID) proposed an amendment to the bill H.R. 1268, supra.

SA 562. Mr. COCHRAN (for Mr. REID) proposed an amendment to the bill H.R. 1268, supra.

TEXT OF AMENDMENTS

SA 538. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike line 1 and all that follows through page 35, line 23.

SA 539. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 58, strike line 10 and all that follows through page 65, line 21, and insert the following:

"(3) REQUIRED WAGES.—

"(A) IN GENERAL.—An employer applying for workers shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less than the prevailing wage.

"(B) INFORMATION FROM STATES.—In complying with subparagraph (A), an employer may request and obtain a prevailing wage determination from the State employment security agency.

"(C) INFORMATION FROM SURVEYS.—In lieu of the procedure described in subparagraph (B), an employer may rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of intended employment that has been conducted or funded by the employer or a group of employers, that meets criteria specified by the Secretary of Labor in regulations.

"(D) COMPLIANCE.—An employer who obtains such prevailing wage determination, or who relies on a qualifying survey of prevailing wages, and who pays the wage determined to be prevailing, shall be considered to have complied with the requirement of subparagraph (A).

"(E) MINIMUM WAGES.—No worker shall be paid less than the greater of the prevailing wage or the applicable State minimum wage.

SA 540. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 5, strike "not".

SA 541. Mr. KYL submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 13, strike line 4 and all that follows through page 35, line 23, and insert the following:

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Secretary shall provide that applications for temporary resident status under subsection (a) may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary.

(B) PRELIMINARY APPLICATIONS.—

(i) IN GENERAL.—During the application period described in subsection (a)(1)(B), the Secretary may grant admission to the United States as a temporary resident and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a preliminary application for such status under subsection (a) at a designated port of entry on the southern land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(ii) DEFINITION.—For purposes of clause (i), the term "preliminary application" means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.

(iii) ELIGIBILITY.—An applicant under clause (i) shall otherwise be admissible to the United States under subsection (e)(2) and shall establish to the satisfaction of the examining officer during an interview that the applicant's claim to eligibility for temporary resident status is credible.

(C) TRAVEL DOCUMENTATION.—The Secretary shall provide each alien granted status under this section with a counterfeit-resistant document of authorization to enter or reenter the United States that meets the requirements established by the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89-732, Public Law 95-145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this Act as "qualified designated entities".

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsection (a); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the "Agricultural Worker Immigration Status Adjustment Account". Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the "Agricultural Worker Immigration Status Adjustment Account" shall remain available to the Secretary until expended for processing applications for status under subsection (a).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for temporary resident status under subsection (a) (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for temporary resident status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for temporary resident status under subsection (a) during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) Regulations.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) Effective Date.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section $40,000,000 for each of fiscal years 2006 through 2009.

SEC. 712. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) In General.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking "or" at the end;

(2) in subparagraph (C), by inserting "or" at the end;

(3) by inserting after subparagraph (C) the following:

"(D) who is granted status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2005,"; and

(4) by striking "1990." and inserting "1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted lawful temporary resident status.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of enactment of this Act.

SA 542. Mr. KYL submitted an amendment intended to be proposed to amendment SA 387 proposed by Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 5 through 11, and insert the following:

"(9)(A) Subject to subparagraphs (B) and (C), an alien counted toward the numerical limitations of paragraph (1)(B) during any 1 of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved.

"(B) A petition referred to in subparagraph (A) shall include, with respect to an alien—

"(i) the full name of the alien; and

"(ii) a certification to the Department of Homeland Security that the alien is a returning worker.

"(C) An H–2B petition for a returning worker shall be approved only if the name of the individual on the petition is confirmed by—

"(i) the Department of State; or

"(ii) if the alien is visa exempt, the Department of Homeland Security.".

SA 543. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADJUSTMENT OF STATUS.

(a) Adjustment of Status.—

(1) In general.—

(A) Eligibility.—The Secretary of Homeland Security (referred to in this section as the "Secretary") shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence, if the alien—

(i) applies for adjustment before April 1, 2007; and

(ii) is otherwise eligible to receive an immigrant visa and admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) Ineligible aliens.—An alien shall not be eligible for adjustment of status under this section if the Secretary finds that the alien has been convicted of—

(i) any aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)); or

(ii) 2 or more crimes involving moral turpitude.

(2) Relationship of application to certain orders.—

(A) In general.—An alien present in the United States who has been ordered excluded, deported, removed, or to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1) if otherwise qualified under that paragraph.

(B) Separate motion not required.—An alien described in subparagraph (A) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the order described in subparagraph (A).

(C) Effect of decision by secretary.—If the Secretary grants the application, the Secretary shall cancel the order. If the Secretary makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) Aliens Eligible for Adjustment of Status.—

(1) In general.—The benefits provided under subsection (a) shall apply to any alien—

(A) who is—

(i) a national of Liberia; and

(ii) has been continuously present in the United States from January 1, 2005, through the date of application under subsection (a); or

(B) who is the spouse, child, or unmarried son or daughter of an alien described in subparagraph (A).

(2) Determination of continuous physical presence.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1), an alien shall not be considered to have failed to maintain continuous physical presence by reasons of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) Stay of Removal.—

(1) In general.—The Secretary shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) During certain proceedings.—Notwithstanding any provision in the Immigration and Nationality Act, the Secretary shall not order an alien to be removed from the United States if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has made a final determination to deny the application.

(3) Work authorization.—

(A) In general.—The Secretary may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment.

(B) Pending applications.—If an application under subsection (a) is pending for a period exceeding 180 days and has not been denied, the Secretary shall authorize such employment.

(d) Record of Permanent Residence.—Upon approval of an alien's application for adjustment of status under subsection (a), the Secretary shall establish a record of the alien's admission for permanent record as of the date of the alien's arrival in the United States.

(e) Availability of Administrative Review.—The Secretary shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) Limitation on Judicial Review.—A determination by the Secretary as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—If an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—

(1) DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in this section.

(2) SAVINGS PROVISION.—Nothing in this section shall be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, function, or authority of the Secretary in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

(3) EFFECT OF ELIGIBILITY FOR ADJUSTMENT OF STATUS.—Eligibility to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude an alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

SA 544. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 432 proposed by Mr. CHAMBLISS (for himself and Mr. KYL) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADJUSTMENT OF STATUS.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—

(A) ELIGIBILITY.—The Secretary of Homeland Security (referred to in this section as the "Secretary") shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence, if the alien—

(i) applies for adjustment before April 1, 2007; and

(ii) is otherwise eligible to receive an immigrant visa and admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) INELIGIBLE ALIENS.—An alien shall not be eligible for adjustment of status under this section if the Secretary finds that the alien has been convicted of—

(i) any aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)); or

(ii) 2 or more crimes involving moral turpitude.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) IN GENERAL.—An alien present in the United States who has been ordered excluded, deported, removed, or to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1) if otherwise qualified under that paragraph.

(B) SEPARATE MOTION NOT REQUIRED.—An alien described in subparagraph (A) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the order described in subparagraph (A).

(C) EFFECT OF DECISION BY SECRETARY.—If the Secretary grants the application, the Secretary shall cancel the order. If the Secretary makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The benefits provided under subsection (a) shall apply to any alien—

(A) who is—

(i) a national of Liberia; and

(ii) has been continuously present in the United States from January 1, 2005, through the date of application under subsection (a); or

(B) who is the spouse, child, or unmarried son or daughter of an alien described in subparagraph (A).

(2) DETERMINATION OF CONTINUOUS PHYSICAL PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1), an alien shall not be considered to have failed to maintain continuous physical presence by reasons of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Secretary shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision in the Immigration and Nationality Act, the Secretary shall not order an alien to be removed from the United States if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has made a final determination to deny the application.

(3) WORK AUTHORIZATION.—

(A) IN GENERAL.—The Secretary may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment.

(B) PENDING APPLICATIONS.—If an application under subsection (a) is pending for a period exceeding 180 days and has not been denied, the Secretary shall authorize such employment.

(d) RECORD OF PERMANENT RESIDENCE.—Upon approval of an alien's application for adjustment of status under subsection (a), the Secretary shall establish a record of the alien's admission for permanent record as of the date of the alien's arrival in the United States.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Secretary as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—If an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—

(1) DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in this section.

(2) SAVINGS PROVISION.—Nothing in this section shall be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, function, or authority of the Secretary in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

(3) EFFECT OF ELIGIBILITY FOR ADJUSTMENT OF STATUS.—Eligibility to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude an alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

SA 545. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike "At the appropriate place," and insert "On page 204, between lines 4 and 5,".

On page 2, strike lines 1 through 11 and insert the following:

CHAPTER 5

DEPARTMENT OF DEFENSE

OPERATIONS AND MAINTENANCE

(a) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency repair of the Fern Ridge Dam, Oregon, $31,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency work on the Los Angeles-Long Beach Harbor, Mojave River Dam, Port San Luis, and Santa Barbara Harbor, $7,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(c) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency construction at Lower Santa Ana River Reaches 1 and 2 of the Santa Ana River Project, Prado Dam of the Santa Ana River Project, San Timoteo of the Santa Ana River Project, Murrieta Creek, and Santa Paula Creek, $12,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(d) The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Secretary of the Army to carry out the project at a total cost of $222,000,000.

(e) The Secretary of the Army, acting through the Chief of Engineers, shall use any funds appropriated to the Secretary pursuant to this Act to repair, restore, and maintain projects and facilities of the Corps of Engineers, including by dredging navigation channels, cleaning area streams, providing emergency streambank protection, restoring such public infrastructure as the Secretary determines to be necessary (including sewer and water facilities), conducting studies of the impacts of floods, and providing such flood relief as the Secretary determines to be appropriate: *Provided*, That of those funds, $32,000,000 shall be used by the Secretary for the Upper Peninsula, Michigan.

SA 546. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268. Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

TITLE VII—TEMPORARY AGRICULTURAL WORKERS

SEC. 701. SHORT TITLE.

This title may be cited as the "Temporary Agricultural Work Reform Act of 2005".

Subtitle A—Temporary H–2A Workers

SEC. 711. ADMISSION OF TEMPORARY H–2A WORKERS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

"ADMISSION OF TEMPORARY H–2A WORKERS

"SEC. 218. (a) APPLICATION.—An alien may not be admitted as an H–2A worker unless the employer has filed with the Secretary of Homeland Security a petition attesting to the following:

"(1) TEMPORARY OR SEASONAL WORK OR SERVICES.—

"(A) IN GENERAL.—The agricultural employment for which the H–2A worker or workers is or are sought is temporary or seasonal, the number of workers sought, and the wage rate and conditions under which they will be employed.

"(B) TEMPORARY OR SEASONAL WORK.—For purposes of subparagraph (A), a worker is employed on a 'temporary' or 'seasonal' basis if the employment is intended not to exceed 10 months.

"(2) BENEFITS, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (m) to all workers employed in the jobs for which the H–2A worker or workers is or are sought and to all other temporary workers in the same occupation at the place of employment.

"(3) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and during a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

"(4) RECRUITMENT.—

"(A) IN GENERAL.—The employer shall attest that the employer—

"(i) conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation; and

"(ii) was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought.

"(B) RECRUITMENT.—The adequate recruitment requirement under subparagraph (A) is satisfied if the employer—

"(i) places a job order with America's Job Bank Program of the Department of Labor; and

"(ii) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the area of intended employment.

"(C) ADVERTISEMENT CRITERIA.—The advertisement requirement under subparagraph (B)(ii) is satisfied if the advertisement—

"(i) names the employer;

"(ii) directs applicants to report or send resumes, as appropriate for the occupation, to the employer;

"(iii) provides a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

"(iv) describes the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

"(v) states the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

"(vi) offers wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

"(5) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the nonimmigrant is, or the nonimmigrants are, sought to any eligible United States worker who applies and is equally or better qualified for the job and who will be available at the time and place of need.

"(6) PROVISION OF INSURANCE.—If the job for which the nonimmigrant is, or the nonimmigrants are, sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(7) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(8) PREVIOUS VIOLATIONS.—The employer has not, during the previous 5-year period, employed H–2A workers and knowingly violated a material term or condition of approval with respect to the employment of domestic or nonimmigrant workers, as determined by the Secretary of Labor after notice and opportunity for a hearing.

"(b) PUBLICATION.—The employer shall make available for public examination, within 1 working day after the date on which a petition under this section is filed, at the employer's principal place of business or worksite, a copy of each such petition (and such accompanying documents as are necessary).

"(c) LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer) of the petitions filed under subsection (a). Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for public examination in Washington, District of Columbia.

"(d) SPECIAL RULES FOR CONSIDERATION OF PETITIONS.—The following rules shall apply in the case of the filing and consideration of a petition under subsection (a):

"(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Homeland Security may not require that the petition be filed more than 28 days before the first date the employer requires the labor or services of the H–2A worker or workers.

"(2) ISSUANCE OF APPROVAL.—Unless the Secretary of Homeland Security finds that the petition is incomplete or obviously inaccurate, the Secretary of Homeland Security shall provide a decision within 7 days of the date of the filing of the petition.

"(e) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to hire an alien as a temporary agricultural worker may be filed by an association of agricultural producers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the petition was approved.

"(3) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under this section of an employer who places an H–2A worker with another H–2A employer if the other employer displaces a United States worker in violation of the condition described in subsection (a)(7).

"(4) TREATMENT OF VIOLATIONS.—

"(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER

MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that is in violation of the conditions for approval with respect to the member's petition, the denial shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or had reason to know of the violation.

"(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

"(i) JOINT EMPLOYER.—If an association representing agricultural producers as a joint employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, the denial shall apply only to the association and does not apply to any individual producer member of the association, unless the Secretary of Labor determines that the member participated in, had knowledge of, or had reason to know of the violation.

"(ii) SOLE EMPLOYER.—If an association of agricultural producers approved as a sole employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied approval during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

"(f) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—Regulations shall provide for an expedited procedure for the review of a denial of approval under this section, or at the applicant's request, for a de novo administrative hearing respecting the denial.

"(g) MISCELLANEOUS PROVISIONS.—

"(1) ENDORSEMENT OF DOCUMENTS.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii)(a) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) PREEMPTION OF STATE LAWS.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

"(3) FEES.—

"(A) IN GENERAL.—The Secretary of Homeland Security may require, as a condition of approving the petition, the payment of a fee in accordance with subparagraph (B) to recover the reasonable costs of processing petitions.

"(B) AMOUNTS.—

"(i) EMPLOYER.—The fee for each employer that receives a temporary alien agricultural labor certification shall be equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000.

"(ii) JOINT EMPLOYER ASSOCIATION.—In the case of a joint employer association that receives a temporary alien agricultural labor certification, each employer-member receiving such certification shall pay a fee equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000. The joint employer association shall not be charged a separate fee.

"(C) PAYMENTS.—The fees collected under this paragraph shall be paid by check or money order made payable to the 'Department of Homeland Security'. In the case of employers of H–2A workers that are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the petition may be paid by 1 check or money order.

"(D) INFLATION ADJUSTMENT.—In the case of any calendar year beginning after 2005, each dollar amount in subparagraph (B) may be increased by an amount equal to—

"(i) such dollar amount; multiplied by

"(ii) the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2004.

"(h) FAILURE TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of subsection (a), or a material misrepresentation of fact in a petition under subsection (a)—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 1 year.

"(i) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a)—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 2 years;

"(3) for a second violation, the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 5 years; and

"(4) for a third violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers.

"(j) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (a) or during the period of 30 days preceding such period of employment—

"(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate;

"(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 5 years; and

"(3) for a second violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers.

"(k) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to a petition under subsection (a) in excess of $90,000.

"(l) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment required under subsection (a)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under subsection (a)(2) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

"(m) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—

"(1) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—

"(A) IN GENERAL.—Employers seeking to hire United States workers shall offer the United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

"(B) INTERPRETATIONS AND DETERMINATIONS.—While benefits, wages, and other terms and conditions of employment specified in this subsection are required to be provided in connection with employment under this section, every interpretation and determination made under this Act or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made in conformance with the governing principles that the services of workers to their employers and the employment opportunities afforded to workers by their employers, including those employment opportunities that require United States workers or H–2A workers to travel or relocate in order to accept or perform employment, mutually benefit such workers, as well as their families, and employers, principally benefitting neither, and that employment opportunities within the United States further benefit the United States economy as a whole and should be encouraged.

"(2) REQUIRED WAGES.—

"(A) An employer applying for workers under subsection (a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less than the prevailing wage.

"(B) In complying with subparagraph (A), an employer may request and obtain a prevailing wage determination from the State employment security agency.

"(C) In lieu of the procedure described in subparagraph (B), an employer may rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of intended employment that has been conducted or funded by the employer or a group of employers, that meets criteria specified by the Secretary of Labor in regulations.

"(D) An employer who obtains such prevailing wage determination, or who relies on a qualifying survey of prevailing wages, and who pays the wage determined to be prevailing, shall be considered to have complied with the requirement of subparagraph (A).

"(E) No worker shall be paid less than the greater of the prevailing wage or the applicable State minimum wage.

"(3) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

"(A) IN GENERAL.—An employer applying for workers under subsection (a) shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

"(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing, or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable State or local standards, Federal temporary labor camp standards shall apply.

"(C) CERTIFICATE OF INSPECTION.—Prior to any occupation by a worker in housing described in subparagraph (B), the employer shall submit a certificate of inspection by an approved Federal or State agency to the Secretary of Labor.

"(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

"(F) HOUSING ALLOWANCE AS ALTERNATIVE.—

"(i) IN GENERAL.—The employer may provide a reasonable housing allowance in lieu of offering housing under subparagraph (A) if the requirement under clause (v) is satisfied.

"(ii) ASSISTANCE TO LOCATE HOUSING.—Upon the request of a worker seeking assistance in locating housing, the employer shall make a good-faith effort to assist the worker in locating housing in the area of intended employment.

"(iii) LIMITATION.—A housing allowance may not be used for housing which is owned or controlled by the employer. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

"(iv) REPORTING REQUIREMENT.—The employer must provide the Secretary of Labor with a list of the names of all workers assisted under this subparagraph and the local address of each such worker.

"(v) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

"(vi) AMOUNT OF ALLOWANCE.—

"(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

"(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

"(G) EXEMPTION.—An employer applying for workers under subsection (a) whose primary job site is located 150 miles or less from the United States border shall not be required to provide housing or a housing allowance.

"(4) REIMBURSEMENT OF TRANSPORTATION.—

"(A) TO PLACE OF EMPLOYMENT.—

"(i) IN GENERAL.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, measured from the worker's first day of work in such employment, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment by the employer.

"(ii) OTHER FEES.—The employer shall not be required to reimburse visa, passport, consular, or international border-crossing fees or any other fees associated with the worker's lawful admission into the United States to perform employment that may be incurred by the worker.

"(iii) TIMELY REIMBURSEMENT.—Reimbursement to the worker of expenses for the cost of the worker's transportation and subsistence to the place of employment shall be considered timely if such reimbursement is made not later than the worker's first regular payday after the worker completes 50 percent of the period of employment of the job opportunity as provided under this paragraph.

"(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer.

"(C) LIMITATION.—

"(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

"(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

"(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

"(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less or if the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (3).

"(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (5)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

"(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters (such as housing provided by the employer pursuant to paragraph (3), including housing provided through a housing allowance) and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

"(5) GUARANTEE OF EMPLOYMENT.—

"(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least 75 percent of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this subparagraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

"(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

"(C) ABANDONMENT OF EMPLOYMENT; TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in subparagraph (A).

"(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster (including a flood, hurricane, freeze, earthquake, fire, or drought), plant or animal disease, pest infestation, or regulatory action, before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker.

"(n) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker must file a petition with the Secretary of Homeland Security. The petition shall include the attestations for the certification described in section 101(a)(15)(H)(ii)(a).

"(o) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary of Homeland Security—

"(1) shall establish a procedure for expedited adjudication of petitions filed under subsection (n); and

"(2) not later than 7 working days after such filing shall, by fax, cable, or other means assuring expedited delivery transmit a copy of notice of action on the petition—

"(A) to the petitioner; and

"(B) in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate where the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States.

"(p) DISQUALIFICATION.—

"(1) Subject to paragraph (2), an alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years, violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission.

"(2) WAIVERS.—

"(A) IN GENERAL.—An alien outside the United States, and seeking admission under section 101(a)(15)(H)(ii)(a), shall not be deemed inadmissible under such section by reason of paragraph (1) or section 212(a)(9)(B) if the previous violation occurred on or before April 1, 2005.

"(B) LIMITATION.—In any case in which an alien is admitted to the United States upon having a ground of inadmissibility waived under subparagraph (A), such waiver shall be considered to remain in effect unless the alien again violates a material provision of this section or otherwise violates a term or condition of admission into the United States as a nonimmigrant, in which case such waiver shall terminate.

"(q) ABANDONMENT OF EMPLOYMENT.—

"(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(2) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Secretary of Homeland Security within 7 days of an H–2A worker's having prematurely abandoned employment.

"(3) REMOVAL BY THE SECRETARY.—The Secretary of Homeland Security shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

"(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

"(r) REPLACEMENT OF ALIEN.—

"(1) IN GENERAL.—Upon presentation of the notice to the Secretary of Homeland Security required by subsection (q)(2), the Secretary of State shall promptly issue a visa to, and the Secretary of Homeland Security shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker who abandons or prematurely terminates employment.

"(2) CONSTRUCTION.—Nothing in this subsection shall limit any preference required to be accorded United States workers under any other provision of this Act.

"(s) IDENTIFICATION DOCUMENT.—

"(1) IN GENERAL.—The Department of Homeland Security shall provide each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) with a single machine-readable, tamper-resistant, and counterfeit-resistant document that—

"(A) authorizes the alien's entry into the United States; and

"(B) serves, for the appropriate period, as an employment eligibility document.

"(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

"(A) The document shall be capable of reliably determining whether—

"(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

"(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

"(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

"(B) The document shall—

"(i) be compatible with other databases of the Secretary of Homeland Security for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

"(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(t) EXTENSION OF STAY OF H–2A WORKERS IN THE UNITED STATES.—

"(1) EXTENSION OF STAY.—

"(A) IN GENERAL.—An employer may seek up to 2 10-month extensions under this subsection.

"(B) PETITION.—If an employer seeks to employ an H–2A worker who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (n) shall request an extension of the alien's stay.

"(C) COMMENCEMENT; MAXIMUM PERIOD.—An extension of stay under this subsection—

"(i) may only commence upon the termination of the H–2A worker's contract with an employer; and

"(ii) may not exceed 10 months unless the employer files a written request for up to an additional 30 days accompanied by justification that the need for such additional time is necessitated by adverse weather conditions, acts of God, or economic hardship beyond the control of the employer.

"(D) FUTURE ELIGIBILITY.—At the conclusion of 3 10-month employment periods authorized under this section, the alien so employed may not be employed in the United States as an H–2A worker until the alien has returned to the alien's country of nationality or country of last residence for not less than 6 months.

"(2) WORK AUTHORIZATION UPON FILING PETITION FOR EXTENSION OF STAY.—

"(A) IN GENERAL.—An alien who is lawfully present in the United States may commence or continue the employment described in a petition under paragraph (1) on the date on which the petition is filed. The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document, as evidence that the petition has been filed and that the alien is authorized to work in the United States.

"(B) APPROVAL.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary of Homeland Security shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

"(C) DEFINITION.—In this paragraph, the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

"(u) SPECIAL RULE FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOATHERDERS, OR DAIRY WORKERS.—Notwithstanding any other provision of this section, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goatherder, or dairy worker may be admitted for a period of up to 2 years.

"(v) DEFINITIONS.—For purposes of this section:

"(1) AREA OF EMPLOYMENT.—The term 'area of employment' means the area within normal commuting distance of the worksite or physical location where the work of the H–2A worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to that employment.

"(3) DISPLACE.—In the case of a petition with respect to 1 or more H–2A workers by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the H–2A worker or workers is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

"(4) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

"(5) LAYS OFF.—

"(A) IN GENERAL.—The term 'lays off', with respect to a worker—

"(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (3) or (7) of subsection (a); but

"(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under subsection (a)(7), with either employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(B) CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(6) PREVAILING WAGE.—The term 'prevailing wage' means, with respect to an agricultural occupation in an area of intended employment, the rate of wages that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing method of pay for the occupation in the area of intended employment.

"(7) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

"(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

"(B) an alien provided status under section 220.".

SEC. 712. LEGAL ASSISTANCE PROVIDED BY THE LEGAL SERVICES CORPORATION.

Section 305 of the Immigrant Reform and Control Act of 1986 (8 U.S.C. 1101 note) is amended—

(1) by striking "A nonimmigrant" and inserting the following:

"(a) IN GENERAL.—A nonimmigrant"; and

(2) by adding at the end the following:

"(b) LEGAL ASSISTANCE.—The Legal Services Corporation may not provide legal assistance for or on behalf of any alien, and may not provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien—

"(1) is present in the United States at the time the legal assistance is provided; and

"(2) is an alien to whom subsection (a) applies."

"(c) REQUIRED MEDIATION.—No party may bring a civil action for damages on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) or pursuant to those in the Blue Card Program established under section 220 of such Act, unless at least 90 days before bringing the action a request has been made to the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute and mediation has been attempted.".

Subtitle B—Blue Card Status

SEC. 721. BLUE CARD PROGRAM.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

"BLUE CARD PROGRAM

"SEC. 220. (a) DEFINITIONS.—As used in this section—

"(1) the term 'agricultural employment'—

"(A) means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986; and

"(B) includes any service or activity described in—

"(i) title 37, 37–3011, or 37–3012 (relating to landscaping) of the Department of Labor 2004-2005 Occupational Information Network Handbook;

"(ii) title 45 (relating to farming fishing, and forestry) of such handbook; or

"(iii) title 51, 51-3022, or 51-3023 (relating to meat, poultry, fish processors and packers) of such handbook.

"(2) the term 'blue card status' means the status of an alien who has been—

"(A) lawfully admitted for a temporary period under subsection (b); and

"(B) issued a tamper-resistant, machine-readable document that serves as the alien's visa, employment authorization, and travel documentation and contains such biometrics as are required by the Secretary;

"(3) the term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment;

"(4) the term 'Secretary' means the Secretary of Homeland Security;

"(5) the term 'small employer' means an employer employing fewer than 500 employees based upon the average number of employees for each of the pay periods for the preceding 10 calendar months, including the period in which the employer employed H–2A workers; and

"(6) the term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

"(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

"(B) an alien provided status under this section.

"(b) BLUE CARD PROGRAM.—

"(1) BLUE CARD PROGRAM.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

"(A) has been in the United States continuously as of April 1, 2005;

"(B) has performed more than 50 percent of total annual weeks worked in agricultural employment in the United States (except in the case of a child provided derivative status as of April 1, 2005);

"(C) is otherwise admissible to the United States under section 212, except as otherwise provided under paragraph (2); and

"(D) is the beneficiary of a petition filed by an employer, as described in paragraph (3).

"(2) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In determining an alien's eligibility for blue card status under paragraph (1)(C)—

"(A) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply;

"(B) the provisions of section 212(a)(6)(C) shall not apply with respect to prior or current agricultural employment; and

"(C) the Secretary may not waive paragraph (1), (2), or (3) of section 212(a) unless such waiver is permitted under another provision of law.

"(3) PETITIONS.—

"(A) IN GENERAL.—An employer seeking blue card status under this section for an alien employee shall file a petition for blue card status with the Secretary.

"(B) EMPLOYER PETITION.—An employer filing a petition under subparagraph (A) shall—

"(i) pay a registration fee of—

"(I) $1,000, if the employer employs more than 500 employees; or

"(II) $500, if the employer is a small employer employing 500 or fewer employees;

"(ii) pay a processing fee to cover the actual costs incurred in adjudicating the petition; and

"(iii) attest that the employer conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation and was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought, which attestation shall be valid for a period of 60 days.

"(C) RECRUITMENT.—

"(i) The adequate recruitment requirement under subparagraph (B)(iii) is satisfied if the employer—

"(I) places a job order with America's Job Bank Program of the Department of Labor; and

"(II) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the metropolitan statistical area of intended employment.

"(ii) An advertisement under clause (i)(II) shall—

"(I) name the employer;

"(II) direct applicants to report or send resumes, as appropriate for the occupation, to the employer;

"(III) provide a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

"(IV) describe the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

"(V) state the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

"(VI) offer wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

"(D) NOTIFICATION OF DENIAL.—The Secretary shall provide notification of a denial of a petition filed for an alien to the alien and the employer who filed such petition.

"(E) EFFECT OF DENIAL.—If the Secretary denies a petition filed for an alien, such alien shall return to the country of the alien's nationality or last residence outside the United States.

"(4) BLUE CARD STATUS.—

"(A) BLUE CARD.—

"(i) ALL-IN-ONE CARD.—The Secretary, in conjunction with the Secretary of State, shall develop a single machine-readable, tamper-resistant document that—

"(I) authorizes the alien's entry into the United States;

“(II) serves, during the period an alien is in blue card status, as an employment authorized endorsement or other appropriate work permit for agricultural employment only; and

“(III) serves as an entry and exit document to be used in conjunction with a proper visa or as a visa and as other appropriate travel and entry documentation using biometric identifiers that meet the biometric identifier standards jointly established by the Secretary of State and the Secretary.

“(ii) BIOMETRICS.—

“(I) After a petition is filed by an employer and receipt of such petition is confirmed by the Secretary, the alien, in order to further adjudicate the petition, shall submit 2 biometric identifiers, as required by the Secretary, at an Application Support Center.

“(II) The Secretary shall prescribe a process for the submission of a biometric identifier to be incorporated electronically into an employer's prior electronic filing of a petition. The Secretary shall prescribe an alternative process for employers to file a petition in a manner other than electronic filing, as needed.

“(B) DOCUMENT REQUIREMENTS.—The Secretary shall issue a blue card that is—

“(i) capable of reliably determining if the individual with the blue card whose eligibility is being verified is—

“(I) eligible for employment;

“(II) claiming the identify of another person; and

“(III) authorized to be admitted; and

“(ii) compatible with—

“(I) other databases maintained by the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(II) law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(C) AUTHORIZED TRAVEL.—During the period an alien is in blue card status granted under this section and pursuant to regulations established by the Secretary, the alien may make brief visits outside the United States. An alien may be readmitted to the United States after such a visit without having to obtain a visa if the alien presents the alien's blue card document. Such periods of time spent outside the United States shall not cause the period of blue card status in the United States to be extended.

“(D) PORTABILITY.—

“(i) During the period in which an alien is in blue card status, the alien issued a blue card may accept new employment upon the Secretary's receipt of a petition filed by an employer on behalf of the alien. Employment authorization shall continue for such alien until such petition is adjudicated.

“(ii) If a petition filed under clause (i) is denied and the alien has ceased employment with the previous employer, the authorization under clause (i) shall terminate and the alien shall be required to return to the country of the alien's nationality or last residence.

“(iii) A fee may be required by the Secretary to cover the actual costs incurred in adjudicating a petition under this subparagraph. No other fee may be required under this subparagraph.

“(iv) A petition by an employer under this subparagraph may not be accepted within 90 days after the adjudication of a previous petition on behalf of an alien.

“(E) ANNUAL CHECK IN.—The employer of an alien in blue card status who has been employed for 1 year in blue card status shall confirm the alien's continued employment status with the Secretary electronically or in writing. Such confirmation will not require a further labor attestation.

“(F) TERMINATION OF BLUE CARD STATUS.—

“(i) During the period of blue card status granted an alien, the Secretary may terminate such status upon a determination by the Secretary that the alien is deportable or has become inadmissible.

“(ii) The Secretary may terminate blue card status granted to an alien if—

“(I) the Secretary determines that, without the appropriate waiver, the granting of blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i));

“(II) the alien is convicted of a felony or a misdemeanor committed in the United States; or

“(III) the Secretary determines that the alien is deportable or inadmissible under any other provision of this Act.

“(5) PERIOD OF AUTHORIZED ADMISSION.—

“(A) IN GENERAL.—The initial period of authorized admission for an alien with blue card status shall be not more than 3 years. The employer of such alien may petition for extensions of such authorized admission for 2 additional periods of not more than 3 years each.

“(B) EXCEPTION.—The limit on renewals shall not apply to a nonimmigrant in a position of full-time, non-temporary employment who has managerial or supervisory responsibilities. The employer of such nonimmigrant shall be required to make an additional attestation to such an employment classification with the filing of a petition.

“(C) REPORTING REQUIREMENT.—If an alien with blue card status ceases to be employed by an employer, such employer shall immediately notify the Secretary of such cessation of employment. The Secretary shall provide electronic means for making such notification.

“(D) LOSS OF EMPLOYMENT.—

“(i) An alien's blue card status shall terminate if the alien is unemployed for 60 or more consecutive days.

“(ii) An alien whose period of authorized admission terminates under clause (i) shall be required to return to the country of the alien's nationality or last residence.

“(6) GROUNDS FOR INELIGIBILITY.—

“(A) BAR TO FUTURE VISAS FOR CONDITION VIOLATIONS.—Any alien having blue card status shall not again be eligible for the same blue card status if the alien violates any term or condition of such status.

“(B) ALIENS UNLAWFULLY PRESENT.—Any alien who enters the United States after April 1, 2005, without being admitted or paroled shall be ineligible for blue card status.

“(C) ALIENS IN H-2A STATUS.—Any alien in lawful H-2A status as of April 1, 2005, shall be ineligible for blue card status.

“(7) BAR ON CHANGE OR ADJUSTMENT OF STATUS.—

“(A) IN GENERAL.—An alien having blue card status shall not be eligible to change or adjust status in the United States or obtain a different nonimmigrant or immigrant visa from a United States Embassy or consulate.

“(B) LOSS OF ELIGIBILITY.—An alien having blue card status shall lose eligibility for such status if the alien—

“(i) files a petition to adjust status to legal permanent residence in the United States; or

“(ii) requests a consular processing for an immigrant visa outside the United States.

“(C) EXCEPTION.—An alien having blue card status may not adjust status to legal permanent resident status or obtain another nonimmigrant or immigrant status unless—

“(i)(I) the alien renounces his or her blue card status by providing written notification to the Secretary of Homeland Security or the Secretary of State; or

“(II) the alien's blue card status otherwise expires; and

“(ii) the alien has resided and been physically present in the alien's country of nationality or last residence for not less than 1 year after leaving the United States and the renouncement or expiration of blue card status.

“(8) JUDICIAL REVIEW.—There shall be no judicial review of a denial of blue card status.

“(c) SAFE HARBOR.—

“(1) SAFE HARBOR OF ALIEN.—An alien for whom a nonfrivolous petition is filed under this section—

“(A) shall be granted employment authorization pending final adjudication of the petition;

“(B) may not be detained, determined inadmissible or deportable, or removed pending final adjudication of the petition for change in status, unless the alien commits an act which renders the alien ineligible for such change of status; and

“(C) may not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as the petition for status is adjudicated.

“(2) SAFE HARBOR FOR EMPLOYER.—An employer that files a petition for blue card status for an alien shall not be subject to civil and criminal tax liability relating directly to the employment of such alien. An employer that provides unauthorized aliens with copies of employment records or other evidence of employment pursuant to the petition shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

“(d) TREATMENT OF SPOUSES AND CHILDREN.—

“(1) SPOUSES.—A spouse of an alien having blue card status shall not be eligible for derivative status by accompanying or following to join the alien. Such a spouse may obtain status based only on an independent petition filed by an employer petitioning under subsection (b)(3) with respect to the employment of the spouse.

“(2) CHILDREN.—A child of an alien having blue card status shall not be eligible for the same temporary status unless—

“(A) the child is accompanying or following to join the alien; and

“(B) the alien is the sole custodial parent of the child or both custodial parents of the child have obtained such status.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 219 the following:

“Sec. 220 Blue card program.”.

SEC. 722. PENALTIES FOR FALSE STATEMENTS.

Section 1546 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) Any person, including the alien who is the beneficiary of a petition, who—

“(1) files a petition under section 220(b)(3) of the Immigration and Nationality Act; and

“(2)(A) knowingly and willfully falsifies, conceals, or covers up a material fact related to such a petition;

“(B) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry related to such a petition; or

"(C) creates or supplies a false writing or document for use in making such a petition, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.".

SEC. 723. SECURING THE BORDERS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a comprehensive plan for securing the borders of the United States.

SEC. 724. EFFECTIVE DATE.

This subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 547. Mr. COCHRAN (for Mr. BOND) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

Insert the following on page 203, after line 17:

"OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Office of Federal Housing Enterprise Oversight" for carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, $5,000,000 to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund: Provided, That not to exceed the amount provided herein shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: Provided further, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than $0.".

SA 548. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

PROTECTION OF THE GALAPAGOS

Sec. . (a) FINDINGS.—The Senate makes the following findings—

(1) The Galapagos Islands are a global treasure and World Heritage Site, and the future of the Galapagos is in the hands of the Government of Ecuador;

(2) The world depends on the Government of Ecuador to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos, including enforcing the Galapagos Special Law;

(3) There are concerns with the current leadership of the Galapagos National Park Service and that the biodiversity of the Galapagos and the Marine Reserve are not being properly managed or adequately protected; and

(4) The Government of Ecuador has reportedly given preliminary approval for commercial airplane flights to the Island of Isabela, which may cause irreparable harm to the biodiversity of the Galapagos, and has allowed the export of fins from sharks caught accidentally in the Marine Reserve, which encourages illegal fishing.

(b) Whereas, now therefore, be it

Resolved, that—

(1) the Senate strongly encourages the Government of Ecuador to—

(A) refrain from taking any action that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve;

(B) abide by the agreement to select the Directorship of the Galapagos National Park Service though a transparent process based on merit as previously agreed by the Government of Ecuador, international donors, and nongovernmental organizations; and

(C) enforce the Galapagos Special Law in its entirety, including the governance structure defined by the law to ensure effective control of migration to the Galapagos and sustainable fishing practices, and prohibit long-line fishing which threatens the survival of shark and marine turtle populations.

(2) The Department of State should—

(A) emphasize to the Government of Ecuador the importance the United States gives to these issues; and

(B) offer assistance to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos and the Marine Reserve and to sustain the livelihoods of the Galapagos population who depend on the marine ecosystem for survival.

SA 549. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 475 submitted by Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after "Sec.", and insert the following:

6407. CLARIFICATION OF PAYMENT TERMS UNDER TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.

(a) IN GENERAL.—Section 908(b)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)) is amended by inserting after subparagraph (B) the following:

"(C) Notwithstanding any other provision of law, the term 'payment of cash in advance' means the payment by the purchaser of an agricultural commodity or product and the receipt of such payment by the seller prior to—

"(i) the transfer of title of such commodity or product to the purchaser; and

"(ii) the release of control of such commodity or product to the purchaser.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales of agricultural commodities made on or after February 22, 2005.

SA 550. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. (a) Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall determine whether there is enough evidence—

(1) to determine the ownership of the subsurface mineral rights described in subsection (b); and

(2) to bring an action to quiet title with respect to the ownership of the subsurface mineral rights described in that subsection.

(b) The subsurface mineral rights referred to in subsection (a) are the subsurface mineral rights underlying 3588.34 acres of land in the Sabine National Wildlife Refuge (referred to in this section as the "Refuge") originally reserved by Stanolind Oil and Gas Company and described as tract 5c in a Judgment of Taking dated December 14, 1937, as recorded in the records of Cameron Parish, Louisiana.

(c) If the Secretary of the Interior determines that sufficient evidence exists under subsection (a), not later than 30 days after the date of the determination, the Secretary shall bring an action in the United States District Court for the State of Louisiana to resolve the title issue.

(d) Notwithstanding section 137 of Public Law 98–151 (97 Stat. 981) and section 3101.5–1 of title 43, Code of Federal Regulations (or a successor regulation), if the action brought under subsection (c) is resolved in favor of the United States, the Secretary of the Interior shall make available for leasing at the first Bureau of Land Management-Eastern States lease sale occurring after the date of enactment of this Act the subsurface mineral rights described in subsection (b).

(e) Any lease sale that takes place under subsection (d) and any exploration, development, or production of the subsurface mineral rights under a lease issued under that subsection shall be carried out in accordance with applicable regulations of the Department of the Interior, including regulations relating to a binding oral bid.

(f)(1) Any exploration, development, or production from a lease issued under subsection (d) shall be from an area outside the Refuge.

(2) No exploration or production activities shall be conducted on the surface of the Refuge.

SA 551. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 439 submitted by Mr. CRAIG (for himself and Mr. AKAKA) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 3, strike "(c)" and insert the following:

(c) RETROACTIVE PROVISION.—

(1) IN GENERAL.—Any member who experienced a traumatic injury (as described in section 1980A(b)(1) of title 38, United States Code) between October 7, 2001, and the effective date under subsection (d), is eligible for coverage provided in such section 1980A if the qualifying loss was a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom.

(2) CERTIFICATION; PAYMENT.—The Secretary of Defense shall—

(A) certify to the Office of Servicemembers' Group Life Insurance the names and addresses of those members the Secretary of Defense determines to be eligible for retroactive traumatic injury benefits under such section 1980A; and

(B) forward to the Secretary of Veterans Affairs, at the time the certification is made under subparagraph (A), an amount of money equal to the amount the Secretary of Defense determines to be necessary to pay all cost related to claims for retroactive benefits under such section 1980A.

(d)

SA 552. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 475 submitted by Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In the matter proposed to be inserted—

(1) strike subsections (b) and (c), and

(2)At the end, add the following:

(b) EFFECTIVE DATE.—The amendment made by this section applies to sales of agricultural commodities made on or after October 28, 2000.

SA 553. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 1 through 11 and insert the following:

DEPARTMENT OF DEFENSE—CIVIL

OPERATIONS AND MAINTENANCE

(a) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency repair of the Fern Ridge Dam, Oregon, $31,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency work on the Los Angeles-Long Beach Harbor, Mojave River Dam, Port San Luis, and Santa Barbara Harbor, $7,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(c) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency construction at Lower Santa Ana River Reaches 1 and 2 of the Santa Ana River Project, Prado Dam of the Santa Ana River Project, San Timoteo of the Santa Ana River Project, Murrieta Creek, and Santa Paula Creek, $12,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(d) The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Secretary of the Army to carry out the project at a total cost of $222,000,000.

(e) The Secretary of the Army, acting through the Chief of Engineers, shall use any funds appropriated to the Secretary pursuant to this Act to repair, restore, and maintain projects and facilities of the Corps of Engineers, including by dredging navigation channels, cleaning area streams, providing emergency streambank protection, restoring such public infrastructure as the Secretary determines to be necessary (including sewer and water facilities), conducting studies of the impacts of floods, and providing such flood relief as the Secretary determines to be appropriate: *Provided*, That of those funds, $32,000,000 shall be used by the Secretary for the Upper Peninsula, Michigan.

SA 554. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 1 through 11 and insert the following:

DEPARTMENT OF DEFENSE—CIVIL

CORPS OF ENGINEERS

(a) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for general construction, $13,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for operations and maintenance, $163,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(c) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for the Mississippi River and its tributaries, $15,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 555. Mr. KYL submitted an amendment intended to be proposed to amendment SA 387 proposed by Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the

United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 2, strike lines 5 through 11, and insert the following:

"(9)(A) Subject to subparagraphs (B) and (C), an alien counted toward the numerical limitations of paragraph (1)(B) during any 1 of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved.

"(B) A petition referred to in subparagraph (A) shall include, with respect to an alien—

"(i) the full name of the alien; and

"(ii) a certification to the Department of Homeland Security that the alien is a returning worker.

"(C) An H–2B visa for a returning worker shall be approved only if the name of the individual on the petition is confirmed by—

"(i) the Department of State; or

"(ii) if the alien is visa exempt, the Department of Homeland Security.".

SA 556. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(e) REQUIREMENTS REGARDING ELECTIONS OF MEMBERS TO REDUCE OR DECLINE INSURANCE.—Section 1967(a) of such title is further amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

"(C) Pursuant to regulations prescribed by the Secretary of Defense, notice of an election of a member not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under paragraph (3)(A)(i)(I), shall be provided to the spouse of the member."; and

(2) in paragraph (3)—

(A) in the matter preceding clause (i), by striking "and (C)" and inserting ", (C), and (D)"; and

(B) by adding at the end the following new subparagraph:

"(D) A member with a spouse may not elect not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under subparagraph (A)(i)(I), without the written consent of the spouse.".

(f) REQUIREMENT REGARDING REDESIGNATION OF BENEFICIARIES.—Section 1970 of such title is amended by adding at the end the following new subsection:

"(j) A member with a spouse may not modify the beneficiary or beneficiaries designated by the member under subsection (a) without providing written notice of such modification to the spouse.".

SA 557. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 530 submitted by Mr. DOMENICI and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 6023. (a) Not later than January 31, 2006, the Comptroller General of the United States and the Chief Counsel for Advocacy of the Small Business Administration shall each conduct a study, in consultation with each other and with the Administrator of the Small Business Administration and the Secretary of Energy, regarding the feasibility of—

(1) changing the management and operating contracts and other similar facilities management contracts between the Department of Energy and its prime contractors, which are other than small business concerns, for the purpose of rendering such prime contractors agents of the Department of Energy in accordance with the standards established in U.S. West Communications Services, Inc. v. United States, 940 F.2d 622 (Fed. Cir. 1991) and related judicial precedent;

(2) instituting adequate policies, regulations, procedures, and practices to ensure that prime contractors, which are other than small business concerns and which have entered into the management and operating contracts and other similar facilities management contracts with the Department of Energy, treat small businesses seeking to do business with the Department of Energy through such prime contractors according to the "federal norm", as recognized by the Comptroller General of the United States;

(3) recognizing subcontracts awarded by the prime contractors, which have entered into the management and operating contracts and other similar facilities management contracts proposed to be changed based on the findings under paragraph (1), as prime contracts for all purposes;

(4) instituting policies, regulations, procedures, and practices adequate to ensure that small business contracts awarded by the prime contractors acting as agents for the Department of Energy under the standards described in paragraphs (1) and (2) are treated as Federal prime contracts for all purposes; and

(5) ensuring that the Department of Energy's prime contractors can simultaneously continue to award, and small businesses can simultaneously continue to receive, subcontracts not subject to treatment or recognition as prime contracts.

(b) The Comptroller General of the United States and the Chief Counsel for Advocacy of the Small Business Administration, in conducting their respective studies under subsection (a) shall consider the impact of—

(1) the changes studied on accountability, integrity, competition, and sound management practices at the Department of Energy and its facilities managed by prime contractors; and

(2) the agency relationship between the Department of Energy and some of its prime contractors on the ability of small businesses to compete for government business.

(c) The Comptroller General and the Chief Counsel for Advocacy of the Small Business Administration shall separately report their findings to—

(1) the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, and the Committee on Small Business and Entrepreneurship of the Senate; and

(2) the Committee on Energy and Commerce, the Committee on Government Reform, and the Committee on Small Business of the House of representatives.

(d) The Secretary of Energy may, until January 31, 2006—

(1) make changes to contracts, including the management and operating contracts and other similar facilities management contracts between the Department of Energy and its prime contractors, which are other than small business concerns, consistent with those changes being studied under subsection (a); and

(2) implement policies, regulations, procedures, and practices consistent with those being studied under subsection (a).

SA 558. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 529 submitted by Mr. DOMENICI and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 6023. (a) Not later than January 31, 2006, the Comptroller General of the United States and the Chief Counsel for Advocacy of the Small Business Administration shall each conduct a study, in consultation with each other and with the Administrator of the Small Business Administration and the Secretary of Energy, regarding the feasibility of—

(1) changing the management and operating contracts and other similar facilities management contracts between the Department of Energy and its prime contractors, which are other than small business concerns, for the purpose of rendering such prime contractors agents of the Department of Energy in accordance with the standards established in U.S. West Communications Services, Inc. v. United States, 940 F.2d 622 (Fed. Cir. 1991) and related judicial precedent;

(2) instituting adequate policies, regulations, procedures, and practices to ensure

that prime contractors, which are other than small business concerns and which have entered into the management and operating contracts and other similar facilities management contracts with the Department of Energy, treat small businesses seeking to do business with the Department of Energy through such prime contractors according to the "federal norm", as recognized by the Comptroller General of the United States;

(3) recognizing subcontracts awarded by the prime contractors, which have entered into the management and operating contracts and other similar facilities management contracts proposed to be changed based on the findings under paragraph (1), as prime contracts for all purposes;

(4) instituting policies, regulations, procedures, and practices adequate to ensure that small business contracts awarded by the prime contractors acting as agents for the Department of Energy under the standards described in paragraphs (1) and (2) are treated as Federal prime contracts for all purposes; and

(5) ensuring that the Department of Energy's prime contractors can simultaneously continue to award, and small businesses can simultaneously continue to receive, subcontracts not subject to treatment or recognition as prime contracts.

(b) The Comptroller General of the United States and the Chief Counsel for Advocacy of the Small Business Administration, in conducting their respective studies under subsection (a) shall consider the impact of—

(1) the changes studied on accountability, integrity, competition, and sound management practices at the Department of Energy and its facilities managed by prime contractors; and

(2) the agency relationship between the Department of Energy and some of its prime contractors on the ability of small businesses to compete for government business.

(c) The Comptroller General and the Chief Counsel for Advocacy of the Small Business Administration shall separately report their findings to—

(1) the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, and the Committee on Small Business and Entrepreneurship of the Senate; and

(2) the Committee on Energy and Commerce, the Committee on Government Reform, and the Committee on Small Business of the House of representatives.

(d) The Secretary of Energy may, until January 31, 2006—

(1) make changes to contracts, including the management and operating contracts and other similar facilities management contracts between the Department of Energy and its prime contractors, which are other than small business concerns, consistent with those changes being studied under subsection (a); and

(2) implement policies, regulations, procedures, and practices consistent with those being studied under subsection (a).

SA 559. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 437 submitted by Mr. ROCKEFELLER and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SENSE OF SENATE

SEC. . (a) FINDINGS.—The Senate makes the following findings:

(1) On September 11, 2001, terrorists hijacked and destroyed four civilian aircraft, crashing two of them into the towers of the World Trade Center in New York, New York, and a third into the Pentagon outside Washington, District of Columbia.

(2) The valor of the passengers and crew on the fourth aircraft prevented it from also being used as a weapon against the United States.

(3) The September 11, 2001, attacks stand as the deadliest terrorist attacks ever perpetrated against the United States.

(4) By targeting symbols of American strength and success, the attacks clearly were intended to assail the principles, values, and freedoms of the United States and the American people, to intimidate the Nation, and to weaken the national resolve.

(5) On September 14, 2001, Congress, in Public Law 107-40, authorized the use of "all necessary and appropriate force" against those responsible for the terrorist attacks.

(6) The Armed Forces subsequently moved swiftly against Al Qaeda and the Taliban regime in Afghanistan, whom the President and Congress had identified as enemies of the United States.

(7) In doing so, brave servicemembers and intelligence officers left family and friends in order to defend the Nation.

(8) More than three years later, many servicemembers and intelligence officers remain abroad, shielding the Nation from further terrorist attacks.

(9) Terrorists continue to attack United States servicemembers and continue to plan attacks against the United States and its interests.

(10) Terrorists continue to target civilians and military personnel alike through such insidious and cowardly methods as kidnappings and bombings.

(11) Intelligence information derived from the interrogation of captured terrorists is essential to the protection of servicemembers deployed around world, to the protection of the homeland, and to the protection of United States interests.

(12) It is the policy of the President and Congress that the interrogation of terrorists conform to the Constitution, laws, and treaty obligations of the United States.

(13) In those rare instances in which individuals have been alleged to have violated the Constitution, laws, or treaty obligations of the United States during the course of an interrogation, the departments and agencies of the United States Government, and the inspectors general of each department or agency concerned, have investigated allegations of such violations.

(14) In the few cases in which officers of the United States intelligence community are determined to have actually violated the Constitution, laws, or treaty obligations of the United States, such officers have been, or should be, punished.

(15) The Select Committee on Intelligence of the Senate was established, among other things, to provide vigorous legislative oversight of the intelligence activities of the United States in order to assure that such activities conform to the Constitution, laws, and treaty obligations of the United States.

(16) The Select Committee on Intelligence of the Senate was deliberately structured with a unified staff under the joint supervision of the Chairman and the Vice Chairman of the Select Committee through a single staff director in order to avoid, to the maximum extent possible, the politicization of oversight of the intelligence activities of the United States. Because of its unique structure and rules, as currently written, the Select Committee is ideally suited to continue oversight of United States interrogation, detention, and rendition operations.

(17) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate have directed the staff of the Select Committee to continue to exercise the oversight authority of the Select Committee to ensure that intelligence activities of the United States relating to the detention, interrogation, and rendition of terrorists conform to the Constitution, laws, and treaty obligations of the United States.

(18) As part of its ongoing review, the staff of the Select Committee on Intelligence of the Senate have interviewed individuals and reviewed documents relating to the detention, interrogation, and rendition of terrorists, and have inspected United States detention and interrogation operations and facilities in Guantanamo Bay, Cuba.

(19) The staff of the Select Committee on Intelligence of the Senate continue to interview individuals, receive information, and review documents relating to the detention, interrogation, and rendition of terrorists.

(b) SENSE OF SENATE.—It is the sense of the Senate—

(1) to recognize that terrorists continue to seek to attack the United States at home and the interests of the United States abroad;

(2) to stand with the people of the United States in great debt to the members of the Armed Forces and officers of the United States intelligence community serving at home and abroad;

(3) to remain resolved to pursue all those responsible for the terrorist attacks of September 11, 2001, and their sponsors, until they are discovered and punished; and

(4) to reaffirm that Congress will—

(A) honor the memory of those who lost their lives as a result of the September 11, 2001, terrorist attacks; and

(B) bravely defend the citizens of the United States in the face of all future challenges.

SA 560. Mr. COCHRAN (for Mr. SHELBY (for himself, Mr. KENNEDY, Mr. DURBIN, and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 184, line 16, after "$11,935,000,", insert "for increased judicial security outside of courthouse facilities, including priority consideration of home intrusion detection systems in the homes of federal judges.".

SA 561. Mr. COCHRAN (for Mr. REID) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

In section 6017(b)(1)(A), insert "appurtenant to the land" after "water".

SA 562. Mr. COCHRAN (for Mr. REID) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

In section 6017(c)(2), strike subparagraphs (A) and (B) and insert the following:

(A) acquired only from willing sellers;

(B) designed to maximize water conveyances to Walker Lake; and

(C) located only within the Walker River Paiute Indian Reservation.

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations will hold a hearing entitled "The Container Security Initiative and the Customs-Trade Partnership Against Terrorism: Securing the Global Supply Chain or Trojan Horse?" In light of the September 11, 2001, terrorist attacks, concern has increased that terrorists could smuggle weapons of mass destruction in the approximately 9 million ocean going containers that arrive in the United States every year. As part of its overall response to the threat of terrorism, the Department of Homeland Security's Bureau of Customs and Border Protection (Customs) implemented the Container Security Initiative (CSI) to screen high-risk containers at sea ports overseas, thus employing screening tools before potentially dangerous cargoes reach our shores. Customs also implemented the Customs Trade Partnership Against Terrorism (C-TPAT) to improve the security of the global supply chain in partnership with the private sector.

Both CSI and C-TPAT face a number of compelling challenges that impact their ability to safeguard our Nation from terrorism. The Subcommittee's April 26 hearing will examine how Customs utilizes CSI and C-TPAT in connection with its other enforcement programs and review the requirements for and challenges involved in transitioning CSI and C-TPAT from promising risk management concepts to effective and sustained enforcement operations. These important Customs initiatives required sustained Congressional oversight. As such, this will be the first of several hearings the Subcommittee intends to hold on the response of the Federal Government to terrorist threats.

The Subcommittee hearing is scheduled for Tuesday, April 26, 2005, at 9:30 a.m. in Room 562 of the Dirksen Senate Office Building. For further information, please contact Raymond V. Shepherd, III, Staff Director and Chief Counsel to the Permanent Subcommittee on Investigations, at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 19, 2005, at 9:30 a.m., in open session to consider the following nominations: (1) Honorable Gordon R. England to be Deputy Secretary of Defense; and (2) Admiral Michael G. Mullen, USN, for reappointment to the grade of Admiral and to be Chief of Naval Operations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 19, 2005, at 3 p.m., to conduct a hearing on "Proposals for Improving the Regulation of the Housing Government Sponsored Enterprises."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 19, at 10 a.m. in room SD-366.

The purpose of this hearing is to receive testimony concerning offshore hydrocarbon production and the future of alternate energy resources on the Outer Continental Shelf. Issues to be discussed include: recent technological advancements made in the offshore exploration and production of traditional forms of energy, and the future of deep shelf and deepwater production. Enhancements in worker safety, and steps taken by the offshore oil and gas industry to meet environmental challenges. Participants in the hearing will also address ways that the Federal Government can facilitate increased exploration and production offshore while protecting the environment. New approaches to help diversify the offshore energy mix will also be discussed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Tuesday, April 19, 2005, at 10 a.m., to consider an original bill entitled, "Highway Reauthorization and Excise Tax Simplification Act of 2005" and, S. 661, "the United States Tax Court Modernization Act".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Tuesday, April 19, 2005 at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, April 19, 2005, to mark up the nomination of Mr. Jonathan B. Perlin to be Under Secretary for Health, Department of Veterans' Affairs; and to hold a Committee hearing titled "Back from the Battlefield, Part II: Seamless Transition to Civilian Life.".

The meeting will take place in room 418 of the Russell Senate Office Building at 10:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 19, 2005 at 2:30 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Competition Policy, and Consumer Rights be authorized to meet on Tuesday, April 19, 2005 to conduct a hearing on "SBC/ATT and Verizon/MCI Mergers: Remaking the Telecommunications Industry, Part II—Another View", at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Witness List: Mr. Carl Grivner, CEO, XO Communications, Reston, VA.; Mr. Jeffrey Citron, CEO, Vonage, Edison, N.J.; Mr. Scott Cleland, CEO, Precursor Group, Washington, DC; and Mr. Gene Kimmelman, Director, Washington, DC. Office, Consumers Union, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet during the session of the Senate on April 19, 2005, at 3 p.m., in open session to receive testimony on United States Marine Corps Ground and Rotary Wing Program and Seabasing, in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. FRIST. Mr. President, I ask unanimous consent that the subcommittee on Water and Power be authorized to meet during the session of the Senate on Tuesday, April 19 a 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 166, to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy, and for other purposes; S. 251, to authorize the Secretary of the Interior to conduct a water resource feasibility study for the Little Butte/Bear Creek subbasins in Oregon; S. 310, to direct the Secretary of the Interior to convey the Newlands Protect headquarters and maintenance yard facility to the Truckee-Carson Irrigation District in the State of Nevada; S. 519, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that act, and for other purposes; and S. 592, to extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES READ THE FIRST TIME—S. 839, S. 844, S. 845, S. 846, S. 847, S. 848, S. 851, H.R. 8

Mr. STEVENS. Mr. President, I understand there are eight bills at the desk. I ask for their first reading, en bloc.

The PRESIDING OFFICER. The clerk will read the titles of the bills for the first time, en bloc.

The legislative clerk read as follows:

A bill (S. 839) to repeal the law that gags doctors and denies women information and referrals concerning their reproductive health options.

A bill (S. 844) to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

A bill (S. 845) to amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt.

A bill (S. 846) to provide fair wages for America's workers.

A bill (S. 847) to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

A bill (S. 848) to improve education, and for other purposes.

A bill (S. 851) to reduce the budget deficits By restoring budget enforcement and strengthening fiscal responsibility.

A bill (H.R. 8) to make the repeal of the estate tax permanent.

Mr. STEVENS. Mr. President, I now ask for a second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will receive their second reading on the next legislative day.

ORDERS FOR WEDNESDAY, APRIL 20, 2005

Mr. STEVENS. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, April 20. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee, and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business the Senate resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill; provided further that notwithstanding morning business and the adjournment of the Senate, all time be counted against cloture under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. STEVENS. Mr. President, on behalf of the leader, I make this announcement: Tomorrow, following morning business, the Senate will resume consideration of the Iraq-Afghanistan supplemental appropriations bill. We have invoked cloture on the bill, and therefore the only amendments that qualify under the cloture rule will be in order to the bill.

There are still quite a few germane amendments that are pending, and therefore we will need a number of rollcall votes prior to final passage. It is the leader's hope that we can finish tomorrow, and we can finish if we can show restraint and not require votes on each of these amendments. Senators should expect a late evening tomorrow as we try to finish the bill on Wednesday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:42, p.m., adjourned until Wednesday, April 20, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 19, 2005:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALEX AZAR II, OF MARYLAND, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES, VICE CLAUDE A. ALLEN, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAVID W. BARNO, 9794

HOUSE OF REPRESENTATIVES—*Tuesday, April 19, 2005*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. FORTENBERRY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 19, 2005.

I hereby appoint the Honorable JEFF FORTENBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. SPRATT) for 5 minutes.

KEEPING PROMISES TO OUR SERVICE MEMBERS

Mr. SPRATT. Mr. Speaker, all of us who go out into the field to see our troops, and particularly overseas, bring back many conclusions and various impressions; but to a person, we all come back impressed, inspired, and thankful for the men and women who serve in the Armed Forces of the United States. In hard, dirty, and dangerous circumstances and often thankless deployments like Iraq and Afghanistan, they not only serve but they have had to adapt and improvise and tackle tasks they were never trained to handle. They have risen to the occasion, they have risen to the challenge, and at significant cost, in terms of those who have been wounded or injured or killed in action. These troops are the finest that any country has ever fielded, and they deserve not only our admiration but our support, and not just for them and their roles, which are vitally important, but for their families back home, for they sacrifice dearly.

There are three levels in which our support should come: first, to those on active duty, and their families, and particularly those who are deployed for long tours of duty in harsh environments and under hazardous conditions; second, to the Guard and Reserve who leave their civilian occupations and are now serving in numbers and percentages we have never seen since the all-volunteer force was created some 30 years ago. Almost half of those in Iraq come from the reserve components. More than 300,000 have been called up over the last 2½ years; 45,000 have had their tours extended. Many are on their second tour, some on their third. They are answering the call, they are doing their duty, and they are proving that the total force works and works well. But they have families back home and jobs and businesses and obligations and debts to pay and health care needs, and they need our unstinting support as never before. They not only need it, they deserve it. Next come the veterans and the retirees, those who have put, in many cases, much of their adult lives into serving their country. They have served and they now look to their country to keep the promises that were made to them at the time they were serving and when they reupped and when they joined again and when they stayed in for 20 and 25 years, promises about retirement benefits, about veterans benefits, about health care and education and many other things.

When the needs of these three groups are put together, all together, they make up a long bill of particulars, more than we can do, in all candor, in 1 year or even 2 years; but every time we take up a supplemental appropriation bill or a defense authorization bill or a defense appropriation bill, we should frankly, candidly, and honestly, searchingly, ask ourselves, what are we doing in this bill, on this occasion, to meet the needs of our service men and women who are serving gallantly in places like Iraq and Afghanistan and what are we doing in particular for their families?

What are we doing to help them out in their combat circumstances, with flak vests and personal protective gear and up-armored vehicles? But what are we also doing for their children back home for their health care needs? Have we provided adequately, I do not think we have, for family separation centers, the one place dedicated to helping them resolve their problems while family members are overseas? And for Tricare, health care, critically important in our society, particularly for Reservists and their families. Reservists leaving their job, what have we done to provide and see to it that they do not have to sacrifice in terms of health care for themselves and their families not only while they are on duty but in the months after they are deactivated and come back home?

And how about servicemen's life insurance? For years it had been inadequately funded. Many troops because of the premium, modest though it seems, have not elected to take it. What are we doing to see to it that every American soldier who goes into combat, hazardous duty has at least several hundred thousand dollars of servicemen's group life insurance? And what are we doing about our veterans, our category 7 and 8 veterans for over 2 years now, if they have not previously registered and are not able to get admitted to veterans health care facilities? There are 50,000 veterans waiting in line as we speak for an appointment to a veterans health care facility. The President's budget for this year provided $106 million, not much over last year which itself was inadequate to meet their needs. Over the next 5 years, this budget request is $18 billion below what is needed for current services. We can do better than that.

We have got promises to keep to our veterans and these promises, above all, should be kept. Given the sporadic, unpredictable violence and the harsh, hard circumstances, it is not surprising that many of our troops come back, some have said as many as 17 percent, from places like Afghanistan and Iraq with difficult mental problems. This, too, is something we could do.

Mr. Speaker, we have to follow up the gentlewoman from California (Mrs. DAVIS) who not only is a member of the Committee on Armed Services but also formerly a military spouse and speaks knowledgeably about this subject.

THE HIGH PRICE OF GASOLINE

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, as the summer driving season is set to begin, gasoline prices are at a record high. While some continue to blame the Bush administration and the Republicans in Congress, the truth is that neither is responsible for the record highs. The reason for the high gas prices includes the cost of crude oil due to a worldwide

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

explosion in demand, the lack of refinery processing capacity, and the overregulation here in Washington.

The House will get the opportunity to address this problem this week with the House bringing to the floor the Energy Policy Act of 2005, H.R. 6. The long-awaited legislation contains a number of provisions that would lower gas prices. H.R. 6 encourages more domestic production of oil with incentives such as a streamlined permit process, promotes a greater refining capacity to bring more oil to market, and increases the gasoline supply by stopping the proliferation of expensive regional boutique fuels.

The Department of Energy predicts by 2025 U.S. oil and natural gas demand will rise by 46 percent, with energy demand increasing 1 percent for every 2 percent in GDP growth. Critics of H.R. 6 claim that it would do little to curb consumption or drive down prices. In fact, this legislation includes provisions to do just that. In order to scale back demand for oil, the proposal encourages vehicles powered by hydrogen fuel cells and increases funding for the Department of Transportation to work to improve fuel efficiency standards. Furthermore, it authorizes $200 million for the clean cities program which will provide grants to State and local governments to acquire alternative-fueled vehicles.

Curbing demand is necessary, but it is not nearly enough to lower the price of gas. We also need to increase domestic production of oil. Ending our dependence on foreign oil is not only important to the economy but also doubly important to national security. Currently, the U.S. imports about 60 percent of its oil. The Department of Energy projects this number will increase to 73 percent by 2025. In order to ensure reliable and secure supplies of oil, we have no choice but simply to increase our domestic supply.

Domestic energy production must be increased without compromising a clean environment. There have been giant leaps in technology that would produce oil and natural gas in an environmentally safe manner. We need a comprehensive energy policy that recognizes that sophisticated new technology greatly reduces adverse impacts on the environment by exploration and production. Along with the incredible advances in technology, transportation, and medicine that improve our lives comes the increased need for energy.

In addition, overregulation by the government also contributes to regional and seasonal price fluctuations that increase costs and, of course, reduce flexibility to meet consumer demand. According to the Energy Information Agency, last year refining costs represented about 20 percent of the retail cost of gasoline. By simply scaling back the excessive and cumbersome Federal regulations on refiners, we could significantly reduce these costs. For example, the 1990 Clean Air Act amendments mandate the sale of cleaner burning reformulated gasoline in order to reduce summer smog in nine major metropolitan areas. The law also requires that RFG contain at least 2 percent oxygen by weight.

To comply with these regulations, refiners must switch from winter grade fuel to costlier summer blend gasoline. According to the Federal Trade Commission, this adds 4 cents to 8 cents per gallon to the price of gasoline. Likewise, complying with a national low sulfur gasoline regulation for passenger cars not only represents scientific challenges for refiners but also could adversely affect gasoline supply and, of course, availability. The industry will need to invest more than $8 billion over the next 3 years to meet this requirement, which will result in higher prices at the pump.

This hodgepodge of customized fuel requirements increases production costs which are ultimately reflected in the price of gasoline that we pay today. These varied gasoline specifications also restrict the ability of refiners and distributors to move supplies around the country in response to local and, of course, regional shortages.

High gas prices affect every sector of the American economy and especially hit families the hardest. Congress has been debating and debating this issue for too long. We now have the chance to enact this week comprehensive energy legislation that will go a long way to lower the cost of gasoline. We need to fully embrace this opportunity before it is too late.

RECOGNIZING THE CONTRIBUTIONS OF OUR MILITARY FAMILIES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentlewoman from California (Mrs. DAVIS) is recognized during morning hour debates for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I am honored to join the gentleman from South Carolina (Mr. SPRATT). I have long admired and respected his efforts since I was elected to Congress and began serving with him on the Committee on Armed Services.

I want to take a moment now to specifically mention our military families. By now, every American should be familiar with the daily contributions and sacrifices made by our service members, but we have to remember that their families serve, too. Many spouses remind me all the time that when the military prepares for deployment, well, so do their families. As a former military spouse myself, I am incredibly grateful and humbled by their unique sacrifices. With so much of our attention on other things, their contributions often go unnoticed and underappreciated. I want our military families to know that we are working to improve the family-support infrastructure that exists for them. Access to family support services should be consistent without regard to where the families reside. Use of technology can certainly enhance their access to family support, but it sure cannot take the place of a support network.

Democrats are seeking more innovative ways to fund child care for military families, to provide a fully resourced, comprehensive and portable health care benefit, and to increase the value of the commissary and exchange benefit.

We have also made progress with addressing the demand for family housing. This has included privatization initiatives, military construction, and adequate funding for the basic allowance for housing. Democrats are also exploring ways in which we can work together with DOD to enhance educational and employment opportunities for military spouses.

□ 1245

And I can tell the Members firsthand how difficult this is when faced with the challenges of the military lifestyle. By recognizing the contributions of our military families, we have identified a critical part of addressing future recruiting and retention needs of the military. We must continue to recognize their sacrifices as well as those made by the service members themselves.

This is an important task, and I am hopeful that Congress will continue giving this the concerted attention it deserves as we prepare the Defense Authorization bill for next year.

OUR U.S. MILITARY SUCCESSES IN AFGHANISTAN

The SPEAKER pro tempore (Mr. FORTENBERRY). Pursuant to the order of the House of January 4, 2005, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized during morning hour debates for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to highlight the accomplishments that we have been able to achieve in Afghanistan, thanks to the dedicated and courageous service of our men and women in uniform. These Marines, sailors, airmen, and soldiers exemplify the best of what our country has to offer. By risking, and sometimes giving, their lives, they have allowed the 30 million people of Afghanistan to live in peace and prosperity, free from the fear and tyranny of the Taliban.

By liberating Afghanistan, our fighting men and women also ensured that al Qaeda would no longer be allowed to operate with impunity in what was then a failed state. In a brilliantly waged campaign, our Special Forces brought the fight to our enemies. By utilizing local resistance forces and at times even charging into battle on horseback, they liberated this beautiful country from a menacing dictatorship.

What the Afghans, with the help of the U.S. and our Coalition forces, were subsequently able to achieve is nothing less than a miracle. On October 9, 2004, barely less than 2 years since the fall of the Taliban, Afghanistan held the first democratic elections in its history, overwhelmingly electing Hamid Karzai as its President. Afghanistan is now scheduled to hold another election on September 18 to select its first parliament.

These two elections, coming less than a year apart, are even more impressive given that this country has been at war for the better part of the last 30 years. First, fighting a Soviet invasion, and later, a civil war between the different mujahideen.

I could not find better words than those of a reporter of the Associated Press to describe the presidential election in Afghanistan when he wrote: "After a generation of conflict, Afghans are slowly emerging from darkness. In the afterglow of last fall's presidential election, there is hope in Kabul."

In this country of 30 million people, more than 10 million registered to vote, 41 percent of them women, these elections were monitored by more than 5,400 independent observers from groups such as the EU, the OSCE, the U.S., and the U.N., giving further validity to these historic elections.

The hard work of our men and women in uniform does not stop there. They have worked closely with our allies to train a national Afghan army so that their people and their hard-fought democracy can be protected. Almost 19,000 soldiers now serve in the Afghan national army with another 3,400 being trained by our troops. These soldiers are being deployed to all corners of the country.

The United States has also trained more than 25,000 police officers, and other countries have assisted as well. Germany, for example, has trained nearly 6,000 border and national police. Our U.S. Armed Forces have also trained 120 judges, lawyers, and court personnel. Ensuring the rule of law that it would be protected in this nation that has known only war and tyranny is miraculous.

The U.S. military has also helped to rehabilitate more than 7,500 canals, underground irrigation tunnels, reservoirs, and dams to increase agricultural output in this arid country. These policies have resulted in an 82 percent increase in wheat production.

Our U.S. military forces were also able to assist in the demining and paving of the very important Kabul-Kandahar highway, ahead of schedule, as well as rehabilitating 74 bridges and tunnels.

These accomplishments have led to a 30 percent growth in the Afghan economy from 2002 to 2003 and an estimated 16 percent growth from 2003 to 2004. These policies have led to 2.4 million refugees returning to Afghanistan from neighboring countries after many years of being displaced by war. Another 600,000 internally displaced individuals have also been able to return home.

Mr. Speaker, I could stand before this body for hours to speak about our success in Afghanistan and the positive difference that our U.S. military troops have made in this country. I understand their sacrifices and those of their families. My own husband, retired Lieutenant Dexter Lehtinen, was a platoon leader in Vietnam until a grenade almost took his life. The scars on his face are constant reminders of the price so many Americans have paid for our freedom and the price that so many more continue to pay.

As my stepson, Aviator First Lieutenant Douglas Lehtinen, prepares to deploy Iraq, I cannot help but think about the sacrifices of our men and women in uniform. While nothing can replace those who were lost and although the scars will never disappear, those acts of bravery have not been in vain.

May God bless our men and women in uniform and may God bless America.

CAFTA

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, a bowling ball weighs about 170 times the weight of a slice of sandwich bread. It does not take a physicist to see the mismatch between a bowling ball and a slice of bread. It does not take a trade expert to see the economic mismatch between the United States and the nations that make up the Central American Free Trade Agreement, CAFTA: Honduras, Costa Rica, Nicaragua, Guatemala, and El Salvador.

The way that proponents of the Central American Free Trade Agreement talk, one would think that Central America was one of the biggest economies in the Western Hemisphere. CAFTA nations, in fact, are not only among the world's poorest countries, they are among its smallest economies.

Think about this: This big trade agreement that President Bush wants, CAFTA, the combined purchasing power of CAFTA nations is almost identical to the purchasing power of Columbus, Ohio.

Tomorrow the House will hold a hearing on CAFTA. Since President Bush took office, Congress has voted within 55 days of the President's affixing his signature on a trade agreement. April 28, coming up, will mark the 11-month anniversary of when the President signed CAFTA. In other words, trade agreements are always sent to Congress quickly. Within a couple of months, we vote on them.

The President has delayed CAFTA for 11 months because this simply is not an agreement that the American people want or need. As I said, other trade agreements were all done within about 2 months, but because CAFTA is so unpopular, because trade policy in this country is so wrong-headed, the President still has not asked this Congress to vote on CAFTA.

Clearly, there is dissension in the ranks for good reason. CAFTA is the dysfunctional cousin of NAFTA, the North American Free Trade Agreement, and continues a legacy of failed trade policy.

Look at NAFTA's record; NAFTA is the United States, Mexico, and Canada: One million U.S. manufacturing jobs lost to the North American Free Trade Agreement. Wages of Mexicans have stagnated. Environmental conditions, especially along the U.S.-Mexican border have worsened dramatically. And yet the U.S. continues to push for more of the same: more of the same job hemorrhaging, more of the same income-lowering trade agreements, more trade agreements that ship jobs overseas, more trade agreements that neglect environmental safety standards, more trade agreements that keep foreign workers in poverty, more trade agreements that undercut our food safety laws in our country. The only difference between CAFTA and NAFTA is the first letter.

The definition of insanity is repeating the same action over and over and over again and expecting a different result. On trade we hear the same promises over and over and over again, and we see the same results: lost jobs, a weakened economy, lower standards of living in Mexico, bad environmental outcomes. But this Congress somehow barely in the middle of the night continues to pass these trade agreements, and we see the same bad results.

But do not take my word for it. Look at the numbers. The U.S. economy, with a $10 trillion GDP in 2002, is 170 times bigger than the economies of the CAFTA nations, at about $62 billion combined. It is like comparing a bowling ball that weighs 170 times a slice of bread.

CAFTA is not about robust markets for the export of American goods. It is about outsourcing. It is about access to cheap labor. We send our jobs overseas. Workers overseas get paid almost nothing, not enabling them to raise their standard of living even a bit. U.S. corporations make more money. American workers lose their jobs. It is the same old story time and time again.

Again, the combined purchasing power of the CAFTA nations is about that of Columbus, Ohio, or Orlando, Florida, or the entire State of Kansas. Trade pacts like NAFTA and CAFTA enable companies to exploit cheap labor in other countries in the developing world, then import their products back into the United States under favorable tariff terms.

American companies outsource their jobs to Guatemala, outsource their jobs to China, outsource their jobs to Mexico. It costs American workers their jobs. It does almost nothing for workers in those countries. Yet profits at Wal-Mart and GM and so many other companies continue to rise.

CAFTA will do nothing to stop the bleeding of manufacturing jobs except make it worse. It will do even less to create a strong Central American consumer market for American goods.

Throughout the developing world, workers do not share in the wealth they create. Our decades of economic success in this country show that employees share in the wealth they create for their employer. If one works at GM, they help GM create wealth; they help GM make a profit. They get some of that money back. These trade agreements in the developing world simply do not work, and when the world's poorest people can buy American products rather than just make them, then we will know our trade agreements finally are working.

Vote "no" on the Central American Free Trade Agreement.

ENERGY

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, we commemorate Earth Day at a time when American soldiers are in Iraq, in part as a consequence of our energy dependence. No matter what the press releases say, the way this Congress is commemorating Earth Day is by recycling the energy bill.

It is replete with massive subsidies that will continue to tie us to the past. Rather than the development of true energy independence gained by working with renewables and a massive effort at energy conservation, this energy bill is a monument to Congress's inability to think comprehensively about the future. Our energy dependence and wasteful policies mean that we are desperately dependent on a volatile Middle East, especially Iraq and Saudi Arabia, as we spend a major portion of our defense budget protecting the stability in that oil-rich region.

The Pentagon is also the largest single consumer of fuel in the United States, almost 2 percent of the country's total transportation fuel. And much of this fuel use is due to highly inefficient vehicles, from an Abrams tank, weighing 68 tons, that gets only about half a mile to a gallon, to an aircraft carrier that gets 17 feet to a gallon.

The United States military now uses 1.7 million gallons of fuel a day in Iraq. The cost of this fuel can be up to $400 a gallon depending on how it is delivered. Our military itself is clearly held hostage by the philosophy that energy efficiency does not matter. As the lines of supply are dangerously stretched with more points of vulnerability, while the flexibility and nimbleness of our troops are compromised by having to have huge amounts of gasoline close at hand. Lighter, more energy efficient vehicles are harder targets for the enemy to strike, and they can move greater distances between refueling and do not need this long chain of supply with more points of vulnerability for the vehicles and for our soldiers.

□ 1300

The situation the military faces in Iraq and other potential trouble spots demands action on an ambitious energy policy with a significant commitment to fuel conservation and renewable technologies, if only for the sake of the security of our Nation and the safety of our troops.

The skyrocketing gas prices this spring further demonstrates that we are hostage to an inadequate energy infrastructure with constrained refining capacity. The energy bill contains almost no incentives for change, as all those currently in control profit by this restricted supply, vulnerability, and volatility. As gasoline prices have increased 50 cents a gallon in a matter of weeks, every tank of gasoline is a reminder that the Republican leadership in Congress for 10 years has refused to significantly increase fuel efficiency standards, which would have meant significant money in the pocket of every American family.

The inability or unwillingness to establish a predictable window for wind energy development, by making the production tax credit permanent means that tens of thousands of jobs and hundreds of millions of dollars in new investment are delayed, with the advances in technology and additional elements of supply are denied to the public. This is ironic, when our military is touting the contribution that wind energy is making to the security and efficiency of operations at Guantanamo.

The energy bill continues to spend too much for the wrong people to do the wrong things and shortchanging the technologies and strategies that ultimately will make a difference for the future. There is no question that America in this century will rely much more heavily on renewables and conservation. The sad note is that we are slipping behind the Chinese, who are increasing their cars' fuel efficiency standards, and further behind the European and Japanese, who are already racing ahead of us in energy efficiency.

Even in a defense-dominated, security-obsessed environment that this Congress operates in, we cannot make energy investments that will at least enhance our military to make the military and America's families more secure. We can and should do better.

FEDERAL LEGISLATION TO PROHIBIT PREDATORY LENDING

The SPEAKER pro tempore (Mr. FORTENBERRY). Pursuant to the order of the House of January 4, 2005, the gentleman from North Carolina (Mr. MILLER) is recognized during morning hour debates for 5 minutes.

Mr. MILLER of North Carolina. Mr. Speaker, the financial condition of American working and middle-class families is a mess. Wages are stagnant, health care costs are exploding, the individual savings rate for 2004 was 1 percent, and credit card debt is more than $800 billion.

The bright spot is that 69 percent of American families own their own home. The equity that American families build in their homes by years of faithfully paying a mortgage is the bulk of the net worth, the life savings, of most homeowners.

Homeownership is more than an investment. The deed to a home is a membership card to the middle class. Families living on the fringes of poverty can begin to get their footing when they own their own home and become part of a neighborhood where parents know their children's playmates. Financially vulnerable families are even more likely to have to borrow against the equity in their homes to provide for life's rainy days, however.

Every American homeowner faces a mountain of documents when they borrow money to buy a home or when they use their home to secure a loan. Many vulnerable homeowners borrow knowing only how much their monthly payment will be, only to learn later that they signed away a big part of their home equity, of their life savings.

There are lending practices that should offend anyone with a conscience. Let me give my colleagues one of the stories from North Carolina that prompted the North Carolina legislature, not generally seen as a hotbed of liberalism, to enact legislation to prohibit predatory lending 6 years ago.

A lender approached an elderly school employee in Durham about refinancing her home to consolidate her debts. The lender charged her $17.542 in up-front costs on a $99,000 loan, including a $5,002 origination fee, a $2,142 loan discount fee, and a $9,089 single-payment, nonrefundable credit premium insurance. She would never have written a $17,542 check at closing, but when she signed the closing documents, the charges came straight out of the equity she had built in her home, straight out of her life's savings.

The North Carolina law enacted in 1999 has put an end to practices like that, and without hindering honest lenders from making loans to vulnerable families that need to borrow against their home. Sub-prime credit remains readily available in North Carolina.

The gentleman from North Carolina (Mr. WATT), the gentleman from Massachusetts (Mr. FRANK), and I have introduced Federal legislation based on North Carolina's proven law.

Critics of our legislation argue that we would restrict consumer choice. Most consumers would like the choice of knowing they are not being taken advantage of: that when they borrow money against their home for a rainy day, they are not entering into a spiral that results in losing their life's savings, their home, and their membership in the middle class. That choice is not now available to many American homeowners.

We look forward to working with others in Congress and in the financial services industry. We welcome proposals from others to prohibit abuses. But we also want to make sure that Congress does not pass legislation that permits new abuses. We must make sure that the protections of any new law are not easily avoided, and we cannot handcuff the States' ability to protect consumers. Sub-prime lending is now a $530 billion industry, and growing. Vulnerable consumers cannot afford to have to come back to Congress again and again for real protections against abusive sub-prime lending practices.

David's victory over Goliath was considered an upset, and Goliath would have been heavily favored in a best-of-seven series. If Congress passes predatory lending legislation, we need to get it right the first time. Consumers cannot count on having a second chance.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 7 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ISSA) at 2 p.m.

PRAYER

The Reverend Timothy B. Johnson, pastor, the Church of the Redeemer, Bowie, Maryland, offered the following prayer:

O God, thank You for loving us. In gratitude and humility we come to You now needing only what You can give.

Forgive our pride. Forgive our sins and the things that we allow to cause division. Forgive and change us.

Bless these leaders and this great Nation and those they represent; people have given them the honor and responsibilities of leadership. May they lead with integrity and wisdom. Bless them and their families, knowing that they are often far from home and celebrations.

Thank You for this Nation and the freedoms we cherish. As we strive to bring freedom to others, protect our troops and civilians who are in danger. By Your guidance may the freedom we seek be true freedom, and may it be freedom that leads to peace.

We pray all of this in the name of Your Son, our Lord, Jesus Christ. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) come forward and lead the House in the Pledge of Allegiance.

Ms. EDDIE BERNICE JOHNSON of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 289. An act to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011.

CARDINAL JOSEPH RATZINGER TO BE POPE BENEDICT XVI

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, today people across the world have watched the ceremony and historical proceedings in Vatican City with anticipation and joy. Today the Catholic Church receives its 265th Pope. Cardinal Joseph Ratzinger rises to his new name, Pope Benedict XVI, and takes with him the blessings of Catholics across the world.

In a time of global unrest and terrorism, people of all faiths need to join together in prayerful contemplation of what we hope the world can become. Pope John Paul II brought the church to billions of people and Pope Benedict XVI inherits the throne of Saint Peter the Fisherman at a precarious time in world history. Our prayers are with him and for our collective salvation.

ENERGY BILL NEEDS TO PROTECT THE ENVIRONMENT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the energy bill we are about to debate this week is presented as a major step forward in American energy policy. But it is not. It is quite the opposite.

This bill does nothing to improve the environment of this country or cut down on ozone pollution exposure. This bill does not force big polluters to clean up. Rather, it provides billions of dollars in tax breaks to politically favored energy industries that do not deserve them at a time when the country can ill afford it.

Mr. Speaker, the State of Texas ranks number one among other States in per capita consumption of electricity and second in ozone pollution exposure. Last year Children's Hospital of Dallas had 4,000 emergency department visits for treatment of asthma attacks. The average age of these kids was 5 years old.

More and more, there are hospitalizations. More and more, there are deaths from the pollution that we suffer in Texas; and I will offer an amendment to try and correct it. But, Mr. Speaker, I know that probably I am in the minority, but we must clean up the environment.

REGULATION NEEDED FOR 527 ORGANIZATIONS

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, tomorrow the Committee on House Administration will be holding a hearing on regulation of the so-called 527 political organizations.

We all remember the promises that campaign finance reform was supposed to remove unregulated money from the political process. Well, not only did it fail to deliver on its promise, an argument can be made that it actually is worse.

527 groups have grown in importance and influence with little or no disclosure of who funds them. According to

published reports, staffers of the distinguished House minority leader acknowledge they hold weekly meetings with the leaders of MoveOn.org.

A recent fundraising e-mail sent on by MoveOn.org stated, "Now it's our party. We bought it. We own it, and we're taking it back."

Strange that a group that claims to be nonpartisan for tax purposes claims to have bought a political party. The limited disclosure required by these groups makes it nearly impossible to determine who is claiming to have bought the Democratic Party. 527 groups spent over half a billion dollars in 2004 with no regulation from the FEC.

If we truly want to enhance disclosure and remove unregulated money from the political process, we must do something about 527s.

STRIKE REFINERY REVITALIZATION PROVISIONS

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, today I rise in opposition to the unnecessary refinery revitalization provisions in the energy bill.

The energy bill would allow unrestricted sitings of refineries in low-income and underrepresented minority communities and strips States and local municipalities of their right to protect public health.

Most refinery communities are found in low-income minority areas, and they do not have the political power to protect themselves and their families. These communities have the least ability to defend themselves from corporate pollution and are the most vulnerable to environmental and public health problems. Yet they are the very targets in this language.

I believe the bill will only worsen the present and future environmental justice problems afflicting Latinos, African Americans, and Native Americans.

Before we harm the health of the most underserved populations, strip States and communities of their right to protect themselves, we should have a real dialogue about the far reaching impacts of this language in our communities.

Today I am asking the Committee on Rules to allow me to offer an amendment to strike this language during floor debate on the energy bill. I urge my colleagues to protect the public health and States' rights and support my amendment to strike the refinery revitalization provisions.

CELEBRATING A LANDMARK ACCOMPLISHMENT FOR BULGARIA

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, last week the European Parliament made a historic decision for approval of Bulgaria to join the European Union in 2007.

As co-chair of the Congressional Bulgaria Caucus, I am please to congratulate Ambassador Elena Poptodorova, who represents Sofia in Washington so professionally.

Since the negotiations began in 2000, Bulgarians have proven they are eager to serve as active members of the European Union. They quickly took the right reforms to earn an important role in the international community. By sending over 400 troops to Iraq to rebuild the country and providing troops in Afghanistan that I have visited at Bagram, Bulgaria is also helping to win the war on terrorism.

In addition to NATO membership, Bulgaria's membership in the European Union will prove to be a landmark event in the country's history. I know Bulgaria will continue the Bulgaria miracle of economic success and military security.

In conclusion, God bless our troops and we will never forget September 11.

WE NEED THE ENERGY BILL

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, energy powers the tools and the machines we need to live and our economy needs to grow; but when energy supplies are tight, families face higher prices and our economy faces a deteriorating energy infrastructure.

In recent years, this has caused home heating bills to skyrocket and force many U.S. manufacturers to slow production, lay off workers, and even go out of business.

This week, the House will debate and vote on a national energy policy. Again, if this sounds familiar, that is because we have gone through this process several times already only to have a few Senators stall this long overdue legislation.

The National Energy Policy Act of 2005 is very comprehensive. We should not let the opponents of change stop us from enacting a sensible, progressive energy policy for America. We need it and America's families need it.

HONORING CONRAD ALBERTY

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise today to recognize one of America's heroes, Mr. Conrad Alberty of Rockingham County, North Carolina.

Conrad fought for our country in the Philippines during the darkest days of World War II and later bore the terrible scars of enemy captivity. He exemplified the extraordinary sacrifice made by our military for our freedom. Conrad was a prisoner of war and is one of the few living survivors of the Bataan Death March. He was just 16 years old when he endured the most inhumane treatment that man can do to man on the death march and later in an enemy prison camp.

Coincidentally, this month marks the 63rd anniversary of the surrender of U.S. troops to the Japanese on the Bataan Peninsula.

During his military service, Mr. Alberty demonstrated courage, love of country, and devotion to duty. He did not give up under the most desperate circumstances.

Today by recognizing Mr. Conrad Alberty, we also honor the role of our Armed Forces in protecting our country and our liberty. Thank you, Mr. Alberty and may on God bless you.

HENRY HYDE, NO FINER PUBLIC SERVANT

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, yesterday the very distinguished chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), announced his planned retirement for the end of this Congress. I would like to say this is my 25th year that I have been honored to serve here in the Congress, and I have served with no finer public servant than the gentleman from Illinois (Mr. HYDE).

The gentleman from Illinois (Mr. HYDE) has clearly been a principled leader who has provided bold and dynamic examples for us in a wide range of areas. We all know that he was a great champion in the effort to ensure that we do not see taxpayer dollars expended on abortion-on-demand. We know the key role that he played in dealing with the challenge that we faced with impeachment. We know that in recent years he has been suffering physically.

I have got to say that the Chaplain is here in the Chamber, and I will never forget at the unveiling of the portrait of the gentleman from Illinois (Mr. HYDE) when he said that he was instructed when he became the Chaplain that he refer to everyone by their given name, except for one individual. The gentleman from Illinois to him is Mr. HYDE. And while I am privileged to call him HENRY, I will tell you that I will greatly miss him when he is not a Member of the next Congress.

REMEMBERING JOHNNIE L. COCHRAN, JR.

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, the public may now know Johnnie L. Cochran, Jr., as a high-profile, superbly dressed, superstar attorney with a signature smile that swayed everyone he met, including many of the multi-million dollar clients that he represented.

However, as a personal friend of Johnnie's, I saw another side. Yes, he did everything with class, style, dignity and extreme care; but in addition he was a warm, loving, caring, attentive friend and community leader.

Johnnie Cochran was a brilliant attorney whose untimely death is a loss to the world. His legal genius was compared to Justice Thurgood Marshall, his hero and his idol; Clarence Darrow; F. Lee Bailey; Professor Charles Ogletree and other legendary legal scholars.

Johnnie Cochran was an incredible human being who really cared about the plight of the poor and disadvantaged regardless of race, color, creed, or religion. Johnnie was often fond of saying, "The clients I cared about the most are the No Js, the ones who nobody knows."

Attorney Cochran truly believed in justice for all. Even after death, Johnnie's legal legacy was larger than life. His funeral last week in Los Angeles, entitled "Johnnie's Journey To Justice," was a celebration of his incredible life.

The A-list of celebrity clients were among more than 5,000 admirers saying good-bye to their hero who fought for civil rights, police reform, and basic human rights for everyone.

The Reverend William Epps, Johnnie's home pastor of the historic Second Baptist Church of Los Angeles, the first church that Martin Luther King spoke in when he came to Los Angeles, and Reverend Calvin Butts of Abyssinia Baptist Church, Harlem, New York, presided over this joyful funeral service, which was held in the great West Angeles Cathedral in my district.

I would say that Johnnie led a very important life for a lot of people, and we will remember him always for bringing justice to not only the poor but middle class and wealthy. May God bless his soul.

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ILLEGAL IMMIGRATION

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, at the base of the Statue of Liberty is a poem that reads: "Give me your tired, your poor, your huddled masses yearning to breathe free." Understood in this fundamental principle is that our Nation would welcome anyone in an orderly and a legal process.

Yet, on a daily basis thousands of illegal aliens cross our border, encouraged by the Mexican Government, which provides a copy of the Mexican Migrant Guide, full of tips on how to blend into our society and receive benefits once they get here.

The illegal alien population is, admittedly, 11 million in the United States, with the actual number probably closer to 20 million. The problems are no longer confined to border States with nearly 250,000 illegal aliens now calling Georgia home, placing my home State in the top 10 with illegal populations.

Nearly every public service, from our schools to our hospitals, are suffering financially caring for illegal aliens.

Mr. Speaker, Americans recognize the economic and national security concerns posed by this increasing problem. It is time we take action and secure our Nation's borders, responsibly solve this national emergency and hold neighbor nations accountable for their actions.

DRILLING IN ANWR

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, we are going to vote this week on an energy bill in the House. Energy independence should be a goal for this Congress. Worldwide demand for petroleum has increased during the last decade. The growth in production has been relatively flat.

The inevitable result is higher prices at the gasoline pump. The reality is that it takes time to go from the oil patch to the gas station, and we have lost considerable time in that regard.

In 1995, in the 104th Congress, H.R. 2491 would have allowed oil exploration in the Alaska National Wildlife Refuge. The Department of Energy has estimated that between 1- and 1.3 million barrels of oil a day could be derived from this source.

Unfortunately, this legislation was vetoed by then-President Clinton. That was 10 years ago, and given a timeline of 7 to 14 years for building the pipeline structure, it is time that we could scarcely afford.

Mr. Speaker, I have been to ANWR. The vast coastal plain is unsuitable for habitation during the summer months because of its marshy consistency. Any caribou unlikely enough to calve in this region would likely die from exsanguination at the hands of the mosquitoes there.

The people in ANWR, the people of Kaktovik, Alaska, are counting on this Congress to do the right thing and allow them, the rightful owners, to begin developing the resources as was granted them upon statehood in 1959.

As we say in Texas, "time's a'wasting."

SPENCER, IOWA: THE NUMBER ONE PLACE TO LIVE IN AMERICA

(Mr. KING of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KING of Iowa. Mr. Speaker, this is a mission of joy for me. On the floor of this Congress, I am pleased to recognize the city of Spencer, Iowa, as the number one place to live in America.

This is not surprising to the folks in western Iowa. America is now aware of what we have known for a long time. Spencer is not just a great town to raise a family; it is an excellent place to live. Tucked away in fields as far as the eye can see, Spencer is a town full of services, recreation, culture, entertainment and wonderful people.

I just celebrated with the people of Spencer the opening of my office on Grand Avenue.

Large enough to offer many of the services of a larger city and still small enough that people know and trust their neighbors, it is the kind of trusting place where people leave their doors open and the keys in their cars when parked outside the coffee shop.

In this town, if you were to walk into the Sisters Cafe or Carroll's Bakery on any given morning, you would see the citizens of Spencer making time for each other. It is the kind of place where you know your neighbors and strangers are just friends you have not met yet.

Congratulations, Spencer, Iowa. You are number one.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISSA). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

SENSE OF CONGRESS REGARDING ISSUANCE OF 500,000TH DESIGN PATENT BY UNITED STATES PATENT AND TRADEMARK OFFICE

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 53) expressing the sense of the Congress regarding the issuance of the 500,000th design patent by the

United States Patent and Trademark Office.

The Clerk read as follows:

H. CON. RES. 53

Whereas the United States is the world leader in innovation and ingenuity;

Whereas the United States Patent and Trademark Office has protected and encouraged that innovation through the issuance of patents; and

Whereas on December 21, 2004, the United States Patent and Trademark Office awarded the 500,000th design patent to DaimlerChrysler Corporation for the design of the Chrysler Crossfire: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States Patent and Trademark Office has contributed significantly to the Nation's economy; and

(2) DaimlerChrysler Corporation and its employees should be commended for their achievement in receiving the 500,000th design patent.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 53, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this concurrent resolution commends the U.S. Patent and Trademark Office for its contribution to the Nation's economy and the DaimlerChrysler Corporation and its employees for their achievement in receiving the 500,000th design patent issued by the Patent and Trademark Office.

Mr. Speaker, we all recognize the important role that innovation and invention have played in our Nation's history and economy. We also know that by ensuring protection for our ideas, we provide significant incentive for inventors to continue to come up with new concepts that improve our lives, whether it is a machine that raises productivity or a pharmaceutical drug that cures a life-threatening disease. The efforts of the PTO in aiding such accomplishments are certainly noteworthy.

I commend the gentleman from Michigan (Mr. CONYERS), the Motor City, for introducing this resolution and congratulate DaimlerChrysler as the recipient of this landmark number patent. I urge the House to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself as much time as I may consume.

I begin by thanking the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary, and as well the committee leaders, the gentleman from Texas (Mr. SMITH) and the gentleman from California (Mr. BERMAN), for moving this measure swiftly through the Committee on the Judiciary.

On December 21 of last year, the United States Patent and Trademark Office issued its 500,000th design patent to the DaimlerChrysler Corporation for the design of the popular Chrysler Crossfire. House Concurrent Resolution 53, before us now, expresses the sense of Congress that the Patent and Trademark Office has contributed significantly to the Nation's economy and to the reputation in the United States that we enjoy worldwide for our technological innovation and ingenuity.

This is a very distinguished commendation, and I am very proud of the Patent and Trademark Office, which has helped us in protecting and preserving intellectual property.

As a senior member of the Committee on the Judiciary, I am well aware of the importance of intellectual property protection and what it means to our economy. Intellectual property rewards and encourages innovation and advancement. Without it, we would not have the high-tech, biotech and everyday numerous inventions that we have come to rely upon in everyday life, and that we have permitted to be exported to all the concerns of the planet.

I am also proud of this patent because I happen to represent the automobile capital of the world still. It is no secret that Michigan boasts the finest automobile workers in the world, and it should be no surprise that it is the design of an American car that has received this award.

So for these reasons and others, I am so proud of my colleagues who have joined me in this presentation, the gentleman from Michigan (Mr. STUPAK); the gentleman from Michigan (Mr. DINGELL), the dean of the Congress; the gentleman from Michigan (Mr. ROGERS); the gentleman from Michigan (Mr. KILDEE); the gentleman from Michigan (Mr. MCCOTTER); and the gentleman from Michigan (Mr. SCHWARZ), all. It is a proud moment for us, and we are glad to be honored.

On a more personal note, my father was a worker and union organizer for the United Automobile Workers for Chrysler, Local 7. It was the first company, Chrysler, to be brought into collective bargaining, and so I urge that the Members favorably consider House Concurrent Resolution 53.

Mr. WU. Mr. Speaker, I rise to strongly support H. Con. Res. 53, a resolution expressing the sense of Congress regarding the issuance of the 500,000th design patent by the United States Patent and Trademark Office.

For over 200 years, the basic role of the United States Patent and Trademark Office, USPTO, has been to promote the progress of science and the useful arts by securing for limited times to inventors the exclusive right to their respective discoveries. Under this system of protection, American industry has flourished. New products have been invented, new uses for old ones discovered, and employment opportunities created for millions of Americans. The strength and vitality of the U.S. economy depends directly on effective mechanisms that protect new ideas and investments in innovation and creativity. The continued demand for patents and trademarks underscores the ingenuity of American inventors and entrepreneurs. The USPTO is indeed at the cutting edge of America's technological progress and achievement.

As many of you may know, on December 21, 2004, the USPTO reached an important milestone and awarded the 500,000th design patent to DaimlerChrysler Corporation for the design of the Chrysler Crossfire. I would like to congratulate the USPTO and its employees for being at the core of our nation's creative forces. It is with their commitment to excellence our Nation moved from a young Nation to the world economic power that it is today.

As the Ranking Member on the House Science Subcommittee on Environment, Science and Standards and a former technology lawyer, I profoundly value the work of the USPTO, and urge my colleagues for their support for this important institution. As the 109th Congress moves to take up our FY06 appropriations bills, I look forward to working on ensuring a strong funding level for the USPTO.

Mr. CONYERS. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers. If the gentleman will yield back, we can vote and pass this resolution.

Mr. CONYERS. Mr. Speaker, I yield back my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 53.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FAMILY ENTERTAINMENT AND COPYRIGHT ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 167) to provide for the protection of intellectual property rights, and for other purposes.

The Clerk read as follows:

S. 167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Entertainment and Copyright Act of 2005".

TITLE I—ARTISTS' RIGHTS AND THEFT PREVENTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Artists' Rights and Theft Prevention Act of 2005" or the "ART Act".

SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

"§ 2319B. Unauthorized recording of Motion pictures in a Motion picture exhibition facility

"(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

"(1) be imprisoned for not more than 3 years, fined under this title, or both; or

"(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

"(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

"(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

"(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a motion picture exhibition facility where a motion picture or other audiovisual work is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture or other audiovisual work being exhibited, or the agent or employee of such licensor—

"(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section with respect to that motion picture or audiovisual work for the purpose of questioning or summoning a law enforcement officer; and

"(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

"(e) VICTIM IMPACT STATEMENT.—

"(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

"(A) producers and sellers of legitimate works affected by conduct involved in the offense;

"(B) holders of intellectual property rights in the works described in subparagraph (A); and

"(C) the legal representatives of such producers, sellers, and holders.

"(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

"(g) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) TITLE 17 DEFINITIONS.—The terms 'audiovisual work', 'copy', 'copyright owner', 'motion picture', 'motion picture exhibition facility', and 'transmit' have, respectively, the meanings given those terms in section 101 of title 17.

"(2) AUDIOVISUAL RECORDING DEVICE.—The term 'audiovisual recording device' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

"2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.".

(c) DEFINITION.—Section 101 of title 17, United States Code, is amended by inserting after the definition of "Motion pictures" the following: "The term 'motion picture exhibition facility' means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.".

SEC. 103. CRIMINAL INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PROHIBITED ACTS.—Section 506(a) of title 17, United States Code, is amended to read as follows:

"(a) CRIMINAL INFRINGEMENT.—

"(1) IN GENERAL.—Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18, if the infringement was committed—

"(A) for purposes of commercial advantage or private financial gain;

"(B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000; or

"(C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

"(2) EVIDENCE.—For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish willful infringement of a copyright.

"(3) DEFINITION.—In this subsection, the term 'work being prepared for commercial distribution' means—

"(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if, at the time of unauthorized distribution—

"(i) the copyright owner has a reasonable expectation of commercial distribution; and

"(ii) the copies or phonorecords of the work have not been commercially distributed; or

"(B) a motion picture, if, at the time of unauthorized distribution, the motion picture—

"(i) has been made available for viewing in a motion picture exhibition facility; and

"(ii) has not been made available in copies for sale to the general public in the United States in a format intended to permit viewing outside a motion picture exhibition facility.".

(b) CRIMINAL PENALTIES.—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "Whoever" and inserting "Any person who"; and

(B) by striking "and (c) of this section" and inserting ", (c), and (d)";

(2) in subsection (b), by striking "section 506(a)(1)" and inserting "section 506(a)(1)(A)";

(3) in subsection (c), by striking "section 506(a)(2) of title 17, United States Code" and inserting "section 506(a)(1)(B) of title 17";

(4) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(5) by adding after subsection (c) the following:

"(d) Any person who commits an offense under section 506(a)(1)(C) of title 17—

"(1) shall be imprisoned not more than 3 years, fined under this title, or both;

"(2) shall be imprisoned not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain;

"(3) shall be imprisoned not more than 6 years, fined under this title, or both, if the offense is a second or subsequent offense; and

"(4) shall be imprisoned not more than 10 years, fined under this title, or both, if the offense is a second or subsequent offense under paragraph (2)."; and

(6) in subsection (f), as redesignated—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(3) the term 'financial gain' has the meaning given the term in section 101 of title 17; and

"(4) the term 'work being prepared for commercial distribution' has the meaning given the term in section 506(a) of title 17.".

SEC. 104. CIVIL REMEDIES FOR INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PREREGISTRATION.—Section 408 of title 17, United States Code, is amended by adding at the end the following:

"(f) PREREGISTRATION OF WORKS BEING PREPARED FOR COMMERCIAL DISTRIBUTION.—

"(1) RULEMAKING.—Not later than 180 days after the date of enactment of this subsection, the Register of Copyrights shall issue regulations to establish procedures for preregistration of a work that is being prepared for commercial distribution and has not been published.

"(2) CLASS OF WORKS.—The regulations established under paragraph (1) shall permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution.

"(3) APPLICATION FOR REGISTRATION.—Not later than 3 months after the first publication of a work preregistered under this subsection, the applicant shall submit to the Copyright Office—

"(A) an application for registration of the work;

"(B) a deposit; and

"(C) the applicable fee.

"(4) EFFECT OF UNTIMELY APPLICATION.—An action under this chapter for infringement of a work preregistered under this subsection, in a case in which the infringement commenced no later than 2 months after the first publication of the work, shall be dismissed if the items described in paragraph (3) are not submitted to the Copyright Office in proper form within the earlier of—

"(A) 3 months after the first publication of the work; or

"(B) 1 month after the copyright owner has learned of the infringement.".

(b) INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended by inserting "preregistration or" after "shall be instituted until".

(c) EXCLUSION.—Section 412 of title 17, United States Code, is amended by inserting after "section 106A(a)" the following: ", an action for infringement of the copyright of a work that has been preregistered under section 408(f) before the commencement of the infringement and that has an effective date of registration not later than the earlier of 3 months after the first publication of the work or 1 month after the copyright owner has learned of the infringement,".

SEC. 105. FEDERAL SENTENCING GUIDELINES.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including any offense under—

(1) section 506, 1201, or 1202 of title 17, United States Code; or

(2) section 2318, 2319, 2319A, 2319B, or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) take all appropriate measures to ensure that the Federal sentencing guidelines and policy statements described in subsection (a) are sufficiently stringent to deter, and adequately reflect the nature of, intellectual property rights crimes;

(2) determine whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before it has been authorized by the copyright owner, whether in the media format used by the infringing party or in any other media format;

(3) determine whether the scope of "uploading" set forth in application note 3 of section 2B5.3 of the Federal sentencing guidelines is adequate to address the loss attributable to people who, without authorization, broadly distribute copyrighted works over the Internet; and

(4) determine whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from copyright infringement if law enforcement authorities cannot determine how many times copyrighted material has been reproduced or distributed.

TITLE II—EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES

SEC. 201. SHORT TITLE.

This title may be cited as the "Family Movie Act of 2005".

SEC. 202. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES.

(a) IN GENERAL.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking "and" after the semicolon at the end;

(2) in paragraph (10), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (10) the following:

"(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture, during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed to be used, at the direction of a member of a private household, for such making imperceptible, if no fixed copy of the altered version of the motion picture is created by such computer program or other technology."; and

(4) by adding at the end the following:

"For purposes of paragraph (11), the term 'making imperceptible' does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.

"Nothing in paragraph (11) shall be construed to imply further rights under section 106 of this title, or to have any effect on defenses or limitations on rights granted under any other section of this title or under any other paragraph of this section.".

(b) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

"(3)(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, and who complies with the requirements set forth in that paragraph is not liable on account of such conduct for a violation of any right under this Act. This subparagraph does not preclude liability, nor shall it be construed to restrict the defenses or limitations on rights granted under this Act, of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

"(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible as described in subparagraph (A) is not liable on account of such manufacture or license for a violation of any right under this Act, if such manufacturer, licensee, or licensor ensures that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. The limitations on liability in subparagraph (A) and this subparagraph shall not apply to a manufacturer, licensee, or licensor of technology that fails to comply with this paragraph.

"(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the 180-day period beginning on the date of the enactment of the Family Movie Act of 2005.

"(D) Any failure by a manufacturer, licensee, or licensor of technology to qualify for the exemption under subparagraphs (A) and (B) shall not be construed to create an inference that any such party that engages in conduct described in paragraph (11) of section 110 of title 17, United States Code, is liable for trademark infringement by reason of such conduct.".

(c) DEFINITION.—In this section, the term "Trademark Act of 1946" means the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

TITLE III—NATIONAL FILM PRESERVATION

Subtitle A—Reauthorization of the National Film Preservation Board

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "National Film Preservation Act of 2005".

SEC. 302. REAUTHORIZATION AND AMENDMENT.

(a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Section 103 of the National Film Preservation Act of 1996 (2 U.S.C. 179m) is amended—

(1) in subsection (b)—

(A) by striking "film copy" each place that term appears and inserting "film or other approved copy";

(B) by striking "film copies" each place that term appears and inserting "film or other approved copies"; and

(C) in the third sentence, by striking "copyrighted" and inserting "copyrighted, mass distributed, broadcast, or published"; and

(2) by adding at the end the following:

"(c) COORDINATION OF PROGRAM WITH OTHER COLLECTION, PRESERVATION, AND ACCESSIBILITY ACTIVITIES.—In carrying out the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, the Librarian, in consultation with the Board established pursuant to section 104, shall—

"(1) carry out activities to make films included in the National Film registry more broadly accessible for research and educational purposes, and to generate public awareness and support of the Registry and the comprehensive national film preservation program;

"(2) review the comprehensive national film preservation plan, and amend it to the extent necessary to ensure that it addresses technological advances in the preservation and storage of, and access to film collections in multiple formats; and

"(3) wherever possible, undertake expanded initiatives to ensure the preservation of the moving image heritage of the United States, including film, videotape, television, and born digital moving image formats, by supporting the work of the National Audio-Visual Conservation Center of the Library of Congress, and other appropriate nonprofit archival and preservation organizations.".

(b) NATIONAL FILM PRESERVATION BOARD.—Section 104 of the National Film Preservation Act of 1996 (2 U.S.C. 179n) is amended—

(1) in subsection (a)(1) by striking "20" and inserting "22";

(2) in subsection (a) (2) by striking "three" and inserting "5";

(3) in subsection (d) by striking "11" and inserting "12"; and

(4) by striking subsection (e) and inserting the following:

"(e) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.".

(c) NATIONAL FILM REGISTRY.—Section 106 of the National Film Preservation Act of 1996 (2 U.S.C. 179p) is amended by adding at the end the following:

"(e) NATIONAL AUDIO-VISUAL CONSERVATION CENTER.—The Librarian shall utilize the National Audio-Visual Conservation Center of the Library of Congress at Culpeper, Virginia, to ensure that preserved films included in the National Film Registry are stored in a proper manner, and disseminated to researchers, scholars, and the public as may be appropriate in accordance with—

"(1) title 17, United States Code; and

"(2) the terms of any agreements between the Librarian and persons who hold copyrights to such audiovisual works.".

(d) USE OF SEAL.—Section 107 (a) of the National Film Preservation Act of 1996 (2 U.S.C. 179q(a)) is amended—

(1) in paragraph (1), by inserting "in any format" after "or any copy"; and

(2) in paragraph (2), by striking "or film copy" and inserting "in any format".

(e) EFFECTIVE DATE.—Section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179w) is amended by striking "7" and inserting "13".

Subtitle B—Reauthorization of the National Film Preservation Foundation

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "National Film Preservation Foundation Reauthorization Act of 2005".

SEC. 312. REAUTHORIZATION AND AMENDMENT.

(a) BOARD OF DIRECTORS.—Section 151703 of title 36, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking "nine" and inserting "12"; and

(2) in subsection (b)(4), by striking the second sentence and inserting "There shall be no limit to the number of terms to which any individual may be appointed.".

(b) POWERS.—Section 151705 of title 36, United States Code, is amended in subsection (b) by striking "District of Columbia" and inserting "the jurisdiction in which the principal office of the corporation is located".

(c) PRINCIPAL OFFICE.—Section 151706 of title 36, United States Code, is amended by inserting ", or another place as determined by the board of directors" after "District of Columbia".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 151711 of title 36, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed $530,000 for each of the fiscal years 2005 through 2009. These amounts are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

"(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.".

TITLE IV—PRESERVATION OF ORPHAN WORKS

SEC. 401. SHORT TITLE.

This title may be cited as the "Preservation of Orphan Works Act".

SEC. 402. REPRODUCTION OF COPYRIGHTED WORKS BY LIBRARIES AND ARCHIVES.

Section 108(i) of title 17, United States Code, is amended by striking "(b) and (c)" and inserting "(b), (c), and (h)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 167, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 167 includes several intellectual property-related measures that were considered during the previous Congress, but were unable to be acted on by both Houses prior to adjournment.

Notably, this legislation addresses the growing desire of parents to be able to control what their children see in the privacy of their own homes. One component of this legislation, the Family Movie Act, clarifies that existing copyright and trademark law cannot be used to prevent a parent from utilizing available technology to skip over portions of a movie they may find objectionable.

The legislation also addresses the rampant piracy problem facing our Nation's creative community. New technologies have made theft and duplication of copyrighted works easier than ever before. The number of pirated films continues to increase, causing severe harm to the bottom line of our Nation's copyright holders. Additionally, the theft, duplication and mass distribution of copyrighted works represents a drain on our economy, shrinking the global demand for legitimately acquired works.

By setting forth Federal criminal penalties, this legislation addresses the serious problem of individuals using camcorders to record recently released movies that are then copied and sold on the black market. Additionally, this legislation establishes criminal penalties for the distribution of a copyrighted computer program, musical work or motion picture by making it available on a computer network accessible to members of the public if the person knew, or should have known, that the work was a copyrighted work intended for commercial distribution.

Finally, this legislation reauthorizes the Film Preservation Board at the Library of Congress and corrects a technical error in the Sonny Bono Copyright Term Extension Act that had the unintended effect of limiting the ability of libraries and archives to access older copyrighted works.

Mr. Speaker, I urge the Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I rise in support of S. 167, and I ask my colleagues to join me in voting to pass this worthy legislation.

Prior to reporting S. 167 by voice vote last month, the Committee on the Judiciary gave the bill all due deliberation. The provisions in this bill and its precursor, H.R. 4077, which passed the House last year, were the subject of multiple subcommittee hearings and markups.

Through the extensive consideration given on the provisions of S. 167, the Committee on the Judiciary has agreed to a bill that makes important contributions to the fight against the proliferation of pirated copyrighted works and that encourages the preservation and protection of creative content.

☐ 1430

In addition to providing us with entertainment and education in the form of movies, sound recordings, software, books, computer games and other products, the core copyright industries account for over 6 percent of U.S. gross domestic product. Businesses that rely on copyright employ more than 11 million U.S. workers. Robust protection for creativity supports everyone from the most famous artist to the completely unknown set designer.

Unfortunately, copyright piracy has become a grave threat to the livelihoods of all copyright creators. We live in an environment where consumers want their choice of entertainment to be available at any time, in any place, in any format. While copyright owners are excited by the new opportunities to allow greater access to their works, they must battle with those that give away their products for free.

Pirates have taken over the ship of distribution and now provide users with sound recordings before they are released, copies of movies for $1 on the street, and pirated computer software as part of the sale of computers. Without adequate copyright protection, the developers and creators of new and original works have no protection from the rampant theft of their work that goes on every day. While not a magic bullet, S. 167 will play a valuable role in addressing the piracy problem. Last year's bill provided more expansive protection. However, S. 167 contains important disincentives to the making of unauthorized use of a copyrighted work. It isolates a number of areas necessary to preserve the integrity of the works.

It has become clear that pirates are most harmful when a creator delivers a new or highly anticipated product. Title I of S. 167 is designed to prevent the pirates from obtaining an initial copy of a motion picture through camcording or distributing by computer network a work being prepared for commercial distribution. Section 102 clarifies that it is a felony to surreptitiously record a movie in a theater. This section deals with the growing phenomenon of copyright thieves who use portable digital video recorders to record movies of theater screens during public exhibitions. Organized piracy rings then distribute copies of these surreptitious recordings both online and on the streets.

This section also provides immunity for a movie theater owner who detains a person who is camcording the movie. It also allows those affected by the crime to file a victim impact statement to illustrate the loss accrued by the piracy. This, hopefully, will deter those who contribute to the ease with which pirated material is obtained.

Even more detrimental to copyright owners than camcording a movie in the theaters is the effect of distributing an unauthorized copy of a movie or sound recording as it is prepared for commercial distribution. Distributing a film before final edits are made can undermine artistic integrity and can also harm the film's commercial prospects because the release is typically coordinated with a marketing effort. Sections 103 and 104 provide for enhanced penalties for prerelease of a work being prepared for commercial distribution. Furthermore, it requires the Copyright Office to establish rules for preregistration of works. We need to address the problems generated when new works are leaked and pirated before they are made available for sale, the prerelease problem.

For example, today, any basement can become a top-of-the-line recording studio, so the law and Copyright Office regulations must reflect the realities of the fast-paced creative entertainment businesses. Unauthorized prereleases are unfair to an artist because his or her song is circulating even before it is in its final form. Just as we edit letters and speeches, we must allow songwriters to tweak and refine their works. They deserve to have the tools to penalize those who thrive on the ability to leak a song or CD before it is available in stores or other legitimate avenues of commerce.

This bill also addresses consumer concerns related to preserving content in orphan works, those works not available in the marketplace at a reasonable price. In section 402 of the bill, we have amended the Copyright Act to enable libraries and archives to reproduce, distribute, perform, and display all orphan works in the course of their preservation, scholarly and research activities.

Furthermore, sections 302 and 312 ensure that the National Film Preservation Board and the National Film Preservation Foundation are reauthorized. These groups help maintain our history of film, which helps foster the creative process.

Title III of S. 167 did generate some concern during the hearings held by the Committee on the Judiciary because it resolves a legal question at the heart of a pending Federal litigation. The Family Movie Act inappropriately intervenes in this pending legislation, shields one specific company from liability for altering the viewed performance.

Directors should have the ability to control the content they create. Although I personally oppose this section, I, like many Members of the Committee on the Judiciary, believe that the bulk of the anti-piracy provisions contained in S. 167 are essential and therefore support the bill as a whole.

The provisions included in S. 167 are derived from a more expansive bill passed by the House last year, H.R. 4077, which contained multiple sections designed to give additional resources statutory authority and incentives to law enforcement authorities to make them productive participants in the anti-piracy battle.

There were also several provisions addressing the problem of copyright infringing files being illegally offered for distribution through peer-to-peer file-swapping networks. I urge the committee and my colleagues to include these provisions in future legislation.

It is worth noting that, while not universally embraced, S. 167 has gained widespread consensus support. Groups as diverse as the Video Software Dealers Association, the American Association of Law Libraries, and the American Medical Association have written in support. On balance, S. 167 is an important advancement in the ongoing effort to battle copyright piracy, and I encourage my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, first of all I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for yielding me this time.

Mr. Speaker, this legislation contains four main components: first, the Family Movie Act, which I first introduced in the last Congress, will enable parents to skip over or mute the sex, violence, and profanity in movies they find objectionable for their children.

Second, the Art Act will create new penalties for those who camcord movies in public theaters and who willfully infringe copyright law by distributing copies of prerelease works, movies or otherwise, online.

Third, a reauthorization of the Film Preservation Board will protect older works that would otherwise deteriorate.

Finally, a technical fix to the Sonny Bono Copyright Term Extension Act will ensure that libraries and archives have continued access to works during the last 20 years of a copyright term.

As for the Family Movie Act, it lets parents decide for themselves what their children see and hear on television. These days, I do not think anyone would even consider buying a DVD player that does not come with a remote control; yet there are some who would deny parents the right to use the equivalent electronic device that would protect their children from sex, violence, and profanity in movies watched at home.

Raising children may be the toughest job in the world. Parents need all the help they can get, and they should be able to determine what their children see on the screen. Yes, we parents might mute dialogue that others deem crucial, or we might fast forward over scenes that others consider essential, but that is irrelevant. Parents should be able to mute or skip over anything they want if they feel it is in the best interest of their children.

Just as the author of a book should not be able to force someone to read that book in any particular manner or order, a studio or director should not be able to force our children to watch a movie in a particular way. No one can argue with a straight face it should be against the law to skip over a few pages or even entire chapters of a book. So, too, it should not be illegal to skip over a few words or scenes in a movie.

The Family Movie Act ensures that parents have such rights.

In fact, the Registrar of Copyrights testified that such actions by parents are not in violation of existing copyright law. But needless litigation continues on this issue. It is time for the rights of parents not to be tied up in the courts any longer.

Turning to other provisions within this bill, millions of pirated movies, music, software, games, and other copyrighted files are now available for a free download by certain peer-to-peer networks. Many of these files are the latest movies, music, software, and games that have yet to be released to the public in legal copies. Title I of the legislation focuses on these prereleased copies of works that are distributed on computer networks before they are available in legal copies to the public.

Such activity is clearly wrong; yet existing law does not create a penalty targeted at this activity. Title I creates a minimum penalty of 3 years in jail for those who undertake such activity. Combined with the camcording provisions in title I, this legislation will impose new and significant penalties on organized groups that camcord movies on the first day of their release and then distribute pirated DVDs the following day on streets worldwide.

Title III of the legislation reauthorizes the Film Preservation Board at the Library of Congress. Title IV corrects a technical error in the Sonny Bono Copyright Term Extension Act that had the result of limiting library and archive access to older works.

Mr. Speaker, this legislation represents a combination of important public policy objectives. I encourage my colleagues to support the measure and send it to the President's desk for his signature.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 5 minutes to my colleague, the gentlewoman from California (Ms. WATSON), the founder and chair of the Congressional Entertainment Caucus, and a very diligent fighter for the protection of intellectual property and the vibrancy of an industry very important to our area and to the country.

Ms. WATSON. Mr. Speaker, I rise in support of S. 167, the Family Entertainment and Copyright Act of 2005, which strengthens our Nation's intellectual property rights system and further protects and rewards our Nation's artists for their creative products.

I supported this bill during the last Congress, and I look forward to seeing its eventual enactment in the coming weeks. This bill closes several significant gaps in our copyright laws that have contributed to the epidemic of digital piracy today. It outlaws camcording of movies off of theater screens by making it a Federal crime. It also empowers judges to impose up to 5-year prison terms for persons convicted of distributing copyrighted songs and movies on file-sharing networks for financial gain. I believe these provisions create crucial tools to combat the theft and redistribution of valuable intellectual property.

With our movie industry losing about $3 billion to piracy every year, it is time that Congress demonstrates its support for our Nation's creators and artists by strengthening protection of copyrighted products. In addition, the bill strengthens our Nation's film heritage by reauthorizing the National Film Preservation Board and the National Film Preservation Foundation that have worked successfully to preserve historically or culturally significant films. Their fine work will ensure our collective artistic heritage will be preserved for generations to come.

Finally, I want to point out that despite my overall support for the bill, I disagree with title II of the legislation, which shields companies that make movie-filtering systems from liability for copyrighting infringements. The intent of the movie-filtering technology is to sanitize movies to protect children. While I support a family-friendly entertainment, I believe this method is not only a violation of film makers' copyright protections but also an infringement of their artistic vision.

Just yesterday, the Washington Post reported that companies sanitizing films removed 24 minutes from the part of the movie "Saving Private Ryan" depicting the landing at Omaha Beach on D-Day and eliminated racial epithets uttered by police officials against African American boxer Rubin Carter in "The Hurricane." Both are central to the themes of the movies. Such editing may be done in the name of protecting children, but often reflect our political or ideological biases of the censors. I want to make it clear that my general support of the bill is no way an endorsement of film sanitization.

Mr. Speaker, I urge my colleagues to support S. 167, and it is my hope that we will keep the dialogue open regarding the ever-changing landscape of technology, censorship, and creativity in our country.

□ 1445

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I rise today in support of S. 167. I commend the gentleman from Texas (Mr. SMITH) for introducing the House counterpart of this legislation, and I commend the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from California (Mr. BERMAN) for their continued diligence in bringing this legislation to the floor.

Mr. Speaker, included in Title II of this legislation is the Family Movie Act of 2005. This title clarifies the Copyright Act so families, in the privacy of their homes, can use technology that allows them to skip or mute objectionable content in legally purchased or rented DVDs. Parents should have the right to watch any movie they want and to skip over or mute any content they find objectionable. This legislation will allow parents to have the final say in what their children watch in the privacy of their homes, and parents should have the option to protect their children from the sex, violence, profanity and other objectionable material found in movies that are produced in Hollywood these days.

This legislation allows them to do so by clarifying the exemption in the copyright infringement law allowing people to skip, mute or avoid scenes on DVDs. This legislation does not allow for the modifying of the underlying content of the movie, it merely allows fast forwarding or muting portions of the movie or sound track.

Thanks to this legislation, parents can control the content their children view without having to hold a finger on the remote control and anticipate scenes they might find objectionable.

Mr. Speaker, technology that helps parents accomplish this goal should be applauded. S. 167 will allow for technology innovation to flourish without having to face continued legal challenges. This bill is an ideal solution that can be used by families in the home, and does not require limits to be placed on content the studios develop.

I support this legislation. I urge the support of my colleagues.

Mr. BERMAN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my better judgment notwithstanding, the arguments on this one aspect of the bill on which the majority and I disagree requires me to make just a couple of points.

There is no one who thinks parents do not have and should not have the right to skip over, pass up or omit scenes of any video production they think are inappropriate for their children to see. No one debates that. No one debates they have the right to do that.

What some of us do debate is the right of a commercial enterprise to peddle a technology which fundamentally alters the creator's work any more than some publisher has the right to take an unabridged version of a book that is under copyright, in order to excerpt and take out objectionable patches of that book, and then make a commercial profit without the permission of the copyright owner in peddling that book. That is the issue underlying our opposition to the Family Movie Act.

Parents should have all of these rights, including the right to just say "no" to their kids watching a movie or reading a book that is not appropriate. There is no dispute about that. This is a dispute about a particular type of technology that this bill seeks to immunize from liability for employing some young people to decide what someone else should see and not see. But I will not get myself too worked up about a bill that I plan to actively support.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation with reservations about one part. At the outset, I strongly support efforts to make it more difficult to steal content and to encourage preservation of historic content.

As I have said before, the content industries are a boon to our economy, providing this country's number one export. Their products, which include music, movies, books, and software, survive on the protection given by copyright law. Without protection from rampant copying and other infringement, creators would have no reason to keep creating and investing in new content.

The success of copyrighted content, however is also its Achilles' Heel. People now camcord movies in theaters to sell online or in DVD format. They obtain pre-release copies of content and sell it online. Of course, this is illegal because it is done without the permission of the content owners and without payment to them. This bill clarifies that these two acts are illegal even if technology makes it easy and fast and cheap. While I believe we should do more to stop piracy, S. 167 is a step in the right direction.

Having said that, I would like to clarify one issue. The civil enforcement said of the pre-release provision imposes a statute of limitations on certain copyright lawsuits. Because it imposes the limit only for infringements that occur no more than two months after pre-registered content is first distributed, it is clear that the bill does not impose any time limit on filing lawsuits for infringements that occur more than two months after distribution.

The bill also contains two provisions that will encourage the preservation of historically-significant content. First, it reauthorizes the National Film Preservation Board and National Film Preservation Foundation, which review initiatives to ensure the preservation of valued films and issue grants to libraries and other institutions that can save films from degradation. The Directors Guild of America and the Academy of Motion Picture Arts and Sciences have applauded these efforts. The program expired in 2003, so S. 167 extends it until 2009.

The second preservation piece, the "Preservation of Orphan Works Act," will empower libraries and archives to make additional copies of musical works, movies, and other content.

My one objection to S. 167, however, is with the "Family Movie Act," which would allow private companies to sell movie editing software without permission from the filmmakers. This was proposed in response to a lawsuit between one company and filmmakers. From our consideration of this provision last year, we know this section inserts Congress into a private dispute and will take away the copyrights and artistic rights of filmmakers to the financial benefit of one private company. It is important to note that the bill does not immunize those who make fixed copies of edited content; such copies would still be illegal, as they are today, and the legislative history should reflect that.

I urge my colleagues to vote "yes" on this legislation.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 167.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

MULTIDISTRICT LITIGATION RESTORATION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1038) to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes.

The Clerk read as follows:

H.R. 1038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multidistrict Litigation Restoration Act of 2005".

SEC. 2. MULTIDISTRICT LITIGATION.

Section 1407 of title 28, United States Code, is amended—

(1) in the third sentence of subsection (a), by inserting "or ordered transferred to the transferee or other district under subsection (i)" after "terminated"; and

(2) by adding at the end the following new subsection:

"(i)(1) Subject to paragraph (2) and except as provided in subsection (j), any action transferred under this section by the panel may be transferred for trial purposes, by the judge or judges of the transferee district to whom the action was assigned, to the transferee or other district in the interest of justice and for the convenience of the parties and witnesses.

"(2) Any action transferred for trial purposes under paragraph (1) shall be remanded by the panel for the determination of compensatory damages to the district court from which it was transferred, unless the court to which the action has been transferred for trial purposes also finds, for the convenience of the parties and witnesses and in the interests of justice, that the action should be retained for the determination of compensatory damages.".

SEC. 3. TECHNICAL AMENDMENT TO MULTIPARTY, MULTIFORM TRIAL JURISDICTION ACT OF 2002.

Section 1407 of title 28, United States Code, as amended by section 2 of this Act, is further amended by adding at the end the following:

"(j)(1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1369 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability and punitive damages. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

"(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(3) An appeal with respect to determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.".

SEC. 4. EFFECTIVE DATE.

(a) SECTION 2.—The amendments made by section 2 shall apply to any civil action pending on or brought on or after the date of the enactment of this Act.

(b) SECTION 3.—The amendment made by section 3 shall be effective as if enacted in section 11020(b) of the Multiparty, Multiforum Trial Jurisdiction Act of 2002 (Public Law 107–273; 116 Stat. 1826 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1038, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1038, the Multidistrict Litigation Restoration Act of

2005, reverses the effect of a 1998 Supreme Court case commonly referred to as "Lexecon," which has hampered the Federal court system from adjudicating complex, multidistrict cases that are related by a common fact situation. Just as importantly, the bill functions as a technical correction to a related "disaster litigation" provision that was incorporated in the Department of Justice Authorization Act, which Congress passed in 2002.

A little background is in order at this point. During the 107th Congress, I authored legislation to address the Lexecon and disaster litigation problems. As passed under suspension by the House, my bill, H.R. 860, accomplished two goals: First, the bill reversed the effect of the Lexecon case which dealt with the authority of a specially designated U.S. district court to handle complex multidistrict cases consolidated for trial. Pursuant to the decision, the court known as the "transferee" court could retain Federal and State cases only for pretrial matters, but not the actual trials themselves.

H.R. 860 simply codified existing practice of the preceding 30 years by allowing the transferee court to retain jurisdiction for the purpose of determining liability and punitive damages, or to refer the cases back to those courts in which the cases were originally filed. This feature streamlines adjudication and enables the transferee court to induce the parties to settle.

Second, H.R. 860 conferred original jurisdiction on U.S. district courts to adjudicate any civil action arising out of a single accident under prescribed conditions, but would remand the case to the State courts for determination of compensatory damages. This portion of H.R. 860 is commonly referred to as the "disaster litigation" part of the bill.

The Committee on the Judiciary in the other body took no action on H.R. 860, but the matter was resurrected during House-Senate conference deliberations on the Department of Justice authorization bill. Pursuant to negotiations, the conferees agreed to take half of H.R. 860, the disaster litigation portion, which is currently codified as section 1369 of title 28 of the U.S. Code.

Trying to enact a straight Lexecon fix through the bill before us is meritorious in its own right, promoting as it does judicial efficiency, but there is another problem that the bill solves. The currently codified disaster litigation portion of H.R. 860 contemplates that the Lexecon problem is solved. In other words, the new disaster litigation law only creates original jurisdiction for a U.S. district court to accept those cases and qualify as a transferee court under the multidistrict litigation statute; but the transferee court still cannot retain the consolidated cases for determination of liability and punitive damages, which compromises the operation of the statute.

In this sense, then, the Lexecon fix, its freestanding merits aside, also functions as a technical correction for the recently enacted disaster litigation measure. H.R. 1038, in tandem with the now-codified disaster litigation provisions, will produce what was originally intended when legislation addressing this issue was first proposed, a fix to the Lexecon problem and a disaster litigation measure that really works.

I remind Members that H.R. 1038 is identical to H.R. 1768 from the 108th Congress, which passed the House by a rollcall vote of 418-0. In sum, this legislation speaks to process, fairness and judicial efficiency. It will not interfere with jury verdicts or compensation rates for litigators.

Mr. Speaker, I include for the RECORD a letter from the U.S. Judicial Conference stating their strong support for enactment of H.R. 1038. I urge my colleagues to join me in a bipartisan effort to support this bill.

JUDICIAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, April 18, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Judicial Conference of the United States strongly supports enactment of H.R. 1038, the "Multidistrict Litigation Restoration Act of 2005," which you introduced on March 2, 2005 and which was reported favorably by the House Judiciary Committee on March 17, 2005. H.R. 1038 will facilitate the resolution of claims by citizens and improve the administration of justice.

Currently, section 1407(a) of title 28, United State Code, the multidistrict litigation statute, authorizes the Judicial Panel on Multidistrict Litigation (the Judicial Panel) to transfer civil actions with common questions of fact that are pending in multiple federal judicial districts "to any district for coordinated or consolidated pretrial proceedings." It also requires the Judicial Panel to remand any such action to the district court in which the action was filed at or before the conclusion of such pretrial proceedings, unless the action is terminated before then in the transferee court.

Although the federal courts had for nearly 30 years followed the practice of allowing a transferee court to invoke the venue transfer provision (28 U.S.C. § 1404(a)) and transfer the case to itself for trial purposes, the Supreme Court in *Lexecon, Inc.* v. *Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998), held that such statutory authority did not exist. The Court noted that the proper venue for resolving the desirability of such self-transfer authority is the "the floor of Congress." 523 U.S. at 40.

Section 2 of H.R. 1038 responds to the Lexecon decision by amending 28 U.S.C. § 1407 to allow a judge with a transferred case to retain it for trial or to transfer it to another district in the interest of justice and for the convenience of the parties and witnesses. This section also provides that any action transferred for trial must be remanded by the Judicial Panel to the district court from which it was transferred for the determination of compensatory damages, unless the transferee court finds for the convenience of the parties and witnesses and in the interests of justice that the action should be retained for the determined of compensatory damages. As experience has shown, there is wisdom in permitting the judge who is familiar with the facts and parties and pretrial proceedings of a transferred case to retain the case for trial. Also, as with most federal civil actions, multidistrict litigation cases are typically resolved through settlement. Allowing the transferee judge to set a firm trial date promotes the resolution of these cases.

H.R. 1038 also seeks to make corrections to the Multiparty, Multiforum Trial Jurisdiction Act of 2002, which was enacted as section 11020 of the "21st Century Department of Justice Appropriations Authorization Act" (Pub. L. No. 107-273, 116 Stat. 1758; now codified in various sections in title 28, United States Code. See 2 U.S.C. §§ 1369, 1391, 1441, 1697, and 1785.)

The Judicial Conference appreciates your support of H.R. 1038. If you or your staff have any questions, please contact Mark W. Braswell or Karen Kremer, Counsel, Office of Legislative Affairs (202-502-1700).

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

Mr. SENSENBRENNER. Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support House passage of H.R. 1038. At least five times over the past 6 or 7 years I have risen to support legislation virtually identical to H.R. 1038. Each time the legislation has stalled in the Senate.

This bill has a very narrow purpose and effect. It overturns the 1998 Lexecon decision of the Supreme Court. That decision held that a multidistrct litigation transferred to a Federal court for pretrial proceedings cannot be retained by that court for trial purpose. In so holding, the Lexecon decision upset decades of practice by the multidistrict litigation panel and Federal district courts. The Lexecon decision also increases the cost and complexity of such multidistrict litigations by requiring courts other than the transferee court which has overseen the discovery and other pretrial proceedings to conduct a trial.

The provisions of this bill overturn Lexecon in a carefully calibrated manner. While the bill allows a transferee court to retain a case for a trial on liability issues and, when appropriate, on punitive damages, it creates a presumption that the trial of compensatory damages will be remanded to the transferor court. In so doing, the bill is careful to overturn the Lexecon decision without expanding the power previously exercised by transferee courts. More importantly, the presumption regarding the trial of compensatory damages ensures that plaintiffs will not be unduly burdened in pursuit of their claims.

In addition, this bill makes technical and conforming corrections to the provisions in the 2002 Department of Justice authorization measure relating to the consolidation of mass tort cases. While not universally endorsed, most Democratic members of the Committee on the Judiciary have supported this piece of legislation each time it is submitted for consideration, and I ask my colleagues to once again vote for H.R. 1038.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I will not repeat the chairman's description of the bill's contents, but I would note that his bill is identical to the text of the legislation we passed in the last Congress by a vote of 418–0.

H.R. 1038 helps the Multidistrict Litigation Panel discharge its responsibilities by streamlining the adjudication of complex, multidistrict cases in a manner that is fair to all litigants.

Mr. CONYERS. Mr. Speaker, I have supported this legislation in the past because I am told it will improve the ability of Federal courts to handle complex multidistrict litigation arising from a common set of facts.

But I do have some reservations about this bill. When Congress enacted the Multidistrict Litigation, MDL, statute 35 years ago, its purpose was not to impose an unfair burden on plaintiffs and their families. Congress made plain its insistence on preserving the ability of individual plaintiffs to have their eventual day in court in a Federal district courthouse reasonably close to their home.

I want to make sure we continue to strike the right balance between emphasizing judicial economy and efficiency and preserving fundamental fairness during the critical trial phase. With this underlying goal in mind, I support this legislation. However, I hope the bill will continue to improve as it moves through the Senate and into Conference.

Mr. BERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1038.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRADEMARK DILUTION REVISION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 683) to amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment, as amended.

The Clerk read as follows:

H.R. 683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Trademark Dilution Revision Act of 2005".

(b) REFERENCES.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 2. DILUTION BY BLURRING; DILUTION BY TARNISHMENT.

Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) DILUTION BY BLURRING; DILUTION BY TARNISHMENT.—

"(1) INJUNCTIVE RELIEF.—Subject to the principles of equity, the owner of a famous mark that is distinctive, inherently or through acquired distinctiveness, shall be entitled to an injunction against another person who, at any time after the owner's mark has become famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring or dilution by tarnishment of the famous mark, regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury.

"(2) DEFINITIONS.—(A) For purposes of paragraph (1), a mark is famous if it is widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark's owner. In determining whether a mark possesses the requisite degree of recognition, the court may consider all relevant factors, including the following:

"(i) The duration, extent, and geographic reach of advertising and publicity of the mark, whether advertised or publicized by the owner or third parties.

"(ii) The amount, volume, and geographic extent of sales of goods or services offered under the mark.

"(iii) The extent of actual recognition of the mark.

"(B) For purposes of paragraph (1), 'dilution by blurring' is association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark. In determining whether a mark or trade name is likely to cause dilution by blurring, the court may consider all relevant factors, including the following:

"(i) The degree of similarity between the mark or trade name and the famous mark.

"(ii) The degree of inherent or acquired distinctiveness of the famous mark.

"(iii) The extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark.

"(iv) The degree of recognition of the famous mark.

"(v) Whether the user of the mark or trade name intended to create an association with the famous mark.

"(vi) Any actual association between the mark or trade name and the famous mark.

"(C) For purposes of paragraph (1), 'dilution by tarnishment' is association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark.

"(3) EXCLUSIONS.—The following shall not be actionable as dilution by blurring or dilution by tarnishment under this subsection:

"(A) Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.

"(B) Fair use of a famous mark by another person, other than as a designation of source for the person's goods or services, including for purposes of identifying and parodying, criticizing, or commenting upon the famous mark owner or the goods or services of the famous mark owner.

"(C) All forms of news reporting and news commentary.

"(4) ADDITIONAL REMEDIES.—In an action brought under this subsection, the owner of the famous mark shall be entitled only to injunctive relief as set forth in section 34, except that, if—

"(A) the person against whom the injunction is sought did not use in commerce, prior to the date of the enactment of the Trademark Dilution Revision Act of 2005, the mark or trade name that is likely to cause dilution by blurring or dilution by tarnishment, and

"(B) in a claim arising under this subsection—

"(i) by reason of dilution by blurring, the person against whom the injunction is sought willfully intended to trade on the recognition of the famous mark, or

"(ii) by reason of dilution by tarnishment, the person against whom the injunction is sought willfully intended to harm the reputation of the famous mark,

the owner of the famous mark shall also be entitled to the remedies set forth in sections 35(a) and 36, subject to the discretion of the court and the principles of equity.

"(5) OWNERSHIP OF VALID REGISTRATION A COMPLETE BAR TO ACTION.—The ownership by a person of a valid registration under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register under this Act shall be a complete bar to an action against that person, with respect to that mark, that is brought by another person under the common law or a statute of a State and that seeks to prevent dilution by blurring or dilution by tarnishment, or that asserts any claim of actual or likely damage or harm to the distinctiveness or reputation of a mark, label, or form of advertisement."; and

(2) in subsection (d)(1)(B)(i)(IX), by striking "(c)(1) of section 43" and inserting "(c)".

SEC. 3. CONFORMING AMENDMENTS.

(a) MARKS REGISTRABLE ON THE PRINCIPAL REGISTER.—Section 2(f) of the Trademark Act of 1946 (15 U.S.C. 1052(f)) is amended—

(1) by striking the last two sentences; and

(2) by adding at the end the following: "A mark which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), may be refused registration only pursuant to a proceeding brought under section 13. A registration for a mark which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), may be canceled pursuant to a proceeding brought under either section 14 or section 24."

(b) OPPOSITION.—Section 13(a) of the Trademark Act of 1946 (15 U.S.C. 1063(a)) is amended in the first sentence by striking "as a result of dilution" and inserting "the registration of any mark which would be likely to cause dilution by blurring or dilution by tarnishment".

(c) CANCELLATION.—Section 14 of the Trademark Act of 1946 (15 U.S.C. 1064) is amended, in the matter preceding paragraph (1)—

(1) by striking ", including as a result of dilution under section 43(c),"; and

(2) by inserting "(A) for which the constructive use date is after the date on which the petitioner's mark became famous and which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), or (B) on grounds other than dilution by blurring or dilution by tarnishment" after "February 20, 1905".

(d) MARKS FOR THE SUPPLEMENTAL REGISTER.—The second sentence of section 24 of the

Trademark Act of 1946 (15 U.S.C. 1092) is amended to read as follows: "Whenever any person believes that such person is or will be damaged by the registration of a mark on the supplemental register—

"(1) for which the effective filing date is after the date on which such person's mark became famous and which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), or

"(2) on grounds other than dilution by blurring or dilution by tarnishment,

such person may at any time, upon payment of the prescribed fee and the filing of a petition stating the ground therefor, apply to the Director to cancel such registration.".

(e) DEFINITIONS.—Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by striking the definition relating to "dilution".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

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GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 683 currently under consideration.

The SPEAKER pro tempore (Mr. ISSA). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the foundation of trademark law is that certain words, images, and logos convey meaningful information to the public, including the source, quality, and goodwill of a product or service. Unfortunately, there are those in both commercial and noncommercial settings who would seize upon the popularity of a trademark for their own purposes and at the expense of the rightful owner and the public. Dilution refers to conduct that lessens the distinctiveness and value of a mark. This conduct can debase the value of a famous mark and mislead the consuming public.

A 2003 Supreme Court decision, Moseley v. V Secret Catalogue, Inc., compelled the House Committee on the Judiciary's Subcommittee on Courts and Intellectual Property, during the last Congress, to review the Federal Trademark Dilution Act and a committee print to amend it. The contents of the bill before us, H.R. 683, were largely culled from that committee print.

H.R. 683 does not establish new precedent or break new ground. Rather, the bill represents a clarification of what Congress meant when it passed the dilution statute a decade ago. Enactment of this bill is necessary because it will eliminate confusion on key dilution issues that have increased litigation and resulted in uncertainty among the regional circuits.

The primary components of H.R. 683 include the following: one, subject to the principles of equity, the owner of a famous distinctive mark is entitled to an injunction against any person who commences use in commerce a mark that is likely to cause dilution by blurring or tarnishment.

Second, a mark may be "famous" only if it is widely recognized by the general consuming public in the United States as a source designation of the goods or services of the mark's owner.

Third, in determining whether a mark is famous, a court is permitted to consider "all relevant factors" in addition to prescribed conditions set forth in the print, including the duration, extent, and geographic reach of advertising and publicity of the mark.

Fourth, H.R. 683 clarifies the definition of dilution by blurring, as well as by tarnishment.

Fifth, the bill enumerates specific defenses to a dilution action: comparative commercial advertising or promotion to identify competing goods; all forms of news reporting and news commentary; and traditional fair uses pertaining to parody, criticism, and commentary.

Sixth and finally, other than an action based on dilution by blurring, the owner of a famous mark is only entitled to injunctive relief under H.R. 683 if the defendant willfully intended to trade on the famous mark's recognition; or in an action based on dilution by tarnishment, the defendant willfully intended to trade on the famous mark's reputation.

In either case, the owner may seek damages, costs, and attorneys' fees as well as the destruction of the infringing articles under separate Lanham Act provisions.

In sum, this bill will provide greater guidance for courts when they adjudicate dilution cases and businesses that use trademarks. It is a good complement to the dilution statute that received more than 2 years of subcommittee process.

Mr. Speaker, I urge Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of House passage of H.R. 683. This bill makes important changes designed to protect famous trademark owners against the use of similar marks that might harm a company's reputation or confuse consumers. It also manages to balance trademark law with first amendment concerns.

In 1995, the Federal Trademark Dilution Act was passed in order to "protect famous trademarks from subsequent uses that blur the distinctiveness of the mark or tarnish or disparage it." The purpose of the act was to bring uniformity and consistency to the protection of famous marks, a goal that had been complicated by differing State dilution laws.

However, since 1995, a significant split had developed among the courts in the interpretation of key elements of the dilution act. The Supreme Court eventually took a step to resolve the controversy in its recent decision in Moseley v. V Secret Catalogue, the Victoria's Secret case, where it interpreted the words "cause dilution" in the act to require a demonstration of actual dilution.

As a result of this decision, trademark holders are now required to wait until the injury happens before bringing suit. Victims of dilution have asserted that the injury caused by dilution constitutes the gradual diminution or whittling away at the value of the famous mark. They analogize the effects of dilution to 100 bee stings, where significant injury is caused by the cumulative effect, not just by one.

Section 2(c)(1) of this bill addresses this problem by changing the standard to "likelihood of dilution." By lowering the standard, proof of actual harm would no longer be a prerequisite to injunctive relief, and therefore extensive damage cannot be done before relief can be sought. Furthermore, the bill includes a clear reference to dilution by tarnishment. This allows the trademark owner to protect his mark from associations which harm the reputation of the famous trademark. The bill narrows the reach of a dilution cause of action. It tightens the definition of fame by providing a specific list of factors, and eliminates the protection for marks that are famous only in niche markets.

While not universally supported, this bill has now garnered the support of the ACLU for accommodating its first amendment concerns. In section 2(c)(3), the bill addresses the balance between the rights of trademark holders and the first amendment by providing an exemption for purposes of identifying and parodying, criticizing or commenting on the famous mark. The trade groups representing intellectual property owners, AIPLA, INTA and IPO, have all endorsed this bill.

H.R. 683 achieves an important balance in the protection of intellectual property. I encourage my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time.

Mr. Speaker, trademark law is relevant to the life of every consumer in

America. Trademarks give customers assurance that the goods or services they are buying are what customers think they are. If a customer has purchased items in the past from a particular company that bears a specific mark or logo, the customer has an impression, favorable or not, of that company and the goods or services it produces. So trademark law empowers consumers by giving them information that is often critical to their purchasing decisions.

Dilution alters the public perception of a trademarked product or service by diminishing its uniqueness over time.

The idea of protecting famous trademarks from dilution surfaced in the 1920s. Since then, roughly half of the States have enacted dilution statutes while Congress passed the Federal Trademark Dilution Act nearly a decade ago.

As the gentleman from Wisconsin noted, the Federal dilution statute is being amended for two main reasons. First, a 2003 Supreme Court decision involving Victoria's Secret ruled that the standard of harm in dilution cases is actual harm. Based on testimony taken at our two Intellectual Property Subcommittee hearings, this is contrary to what Congress intended when it passed the dilution statute and is at odds with the concept of dilution. Diluting needs to be stopped at the outset because actual damage can only be proven over time, after which the good will of a mark cannot be restored.

Second, the regional circuits have split as to the meaning of what constitutes a famous mark, distinctiveness, blurring and tarnishment. The bill more distinctly defines these terms. This will clarify rights and eliminate unnecessary litigation, an outcome that especially benefits small businesses that cannot afford to have a misunderstanding of what is permissible under the Federal dilution statute.

Finally, amendments developed at the subcommittee level will more clearly protect traditional first amendment uses, such as parody and criticism. These amendments provide balance to the law by strengthening traditional fair-use defenses.

Mr. Speaker, in sum, H.R. 683 clarifies a muddied legal landscape and enables the Federal Trademark Dilution Act to operate as Congress intended.

Mr. WU. Mr. Speaker, I rise in strong opposition to H.R. 683, the Trademark Dilution Revision Act.

Trademark law emanates from the commerce clause. It was originally about consumer protection, ensuring consumers are not confused or harmed by the misuse of a famous trademark, rather than property protection. However, with the passage of the Federal Trademark Dilution Act in 1995, the issue of trademark dilution became more an issue of property protection. The purpose of that law was to enable businesses" to protect the investment that companies have made in branding their products. Consumer confusion was no longer required to establish "dilution." Not surprisingly, private lawsuits in this area jumped from 2,405 in 1990 to 4,187 in 2000.

For example, Starbucks went after a local coffee shop in my district that was named after its owner, Samantha Buck Lundberg. The coffee shop bore the nickname given to her by her family and friends—Sambuck. Ringling Bros.-Barnum and Bailey Circus sued the State of Utah over Utah's advertising slogan that it had "The Greatest Snow on Earth." To the circus this slogan was an obvious play on the long time identification of the circus as "The Greatest Show on Earth." Microsoft sued to prevent use of the term "Lindows" for the Linux operating system software and website produced by Lindows, Inc., arguing that it was clearly an attempt to play on the Windows designation of its own operating system. Lindows eventually changed the name of the product and website to "Linspire" after losing court cases. Best Western International the hotel/motel chain appears to be trying to claim sole right to the word "Best" when it comes to using the word in names of hotels or motels. It has sued both Best Inns and Best Value Inns, contending that those names infringe on its trademark.

In recent years, the Supreme Court addressed these lawsuits in Moseley, et al., DBA Victor's Little Secret v. V Secret Catalogue, Inc., et al., in which Victoria's Secret sued a small business in Kentucky. In its opinion, the Court ruled that companies under the Federal Trademark Dilution Act have to prove that their famous brand is actually being damaged before they can use dilution law to force another person or company to stop using a word, logo, or color.

Since trademark laws have an effect not only on famous companies but also on the many small businesses with legitimate business interests, any anti-dilution legislation should be very carefully considered so as not to interfere with the rights of small businesses. The goal must be to protect trademarks from subsequent uses that blur, dilute or tarnish that trademark, but it must also be the protection of small business interests from its more powerful corporate counterparts.

Unfortunately, this bill will change trademark law to make it easier for large companies to sue individuals and businesses for trademark dilution, thus potentially creating rights in perpetuity for trademarks. This bill states that no actual harm will have to be proven; large companies will be able arbitrarily to file lawsuits against small businesses and private citizens.

I agree with the Supreme Court in its unanimous decision in Moseley. I think that companies in seeking to impose their trademarks upon the public must show actual harm. If not, we run the risk of trademark owners being able to lock up large portions of our shared language. This open-ended invitation to litigate is especially troubling at a time when even colors and common words can be granted trademark protection.

I urge my colleagues to oppose this bill.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BISHOP of Utah). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 683, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR APPOINTMENT OF SHIRLEY ANN JACKSON TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 19) providing for the appointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

H.J. RES. 19

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Hanna H. Gray of Illinois on April 13, 2005, is filled by the appointment of Shirley Ann Jackson of New York. The appointment is for a term of 6 years, beginning on the later of April 14, 2005, or the date of the enactment of this joint resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from New York (Mr. MCNULTY) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Joint Resolution 19. I am pleased to be here on the floor with my distinguished colleague from New York to talk about the appointment of Shirley Ann Jackson as a citizen regent of the Smithsonian Institution's Board of Regents.

The Smithsonian's governing board is comprised of 17 members. These members include the Chief Justice of the Supreme Court, the Vice President of the United States, six Members of Congress, and nine citizens who are nominated by the board and approved jointly in a resolution of Congress. The nine citizen members serve for a term of 6 years each and are eligible for reappointment to one additional term.

Shirley Ann Jackson will fill a vacancy on the board being created with the departure of Hanna Gray. Shirley Ann Jackson is the 18th president of Rensselaer Polytechnic Institute and the first African American woman to lead a national research university.

□ 1515

Dr. Jackson has been a pioneer in many of her other endeavors as well. She is the first African American woman to receive a doctorate from MIT, the first African American to become a commissioner and chairman of the U.S. Nuclear Regulatory Commission, and the first African American woman elected to the National Academy of Engineering.

Her accomplishments in the field of physics and her leadership as the head of a national research university provide her with tremendous experience that will benefit the Smithsonian's board.

Dr. Jackson is currently President of the American Association for the Advancement of Science, and she was named one of seven 2004 Fellows of the Association for Women in Science.

In addition to her experience, Dr. Jackson has received the Golden Torch Award for Lifetime Achievement in Academia from the National Society of Black Engineers. She has been inducted into the National Women's Hall of Fame, and she has been recognized in such publications as Discover and Industry Week magazines and the Essence book, 50 of The Most Inspiring African Americans.

I could go on and on because I have merely scratched the surface of Dr. Jackson's numerous achievements, as well as the honors and awards she has received. But I will conclude by saying that it should be very clear that Dr. Shirley Ann Jackson would be a tremendous addition to the Smithsonian Institution's governing board. It will be an honor and pleasure to have her serve on that board, and I ask my colleagues to support House Joint Resolution 19.

Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I consider it a great honor to come to the floor today to nominate my friend Shirley Ann Jackson for the position of member of the Board of Regents of the Smithsonian Institution.

As the chairman pointed out, Dr. Jackson is the 18th President of Rensselaer Polytechnic Institute, a leading national research university, which I am proud to say is located in my congressional district in the great city of Troy, New York, and I am also proud to say that Shirley Ann Jackson is a constituent.

Dr. Jackson is widely recognized for her intelligent, compassionate problem-solving abilities and her promotion of women and minorities in science. Dr. Jackson is currently the President of the American Association for the Advancement of Science and is a director of many major corporations, including FedEx and AT&T.

She is also a member of the New York Stock Exchange Board of Directors, the Council on Foreign Relations, the National Academy of Engineering, the National Advisory Council on Biomedical Imaging and Bioengineering at NIH, the U.S. Comptroller-General's Advisory Committee for the GAO, and the Executive Committee of the Council on Competitiveness.

She is also a Fellow at the American Academy of Arts & Sciences and is a trustee of Georgetown University, Rockefeller University, Emma Willard School, and the Brookings Institution.

As the chairman pointed out, she is the recipient of many awards and honors, including life membership on the MIT Board of Trustees.

A native of Washington, D.C., Dr. Jackson received both her B.S. in physics and her Ph.D. in theoretical elementary particle physics from MIT. Dr. Jackson also holds 32 honorary doctoral degrees.

Mr. Speaker, as the chairman pointed out, Dr. Jackson is uniquely qualified for this position, and I urge adoption of the joint resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

Mr. MCNULTY. Mr. Speaker, I yield myself such time as I may consume.

I am delighted again to refer this resolution to my colleagues for their consideration and support. Dr. Jackson is a great friend. She is a constituent. She is an outstanding American and a great humanitarian, and I urge adoption of the joint resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BISHOP of Utah). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the joint resolution, H.J. Res. 19.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. NEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the joint resolution, H.J. Res. 19.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROVIDING FOR APPOINTMENT OF ROBERT P. KOGOD TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 20) providing for the appointment of Robert P. Kogod as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

H.J. RES. 20

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Wesley S. Williams, Jr. of the District of Columbia, on April 13, 2005, is filled by the appointment of Robert P. Kogod of the District of Columbia. The appointment is for a term of 6 years, beginning on the later of April 14, 2005, or the date of the enactment of this joint resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from New York (Mr. MCNULTY) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Again, Mr. Speaker, it is a pleasure to be here with my friend and colleague from New York, and we appreciate his support of these resolutions.

I rise in support of House Joint Resolution 20, which provides for the appointment of Robert P. Kogod as a citizen regent of the Smithsonian Institution's Board of Regents.

Robert Kogod is the second nomination we are considering today. He is expected to fill the vacancy created by the departure of Wesley Williams.

Mr. Kogod is the former co-chairman and co-chief executive officer of the Charles E. Smith Realty Companies. The Smith Companies he headed pioneered mixed-use development in the Washington, DC area, which puts residential, office, and retail buildings in close proximity.

Mr. Kogod and his wife, Arlene, are renowned philanthropists. In 1979 the Robert and Arlene Kogod School of Business at American University was named in honor of a major gift from the Kogods. They also helped establish the Institute for Advanced Jewish Research, within the Shalom Hartman Institute in Jerusalem. The Kogods are also world-recognized collectors of

American crafts, art deco, and American art. They are longstanding members of the Smithsonian's American Art Forum and Archives for American Art.

Mr. Kogod has also served as a member of the Smithsonian Washington Council, and he is currently serving as a special adviser to Secretary Small on the Patent Office Building renovation project.

He serves as a trustee and adviser to the President of American University, which is where he also earned his bachelor of science degree in 1962. He possesses an extensive background in business, philanthropy and art. His diverse experience will make him an excellent candidate to serve on the Smithsonian Institution's governing board.

I support House Joint Resolution 20 and ask for its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I yield myself such time as I may consume.

Before we proceed with this next nomination, I also want to congratulate the gentleman from California (Mr. BECERRA), the newest congressional regent at the Smithsonian Institution, who replaces our late friend and colleague, Bob Matsui.

Mr. Speaker, I join the chairman in urging the adoption of House Joint Resolution 20 to elect Robert P. Kogod, a renowned philanthropist and real estate developer, to a 6-year term as a citizen regent of the Smithsonian Institution.

Mr. Kogod has a long record of service with the Smithsonian Institution, having served as a member of the Smithsonian Washington Council; as a special adviser, as the chairman said, to Secretary Small; and as a member of the American Art Museum's American Art Forum.

Mr. and Mrs. Kogod, as the chairman pointed out, are noted collectors of American crafts, art deco, and American art and have provided major gifts to the American University School of Business, which is named for them; and to the Shalom Hartman Institute in Jerusalem, which promotes Jewish thought and education; and to the Corcoran Gallery of Art, among many others.

Mr. Kogod also serves on the American University Board of Trustees. And for many years Mr. Kogod was cochairman and chief executive officer of Charles E. Smith Realty Companies, which pioneered mixed-use real estate development in the Washington, DC metropolitan area.

Mr. Speaker, I join the chairman in strongly urging my colleagues to support House Joint Resolution 20.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

I just want to reiterate that Mr. Kogod is a person who is going to enhance and add so much to the board, and we are so pleased today to be making this resolution to put him on the board.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to support the appointment of Robert P. Kogod as a citizen regent of the Smithsonian Institution.

Bob received a B.S. in 1962 from American University located in Washington, DC. He joined the Smith Companies in 1959 where he served as president, chief executive officer and director until 2001. Rob is a member of the boards of directors of Vornado Realty Trust and Archstone-Smith Trust. Bob also serves as President of the Hartman Institute in Jerusalem which is home to the Kogod Institute for Advanced Jewish Research.

In 1979, the Kogod School of Business at American University was named in honor of a major gift from the Kogods.

Bob and his wife Arlene have demonstrated their deep commitment to James Smithson's vision of the Smithsonian Institution as an establishment for the increase and diffusion of knowledge. The Kogods are renowned philanthropists as well as world-recognized collectors of American crafts, Art Deco and American Art. They are longstanding members of the Smithsonian American Art Museum's American Art Forum .and the Archives for American Art. Bob previously has served as a member of the Smithsonian Washington Council and is currently serving as special advisor to Secretary Small on the Patent Office Building renovation project.

Mr. Speaker, in closing, I would like to express my support for the appointment of Bob Kogod as a citizen regent of the Smithsonian Institution.

Mr. NEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the joint resolution, H.J. Res. 20.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. NEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the joint resolution, H.J. Res. 20.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 25 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEARCE) at 6 o'clock and 31 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 683, by the yeas and nays;

H.J. Res. 19, by the yeas and nays; and

H.J. Res. 20, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

TRADEMARK DILUTION REVISION ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 683, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 683, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 8, not voting 15, as follows:

[Roll No. 109]

YEAS—411

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer

Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn

NAYS—8

Costello
DeFazio
Duncan
Filner
Flake
Moore (WI)
Paul
Wu

NOT VOTING—15

Deal (GA)
DeGette
Diaz-Balart, L.
Doolittle
Fattah
Fossella
Istook
Jenkins
Kennedy (RI)
Menendez
Pallone
Rush
Wexler
Young (AK)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEARCE) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1855

Mr. COSTELLO changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FOSSELLA. Mr. Speaker, on rollcall No. 109 I was inadvertantly detained. Had I been present, I would have voted "yea."

PROVIDING FOR APPOINTMENT OF SHIRLEY ANN JACKSON TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, H.J. Res. 19.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the joint resolution, H.J. Res. 19, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 17, as follows:

[Roll No. 110]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler

Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

NOT VOTING—17

Bradley (NH)
Deal (GA)
DeGette
Diaz-Balart, L.
Doolittle
Fattah
Gerlach
Istook
Jenkins
Kennedy (RI)
Menendez
Murtha
Pallone
Rush
Wexler
Young (AK)
Young (FL)

☐ 1906

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BRADLEY of New Hampshire. Mr. Speaker, on rollcall No. 110 I was inadvertantly detained. Had I been present, I would have voted "yea."

PROVIDING FOR APPOINTMENT OF ROBERT P. KOGOD TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The SPEAKER pro tempore (Mr. PEARCE). The pending business is the question of suspending the rules and passing the joint resolution, H.J. Res. 20.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the joint resolution, H.J. Res. 20, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 22, as follows:

[Roll No. 111]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Etheridge
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
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Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
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Taylor (MS)
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Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
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Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
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Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

NOT VOTING—22

Chocola
Deal (GA)
DeGette
Diaz-Balart, L.
Doolittle
Eshoo
Evans
Fattah
Istook
Jenkins
Kennedy (RI)
Menendez
Murtha
Nussle
Pallone
Pascrell
Rush
Sanders
Scott (GA)
Wexler
Young (AK)
Young (FL)

☐ 1923

So (two thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF INSPECTOR GENERAL FOR HOUSE OF REPRESENTATIVES FOR 109TH CONGRESS

The SPEAKER pro tempore (Mr. PEARCE). Pursuant to clause 6 of rule II, and the order of the House of January 4, 2005, the Chair announces the joint appointment by the Speaker, majority leader, and minority leader of Mr. Steven A. McNamara of Sterling, Virginia, to the position of Inspector General for the United States House of

Representatives for the 109th Congress, effective January 4, 2005.

CAFTA

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, CAFTA, the Central American Free Trade Agreement coming in front of Congress, fact number one: The economic output of the six Central American countries entering into this agreement with the United States is equal to the economic output of Columbus, Ohio; Orlando, Florida; or the entire State of Kansas.

What this trade agreement, CAFTA, is all about: It is not about selling American goods into six small, poor countries in Central America. It is about outsourcing jobs. It is about weakening our economy. It is about losing our manufacturing base. It is about hiring low-income workers in Guatemala and Honduras and Nicaragua and Costa Rica.

This agreement hurts American workers. It depresses American wages. It does nothing to lift up standards of living in Central America.

CAFTA is a dysfunctional cousin of the North American Free Trade Agreement. It will continue to wreak havoc on the economy of Central America and Latin America and do nothing for American manufacturing.

RHETORIC VS. REALITY, SOCIAL SECURITY DEFINED

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to clarify a few points about strengthening and preserving Social Security.

Unfortunately, partisan opposition groups are playing word games with Social Security reform. Let me tell the Members what these words mean to the average American.

Privatization means taking Social Security completely out of the hands of government and turning the program over to a private entity. I will never vote to privatize Social Security.

Personal accounts means giving younger workers a choice to invest a portion of their tax dollars into safe and secure accounts. Most importantly, these accounts would be owned by the individuals and protected from the D.C. practice of using these funds for general spending. This is not privatization.

I would hope that instead of slinging half-truths and misrepresentations, those groups opposed to any sort of reform would instead present choices of their own and meet Republicans at the negotiating table in a productive, constructive manner.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NO FLY, NO BUY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. McCARTHY) is recognized for 5 minutes.

Mrs. McCARTHY. Mr. Speaker, for years people have been hearing me talk about gun violence in this country, and the debates over tougher gun laws have been defined as "social issues."

Gun violence has had tragic consequences for so many families, including my own. Gun violence presents a tremendous burden to our police departments, and I see it in my own district on Long Island where we are dealing with so many gangs. With the expiration of the assault weapons ban, many police departments will be outgunned by gangs and criminals. That is why basically we had the assault weapons ban put in place back in 1994.

Gun violence also costs this society over $100 billion a year. Most of that $100 billion is paid with tax dollars. It is estimated each shooting costs our economy $1 million in health care, police work, and lost productivity.

Mr. Speaker, the social costs of gun violence are ever increasing, but since September 11, the threat of gun violence has become an important homeland security issue as well.

We are at war, and our lack of tough gun laws allows our enemies to arm themselves right here in our country. People can go to gun shows and be able to buy guns. They can go into different gun stores across this country with false ID and be able to buy guns. We know through the FBI that 44 times just since January the terrorists that have been on a no-fly list have been able to go and buy those guns. In all but nine instances, the purchases were allowed to go through. Affiliation with a terrorist group does not appear on any background checklist whatsoever.

There certainly have been many more instances of suspected members of terrorist groups trying to buy guns since then. But since the Justice Department destroys background check records after only 24 hours, we will never know, unfortunately, until there is a tragedy.

So not only are we allowing suspected terrorists to arm themselves, we are also destroying the records indicating how many guns they have bought and how many they own. We are destroying critical intelligence in the war on terror.

The question my constituents ask me all the time or when I go around the country and speak is, "Why are these people allowed to buy guns in the first place?" It defies common sense. We saw what these terrorists are capable of, armed with only box cutters purchased at a hardware store; and starting last week, people are not even allowed to bring a cigarette lighter onto a plane. Then why do we make it so easy for our enemies to buy firearms and ammunition within our borders?

Since 9/11 we have adopted a multitude of new laws in the wake of the war on terror, and I agree with those laws.

□ 1930

No one is spared from the reach of these new laws. Some of these laws may be an inconvenience for some; but if it prevents one terrorist from boarding a plane, it is a good law. But our gun laws are dangerously out of step with the war on terror. The same people who cannot board a plane can walk into a gun store and purchase a handheld weapon of mass destruction. By the way, that is assault weapons, also. This is ridiculous.

Let me set the record straight. I am not out to take away the guns of any law-abiding citizen. We need commonsense gun safety regulations that protect law-abiding gun owners while making it tougher for terrorists and criminals to obtain these guns. That is why I have introduced the No Fly No Buy bill.

This bill would deny those on the Transportation Security Administration's No Fly List from purchasing firearms in this country. Granted, the No Fly List includes some law-abiding citizens who are on the list in error. But it is the only Federal terrorist watch list that allows innocent people to get their names removed. Other Federal lists without practical application may be just as inaccurate, but afford no due process to those wrongly listed. My bill would ensure that those people incorrectly listed on the No Fly List would be able to get their names off the list as soon as possible; and then they would be able to complete their gun purchase, no questions asked. Again, an inconvenience for some, but necessary steps to ensure terrorists are not buying guns in our country.

The Federal Government is charged with protecting us from terror. That is what 9/11 has taught us. I understand the second amendment concerns of law-abiding gun owners. These laws can coexist with responsible people's rights to hunt and protect their families. Responsible gun ownership is a right of all law-abiding Americans, but we must also have a responsibility to protect law-abiding Americans from acts of terror and crime.

Mr. Speaker, we are seeing gangs across this Nation multiply, and we also know that they still have easy access to get guns. We can stop this crime wave that we see going through our country. We should be stopping this. We can save certainly an awful lot of money on medical costs. Our communities, all of a sudden, they are asking themselves, is it safe to go out at night. We have cut back on our police officers; we have let the assault weapons bill expire; we now cannot even have our police officers check to see if a criminal has bought a gun because in 24 hours the records are destroyed.

We are not going in the right direction. We can make a difference. I hope people will support this bill.

THANKING OUR ARMED FORCES FOR THEIR COURAGE, DEDICATION, AND BRAVERY

The SPEAKER pro tempore (Mr. POE). Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to thank the men and women of our Armed Forces for the courage and the dedication that they have so bravely displayed while liberating and securing Iraq from tyranny and terrorism. Through their hard work and dedication, these Marines, sailors, airmen, and soldiers have succeeded in defeating terrorism and giving birth to a new democracy in the Middle East, one that will serve as a model for the entire region.

Every day, U.S. forces transfer more security responsibilities to Iraqis, giving them the tools that they need to secure their nation. Today, there are more than 150,000 Iraqi security forces who have been trained and equipped by the United States and our coalition forces. Iraqis now patrol Baghdad's hotspots, parts of Mosul, Fallujah, and Saddam's hometown of Tikrit.

Every week, between 1,500 and 3,000 new Iraqi security forces enter active duty, joining the U.S. and coalition forces in our joint battle against terrorism. By liberating Iraq, our fighting men and women showed the world that terrorism and tyranny would no longer be tolerated.

After 9/11, President Bush decided to take the fight to the terrorists; and, once again, our Armed Forces answered the call to service. Ever since, U.S. and coalition forces have spectacularly defeated Saddam's tyrannical regime and transformed Iraq for the better. Those who were once oppressed now rule Iraq, holding the highest offices of a democracy.

Having accomplished the great task of liberating the Iraqi people from the scourge of terrorism, our forces have remained in Iraq to assist in rebuilding the country. Our men and women in the military have built schools, hospitals, and other infrastructure to improve the lives of ordinary Iraqi citizens. They have restored electricity and water to the Iraqis who have suffered from three wars in one generation. Roads and bridges are being repaired to increase commerce. Our soldiers have been able to accomplish this and so much more, even though murdering terrorist gangs try at every turn to thwart their progress.

The valor and the courage of our Armed Forces in the face of this enemy have been critical to the reconstruction of Iraq. This was exemplified by the recent visit of our Deputy Secretary of State to the once-terrorist stronghold of Fallujah.

I am proud that my stepson, Aviator First Lieutenant Douglas Lehtinen, is preparing to deploy to Iraq. He will join the thousands of U.S. soldiers who are bravely fighting to guarantee that future generations of Iraqis will not have to suffer under tyranny.

Some of these soldiers, such as my husband, retired First Lieutenant Dexter Lehtinen, as a platoon leader in Vietnam, have paid dearly for the freedom that so many of us take for granted. My husband, Dexter, was wounded by a grenade that almost took his life. Instead, today he carries the scars of battle to remind us that while freedom may not be free, it is always worth fighting for.

I am proud that my stepson, Dougie, chose to volunteer and to protect the country that we all love so much from those who desire to destroy it. To all the brave men and women who have, do, and will continue to serve our Armed Forces, thank you on behalf of a grateful Nation.

FOCUSING ON CONSTRUCTIVE SOLUTIONS TO U.S. IMMIGRATION POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. GUTIERREZ) is recognized for 5 minutes.

Mr. GUTIERREZ. Mr. Speaker, I rise this evening to begin what I hope will be the start of a constructive dialogue about our Nation's immigration laws.

There has been a lot of heated rhetoric about this topic in recent months. But what I believe has been lacking from this debate is a discussion of real solutions and an accurate portrayal of the real contribution of our Nation's immigrant community.

In Congress, on cable shows and in newspaper columns across the country, we witness undocumented workers being unfairly and inaccurately blamed for all of our Nation's ills. In fact, it seems as though there are some cable show hosts out there who have made this practice the cornerstone of their programming. Just look at Lou Dobbs and his "Broken Borders" segment. If you ask me, it should be called the "Broken Record" segment. Because night after night after night, it is the same thing. It is about giving a platform to anti-immigrant extremists so they can espouse their misguided, misleading, and often malicious views.

Mr. Speaker, I am the first to admit that our Nation's immigration system is simply not working. It is not meeting the needs of our Nation, it is damaging families, and it is hurting businesses. But rather than targeting Windex-wielding cleaning ladies, we should be talking about practical solutions.

Do these individuals actually believe we should deport the more than 10 million undocumented working men and women working in this country? Do they think that is truly the answer? Let us say they say yes. Do they think our Nation has the will or the requisite resources to round up these individuals and ship them all off? If that is the case, I would simply ask them, what would life be without the more than 700,000 undocumented restaurant workers washing dishes and cleaning tables, 250,000 household employees, or the almost 1 million undocumented farm workers? These industries where these workers toil would literally come to a screeching halt if not for their labor. Their absence would cripple entire communities. Fruits and vegetables would rot on the vine, office buildings and hotels would go uncleaned, and children would go unattended.

So this evening, I thought I would set the record straight and give the folks at CNN and other news outlets a little unsolicited editorial advice. I think we should be talking in this country about mending borders. Rather than a segment about broken borders, why not create a segment about mending borders on your stations? How about a segment where elected officials, policy analysts, and immigration experts on all sides of the political spectrum discuss ideas and proposals for fixing our flawed immigration policy? How about, instead of endless footage of workers crossing the border, we see footage of real contributions of immigrants to our agricultural industry?

I wish I could turn on the television set one night and see scenes like this, by Rick Nahmias. This is the face of our immigrant community, right here, Mr. Speaker. It is back-breaking, thankless labor. These men and women are exposed to dangerous pesticides and punished by brutal working conditions. They lack safety equipment and have no place to send their children to school. Many of these workers wake up at 2 in the morning to take a bus to our fields, and they do not return until long after dark.

But this is why we have fresh fruits and vegetables at our grocery stores and on our kitchen tables. It is men and women like this in this poster who sustain our $30 billion agricultural industry. According to the Department of Labor, at least half the 1.8 million crop workers in the U.S. are undocumented. That is the Federal Government.

I would like to show the next poster, one we never see on TV. The subtitle of the article is "Jobs Americans Won't Do." I wish everybody would read the front page of The Wall Street Journal on March 11. The Wall Street Journal article focuses on the challenges growers have finding workers. For example, ahead of a recent lettuce harvest, one grower took out ads in local papers for field workers to pick up the lettuce. He needed about 350 workers. The grower got one reply, just one reply. Mr. Speaker, the simple truth is our aging, more educated workforce is unwilling to pick the lettuce.

I do not blame them. It is truly arduous work. So rather than attacking immigrants for filling these important jobs and for sustaining our vital agricultural industry, let us talk about creating a system that allows them to come out of the shadows and work here legally and safely and humanely. Rather than unfairly attacking immigrants for draining entitlements, let us talk about the undocumented workers who are here in this country and, according to the Social Security Administration, subsidize our Social Security system by $7 billion. Unfortunately, I have yet to see a segment about this on the cable channels.

Mr. Speaker, rather than focusing on the fiery rhetoric that boosts cable ratings, I would rather we focus on the words of the late Pope, John Paul II, who said, Undocumented migrants are the most vulnerable of foreigners. With those words as our guide, I hope we can work together to create an immigration system that is reflective of their enormous contribution and the greatness of this Nation.

MOURNING THE LOSS OF PRIVATE AARON HUDSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I received an announcement this morning from the Department of the Army. It is a casualty announcement that unfortunately we all receive from time to time, and it says: "The United States Army announces the loss of Private Aaron M. Hudson, 20, of Highland Village, Texas, who died on April 16, 2005 in Taji, Iraq, in support of Operation Iraqi Freedom. According to initial reports, Private Hudson died from injuries sustained on April 15, 2005, when an improvised explosive device detonated near his patrol.

Private Hudson was assigned to the 401st Military Police Company, the 720th Military Police Battalion out of Fort Hood, Texas.

Private Hudson's family resides in Highland Village, Texas. The Army extends heartfelt sympathy and condolences to his family who have suffered this loss."

Well, Mr. Speaker, I thought I should do something to perhaps fill in a little bit more about the life of Private Hudson; and although I did not know Private Hudson, we did reside in the same city for a while.

Private Hudson was a 2002 graduate of Marcus High School in Flower Mound, Texas. He joined the Army a year ago and left for Iraq in January, and he was serving at the 401st Military Police Company.

Mr. Speaker, the majority of the information that I am going to tell the House tonight came from a newspaper article in the Dallas Morning News from Monday, April 18, 2005; and I will insert that into the RECORD at the conclusion of my remarks.

Private Hudson was traveling in a convoy between Baghdad and Camp Taji on Friday performing a routine patrol delivering mail, Mr. Hudson, his father, said. He was the gunner in his military police team and was charged with security at the rear of the convoy when a roadside bomb exploded. A large piece of shrapnel shot through his body armor and struck him in the chest.

Private Hudson was born May 17, 1984, in Dallas. He played baseball, soccer, and basketball growing up; but his main high school sport was golf.

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Mr. Speaker, I received a phone call from a Highland Village policeman, Chuck Barr, who was a next-door neighbor of Private Hudson.

Chuck being a policeman, you might imagine is somewhat circumspect about young men as they grow up. But he had no such reservations about Aaron Hudson. He told me that he trusted Aaron completely. He and his wife, Dawn, frequently used Aaron as a baby-sitter for their young children. And the photograph provided to me by Chuck Barr, the policeman in Highland Village, shows him and Mr. Barr's son sitting at their home in Highland Village.

Officer Barr related that Aaron had fun, but he never got into trouble. He said he and his wife, Dawn, used to always know when Aaron arrived home at night because his truck was a little bit loud as it pulled into the driveway next door.

Mr. Speaker, I cannot even imagine the pain that Mark Hudson and Angela Hudson, Aaron's parents, are going through this evening and this week. I called Mark Hudson today, and even though he was suffering enormously, he did take the time to talk to me a little bit about his son and his son's life. I told him that I would be speaking on the floor of the House tonight about his son.

And he said, I want you to tell the other Members of Congress that his son, Aaron, was proud to be a soldier. He said, As a father, I could not ask for more than for my child to go and help people halfway across the world, people he had never met before, to go and help them, and to give his life in trying to extricate them from tyranny.

Mr. Hudson wanted this body to know how much he supported the other young men and women over in Iraq this evening, how much he supported them in their effort to provide freedom for the Iraqi people.

Mr. Hudson told me that Aaron loved to be called a soldier. Mr. Hudson reminded me that tonight in the Hudson household the casualty rate is at 100 percent, but still he wanted me to convey that he and his family harbored no ill will against the Iraqi people. It was clear in Mr. Hudson's mind his son had been murdered by criminals, by a criminal element in the country of Iraq and not the Iraqi people that his son had gone to help.

Mr. Hudson also asked me to say a special note of thanks to a gentleman, and unfortunately Mr. Hudson did not know this gentleman's first name or his rank, but he was with Aaron in the 401st Military Police Division. The man's name is Robertson. He went through basic training with Aaron and they deployed together in Iraq, and it was Robertson who got young Aaron onto the medivac helicopter, and probably it was Mr. Robertson who heard Aaron's last words.

Mr. Hudson said that the letters he got back from his son were always upbeat. He never complained about things like the food. He never complained about his life in Iraq. He loved the camaraderie and the structure of being around his fellow soldiers. Mr. Hudson said in the newspaper article, Let's face it, he would rather have been home, but he knew why he was there and he knew his being there was important.

Well, Mark Hudson, Angela Hudson, I want you to know that just as we heard the gentlewoman from Florida, ILEANA ROS-LEHTINEN, say when she was speaking of her stepson that was going to be deployed, on behalf of a grateful Nation, we say, "Thank you." As Aaron comes home this week, I again would say, Thank you.

[From the Dallas Morning News, April 18, 2005]

HIGHLAND VILLAGE SOLDIER KILLED

(By Christy A. Robinson)

An Army private from Highland Village died in Iraq on Saturday, a day after he was struck by shrapnel from a roadside bomb.

Pvt. Aaron Hudson, 20, was a 2002 graduate of Marcus High School in Flower Mound. He had joined the Army almost a year ago and left for Iraq in January. He was serving with the 401st Military Police Company.

"He liked being called a soldier," said his father, Mark Hudson. "My son died doing what he wanted to do. As a father, you can ask no more for your children than to willingly help other people."

Pvt. Hudson was traveling in a convoy between Baghdad and Camp Taji on Friday, performing a routine patrol and delivering mail, Mr. Hudson said.

He was the gunner in his military police team and was charged with security at the rear of the convoy when a roadside bomb exploded. A large piece of shrapnel shot through his body armor and struck him in the chest.

"We knew in the back of our mind that this could happen," Mr. Hudson said. "The people of Iraq, did not kill my son . . . the criminal element in Iraq killed my son. He was there to help the Iraqi people."

Pvt. Hudson was born May 17, 1984, in Dallas. He played select-level baseball, soccer and basketball growing up, but his main high school sport was golf.

He always felt at ease around people of any age, especially around his grandfather's golfing buddies. "He loved to play golf with those men. Those men loved him, too," Mr. Hudson said.

Pvt. Hudson conducted extensive research into which branch of the military he would join, his father said, before settling on being a military police officer in the Army.

"The thing that makes it odd is we aren't a military family," Mr. Hudson said. "He sent us a letter the fourth week into basic [training]. Basic training is supposed to be tough. And he said, 'Man, Dad. This is fun.' I knew then he made the right decision."

Pvt. Hudson spoke to his family by telephone two or three times a week. The last time that he spoke with his parents was the Tuesday before he was killed to wish them a happy 25th wedding anniversary.

Pvt. Hudson's phone calls and letters were never negative, his father said.

"The food was never terrible, the conditions were never terrible," he said. "You would think the letters would start off with, 'This sucks.' But they were never like that. It's made this a whole lot easier."

Mr. Hudson said his son's best friends were fellow soldiers.

"He loved the camaraderie and the structure," Mr. Hudson said. "Let's face it, he'd rather been home. But he knew why he was there, and he knew him being there was important."

Pvt. Hudson's body was expected to arrive at Dover Air Force Base in Delaware early this morning. His body will be returned to North Texas by the end of the week, Mr. Hudson said.

Funeral arrangements are pending. Pvt. Hudson's battalion in Iraq will hold a memorial service for him Wednesday.

In addition to his father, Pvt. Hudson is survived by his mother, Annette Hudson of Highland Village; a sister, Lezlie Hudson of Dallas; grandparents David and Fredrika Hudson of Mount Pleasant, Texas; and great-grandparents Ed and Loise Huddleston of Lewisville.

OPPOSITION TO TRADE AGREEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the definition of insanity is when someone does the same thing over and over and over again, and then expects a different outcome.

Every time a trade agreement comes in front of this Congress, the American Free Trade Agreement in 1993, the trade agreements throughout the 1990s, trade with China, trade agreement after trade agreement, the support of those trade agreements promise the American people several things.

They promise more jobs for Americans, they promise more U.S. exports to those countries with whom the trade agreement is signed. They promise strengthening the middle class in the United States. They promise more manufacturing jobs for Americans. They promise a prosperity in the developing countries whom we are trading with. They promise strong environmental standards and food safety standards and worker standards and all of that.

Every time they make those promises, this Congress passes a trade agreement, usually in the middle of the night, usually by a handful of votes, and every time after this Congress passes these trade agreements, the promises just evaporate. We simply do not see the kind of results they promise.

One of the promises they make in every single trade agreement is that our trade deficit would come down. And let me point out our trade deficit, what has happened in this country.

Our trade deficit is a simple calculation: It is how much the United States exports versus how much it imports. If we export more than we import, we have a trade surplus. If we buy, import, more than we sell, export, we then have a trade deficit.

I ran for Congress in 1992. In 1992 the trade deficit in this country was $38 billion. Since 1992 we have seen a series of trade agreements passed, NAFTA, China, Australia, Morocco, Singapore, Chile, several others.

Today, the trade deficit, $38 billion in 1992, the trade deficit last year 2004, was $620 billion. From 38 billion to 620 billion, yet the people that brought us NAFTA, the people that brought us China, Most Favored Nation status, are still saying, Vote for our trade agreements and we will bring deficits down.

But do not take my word for it when I say that they break these promises. Look at these trade deficit numbers, and then look at what President Bush wants to do today.

President Bush is saying, Please pass the Central American Free Trade Agreement, similar to the North American Free Trade Agreement, CAFTA, the Central American Free Trade Agreement. He says, If you pass CAFTA, we will have more exports; we will grow manufacturing in the United States; we will have a strengthened middle class; we will have strong environmental standards both in the United States and Central America; it will bring prosperity to the Central American countries.

What he does not tell you is that the six Central American countries that make up CAFTA, their combined economies figure at about $62 billion. Our economy generates $10.5 trillion in GDP, the six countries in Central America have a combined GDP, if you will, of $62 billion.

So CAFTA is not about robust markets for the exporting of American goods. They simply are not able to buy our products. $62 billion GDP in those six countries, that is about the combined purchasing power of the city of Orlando, Florida, or the city of Columbus, Ohio, or the entire State of Kansas. In other words, these six very small, very poor countries, have the economic input of Kansas or of Columbus or of Orlando.

So they are not buying American products. So they simply cannot buy agricultural produce from this country. They cannot buy the wines from California or the cars from Ohio or the steel production from West Virginia. They cannot buy computer goods. They simply cannot afford to buy these products from the United States.

So what are these trade agreements about? What was NAFTA about? What was the China trade agreement, MFN, about, what was CAFTA, the Central American Free Trade Agreement that the President wants us to pass, what is that about? It is about outsourcing jobs. It is about moving production from the United States where workers make $8 or $10 or $15 or $20 an hour producing things, to Guatemala, to Honduras, to Costa Rica, to Nicaragua, to El Salvador, to countries where the wages are maybe a dollar or two a day, or $3 or $4 a day in some cases.

It is about outsourcing jobs. It is about moving production to Central America. It is about loss of American jobs. It is about exploitation of workers in the developing countries. It is about worse environmental regulations. It is about weaker food safety standards. But it is also about profits, the profits for large American companies.

That is why in this hall you are seeing the largest CEOs of the largest companies walk the halls asking Members of Congress to vote for CAFTA. You are seeing the CEOs of America's largest companies contributing to elected officials, to Members of Congress. You are seeing them trying to buy their way into this institution, this corrupt institution, under the leadership of Republican leader TOM DELAY.

You are seeing in this institution an attempt to buy the Central American Free Trade Agreement. This agreement is about profits for American companies. It is about campaign contributions. But what CAFTA will not do is stop the bleeding of manufacturing jobs in the United States, and what it will not do is create a strong Central American consumer market for American goods.

Our economic success in this country is that workers in our country share in the wealth we create. If you work for General Motors, you help that company produce profits, you help that company do well. As a result, you, as a worker, share in the profits that you create.

That is what has made our economy vibrant. It is that people who work hard and play by the rules do well. But throughout the developing world, workers do not share in the wealth they create. So what will make a trade agreement work is when the world's poorest people can buy American products rather than just make them; then we will know that our trade policy finally will have succeeded.

ORDER OF BUSINESS

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

THE SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

WELCOME HOME GI BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, at the President's second inaugural, last January, he said, "A few Americans have accepted the hardest duties in this cause, the dangerous and necessary work of fighting our enemies. We will always honor their names and their sacrifice."

The other day I introduced a bill called the Welcome Home GI Bill, to recognize the returning veterans of Iraq's and Afghanistan's theaters of war, to give them the type of compensation that they have deserved.

Now, a little history. We all know about the GI Bill. The fact is that the GI Bill was passed approximately 11 months before the end of World War II, signed by the President of the United States. Even before the war was concluded, the GIs from that war knew what the GI Bill was going to be.

And it helped them on health care and education and buying a home. It helped them put themselves on the road to their civilian life, but also put America back on the road coming home from that war.

And the truth is that every Congress, every Congress, at the end of hostilities has had a package of compensation for its veterans. Going back to the War of Independence, disabled veterans received a pension. There has not been a military engagement that the United States Congress, as the voice of the American people, has not designed a package for its returning vets; and it is high time that the 109th Congress follow the great tradition of every Congress before and begin to think what we will do for the vets returning from Iraq and Afghanistan.

Two weeks ago I met the Marine Corps 2nd Battalion 21st Regiment. I had seen them off 7 months earlier, and greeted them at Rosemont Horizon Arena in the Chicago suburbs, and saw those families. And one father said to me in a very poignant way, that this reception was a lot different from the reception he received about 35 years ago when he came home.

Now, what I have done in this package, which we have put together now with 15 sponsors, and the Veterans of Foreign Wars, the Illinois Chapter has endorsed and supported, is three parts: education, health care and housing.

In the area of education, today, full benefits would be around $36,000 in 3 years under the Montgomery GI educational benefits, and you would have to pay $1,800 to get that $35,000.

The Welcome Home GI Bill is 75,000 over 4 years, and you do not have to pay $1,800 to get that educational benefit because, in the view of the legislation, your service is your contribution. You do not have to pay $1,800 to receive an educational benefit, whether that is for college, 4 years of education, whether it is for job training, whether it is for postgraduate work, that benefit you earned by your service.

Second, if when you come back, your place of employment does not provide health care; or if because you went off to war, when you came back your health care was canceled, you and your family will get 5 years of TRICARE health care, the gold standard and the gold-plated health care that you are provided on active duty.

Today, vets get, if obviously if they are hurt or are in poverty, they get the veterans health care system. We are going to provide them the TRICARE system that they get as if they were active duty, for them and their families.

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Third, we provide today a mortgage insurance for a home. The hardest part of getting a home is actually the down payment. It would be a $5,000 contribution towards the down payment on their home. TRICARE health care for 5 years if your employment does not provide it or you lost it for you and your family, $75,000 for 4 years of education to pursue job training and education and you do not have to contribute $1,800 to get that. Your service provided that. And, lastly, $5,000 for a down payment on a home. That is in my view the minimum of what we can do for the returning veterans of Iraq and Afghanistan is provide them that sense of compensation. It is a welcome home for the GIs. Every Congress has done it in the past.

Lastly and more importantly, today we have a disparity between the benefits between National Guard and Reserve and regular enlistees. We eliminate that disparity between Reserve and active duty because you saw the same experience in Iraq and Afghanistan. So Reserve and National Guard get the same benefits as the regular enlistees have received. It eliminates that discrimination.

As I always say, we do not owe our veterans a favor, we just have to repay one. The Welcome Home GI Bill has now received the support of the Illinois chapter of the VFW. I look forward to the support of others. We will be submitting the bill next week.

HONORING MATTHEW DRAKE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this week Matthew Drake, a soldier who had been serving our Nation in Iraq, was awarded the Purple Heart for grave injuries he sustained on October 15, 2004, in Anwar Province, Iraq. May I please extend to him and to his family warmest congratulations and deepest gratitude on behalf of the people of the United States.

Private First Class Drake, a resident of Toledo, Ohio, and graduate of Sylvania North High School, while driving a 6-ton truck became the only survivor of a bombing. Comatose, he had a fractured skull, severe head injuries, multiple back injuries, many broken bones, and damage to his right arm and shoulder. He underwent many surgeries while hospitalized in Germany at both military as well as German private hospitals and more after traveling to Walter Reed Army Hospital here in Washington where he remained in a coma for many weeks.

Matthew Drake survived by all accounts miraculously and will undergo rehabilitation for a very long time. He has been courageous in his journey. He said this week that on receiving this Purple Heart he wanted to be able to stand from his wheelchair in order to have it pinned on him.

Throughout the months since Matt was wounded, his family has struggled to afford what is necessary to help him to travel to the hospitals on our coasts where people have been trying to help him. For his family to be near him and to help his very long rehabilitation, a fund was established at Sky Bank in Toledo, Ohio, on his behalf.

Last week, I attended a spaghetti dinner which was a fundraiser arranged by Matt's family and friends to raise the money, at least part of it, required for this son of our Nation to continue his progress with the support of his family. And before I left, they gave me this T-shirt to remember Matt. And it says on it, "The Long Road Home, Matthew Drake, Army Special Forces Injured in Iraq. He was there for us. October 15, 2004."

Matthew Drake was born in Toledo, Ohio, in 1983. He was raised in Sylvania and attended Maplewood Elementary School. He played soccer and was a Boy Scout and a member of Olivet Lutheran Church. While a student at Northview High School, Matthew was a wrestler and excelled in gymnastics. He trained in the martial arts, played guitar, and was an honor roll student.

After graduation, he started college at Bowling Green University and worked for the United Parcel Service, but 1 year later he felt duty-bound to serve our country. He left college and enlisted in the United States Army on October 13, 2002. Following training, he was assigned to Special Forces Bravo Company and sent to Iraq on September 7 just having turned 21. Not 6 weeks later he was promoted to specialist and 2 days after that the attack that changed his life forever occurred.

Now facing the greatest challenge of his young life, to return from a near mortal head and bodily injuries and trying to regain as much strength as he can, Matthew Drake's dream of becoming a physical therapist have turned to dreams of gaining inches of recovery day by day. He had always planned to work in a profession where he could be of help or service to other people. Yet his commitment to his family, his feeling responsible to protect his younger siblings brought him to a most dangerous place. He felt he had a job to do, and he did it.

How many times have we heard that sentiment echoed by the families of the more than 11,000 service members injured in Iraq? Matthew Drake joins the 6,050 of those who were not able to shortly return to duty and whose future in service to America and their God will take another form.

Matthew faces struggles of rehabilitation most of us cannot imagine. Even swallowing whole food is still not possible. Matthew's story represents one family's heroic struggle multiplied by more than 11,000 families whose loved ones have been injured and the over 1,550 who have had to lay their loved ones to rest.

Our government must assure that we properly care for and fully compensate these young people through their entire recuperation and lifetimes. Why should a family have to have spaghetti dinners in order to have the funds necessary to travel to be with one of these severely injured veterans who have come home?

Matthew is a quiet and shy young man who loves to laugh, especially enjoys children and animals, and who joined the Army to make the world safer. He represents the citizenship ideals of hundreds of thousands of service members whose value we should not forget.

The explosion that so injured Matt on October 15, 2004, killed all his colleagues but him. His injuries were grave. He was never expected to live. Matthew Drake survived by miracle and support of his family. His mother, Lisa, has never left his bedside since he has returned Stateside, and his father Tom has traveled time and again to be with him.

On April 18, 2005, with his mother and father by his side, along with his immediate family and friends, Matthew was awarded the Purple Heart. Matthew had made a promise to his parents that no matter what he would try to stand dressed in his uniform to receive this special honor. He needed help to do that, but he did it.

Four Star General Douglas Brown, who presides over the Special Operations Units for all branches of the military, was given the honor of presenting the Purple Heart Award to Specialist Matthew T. Drake.

Our hearts swell with Matt and his family, not only because he was awarded such a prestigious and significant medal but because he lived to receive it and understands the meaning of words duty, honor, and country.

Congratulations to Matt. We love you.

[From the Toledo Blade, Oct. 19, 2004]

SYLVANIA SOLDIER SURVIVES SUICIDE ATTACK; NORTHVIEW H.S. GRAD IS IN COMA, WITH SKULL FRACTURE, INJURIES TO ARM, SHOULDER

(By Elizabeth A. Shack Blade)

A Sylvania soldier was seriously hurt in a car bombing in Iraq on Friday that killed four other people, and his family and friends are anxiously awaiting word on his recovery.

Pfc. Matthew T. Drake, who is in an Army Psychological Operations unit based at Fort Bragg, N.C., arrived at Ramstein Air Base in Germany last night on his way to Landstuhl Regional Medical Center.

On Friday, Private Drake was driving a truck near the town of Qaim near the Syrian border. Two other psychological operations soldiers, a Marine, and an Iraqi translator were killed in the suicide attack.

Private Drake was in a coma when he reached a military hospital and also has injuries to his head, right arm, and shoulder, including a fractured skull.

"It's an unbelievable miracle that he survived," his aunt, Linda Marie Domini, said.

He has had several surgeries for his head injuries and will have more surgeries when he is in a more stable condition. He will eventually be transferred to Walter Reed Army Medical Center.

Private Drake graduated from Sylvania Northview High School in 2001 and attended Bowling Green State University for a year. In October, 2002, he left to join the Army.

He wanted to protect his younger siblings, Heather Schuster, a sophomore at Northview, and Michael Schuster, a sixth grader at Arbor Hills Junior High.

"He really felt called to serve," his aunt said, "He wanted to go fight the terrorists over there rather than have them come over here."

A member of the 9th PsyOp Battalion, Bravo Company, Private Drake left for Iraq on Sept. 7, two days after his 21st birthday, assigned to a three-man psychological operations unit. He drove an armored six-ton truck with a speaker.

His aunt said he felt that he had a job to do and he was going to do it, and he promised his mother, Lisa Schuster, that he'd come home. His father is Thomas Drake of Toledo.

"He's coming home a Purple Heart veteran," his aunt said, her voice breaking.

Private Drake, who was a wrestler his junior and senior years in high school and is a certified personal trainer, was thinking of becoming a physical therapist, Mrs. Domini said.

Friends and family described Private Drake, who belongs to Olivet Lutheran Church in Sylvania, as a kind, funny, and generous man.

Matt Serror, who has known Private Drake since they played soccer together in elementary school, said he was quiet and shy in high school but always helped people out, whether he was shoveling snow for an elderly neighbor or dropping a dollar in a can by a cash register.

"It's the little things you might not think about," Mr. Serror said. "He's one of those people that doesn't come around every day."

When his aunt's 150-pound Rottweiler was recovering from surgery, Private Drake carried him outside when needed to go outdoors.

In an e-mail to his mother a week before the attack, he wrote that he had befriended a feral dog that ran around the encampment where he lived with two other men in a room the size of a two-car garage.

"We pray that when he does come out of his coma that he's still Matthew," Mrs. Domini said.

Sky Bank branches are accepting donations to the Matthew T. Drake fund. His aunt said that if he doesn't survive, the money will go to families of other wounded soldiers.

But she said their family is one of strong faith, and they believe he's going to make it.

"We certainly ask for people who believe in prayer to pray for his recovery," Mrs. Domini said.

SMART ENERGY POLICIES, NATIONAL SECURITY AND IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, later this week the House will vote on energy legislation that concerns every man and woman in America. This energy bill presents a terrific opportunity to reduce our Nation's continued dependence on petroleum by promoting clean and renewable energy sources. But instead of encouraging the use of renewable energy, this Neanderthal legislation promotes the interest of corporations through tax breaks that encourage air pollution, water contamination, and the general destruction of our environment.

This energy legislation will harm more than our environment. American's continued reliance on fossil fuels is the single largest factor that contributes to our national insecurity. That is because we obtain most of our fossil fuels from the Middle East, a region where democracy is about as common as desert oases. By spending billions of dollars annually on foreign fuels, the United States supports autocratic regimes in countries like Saudi Arabia, Libya, and Venezuela.

The citizens of oil-rich countries run by despots rarely, if ever, receive even a dime from these oil sales. More often than not, these riches line the pockets of fat-cat leaders and their cronies, instead of paying for projects that would help improve the lives of all the people in the country.

This drastic gap in wealth between the upper and lower classes, in turn breeds hostility and despair among the local populace. This hostility, combined with the militant form of Islam that is encouraged by the fat-cat leaders, creates the conditions in which terrorism runs rampant.

If the United States were to become fully energy independent, we would essentially pull the plug on the supply of money that flows to the Middle East much like oil through a pipeline. Therefore, the most effective measure we can take to address global terrorism is to curb our dependence on foreign fuel. Unfortunately, this sham of an energy bill that we will vote on this week would do the very opposite, making Americans more beholden than ever to the whims and desires of big oil companies.

Sadly, 150,000 United States troops are currently embroiled in a war in Iraq that certainly is intended to ensure that the U.S. has access to Middle East oil.

President Bush and the Republican leaders in Congress claim they want democracy to take hold in Iraq. But if a democratic Iraq really is wanted, then we need to do two things right here at home.

First, we must craft a viable national energy policy that encourages the development and use of renewable sources of energy. Second, we must remove our troops from harm's way by withdrawing United States military forces from Iraq, giving Iraqis and Iraqi oil back to the people of Iraq.

I have introduced legislation to accomplish this: H.R. 737, the Renewable Energy and Energy Efficiency Act of 2005. It establishes a comprehensive energy strategy that will stimulate demand for more efficient energy processes and unlock the vast potential of renewable energy sources.

I have also introduced H. Con. Res. 35 with the support of 31 of my House colleagues. This legislation calls on President Bush to begin immediate withdrawal of U.S. troops from Iraq. If Iraq is as stable and secure as the Bush administration claims, then why does a third of our standing military remain there still fighting the Iraqi insurgency? Why do the men and women in our military continue to face gunfire and car bombs halfway around the world? For what cause have more than 1,500 American solders and tens of thousands of Iraqi civilians died, with another 12,000-plus American soldiers gravely wounded physically and mentally?

Mr. Speaker, our Nation's energy and foreign policies are interconnected. You cannot address one without addressing the other. That is why the energy legislation that will come before the House this week is so terribly wrong for America.

In promoting this misguided energy bill, the Republicans in Congress ensure the continuation of the deep disparities of wealth in the Middle East. These misguided policies will encourage future acts of terrorism which will encourage future warfare. Instead of relying on foreign oil for our energy needs, let us address the source of the problem by employing our Nation's innovative expertise by promoting the advancement of clean, renewable sources of energy. This will keep our air and water pure; but just as important, it will help purify our Nation's foreign policy.

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EARTH WEEK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes as the designee of the minority leader.

Mr. INSLEE. Mr. Speaker, I come to address the Chamber today on Earth Week. This is the 35th anniversary of Earth Day, something that is quite a significant event and something that has been very successful in American history.

I reflect back 35 years ago, and look how far we have come in America with our environmental policy to improve the conditions of our air and water, and we have had some real successes. I think it is appropriate once in a while to reflect on success in our Nation.

I live in the Seattle area and on an August day in Seattle, you look south where on a clear day you see Mount Rainier. It is quite a beautiful 14,600-foot peak. In August, it was invisible. You could not see it through the yellowish haze, except maybe the top 1,000 feet or so. As a result of some bipartisan efforts to reduce particulate matter and others in our air, we have been successful and I report you can see Mount Rainier very clearly as long as it is not raining, which once in a while it does in Seattle, of course.

We have had successes all over the country in improving our air quality as a result.

Just another little story: When I look out at Puget Sound just in front of my house, 35 years ago you may not have seen any bald eagles. They were an endangered species and had considerable problems because of some pesticides in our food chain. Now, just yesterday before I flew out here, I saw a great bald eagle soaring. It is a real joy to watch him fishing, they are joined by the ospreys frequently, and we have had success with the bald eagle and now people are enjoying and our grandkids and great grandkids are going to enjoy. We have had success.

The third success: I want to point to some of our policies that this Congress has adopted have been successful in bringing more efficiencies so we do not waste as much oil and have the pollution associated with oil.

In fact, if you will look at the graph here, this is a graph of the auto efficiency that we have had over the last several decades, and the top line here is for cars. The bottom line is for trucks, and the middle line is the average of both. You see back in 1975 our trucks were getting about an average of 12.5, 13 miles a gallon. Our cars, on average, were getting about 14.5 miles per gallon.

Back in the mid-1970s, we adopted some fairly ambitious goals to improve efficiency of our cars. What did we get? We got a tremendous boost in efficiency. If you look at these rising lines both for trucks and cars, very, very steep curves going up, so that in about 1984–1985 we got our cars up to an average of 24 miles a gallon, our trucks up to about 17 or 18 miles a gallon.

We had some major successes and we did so because the country embraced the spirit of Earth Day and embraced this concept that we have to have forward-looking, visionary environmental policy and energy policy in this country.

In sort of one of those ironies of life during Earth Week, we are going to have the energy bill up here before the House, which has major, major environmental impacts as well as security impacts and job and economic impacts.

I wanted to address tonight the impacts on our jobs, on our security and on our environment of the energy bill that the House will consider this week. I would like to start with some of the difficulties of that bill and some of its failures, and then I would like to move to the good news about the vision that we have to create a new energy future, a visionary energy future for this country. In fact, what we call it is the new Apollo Energy Project, and many of us believe we need an entirely new visionary, over-the-horizon plan for energy efficiency in this country that will do three things: first, break our addiction to Middle Eastern oil.

The security needs of this Nation to do that are obvious. The need to help spread democracy and the ability to do that will be much greater if we break this addiction to oil, which gives the oil princes and sultans the power in the Mideast. The security need for this is obvious. This is the first goal of the new Apollo Energy Project.

The second goal is to stop global warming. We have real problems with that. I will address that later. We need to have an energy policy that will stop this freight train right now that is building to significantly change our climate.

The third goal of the new Apollo Project is to grow jobs right here in the United States rather than allowing job loss to go overseas. Many of us feel that we should be building fuel-efficient vehicles here and not just in Japan. Those jobs, building fuel-efficient cars, should be here in America and not overseas by necessity. We think the solar cell technology, which was originally developed here, those jobs building those solar cells ought to be here, not Germany.

We feel that the people who are building the wind turbines, those jobs ought to be here, in Washington State and other manufacturing centers around the country, rather than in Denmark, that is now leading the world in that technology.

So we think we can bring those high-tech, visionary jobs home, and that is the very package of the new Apollo Energy Project.

I want to contrast that just for a moment with what the bill that will be voted on the floor consists of. Basically, the best way I can describe the bill that the majority party is bringing to the floor is pretty much a large transfer of taxpayer money to the oil and gas industry, and it is nothing more and really nothing less.

It is about $7.5 billion out of the $8 million that will go in direct subsidies in one form or another, sometimes through the Tax Code, some through direct subsidization to the oil and gas industry. That is over 85 percent of the entire amount to be invested in this that will go from taxpayers to the oil and gas companies.

It is interesting; I read a quote today by a gentleman who may surprise you, who said this, commenting on the relative wisdom, or lack thereof, of transferring $7.5 billion from taxpayers, who just got done filling out their tax reports, to one of the most profitable industries in America. In fact, last week I just read that one of those companies, I will not name their name, they are a fine company, good people work for them, but they had $8 billion in profits the third quarter last year, the largest quarterly profit of a corporation in American history. Yet, the bill the majority party is bringing to this Chamber will take $7.5 billion, roughly, of taxpayer money and give it to the oil and gas companies.

It was a very interesting quote I saw in this morning's newspaper. I thought I might share that. I thought it was a very sage comment on whether that made sense. This gentleman said, I will tell you, with $55 oil, a barrel, we do not need incentives to oil and gas companies to explore. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent.

That quote was by a fellow who knows the oil and gas industry quite well. That was a quote from President George Bush, who I think very pointedly asked. What are we doing giving the oil and gas industry $7.5 billion of taxpayer money when they have got $55, $56, $57, maybe $58 a barrel of oil now? If that is not an incentive, what else would be needed?

As President Bush pointed out, what we really need is some more technological solutions to deal with a way to break our addiction to oil of any nature, foreign or domestic, so that we can move forward and no longer be a slave to big oil. I thought that was an interesting comment, one that I hope some of my colleagues can ask when we debate this issue.

I was talking to one of my constituents the other day, and I told him this; and he just looked at me and said with incredulity, he said, That cannot be true, Congress could never do such a bizarre thing as to hand over taxpayer money like that to an old technology. A mature industry does not need that sort of pampering to get out of the crib of technology and get on its feet to become market-based. It has been around since the late 1800s. What are we doing with a $7.5 billion subsidy to an old industry?

Good question. I do not have an answer for it, but we will have a debate on this floor in this regard.

So the bill that is now before us is sadly lacking. It is a perfect energy policy for the early 1900s. In the early 1900s it might have made sense to help subsidize an industry just developing new technology, beginning to grow, a huge burst in the industrialization of America; but not now, not here. And we think we need a significantly different approach.

So we believe that we need an approach that will really use America's creative genius to develop the technologies to break our addiction to oil. And by the way, let me make sure people understand. As long as we are dependent on oil, we will be subservient to the international oil marketeers even if we increase our domestic production, and the reason is geology.

We consume about 25 percent of the world's oil every year, but we only have reserves, including that which has not been pumped, of about 3 percent of the oil reserves in the world. The simple fact is we cannot plant dead dinosaurs underneath our continental United States to create oil. It is simply not there. We are dependent on foreign oil, and even if we increase our domestic production to some degree, if we doubled it, if we doubled our domestic production, we would be at capacity. We would be having 6 percent of the world's oil, but still be consuming 25 percent of the world's oil.

The fact is that we cannot drill our way to independence. We cannot drill our way to freedom, and we cannot drill our way to create jobs in this country.

We need to largely invent our way out of this pickle. We need to use American ingenuity, the kind of ingenuity that created the software system, the Internet, the aerospace industry, biotechnology, putting the man on the moon. That is the kind of technology we need. In fact, that is why we named this project the new Apollo Energy Project, because President Kennedy stood right there actually May 9, 1961, and he spoke to America and he said America needs to put a man on the moon and bring him back safely within the decade.

That was a dramatic thing to say at the time. I mean, we could hardly launch a softball into space; we had not even invented Tang yet. It was a dramatically bold, audacious challenge. He made it because he understood how good we are at invention in the United States of America, and we need that same kind of spirit now, a new Apollo Project that will call on the innovative spirit of Americans to solve these technological challenges.

This is not going to probably happen this Wednesday when we debate this matter, but I can say optimistically that the planets are aligning to really come up with a new energy policy in this country. Let me suggest some of the reasons here.

One is that the people are starting to understand that we can be very successful. This is a note of optimism. We are optimistic, and the reason we are optimistic is because we have already understood how we can achieve success. And if we will go back to this graph for a moment, we will take a look at this graph that showed what we did in the late 1970s, early 1980s, when we set ourselves on a course to improve the efficiency of our cars, we almost doubled the efficiency of our cars and some of our trucks by using new technology that we developed here domestically in America. With a bipartisan effort in Congress, we called for a higher fuel efficiency and we got it.

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And we got all the way up to about 1985, when you see something happened. We had this just absolute cessation of any progress in efficiency in our cars. You see, we had this very rapid buildup for car efficiency that literally stopped and became a plateau from 1985 to 2005. On trucks, we saw it stop in 1985 and plateau and absolutely go down a little bit. So today the average fuel efficiency of our fleet is actually less today than it was in 1985.

So you have to ask yourself, what happened in 1985? Did we just get dumb? I do not think so. Since 1985, we invented the Internet, we mapped the human genome, and we have built several new generations of jets at Boeing, in my neck of the woods in Washington State. We have had all these tremendous technological advancements, but in the efficiency of our cars we have actually gone down.

Why is that? We just forgot how successful we could be, because Congress and the White House, for reasons I never agreed with at the time, stopped calling for more fuel efficiency in what are called our corporate average fuel economy standards, and so they stopped progress. So we are now still dependent on foreign oil, have a problem with global warming, and are losing jobs rapidly to the Japanese in fuel-efficient vehicles as a result of that very shortsighted progress.

Now, that is bad news; but it is also good news because it shows what we are capable of if America sets its mind to it to use its creative genius to move forward, and that is what we need to do today. And one of the things the new Apollo Energy Project will do is to call for new improvements in the efficiency standards of our fleets. But the project also recognizes that we need to help our manufacturers achieve that. So we dedicate a significant sum, several billion dollars, to our domestic manufacturers, people who manufacture cars within the United States, of whatever manufacturing company it is, to assist them in retooling their factories to build these new fuel-efficient vehicles.

And that is an important part of our package, because it recognizes that we need to help our domestic industry find a way to finance the changes to continue improvements like that which we know we can obtain. We think that there is going to be enormous money made and jobs created in fuel efficient vehicles. Today, I must say, a car that gets 42 to 44 miles a gallon, one of these hybrid cars, in Seattle, Washington, now you can sell it for more than you bought it for because of the attractiveness of this fuel-efficiency standard. Safe, comfortable car. We can do this in this country. We need to set our minds to it, and that is one of the things we have suggested to do in the new Apollo Energy Project.

Coming back to this idea about an alignment of the planets, about why we can achieve this, I think what we are seeing in this country is a rather unprecedented combination of people who normally might have some different viewpoints on various policy matters who are coming together to understand why we need a visionary high-tech future for our energy world. I want to read some comments by these folks who sort of suggest we need to go in that direction.

Dealing with global warming, for instance, I think you might be surprised at some of the statements that have been made. The CEO of British Petroleum, Sir John Browne, who has provided remarkable leadership on some new high-tech solutions to global warming said: "There is a discernible human influence on the climate and a link between the concentration of carbon dioxide and the increase in temperature." That is the CEO of British Petroleum.

He is not alone. The CEO of Shell, Sir Philip Watts, on March 12, 2003 said: "We cannot wait to answer all questions on global warming beyond a reasonable doubt. There is compelling evidence that climate change is a threat."

You then have James Baker, former Secretary of State for the first President Bush, who said: "When you have energy companies like Shell and British Petroleum saying there is a problem with excess carbon dioxide emission, I think we ought to listen. I think we need to go forward with some sort of gradual resourceful search for alternative sources." This is a gentleman who was intimately involved with the first Bush administration, who recognizes that many people in corporate America are seeing a need for a real visionary change.

You see folks in the faith community who are now addressing the view that we have obligations to the Earth that are spiritual as much as aesthetic. Reverend Rich, and I am sorry if I mispronounce his name, Cizik, who is Vice President of National Affairs For the National Association of Evangelicals, said just this last month: "There is a feeling that global warming, or climate change, is real and the result of human impacts that impact other humans." The association itself issued a statement that said: "We affirm that God-given dominion is a sacred responsibility to steward the Earth, and not a license to abuse the creation of which we are part. We are not the owners of creation, but its stewards, summoned by God to 'watch over and care for it,'" citing Genesis.

You are starting to see a parallel thinking of folks from the fossil fuel industry, from former members of the Bush administration, from James Woolsey, former head of the CIA, from a group of the neoconservatives, many of whom supported the war in Iraq, from members of the faith community that we have a constellation of challenges that we need to have a new approach to; that demands us to use the asset above our shoulders, namely our brains, rather than just the assets below our feet, namely our fossil fuels. This is a gift from the creator, and we need to use it.

If I can turn for a moment about why we need to use this in regard to global warming, I would like to refer to a graph that is pretty unquestioned evidence of why we need to have a new energy on policy that will address global warming. You heard the comments from the Shell and British Petroleum CEOs, and they are doing some hard-headed thinking because we are facing some hard-headed facts.

There are some uncertainties about global warming: the extent to which it will occur, how it will affect the specific climates of regional areas. There is much uncertainty. But there is also much absolute clear facts, and I want to go over a couple of those. As folks may know, global warming is caused by carbon dioxide. Carbon dioxide works like a pane of glass: it traps heat, just like a greenhouse. Hence the term "greenhouse gases."

Now, I actually had a scientist explain this to me a while ago. The way it works is that glass, like carbon dioxide, will allow ultraviolet radiation to come through it. When radiation comes from the sun, it is largely in ultraviolet ranges. And as you recall the spectrum of frequencies, this energy comes in at the ultraviolet frequencies. That can pass through glass. When it bounces back, when that energy is reflected back, it comes back at a different frequency. It comes back in infrared ranges. A different frequency. That cannot pass through glass, and it does not pass through a layer of carbon dioxide as much as it would in the absence of the carbon dioxide. So you have ultraviolet rays coming in, they bounce back as infrared rays, and they are trapped.

And that is a good thing, because if we did not have a CO_2 layer, we would be on a barren planet. You could not exist here no matter how thick your down coat was. So we need that layer to some degree of heating gases. The problem is if you have that CO_2 layer increase in density.

So has it? Well, the facts are very, very clear. This is a chart that shows a red line that goes back to the year 1000. It comes up in 100-year increments, coming up to zero, which is today, showing our concentrations. On the left of the chart are the concentrations in parts per million that are measured. And these are absolutely unquestioned measurements. Scientists do an assessment of the parts per million of the molecules in the air, and it is a direct measurement. Nothing speculative about it. No hypothesis. Every scientist in the world will agree to this.

And we know what the records are because we have air bubbles trapped in glaciers and ice cores that we have taken out thousands of feet down in the Antarctic, in Greenland, and other places. So we know what the CO_2 layer was back in the year 1000, which is pretty amazing, with just as much as we know it today, because we had the air trapped a thousand years ago in these air bubbles. We knew it was 278, maybe 280 parts per million, and it was very stable for just under a thousand years. Then you start seeing it going up just over 100 years ago, which of course coincides with the Industrial Revolution and burning coal and oil and gas. And then it starts to come up at a fairly rapid rate over the last 100 years. And during the last 50 years, it has gone up approaching a vertical level of increase.

So we are now up to, and I should have the number specifically, but in the 370 parts per million range. There is no doubt about this. We can see that we have gone up a factor of at least a third over preindustrial times, and the scary thing about this chart is you will notice the rate of incline. It is almost vertical. So at the end of the century we will be at twice the levels of carbon dioxide as we were in preindustrial times. That is disturbing when you know carbon dioxide traps heat.

We know it has a close relationship to Earth temperatures, as these blue lines mark Earth temperatures. And of course for about the last 200 years, they are observed temperatures, and you can see they are going up with some deviation up and down during the last 150 years. Now, before that, they are not observed temperatures. They are worked out through a formulation of using a variety of mechanisms. If you go back for geological times, the temperature is gradient. It matches fairly closely this CO_2 curve.

So we know without a doubt that we are causing a spectacular increase in the CO_2 levels of the planet. The planet has never seen this before, ever, as far as we can ascertain through looking at these old air bubbles. We are doing something to the planet that has never happened before, and we are the ones responsible for it. The question is what is this Congress going to do about it.

Unfortunately, this Congress has done absolutely zero about this problem. It has wallowed in the fog of indifference and ambiguity and has refused to show any leadership whatsoever. And it is disturbing to me because, as you know, the consequences of this carbon dioxide is trapping energy in this Earth, and we are experiencing global warming already, and the vast majority, and I reiterate, the vast majority of the Earth's meteorologists and geophysicists believe that this is now causing and will continue to cause an increase in the general temperatures of the Earth.

Now, there is some variety as to how much that is predicted to be; but all of them, even the lower estimates of 2 to 3 degrees can cause very significant climactic effects. The differences between us and the last ice age were just under 10 degrees, even just Fahrenheit. So we have some very significant issues to deal with with global warming.

We have seen it already affecting our lives. Glacier National Park is predicted not to have glaciers in the next 50 to 70 years. When you want to take your grandkids there, you will say, This is where the glaciers used to be, Johnny. We are seeing melting tundra in Alaska. My son only had 3 days' work as a ski patrolman this year because there is no snow in the Cascade Mountains, a condition which is predicted to be much more frequent when this spike goes up higher. We need to deal with this problem.

So we have suggested, and I will introduce shortly and have introduced an amendment this evening to the energy bill to adopt the substance of this new Apollo Energy Project. Because we believe we have to reduce our contributions of carbon dioxide to the Earth's atmosphere. And we can do that. The clearest most short-term things we need to do are to improve the efficiency of our cars, and we need to have a limitation on the carbon dioxide that we put into the atmosphere.

Senators MCCAIN and LIEBERMAN have introduced a bill in the Senate, I and some of my Republican colleagues have introduced a bill here in the House which will set a cap on carbon dioxide emissions from the United States.

□ 2045

It is a cap that we know we can meet. In fact, it was absolutely amazing to me, the Department of Energy last week issued a report that concluded that the cap that we set could be met by the United States without any significant economic harm. This is issued by a gentleman who is actually appointed by George Bush.

The Department of Energy has concluded that we are fully capable, using existing technology, of dealing with this issue by adopting a cap on the amount of carbon dioxide we put in the atmosphere, which will help spur some of these innovations.

What will we do to achieve it? Our energy and power bill takes a broad-based approach. There is not one panacea to these challenges we have, but it does take the approach that we should be optimistic about it and we should recognize that we can have the same success in the new industries that will spring forth to deal with global warming to grow new jobs, as has happened in the software, biotech, and aeronautical industries.

For example, number one, the United States needs to embark on a research and development project akin to the original project that got a man to the moon, the original Apollo Project, because we found when the Federal Government invests in basic research and development, amazing things can happen. We would invest significant sums in these emergent technologies, technologies that sometimes seem obscure but have tremendous capacity.

There is a company in my district called Neah Power that is developing a fuel cell battery, which runs on ethanol or methanol. It will be four or five times as long-lived as a lithium battery with no emissions, completely safe, and will help to spur the development of fuel cells that we hope to become a significant part to the solution to this puzzle. They are small now, but tend to grow over time. A small company, but here is a place we can help, and we hope that this company is going to help the American military pack less wieldy, safer, and more effective batteries to fuel our communication systems.

But the point is, we need to continue the research and development of the nature and scope that got us to the moon. Not every invention is going to work out and not every idea is going to come home, just like in the space program, but it is a worthwhile investment.

Second, the Federal Government needs to use its procurement power to inspire these new industries. We need to have Uncle Sam order some of these new products to inspire these new products.

Third, we need to use the power of the government to recognize success. I want to talk about some success and what the Federal Government ought to be doing. For instance, solar power.

If I can share a success story in Virginia, this is a picture of a home just a few miles from here in Hillsboro, Virginia, built by Alden and Carol Hathaway. They built this home for $365,000, which is not that much more expensive for a home in this neck of the woods, and it is a "net zero" home, "net zero" meaning it does not use any energy from the electrical grid. But it is comfortable, it is nice looking, it is warm, and it is nonpolluting. They did this by using existing technologies.

They used an integrated solar cell built right into the roof of their home, which creates electrical current. They used an in-ground heat pump which is tremendously efficient. They used very high insulation values in the walls and windows, and some passive solar in how they aligned their home; and their home has a net energy consumption of zero.

That does not mean it is never using juice off the grid. At times there is electricity coming into their home, but other times they are generating more from the sun and they are feeding it back into the grid so the net is zero. They did this on a fairly economical basis.

I point this out for the reason I want to show success today. This is not just tomorrow's sort of futuristic world from the Jetsons, if anybody is as old as I am and remembers George Jetson. This is today's technology.

An amendment that I believe will be in the bill tomorrow or Wednesday does allow and call for the Federal Government to start a program to equip Federal buildings with solar cell technology. The reason that this makes sense, solar cell technology is much more economical. The more you buy, the price of solar cells comes down dramatically. Every time we increase the number of solar cells we buy by a factor of 10, the prices come down 20 percent. It is still more expensive than buying electricity from a gas turbine, but it has its place.

We believe if we increase dramatically the number of units, we will continue to see a decline of that cost curve so we will be able to enjoy what the Hathaways are enjoying tonight in Virginia.

Now, we have to do some things to get that done.

I am a supporter of a bill called the Net Metering bill, which will require utilities to buy back your power from you so your meter runs backwards when you feed electricity back into the grid. Unfortunately, that will not be in the bill Wednesday. It is one of those long-term things that we have to do.

Third, we have to give incentives to Americans to help them make these choices. For some of these technologies that are still just a little bit above market base, we need to increase the amount of a tax break we give to Americans who drive fuel-efficient cars. We need to do the same thing for the manufacturers of fuel-efficient vehicles. For the retooling investments, we need to give an assist to our domestic auto industry when they do the retooling that they need to do for fuel-efficient cars.

We need to have better tax breaks when you buy an energy-efficient home, and a way to get a better mortgage lending rate for energy-efficient homes. We need to use all of these multiple tax levers to help Americans when they take that step up to better fuel- and energy-efficient appliances. Unfortunately, that is not in the bill that we will have Wednesday.

Instead of helping Americans move forward to these new technologies, technologies that we have today, fuel-efficient cars we have today, the energy bill we will consider Wednesday will go backwards to give the subsidies to these old industries that started to reach fruition in the late 1800s. That is most unfortunate.

Fourth, we need to do some things on the regulatory side, one of which is the CO_2 cap that I talked about. Another is the CAFE standard to improve the auto efficiency of our vehicles. Those are all measures that, together, could have a significant impact. We have already seen some successes, such as what we have seen in the Hathaways' home.

So let me talk, if I can, about the job creation aspect of this. We have a real problem with manufacturing industry job loss in this country. Since 2001, we have lost 2.8 million family-wage manufacturing jobs. We have had a significant number of losses in a host of industries, but now we have an opportunity. This might be one of the greatest job creation opportunities that the country has right now.

We know, as the Creator makes little green apples, jobs are going to be created by the millions in the new industries that, by necessity, are going to be built to deal with the shortage of oil, to deal with global warming. And the shortage of oil, folks ought to read this book about the peak of oil production that is now on the market. It will make you very concerned about your future oil prices because it suggests that our oil production globally has plateaued and will go down in a decade or so, together with China having a demand that is astronomical. China will be equivalent to America's demand for autos in the next decade and a half. We have to find some alternative mechanisms of energy, both in efficiency and new systems.

Somebody is going to get jobs doing this, and we think it ought to be Americans. We do not think we should give these jobs away to our friends in Japan, or give the wind turbine jobs to Denmark. We think those jobs ought to be here.

And a very conservative estimate of our new Apollo Project, done by an economist in Waco, Texas, concluded that our program would create 3.3 million good-paying American jobs in the next 5 years. That is a significant step in the short term to help rebuild our manufacturing base. It would increase $1.4 trillion in new gross domestic product, add $953 billion in personal income. This is an assessment done by a reputable economist from Texas.

By the way, Texas has done some good things in wind energy. Wind energy is having some spectacular success, growing at 30 percent a year. In southeastern Washington, in my district, we have the largest wind plant farm in the United States. And we have five new wind farms under construction in the State of Washington.

The other interesting thing about energy efficiency is, it creates more jobs than the fossil fuel-based industries. It creates 21.5 jobs per $1 million invested compared to 11.5 for natural gas generation.

This is a job-creating technological solution to an old, dinosaur-based fossil fuel-based economy. This is our destiny as Americans to fulfill it. We are the inveterate tinkerers. We are the best people at inventing solutions technologically to problems of any people in human history. This is now our moment when the U.S. Congress ought to be seizing this opportunity, just like Kennedy suggested we do in 1961, and bring those jobs and that bright light of creativity to our country.

The environment demands it. The glaciers and national parks demand it. Our children, who should not be living under slavery to Middle Eastern oil, demand it. We should not have to worry about Middle Eastern politics again when we break our addiction to Middle Eastern oil. We should not be wrapped around the axle of the Saudi Arabian royal house and whatever difficulties they have. We are slaves to whatever is going on in Saudi Arabia, and it is not a place that we deserve to be.

Lastly, we ought to use our technological prowess to make sure we are the number one job creator in the world for these emerging industries. That is our destiny and that is why I will be joining some of my colleagues in introducing the new Apollo Energy Project in the next week or so. We know at some time it is going to get done, maybe not this week, but the stars are aligning and those who share my view, I welcome you to share you views with your Member of the U.S. Congress.

Mr. PAYNE. Mr. Speaker, I rise today to add my voice to those who would commemorate Earth Day 2005 by pledging our efforts to ensure that our childrens children may enjoy the same Earth we celebrate today.

And it is those children who will pay the price if we do not.

Children are usually at greatest risk of suffering environment-related health problems, with race and poverty playing a disproportionate role, especially minority children from families living below the poverty line, according to EPA reports.

Concern that minority populations and low-income populations bear a disproportionate amount of those adverse health and environmental effects led President Clinton to issue Executive Order 12898 in 1994, in order to focus Federal agency attention on these issues, leading to the establishment of the office of Environmental Justice Strategy at the EPA.

The EPA defines Environmental Justice as the "fair treatment for people of all races, cultures, and incomes, regarding the development of environmental laws, regulations, and policies."

This has long been a concern of the environmental community, especially among minority and low-income communities who have come together to organize and fight for equal protection under the law.

The environmental justice movement really got its start in Warren County, North Carolina where a PCB landfill ignited protests and resulted in more than 500 arrests. These protests prompted a U.S. General Accounting Office study, Siting of Hazardous Waste Landfills and Their Correlation with Racial and Economic Status of Surrounding Communities, which found that three out of four of the off-site, commercial hazardous waste landfills in Region 4 (comprising eight States in the South) happened to be located in predominantly African-American communities, although African-Americans made up only 20 percent of the region's population. More important, the protesters put "environmental racism" on the map.

Since that time, attention to the impact of environmental pollution on particular segments of our society has been steadily growing in the form of the Environmental Justice Movement. This movement contends that poor and minority populations are burdened with more than their share of toxic waste, pesticide runoff and other hazardous byproducts of our modern economic life.

The EPA's Office of Environmental Justice Strategy was created to address these issues, but thus far has done little to improve the situation for minority and low-income communities.

In fact, an EPA Evaluation Report released last year found that 10 years after its issuance, the EPA "has not fully implemented Executive Order 12898 nor consistently integrated environmental justice into its day-to-day operations. EPA has not identified minority and low-income, nor identified populations addressed in the Executive Order, and has neither defined nor developed criteria for determining disproportionately impacted." It goes on to say that when the Agency restated its commitment to environmental justice in 2001, they did not emphasize minority and low-income populations, which was the intent of the Executive Order.

The report found that even after 10 years after its implementation, the EPA had not developed "a clear vision or a comprehensive strategic plan, and has not established values, goals, expectations, and performance measurements."

We must continue to bring attention to the documented environmental health disparities suffered by low-income and minority communities throughout the country, raising awareness so that together we might seek solutions. I call upon the Office of Environmental Justice Strategy to make this issue a priority as it was designed to do more than 10 years ago.

This is a very real threat for my constituents. The EPA has announced that the entire State of New Jersey is officially designated as out of compliance with the agency's health-based standard for ozone. The entire State is out of attainment for smog, and all counties that are monitored for soot levels are also out of attainment.

Studies have shown that New Jersey's air pollution levels cause 2,000 premature deaths every year. At this rate, pollution ranks as the 3rd most serious public health threat in my State. Only smoking and obesity kill more New Jerseyans each year.

In addition, child asthma rates are on the rise—especially in our cities—and the threat of mercury pollution puts all of us at risk, but most especially infants, children, and pregnant women.

The Bush Administration's efforts to weaken protections established under the Clean Air and Clean Water Acts have compromised the long fought-for protections we have won since the Inaugural Earth Day back in 1970. We must stand firm in our objections to environmental policy that favors industry at the expense of nature and public health, and we must oppose irresponsible legislation, such as Clear Skies, that claim to protect the environment even while it is attempting to degrade it.

As we celebrate Earth Day, I hope that all of us can pledge to do more than just talk about these issues and to commit to act in support of those things which we speak about so passionately today. We must dedicate ourselves to full enforcement of the Clean Air and Clean Water Acts. We must rid our lakes, rivers, and streams of dangerous mercury pollution to ensure the safety of all Americans. We must oppose any more delays and restore full funding to the clean-up of toxic waste sites that threaten the health and safety of our Nations children. We must take seriously the threat of pollution to public health and act to alleviate the suffering of the urban minority and low-income populations, as well as the 5 million American children who now suffer from asthma.

These are big goals, but the stakes could not be higher. We must protect our precious natural resources and the health and safety of all Americans, especially urban, minority, and low-income populations who bear the brunt of our failure to do so.

GENERAL LEAVE

Mr. INSLEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order today.

The SPEAKER pro tempore (Mr. POE). Is there objection to the request of the gentleman from Washington?

There was no objection.

SOCIAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Minnesota (Mr. KLINE) is recognized for 60 minutes as the designee of the majority leader.

Mr. KLINE. Mr. Speaker, I am pleased to be here this evening to continue the discussion of Social Security, what it is, where it is, what we think the problems with it might be, and what some of the solutions might be. I know some of my colleagues have been in a discussion on this important program for the last hour or so, and they plan to join me shortly.

I would like to start by laying out for my colleagues the history of Social Security, what it was, what it has done for Americans, and where it is today.

□ 2100

Social Security, as most Americans know, has been a terrific institution that generations of Americans have relied on. It is a system that I think most of us would agree has to be preserved and protected for our children and our grandchildren.

Mr. Speaker, my 84-year-old mother has been drawing Social Security, and she is at that point where it is her sole source of income. She relies on it very heavily as do millions of senior citizens, and we certainly want to make sure that all of those senior citizens get every dime that they are expecting to come their way. But we also need to make sure that our children, and my children are in their thirties, it seems every day they age another year, an indication of how old I am getting and how rapidly, my children are in their thirties and their children, my four wonderful grandchildren, are 6, 5, 3 and 3. We need to make sure that as we look forward to the future of Social Security that it is there for our grandchildren as well.

I think most Americans, but not all, and most of my colleagues know that Social Security does much more than provide for a retirement, for assistance in retirement. It provides spousal benefits, survivor benefits, dependent benefits, and disability benefits. I believe that my colleagues on both sides of the aisle would like to make sure that those benefits, that that security, that that safety net continues into the future for our children and our grandchildren.

Social Security has traditionally functioned as a pay-as-you-go system. When President Franklin Delano Roosevelt brought us Social Security back in 1935, it was a contributory social insurance program. What does that mean? That means that workers put in and workers receive benefits. All workers pay in; all workers receive benefits. It really was not designed as an investment program. It was not designed to do anything other than provide some insurance for you when you reached your retirement years. We have paid for it by taking taxes from the wage earner. When President Roosevelt started the program, we took 1 percent from the employee and 1 percent from the employer. Two percent of the first $3,000 earned was taken up in Social Security taxes to pay for the benefits of current and future retirees. Today's workers support today's retirees through a 12.4 percent tax, one dollar in every eight, half of it paid by the employer, half of it paid by the employee, on the first $90,000 they earn each year. What a difference, 2 percent to 12.4 percent. Two dollars in 100 to one dollar in eight. The program has changed.

It has changed in another fundamental way that I think that all of us, Mr. Speaker, need to be aware of. As late as 1950, and I will refer to the chart here beside me, there were 16 American workers paying for every one beneficiary. Today, we are down to 3.3 Americans working and paying taxes for every beneficiary. Again, what a demographic change in America, a demographic change in the United States, for many reasons, life expectancies are longer, and that is a good thing, we are living longer, healthier lives, families are smaller, and that trend continues. So by 2035, 2040, when younger workers retire, we will have only two Americans working for every retiree. That is a pretty tough load for younger workers to shoulder.

What does that mean in terms of money in the program? As I think most Americans know, we have been taking in those taxes, we have been paying out benefits and taking the excess money and putting it into a trust fund. I am going to get to that trust fund and talk about it in just a minute. But we need to also be aware, I think it is important for us to understand in the current system how benefits are calculated, because as we look to ways that we might need to strengthen Social Security, we need to understand the current system; and I would like to take just a minute to talk about how that works.

The Social Security Administration looks at every working American's working life, all the years that they have worked. So if you, like me and many Americans, you started off working with a paying job in the grocery store or maybe the newspaper or something when you were 16 or 15 and you work until your full retirement age, which by the time younger workers retire under the current system is not 65 anymore, it is 67, you could have been working and paying Social Security taxes for 50 years. The Social Security Administration takes those 50 years and they take your most productive, your highest paid 35 years, and they put it into a formula and, like everything these days, they do not sit down with a hand calculator, there is a computer that has a formula that actually weights the system so that you get a little bit higher percentage, if you will, if you are a lower-paid worker and a little bit less if you are higher paid; but they put it into the mill, they take those highest 35 years, they average it out, an index is put to it, and you come up with a number and that is your retirement benefit. That is your monthly check, which as our current retirees know, that is adjusted for inflation every year. That is how it works today.

I mentioned that with the increased life expectancy and the smaller families and the lower number of workers per each retiree, we get into a cash flow problem, that is, at some point we are not going to be taking in as much money as we are paying out if we get to the point where there are only two workers for each retiree.

Let us take a look at another chart here. There are, I suppose, many ways to do this. I have been holding some town hall meetings back in my home district, the Second District of Minnesota. One chart that I have often shown shows that our costs are exceeding our revenue. Another way of talking about it, and I have used this chart as well in those town hall meetings, is to show that in the near term, we are taking in more money in FICA, more money in Social Security taxes, that is this dark little bump right here, than we are paying out and that excess money is being marked and put in special Treasury bonds redeemable only by the Social Security Administration, the trust fund, to pay future benefits.

But the Social Security Administration, the trustees report annually as they look forward to the projections for upcoming years what the health of Social Security is. Their latest report, which came out about, oh, 6 weeks or so ago, last month, said that in the year 2017, just 12 years from now, right here on this chart, that we are going to start paying out more money in benefits to retirees than we are taking in in Social Security taxes. More money going out than we are taking in. That puts us into a cash deficit situation.

What are we going to do about that? The Social Security Administration also pointed out in that report that the Social Security trust fund, those special-issue Treasury bonds, will run out of those bonds in the year 2041. So at least on paper for a few years, we will be able to pay those benefits out of the Social Security trust fund by redeeming those special-issue Treasury bonds.

The challenge for us here in this House, in this Congress, is how are we Americans going to redeem those bonds in order to meet our obligation to retirees? That is something we need to think about, because the situation does not get any better in the next 5 years or 10 years or 15 or 20. It does not get better. In fact, even when we have redeemed those bonds, as I mentioned earlier, the Social Security Administration says that by 2041, there are not any bonds left to redeem, and so we are back to that position, we are back to this situation where we have two workers for each retiree.

Mr. Speaker, it seems to me that is a situation that we have to address. It is our responsibility to address it. The need to address it is now, because there is another little bump here that I think is important to us. In just 3 more years, the leading edge of the baby boomers start to retire. You can see the way the line changes that we have less money coming in and more money going out because those baby boomers, and I have to admit that I am one of them, baby boomers are going to start to earn retirement benefits, take retirement benefits. We start on a down slope, and by 2017 we cross that line. We need to decide what we are going to do about that for the near term and for the long term.

Those Treasury bonds, I have heard some people say, I was in a town hall meeting and some young man stood up, he was about the age of my children, actually perhaps a little younger. I think he was around 30, and he said, well, you know, I'm planning on not having any Social Security whatsoever. There's not going to be anything there for me. I know that is a sentiment that is sometimes widely shared, but let us be honest, that is not true. Even under the current system, there would be something there in Social Security. I think the administration is forecasting now that because there are only two workers for each retiree, that there will be some money coming, around 75 percent of what would have been expected. That is a horrible return. It is a horrible rate of return for a young man or a young woman who pays into Social Security all their life for the benefit of current retirees; and when their time comes to retire, the best that they can hope is 75 cents back on the dollar that they were expecting. By the way, if they are going to get the 75 cents on the dollar, that assumes that they are going to live a full life. It just seems to me that we need to be able to do better for our children and for our grandchildren.

I see that my colleague, the gentleman from Arizona, has arrived. I know he has been working on this for many years and has a proposal of his own, and I want to yield to him in just a moment; but it is interesting to me that when I have a town hall meeting, and it does not matter if there are 50 people or 100 people, they tend to be with the senior citizens who are very interested in this subject, they understand what it is, they receive Social Security checks; but when I ask the question, how many of you think that we need to do something to fix Social Security for our children and our grandchildren, it is now almost every hand in the air. When I first started to ask the question weeks ago, not every hand went up. But I think more and more Americans understand as we continue this dialogue and as we continue this debate, their understanding is that there is a problem and we need to do something to address it.

I yield to the gentleman from Arizona (Mr. KOLBE) who has done an awful lot of work on this subject.

Mr. KOLBE. I appreciate the gentleman from Minnesota for yielding, and I thank him for taking this hour of time here this evening to talk about this issue. It is one which is of such great importance, not just for the current generation, not just for those who have retired, but for the next generation, for those who will retire in the future.

□ 2115

I listened to him earlier talking about some of the elements of this problem. I think he has outlined them very well.

The problem with Social Security is relatively simple, or the problem that we have with the current system of Social Security is relatively easy to define. And that is that we have people living longer, we have more retirees, and we have fewer people coming into the workforce to pay for them.

That chart that the gentleman has up there, I think shows it so very well. At one time, in 1950, we had 16 people working for every person that was retired. Today it is a little over three people, and in a few years, a couple of decades, it will be two working people for everyone who is retired. That means two working people at each month have to pay sufficient taxes to cover the benefit that one single person is going to receive from Social Security. It is not sustainable over the long term, and it cannot go on in that fashion. So we need to do something about it. And I think the gentleman is right for coming to the floor tonight to suggest that this Congress needs to deal with it.

I am really surprised and somewhat frustrated and chagrined at some of my colleagues on the other side who simply say there is not a problem, we do not need to deal with this, we are not going to try to fix this thing, we do not have to fix this thing now, we can do it sometime in the future. Every year that we delay this becomes more costly.

As the gentleman noted, I started introducing a bill 7 years ago with Congressman Stenholm, now with the gentleman from Florida (Mr. BOYD), and our plan is still the only bipartisan bill which has been introduced in Congress. And when we began with that legislation, we had certain costs to it, but each time, each Congress that we have reintroduced it, we, of course, have had to adjust, and we are closer now to the dates of when revenues will be less than the benefits being paid out, and that just makes it more costly to fix.

It is not very far away. In fact, in one sense a really critical date comes in just about 2 fiscal years, in the year 2008, and that is when the revenues actually start to decline. At that point we are going to have to be doing more borrowing because Social Security is going to be covering a bit less of the deficit that we have right now in the general operating part of the budget. But the critical year really is in 2017 where the lines cross, which the chart that he has in front of him there shows. At that point, the benefits being paid out exceed the revenues which are coming in, the taxes that are being paid in. So Social Security has to go to those bonds that it has.

The President went the other day to Parkersburg, West Virginia, to take a look at that, and I think we all know what he saw there. A couple of filing cabinets with a lot of paper in it. There is nothing really in the trust fund. There never has been anything in the trust fund. It is not as though somebody robbed it. It is as though it was never created to be that way. The money has simply always gone straight into the Treasury and has been used to cover other operating expenses with the promise that some day the government would redeem those IOUs and use those to pay the benefits. When we start redeeming those, it is going to be very costly because we are going to have to be doing borrowing, as the gentleman knows very well.

That is why this is such a critical problem and why we really need to deal with this issue now and not wait, and I really commend the gentleman for coming to the floor to talk about this.

I am going to listen for a few more minutes, and then I would like to participate again because I think I have some thoughts about the ways in which we go about fixing this because there is a fairly limited number of ways in which we can go about fixing it.

I thank the gentleman for yielding to me.

Mr. KLINE. Mr. Speaker, reclaiming my time, I thank the gentleman very much for his hard work on this important subject and for joining in the discussion here this evening.

I would like to talk about that trust fund again for a few more minutes because the gentleman is perfectly correct. The President went out to West Virginia and took a look at the filing cabinets where the bonds, special issue Treasury bonds are being held, redeemable only by the Social Security Administration, unlike other government bonds that are issued. And we have to redeem those things. In order to meet our commitment to retirees when we stop taking in as much money in Social Security taxes we are paying out in benefits, we are going to have to redeem those.

And they are very much like an IOU. I do not mean to say that in a derogatory way, but in this particular case because of these special bonds and the way they work, we, all of us in America, all of my colleagues, we have to redeem those bonds out of the general fund. We borrowed it from ourselves; now we have to pay it back to ourselves. And sometimes in a town hall meeting, someone says, That is easy, just pay it back.

That is going to require a great deal of sacrifice on the part of Americans as we look to see where we are going to get the money to pay those back.

And more than that, as I mentioned earlier this evening, even when we redeem those bonds and we pay it back so that retirees get their benefits, by 2041 the Social Security Administration says those bonds are going to be exhausted. And I suppose we could spend a lot of time on the floor of this Chamber, as we are wont to do, to debate whether that year is really 2040 or 2039 or 2042 or 2043. The point is, once we redeem those bonds, and it is a major challenge for all of us to decide how we are going to do that, those bonds are gone and our children and our grandchildren will be receiving only 75 cents on the dollar they expect.

So as the gentleman said earlier, it is a problem that cannot be pushed off. It is something that we have to address in this House, in this body, quickly.

Mr. KOLBE. Mr. Speaker, will the gentleman yield?

Mr. KLINE. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman's yielding again.

First of all, I think we have succeeded in one very large way, and that is that the American people, as the gentleman pointed out, do now understand there is a problem. He goes to a town hall; I go to a town hall. He talks to people, and people understand there is a problem. Polling data shows that 80 percent of Americans now think there is a significant problem with Social Security, and Congress needs to fix it.

So they are expecting us to do that, and I think the fact that he has come to the floor that there are a lot of proposals, mine, a number of other proposals that are on the floor that have been suggested. The one that I have with the gentleman from Florida (Mr. BOYD), I might add, is a bipartisan approach to it.

But I think that people do understand there is a problem and that we need to fix it, because as the gentleman pointed out, if we do not do anything, those IOUs, even the borrowing from the IOUs run out at a certain point, and that is somewhere, we believe, about 2041 is what the projections are today; and when that happens, if we have sat here all these years and done absolutely nothing, there would be an immediate 26 percent cut in benefits. The gentleman probably will not be in Congress. I know I will not be in Congress at that point. He might be around for a while longer. But at that point there would be a political revolution in our land if we had not done anything at that point. So it behooves us to fix it now while we have a chance to do it when it is not as costly, and I think that is what the gentleman has pointed out here tonight, and I appreciate his talking about this.

Mr. KLINE. Mr. Speaker, reclaiming my time, the gentleman mentioned that there are a number of proposals. I found it interesting, as this discussion has moved forward and I was trying to keep track of what those proposals involved, that there were so many of them that I simply could not keep them organized in my head and decide which ones had personal accounts, which ones did not, how big the accounts were, how they address solvency.

So there is a wonderful young woman on my staff, and I know the gentleman understands how that works, we are so dependent on the bright folks who work with us, but she put together a table, and I know people cannot see it from here, but I will show it to the gentleman, that has these plans going across the top and the different aspects of them. And right now there are up to 14, I think, on my chart here of different ideas that people have brought forward to address this issue.

And I think that is a healthy thing as we move into the debate. There will come a time when we will need to have a debate and have a bill or amendments on the floor and move to a solution, but I am firmly convinced that it is absolutely critical that we do that sooner rather than later.

In these plans, many of them, most of the ones that I have on this chart because it has been my colleagues from this side of the aisle who have come forward with the proposals for the most part, and the gentleman mentioned he has a bipartisan bill that they are looking at, but these proposals include personal accounts as part of the solution for the long-term solvency of Social Security. And there are differences in all of these, and I know the gentleman was earlier this evening in a roundtable discussion with some other authors of bills as the pros and cons of the different measures were discussed, but I think there are some things that are common that we all need to keep in mind.

All of the proposals on my chart here, which includes the outline that the President had, have recognized that we have retirees today and those about to retire, Americans born before 1950 that will not be affected by whatever our proposal is. And I think that is important for the peace of mind, I think, of my 84-year-old mother and her friends. They do not want to contemplate a change in the program, even though many of these programs virtually guarantee that everyone will get a benefit very much like the one they are getting, in some cases more of a benefit. But we need to reassure all of the seniors in our districts and our family that they will not be hurt; their program will not be changed. Their Social Security check will not be affected by the issues that we are debating here in the House today.

Mr. KOLBE. Mr. Speaker, will the gentleman yield?

Mr. KLINE. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, I think the gentleman has made a very important point, one that we need to stress, because there are a lot of people all over the place in various groups that are not interested in seeing this problem fixed. They have been trying to scare a lot of seniors, and it is wrong to do that because none of the plans, not one of the plans that are on the table suggest that there is going to be any change in the benefits for those who are retired today or for those who are near retirement.

So I think it is very important, as the gentleman said, that his 84-year-old mother understand, and all our other senior citizens understand, that we are really not talking about changing any benefits for them.

We are talking about the next generation. We are talking about their grandchildren, how could we fix it for their grandchildren so that their grandchildren will be able to say that there is something in the Social Security system that is going to be there for me.

A person who is retiring today has less than a 1 percent return on all the taxes they have paid over the years up to retirement in terms of what they are going to get out of it between now and their expected death. A person who is coming into the workforce today at the age of 21 will have a negative rate of return. In other words, they will lose money based on what they are going to pay in taxes versus what they are going to get in benefits. So it is a bleak system for young people, and we need to do something to strengthen it for them.

Mr. KLINE. Mr. Speaker, reclaiming my time, I very much appreciate the gentleman's comment that there are some scare tactics out there, and that is unfortunate because when I look at all of these plans that are across here, and it is the whole range, the gentleman's plan, Senator GRAHAM's plan, the gentleman from Florida's (Mr. SHAW) plan, the President's, the AARP's, and others, I do not think that there are any of these plans that want to do any harm to Social Security for the long term. They do not want to leave our children and our grandchildren holding the bag.

They would like to make sure that something is there, and it troubles me when evil motives are attributed to those who are working the best they can, the hardest they can, to find a solution to this horrific cash flow problem that we are facing and to the fact that we are going to be down to two workers for each retiree by the time my children and grandchildren retire.

We need to work to find a solution for that, and I, for one, am perfectly willing to listen to proposals from my colleagues on either side of the aisle, and I believe those proposals, certainly those on this page in front of me, come from people who sincerely want to make the system better.

Mr. KOLBE. Mr. Speaker, if the gentleman would yield once more, we can take that issue off the table, then, that we are not really talking about changing the retirement benefits for those who are retired today or near retirement so we can clear that off the table. Then we need to turn to the issue of what is it we need to do to strengthen Social Security and how do we do it, how do we accomplish that?

I do not think the gentleman has his chart down there, but there are really only three things that we can do with Social Security. One is we can raise taxes, we can cut the benefits, or we can increase the rate of return on what one has in the account in their investment.

So it is one of those three things that we can do, and that brings me to what I want to talk about, if I might, why personal accounts are important. I am not going to talk specifically about my legislation tonight, but I want to talk about what is a key cornerstone, I think, of most of the plans that are out there, and that is the personal account.

□ 2130

Why are personal accounts important? Because personal accounts, frankly, they do not fix the solvency of Social Security; they do not fix it. You have to do other things to make sure that Social Security is solvent. But the personal account is that link to the next generation. It is the promise to the next generation of young people that there will be something in the Social Security plan that will make sure they do not have a negative rate of return. Because if you have a personal account that grows, that can actually grow, you are going to have a better retirement than you would have otherwise.

So the personal account is absolutely important. It is important both economically and politically. Economically, to ensure that the young people have a better rate of return, have a retirement that will yield them, really yield them something, bring them something. But politically it is important because it is necessary if we are going to shore up the support for Social Security among young people.

Those who are opposed to doing anything about this are very shortsighted, in that they are risking losing political support for a plan that we all know is very, very important. The longer it goes on and the rate of return is less and less for people, there will be less support for Social Security. We need to do something to fix that, and that is why personal accounts are so important. I appreciate the gentleman yielding to me.

Mr. KLINE. Mr. Speaker, I thank the gentleman for making that point. It does seem to me to be unacceptable that we are looking at a system that is going to provide a 1 percent rate of return or a negative rate of return. I think the gentleman, in an earlier discussion we were having on the floor, made the point that in some cases it is not only no return, but a horrific rate of return, and I think his example was the single parent. He used the example of the single mother who is 57 or 58 years old, we will use 57, my age, has a couple of children, they are through school, they have graduated high school; and this woman started work when she was 17, she has been paying into the Social Security system, has paid her Social Security taxes faithfully for 40 years, and then tragedy strikes and she dies, and her family gets nothing; a $255 death benefit I think it is today for the thousands of dollars that she has paid into the system. It seems to me we ought to be able to do better than that, and I think that we can.

When we look at the proposals that are out there, there are a wide variety of them, as I mentioned earlier, and the gentleman explained some of the important reasons why a personal account needs to be an important part of this. He said that a personal account does not fix the solvency issue. I might argue that if the personal account is large enough, it will fix the solvency issue, as these plans vary widely insofar as how much money is put into these accounts. But, in any case, it is part of addressing the solvency issue because of the higher rate of return, because of the higher growth, it puts more money into the system and helps us get at this problem of cash deficits.

It also takes money off the table, money that is in a personal account that cannot be used to fund other programs. I found in many town hall meetings people would say, well, you, Members of Congress, you spent the money on other things. If it is in a personal account, it cannot be used to fund other things; and as I mentioned in the example of the 57-year-old man or woman who dies early, in a personal account, they can leave that money, the money in the account is inheritable, they can leave it to their children or their grandchildren, so they do get something back for their 40 or more years of paying into the system.

Well, the debate is an important one. I am glad that it is engaged. I think that it is important that we recognize that we need to work together and try to address these problems. These are not uniquely Republican problems or Democrat problems; these are the facts of the program as it exists today, as it has worked for the last 60 years. The virtually inescapable change in demographics, again, that is not a Republican prediction or a Democrat prediction, or an administration prediction; those are the predictions of the actuaries of the Social Security Administration itself.

So we know that we are facing, we are facing a problem with Social Security. I am pleased to see that Americans, apparently from coast to coast, and certainly in my district in Minnesota, have recognized that we have to do something.

I believe that as the debate goes forward, we will see that there are some clear benefits to including personal accounts as part of, as part of the solution, because of the enormous potential for growth through the power of compound interest investment in very diversified funds, which may or may not include any stocks.

I know there is a fear out there sometimes when I am talking to my constituents and they say, well, we do not want to put it in the risky stock market; what if we are about to retire and the stock market crashes and we lose all of our money. There are a couple of things about that. Almost all of these programs on this big chart include a combination of traditional Social Security benefits and those in your personal account. Most of them require that the funds in the accounts be invested in very diversified accounts; and most of them would encourage, if not insist in some cases, that the money be invested in virtually risk-free instruments, bonds, or the like as one gets closer and closer to retirement, so that one's retirement would not be affected by any fluctuations in the market.

There are a wide range of approaches. Those with personal accounts call on that wonderful power of compound interest to grow the money in the account and, therefore, grow the money overall in Social Security and start to address that solvency issue. There is much debate still coming up. I look forward to the continuing discussion.

I would like to just close by sort of recapping for the benefit of all here that there are some problems which we have to address. Social Security's financing is unsustainable without change. As I said, most Americans recognize that. We are taking in more money than we are paying out in benefits, but that is going to change. It is going to change in 2017 when we start to pay out more benefits than we take in in taxes. That is rapidly approaching us. The baby boomers start to retire in a very, very few years. We need to get at that system, fix the system so that it will be there for not only my 84-year-old mother, not only for my children who are in their 30s, but for my four wonderful grandkids as well and for all of my colleagues' grandkids.

DEGREE OF SKEPTICISM SURROUNDING INVESTIGATION OF OKLAHOMA CITY BOMBING

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). Under the Speaker's announced policy of January 4, 2005, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, on March 23, my office received an extraordinary tip that a stockpile of explosives remained undiscovered by the FBI in the home of Terry Nichols, one of the two men convicted of the mass murder of 168 Americans in the bombing of the Oklahoma City Federal building. What made this tip even more provocative were the informant's claims that the FBI had been contacted weeks earlier and that nothing had been done to recheck the location.

On March 31 the FBI finally raided the small-framed home of Terry Nichols; and after 10 years of insisting that the location had been thoroughly searched for evidence, the FBI found a yet-to-be discovered stash of bomb-making materials, blasting caps and the rest. That this discovery is relevant to the Oklahoma City bombing case is an understatement.

If nothing else, this episode justifies a degree of skepticism about the claim that all the relevant facts concerning the Oklahoma City bombing have been uncovered and/or disclosed. After serving for 8 years as chairman of the Subcommittee on Space and Aeronautics of the House Committee on Science, this year I was pleased to be reassigned to head the Subcommittee on Oversight and Investigation of the Committee on International Relations. Already we have conducted several hearings into the scandal and malfeasance involving the United Nations Oil-For-Food program.

But as chairman of the investigative arm of the Committee on International Relations, I was asked by several people whom I respect to direct my attention to the Oklahoma City bombing and to a possible foreign connection. That this mass murder of Americans was accomplished by two disgruntled veterans acting alone seems to be the conclusion reached by those in authority. However, there are some unsettling loose ends and unanswered questions that deserve to be considered before joining those affirming the official explanation.

I promised to honestly look at the information available from official and unofficial sources to determine whether or not a hearing of my subcommittee would be justified in this matter. I have yet made this determination. However, my limited personal inquiry has brought howls of anguish, even from friends who have warned me, oh, you will hurt yourself and be called a conspiracy nut even for considering a hearing. Well, admittedly, when listening to these howls and people pulling out their hair, my reaction inside has been, as Shakespeare once said, "Me thinks that thou doth protest too much." So I am and have been proceeding on a personal inquiry into this matter. The day I walk away from trying to determine the truth of a matter of this magnitude because of possible personal attacks is the day that I will lose respect for myself and for the system.

The Oklahoma City bombing was the worst and most deadly terrorist attack on Americans in our history up until September 11, 2001. Those monsters who built the ammonium nitrate fuel oil bomb and detonated it next to the Alfred P. Murrah Federal Building in Oklahoma City slaughtered 168 of our fellow citizens. Nineteen of them were children. The bomb went off at 9:02 a.m. April 19, 1995, 10 years ago today.

Of course, in situations like this, it is unnerving to think that those we trust to defend us from mayhem and slaughter may not have done their jobs. I am sorry, but that is what we found after 9/11. Our intelligence community had let us down. The Oklahoma City bombing may or may not fall into that category. The fact that Terry Nichols' house, a central focus of law enforcement officials, was not thoroughly examined, is one of those items that justifies a certain level of skepticism about the other assurances by those in power who were investigating this monstrous crime.

Furthermore, I am not certain that this site, Terry Nichols' home, would have been reexamined if it had not been known that I was considering a congressional hearing. So with a skeptical eye, we need to look into this matter, consider the questions being raised, and honestly assess the explanations we are given. Honest, hardworking, patriotic, responsible professionals led and were part of the investigation into the Oklahoma City bombing. My assumption is that all of them were highly motivated and committed to truth and justice. My experience tells me, nevertheless, that even in such situations, mistakes can be made and a group-think mentality can prevail.

No one could fault the great job that was done by law enforcement right away, of course. American law enforcement, with the FBI in the lead, mobilized an investigation and man hunt that continued in high gear even after initial quick results. Within days, Timothy McVeigh was identified and, incredibly, had already been taken into custody by the exemplary reaction of Oklahoma Highway Patrolman Charles Hanger.

□ 2145

Having sought McVeigh for driving without a license plate, Officer Hanger noticed McVeigh was carrying a pistol and arrested him on the spot. Good work, Officer Hanger.

So when the FBI, with amazing speed, traced remnants of the Ryder truck rental used to transport the crude, but powerful, bomb, Timothy McVeigh was already in jail. And shortly after this discovery, another man was connected to the bombing, Terry Nichols, McVeigh's buddy who had helped in the purchase of the bomb materials and was involved in planning this monstrous crime.

Today at the 10th anniversary of this horrific crime, this terrible blood-letting, America needs to know that our government has followed every lead and that all of the significant facts are known and have been thoroughly evaluated.

There begins the first of a number of disturbing questions, questions that remain unanswered or are obscured by a fog of indecisive rabble, official rhetoric. Obfuscation may be too harsh a way to put it, internal official ambiguity might be a more distinctive phrase. Maybe.

So what is question number one? It is very basic. Is the investigation of the Oklahoma City bombing after 10 years an ongoing investigation, an active case or not? This question needs to be answered because it will give us all of the basis, our basis to evaluate the situation as it stands.

If this is an ongoing investigation, the government must be holding open the possibility that this heinous crime was committed not just by McVeigh and Nichols but also by others unknown or others yet to be proven.

How could this case still be open and the possibility of others being involved if the authorities, with this in mind, permitted Timothy McVeigh to be executed, thus eliminating the primary witness against others who are thought to be involved?

No. This case is ongoing. If it is an active investigation and authorities permitted McVeigh to be executed, well, this is beyond bad policy. This would be the equivalent of executing Oswald very quickly even though he refused to talk.

No, in cases of this magnitude, the same type of procedure is not followed by law enforcement as is followed in a normal crime, where someone commits murder while robbing a liquor store or something. When you have the biggest terrorist attack and the most bloody terrorist attack in American history, no, you did not let a primary witness be executed if you think it is even possible that someone else was involved and that the person you are executing knows about it, even though he is not talking at the moment.

So let us hear the status of this case. That is our first question. If it is an ongoing investigation, why has significant evidence and why is significant evidence still being withheld from the American people?

There are a number of specifics to which I refer, such as the videotapes from the surveillance cameras located around the Murrah Building in the time leading up to the bombing and the moments immediately after the bombing.

It has been reported that there may be up to 23 such surveillance tapes. The Justice Department requested, and a judge agreed, to seal these tapes. Well, if this is not an ongoing investigation, then these surveillance tapes should be made public.

If there is nothing new and the videotapes reveal, as the authorities insist, that Timothy McVeigh by himself drove the bomb-laden Ryder truck to the front of the Federal building, then why not reassure us? If that is the case, why are these tapes sealed?

However, if the tapes reveal a second person in the truck with McVeigh, we know that Terry Nichols was not with him that day, then let us go look for that co-conspirator. Let us track him down and bring him to justice.

But keeping this from the American people, something as basic as whether or not the surveillance tapes of the Federal building indicated that there was a second person in the truck, and thus a third conspirator in this monstrous crime, then do the American people not have a right to know about this?

No. That is unacceptable. This is a free society. And if the public is to have faith in their government, we cannot keep secrets like this. We cannot keep it from the public as a whole. We cannot keep it from the families of the victims who died 10 years ago today.

Whatever is on the video, it is time for the American people to see it. Ten years have passed, and there is no longer any excuse. Keeping the tapes sealed can do nothing but undercut public trust in the authorities who have overseen this investigation. So that is question number one: Is the investigation ongoing or not?

And, number two, why are the videotapes taken from the surveillance cameras around the Federal Building on the morning it was blown up not available to the public? Whatever the status of this investigation as determined by the FBI and law enforcement authorities, it has not been a closed case for a number of patriotic, hard-working investigative journalists.

Many of these journalists launched their own investigation in the face of career-destroying ridicule. They paid a price for trying to find out the facts in this case. But despite this, despite being called names and conspiracy nuts, et cetera, despite all of this, they did research and pushed for facts.

These investigators were not always right. They made mistakes. But to this day, they are asking questions that deserve answers before we Americans can just move on and leave the slaughter of 168 of our fellow Americans behind us. And, yes, there has been a certain degree of fanaticism that motivated some of these inquisitors, but that does not refute truth. And there are some disturbing unanswered questions and loose ends out there that have been brought up that we need to hear the answers about.

Jayna Davis was a broadcast journalist who worked as a reporter for a network-affiliate TV station in Oklahoma City at the time of the bombing. Over the years, she has presented information and raised issues that need to be addressed. Jayna Davis collected 22 affidavits from individuals who swear they saw Tim McVeigh in the company of certain individuals, especially one who looks uncannily like John Doe 2.

To remind you, a few days before Tim McVeigh was positively identified, the FBI released a drawing of McVeigh. Then he was known only as John Doe 1. They also released a drawing of John Doe 2, who was described, well, both of them were described by an employee of the rental truck office and by others at the bomb scene.

John Doe 2 arguably resembles a man of Middle Eastern extraction. Jayna

Davis followed up on reports by those claiming to have seen McVeigh with someone who resembles John Doe 2. And she has followed up on those reports over the years. I have spoken to several of her witnesses. And I find at least some of her witnesses to be credible.

In one case, I spoke to a motel owner from near Oklahoma City. He claims that McVeigh stayed at his motel several times. He spoke to McVeigh and spent time with him. This is a man who was not just getting a glimpse of McVeigh, but actually was able to talk to him over a period of minutes, half an hour, an hour. Accompanying McVeigh on occasion, according to the motel owner, were some individuals the manager believes were of Middle Eastern extraction.

He also claims McVeigh stayed at his motel the night before the bombing. The Ryder truck, stinking of diesel and fertilizer, was parked on a lot near his motel, and he saw it pull out the next morning.

A read of Timothy McVeigh's book reveals that McVeigh said that he had parked his truck at a lot near a motel outside of Oklahoma City. It seems to me that this motel owner has a lot to say and is a very credible witness.

But how seriously was he taken? Was that testimony taken by the FBI? Well, the motel owner says the FBI did not even interview the other co-employees of the hotel who would have disproved or proven what he had to say. And, by the way, as I say, the official version of McVeigh is that he did pull up into a vacant lot near a motel and that is where he spent the night.

Well, he did not say he spent the night in a motel; he just said that is where he parked the truck. Davis has a number of believable witnesses. These witnesses, and she just kept following this throughout the years and just kept on going and kept on going like an Energizer bunny, and she could not be stopped.

And she has amassed an important amount of information, an important list of witnesses who claim to have seen McVeigh with John Doe 2 at different times before the bombing and immediately after the bombing.

Clearly, at some point, the FBI began having second thoughts about the existence of John Doe 2. So here we have a reporter finding witnesses who have actually seen McVeigh, who is very easy to identify, with John Doe 2; but the FBI is beginning to think that John Doe 2 really does not exist at all.

This character, John Doe 2, just was not fitting into the scenario the FBI saw taking shape, the explanation that seemed to be gathering steam in terms of official circles as to what had happened. So they went back to the Ryder truck rental operation again and asked the owner again, and asked the employee who had identified, who had actually described John Doe 2, to take a second thought.

The employee who originally described McVeigh, and by the way he had described McVeigh in such a way that that drawing was based on his description, the description of John Doe 2. He actually changed his position and changed the description of the man that he claimed to have seen.

However, I talked to the owner of the rental company, the one who actually did the business with McVeigh, and he is adamant. Even though the FBI is now saying that McVeigh went into that rental company alone, and is trying to convince the man who originally identified and had the drawing made of John Doe 2, and said, oh, yes, there was a person with him, that employee actually gave in to the FBI's suggestion. But the man who owned that little Ryder rental shop insists that McVeigh was not alone as the FBI is now trying to say, and insists that there was a man accompanying McVeigh; and although he cannot describe the man, he is absolutely sure McVeigh was not alone there at that company.

And of course we ended up with a sketch of John Doe 2, and John Doe 1, who looked exactly like McVeigh. So then it became a question, all of a sudden, is there a John Doe 2? Well, how much did the FBI follow up on the extensive investigation of Jayna Davis who has collected the affidavits of 22 people, who saw John Doe 2, a person that looked like John Doe 2 with McVeigh?

Now, she even identified a suspect that looks like John Doe 2. And there are many reasons to suspect that he may well have been with McVeigh. And there may be a John Doe 2. But there is a lot of conflicting things that have to be looked at here.

However, she actually got a picture of a Middle Eastern man who works there in Oklahoma City who had great trouble explaining where he was at the time of the explosion, and in fact was caught in many lies when trying to explain that. And many of the witnesses who Jayna Davis had shown the sketch to later on, when they were shown pictures of various people, she went and got a picture of this particular man who worked there in Oklahoma City, who was an immigrant from Iraq, I might add.

□ 2200

Many of her witnesses positively identified the man in the photo, not just the sketch that the FBI artist had given them, but the man in the photo as being the man that they saw with Timothy McVeigh. This is eye witness testimony. And, yes, eye witness testimony can be wrong. People can make a mistake. But this is important enough that the FBI should have looked at this individual as a potential suspect and treated him as such. And I would like to think that was the case at any time.

Was the individual Jayna Davis pointed out at any time considered a suspect, and what type of investigation was done on this individual? It appears that the investigation was not a thorough investigation into this man, but I certainly would like to hear from authorities as to how extensive that investigation was. Jayna contends it was difficult even to get the FBI to take possession of the sworn testimony that she had collected that linked this individual with Timothy McVeigh. That sworn testimony, the affidavits she collected, was at long last accepted by an FBI agent. But we must note here that Jayna Davis now tells us that that testimony, that sworn testimony, that Timothy McVeigh was in a relationship with a Middle Eastern man and that he was identified at the scene of the bombing and in the days leading up to the bombing by various people. That was never passed on to McVeigh's lawyers or Terry Nichols' lawyers during their trials, even though by law the government must provide all pertinent information to the lawyers, defense lawyers in a trial like this.

So why was there such a hesitation? Was there such a complication of just trying to get a proper investigation into someone who has been fingered by so many witnesses as being John Doe 2? And why was he not being treated as a potential suspect? Why? Was he being treated as a suspect? What was the investigation like? Yeah, we need to know that. And we need to know why all of those people were wrong, if they were wrong.

So Jayna Davis, who has recently written a book called "The Third Terrorist," should not be dismissed out of hand. I spoke to Jim Woolsey, former director of the CIA, and he believes, as I do, that her evidence and witnesses deserve serious scrutiny, and her investigation should be looked at judiciously. Even though 10 years has passed, it is not too late to look at what she has found.

As far as Mr. Woolsey and myself, we are not saying everything that Jayna Davis is accurate. I, in fact, have some serious disagreements with some of the information that she put in her book, just an analysis of some other individuals, not the ones who were pointing the finger at John Doe 2, but I had some serious disagreements with her. But that does not negate the other things in the book, and especially the hard work she did to try to pin down those people who had actually seen McVeigh and this Iraqi immigrant who looked exactly like the first, not exactly, but looked like John Doe 2 and even had a tattoo on his arm which, I might add, was in the description of John Doe 2.

So here we have a man who looks like John Doe 2 and has a tattoo on his arm and mysteriously cannot back up his claim of where he was when that bomb went off. Well, was he John Doe 2? Was he involved with McVeigh? We need to know that that has been thoroughly investigated.

Other possible terrorist links can be found centered around a whole different approach than the one that Jayna Davis took. This time we must look to see if the terrorist links can be found that can be traced back to the encampment of a neo-Nazi compound that was near the Oklahoma City-Arkansas border, about a half a day's drive from Oklahoma City.

A number of journalists, including J.D. Cash, Rita Cosby of Fox News, and others, have focused enormous energy and investigative talents into the activities surrounding the compound of neo-Nazis, white racists, gun nuts, Christian separatists, and irrational anti-government extremists, all of whom can be found at Elohim City, which was more like a small village or compound, as I say, about an afternoon's drive away from Oklahoma City. There were reports that as many as 250 crooks and criminals were based in Elohim City.

What McVeigh and Nichols had to do with this nest of vipers has yet to be fully determined. So we know that neo-Nazis were there. We know Ku Klux Klan types, we know people whose hearts were filled with hate who could commit acts of violence were there, who organizing there. We are not so sure how much exactly Timothy McVeigh and Terry Nichols had to do with this gang.

Records show that he stayed in a motel very nearby this compound, and this is way out in the sticks. And so if he was in that hotel, he was there because of that compound of racists and Nazis. And also his car and he as the driver of the car were pulled over and received a traffic ticket very near the compound. Again, no one is just driving on a Sunday afternoon and just happens to drive by this racist Nazi compound in Oklahoma.

So there are some indications that McVeigh was on the scene there or nearby; and if he was nearby, that would mean to us that he was probably meeting with some of the people in the compound.

One suggestion, for example, is that McVeigh helped finance some of his activities by getting money from some of the bank robbers who operated in and out of Elohim City. In fact, there were 22 bank robberies that were committed at that time by people who, as I say, were in and out of Elohim City and McVeigh's and Terry Nichols' relatives, their sisters have suggested that some of that bank robbery money was used by McVeigh and Nichols to further their goals. That connection, however, again needs to be examined.

What was the connection between McVeigh and Nichols and the monsters, the racists and the Nazis and the bank robbers there at Elohim City? One thing is certain, this potential terrorist camp did not escape the attention of authorities. There was at least one paid informant there and probably more, other informants from other government agencies who probably did not know about each other.

Carol Howe, the informant for the Bureau of Alcohol, Tobacco and Firearms, reported extensively from Elohim City. What she described was the preparation for an armed attack on the U.S. Government. She warned of assassinations and of bombings, and she told that the extremists there in Elohim City were capable of violence and capable of using weapons.

Federal authorities of course turned on Carol Howe later on after she made these reports. They actually brought charges of conspiracy and bomb making against her, even though she had been, obviously, an informant.

Let us note that the jury system works. A jury found her not guilty. I have seen many of her reports firsthand and found them to be very provocative and alarming as to what was going on there in Elohim City.

One of the most curious characters there was an Andreas Strassmeir. He was, as widely reported, in charge of security at the compound. He wore a gun and taught paramilitary tactics and operations. He was a young man who came from one of Germany's prominent families.

So think about this. Here is the guy who is in charge of security. He was training people in tactics. He was training people in guerilla warfare tactics and operations. And here he was, a young man whose father was the chief of staff of Chancellor Helmut Kohl. Helmut Kohl was the Chancellor of Germany. This is the equivalent of the son of Andy Card being charged with this type, of being a Ku Klux Klanner. In fact, Andy Card may have a little less social prestige here than Andreas Strassmeir's father had in Germany because they did have a very, very prominent family.

Andreas graduated from an elite military school, and then inexplicably he turned down a commission in the German Army; and a short time later he popped up in Elohim City. And there he was, as described by informant Howe and others as trying to provoke violent attacks on the United States Government which he referred to as a Zionist-controlled government.

Well, Timothy McVeigh had Strassmeir's card in his wallet when he was arrested after the bombing. Strassmeir and McVeigh claimed to have met only once at a gun show long before the bombing.

Well, who the hell is Strassmeir?

He is either a neo-Nazi, a virulent racist who pushed American extremists into violent acts, or tried to anyway, or he was, which would be logical to assume that he might be an informant for some agency of some government.

Well, if he was an informant, he was ill trained and improperly handled because instead of being an informant, he eventually became, if the reports are correct that we hear from Carol Howe and others, he eventually became a provocateur. The FBI has stated categorically to me that Strassmeir was not an FBI informant and never a source of information for the bureau.

Okay. So if he was not an informant and the FBI did not think he was an informant, why then was Strassmeir only briefly interviewed over the telephone by the FBI and then permitted to leave the country after it was clear that he had such connections to Elohim City? If nothing else, they knew that bank robberies were taking place by people who were in and out of Elohim City. If nothing more than the bank robberies, Mr. Strassmeir should have faced a much more serious interrogation instead of being given just a few minutes on the telephone and then being permitted to leave.

If he was not an informant, would not his role there in Elohim City and what he was doing with bank robbers and racists and Klan members and then of course with the possible tie-in with McVeigh, would these things not just call out for a thorough investigation and a close look by the FBI? And if nothing else, should not his connection or possible connection with McVeigh, who was after all the murderer of 168 Americans, was not the possible connection worth a more thorough investigation? How much of an investigation was done into Strassmeir?

□ 2215

Yes, there are serious questions that need to be answered, and there are loose ends that need to be explained and taken care of.

In the next few weeks, I will seek answers, and so far, the FBI has been more than cooperative. They are doing their best to see that I am satisfied with the conclusions they reached after a long and hard effort on the part of FBI professionals. They may well have answers that are very satisfying to me and to the issues that I have raised, and there may be no need for a hearing if this level of cooperation is successful, and I certainly hope it is.

However, let us begin to answer some of these questions. We can start with the surveillance tapes and work our way through. In the end, the public needs to be satisfied that the facts are known and that every lead has been followed and that all of us in the government are committed to keeping the American people safe from internal, as well as external, terrorism, and when crimes occur, like the one committed against our people in Oklahoma City 10 years ago today, the American people should be able to rest assured that their government will never give up, never close the case until it is certain that everyone with a hand in such a crime has been brought to justice and that those of us who work for government feel a special bond to the people of the United States to make sure they know all of the information and are satisfied with the investigations that we are involved so they can rest assured that we are doing our job just as all of the American people go about their business every day doing their job as professionally as they can.

The United States of America is a wondrous land, but we are also a very vulnerable country. By the very nature of our free system and our free country, there are people who commit heinous crimes against us. We saw that in 9/11. 9/11, let us admit, it was a failure of our intelligence systems, including the FBI, that permitted 9/11 to happen.

I still remember that some FBI agents were calling from the field, pleading with their superiors to let them have a further investigation into these pilots, these foreign pilots that were being trained in the flight schools in different parts of the United States but these pilots who have might connection to foreign terrorists. We have heard these stories, and how heartbreaking it is that these FBI agents out in the field were turned down and they were diverted and prevented from doing their job by a mindset that existed.

Well, sometimes these mindsets happen and sometimes just leads are ignored because everybody believes that we should be going this way instead of that way, and thus, if anybody else has evidence of the other direction, it may not get the attention that it deserves.

We have to make sure that kind of mindset did not happen in Oklahoma City. We did not have to make sure of that, and by making sure that those people who seem to be credible witnesses, especially with tying Timothy McVeigh to a John Doe, we have to make sure this is thoroughly investigated. We have to make sure that if there was a connection between the bank robbers and Timothy McVeigh, that we understand that that possible connection has been thoroughly investigated and that people who are involved in those bank robberies have been interrogated about any meeting with Timothy McVeigh or Terry Nichols.

We have got to understand and ask where Terry Nichols and Timothy McVeigh did get their money and where they got their training. If there is a foreign connection to the Oklahoma City bombing, and it is evident that these questions have not been answered, then a hearing by my subcommittee on the Committee on International Relations, the Subcommittee on Oversight and Investigation, would certainly be justified.

I will come back here in several weeks and report to the people of the United States what I have found and whether or not I have recommended to the gentleman from Illinois (Chairman HYDE), the Chairman of the Committee on International Relations, who has been very cooperative and offered me great guidance on this, I will let the public know whether or not I have recommended that there will be a hearing or not be a hearing.

So, with this said, let me just end with this note. The FBI is filled with wonderful people, and our intelligence people and the CIA are dedicated human beings who are professional. We know there were some problems with 9/11, but we also know that the vast majority of agents and government employees and these law enforcement agencies and the intelligence agencies are very dedicated to protecting our country.

So nothing that I say or do should make anyone feel that this is implying anything but applauding the good work and applauding the patriotism of those people in these law enforcement agencies and intelligence agencies who protect us.

RECESS

The SPEAKER pro tempore (Mr. WESTMORELAND). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 22 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2329

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PUTNAM) at 11 o'clock and 29 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6, ENERGY POLICY ACT OF 2005

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 109-49) on the resolution (H. Res. 219) providing for consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MENENDEZ (at the request of Ms. PELOSI) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MCCARTHY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. GUTIERREZ, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

(The following Members (at the request of Mr. KING of Iowa) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, April 20.

Mr. BURTON of Indiana, for 5 minutes, today and April 20 and 21.

Mr. CHOCOLA, for 5 minutes, today and April 20.

Mr. OSBORNE, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today and April 20 and 21.

Mr. GUTKNECHT, for 5 minutes, April 20 and 21.

Mr. POE, for 5 minutes, April 21.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 289. An act to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 787. An act to designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse".

ADJOURNMENT

Mr. SESSIONS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 20, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII. executive communications were taken from the Speaker's table and referred as follows:

1677. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received April 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1678. A letter from the Director, Child Nutrition Division, Department of Agriculture, transmitting the Department's final rule — Child and Adult Care Food Program: Increasing the Duration of Tiering Determinations for Day Care Homes (RIN: 0584-AD67) received February 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1679. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Immunology and Microbiology Devices; Classification of the Automated Fluorescence in situ Hybridization Enumeration Systems [Docket No. 2005N-0081] received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1680. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Substances Affirmed as Generally Recognized as Safe: Menhaden Oil [Docket No. 1999P-5332] received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1681. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Food and Drug Administration Regulations; Drug and Biological Product Consolidation; Addresses; Technical Amendment — received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1682. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Secondary Direct Food Additives Permitted in Food for Human Consumption [Docket No. 2003F-0535] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1683. A letter from the Deputy Assistant Secretary For Export Administration, Department of Commerce, transmitting the Department's final rule — Revision of Export and Reexport Restrictions on Libya: Reponses to Comments on the Interim Rule [Docket No. 040422128-5024-02] (RIN: 0694-AD14) received on March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1684. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Licensing Policy for Entities Sanctioned under Specified Statutes; License Requirement for Certain Sanctioned Entities; and Imposition of License Requirement for Tula Instrument Design Bureau [Docket No. 041222360-4360-01] (RIN: 0694-AD24) received on March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1685. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Editiorial Corrections to Part 730 of the Export Administration Regulations [Docket No. 050202023-5023-01] (RIN: 0694-AD40) received on March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1686. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Denied Persons and Specially Designated Nationals [Docket No. 050208029-5029-01] (RIN: 0694-AD43) received on February 17, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1687. A letter from the Assistant General Counsel, Federal Election Commission, transmitting the Commission's final rule — Political Party Committees Donating Funds to Certain Tax-Exempt Organizations and Political Organizations [Notice 2005-8] received March 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

1688. A letter from the Assistant General Counsel, Federal Election Commission, transmitting the Commission's final rule — Filing Documents by Priority Mail, Express Mail, and Overnight Delivery Service [Notice 2005-9] received March 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

1689. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. FAA-2004-19448; Directorate Identifier 2004-NM-134-AD; Amendment 39-14011; AD 2005-06-03] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1690. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes Modified In Accordance With Supplemental Type Certificate (STC) ST00127BO [Docket No. FAA-2004-19891; Directorate Identifier 2004-NM-136-AD; Amendment 39-14006; AD 2005-05-17] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1691. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-300 Series Airplanes [Docket No. FAA-2004-19568; Directorate Identifier 2004-NM-112-AD; Amendment 39-14000; AD 2005-05-11] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1692. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 155B and EC 155B1 Helicopters [Docket No. 2003-SW-47-AD; Amendment 39-14009; AD 2005-06-01] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 866. A bill to make technical corrections to the United States Code (Rept. 109–48). Referred to the Committee of the Whole House on the State of the Union.

Mr. SESSIONS: Committee on Rules. House Resolution 219. Resolution providing for consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy; (Rept. 109–49). Referred to the House Calendar and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII. public bills and resolutions were introduced and severally referred, as follows:

By Mrs. MUSGRAVE (for herself and Mr. HERGER):

H.R. 1678. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for increased expensing for small business; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 1679. A bill to make supplemental appropriations for fiscal year 2005 to ensure the inclusion of commonly used pesticides in State source water assessment programs, and for other purposes; to the Committee on Appropriations.

By Mr. ANDREWS:

H.R. 1680. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the environmental cleanup of certain contaminated industrial sites designated as brownfields; to the Committee on Ways and Means.

By Mr. BUTTERFIELD (for himself, Mr. PAYNE, Ms. LEE, Mrs. JONES of Ohio, Mr. OWENS, Mr. RUSH, Mr. THOMPSON of Mississippi, Mr. HOLDEN, Ms. NORTON, Mr. BERMAN, Mr. CLAY, Mr. LEWIS of Georgia, Mr. FORD, Mr. WEXLER, Mr. CONYERS, Mr. CARDOZA, Mr. PETERSON of Minnesota, Mrs. TAUSCHER, Mr. PALLONE, Mr. CLEAVER, and Mr. CLYBURN):

H.R. 1681. A bill to improve education for all students, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARDIN (for himself, Mr. RANGEL, Mr. MCDERMOTT, Mr. STARK, Mr. LEVIN, and Mr. EMANUEL):

H.R. 1682. A bill to update the supplemental security income program, and to increase incentives for working, saving, and pursuing an education; to the Committee on Ways and Means.

By Mr. CLAY (for himself, Ms. MCKINNEY, and Mr. BUTTERFIELD):

H.R. 1683. A bill to amend title 37, United States Code, to require a minimum basic pay level of $2,000 per month for members of the Armed Forces serving in a combat zone; to the Committee on Armed Services.

By Mr. COX (for himself, Mr. CANNON, Mr. UPTON, Mrs. BLACKBURN, Mr. WILSON of South Carolina, Mr. ROHRABACHER, Mr. GARRETT of New Jersey, Ms. ESHOO, Mr. CHABOT, Mr. SIMMONS, Mr. RADANOVICH, Mr. FOSSELLA, Mr. HAYWORTH, Mr. KENNEDY of Minnesota, Mr. MACK, Mr. MCGOVERN, Mr. OTTER, Mrs. MUSGRAVE, Mr. PAUL, Mr. HERGER, Mr. MILLER of Florida, Mr.

Boustany, Mr. Dreier, Mr. Westmoreland, Mr. Tom Davis of Virginia, Mr. Weller, Mr. Cunningham, Mr. Terry, Mr. McHenry, Mr. Gary G. Miller of California, Mr. Calvert, Mr. Goodlatte, Mr. Kirk, Mr. Weldon of Florida, Mr. Gillmor, Mr. Aderholt, Ms. Ginny Brown-Waite of Florida, Miss McMorris, Mr. McHugh, Mr. McCaul of Texas, Mr. Walsh, Mr. Manzullo, and Mr. Hostettler):

H.R. 1684. A bill to amend the Internet Tax Freedom Act to make permanent the moratorium on certain taxes relating to the Internet and to electronic commerce; to the Committee on the Judiciary.

By Mr. COX (for himself, Mr. Cannon, Mr. Upton, Mrs. Blackburn, Mr. Wilson of South Carolina, Mr. Rohrabacher, Mr. Garrett of New Jersey, Ms. Eshoo, Mr. Chabot, Mr. Simmons, Mr. Radanovich, Mr. Fossella, Mr. Hayworth, Mr. Kennedy of Minnesota, Mr. Mack, Mr. McGovern, Mr. Otter, Mrs. Musgrave, Mr. Paul, Mr. Herger, Mr. Miller of Florida, Mr. Boustany, Mr. Dreier, Mr. Westmoreland, Mr. Tom Davis of Virginia, Mr. Weller, Mr. Cunningham, Mr. Terry, Mr. McHenry, Mr. Gary G. Miller of California, Mr. Calvert, Mr. Goodlatte, Mr. Kirk, Mr. Weldon of Florida, Mr. Gillmor, Mr. Aderholt, Ms. Ginny Brown-Waite of Florida, Miss McMorris, Mr. McHugh, Mr. McCaul of Texas, Mr. Walsh, Mr. Manzullo, and Mr. Hostettler):

H.R. 1685. A bill to amend the Internet Tax Freedom Act to make permanent the moratorium on certain taxes relating to the Internet and to electronic commerce; to the Committee on the Judiciary.

By Mr. CUMMINGS:

H.R. 1686. A bill to require United States assistance for the repair, maintenance, or construction of the transportation infrastructure of Iraq to be provided in the form of loans subject to repayment in full to the United States Government; to the Committee on International Relations.

By Ms. DeLAURO (for herself, Mr. Wexler, Mr. Moran of Virginia, Mr. Van Hollen, Mr. George Miller of California, Mr. Gutierrez, Mr. DeFazio, Mr. Cuellar, Mr. Stark, Mr. Oberstar, Mr. Farr, Mr. Engel, Mr. McDermott, Mr. Dingell, Mrs. Maloney, Mr. Holt, Mr. Pallone, Ms. Berkley, Mrs. McCarthy, Ms. Schakowsky, Mr. Miller of North Carolina, Mr. Boswell, Mr. Jackson of Illinois, Mr. Honda, Mr. Weiner, Mr. Frank of Massachusetts, Mrs. Tauscher, Mr. Sherman, Mr. Lantos, Mr. Dicks, Mr. McGovern, Mr. Price of North Carolina, Mr. Cummings, Ms. Wasserman Schultz, Ms. Baldwin, Mr. Kennedy of Rhode Island, Mr. Tierney, Mr. Scott of Georgia, Mr. Udall of New Mexico, Ms. Corrine Brown of Florida, Mr. Nadler, Ms. McCollum of Minnesota, Mrs. Jones of Ohio, Mr. Hinchey, Mr. Strickland, Ms. Lee, Mr. Kildee, Mr. Crowley, Ms. Pelosi, Mr. Grijalva, Ms. Slaughter, Mr. Neal of Massachusetts, Mr. Langevin, Mr. Evans, Mr. Abercrombie, Mr. Wu, Mr. Allen, Ms. Solis, and Ms. Woolsey):

H.R. 1687. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FARR (for himself, Mr. Shays, Mr. Leach, Mr. Weiner, Mr. Van Hollen, Mrs. Maloney, Ms. Lee, Mr. Blumenauer, Mr. McDermott, Mrs. Capps, Mr. Moran of Virginia, Mr. Evans, Ms. Woolsey, Mr. Rangel, Mr. Nadler, Mr. Engel, Mr. Honda, Mr. DeFazio, Mr. Grijalva, Mr. George Miller of California, and Ms. Solis):

H.R. 1688. A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals; to the Committee on the Judiciary.

By Mr. FEENEY (for himself, Mr. Smith of Texas, Mrs. Blackburn, Ms. Hart, Mr. Meek of Florida, Mr. Burton of Indiana, Mr. Engel, Mr. Boyd, Ms. Harris, Mr. Foley, Mr. Smith of New Jersey, Ms. Ros-Lehtinen, Mr. Payne, Mr. Shaw, Mr. Keller, Mr. Crenshaw, Mr. Green of Wisconsin, Mr. Hoyer, and Ms. Wasserman Schultz):

H.R. 1689. A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts (for himself, Mr. Hoyer, Mr. Waxman, Mr. Crowley, Mr. Owens, Mr. Abercrombie, Mr. Wexler, Mr. Cleaver, Mr. McGovern, and Mr. Paul):

H.R. 1690. A bill to amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds a minimum COLA-adjusted amount of $2,500 and to provide for a graduated implementation of such provision on amounts above such minimum amount; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 1691. A bill to designate the Department of Veterans Affairs outpatient clinic in Appleton, Wisconsin, as the "John H. Bradley Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Ms. HOOLEY:

H.R. 1692. A bill to repeal the application of the sunset in the Economic Growth and Tax Relief Reconciliation Act of 2001 to tuition programs which are qualified under section 529 of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself, Mr. Kennedy of Rhode Island, Mr. Payne, Ms. Lee, and Mr. Etheridge):

H.R. 1693. A bill to provide grants to eligible consortia to provide professional development to superintendents, principals, and to prospective superintendents and principals; to the Committee on Education and the Workforce.

By Mrs. MALONEY:

H.R. 1694. A bill to authorize the Secretary of Housing and Urban Development to make grants to nonprofit community organizations for the development of open space on municipally owned vacant lots in urban areas; to the Committee on Financial Services.

By Mr. MICHAUD (for himself, Mr. Allen, Mr. Bass, Mr. Boehlert, Mr. McHugh, and Mr. Sanders):

H.R. 1695. A bill to establish the Northeast Regional Development Commission, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself, Mr. King of New York, Ms. Pelosi, Mr. Owens, Mr. Michaud, Mr. Crowley, Mr. Clay, Mr. Carnahan, Mr. Wu, Ms. Kaptur, Ms. McKinney, Mr. Bishop of New York, Mr. Waxman, Ms. DeLauro, Mr. Van Hollen, Mr. Ruppersberger, Mr. Brown of Ohio, Mr. Wexler, Mrs. Jones of Ohio, Mr. Brady of Pennsylvania, Mr. McDermott, Ms. Hooley, Mr. Kildee, Mr. Sherman, Ms. McCollum of Minnesota, Mr. Baca, Mr. Chandler, Mr. Weiner, Mr. Grijalva, Mrs. Tauscher, Ms. Waters, Mr. Case, Mr. Nadler, Mr. Cooper, Ms. Millender-McDonald, Mr. Berman, Mr. Kind, Mr. Capuano, Ms. Solis, Mr. Visclosky, Mr. Simmons, Mr. Davis of Alabama, Mr. Levin, Mr. Lynch, Mr. Olver, Ms. Schakowsky, Ms. Woolsey, Mr. Davis of Illinois, Ms. Slaughter, Mr. McNulty, Mr. Markey, Mr. Ackerman, Ms. Schwartz of Pennsylvania, Ms. Kilpatrick of Michigan, Mr. Payne, Mr. Berry, Mr. Tierney, Mr. Larson of Connecticut, Mr. Cardoza, Mr. Lantos, Mr. Neal of Massachusetts, Mr. Rahall, Mr. Abercrombie, Ms. Linda T. Sánchez of California, Mr. Cardin, Mr. Matheson, Mr. Stupak, Mr. Ross, Mr. Hoyer, Mr. Strickland, Mr. Kucinich, Mr. Holden, Mr. Wynn, Mr. Inslee, Mr. Allen, Ms. Velázquez, Ms. Matsui, Mr. Conyers, Mr. Cummings, Mr. Ryan of Ohio, Mr. Cramer, Ms. Harman, Mr. Dingell, Mrs. Maloney, Mrs. McCarthy, Mrs. Napolitano, Mr. Scott of Virginia, Mr. Ford, Mr. Stark, Mr. Fattah, Mr. Boucher, Mr. Murtha, Mr. Higgins, Ms. Zoe Lofgren of California, Mr. Boswell, Ms. Roybal-Allard, Mr. Andrews, Mr. McHugh, Mr. Boehlert, Mrs. Davis of California, Mr. Menendez, Mr. Moore of Kansas, Mr. Hinchey, Mr. Oberstar, Mr. Scott of Georgia, Mr. Dicks, Mr. Honda, Ms. Eshoo, Ms. Watson, Mr. Al Green of Texas, Mrs. Christensen, Mr. Jefferson, Mrs. Capps, Mr. Mollohan, Mr. Holt, Mr. Doyle, Mr. Hinojosa, Mr. Becerra, Ms. Lee, Mr. Udall of Colorado, Mr. DeFazio, Mr. Costello, and Mr. Kuhl of New York):

H.R. 1696. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes; to the Committee on Education and the Workforce.

By Ms. NORTON:

H.R. 1697. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PASCRELL:

H.R. 1698. A bill to suspend temporarily the duty on certain capers preserved by vinegar or acetic acid; to the Committee on Ways and Means.

By Mr. PASCRELL:

H.R. 1699. A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid: to the Committee on Ways and Means.

By Mr. PASCRELL:

H.R. 1700. A bill to suspend temporarily the duty on certain capers preserved by vinegar or acetic acid; to the Committee on Ways and Means.

By Mr. PASCRELL:

H.R. 1701. A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved by vinegar or acetic acid in concentrations at 0.5% or greater; to the Committee on Ways and Means.

By Mr. PASCRELL:

H.R. 1702. A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid in concentrations less than 0.5%; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 1703. A bill to restore the second amendment rights of all Americans; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTMAN (for himself, Mr. Davis of Illinois, Mr. Coble, Mrs. Jones of Ohio, Mr. Chabot, Mr. Cummings, Mr. Cannon, Ms. Harris, Mr. Tom Davis of Virginia, Mr. Ehlers, Mr. Gilchrest, Ms. Lee, Mr. Owens, Mr. Shimkus, Ms. Solis, Mr. Wynn, Mr. Bachus, Mr. Shays, Mr. Payne, Mr. Ruppersberger, Mr. Ford, Mrs. Johnson of Connecticut, Mr. Westmoreland, Mr. Berman, Mr. Rangel, Ms. Woolsey, Mr. Kennedy of Rhode Island, Ms. Kaptur, and Ms. Jackson-Lee of Texas):

H.R. 1704. A bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG:

H.R. 1705. A bill to establish a program to support deployment of idle reduction and energy conservation technologies for heavy-duty vehicles, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG:

H.R. 1706. A bill to direct the Secretary of Energy to conduct a program in partnership with the private sector to accelerate efforts of domestic automobile manufacturers to manufacture commercially available competitive hybrid vehicle technologies in the United States; to the Committee on Science, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself, Mr. Udall of New Mexico, Mr. Royce, and Mr. Tanner):

H.R. 1707. A bill to assist in the conservation of rare felids and rare canids by supporting and providing financial resources for the conservation programs of nations within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations; to the Committee on Resources.

By Mr. SHAW (for himself, Mr. Davis of Florida, Mr. English of Pennsylvania, Mr. Thompson of California, and Mr. Turner):

H.R. 1708. A bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water and sewage facilities; to the Committee on Ways and Means.

By Ms. SLAUGHTER (for herself, Mr. Simmons, Ms. DeGette, and Mrs. Johnson of Connecticut):

H.R. 1709. A bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER:

H.R. 1710. A bill to amend title 18, United States Code, to protect individuals performing certain Federal and federally assisted functions, and for other purposes; to the Committee on the Judiciary.

By Mrs. WILSON of New Mexico:

H.R. 1711. A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Resources.

By Ms. WOOLSEY (for herself, Mr. Baca, Mr. Becerra, Mr. Berman, Mrs. Capps, Mr. Cardoza, Mr. Costa, Mrs. Davis of California, Ms. Eshoo, Mr. Farr, Mr. Filner, Ms. Harman, Mr. Honda, Mr. Lantos, Ms. Lee, Ms. Zoe Lofgren of California, Ms. Millender-McDonald, Mr. George Miller of California, Mrs. Napolitano, Ms. Roybal-Allard, Ms. Pelosi, Ms. Linda T. Sánchez of California, Ms. Loretta Sanchez of California, Mr. Schiff, Mr. Sherman, Ms. Solis, Mr. Stark, Mrs. Tauscher, Mr. Thompson of California, Ms. Waters, Ms. Watson, Mr. Waxman, and Ms. Matsui):

H.R. 1712. A bill to expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary; to the Committee on Resources.

By Mr. LANTOS (for himself, Mr. Hyde, Mr. Langevin, and Mr. Smith of New Jersey):

H. Con. Res. 134. Concurrent resolution expressing the sense of Congress that the United States should play a leading role in the drafting and adoption of a thematic United Nations convention that affirms the human rights and dignity of persons with disabilities, and for other purposes; to the Committee on International Relations.

By Mr. SHUSTER (for himself and Ms. Norton):

H. Con. Res. 135. Concurrent resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run; to the Committee on Transportation and Infrastructure.

By Mr. SHUSTER (for himself and Ms. Norton):

H. Con. Res. 136. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service; to the Committee on Transportation and Infrastructure.

By Mr. PORTER (for himself and Mr. Boehner):

H. Res. 218. A resolution congratulating charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BOUSTANY (for himself, Mr. Blunt, Ms. Eshoo, Mr. Boyd, Mr. Kildee, Mr. Young of Florida, Mr. Hinchey, Mr. Towns, and Mr. Radanovich):

H. Res. 220. A resolution recognizing America's Blood Centers and its member organizations for their commitment to providing over half the Nation with a safe and adequate volunteer donor blood supply, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JINDAL (for himself, Mr. Boustany, Mr. Melancon, Mr. Alexander, Mr. Baker, and Mr. McCrery):

H. Res. 221. A resolution honoring the life of John Hainkel; to the Committee on Government Reform.

By Mr. SHADEGG (for himself and Mr. Chabot):

H. Res. 222. A resolution supporting the goals and ideals of a National Day of Remembrance for Murder Victims; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. Otter and Mr. Simpson.

H.R. 22: Ms. Wasserman Schultz, Mr. Wexler, Mr. Peterson of Pennsylvania, and Mr. Dent.

H.R. 23: Ms. McCollum of Minnesota, Mr. Capuano, Mr. Kind, Mrs. Lowey, Mr. Meehan, Mr. Cooper, Mr. Frank of Massachusetts, and Mr. Clay.

H.R. 34: Mr. Larsen of Washington and Mr. Bishop of Georgia.

H.R. 36: Mr. Abercrombie and Mr. Filner.

H.R. 63: Mr. Ruppersberger, Mr. Stark and Ms. Herseth.

H.R. 64: Mr. McKeon.

H.R. 98: Mr. Duncan.

H.R. 153: Mr. Gonzalez, Mr. Lipinski, Ms. Lee, Mr. Weiner, and Mr. Schiff.

H.R. 197: Mr. Cardoza and Mr. Reyes.

H.R. 198: Ms. DeGette.

H.R. 215: Mr. Cuellar.

H.R. 269: Mr. Larsen of Washington.

H.R. 278: Mr. Pitts.

H.R. 282: Mr. Price of Georgia, Mr. Doyle, Mr. Miller of North Carolina, Ms. Herseth, Mr. Evans, Mr. Hayes, Mr. George Miller of California, Mr. Shadegg, Mr. Matheson, Mr. Jefferson, and Mr. Hastings of Florida.

H.R. 303: Ms. Kaptur, Mr. Jones of North Carolina, Ms. Herseth, Mr. Hall, and Mr. Jenkins.

H.R. 328: Mr. STRICKLAND, Mr. TAYLOR of Mississippi, Mr. WYNN, and Mr. ROHRABACHER.

H.R. 333: Mr. REYES, Mrs. NAPOLITANO, and Mr. BROWN of Ohio.

H.R. 354: Mr. RUPPERSBERGER.

H.R. 371: Mr. BURTON of Indiana, Mr. EMANUEL, Mr. MILLER of Florida, Mr. WAMP, Mr. GONZALEZ, Mr. MENENDEZ, Mr. OBERSTAR, Ms. BALDWIN, Mr. SNYDER, and Ms. MCCOLLUM of Minnesota.

H.R. 389: Mr. MICHAUD.

H.R. 400: Mr. HAYWORTH and Mr. FRANKS of Arizona.

H.R. 442: Mr. HEFLEY, Mr. JONES of North Carolina, Mr. HYDE, Mr. GINGREY, Mr. SAXTON, Mr. CHABOT, Mr. PAUL, and Mrs. CUBIN.

H.R. 476: Ms. SCHAKOWSKY.

H.R. 533: Ms. SCHAKOWSKY.

H.R. 554: Ms. HERSETH and Mr. TOWNS.

H.R. 580: Mr. GARRETT of New Jersey.

H.R. 581: Mr. UDALL of New Mexico and Mrs. WILSON of New Mexico.

H.R. 583: Mr. DOYLE, Mr. KENNEDY of Rhode Island, Mr. HOLT, and Mr. VAN HOLLEN.

H.R. 626: Mr. HOEKSTRA.

H.R. 651: Mr. TERRY.

H.R. 653: Mr. PALLONE.

H.R. 660: Ms. BORDALLO, Mr. LEWIS of Georgia, and Mr. BISHOP of Georgia.

H.R. 663: Mr. CLAY.

H.R. 669: Mrs. TAUSCHER, Mr. BISHOP of Georgia, and Mr. GIBBONS.

H.R. 682: Mrs. MUSGRAVE.

H.R. 695: Mr. CHABOT.

H.R. 697: Mr. MCINTYRE, Mr. ALLEN, Mr. MENENDEZ, and Mrs. TAUSCHER.

H.R. 768: Mr. DOGGETT, Ms. ROYBAL-ALLARD, and Mr. LANGEVIN.

H.R. 772: Mr. LARSEN of Washington, Mr. LYNCH, Mr. HOEKSTRA, and Ms. BERKLEY.

H.R. 776: Mr. LEWIS of Kentucky.

H.R. 777: Mr. GARRETT of New Jersey.

H.R. 800: Mr. HOEKSTRA, Mr. DREIER, and Mr. LEWIS of California.

H.R. 809: Mr. REHBERG, Mr. WELLER, Mr. PAUL, Mr. HOEKSTRA, Mrs. MUSGRAVE, Mr. CUNNINGHAM, Mr. BRADY of Texas, and Mr. BOUSTANY.

H.R. 818: Mr. BRADLEY of New Hampshire.

H.R. 824: Mr. JEFFERSON, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. FILNER, Ms. CORRINE BROWN of Florida, Mr. WYNN, Ms. KILPATRICK of Michigan, Ms. MOORE of Wisconsin, and Mr. OWENS.

H.R. 827: Mr. SOUDER.

H.R. 838: Mr. MICHAUD, Ms. KILPATRICK of Michigan, Mrs. LOWEY, Mr. LARSON of Connecticut, Mr. RYAN of Ohio, Mr. ROSS, Mr. BERRY, Mr. WEXLER, Mr. UDALL of New Mexico, Mr. MORAN of Virginia, Mr. LARSEN of Washington, Mr. BISHOP of Georgia, Mr. FRANK of Massachusetts, and Mr. TOWNS.

H.R. 858: Mr. TAYLOR of North Carolina.

H.R. 877: Mr. FRANK of Massachusetts and Ms. HART.

H.R. 896: Mr. ENGLISH of Pennsylvania, Mr. BOEHLERT, and Mr. REYNOLDS.

H.R. 908: Ms. LEE.

H.R. 910: Mr. CUMMINGS.

H.R. 923: Mr. LYNCH, Mr. CONAWAY, Mr. JONES of North Carolina, Mr. SANDERS, and Mr. WHITFIELD.

H.R. 924: Mr. BROWN of Ohio.

H.R. 931: Mr. ISTOOK and Mr. GARRETT of New Jersey.

H.R. 935: Ms. SCHAKOWSKY, Mr. FALEOMAVAEGA, Mr. WOLF, Ms. BERKLEY, Mr. LANTOS, and Mr. BERMAN.

H.R. 939: Ms. SCHAKOWSKY, Mr. HINCHEY, Ms. SOLIS, and Mr. MCGOVERN.

H.R. 944: Mr. MCNULTY, Mr. MARSHALL, and Mr. REYNOLDS.

H.R. 983: Mr. SMITH of Washington.

H.R. 985: Mr. DAVIS of Kentucky, Mr. CUELLAR, Ms. HARMAN, Ms. HERSETH, Mr. MILLER of North Carolina, Mr. CRENSHAW, Mr. KENNEDY of Rhode Island, Mr. RAHALL, Mr. NEY, Mr. PRICE of Georgia, Mr. SALAZAR, and Mr. PASCRELL.

H.R. 994: Mr. MICHAUD, Ms. SCHWARTZ of Pennsylvania, Mr. RYAN of Ohio, Mr. MCHUGH, Mr. PETERSON of Minnesota, Mr. LINCOLN DIAZ-BALART of Florida, Mr. BACHUS, Mrs. NAPOLITANO, Mr. FITZPATRICK of Pennsylvania, Mr. MEEKS of New York, Ms. HOOLEY, Mr. GEORGE MILLER of California, Mrs. CUBIN, Mr. UDALL of New Mexico, Mr. HIGGINS, Mr. HYDE, Mr. ANDREWS, Mr. PASCRELL, Mrs. CAPITO, Mr. CARDIN, Mr. FERGUSON, Mrs. MALONEY Mr. PRICE of North Carolina, Mr. SMITH of New Jersey, Mr. SERRANO, Mr. POMEROY, Mr. GRIJALVA, Mr. GONZALEZ, Mr. MANZULLO, Mr. MENENDEZ, Mr. SHAYS, Mr. BILIRAKIS, Mr. COLE of Oklahoma, Mr. CUNNINGHAM, Mr. SABO, Mr. WILSON of South Carolina, Mr. LARSON of Connecticut, Mr. MOORE of Kansas, Mr. MCNULTY, Mr. BUTTERFIELD, Mr. UPTON, Ms. HERSETH, Mr. MILLER of North Carolina, Mr. BISHOP of New York, Mr. PETRI, Mr. SANDERS, Ms. MCCOLLUM of Minnesota, and Mr. HOLDEN.

H.R. 997: Mr. MARCHANT, Mr. KANJORSKI, and Mr. FRANKS of Arizona.

H.R. 998: Miss MCMORRIS, Mr. LARSEN of Washington, and Mr. GOODE.

H.R. 1002: Mr. LANTOS, Mr. LARSEN of Washington, and Ms. SLAUGHTER.

H.R. 1011: Mr. MCDERMOTT.

H.R. 1017: Mr. OTTER.

H.R. 1029: Mr. BROWN of South Carolina.

H.R. 1033: Mrs. MALONEY, Mr. PALLONE, and Mrs. TAUSCHER.

H.R. 1059: Mr. CLEAVER and Mr. INSLEE.

H.R. 1124: Mr. REGULA, and Mr. COOPER.

H.R. 1157: Ms. CORRINE BROWN of Florida and Mr. HINOJOSA.

H.R. 1185: Mrs. MUSGRAVE and Mr. CHABOT.

H.R. 1214: Ms. BALDWIN and Mr. STARK.

H.R. 1217: Mr. RYAN of Ohio, Mr. STARK, and Mr. TIERNEY.

H.R. 1226: Mr. SHAYS and Mr. LATOURETTE.

H.R. 1229: Mr. SMITH of Texas, Mr. BACHUS, Mr. ADERHOLT, and Mr. EVERETT.

H.R. 1248: Mr. GARRETT of New Jersey.

H.R. 1258: Mrs. MCCARTHY, Mr. MEEKS of New York, Mr. OWENS, Ms. KILPATRICK of Michigan, Mr. TIERNEY, Mr. WAXMAN, Mr. VAN HOLLEN, and Ms. MCCOLLUM of Minnesota.

H.R. 1272: Mrs. JOHNSON of Connecticut.

H.R. 1290: Mr. TOM DAVIS of Virginia.

H.R. 1298: Mr. ROGERS of Alabama.

H.R. 1316: Mr. FLAKE, Mr. TANCREDO, Mr. GARRETT of New Jersey, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mr. MANZULLO, Mr. AKIN, Mr. MCHENRY, Mr. CANNON, and Mr. KING of Iowa.

H.R. 1324: Mr. COLE of Oklahoma.

H.R. 1329: Mrs. JOHNSON of Connecticut and Ms. LEE.

H.R. 1339: Mr. POE.

H.R. 1342: Mr. PASCRELL.

H.R. 1345: Mrs. KELLY.

H.R. 1352: Mr. MCCAUL of Texas, Mr. CUELLAR, Mr. MELANCON, Ms. BERKLEY, Mr. HOLDEN, Mr. CRAMER, Mr. CAPUANO, Mr. ROSS, Mr. POMEROY, Mr. PLATTS, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1376: Mr. SWEENEY and Mr. BOREN.

H.R. 1382: Mr. GARRETT of New Jersey.

H.R. 1409: Mr. UDALL of New Mexico and Mr. HOLT.

H.R. 1417: Mr. BRADY of Texas.

H.R. 1424: Mr. SCOTT of Georgia, Mr. SENSENBRENNER, Ms. CORRINE BROWN of Florida, Mr. CLEAVER, Mr. HASTINGS of Florida, Mr. LEWIS of Georgia, Mr. DAVIS of Illinois, Mr. ACKERMAN, Mr. STARK, Mr. PRICE of North Carolina, Mr. JACKSON of Illinois, Mr. VAN HOLLEN, Mr. GONZALEZ, Ms. ESHOO, Mrs. MALONEY, Mr. MILLER of North Carolina, Ms. Moore of Wisconsin, Mr. FEENEY, Ms. BERKLEY, Mr. EVANS, and Mr. FRANK of Massachusetts.

H.R. 1426: Mr. UDALL of New Mexico, Mr. BERRY, Mr. CAPUANO, Mr. THOMPSON of Mississippi, Mr. DELAHUNT, and Ms. SCHAKOWSKY.

H.R. 1474: Mr. BOREN, Mr. ALLEN, Mr. PETERSON of Minnesota, and Mr. MCGOVERN.

H.R. 1482: Mr. JOHNSON of Illinois.

H.R. 1493: Mr. FLAKE, Mr. MCCAUL of Texas, Ms. GINNY BROWN-WAITE of Florida, and Mr. KENNEDY of Minnesota.

H.R. 1500: Mr. CONAWAY.

H.R. 1505: Ms. FOXX and Mr. KUHL of New York.

H.R. 1520: Mr. DAVIS of Tennessee.

H.R. 1545: Mr. PAUL.

H.R. 1554: Mr. BRADLEY of New Hampshire and Mr. YOUNG of Florida.

H.R. 1568: Mr. BILIRAKIS.

H.R. 1594: Mr. LEWIS of Georgia.

H.R. 1595: Mr. RYAN of Ohio, Mr. SIMMONS, Ms. LEE, Ms. MILLENDER-MCDONALD, Mr. KUCINICH, and Mrs. MCCARTHY.

H.R. 1598: Mrs. WILSON of New Mexico.

H.R. 1599: Mr. GOODE.

H.R. 1608: Mr. SOUDER and Mr. BURTON of Indiana.

H.R. 1616: Mrs. MYRICK, Mr. HAYES, Mr. JONES of North Carolina, and Mr. WILSON of South Carolina.

H.R. 1636: Mr. NADLER and Mr. BROWN of Ohio.

H.R. 1638: Mr. BUTTERFIELD and Mrs. MILLER of Michigan.

H.R. 1639: Mr. BAIRD, Mr. CUMMINGS, Mr. LARSEN of Washington, Mr. BROWN of Ohio, Mr. PETERSON of Minnesota, Ms. JACKSON-LEE of Texas, and Ms. MCCOLLUM of Minnesota.

H.R. 1652: Mr. HINCHEY, Mr. STARK, Mr. MCDERMOTT, Mr. KUCINICH, Ms. MOORE of Wisconsin, Mr. RANGEL, Mr. NADLER, Ms. JACKSON-LEE of Texas, Mr. HOLT, Mrs. TAUSCHER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PALLONE, Ms. MCCOLLUM of Minnesota, and Mr. GRIJALVA.

H.R. 1664: Mr. SHAYS and Mr. TERRY.

H. Con. Res. 10: Mr. MCNULTY and Mr. PLATTS.

H. Con. Res. 24: Mr. MENENDEZ and Mr. HOYER.

H. Con. Res. 85: Mr. MCKEON and Mr. ALEXANDER.

H. Con. Res. 90: Mr. DOGGETT and Mr. DEFAZIO.

H. Con. Res. 99: Ms. NORTON, Mr. STARK, and Mr. JENKINS.

H. Con. Res. 107: Ms. KILPATRICK of Michigan, Mrs. JONES of Ohio, Mr. ACKERMAN, Mr. GEORGE MILLER of California, and Mr. BRADY of Pennsylvania.

H. Con. Res. 127: Ms. BORDALLO, Mr. EVANS, Mr. SMITH of New Jersey, Mr. HYDE, Mr. BERMAN, Mr. CROWLEY, Mr. GREEN of Wisconsin, Mr. ENGEL, Mr. BURTON of Indiana, Mr. HASTINGS of Florida, and Mrs. JO ANN DAVIS of Virginia.

H. Res. 38: Mr. BAKER, Mr. WAXMAN, and Mr. GARRETT of New Jersey.

H. Res. 54: Mr. BAKER, Mr. ENGEL, Mr. DAVIS of Illinois, Mr. GARRETT of New Jersey, and Mr. BOOZMAN.

H. Res. 61: Ms. SCHAKOWSKY.

H. Res. 97: Mr. KLINE, Mr. LEWIS of Kentucky, Mr. CALVERT, Mrs. BLACKBURN, and Mr. EVERETT.

H. Res. 116: Mr. Moore of Kansas, Ms. Woolsey, and Mr. Bishop of New York.

H. Res. 123: Mr. Ramstad.

H. Res. 131: Mr. Jones of North Carolina.

H. Res. 142: Mr. Murphy.

H. Res. 146: Mr. Kuhl of New York and Mr. Westmoreland.

H. Res. 158: Mr. Miller of North Carolina and Mr. Terry.

H. Res. 185: Mr. Farr, Mr. Filner, Ms. Woolsey, Mr. Gutierrez, Mr. Larson of Connecticut, Mr. Abercrombie, Mr. Oberstar, Ms. Loretta Sanchez of California, and Mr. Berman.

H. Res. 189: Mr. Kuhl of New York.

H. Res. 208: Mr. Dingell.

H. Res. 214: Mrs. Myrick and Mr. Souder.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 6

Offered By: Mr. Blumenauer

Amendment No. 1: In title VII, subtitle D, after section 754, insert the following new section (and amend the table of contents accordingly):

SEC. 755. CONSERVE BY BICYCLING PROGRAM.

(a) Definitions.—In this section:

(1) Program.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

(b) Establishment.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) Projects.—

(1) In general.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) Requirements.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) Cost sharing.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) Energy and Bicycling Research Study.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) Components.—The study shall—

(A) document the results or progress of the pilot projects under subsection (c);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

H.R. 6

Offered By: Mr. Abercrombie

Amendment No. 2: In title II, subtitle A, add at the end the following new section:

SEC. 209. SUGAR CANE ETHANOL PILOT PROGRAM.

(a) Definitions.—In this section:

(1) Program.—The term "program" means the Sugar Cane Ethanol Pilot Program established by subsection (b).

(2) Secretary.—The term "Secretary" means the Secretary of Energy.

(b) Establishment.—There is established within the Department of Energy a program to be known as the "Sugar Cane Ethanol Pilot Program".

(c) Project.—

(1) In general.—In carrying out the program, the Secretary shall establish a pilot project that is—

(A) located in the State of Hawaii; and

(B) designed to study the creation of ethanol from cane sugar.

(2) Requirements.—A pilot project described in paragraph (1) shall—

(A) be limited to the production of ethanol in Hawaii in a way similar to the existing program for the processing of corn for ethanol to show that the process can be applicable to cane sugar;

(B) include information on how the scale of projection can be replicated once the sugar cane industry has site located and constructed ethanol production facilities; and

(C) not last more than 3 years.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $8,000,000, to remain available until expended.

EXTENSIONS OF REMARKS

CONGRATULATIONS TO THE BOROUGH OF WEST VIEW ON ITS CENTENNIAL ANNIVERSARY

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Borough of West View as it celebrates its centennial Anniversary.

West View will turn 100 years old on March 20th, 2005. The community will celebrate during the week of July 10th with a parade, picnics and fireworks that have been planned by the Centennial Celebration Committee. The Committee has been working very hard planning the festivities for over a year and the celebration promises to be a festive event.

I ask my colleagues in the United States House of Representatives to join me in honoring the rich history and tradition of the Borough of West View. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to congratulate West View on its 100th anniversary.

HONORING DAVID BENFER, FACHE, 2005 RECIPIENT OF THE TORCH OF LIBERTY AWARD

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. DELAURO. Mr. Speaker, today, in New Haven, Connecticut, friends, family and colleagues will gather to pay tribute to one of our community's most outstanding citizens. I am proud to stand today and join the Connecticut Anti-Defamation League as they honor David Benfer, FACHE with the 2005 Greater New Haven Torch of Liberty Award.

Each year, the Connecticut Anti-Defamation League presents the prestigious Torch of Liberty Award to an outstanding leader in the community, recognizing their unique commitment and dedication. As President and Chief Executive Officer of the Saint Raphael Hospital System, David manages one of New Haven's leading employers as well as one of the largest providers of healthcare in Connecticut. During his tenure of six years, Saint Raphael's has furthered its reputation as a clinical pioneer in cardiac, cancer, orthopedic, neurosciences, and geriatric services. The outstanding success of Saint Raphael's is a reflection of the deep commitment that David has demonstrated since his arrival just six years ago.

I have had the opportunity and honor to work with David on a number of projects. I am in awe of his unparalleled dedication. A trustee of the Catholic Health Association, an advocacy organization that represents more than two thousand Catholic healthcare facilities nationwide, David recently asked me to get involved with a very special mission—the "Lend Your Voice" campaign, a national campaign to bring awareness to lawmakers of the seriousness of today's healthcare crisis. As the administrator of a healthcare facility, David knows only too well the plight of uninsured Americans. At a recent event he said, "This is not only a moral responsibility, but it is an economic opportunity to improve health care and reduce costs in the long run by providing care at the appropriate time." It is this leadership and vision that will continue to spark debate and, hopefully, allow for a time when every American is insured.

It is not only his professional contributions that have made David such a special member of our community. Arriving to New Haven only six years ago, David not only took on his responsibilities at Saint Raphael's, but immediately became involved in a number of local service organizations. The New Haven Symphony Orchestra, Community Soup Kitchen and the International Festival of Arts and Ideas are just some of those who benefit from having David as a member of their Boards. It is not often that you find individuals who so quickly and willingly delve into their new communities. With his compassion, generosity, and kind heart, David represents all that a community leader should be.

I am honored to rise today and join his wife, Mary, his three children, family, friends, and colleagues to pay tribute to David Benfer, FACHE for his many invaluable contributions. I cannot think of a more appropriate honor than the Torch of Liberty Award to recognize the generosity and commitment David has shown to our community.

THE SREBRENICA MASSACRE OF 1995, HOUSE RESOLUTION 199

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CARDIN. Mr. Speaker, I am pleased to join our colleague and Chairman of the Helsinki Commission, Mr. SMITH of New Jersey, in cosponsoring House Resolution 199, regarding the 1995 massacre at Srebrenica in eastern Bosnia-Herzegovina.

For us, the congressional debates regarding the nature of the Bosnian conflict and what the United States and the rest of the international community should do about it are increasingly part of history. Now focused on other challenges around the globe, it is easy to forget the prominence of not only Bosnia, but the Balkans as a whole, on our foreign policy agenda.

It would be a mistake, however, to ignore the reality of Srebrenica ten years later to those who were there and experienced the horror of having sons, husbands, fathers taken away never to be seen again. Their loss is made greater by the failure to apprehend and transfer to The Hague for trial people like Ratko Mladic and Radovan Karadzic who were responsible for orchestrating and implementing the policies of ethnic cleansing.

Following the Srebrenica massacre, the United States ultimately did the right thing by taking the lead in stopping the bloodshed and in facilitating the negotiation of the Dayton Agreement, the tenth anniversary of which will likely be commemorated this November. Thanks in large measure to the persistence of the U.S. Congress and despite the resistance of some authorities particularly in Belgrade and Banja Luka, cooperation with the International Criminal Tribunal for the former Yugoslavia remains a necessary precondition for improved bilateral ties and integration into NATO and the European Union. Meanwhile, the United States and many other countries have contributed significant resources, including money and personnel, to the region's post-conflict recovery.

It is therefore appropriate that we, as the leaders of the Helsinki Commission, introduce and hopefully pass this resolution on Srebrenica ten years later, not only to join with those who continue to mourn and seek closure, but also to understand why we have done what we have done since then, and, more importantly, to learn the lesson of failing to stand up to those in the world who are willing to slaughter thousands of innocent people. The atrocities committed in and around Srebrenica in July 1995, after all, were allowed to happen in what the United Nations Security Council itself designated as a "safe area."

In confirming the indictments of Mladic and Karadzic, a judge from the international tribunal reviewed the evidence submitted by the prosecutor. His comments were included in the United Nations Secretary General's own report of the fall of Srebrenica, which described the UN's own responsibility for that tragedy. Let me repeat them here:

> After Srebrenica fell to besieging Serbian forces in July 1995, a truly terrible massacre of the Muslim population appears to have taken place. The evidence tendered by the Prosecutor describes scenes of unimaginable savagery: thousands of men executed and buried in mass graves, hundreds of men buried alive, men and women mutilated and slaughtered, children killed before their mothers' eyes . . . . These are truly scenes from hell, written on the darkest pages of history.

Regardless of one's views of the Yugoslav conflicts—who started the conflicts, why, and what our response should have been—there is no denying that what happened to the people of Srebrenica was a crime for which there are

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

no reasonable explanations, no mitigating circumstances, no question of what happened. As a result, it is inconceivable to me that anybody can defend Radovan Karadzic or Ratko Mladic, let alone protect them from arrest.

There should also be no mistake, Mr. Speaker, that Srebrenica was only the worst of many incidents which took place in Bosnia and Herzegovina from 1992 to 1995. Like the shelling of Sarajevo and the camp prisoners at Omarska, the July 1995 events in Srebrenica were part of a larger campaign to destroy a multi-ethnic Bosnia and Herzegovina, which manifested itself in atrocities in towns and villages across the country. It does, indeed, meet the definition of genocide.

I hope, Mr. Speaker, that the House will express its views regarding this massacre, which may fade in our memories but is all too recent and real to those who witnessed it and survived. Joining them in marking this event 10 years ago may help them to move forward, just as we want southeastern Europe as a whole to move forward. I call on my colleagues to support this resolution.

INTRODUCTION OF THE PAYCHECK FAIRNESS ACT OF 2005 AND THE FAIR PAY ACT OF 2005

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. NORTON. Mr. Speaker, today I am pleased to join my House colleague ROSA DELAURO and Senator HILLARY CLINTON as original cosponsors of the Paycheck Fairness Act and Senator TOM HARKIN as an original cosponsor of the Fair Pay Act. The Equal Pay Act has been a highly successful civil rights statute, but it is creaky with age and to be useful, it must be amended to meet the changed economy in which it must now to do its work. The Fair Pay Act also amends the EPA but it picks up where the EPA leaves off.

Huge changes in the economy and the workplace have occurred since the EPA was passed, and most important is the emergence of a highly educated workforce of women with even 75 percent of women with small children working for pay. However, women are vastly underused because of employer steering and because of deeply rooted wage stereotypes that result in pay according to gender and not according to the skills, efforts, responsibilities and working conditions necessary to do the job. We introduce the Fair Pay Act because the pay problems of most women today stem mainly from this sex segregation in the jobs that women and men do. Two-thirds of white women, and three quarters of African American women work in just three areas: sales and clerical, service and factory jobs. Only a combination of more aggressive strategies can break through the ancient societal habits present throughout human time the world over as well as the employer steering of women into women's jobs that is as old as paid employment itself.

The FPA recognizes that if men and women are doing comparable work, they should be paid a comparable wage. If a woman is an emergency services operator, a female-dominated profession, for example, she should be paid no less than a fire dispatcher, a male-dominated profession, simply because each of these jobs has been dominated by one sex. If a woman is a social worker, a traditionally female occupation, she should earn no less than a probation officer, a traditionally male job, simply because of the gender associated with each of these jobs.

The FPA, like the EPA, will not tamper with the market system. As with the EPA, the burden will be on the plaintiff to prove discrimination. She must show that the reason for the disparity is sex or race discrimination, not legitimate market factors. Corrections to achieve comparable pay for men and women are not radical or unprecedented. State employees in almost half the state governments, in red and blue states, have already demonstrated that you can eliminate the part of the pay gap that is due to discrimination. Twenty states have adjusted wages for women, state employees, raising pay for teachers, nurses, clerical workers, librarians, and other female dominated-jobs that paid less than men with comparable jobs. Minnesota, for example, implemented a pay equity plan when they found that similarly skilled female jobs paid 20% less than male jobs. There often will be some portion of the gap that is traceable to market conditions, but twenty states have shown that you can tackle the discrimination gap without interfering with the free market system. The states generally have closed the discrimination gap over a period of four or five years at a one-time cost no more than 3 to 4 percent of payroll.

In addition, routinely, many women workers achieve pay equity through collective bargaining. And countless employers on their own see women shifting out of vital female dominated occupations, and the resulting effects of the shortage of workers, see the unfairness to women, and are raising women's wages with pay equity adjustments. Unequal pay has been built into the way women have been treated since Adam and Eve. To dislodge such deep seated and pervasive treatment, we must go to the source, the female occupations where pay now identifies with gender and always has.

The Paycheck Fairness Act is important simply to meet our obligation to keep existing legislation current. It simply updates the 42-year old Equal Pay Act. Recently, I thought we were seeing progress when the census reported that black college educated women actually earned more than white college-educated women, although the overall the wage gap for black women, at 65 percent, remains considerably larger than the gap for white women.

No explanation was offered for the progress for black women but other data and information suggest that even when women seem to catch up it may not be what we had in mind. I suspect that African American women are represented disproportionately among the 50% of all multiple job holders who are women. I am certain that this progress for African American women also tells a tragic story. The decline in marriageable black men, eaten alive by ghetto life, also means that many college educated black women are likely to be single with no need for even the short time-out for children white women often take that affects their wages.

The best case for a strong and updated EPA occurred here in the Congress in 2003, when the women custodians in the House and Senate won an EPA case after showing that women workers were paid a dollar less for doing the same and similar work as men. Had they not been represented by their union they would have had an almost impossible task using the rules for bringing and sustaining an EPA class action. The FPA simply modernizes the EPA the first of the great civil rights statutes of the 1960s to bring it in line with later passed civil rights statutes. Because I enforced the EPA as chair of the Equal Employment Opportunity Commission, I know all too well the several ways that this historic legislation needs a 21st century make-over.

We file these two bills today to say start with the Fair Pay Act or start with the Paycheck Fairness Act. Start where you like, but Congress should be ashamed to let another year go by while working families lose more than 200 billion annually—more than $4,000 per family—because even considering education, age, hours worked and location, women are paid less than they are worth. Let's start this year to make pay worthy of the American women we have asked to go to work.

IN RECOGNITION OF ELAINE GROTHMANN FOR HER 30 YEARS OF SERVICE TO THE CONTRA COSTA COUNTY DEPARTMENT OF EMPLOYMENT AND HUMAN SERVICES

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. TAUSCHER. Mr. Speaker, I rise today to honor the career accomplishments of Elaine Grothmann for her 30 years of service to the Contra Costa County Department of Employment and Human Services.

Ms. Grothmann represents the highest standards of professionalism in her life work with the Department. She is respected and trusted by her colleagues for her sincerity, constancy, and the outstanding quality of her work. Her managers know that when Elaine takes on an assignment, the end product is going to be assured, timely, and a credit to the Department.

Over her career, Elaine's work has benefited a wide range of the Department's customers, including dependent children, refugees, foster children, and parents entering and reentering the job market after having received welfare. She has been an innovator and mainstay of programs for CalWORKs participants, creating and implementing services in child care, substance abuse, mental health, and learning disabilities that buoy employability. The training program she spearheaded for CalWORKs participants to become licensed child care providers and preschool teachers is an inspired, lasting design that continues to meet multiple, compatible needs of the participants.

Elaine's respect for those who are served by the Department shows in her work on their behalf and confers respect on the Department. Her creativity, expertise, dedication, and amiability—not to mention her affinity for good times and monthly trips to Disneyland—are going to be missed by everyone who has worked with Elaine and benefited from her good work.

I thank Elaine Grothmann for her career contributions to the Contra Costa County Department of Employment and Human Services, and I wish her a well-deserved retirement in the community she has done so much to improve

20TH ANNIVERSARY OF CHRISTIAN RELIEF SERVICES CHARITIES

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. MORAN of Virginia. Mr. Speaker, I rise because today marks a very proud day for Virginia's Eighth Congressional district. I am deeply honored to commemorate the 20th Anniversary of Christian Relief Services Charities, an international charitable organization located in the heart of my district, founded by a great Virginian and a man I'm proud to call my good friend, Eugene L. Krizek.

Throughout its 20-year history, Christian Relief has held true to one overriding principle: to help those in need both in the United States and around the world.

From this humble objective, Christian Relief has worked to improve the lives of thousands worldwide. No example illustrates this more than the efforts of Christian Relief in Africa. In some of the most poverty stricken regions on the continent, Christian Relief has offered vital development programs that address the long-term sustainability of communities for water, farming, housing, and clinics and hospitals. One particular program has educated African women, their children, and countless orphans. Christian Relief's school construction, vocational and literacy programs, and micro-credit and micro-enterprise opportunities have made it possible that new generations will possess the skills necessary for long-term community survival.

As prosperous and fortunate as our great nation is, poverty and need still exist in American communities and neighborhoods. In our urban areas, the Appalachian region, American Indian reservations, and small towns throughout our country, Christian Relief has learned firsthand how to address the basic needs for food, medicine, and affordable housing of Americans.

This last point, affordable housing, is what Christian Relief has taken special interest in. Its multi-family housing programs confront many of the long-term needs of low-wage working families and individuals caught in the debilitating cycle of poverty. In over 2,800 living units spread across Arizona, Kansas, North Carolina and Virginia, Christian Relief is empowering residents to get actively involved in their own communities and also helping them develop local programs and services to meet specific needs. At the very doorstep of this nation's Capitol, Fairfax County, Christian Relief has coordinated transitional housing for the homeless, working poor, and the disabled. Its "Safe Places Residential Program" provides a hospitable alternative to homelessness for women and children fleeing domestic violence.

Finally, I would be remiss if I didn't mention the challenges that Christian Relief has overcome on American Indian reservations. For decades, they have assisted reservation families with agricultural self-sufficiency programs, culture and language preservation, water, housing, utilities, and youth centers and programs.

In particular, Pine Ridge Indian Reservation is the site of one of their most proud accomplishments. With a dire need for water and sustainable agriculture, Christian Relief provided Pine Ridge with over 300 drilled wells and installed water pumps that have provided a vital inventory of water for twenty years to families living on this remote reservation. The availability of water has allowed families to grow fresh food. Today, tribal members plant over 500 organic gardens each year.

In ending, Mr. Speaker, I would like to offer my most sincere gratitude to Christian Relief's Founder and President, Eugene Krizek, its Board of Directors and dedicated professional staff. They have truly been at the service of humanity by providing hope in a sometimes unforgiving world. As I reflect on the past twenty years, I am reminded of a thought Albert Einstein offered about the nature of man. He believed that "the value of man resides in what he gives and not in what he is capable of receiving." Using this as my guide, I realize how blessed we are to have Christian Relief, and I forever understand how immeasurable their value is to mankind.

HONORING SPECIALIST MANUEL LOPEZ III

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. LOWEY. Mr. Speaker, I rise today to pay tribute to Manuel Lopez III who gave his life in service to our country in Baghdad, Iraq.

Manny, a graduate of North Rockland High School, was a dedicated friend, son, husband, father, and citizen. Throughout his life Manny assumed extraordinary responsibility and always handled it masterfully. With the passing of his father and 4-year-old brother, Manny became the rock on which his mother would lean at an early age. While still a young man, Manny would later assume the role of father and husband, providing a home for wife Kira, and their daughter, Isabella. It was for Kira and Isabella that Manny decided to enlist in the Army, hoping to provide them a better and safer future.

Manny was assigned to the 3rd Battalion, 7th Infantry Regiment, 3rd Infantry Division, based in Fort Stewart, Georgia. In January of 2005, Manny and his unit were deployed to Iraq as part of Operation Iraqi Freedom. On April 1, 2005, Manny was recognized for promotion to Specialist. Less than two weeks later, Manny died when the military vehicle in which he was traveling was struck by a rocket propelled grenade.

Only twenty years old, Manny was a true patriot who never stopped providing for his family or his country, and he paid the ultimate price for loyalty to both. Our nation is blessed to have dedicated, talented men and women like Manny Lopez fighting to protect us and others around the world.

Mr. Speaker, I ask my colleagues to join me in honoring Specialist Manuel Lopez III along with all of our nation's other fallen heroes.

100TH ANNIVERSARY OF THE SOCIETY OF AUTOMOTIVE ENGINEERS INTERNATIONAL

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Society of Automotive Engineers International on its 100th Anniversary, and recognize the exemplary service that the organization provides the 4th District of Pennsylvania.

The Society of Automotive Engineers International is a non-profit educational and scientific organization with nearly 90,000 members in over 97 countries that is dedicated to advancing mobility technology. Members of the Society of Automotive Engineers International have developed technical infonnation on all forms of self-propelled vehicles including automobiles, aircraft, and rail systems.

I ask my colleagues in the United States House of Representatives to join me in honoring the Society of Automotive Engineers International. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute the service of organizations like the Society of Automotive Engineers International which provide such valuable services.

HONORING NANCY BEALS FOR HER OUTSTANDING SERVICE TO THE COMMUNITY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. DELAURO. Mr. Speaker, this past month family, friends, colleagues, and community leaders gathered to pay tribute to an outstanding woman—someone I consider myself fortunate to call my good friend, Nancy Beals. Nancy has spent a lifetime dedicated to improving our communities and enriching our State. Most individuals associate public service with holding an elected office, however, there are those who simply hold public office, and then there are those like Nancy Beals. An educator, volunteer mentor, advocate, and State representative—Nancy has done it all.

With the multitude of organizations and groups that she has been involved with over the years, it is difficult to put into words what a difference Nancy has made through all of her good work. Our communities would not be the same without the efforts of people like Nancy who so willingly dedicate their time and energies to make them a better place for our children, families, and businesses to live and grow. Whether as a trustee for Spring Glen Church, volunteer for Connecticut Food Bank and Habitat for Humanity, high school teacher, or board member for Partnerships for Adult Daycare and the Hamden Education Foundation—Nancy's efforts on behalf of the community have touched the lives of thousands.

In addition to her myriad of community volunteer activities, Nancy also committed two decades as a local elected official. Serving for 9 years as a member of the Hamden Board of Education and 10 years as a State Representative in Connecticut's General Assembly, she used her background and experience to make a difference in the lives of the residents of Hamden as well as those throughout the State. With more than a decade of experience working with local and regional offices of the Parent Teacher Association (PTA) as well as several years with the Connecticut Department of Education, Nancy focused much of her time on improving the quality of education for Connecticut's children. She served on the Assembly's Task Force on Student Financial Aid, the Blue Ribbon Commission on the Future of the Library, and the State Advisory Council on Special Education. As a legislator, she was recognized for her efforts, which is reflected by the myriad of awards and commendations she received throughout her tenure. Her distinguished career came to an end when she retired in 2003, however, she left an indelible mark on the institution which will be remembered by her colleagues and will certainly serve as an inspiration for members to come.

For her many invaluable contributions to her community and to the State of Connecticut, I am proud to stand today to express my sincere thanks and appreciation to Nancy Beals. With her husband Richard, 3 children, and 9 grandchildren, she is certainly a busy woman, however, I have no doubt that though she no longer serves in public life, she will continue to work on behalf of her community and make a difference in the lives of others.

INTRODUCTION OF SSI MODERNIZATION ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CARDIN. Mr. Speaker, the Supplemental Security Income (SSI) program provides benefits to nearly 7 million elderly and disabled individuals who have few, if any, other resources. While it serves as the primary Federal program that assists low-income elderly and disabled Americans, many of the components of the program have not been updated in decades.

Since the inception of the program in 1972, the general income exclusion, which permits outside income to be added to the SSI benefit without penalty, has been set at $20. This income exclusion is generally applied to Social Security earnings, which are based on past employment. A second exclusion was also created to allow the first $65 in monthly earnings to be disregarded from SSI benefits, plus one-half of the remaining earnings. Neither of these provisions, which reward past and current work, have been increased in 33 years. As a result, these income exclusions have lost more than 75 percent of their real value over time. If they had kept pace with inflation over the last three decades, the general exclusion would be worth $90 a month, rather than $20; and the earnings exclusion would be worth $295 a month, rather than $65.

I am therefore pleased to introduce legislation today—along with Representative JIM McDERMOTT, the Ranking Member of the Human Resources Subcommittee of the Ways and Means Committee which has jurisdiction over the SSI program—to reduce the disincentives for work, savings and education in the SSI program. The SSI Modernization Act would reward work by increasing the general income exclusion to $40 a month and the earned income exclusion to $130 a month, then index the amounts to inflation in future years. The bill would also increase the SSI asset limit from $2,000 for an individual and $3,000 for a couple to $3,000 for an individual and $4,500 for a couple. Increasing the resource limits would provide an incentive for individuals to save for their future. Finally, the bill would encourage disabled children to complete high school by delaying the period in which they are required to go through a redetermination process to evaluate whether they remain SSI eligible under the adult program requirements. Because some disabled children may not be able to complete their secondary education before the age of 18, the legislation would delay a recipient's adult SSI redetermination if they are enrolled in secondary education and between the ages of 18 and 21.

Mr. Speaker, the provisions in the SSI program have not been updated in decades. Updating the program by rewarding work, savings and education will help improve the lives of millions of our most vulnerable seniors and disabled Americans who depend on this program to survive. As the Social Security Commissioner declared last spring before our Human Resources Subcommittee of the Ways and Means Committee, SSI recipients are the "poorest of the poor." Efforts to improve the quality of life for these individuals will go a long way to ensuring that they have a basic level of support. I urge my colleagues to support this legislation.

RECOGNIZING THE GAY AND LESBIAN ACTIVISTS ALLIANCE OF WASHINGTON, DC 34TH ANNIVERSARY RECEPTION HONORING DISTINGUISHED SERVICE AWARD RECIPIENTS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. NORTON. Mr. Speaker, I have the distinct honor and pleasure of representing America's oldest, continuously operational gay and lesbian rights organization: the Gay and Lesbian Activists Alliance of Washington, D.C. (GLAA). GLAA is a Washington, DC institution in the vanguard of the lesbian, gay, bisexual, and transgendered civil rights movement. For 34-years, GLAA has remained a tenacious, persistent, and most importantly, respected, advocate for lesbians and gays.

Since 1971, GLAA has fought to improve District government services to the Lesbian, Gay, Bisexual and Transgendered (LGBT) communities, especially for those services provided by the Metropolitan Police Department, the Fire and Emergency Medical Services Department, the Department of Health and the Office of Human Rights. In every election year GLAA educates District voters by rating candidates for Mayor, Council, and Board of Education. GLAA outspokenly advocates safe and affirming schools for gay and lesbian youth. GLAA vigorously lobbies this body to defend gay families from undemocratic and discriminatory amendments to the District's budget.

On April 20, GLAA will hold its 34th Anniversary Reception honoring the recipients of its Distinguished Service Awards for 2005: recently retired Whitman-Walker Clinic executive director Cornelius Baker; the fundraising charity Brother, Help Thyself Inc.; D.C. Council Chairman Linda Cropp; Washington Post columnist Colbert I. King; and lesbian cultural trailblazer Jane Troxell.

GLAA's 34-year fight to secure all the birthrights enjoyed by Americans for the LGBT residents of Washington, D.C. is more poignant as United States citizens living in our nation's capital, who have served honorably in every American war, including the present war in Iraq, are taxed without representation. GLAA's open and forthright advocacy reminds us that LGBT soldiers, who have sworn to protect our country with their lives, must serve in silence, without the open support of their chosen families and communities, neither asking nor telling.

RECOGNIZING ROBERT McCAFFREY

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to recognize Robert McCaffrey of Allison Park, PA for his distinguished service during World War II.

Recently, the National Personnel Record Center (NPRC) confirmed Mr. McCaffrey's entitlement to ten medals related to his service. Several of these medals had been misplaced over the past 60 years. While a 1973 fire had destroyed his original service record, an alternate record recently confirmed Mr. McCaffrey's entitlement to these medals. It is my honor to present Mr. McCaffrey with these decorations.

Mr. McCaffrey served in the United States Army from June 1943 until January 1946. During this time, Mr. McCaffrey received the following medals for his service: the Bronze Star Medal, the Purple Heart, the Good Conduct

Medal, the Asiatic-Pacific Campaign Medal with one bronze service star, the World War II Victory Medal, the Combat Infantryman Badge 1st Award, the Philippine Liberation Ribbon, the Honorable Service Lapel Button WWII, the Sharpshooter Badge with Rifle Bar, and the Marksman Badge with Carbine Bar.

I ask my colleagues in the United States House of Representatives to join me in honoring Robert McCaffrey. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as Robert who make the communities that they live in truly special.

IN RECOGNITION OF PAUL WARD FOR HIS 33 YEARS OF SERVICE TO THE CONTRA COSTA COUNTY DEPARTMENT OF EMPLOYMENT AND HUMAN SERVICES

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. TAUSCHER. Mr. Speaker, I rise today to honor the career accomplishments of Paul Ward for his 33 years of service to the Contra Costa County Department of Employment and Human Services.

For three decades, the Department has looked to Mr. Ward for the highest professional standards of analytical support, especially during periods of systems change.

Paul was a major force in developing the information systems necessary for the Department to succeed in its mission to move welfare participants into the workplace. His researched pick for an automated system was chosen by the Department to track the progress of participants toward independence, and he played a significant role in training Department employees to use it.

When impending welfare reform legislation prompted redesign of the benefits program, Paul became a leader for change inside and outside the Department, making presentations about the impacts of reform to fellow employees, other agencies, and local employers, and supporting critical community outreach of the Department Director.

Paul has taken on additional roles as resource to Department leadership inside and outside the organization, writing the Emergency Management Response Plan, staffing the Department Director in the Emergency Operating Center, and acting as Department liaison to other County departments, legislative advocacy associations, and university advanced degree programs.

Throughout his career, Paul has been respected and admired by those he has worked with in the Department and the community for his excellent analytical skills, voice of reason, collegial cooperation, exemplary professional demeanor—and for his dry, intelligent wit.

I thank Paul Ward for his contributions to the Contra Costa County Department of Employment and Human Services, and I wish him well in the community that he has served so well.

RECOGNIZING PETER F. BROWN

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. MORAN of Virginia. Mr. Speaker, I rise today to recognize an outstanding public servant, Peter F. Brown, as he completes more than 24 years of continuous service within the civilian leadership of the Department of Defense, DoD. He began his public service life as a naval architect at the Naval Sea Systems Command, NAVSEA, and is ending it as NAVSEA's Executive Director. Throughout his career, he worked tirelessly to serve America and our Navy and Marine Corps.

Mr. Brown joined NAVSEA in 1981 as Ship Project Manager and then Branch Head for Command and Amphibious ships. In 1987, he was appointed to the Senior Executive Service and assigned as Deputy Program Manager for Amphibious and Combat Support Ships where he directed maintenance and modernization for over 175 surface ships and over 40 intermediate maintenance activities.

Over the next decade, Mr. Brown provided exceptional service to the Navy in a succession of complex and demanding assignments as NAVSEA's corporate planner, civilian manpower manager, Deputy Commander for Fleet Logistics Support, Chief Information Officer, and Executive Director of the Logistics, Maintenance and Industrial Operations Directorate. He was instrumental in supporting the command's restructuring under the Defense Base Closure and Realignment Act and its headquarters move to the Washington Navy Yard.

In July 1998, Mr. Brown assumed his current position as the Executive Director of NAVSEA. In this role as the Command's senior civilian executive, he quickly implemented strategic changes in the Navy's largest systems command, comprised of 49,000 civilian and military personnel at 36 geographically dispersed activities with an annual budget of approximately $20 billion. A number of these changes are being widely adopted across the Department of the Navy and DoD.

Mr. Brown was the Program Team Chair and Product Integrator for a comprehensive DoD team that recommended the creation of a National Security Personnel System, NSPS, Program Executive Office to design and implement the new civilian human resources management system. Based on his team's design, Secretary of Defense Donald Rumsfeld agreed to establish the NSPS Program Executive Office, with Mr. Brown assuming the role of interim Program Executive Officer. He was the driving force behind the successful launch of the NSPS program structure. Mr. Brown was instrumental in advancing the One Shipyard concept, which revolutionized the nation's entire ship industrial base to better meet the Navy's Fleet Response Plan requirements in response to the challenge of the Global War on Terror and the dynamic world situation.

Mr. Brown's visionary leadership included the identification of proven private sector programs and processes and their rapid deployment. His active endorsement of the Occupational Safety and Health Administration's Voluntary Protection Program, VPP, led to Portsmouth Naval Shipyard's recent designation as a STAR VPP site, the highest ranking available and the second DoD site to achieve this status and the first Navy site to do so. Mr. Brown is recognized throughout the shipbuilding industry as a leader who can be trusted and is the Navy's sole representative on the Executive Committee of the National Shipbuilding Research Program Advanced Shipbuilding Enterprise.

Mr. Brown has been an exceptional innovator of strategies to solve the most difficult challenges in personnel downsizing, work force renewal, and to reduce costs in acquisition and support of ships, submarines and systems. He provided executive leadership for several initiatives aimed at improving the efficiency and effectiveness of the Navy's five systems commands under the auspices of the Virtual System Command. He led the migration to common processes, streamlining responsibilities and systems and instituting the adoption of best practices in many key areas. Additionally, these efforts have created a single Fleet distance support solution that provides a conduit for virtually all of the technical and logistics support. These efforts collectively represent over $6 billion in savings across the Navy over the Future Years Defense Program.

Within NAVSEA, Mr. Brown established a formal control structure for over 166 technical authority areas that are key to the engineering performance and safety of ships, systems, and the sailors who operate them. Nationally recognized individuals known for their professional expertise were assigned as the technical authorities in each area. Not only do these individuals represent the ultimate technical authority for their field of expertise, they are responsible to oversee the technical health of the Government, academia, and private sector network that supports that expertise. This approach has been recognized across the Navy for its clarity, effectiveness, and efficiency and has been adopted by other Navy systems commands.

Mr. Brown's visionary approach to challenges allows for the transformation from a "business as usual" mentality into actions that permit innovative improvements in the way the Government and its private industry partners achieve best value products and services. It is, therefore, a pleasure to recognize Mr. Peter F. Brown for his many contributions in a life devoted to our nation's security as he leaves the Department of the Navy. I know my colleagues join me in wishing he and his wife Terri much happiness and fair winds and following seas as they begin a new chapter in their lives.

HONORING SISTER CANDACE INTROCASO

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to honor Sister Candace Introcaso, on being named the seventh President of LaRoche College in Pittsburgh, Pennsylvania.

Sister Introcaso became the President of LaRoche College on July 1, 2004. A member of the Board of Trustees since 2001, Sister Candace takes over an institution, founded by women that believed religion held a very important place in the landscape of higher education. Sister Introcaso brings a very diverse background to her leadership role, having received a B.A. in psychology from Shippensburg University, an M.A. in sociology from Fordham University and Ph.D. in Higher Education from the Claremont Graduate University.

Her experience includes a prior position with LaRoche College from 1986–1991, where she was the Director of Grants and an Assistant to the Vice President for Student Affairs. From 1997 to 1999, Sister Candace served as the Assistant Vice President for Academic Affairs at Heritage College on the Yakima Indian Reservation in Toppenish Washington before moving on to serve as the Vice President for Academic Affairs at Barry University in Miami Shores, Florida. Sister Introcaso will be honored with an Installation Ceremony on Friday, April 8, at 2:30 p.m. on the East Campus of LaRoche College.

I ask my colleagues in the United States House of Representatives to join me in honoring Sister Candace Introcaso. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as Sister Introcaso, who make the communities that they live in truly special.

HONORING THE 2005 WOMEN OF VISION AWARD RECIPIENTS: ROSYLN MILSTEIN MEYER AND GLORIA STEINEM

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join Women's Health Research at Yale as they honor two outstanding women with their 2005 Women of Vision Award: Gloria Steinem and, my good friend, Roslyn Milstein Meyer. This recognition is a reflection of the contributions these women have made, locally and across the globe.

Author, advocate, and leader, Gloria Steinem has brought issues of concern to women to the forefront of national and international discussion. Her leadership and vision helped to create an atmosphere in which women became empowered and ensured that their voice was heard. Ms. Steinem is an individual who sparked debate and stimulated discussion. Whether it was through her books or her unparalleled activism—and whether or not you agreed with her views—women were encouraged and motivated to act. Hers is a legacy that will continue to inspire generations to come.

While there are many people with good hearts, there are few who combine that heart with a deep commitment to philanthropy and action. Roz Meyer is one of those special people. She captures the best spirit of what it is to be a community leader. She is the co-founder of Leadership, Education, and Athletics in Partnership (LEAP), a nationally recognized program supporting hundreds of young people throughout Connecticut, as well as New Haven's International Festival of Arts and Ideas, an annual celebration of art, culture, and tradition. The success of both of these programs would not have been possible without the support and commitment that Roz provided. Through her advocacy, leadership, and awe-inspiring generosity, she has left an indelible mark on our community.

Whether its impact is on the world or a community, women across the globe touch the lives of people every day. I am honored to stand today and join Women's Health Research at Yale in recognizing the outstanding achievements of Gloria Steinem and Roslyn Milstein Meyer. Through their many contributions, they are a reflection of the very spirit of the Women of Vision Award. I am delighted to extend my sincere congratulations and very best wishes to them on this very special occasion.

TRIBUTE TO DR. JEANNE PETREK

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. LOWEY. Mr. Speaker, I rise today to pay tribute to an exceptional woman—a devoted wife, mother, physician, and researcher—Dr. Jeanne Petrek.

Dr. Petrek, born in Youngstown, Ohio, pioneered the field of surgical oncology during a time when very few women practiced such a demanding specialty. She received her medical degree from Chase Western Reserve in Cleveland and served on the faculty of Emory University School of Medicine in Georgia before joining the staff at Memorial Sloan-Kettering Center in 1978.

As director of the surgical program at the Evelyn H. Lauder Breast Center, Dr. Petrek became a leading expert on lymphedema and pregnancy-related breast cancer. In a field where most physicians focus on survival and the ability to extend life, Dr. Petrek chose to study how to improve the quality of life for cancer survivors, particularly after treatment. She also went on to study the links between surgery and lymphedema, which ultimately led to the development of surgical procedures that spare lymph nodes.

Dr. Petrek treated more than 4,000 women during her career in a specialty in which doctors normally handle about 400 patients. She was a true patient advocate and embodied the very best of what science and the medical profession can achieve.

Mr. Speaker, please join me in honor and recognition of Dr. Jeanne Petrek whose life will be remembered as one in which her determination to make a difference through her work was only matched by her devotion to her family. Her passing is a tremendous loss to her husband, her children, her colleagues, and her community, and she will be remembered in the hearts and minds of the thousands whose lives she touched.

TRIBUTE TO HARVEY L. STOCKWELL

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. POMBO. Mr. Speaker, I rise today to call attention to the House of Representatives the life accomplishments of a dedicated man. A man who has made a difference in so many lives that he should be recognized here today.

Harvey L. Stockwell, 87, of Garden Grove, California, was a retired U.S. Army Lieutenant Colonel with combat service in World War II, Korea and Vietnam. He died Feb. 28, 2005, of pulmonary complications at St. Joseph's Hospital in Orange, California.

Brother to Warren Stockwell, Harvey Lee "Bud" Stockwell was born in Irving Park, a suburb of Chicago, Illinois, on June 10, 1917, to Archie Lee and Anna Helen Stockwell.

He graduated from the University of Illinois in 1940 with a bachelor's degree in Geology and married Mary Lenore Lamb on August 21, 1943.

When our Nation was called into a second world war, Colonel Stockwell answered the call of duty. He started military life as an enlisted soldier in the US Army Corps of Engineers and quickly advanced to the rank of Corporal. His leadership ability earned him selection to Officer Candidate School where he was commissioned a Second Lieutenant in the Army Engineers and was sent overseas to fight, where he continued to lead.

Col. Stockwell was not a tall man in physical stature. But it was the quality of his character that defined the essence of his size. In that manner, he was a giant. A line of poetry from Emily Dickinson defines his character well: "We never know how high we are until called upon to rise, and if our plan is true to form, our statures touch the skies."

During the 40th commemoration of the landing at Normandy in 1984, President Ronald Reagan described the character of the men who fought to preserve our freedom. In his address from France, President Reagan said, "These are the champions who helped free a continent. These are the heroes who helped win the war." Col. Stockwell was a champion and a hero. He helped make it possible for our Nation's flag to continue flying in all of its glory, long may she wave.

After World War II, he left military service for the private sector in Chicago, Illinois where he then answered our Nation's call again by reentering the service and fighting in the Korean War. This time, he stayed in uniform and was one of our Nation's first military advisors to serve in Vietnam.

Col. Stockwell was an honorable man who served our Nation faithfully in an honorable profession. He retired from the Army in 1966 at the rank of Lieutenant Colonel after 25 years of active military service, and traded one form of honorable service for another when he headed up the Junior Reserve Officer Training Corps in Long Beach, California. There, for over 15 years, he instilled in thousands of students the values that have made our Nation great, values such as selfless service, loyalty and honor. He influenced generations of young people who, without his mentoring, may not have gone to college and on to successful careers in military service and professional civilian life. They never would have known how high they could reach until he called upon them to rise, and their statures touched the skies.

One of the high schools where he taught in Long Beach—Polytechnic High School—established an annual leadership award in his name to the most-deserving member of Junior ROTC there who exemplifies good leadership, military bearing and the ability to teach subordinates basic military knowledge. The recipient receives a gold medal whose name is inscribed on a perpetual plaque displayed in the unit; May 2005 will be the 21st award of the honor.

Col. Stockwell also gave his guidance and approval for a family scholarship to be established in Phoenix, Arizona. The name of the scholarship is the Stockwell Family Leadership Award and will be awarded to the most deserving graduate of Arizona Project Challenge, which graduates two classes each year. The Arizona National Guard runs Project Challenge as an alternative to high school for at-risk youth between the ages of 16 and 18. Most of the program's graduates receive their GED certificates and go on to institutions of higher learning, and this scholarship will help some deserving young people achieve their goals. Thanks to him, the statures of even more young people will reach to touch the skies. The first award of the scholarship will be made in June 2005 in his memory, and the memories of his son Robert and his brother Warren. They, too, served our Nation faithfully in uniform during times of war and peace. Their legacy of service lives.

Col. Stockwell's health began to decline about 15 years ago. It seemed the worse his health became, the taller he stood in stature. Poor leg circulation and breathing difficulties forced him to limit his walks from the front door to his flagpole in the front yard to continue raising the Stars and Stripes at 8 a.m., and then lower the flag at 5 p.m., a daily vigil he maintained faithfully year after year until a few weeks ago when he no longer had the strength. At that point, he retired the flag. His family has recently installed a lighting system at his home, where his wife continues to live, so Colonel Stockwell's flag may continue to fly.

Mr. Speaker, Colonel Stockwell is being laid to rest today at Arlington National Cemetery with full military honors. I ask that these comments be submitted into the CONGRESSIONAL RECORD so that they, like the flag that continues to fly in front of Colonel Stockwell's yard, may remain a permanent tribute to this great man.

CONGRATULATIONS TO WILLIAM L. McCARRIER

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate William L. McCarrier on his election to the Supreme Council of the Scottish Rite of Northern Masonic Jurisdiction of the United States of America.

William has been active in the Masonic community for almost 40 years, and has served as the commander in chief of the Scottish Rite Bodies of the Valley New Castle, and as the vice president of the New Castle Benefit Fund. William has also served as a county commissioner for Butler County, and is a trustee of the Butler County Community College.

I ask my colleagues in the United States House of Representatives to join me in honoring William McCarrier. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as William who make the communities that they live in truly special.

DRUG ENFORCEMENT AGENCY MUST RESTORE BALANCE BETWEEN PRESCRIPTION DRUG ABUSE AND PROVIDING PATIENT ACCESS TO NEEDED MEDICATIONS

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. NORWOOD. Mr. Speaker, I think there is little doubt that our law enforcement agencies should conduct themselves, in fulfilling their founding purpose, in a manner that is consistent with their mission of serving the American people. In this light, I am submitting for the record an article by Radley Balko, a policy analyst with the Cato Institute, entitled "Bush Should Feel Doctors' Pain". The article suggests that the need to protect patients, while attempting to prevent diversion and misuse of prescription drugs is arguably out of balance.

There is no doubt that prescription drug abuse, particularly the abuse of prescription pain medications, is a serious public health problem. I have been one of the most vocal advocates on the necessity of this body to address the abuse of prescription medication by patients, crack down on the practice of "doctor shopping" and prosecute those medical professionals that harm responsible pain management by violating their responsibility to the highest standards of their profession.

Consequently, the Drug Enforcement Agency (DEA) should absolutely take appropriate steps to stop criminals from diverting these medications and exploiting those who would abuse them. But, it must also recognize that over 30 million Americans suffer chronic pain and need access to proper pain management by legitimate medical practitioners if they are to lead normal and productive lives.

However, in its seemingly single-minded pursuit of "bad doctors," the DEA appears to be showing its lack of proper understanding, inability, or unwillingness, to strike a proper balance between these two public policy goals. I am worried that this failure is scaring responsible doctors away from prescribing legitimate patients from obtaining needed medications, causing these patients and those who love and care for them untold harm and unnecessary distress.

Congressmen WHITFIELD, PALLONE, STRICKLAND, and I have introduced H.R. 1132, a bill that would assist and encourage the States to establish a controlled substance monitoring program. These Prescription Monitoring Programs would assist physicians, pharmacists, and other healthcare professionals by providing them with prescribing information that would help them to detect abuse and diversion tactics and prevent "doctor shopping". This legislation also would permit law enforcement to review this prescribing data, but only where they certify that the requested information is related to an individual investigation involving the unlawful diversion or misuse of schedule II, III, or IV substances, and that such information will further the purpose of their investigation.

It appeared that the DEA realized it should not, indeed could not, dictate proper medical practice in the prescribing of pain medications. Last August, after working with a panel of distinguished physicians specializing in pain management, the DEA published guidelines for physicians who treat pain with opioids. These guidelines were designed to assure legitimate medical practitioners that they would not face prosecution simply because they prescribed such medications or treated a large number of patients in pain. Given the disturbing trend of doctors shying away from prescribing necessary medication due in large part to the issues discussed, the DEA should not act in a way that would further limit patients' access to needed pain management medications.

Within weeks, the DEA abruptly withdrew these guidelines without explanation in a transparent attempt to avoid jeopardizing a pending high profile prosecution. Strong objections came from the medical community and from 30 state Attorneys General. I am also including a copy of their letter sent to the DEA in which they raise their objections.

However, the DEA has not relented in its pursuit of doctors it considers to be practicing bad medicine in a field of practice that is still evolving and requires a certain latitude for the exercise of sound medical judgment. In effect, the DEA is doing the very thing it should not do, determine what is acceptable medical practice.

The chilling effect the DEA's actions are having on physicians engaged in the legitimate practice of medicine is undeniable. Effective pain management has become all too difficult to obtain because many doctors are afraid to prescribe adequate levels of opioids for fear of investigation and prosecution. This is simply unacceptable, as a member of the healthcare community for over thirty years and a patient who has known the need for proper pain management.

Yes, the DEA should continue to work with the appropriate state and local authorities to pursue those who abuse the trust that was placed in them when they obtained a medical license. Yes, we should be cracking down on those patients who seek to circumvent and abuse the system to abuse prescription medications. But the DEA must lead the charge to restore the balance between these different but certainly not mutually exclusive public health goals. By assuring legitimate medical practitioners that they will not be investigated or prosecuted simply because they prescribe a certain kind of medication or have a successful practice, will better serve the American people, particularly those many millions who are needlessly suffering in pain.

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, January 19, 2005.

KAREN P. TANDY,
Administrator, Drug Enforcement Administration, Alexandria, VA.

DEAR MS. TANDY: We, the undersigned Attorneys General, write to express our concern about recent DEA actions with respect to prescription pain medication policy and to request a joint meeting with you. Having consulted with your Agency about our respective views, we were surprised to learn that DEA has apparently shifted its policy regarding the balancing of legitimate prescription of pain medication with enforcement to prevent diversion, without consulting those of us with similar responsibilities in the states. We are concerned that state and federal policies are diverging with respect to the relative emphasis on ensuring the availability of prescription pain medications to those who need them.

Subsequent to DEA endorsement of the 2001 Joint Consensus Statement supporting balance between the treatment of pain and enforcement against diversion and abuse of prescription pain medications, the National Association of Attorneys General (NAAG) in 2003 adopted a Resolution Calling for a Balanced Approach to Promoting Pain Relief and Preventing Abuse of Pain Medications (copy attached). Both these documents reflected a consensus among law enforcement agencies, health care practitioners, and patient advocates that the prevention of drug abuse is an important societal goal that can and should be pursued without hindering proper patient care.

The Frequently Asked Questions and Answers for Health Care Professionals and Law Enforcement Personnel issued in 2004 appeared to be consistent with these principles, so we were surprised when they were withdrawn. The Interim Policy Statement, "Dispensing of Controlled Substances for the Treatment of Pain" which was published in the Federal Register on November 16, 2004 emphasizes enforcement, and seems likely to have a chilling effect on physicians engaged in the legitimate practice of medicine. As Attorneys General have worked to remove barriers to quality care for citizens of our states at the end of life, we have learned that adequate pain management is often difficult to obtain because many physicians fear investigations and enforcement actions if they prescribe adequate levels of opioids or have many patients with prescriptions for pain medications. We are working to address these concerns while ensuring that individuals who do divert or abuse drugs are prosecuted. There are many nuances of the interactions of medical practice, end of life concerns, definitions of abuse and addiction, and enforcement considerations that make balance difficult in practice. But we believe this balance is very important to our citizens, who deserve the best pain relief available to alleviate suffering, particularly at the end of life.

We understand that DEA issued a "Solicitation for Comments on Dispensing of Controlled Substances for the Treatment of Pain" in the Federal Register yesterday. We would like to discuss these issues with you to better understand DEA's position with respect to the practice of medicine for those who need prescription pain medication. We hope that together we can find ways to prevent abuse and diversion without infringing on the legitimate practice of medicine or exerting a chilling effect on the willingness of physicians to treat patients who are in pain. And we hope that state and federal policies will be complementary rather than divergent.

Lynne Ross, Executive Director of NAAG, will contact you soon to arrange a meeting at a mutually agreeable time, hopefully in March when Attorneys General will be in Washington, DC to attend the March 14–16 NAAG Spring Meeting. We hope to meet with you soon.

Thank you.

Sincerely,

Drew Edmondson, Attorney General of Oklahoma; Gregg Renkes, Attorney General of Alaska; Mike Beebe, Attorney General of Arkansas; Richard Blumenthal, Attorney General of Connecticut; Thurbert E. Baker, Attorney General of Georgia; Tom Miller, Attorney General of Iowa; Gregory D. Stumbo, Attorney General of Kentucky; Terry Goddard, Attorney General of Arizona; Bill Lockyer, Attorney General of California; Robert Spagnoletti, Attorney General of District of Columbia; Lisa Madigan, Attorney General of Illinois; Phill Kline, Attorney General of Kansas; Charles Foti, Attorney General of Louisiana; Steven Rowe, Attorney General of Maine; Michael A Cox, Attorney General of Michigan; Jeremiah Nixon, Attorney General of Missouri; Jon Bruning, Attorney General of Nebraska; Wayne Stenehjem, Attorney General of North Dakota; Roberto Sánchez Ramos, Attorney General of Puerto Rico; Joseph Curran Jr., Attorney General of Maryland; Mike Hatch, Attorney General of Minnesota; Mike McGrath, Attorney General of Montana; Patricia Madrid, Attorney General of New Mexico; Hardy Myers, Attorney General of Oregon; Patrick C. Lynch, Attorney General of Rhode Island; Henry McMaster, Attorney General of South Carolina; Mark Shurtleff, Attorney General of Utah; Darrel McGraw, Attorney General of West Virginia; Paul Summers, Attorney General of Tennessee; William Sorrell, Attorney General of Vermont.

BUSH SHOULD FEEL DOCTORS' PAIN

(By Radley Balko)

Since the late 1990s, the U.S. Drug Enforcement Administration has allied with state and local law enforcement agencies to stamp out abuse of the painkiller OxyContin. Citing rises in emergency room episodes and overdoses associated with the drug (both of which have been roundly disparaged by critics), the DEA insists its "Operation OxyContin" is a necessary reaction to the diversion of the prescription narcotic for street use.

Unfortunately, despite frequent robberies and burglaries of pharmacies, doctors' offices, and warehouses where prescription medications are stored and sold, the DEA has focused a troubling amount of time and resources on the prescriptions issued by practicing physicians. It's easy to see why. Doctors keep records. They pay taxes. They take notes. They're an easier target than common drug dealers. Doctors also often aren't aware of asset forfeiture laws. A physician's considerable assets can be divided up among the various law enforcement agencies investigating him before he's ever brought to trial.

Over the last several years, hundreds of physicians have been put on trial for charges ranging from health insurance fraud to drug distribution, even to manslaughter and murder for over-prescribing prescription narcotics. Many times, investigators seize a doctor's house, office, and bank account, leaving him no resources with which to defend himself. A few doctors have been convicted. Many have been acquitted. Others were left with no choice but to settle.

All of this has been happening just as the field of chronic pain management has made some remarkable progress. The development of opium-based narcotics like OxyContin (also known as "opioids") has been a Godsend to the estimated 30 million Americans who suffer from chronic pain. Opioids are safe, effective, and, contrary to conventional wisdom, very rarely lead to accidental addiction when taken properly. Most of the medical literature puts the rate of such addiction at less than one percent.

The DEA's campaign puts law enforcement officials in the troubling position of determining what is acceptable medical practice in a field that's dynamic, still emerging, and relatively experimental. The very fact that any course of treatment "beyond the normal practice of medicine" can be cause for cops to launch a career-ending investigation is enough in itself to stifle innovation in palliative therapy.

The high-profile arrests and prosecutions of physicians (up to 200 per year, by one estimate) have caused many doctors to underprescribe or refuse to see new patients. It corrupts the candor necessary for an effective doctor-patient relationship. Many physicians have left palliative therapy for less controversial practice. The Village Voice reports that medical schools are now advising students to avoid pain management practice altogether.

To calm its critics, the DEA commissioned several pain specialists to work with federal officials to put together a set of guidelines for physicians who treat pain with opioids. These guidelines were posted on the agency's website, and most doctors were led to believe that following the recommendations would keep them safe from prosecution. For a short time, experts, doctors, and drug warriors had reached a compromise.

But it didn't last long. Late last year the guidelines mysteriously disappeared from the DEA's website. Their removal coincided with the trial of Virginia pain specialist, Dr. William Hurwitz, whose attorneys had attempted—and failed—to admit the guidelines as evidence on the belief that Hurwitz's practice conformed to their parameters. Hurwitz was eventually convicted, and faces a life sentence later this month.

A few weeks after Hurwitz's judge refused to admit the guidelines as evidence, the DEA renounced the contents of the brochure, and in a brief explanatory note made clear that the agency wasn't bound by any standards or practices when it came to determining what physicians it would investigate. The agency essentially declared it had carte blanche to launch an inquiry.

The renunciation sent shockwaves through the medical community. One doctor told the Washington Post that "over 90 percent" of patients and doctors could be subject to prosecution under the DEA's new rules. Rebecca J. Patchin, who serves on the board of the American Medical Association, told the

Post, "Doctors hear what's happening to other physicians, and that makes them very reluctant to prescribe opioids that patients might well need."

David Jorenson, the academic pain specialist who headed up the committee that authored the original guidelines, sent the agency a sharply-worded rebuke. Three professional associations representing pain specialists followed with a letter of their own. And last January, the National Association of state Attorneys General also sent a letter to the DEA, expressing concern that the agency was overstepping its bounds, and interfering with the legitimate treatment of pain. The letter was signed by 30 AGs from both parties.

The DEA remains obstinate, insisting its revocation of the guidelines did not represent a shift in policy, and that its pursuit of doctors should have no effect on legitimate pain treatment, despite that the experts it originally consulted say otherwise.

The attorneys general letter to the DEA in particular presents a challenge for the Bush administration. The White House claims to value the principles of local rule, states' rights, and federalism. But those principles seem to flitter away when it comes to drug policy. The Justice Department, for example, has repeatedly gone to court to prevent states from allowing physician-assisted suicide and medicinal marijuana, in some cases going so far as raiding convalescent centers and asserting the supremacy of federal law in prosecuting those who grow marijuana in states where it's permitted.

Thirty state AGs have said that federal drug policy is interfering with legitimate medical practice. The White House now has two choices. It could order the DEA to end its pursuit of physicians, and leave medical policy to state governments and medical boards, where it belongs.

Or it could stand by the DEA's troubling anti-opioid campaign, and watch as more well-intentioned physicians go to jail, and millions of Americans continue to endure unnecessary grief.

PAYING TRIBUTE TO THE LANSING STATE JOURNAL ON THE OCCASION OF ITS SESQUICENTENNIAL

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the Lansing State Journal and its more than 500 employees and retirees who are this year celebrating 150 years of publishing a newspaper in Michigan's capital city, Lansing.

As the sesquicentennial year progresses, the newspaper is revisiting its history and looking forward to the future.

Recently, the president and publisher, Michael G. Kane, wrote in a message to readers: "Through 150 years, 16 publishers, seven name changes, five building locations, and more than 45,000 editions, we have been the eyes and ears of mid-Michigan. And a remarkable community it is: capital of the great state of Michigan, home of one of the nation's great universities, and birthplace of an automobile industry."

Clearly, the newspaper leadership and it's staff understands that in one of the most diverse regions of the state, the Lansing State Journal is called on to fulfill its responsibility as community mirror, historian, and monitor. From birth to death, the Lansing State Journal chronicles the important milestones in the lives of the people who live and work in mid-Michigan, captures in print and picture the ebb and flow of life in each community throughout the region, and serves as a key element in the mid-Michigan marketplace.

From the reception desk to the newsroom and advertising department, to the press room and the circulation office and distribution team, the people who produce a newspaper every day of every year are truly part of the heartbeat of the mid-Michigan region.

Mr. Speaker, I ask my colleagues to join me in honoring the Lansing State Journal and its employees and retirees for all they have accomplished. May we extend best wishes for the future, and express our respect and appreciation for their important role in the community.

RECOGNIZING A STATEMENT BY RABBI ISRAEL ZOBERMAN, SPIRITUAL LEADER OF CONGREGATION BETH CHAVERIM IN VIRGINIA BEACH

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. FORBES. Mr. Speaker, I rise today in recognition of a statement by Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach, Virginia in recognition of the hope of peace created by recent Middle East developments.

I have been witness to remarkable developments in the Middle East with far-reaching implications, giving that volatile and violent region and the world at large renewed hope for peaceful transformation following four and a half years of the bloody Second Intifada now formally ended.

As a member of the Rabbinical Council of ARZA, the Association of The Reform Zionists of America, serving the million and a half Jews of Reform Judaism, our delegation was at Israel's Knesset when German President Horst Kohler accompanied by Israeli President Moshe Katzav entered to address the parliamentary body on the 40th anniversary of Israeli-German diplomatic relations. Sixty years since the death camps' liberation it was still too trying for a few of Israel's elected representatives to hear the language used by the Holocaust's perpetrators though Germany has become Israel's close friend.

Yet this historic opportunity, the first for a German president on an official state visit with the German flag decorating Jerusalem's streets, is an appreciated lesson that peace can follow a painful past. It also alerts us that fears and vulnerabilities simmer just below the surface, mindful of the global rise in anti-Semitism and the apprehension concerning ultimate Arab intentions. In our discussions with Knesset members of both the coalition and opposition, we were exposed to Israel's vibrant democracy that hopefully will spread throughout the Middle East.

Equally significant was to watch Secretary of State Condoleezza Rice's motorcade speed through Israel's Capital. Her poignant presence so closely following her installation in office was a clear signal to all concerned that the United States led by President George W. Bush placed the settlement of the Israeli-Palestinian conflict high on its agenda of concerns, to enabling both sides to reach that elusive peace which involves the traumatic disengagement from Gaza and parts of the West Bank along with further trying concessions for the two long-embattled peoples. Chairman Abu Mazen's immediate and fateful challenge is to prevail upon militant Palestinians to end the terrorism of suicide bombings and rocket launchings that might derail progress as in the past. However, Jewish extremists pose danger of their own, recalling Prime Minister Rabin's 1995 assassination.

I was glued to Israeli T.V. as the Sharon Summit with Prime Minister Sharon, Chairman Abu Mazen, President Mubarak and King Abdullah gathered with evident determination to break through the vicious cycle of death and despair. Both Sharon and Abu Mazen vowed to immediately cease all military operations with Egypt and Jordan committing to returning their ambassadors to Israel. When Sharon heartfeltedly spoke these unforgettable words, "to kindle for all the region's nations a first light of hope," I whispered my own "Amen."

Our warm meeting in Tel-Aviv with American Ambassador Daniel Kurtzer was an illuminating experience, as we were briefed by a Middle East expert on the arena's shifting dynamics. He expressed cautious optimism following Arafat's departure, the one who was the stalling obstacle at Camp David 2000 and beyond. We toured various segments of the "security barrier," and in Jerusalem we were guided by Colonel (Res.) Danny Terza, the project's head administrator for the Ministry of Defense who has been responsible for its complex erection in a city with multi religious and ethnic layers that he successfully dialogued with to avoid hard feelings. The cement part of the fence, only 4.5 percent of it, is designed to be dismantled when called upon. Its purpose of blocking terrorist infiltrations has proved itself over ninety percent.

We held a memorial service in the Nahalal cemetery of the Jesreel valley for Israel's first astronaut, Ilan Ramon, who perished along with his heroic fellow crew members of the Columbia shuttle two years ago. Ilan, who participated as a pilot in 1981 in destroying Iraq's nuclear facility and whose mother survived Auschwitz, will remain an enduring symbol of courage and creativity. Our group of rabbis also paid respect at the Abukasis home in the town of Sderot, who lost their seventeen year old daughter Ella, an exemplary young woman, in a rocket attack on January 15 from neighboring Gaza. The heroic high school senior was killed while she saved the life of her wounded ten year old brother Tamir, protecting him with her own body.

Let the day come soon when the children of both parties to the tragic conflict will grow up to fulfill their soaring dreams. After all, it is their birthright and the best guarantee for lasting peace.

IN RECOGNITION OF GERTRUDE BAGNALL

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to recognize Gertrude Bagnall for her courageous and selfless actions, which resulted in the rescue of a human life.

Mrs. Bagnall, with little regard to her own safety, raced into a church building in Farrell, Pennsylvania that had, moments earlier, exploded. Gertrude rushed to the aid of Pastor Barbara McCrae and parishioner Bruce Davis. She was able to assist Pastor Barbara McCrae from the building and into a waiting ambulance. Gertrude uncovered Mr. Davis from debris that had fallen on him in the explosion, allowing him to be rescued by emergency workers that arrived on the scene. Gertrude's bravery will be recognized at the "Celebrate a Hero" banquet to be held in her honor on Saturday, March 19, 2005 at the Hermitage Fire Hall.

I ask my colleagues in the United States House of Representatives to join me in honoring Gertrude Bagnall. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as Gertrude that display such selflessness and courage.

HONORING HENRIETTA VILLAESCUSA

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. NAPOLITANO. Mr. Speaker, I rise today to honor and pay tribute to Henrietta Villaescusa, who passed away at the age of 84 on March 6, 2005, in Tucson, Arizona. As we join her family and friends who mourn her loss, I would like to acknowledge Henrietta for her remarkable contributions to public health, the nursing profession and the Hispanic community.

Henrietta Villaescusa was a pioneering Latina at a time when Hispanic women were not widely represented in the nursing field. Henrietta served as the only Hispanic public health supervising nurse for the Los Angeles City Health Department. She later broke boundaries in the federal government as the first Hispanic nurse to serve as Health Administrator for the Health Services Administration and the first Mexican-American Chief Nurse Consultant in the Office of Maternal and Child Health. Henrietta eventually rose to the position of chief nurse of the Division of Maternal and Child Health, where she was responsible for all nursing aspects of the nation's maternal and children's health programs.

Henrietta's work was not limited to America. She helped improve health care in Latin America through her work at the Alliance for Progress, the President's Office of Community Development and the Agency for International Development.

Nor was her work limited by her retirement. After officially retiring in 1985, Henrietta was asked by the Surgeon General to help develop the Hispanic Health Initiative. President Reagan's Health and Human Services Secretary appointed her to the Task Force on Minority Health to advocate for Hispanic health needs. Henrietta also edited the first Hispanic Health Bibliography, which highlighted Hispanic health research needs and the need to prepare more Hispanic health professionals to conduct such research.

Henrietta gave so much of herself to assist others. She mentored Hispanic leaders and shared her vision with the federal government, local community health programs in Los Angeles, and organizations including the National Association of Hispanic Nurses, the National Coalition of Hispanic Health and Human Services Organization and the Mexican American National Women's Association.

Her accomplishments as a Latina, nurse and activist for others less fortunate are truly extraordinary. She will be greatly missed by those whose lives she touched.

TRIBUTE TO MARY ANN RABIN

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor a very special constituent, Mary Ann Rabin, on the occasion of her receipt of the Ohio Women's Bar Association's Justice Alice Robie Resnick Award of Distinction. This award is the OWBA's highest award for professional excellence and is bestowed annually on a deserving attorney who exhibits leadership in the areas of advancing the status and interests of women and in improving the legal profession in the State of Ohio. It gives me great pleasure to wish Ms. Rabin my warmest congratulations on this truly special occasion.

Mary Ann (Mickey) Rabin is a nationally recognized bankruptcy practitioner and a founding partner of Rabin & Rabin Co., L.P.A. She practices law with two of her three children. Ms. Rabin received her J.D. degree from Case Western Reserve University School of Law in 1978 and her A.B. degree in music in 1956 from Washington University in St. Louis, Missouri.

Ms. Rabin is a Fellow of the American College of Bankruptcy, a member of the Bankruptcy Trustees for the United States Bankruptcy Court for the Northern District of Ohio since 1983, a life member of the Eighth Judicial Conference, and a founding member of the Ohio Women's Bar Association.

Ms. Rabin is a dedicated community activist devoting hours of pro bono work to local organizations including serving on the board of the Cleveland Legal Aid Society.

On April 29, 2005, OWBA President Halle M. Hebert will be presenting Ms. Rabin with the Ohio Women's Bar Association's Justice Alice Robie Resnick Award of Distinction at its Annual Meeting in Cleveland, Ohio.

It gives me great pleasure to rise today, Mr. Speaker, and join the OWBA in congratulating Mary Ann Rabin and wishing her continued success.

KEN-CREST CENTERS CENTENNIAL

HON. ALLYSON Y. SCHWARTZ

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, 2005 marks Ken-Crest Centers' centennial celebration. For the past 100 years, this faith-based, non-profit organization, which was started by the Lutheran Church in Plymouth Meeting, PA, has been dedicated to the concept of bringing ability to life.

Throughout its history, Ken-Crest has pioneered services for the most vulnerable, including the terminally-ill, the abandoned, and the disabled. Ken-Crest began its work in 1905, leading the fight against tuberculosis in the Kensington section of Philadelphia by providing the children of infected families with a safe refuge.

As a former social worker, I am inspired by the story of Sister Maria Roeck, a Lutheran Church deaconess and German immigrant, who founded Ken-Crest, originally called the Kensington Dispensary. Sister Roeck was called to action by the loss of loved ones to tuberculosis. She passionately battled the so-called "white plague" that decimated her beloved Kensington; abiding by the motto "to cure sometimes, to relieve often, to comfort always."

In the 1950s, as tuberculosis became better contained, Ken-Crest took on a new mission—providing for the mentally retarded and those with developmental disabilities. Its success has made it the largest community-based provider of assistance to people with disabilities in the Philadelphia region, serving more than 6,400 people at 350 locations.

Mr. Speaker, I know my colleagues join me in congratulating Ken-Crest on more than 100 years of outstanding service. I know their good work and mission will continue for many years to come.

20TH ANNIVERSARY OF PREGNANCY CARE CENTERS

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Pregnancy Care Centers on its 20th Anniversary, and recognize the exemplary performance of service that the organization provides the 4th District of Pennsylvania.

Founded in 1985, the Pregnancy Care Centers have provided over 7,000 women with free pregnancy tests, and have counseled its clients to find alternatives to abortion. The Pregnancy Care Centers have helped to teach the message of abstinence and have provided post abortion Bible studies to dozens of women who have sought healing and forgiveness.

I ask my colleagues in the United States House of Representatives to join me in honoring the Pregnancy Care Centers. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute the service of organizations like the Pregnancy Care Centers which provide such valuable services.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. HIGGINS. Mr. Speaker, last week I stood unified with my constituents in Jamestown in observing National Crime Victims' Rights week.

Every person, male, female, children and adults alike have the right to be free from violent acts not only in the community in which they live but also in their homes. This week and every week to follow let us stand strong as one to break the cycle of violence in America.

Our wonderful Jamestown community has been blessed with Thelma Samuelson, Chairperson for the Chautauqua County Victims' Rights Week Effort and the numerous individuals and organizations that gave of their time to support the effort to ensure justice in all of our lives.

Thank you from the bottom of my heart for all that you do to make Jamestown a better place to work, play and raise a family. Your efforts do not just benefit Jamestown but they also reflect upon Chautauqua County, New York State and all over the United States.

"MODERN DAY MOSES"

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. SMITH of Texas. Mr. Speaker, I would like to commend Congressman STEVE KING for his excellent speech, included here for the RECORD, addressing courts' attacks on religion in the United States. Our Constitution never intended for religion to be eliminated from the public square, but that is what judges are forcing upon us. I appreciate Congressman KING's eloquent statement on the judicial assault on religion.

[From the desk of Congressman Steve King, Iowa, Fifth District, Mar. 6, 2005]

MODERN DAY MOSES

I turned my eyes away from "In God We Trust," engraved deeply in the stone above the Speaker's chair, and walked under the direct stone gaze of Moses, as I left the chambers of the United States House of Representatives. I walked through statuary hall in the U.S. Capitol where Thomas Jefferson and James Madison were among the first presidents to attend regular church services. The House Chaplain had given the opening prayer to start the legislative day and our member's chapel in the capitol was open for morning meditation as I walked briskly across the capitol grounds to the Supreme Court. The cases of Van Orden v. Perry and McCreary County, Kentucky, v. ACLU, were to be heard this day. I went expecting to hear profound Constitutional arguments before the only court created by the Constitution, the Supreme Court.

I walked up the steps of the high courthouse. From the top of the pediment, looming, larger than life, Moses gazes down, holding the Ten Commandments. All who pause here and all who enter here are on notice, this is a nation built upon a moral foundation, a nation of laws, not of men, a nation founded upon the belief in "the laws of Nature and Nature's God." I climbed the long steps, walked past the huge columns, stepped out of the sunlight and into the presence of a security guard. I introduced myself to the guard who replied, "I'm Moses and I'll escort you to your seat." "Moses! Moses?" I responded. The guard smiled and nodded his head. "There couldn't be a better person to lead me to hear the Ten Commandments cases," I said.

Modern day Moses led me to the chambers, through the huge oak double doors, engraved with the Ten Commandments, and to my seat in the chambers. The courtroom was soon full when we all stood to the Supreme Court Marshal's announcement, "The Honorable Associate Justices of the Supreme Court of the United States. Oyez! Oyez! Oyez! . . . God save the United States and this Honorable Court!" The justices filed in and were seated. On the frieze above them and to their left, sculpted in stone, stands Moses with the Ten Commandments.

It is a rare privilege to be in the presence of the most powerful and unaccountable shapers of American society that our nation has ever seen. The oral arguments before the Supreme Court in the two cases before it will likely determine if there will be changes in whether and under what circumstances religious displays can be placed on public property. As I listened to the questions and remarks from the justices, I considered the implications of what had become of our Constitutional right to religious freedom and the Constitution itself. A growing uneasiness slowly turned into a sinking feeling in my stomach.

Before I get to the cases at hand, I remind you that the Constitution is written to protect the rights of the minority against the will of the majority and the rights of the majority against the whim of the court. Without the Constitution and the Bill of Rights, the will of the majority would be imposed on the minority. Put simply, a pure democracy is two coyotes and a sheep taking a vote on what's for dinner. The Founders understood this and rejected democracy in favor of their new invention, a Constitutional Republic. Our Republic is a unique design of the carefully balanced executive, legislative, and judicial branches. The three branches of government were not designed to be "separate but equal" branches but three carefully balanced branches, the weakest of which is the judicial branch. They were to function together so that the will of the majority could not overturn Constitutional guarantees. The Founders were concerned about the power of an unchecked court so they put limits on its power. The Supreme Court's Constitutional charge is to rule on the letter and the intent of the Constitution, "with such Exceptions, and under such Regulations as the Congress shall make." (Article III, Section 2. United States Constitution)

The question before the court was, "do the displays of the Ten Commandments violate the "establishment clause?" "Do the displays violate the separation of church and state implied in the Constitution?" Those of us who came to the Supreme Court expecting to hear profound Constitutional arguments were sadly disappointed. To my ear, no justice referenced the Constitution or quoted from it or asked a question directed to the text of our foundational document. The questions were, "What is the context of the display?" "Was it a religious display, secular, or historical?" "What was the intent of those who displayed them? Religious? Secular? Historical?" "How would the display be perceived by a reasonable person? Religious? Secular? Historical?" "Is anyone offended by the Ten Commandments?" All pro-religious freedom arguments were carefully and narrowly designed to preserve the two displays in question before the court. One in Texas and one in Kentucky. There was no effort made in oral argument that might have expanded religious freedom by establishing a precedent that would provide for true Constitutional religious freedom. The entirety of the oral arguments before the court and the interest of the justices were focused on issues that cannot be found in the text of the Constitution.

The First Amendment to the Constitution of the United States states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof: . . ." There are initially only two qualifying questions to be asked of a religious display. One, did Congress, or any of the states (14th amendment), make a law that established a religion? The obvious answer is no. The Constitution has not been violated if Congress has made no law to establish a religion. There is no need to deliberate further. Case closed. For the sake of argument, the second question is, did Congress or any of the states prohibit the free exercise of religion? Again the answer is no. Again the case is closed because no Congressional or state action prohibited the free exercise of religion although the court has done so many times and may well be poised to do so again. Sadly, these two elemental and operative questions were not asked or answered, yet they are the qualifiers that must be met before any religious freedom case can be Constitutionally argued beyond these two points.

Since 1963, in the case of Murray v. Curlett when the Supreme Court ordered prayer out of the public schools, there have been a series of decisions that have diminished religious liberty, one creative, convoluted, extra-constitutional case at a time, until the basis of a "Constitutional" decision is distorted beyond the recognition of even those of us who have lived through and with the changes. Imagine how astonished and irate our Founding Fathers would be if they were alive to see the magnitude to which unelected judges have warped our sacred constitutional covenant with their original intent. James Madison, the father of our Constitution, attended church services in the capitol rotunda where regular Sunday church services were held for 60 years. I can hear Madison now, "We gave you an amendment process! Why didn't you use it? Why would you honor the opinions of appointed judges who dishonor the Constitution?"

In case after case, the courts have ruled against the letter and the intent of the Constitution to the effect of diminishing religious freedom until they have now painted themselves into a legal corner. If their case precedents are to be the path, there is no way out of the room to the door marked

"Constitutional Guarantees" because of the principle called stare decisis. Latin for: to stand by things that have been settled. Because of their activist arrogance, for the justices, the wet paint of case law precedent never dries, therefore we can't walk back across the paint through the doorway to our guaranteed Constitutional freedoms. Consequently our freedoms are reduced with each stroke of the activist's pen until they are no longer recognizable and the Constitution becomes meaningless.

Last fall, in a small and private meeting, I asked Chief Justice Rehnquist, whom I admire, this question. "If the Constitution doesn't mean what it says, and as the courts move us further and further from original intent (of the Constitution), what protects the rights of the minority from the will of the majority and what protects the will of the people from the whim of the courts? And, considering the prevalent "living breathing Constitution" decisions, hasn't the Constitution just become a transitional document that has guided our nation from 1789 into this 'enlightened' era where judges direct our civilization from the bench? Is the Constitution now an artifact of history?" The core of Chief Justice Rehnquist's answer was, "I acknowledge your point."

To acknowledge my point concedes that the Constitution has become meaningless, become an artifact of history, as far as the courts are concerned. Constitutional law is taught in law schools across the land without teaching the Constitution itself. Constitutional law is too often a course study about how to amend the Constitution through litigation. In fact, we had a law professor before the House Committee on the Judiciary who testified, "You give me a favorable judge and I will write law for the entire United States of America, in a single courtroom on a single case."

Our Nation has suffered through more than forty years of activist judges wandering in their anti-religion desert, a desert hostile to Christians and Jews and devoid of Constitutional boundaries. Let my people go! It will take another Moses to lead us out of the desert and back to the Promised Land of our Founding Fathers, a land wisely provided for and abundantly blessed by God.

IN HONOR OF EQUAL PAY DAY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. HONDA. Mr. Speaker, I rise today in honor of Equal Pay Day.

Today I join the millions of women workers and local advocates across America to fight for justice and fairness in our wages. Today symbolizes the day when women have to work longer hours each week for the same amount of pay that a man would earn in just 5 working days.

It is disappointing to know that it has been 40 years since President John F. Kennedy signed the Equal Pay Act in 1963, yet the wage gap between men and women persists. Forty years ago, women who worked full-time made 59 cents on average for every dollar earned by men. In 2004, women earned 77 cents to the dollar. The wage gap has barely narrowed in these past 40 years, even though women have the same education, skills and experience as men.

The disparity in wages between women of color and white men is even worse. In 2003, Asian Pacific American women earned 80 cents for every dollar that men earned. African American women earned only 66 cents and Hispanic American women earned 59 cents for every dollar that men earned.

Although working women in my home State of California are farther along the road to equal pay than women in many States, the wage gap is still there. In 2000, California's working women earned only 82.5 percent as much per hour as men.

At the current rate of change, working women in California won't have equal pay until 2044. Nationwide, women won't achieve equal pay until 2050.

It is distressing to know that it will take 87 years since the Equal Pay Act before there is pay equity.

Now is the time for our country to fix this problem and to move forward in addressing this issue.

As Chair of the Congressional Asian Pacific American Caucus, I have joined with my colleagues in the Congressional Black Caucus, the Congressional Hispanic Caucus, the Native American Caucus, the Women's Caucus and Democratic Leadership to move forward in addressing this problem by cosponsoring the Paycheck Fairness Act.

The Paycheck Fairness Act, introduced by Congresswoman ROSA DELAURO would take the steps needed to eliminate gender based wage discrimination and ensure that women will finally earn what men earn for doing the same job.

I urge you to join me in cosponsoring this important legislation.

We must remember that equal pay isn't just a women's issue—when women get equal pay, their family incomes rise and the whole family benefits. Equal pay is about fairness.

CONDOLENCES ON THE PASSING OF POPE JOHN PAUL II

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to express my condolences on the passing of Pope John Paul II. For families such as mine, the Pope represented a connection with the larger human community. We felt blessed by his faith, compassion, and the simplicity that he preached in words and deed, As a public figure he not only represented the Roman Catholic Church, but also was a symbol of liberation and strength. Pope John Paul II embodied the spiritual virtue of innocence that allows us, as humans to be loved, respected, and forgiven.

My district, the 47th Congressional District of California, is home to many practicing Catholics who followed and believed in Pope John Paul II, as my family and I did. The Pope was an amazing example of one man who strengthened the hearts and souls of people. John Paul's trust and belief in us, allowed us to trust and believe in others,

John Paul II visited the state of California twice in his life, once in 1976, as Cardinal and the second time in 1987, as Pope. By way of his many travels around the world, he reached out to people, regardless of race, religion, or politics. Pope John Paul II was a leader in uniting nations and people. He believed that through love, we can attain understanding, which can conquer the divisions that still plague the world today. The Pope saw Christian faith as truly Catholic, as truly universal:

". . .Christ is Anglo and Hispanic, Christ is Chinese and black, Christ is Vietnamese and Irish, Christ is Korean and Italian, Christ is Japanese and Filipino, Christ is native American, Croatian, Samoan, and many other ethnic groups. . ."

Up to his final days, through his great personal suffering, he maintained his dignity. The passing of Pope John Paul II is a great loss to the global community. He will be missed and his memory will be kept sacred in our hearts.

TRIBUTE TO JAY CUTLER

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to pay tribute to the life of Jay B. Cutler—a dedicated advocate of mental health parity, a talented attorney, and a dear friend. Jay passed away on March 4, 2005 at the age of 74. He was a passionate and skillful advocate of the causes he believed in and was recognized as such by all his peers.

A native of New York, Jay graduated from New York University, as a business major, and Brooklyn Law School. He served in the Korean War in Army Intelligence before moving to Washington, DC, where he dedicated his life to improving the treatment for persons suffering from mental illness and substance abuse. He began his career in Public Service Television production and for the former U.S. Senator Jacob Javits as Staff Director of the Senate's Human Resources Committee. He was the lead Senate staff member in the drafting, introduction and passage of the landmark Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616) that established the National Institute on Alcohol Abuse and Alcoholism.

Jay joined the American Psychiatric Association in 1978, to begin a 25–year career as Director of Government Relations. He helped broaden Medicare coverage for the treatment of mental illness and blocked government efforts to steer mentally ill patients towards cheaper and less effective medications. Recognized for his remarkable dedication to the education about and destigmatization of mental illness not only to legislators, but also to the public, Jay's involvement helped to change the view of such issues in the public. Thanks to people like him, the Nation has made a remarkable transition from the long-held and destructive view that mental illness and substance abuse are character flaws. He advocated the idea that they are diseases which can and should receive the best treatment that medical sciences can provide. His commitment has been at the core of a profound shift in public awareness and understanding of these disorders.

As an APA lobbyist, Jay had direct impact on virtually every major bill on health policy and mental illness and substance abuse treatment legislation over more than 25 years. The expansion of the Community Mental Health Centers Program, the exemption of psychiatric hospitals and units from the Medicare prospective payment methodology, ensuring their fiscal viability for nearly 20 years, and the increased funding for veterans', children's and Indian mental health services are among the numerous legislative achievements Jay carried on in his career. His role in passing mental health legislation was well depicted in Eric Redman's book, The Dance of Legislation, which followed the development of the National Health Service Corps. It featured Jay as one of its subjects and it makes clear with regards to this major legislation that a great deal would not have happened without his dedication.

Over the years, Jay Cutler became synonymous with the cause of mental health parity and was well known by many Members of Congress. By combining his tremendous experience with a charm and wit that he generously shared with all whom he encountered, Jay was extremely effective. Because of his relentless efforts, millions of Americans received better care. His commitment to protecting patient confidentiality and broadening coverage for psychiatric and substance abuse treatment make him a role model for others to emulate.

Jay was not only a committed and effective advocate; he was an excellent teacher. It was my great privilege to work closely with Jay on numerous occasions and learn from his immense knowledge. He taught me a great deal about mental health policy and the history of behavioral health. And I can assure you that every lesson from Jay Cutler, just like every encounter of any kind with Jay Cutler, was a joy.

While being always at the forefront of efforts to eliminate discrimination against mental illness, Jay remained a loving husband and father. He understood the importance of being a doting father and grandfather, as well as a devoted husband. As in his professional activity, Jay Cutler was respected and appreciated by his friends and relatives.

I ask my colleagues to join me in expressing condolences to Jay's wife, Randy, his two daughters, Hollie S. Cutler and Perri E. Cutler, and his granddaughter, Makayla Lipsetts. We are deeply saddened by his death, and we are warmed by the memory of his remarkable life.

IN HONOR AND RECOGNITION OF ROBERT H. McKINNEY

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. CARSON. Mr. Speaker, on the occasion of his retirement from the position of Chairman of First Indiana Corporation, I rise today to commend Robert H. McKinney for his distinguished career of service to our country and his and my hometown community.

First Indiana Corporation is a publicly traded holding company that operates the First Indiana Bank, the largest homegrown bank in Indianapolis. It was established in 1915 by Mr. McKinney's father, the highly respected E. Kirk McKinney.

It is entirely and delightfully fitting that tribute be paid to Robert McKinney and his illustrious career as a devoted national and local public servant who is truly an inspiring community leader.

His achievements are breathtaking.

A graduate of the United States Naval Academy, the Naval Justice School, and the Indiana University School of Law, Mr. McKinney served in the Pacific during World War II and the Korean War. He has received Honorary Doctorates of Law from Marian College and Butler University. He has served as a member of the Indiana University Board of Trustees.

Bob McKinney has served as chairman of the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, the Federal Savings & Loan Insurance Corporation, and the Neighborhood Reinvestment Corporation. He has also served as the presidential-appointed director of the Federal National Mortgage Association. Following his federal service, he returned to Indianapolis where he was instrumental in securing federal grants for the revitalization of Indianapolis neighborhoods, most notably the 29th Street corridor on the Near Westside.

Bob McKinney was appointed by U.S. Senator EVAN BAYH to the Naval & Merchant Marine Academy Selection Committee, and by the Speaker of the Indiana House of Representatives to the Government Efficiency Commission of the State of Indiana.

Our honoree is a member of the Presidential Advisory Board for Cuba and director of the minority investment fund Lynx Capital Corporation. He is a trustee of the Hudson Institute, the U.S. Naval Academy Foundation, the Indiana University Foundation, and the Sierra Club Foundation.

In our mutual hometown of Indianapolis, Bob McKinney is the director of several civic organizations including the Indianapolis Economic Club, the Indianapolis and Indiana Chambers of Commerce, and the Indianapolis Committee on Foreign Relations, as well as the Chief Executives Organization and the World Presidents' Organization. He has served as director of the Young Lawyers Section of the ABA, director of the Indiana State Bar, and treasurer and director of the Indianapolis Bar Association.

McKinney is the recipient of the 1994 Junior Achievement Central Indiana Business Hall of Fame Award, the 1995 Hoosier Heritage Award, the 1999 Indiana University Academy of Law Alumni Fellows Award, and the 2000 Indianapolis Archdiocese Spirit of Service Award, and, well, he's just a very nice guy.

Robert McKinney's involvement in national politics began when he became the Indiana chair of John F. Kennedy's presidential committee. He has subsequently served as chairman of the Indiana presidential campaigns of Candidates Muskie, Carter, and Mondale, serving also as a member of the Indiana delegations to the National Democratic Conventions beginning in 1972.

Bob McKinney and his wife Arlene "Skip" McKinney live in Indianapolis and have five children and five grandchildren. On behalf of my fellow citizens of Indianapolis and the Seventh Congressional District of Indiana, I thank this great man for his service to our country and his warm friendship to me. Knowing Bob McKinney as I do, I am sure his retirement means even more work for his community and his company. That said, I wish him continued happiness with his wonderful wife "Skip" and the rest of his family during a long, long time in his brand of retirement.

THE ROLE OF LIBRARIES IN HEALTH COMMUNICATION

HON. JOHN J.H. "JOE" SCHWARZ

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. SCHWARZ of Michigan. Mr. Speaker, I rise today to call attention to the role of libraries in addressing the health information needs of the American people. In doing so, I also recognize the U.S. National Commission on Libraries and Information Science, NCLIS, for its efforts in encouraging libraries to play a key role in educating American citizens about healthy lifestyles.

The Commission is a permanent, independent agency of the United States Government, established with Public Law 91–345, 20 U.S.C. 150 et seq. signed July 20, 1970. The law includes the following statement of policy:

> SEC. 2. The Congress hereby affirms that library and information services adequate to meet the needs of the people of the United States are essential to achieve national goals and to utilize most effectively the Nation's educational resources and that the Federal Government will cooperate with State and local governments and public and private agencies in assuring optimum provision of such services.

The Commission's purpose is stated in the legislation: "The Commission shall have the primary responsibility for developing or recommending overall plans for, and advising the appropriate governments and agencies on, the policy set forth in section 2." As its first function, the Commission is charged to advise the President and the Congress on the implementation of national policy with respect to library and information science.

One of the Commission's current goals is to strengthen the relevance of the libraries and information science in the lives of the American people. Toward this goal, the Commission has undertaken an initiative designed to recognize libraries as their communities' knowledge source for consumer health information.

The overarching objective of this initiative, referred to as the NCLIS Libraries and Health Communication Initiative, is to identify best practices in libraries that excel in providing health information, and to publish these best practices for the benefit of all library managers and information providers. As part of this effort, and to meet its statutory responsibility, the Commission will then provide policy advice to the President and the Congress recommending how national policy in this area can be implemented.

In order to identify best practices, the Commission has developed an awards program that recognizes libraries that have successfully created or participated in exemplary programs in the delivery of consumer health information. On May 2, at a reception at the National Agricultural Library in Beltsville, MD the Commission will announce a major award. This award, the 2006 NCLIS Health Award for Libraries, is designed to mobilize the resources of libraries to help citizens learn how to live healthy lifestyles and to provide citizens with consumer health information, particularly when they require health information in a critical or unusual situation. The purpose of the award is to encourage libraries to put forward their best efforts in matching the Nation's critical need for authoritative, unbiased, and readily available consumer health information with a practical means of responding to that need. Libraries in every community are already providing citizens with a wide variety of consumer-focused information. The provision of consumer health information falls naturally in libraries' information-delivery function.

This Commission initiative is of particular benefit to the American people, for it provides citizens with quality consumer health information through their libraries, trusted sources of information that are already acknowledged and respected for the quality of the information they provide. We already know that health information that results in lifestyle improvements lowers costs for health care. Additionally, the initiative will benefit the entire library and information science profession and related professions, businesses, and industries, as it provides documented best practices that can be adapted and replicated and, when required, customized for particular local needs. As stated above, a specific product of the initiative will be the development of a recommended statement of policy on the subject of libraries as health communication centers for American citizens, to be delivered to the President and the Congress as required by Pub. L. 91–345.

INTRODUCTION OF A BILL TO CLEAR TITLE TO TWO PARCELS OF LAND LOCATED ALONG THE RIO GRANDE IN ALBUQUERQUE, NEW MEXICO

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. WILSON of New Mexico. Mr. Speaker, I rise today to introduce the Albuquerque Biological Park Title Clarification Act on behalf of myself and Representative UDALL and Representative PEARCE. This legislation would assist the City of Albuquerque, New Mexico (City) clear title to two parcels of land located along the Rio Grande.

The Albuquerque Biological Park is a distinctive environmental museum comprising four facilities: Albuquerque Aquarium, Rio Grande Botanic Garden, Rio Grande Zoo and Tingley Beach Aquatic Park. In 1997, as part of an effort to improve these facilities, the City purchased two properties from the Middle Rio Grande Conservancy District (MRGCD) for $3,875,000.

The City had been leasing the first property, Tingley Beach, from MRGCD since 1931. The City had been leasing the second property, San Gabriel Park, from the MRGCD since 1963. Both properties had been used as public parks.

In 2000, the U.S. Bureau of Reclamation interrupted the City's plans when it asserted that it had acquired ownership of all of MRGCD's property associated with the Middle Rio Grande Project in 1953. This called into question the validity the City's title to the properties. The City cannot move forward with its plans to improve the properties until the titles are cleared.

The legislation is narrowly drafted to affect only the two properties at issue and leaves the main dispute concerning title to project works for the courts to decide. This important legislation will allow the City to move forward with a project that will provide residents and visitors with exciting new recreational opportunities.

U.N. SECRETARY-GENERAL KOFI ANNAN SEEKS MAJOR CHANGES IN HUMAN RIGHTS COMMISSION

TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. LANTOS. Mr. Speaker, I rise today to call my colleagues' attention to a courageous speech given on April 7 by my good friend, United Nations Secretary-General Kofi Annan, to Delegates attending this year's U.N. Human Rights Commission in Geneva. In this speech the Secretary-General outlined his plans to shut down the hopelessly discredited forum and replace it with a smaller Human Rights Council that is explicitly intended to exclude human rights violators like the Sudan, Zimbabwe, and Cuba.

During the past few years, many of us in the House of Representatives have been outraged that the designated global forum for identifying and censuring the world's most egregious violators of basic human rights had become a haven for the world's worst tyrannies. Thus it is refreshing to see that Secretary-General Annan has recognized that its overhaul must be an integral piece of U.N. structural reform. In his speech to the Commission in Geneva last week, the Secretary-General called on the U.N. to do more to promote and protect fundamental rights and freedoms by stating that "unless we re-make our human rights machinery, we may be unable to renew public confidence in the United Nations itself." He also asserted that "At the same time, the Commission's ability to perform its tasks has been overtaken by new needs, and undermined by the politicization of its sessions and the selectivity of its work. We have reached a point at which the Commission's declining credibility has cast a shadow on the reputation of the United Nations system as a whole, and where piecemeal reforms will not be enough."

As Members of Congress, we have an opportunity to demonstrate U.S. leadership by helping the U.N. address today's most critical human rights challenges. I commend the Secretary-General's recommendations to create a more efficient and accountable human rights body and urge you to join me in supporting his efforts. In the coming weeks and months I will be working with my colleagues in the International Relations Committee, with the Secretary-General and with the Administration to ensure that the Secretary-General's bold plans to restructure the U.N.'s human rights mechanisms are implemented in a way that supports his goals.

Mr. Speaker, I ask that the entire text of the Secretary-General's historic address be placed in the RECORD.

THE SECRETARY-GENERAL'S ADDRESS TO THE COMMISSION ON HUMAN RIGHTS, GENEVA, APRIL 7, 2005

Thank you, Mr. Chairman. Like you I am deeply conscious of what we have all lost with the passing of Pope John Paul II. His was an irreplaceable voice speaking out for peace, for religious freedom, and for mutual respect and understanding between people of different faiths. Even as we mourn his loss, I hope all of us who are concerned with human rights can pledge ourselves to preserve those aspects of his legacy.

Excellencies, Ladies and Gentlemen. One year ago today, we stood together in this Commission in silent tribute to the memory of the victims of genocide in Rwanda. We recalled again our collective failure to protect hundreds of thousands of defenseless people. And we resolved to act more decisively to ensure that such a denial of our common humanity is never allowed to happen again.

Today we have reached another moment when we must prove our commitment.

First, because of the appalling suffering in Darfur. Valiant efforts have been made to deliver humanitarian assistance. I am glad the Security Council has now agreed, both to impose sanctions on individuals who commit violations of international humanitarian or human rights law, and to ask the International Criminal Court to play its essential role in lifting the veil of impunity and holding to account those accused of war crimes and crimes against humanity. And I think we should all be grateful to the troops deployed by the African Union, whose presence—wherever it is felt—is definitely helping to protect the population from further crimes. But in its present form that force is clearly not sufficient to provide security throughout such a vast territory. And meanwhile, there has been hardly any progress towards a political settlement. For all of us, as individuals and as an institution, this situation is a test. For thousands of men, women and children, our response is already too late.

But today I am also thinking of victims whose plight is not so well known. I have in mind the weak, the poor and the vulnerable. I am thinking of all people who are denied their human rights, or who may yet fall prey to violence and oppression. To all, our responsibility under the Charter is clear: we must do more to promote and protect fundamental rights and freedoms, whenever and wherever they occur.

Indeed, nobody has a monopoly on human rights virtue. Abuses are found in rich countries as well as poor. Women in a wide range of countries continue to enjoy less than their full rights. Whether committed in the name of religion, ethnicity or state security, violations have a claim on our conscience. Whether carried out in public or in more insidious ways, breaches must compel us to stand up for the right of all human beings to be treated with dignity and respect.

Human rights are at the core of the package of proposals I have just put before the Member States in my report, "In Larger Freedom." I argue that we will not enjoy development without security, or security without development. But I also stress that we will not enjoy either without universal respect for human rights. Unless all these causes are advanced, none will succeed. And unless we re-make our human rights machinery, we may be unable to renew public confidence in the United Nations itself.

The cause of human rights has entered a new era. For much of the past 60 years, our focus has been on articulating, codifying and enshrining rights. That effort produced a remarkable framework of laws, standards and mechanisms—the Universal Declaration, the international covenants, and much else. Such work needs to continue in some areas. But the era of declaration is now giving way, as it should, to an era of implementation.

The recommendations I have put forward reflect this evolution. Most of all, they attempt to build a United Nations that can fulfill the promise of the Charter. Thus I have proposed major changes in the three central pillars of the United Nations human rights system: the treaty bodies, the Office of the High Commissioner and the inter-governmental machinery. Let me take them each in turn.

The seven treaty bodies are the independent guardians of the rights and protections that have been negotiated and accepted over the years. Their dialogue with States emphasizes accountability, and their recommendations provide clear guidance on the steps needed for full compliance. The treaty body system has helped to create national constituencies for the implementation of human rights. But the system must be streamlined and strengthened, so that the treaty bodies can better carry out their mandates. And urgent measures must be taken to enable them to function as a strong, unified system.

I have also called on the membership to strengthen the Office of the High Commissioner for Human Rights. The role of the Office has expanded greatly. In addition to its long-standing advocacy work, today it is also engaged in conflict prevention and crisis response. And where once much of its energies were devoted to servicing the human rights bodies, today it also offers wide-ranging technical assistance.

Yet the Office remains ill-equipped in some key respects. It cannot, for example, carry out proper early warning, even though human rights violations are often the first indicators of instability. The High Commissioner and her staff continue to work admirably within real constraints. They would be the first to acknowledge shortcomings, and they are best placed to identify ways to overcome them. Accordingly, I have asked the High Commissioner to submit a plan of action by 20 May. I expect a request for additional resources to figure prominently in her recommendations. As central as human rights are in our work, the United Nations allocates just two percent of its regular budget to that programme. We need to scale up to meet the growing challenges that confront us.

I turn now to the most dramatic of my proposals. As you know, I have recommended that Member States replace the Commission on Human Rights with a smaller Human Rights Council.

The Commission in its current form has some notable strengths. It can take action on country situations. It can appoint rapporteurs and other experts. And it works closely with civil society groups.

At the same time, the Commission's ability to perform its tasks has been overtaken by new needs, and undermined by the politicization of its sessions and the selectivity of its work. We have reached a point at which the Commission's declining credibility has cast a shadow on the reputation of the United Nations system as a whole, and where piecemeal reforms will not be enough.

A Human Rights Council would offer a fresh start. My basic premise is that the main intergovernmental body concerned with human rights should have a status, authority and capability commensurate with the importance of its work. The United Nations already has councils that deal with its two other main purposes, security and development. So creating a full-fledged council for human rights offers conceptual and architectural clarity. But what is most important is for the new body to be able to carry out the tasks required of it.

I have proposed that the Council be a standing body, able to meet when necessary rather than for only six weeks each year as at present. It should have an explicitly defined function as a chamber of peer review. Its main task would be to evaluate the fulfillment by all states of all their human rights obligations. This would give concrete expression to the principle that human rights are universal and indivisible. Equal attention will have to be given to civil, political, economic, social and cultural rights, as well as the right to development. And it should be equipped to give technical assistance to States, and policy advice to states and UN bodies alike.

Under such a system, every Member State could come up for review on a periodic basis. Any such rotation should not, however, impede the Council from dealing with massive and gross violations that might occur. Indeed, the Council will have to be able to bring urgent crises to the attention of the world community.

The new Human Rights Council must be a society of the committed. It must be more accountable and more representative. That is why I have suggested that members be elected by a two-thirds majority of the General Assembly, and that those elected should have a solid record of commitment to the highest human rights standards. Being elected by a two-thirds majority of the General Assembly should help make members more accountable, and the body as a whole more representative.

A Council will not overcome all the tensions that accompany our handling of human rights. A degree of tension is inherent in the issues. But the Council would allow for a more comprehensive and objective approach. And ultimately it would produce more effective assistance and protections, and that is the yardstick by which we should be measured. I urge Member States to reach early agreement in principle to establish a Human Rights Council. They can then turn to the details such as its size, composition and mandate; its relationship with other UN bodies; and how to retain the best of the existing mechanisms, such as the special rapporteurs and the close ties with NGOs. Consultations with the High Commissioner would naturally be a very central part of this process, and she stands ready to assist. Let us all do our part to make this happen, and show that the United Nations takes the cause of human rights as seriously as it does those of security and development.

Ladies and Gentlemen, Human rights are the core of the United Nations' identity. Men and women everywhere expect us to uphold universal ideals. They need us to be their ally and protector. They want to believe we can help unmask bigotry and defend the rights of the weak and voiceless.

For too long now, we have indulged this view of our own capabilities. But the gap between what we seem to promise, and what we actually deliver, has grown. The answer is not to draw back from an ambitious human rights agenda, but to make the improvements that will enable our machinery to live up to the world's expectations.

Our constituents will not understand or accept any excuse if we fail to act. So let us show them that we understand what is at stake.

Thank you very much.

HONORING THE CONTRIBUTIONS OF MOON HERNANDEZ, BOWIE ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize Moon Hernandez, Bowie Elementary School Teacher of the Year.

Mrs. Hernandez is currently a second grade teacher at Bowie Elementary. She received her teaching degree from Texas A&M University, making her the first of five children in her family to graduate college.

Mrs. Hernandez has served on the District Education Improvement Committee for the last four years and is presently the Literacy Link Lead teacher for the second grade teachers at Bowie. She has served as the second grade team leader and as a technology presenter at the TCEA 23rd Annual Convention.

Mrs. Hernandez's goal in teaching is to help children become independent thinkers so that. they can be better prepared for the real world. She credits her mother, who would not let her miss a day of school even as a young child, as her inspiration for learning and teaching.

She works tirelessly to provide her students with superior problem solving skills and confidence in themselves.

Mrs. Hernandez is an incredible contributor to her community and to her students, and I am honored to have the chance to recognize her here today.

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HON. JIM MARSHALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. MARSHALL. Mr. Speaker, on April 5, 2005, we short-circuited debate and used a suspension motion to honor Yogi Bhajan. It has since come to my attention that Mr. Bhajan is a controversial figure. Had I known of the controversy surrounding him, I would not have voted in favor of this suspension of the House's normal legislative process.

HONORING THE CONTRIBUTIONS OF MEGAN NEBGEN, GOODNIGHT JUNIOR HIGH TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to congratulate Megan Nebgen, Goodnight Junior High Teacher of the Year.

Mrs. Nebgen is the coach of the Dancin' Stars Team at Goodnight, a position she has held for the past two years. She is well-qualified for the position, having received a Bachelor of Science in Dance from Texas State University. She has brought energy and initiative to Goodnight, establishing the first Contest Team at the school.

Megan Nebgen believes that dance can be an excellent venue for growth for girls, teaching them to express themselves through movement and building their self-esteem. Her girls have won many awards in competition, but Mrs. Nebgen believes that the confidence and pride that the girls get from the dance program is their most important reward.

She believes that dance can help students in the rest of their lives, citing the fact that most of her students improve their marks in school when they are enrolled. Mrs. Nebgen also believes that team competitive dance can teach an important civic virtue: teamwork. Mrs. Nebgen herself is a team player within her school, taking time from her schedule to participate in both the Campus Management Team and the Veteran's Day Committee.

Mrs. Nebgen has made an important contribution to the health and happiness of the girls under her mentorship. Her work in dance benefits her whole community, and I am proud to have had the chance to recognize her here today.

A TRIBUTE TO WILLIE GARY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. TOWNS. Mr. Speaker, I rise today to honor Willie E. Gary for his work as an outstanding trial attorney, philanthropist and community activist.

Attorney Willie E. Gary is living the American Dream. Once a migrant worker, now a multi-millionaire attorney, Gary earned his reputation as "The Giant Killer" by representing little-known clients against major corporations. Gary's amazing success has earned him national recognition as a leading trial attorney. Along the way he has handled some of the largest jury awards and settlements in U.S. history, winning more than 150 cases valued in excess of $1 million each.

His remarkable legal career and tireless work on behalf of his clients has been well documented on "60 Minutes", "CBS Evening News", "The Oprah Winfrey Show", ABC's "World News Tonight" with Peter Jennings, and CBS's "The Early Show" with Bryant Gumbel. In May 2002, he was featured in Ebony magazine as one of the "100 Most Influential Black Americans". Forbes Magazine has listed him as one of the "Top 50 attorneys in the U.S."

Gary has also been featured in such national media publications as The New York Times, The Chicago Tribune, The Boston Globe, Black Enterprise, The New Yorker and The National Law Journal.

But Willie Gary's triumphant rise to the top is no overnight success story.

His vast appeal stems from his desire to be the best and a passionate work ethic he learned through his humble beginnings. One of 11 children of Turner and Mary Gary, Willie Gary was born July 12, 1947 in Eastman, Georgia, and raised in migrant farming communities in Florida, Georgia and the Carolinas.

His unwavering desire to earn a college education ultimately led him to Shaw University in Raleigh, North Carolina where the all-state high school football player would earn an athletic scholarship after being told there was no room for him on the team. Gary went on to become the co-captain of Shaw's football team during the 1969, 1970 and 1971 seasons.

Earning a Bachelor's degree in Business Administration, Gary went on to North Carolina Central University in Durham, North Carolina where he earned a Juris Doctorate in 1974. Upon earning his law degree, Gary returned to Florida where his childhood sweetheart, Gloria soon became his wife.

Gary was admitted to the Florida Bar and opened his hometown's first African-American law firm with Gloria's assistance. His practice has since grown into the thriving national partnership known as Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.L., consisting of 37 attorneys, a team of paralegals, a professional staff of 120 including six nurses two full-time investigators, an administrator, a certified public accountant, a public relations director, a general counsel, human resources director, and a full administrative staff.

Gary is a member of the National Bar Associations, the American Bar Association, American Trial Lawyers Associations, Florida Academy of Trial Lawyers Association, Martin and St. Lucie County Bar Associations and the Million Dollar Verdict Club.

Gary's scope of interest extends far beyond the courtroom.

He is chairman of the Black Family Channel, the nation's first African-American owned and operated 24-hour cable channel that is devoted to wholesome "family values" programming for urban viewers. Based in Atlanta, Georgia, the network's vision is to provide intelligent, family-oriented programming that embraces values in business, entertainment, sports, ministries and government. Gary also hosts a weekly talk show on the Black Family Channel featuring personal interviews with prominent guests

Known as a businessman, churchman, humanitarian and philanthropist, Gary is deeply involved in charity and civic work. He is committed to enhancing the lives of young people through education.

In 1991, Gary donated $10.1 million to his alma mater, Shaw University. He has also donated hundreds of thousands of dollars to dozens of Historically Black Colleges and Universities throughout the U.S. In 1994, he and his wife, Gloria, formed The Gary Foundation to carry out this formidable task. The Gary Foundation provides scholarships, direction and other resources to youth, so they can realize their dreams of achieving a higher education.

His national television campaign, "Education is Power," encourages children to stay in school and be the best that they can be. In addition to being a lawyer, a philanthropist, a media mogul and a motivational speaker, Gary continues to serve on the board of trustees of numerous universities and foundations. He has received honorary doctorates from dozens of colleges and universities.

His extensive community activities include membership in the NAACP, Florida Guardsmen, Inc, Urban League, Civitan International, the United Way of Martin County and Martin Memorial Hospital Foundation Council, and many others.

Willie and his wife Gloria have four sons, Kenneth, Sekou, Ali, and Kobie. Mr. Speaker, Willie Gary has continued to demonstrate through his work as an attorney and his commitment and generosity in helping others that he is more than worthy of our recognition today.

HONORING THE CONTRIBUTIONS OF KYLE WILSON, PRIDE HIGH SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the outstanding contributions of PRIDE High School Teacher of the Year, Kyle Wilson.

Mr. Wilson has been a teacher at PRIDE, an alternative school for at-risk students, for fifteen years. He was one of the original team of teachers who founded PRIDE High School. He has two Bachelor's degrees, in Psychology and Biology, and he uses his training to teach his students how to explore the world around them as scientists.

Kyle Wilson gives his students real-world science experience by involving them in the PHS Hydrosphere Monitors, a campus organization which protects the environment by testing the water quality of the Blanco River. The PHS Hydrosphere Monitors work together with Texas State University, which compiles the water quality information from various schools to create a picture of water quality throughout the state. This project not only provides the State with valuable data; it also promotes the attitudes and social values conducive to scientific learning, and teaches students the value of volunteering for a cause larger than themselves.

Mr. Wilson has won many awards for his work. He was named Texas Watch "Outstanding Monitor" in 2002, has been recognized by the National Science Teachers Association, and was Wal-Mart Teacher of the Year in 2005. This is the second time he has received the Teacher of the Year Award from his school. He has done a tremendous amount for the children of the State of Texas, and I am happy to have the opportunity to thank him here today.

IN MEMORY OF DANIEL KEMP NALL

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. ROSS. Mr. Speaker, I rise today to honor the life and legacy of Daniel Kemp Nall of Sheridan. Dan passed away on Friday, March 4th at the age of 85. I wish to recognize his life and achievements.

Dan was born on April 28, 1919 in Sheridan, and remained a citizen of Grant County for almost his entire life. Dan attended Henderson State Teachers College, and received bachelor degrees in history and physical education. Dan also earned a master's degree in History from the University of Arkansas at Fayetteville.

Dan served his country during World War II in the United States Navy. Upon returning to Sheridan, his career path took him to education and coaching, including tenures at Hendrix College, Morrilton High School, and Sheridan High School.

After Dan retired from education, he was extremely active in the Democratic Party of Arkansas and Senior Democrats of Arkansas. Dan served as Sergeant-of-Arms in the Arkansas State Senate during my time there, where I had the privilege of knowing Dan and counting him as a friend.

Dan's commitment to the Sheridan community and to our state did not stop with public education. He served as President of the Arkansas Athletic Association and as Postmaster of Sheridan. He also worked as a member of the Grant County Museum Board of Directors in its founding and was named Board Member Emeritus in February 2004.

Daniel Kemp Nall will forever be remembered as a terrific husband, father, grandfather, and great grandfather. Dan's wife, Muriel Cole Slaughter, passed away in 2001. My deepest condolences go out to Dan's son, Judge Kemp Nall and his wife Denice, his daughters Susan Nall Perry, and Dian Nall Taylor and her husband Tommy Taylor, his 10 grandchildren and 15 great-grandchildren. He will be missed by his family and all those who knew him and thought of him as a friend. I will continue to keep Dan and his family in my thoughts and prayers.

HONORING BERKELEY CITY COUNCILMEMBER MARGARET BRELAND

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the life and work of former Berkeley City Councilmember Margaret Breland of Berkeley, California. Serving the people of West Berkeley first as a private citizen and then as a public servant, Margaret devoted most of her adult life to improving conditions in a community she saw to be underrepresented and often overlooked. Margaret retired from the Berkeley City Council in November of 2004, and after a long battle with breast cancer, passed away on April 7, 2005.

Though Margaret was originally from Beaumont, Texas, she spent the majority of her life in Berkeley after moving there as a child with her family. The oldest of four children, she was counted on by her mother to help run the household. After graduating from Berkeley High School, Margaret became a licensed vocational nurse, an occupation in which she served for 27 years.

Margaret retired early from her work as a nurse to care for her mother in the late 1980s, but became increasingly involved in community and public service activities at Liberty Hill Missionary Baptist Church, where she was a member. As chairperson of Liberty Hill's scholarship committee, she raised thousands of dollars every year to ensure that every church member attending college received at least $1,000 in financial assistance.

Margaret also made sure that members of her church remained informed through her work and that of others who served on the congregation's Christian Social Concern Committee. One of the ways in which Margaret first became known to the public in Berkeley was through spearheading the ultimately successful campaign to install a traffic light at Ninth Street and University Avenue, an effort aimed at protecting children crossing the street on their way to and from the church. Margaret continued to advocate for the safety of children and others in her neighborhood not only through her work at Liberty Hill, but also as the chair of both the Human Welfare Action Committee and the West Berkeley Neighborhood Development Corporation, and through her involvement with the West Berkeley Area Plan Committee, the West Berkeley Community Cares Services Bank and the Community Advisory Board.

After several years of advocating on behalf of the residents of West Berkeley, in the mid-1990s Margaret decided to seek public office, and was elected as the District 2 representative to the Berkeley City Council in 1996. In her first term, she secured over one and a half million dollars in funding for projects and facilities located in her district, working to make up for funding gaps that she felt had long been ignored. Regardless of the challenges she faced, Margaret worked tirelessly to provide affordable housing, access to healthcare, police and fire protection resources and support for youth in her district. Though she struggled with her illness for much of the second half of her time in office, she remained steadfastly committed to serving her constituents, demanding daily briefings and making efforts to go to City Hall even as her condition and treatments diminished her physical strength. Margaret's devotion to serving her constituents earned her a reputation as a candid and straightforward representative of the people, someone who was truly dedicated to serving as a voice for those without the means to advocate for themselves.

On April 15, 2005, Margaret Breland's life and legacy will be honored at her own Liberty Hill Missionary Baptist Church in Berkeley, California. It is with great sorrow but also with great pride that I add my voice to all those that have joined together today to pay tribute to Margaret and the spirit of selflessness that she embodied. Margaret's commitment to and concern for others set her apart as an elected official and as a human being. The generosity that led her to serve others throughout her life is an inspiration to all of us to follow her example in giving back to our communities, our country and our world.

HONORING THE CONTRIBUTIONS OF DEBORAH RODRIGUEZ, DE ZAVALA ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the enormous contributions of Deborah Rodriguez to the students of De Zavala Elementary School.

A long time Texan, Mrs. Rodriguez graduated from San Marcos High School and later went on to receive her teaching degree from Texas State University. She is certified in Bilingual Education and teaches first and second grade bilingual students.

Mrs. Rodriguez credits her husband for becoming a teacher, as he comes from a family of teachers and educators. She also gives credit to the many teachers who she had when she was younger and beginning to learn English.

Mrs. Rodriguez began to teach in 1997 when her youngest child began kindergarten. She is an avid believer in her students knowing and learning to speak more than one language, because she regrets that she started school speaking only Spanish. Her mother, who spoke and read to her in both languages and gave her a strong foundation in reading and writing, is the reason why she loves to do these things today.

Deborah Rodriguez is one of San Marcos' outstanding educators and I am very proud to have had this opportunity to recognize her today.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. GUTIERREZ. Mr. Speaker, on April 14, 2005, I was unavoidably absent from this chamber. I would like the record to show that, had I been present, I would have voted "yea" on rollcall vote No. 107 and "no" on rollcall vote No. 108.

REINTRODUCTION OF THE REVITALIZING CITIES THROUGH PARKS ENHANCEMENT ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. MALONEY. Mr. Speaker, I introduce legislation, the Revitalizing Cities Through Parks Enhancement Act, that would establish a $10 million grant program for qualified, nonprofit, community groups, allowing them to lease municipally-owned vacant lots and transform these areas into parks. These vacant lots often are areas of heavy drug-trafficking. Parks and gardens created with the grants will not only provide safe places to gather, but will increase property values as well. The grants will be available from the Secretary of Housing and Urban Development to groups who have met standards of financial security, and who have histories of serving their communities. To further ensure that these grants are used to make lasting positive changes, land improved and made into open community space under this legislation must be available for use as open space from the local government for at least seven years.

HONORING THE CONTRIBUTIONS OF YVONNE DELGADO, TRAVIS ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Yvonne Delgado, Travis Elementary School Teacher of the Year.

Mrs. Delgado is a Deaf Education Teacher at Travis Elementary. She holds a Bachelor of Science and a Master's Degree in Communication Sciences and Disorders/Deafness Studies from the University of Texas at Austin. She has been the Lead Deaf Education Teacher at Travis since 1997, putting her philosophy to work for the benefit of her students.

As Lead Deaf Education Teacher, Mrs. Delgado oversees the Deaf Education team of three teachers and three interpreters, as well as managing the cases of five to ten students and working as a classroom teacher herself. In addition, she provides training and expertise to the general education staff on deaf education issues, equipment, and modifications.

Mrs. Delgado has wanted to be a teacher since she was a child, and has always had a keen interest in sign language. She is absolutely committed to her students, getting to know them outside of school and treating them as members of her family. She works constantly to provide her students with better communication skills and confidence in themselves. She is a tremendous contributor to her community and to her students, and I am honored to have the chance to recognize her here today.

INTRODUCTION OF THE SPORTSMANSHIP IN HUNTING ACT

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. FARR. Mr. Speaker, today I, along with Representative CHRIS SHAYS and 17 other members, introduced the Sportsmanship in Hunting Act of 2005. This bill, similar to a bill I introduced last congress, gets at an issue that many would be surprised to learn even occurs: the "hunting" of an animal inside an enclosed area, a fence. By halting the interstate shipment of captive exotic mammals for the purpose of being shot in a fenced enclosure for entertainment or for trophy, the bill we introduced today will lead to significant reductions in "canned hunt" operations.

At more than 1,000 of these commercial "canned hunt" operations around the country, trophy hunters pay a fee to shoot captive exotic mammals—animals that have often lived their lives being fed by hand and thus have no fear of humans. Simply stated, there could be no easier target. Canned hunting ranches know this and can therefore offer guaranteed trophies, touting a "No Kill, No Pay" policy.

Who supports canned hunt operations? Not rank-and-file hunters. In fact, in a poll of their readership described in the July 2003 issue, the editors of Field and Stream magazine reported that 65 percent of sportsmen oppose canned hunts. Additionally, lifelong hunters in Montana, including members of the Montana Bowhunters Association, spearheaded a state ballot initiative in 2000 that led to a ban on shooting animals in fenced enclosures. In addition to Montana, 23 states have full or partial bans on canned hunts for mammals. The momentum to address canned hunt operations is no surprise given that an element of hunting that so many sportsmen hold dear, that of the "fair chase," is absolutely absent under canned hunt conditions. The time is long overdue for the federal government to participate in efforts to end this despicable practice.

By halting the interstate transport of non-indigenous mammals used in canned hunts, the Sportsmanship in Hunting Act will curb a practice so egregious that hunters and animal advocates alike view it as unfair and inhumane. This bill is supported by numerous local and national groups representing more than ten million Americans.

Mr. Speaker, in closing, I encourage my colleagues to join me in putting a lid on canned hunts.

REMEMBERING THE LIFE OF DR. SAMUEL PROCTOR MASSIE

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to commend the outstanding life of Dr. Samuel P. Massie, who passed away at the age of 85 on April 10, 2005.

Dr. Massie, a chemistry professor, was the first African American to teach at the U.S. Naval Academy in Annapolis, Maryland.

As a young graduate student, Dr. Massie worked on the Manhattan Project where he and other scientists made liquid compounds of Uranium for the making of an atomic bomb. He also conducted pioneering silicon chemistry research and investigated antibacterial agents. Dr. Massie held the patent for chemical agents effective in battling gonorrhea. Additionally, he received awards for research in combating malaria and meningitis, worked on drugs to fight herpes and cancer and developed protective foams against nerve gases.

Dr. Massie was a former professor at several historically black colleges including my alma mater, Fisk University. Dr. Massie was instrumental in encouraging African American and other minority students to pursue science careers.

Samuel Proctor Massie Jr. was born in North Little Rock, Arkansas, the son of two schoolteachers. It is purported that he could read at a third grade level by the time he entered the first grade. He graduated high school at the age of 13 and went on to graduate Summa Cum Laude in chemistry from Arkansas Agricultural, Mechanical and Normal College (now the University of Arkansas at Pine Bluff) in 1936. He then received a Master's degree in Chemistry from Fisk University in 1940.

I met Dr. Massie when I was a student at Fisk University, where he was teaching physical chemistry. It was an extremely difficult class and as a boy who had received an education in the rural, segregated south, all of this was unfamiliar territory. I was failing his class and Dr. Massie came to me and said, "Young man, you're going to fail this class, sign this card and drop the class." I did, and Dr. Massie credits himself as the reason I became a lawyer.

Dr. Massie was a remarkable chemist, academician, and friend. His accomplishments are too many to mention and the lives he's impacted too numerous to count. He will forever be remembered for his character and his extraordinary work.

HONORING THE CONTRIBUTIONS OF GAYLE RHOADES, SAN MARCOS HIGH SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the countless contributions of Gayle Rhoades, San Marcos High School Teacher of the Year.

Gayle Rhoades has a Bachelor of Science degree from Mississippi State University. She has been teaching Academic Biology and Pre-AP Biology at San Marcos High School for the past four years. She combines tough discipline and dedication to helping individual students into an effective teaching strategy.

Ms. Rhoades has recently proved herself in one of her school's toughest assignments, as a teacher in the PASS program. PASS is a program for second and third year freshman repeaters. Many of the students in the program have persistent attendance and discipline problems, and are resistant to authority and advice. Ms. Rhoades has dealt with these students with firmness and patience, and her efforts have paid off. Many of her students credit her with putting them on a path to graduation and success in the face of considerable odds.

Ms. Gayle Rhoades has been a tremendous role model and source of support for her students, and an excellent resource for her school system and community. She has taken up challenging assignments without complaint, and changed numerous lives for the better. She represents the best of our public education system, and I am proud to have the opportunity to recognize her here.

RECOGNIZING THE LIFE AND WORK OF OFFICER STEVEN ZOURKAS

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in honor and remembrance of Steven Zourkas, devoted husband, father, brother, friend and dedicated public servant. Mr. Zourkas' commitment to the safety of residents defined his four-year tenure of outstanding public service as a police officer with the Village of Niles. He also served as an evidence technician with the North Regional Major Crimes Task Force.

Mr. Zourkas graduated from Niles North High School. A former paramedic, Mr. Zourkas joined the Niles Police Department four years ago and rose to become one of the department's top auto accident investigators. The Niles Village Board recently honored Zourkas at their March 22, 2005, meeting for helping to solve a burglary.

Friends and colleagues said they will remember Mr. Zourkas for his tremendous personality and utmost dedication to his job. Mr. Zourkas died after losing control of his police car to avoid hitting a pedestrian. Mr. Zourkas saved a man's life but in the process lost his own. Mr. Zourkas is believed to be the first Niles police officer to die in the line of duty.

Mr. Speaker and Colleagues, please join me in honor, gratitude and remembrance of Mr. Steven Zourkas. As a police officer, Mr. Zourkas dedicated his professional life to the safety of his officers and the security and safety of the entire Village of Niles. I extend my deepest condolences to his beloved wife, Ivy; his beloved sons, Andrew and John; his beloved parents, Anthony and Elaine Zourkas; his beloved brothers, Anthony and George; and also to his extended family and many friends. His courage and kindness will live on forever within the hearts and memories of his family, friends, and the public he so faithfully served.

I commend my Colleagues' attention to the article remembering Mr. Zourkas, which was published in the Niles Journal on April 13, 2005.

[From the Niles Journal, Apr. 13. 2005]

"HE'LL BE SORELY MISSED"—NILES POLICE REMEMBER FIRST OFFICER TO DIE IN LINE OF DUTY

(By Michael Sebastian)

During a damp and cool Tuesday morning more than 250 squad cars from various Illinois police departments followed a somber procession through Niles to Elmwood Cemetery in River Grove where the first Village of Niles police officer to die in the line of duty was laid to rest.

Niles police Officer Steven Zourkas, 33, was killed early last Friday (Apr. 8) while traveling in his squad car west along Golf Road. Zourkas was heading to a disturbance call that was reportedly between a cab driver and passenger at Omega Restaurant, 9100 W. Golf Rd., when he lost control of his squad car and crossed over into the east bound lanes of traffic on Golf Road. The car slid to a violent halt in the Highland Towers condominium parking lot after it turned over on its passenger side and struck two parked cars. The accident, which occurred in the 8800 block of Golf Road, snarled traffic last Friday morning for hours. Emergency workers crowded the scene as radio and television news helicopters hovered above.

Officials said Officer Zourkas died at the scene from injuries associated with the accident. He was 33 years old and a member of the Niles Police Dept. for the past four years. He is survived by his wife and a five month old son. Officials would only say Zourkas was from a "far northwest suburb."

As accident investigators from the Cook County Sheriff's office continue to piece the morning's events together, reports have indicated that Zourkas swerved his squad car to avoid a pedestrian who was stepping off the curb on Golf Road as the officer approached. Although this could not be confirmed with police by press time, Niles Mayor Nicholas Blase said this pedestrian came to the Niles Police Dept. last week to tell officials he was the man that stepped from the curb.

Niles police Sgt. James Elenz noted last week that Zourkas was among the department's top auto accident investigators.

Flags have flown at half staff in Niles since the tragic accident occurred last Friday. Black and purple cloth is draped over the entrance to the Niles Police Station, at Touhy and Milwaukee Avenues, in honor of Zourkas. Niles police personnel are also wearing black armbands in memory of their fallen member.

Friday's accident marks the first time in Village of Niles history that a police officer died in the line of duty. Village Manager Mary Kay Morrissey said social workers and grief counselors have been available to help those mourning Zourkas' death. Members of the second and third shifts have shuffled their schedules so the officers who worked with Zourkas during the first shift, which lasts into the morning's wee hours, can begin coping with the loss. According to Blase, a female officer at the department is continuing to help Zourkas' wife as she mourns the loss of her husband.

"He was one of those very well liked policeman—exceptionally so," Mayor Blase said.

Members of the police department are describing Zourkas as man with a tremendous personality who was very dedicated to his job.

"Everyone liked him," Blase said about Zourkas. "He was a very able guy and because of that the tragedy intensifies.

"So many people are grieving.

"He'll be sorely missed."

The funeral held Tuesday was an appropriate send-off for Zourkas, said Niles fire Deputy Chief Barry Mueller, who, along with numerous others from the village, attended the ceremonies. Two fire engines from Elmwood Park crossed their ladders at the entrance of the cemetery in River Grove. A large American flag was draped from the ladders. Later, about 25 bagpipers played, Mueller said.

Village Manager Mary Kay Morrissey said being part of the enormous line of mourners driving from the funeral mass to the cemetery was unlike anything she'd ever seen before. Squad cars with their lights activated stretched as far as most in the procession line could see. Blase estimated that at least one hundred Illinois police departments, probably more, were represented during the funeral. Some downstate communities sent representatives to the ceremony, he said.

Streets in each community the funeral procession passed were blocked by various police departments, officials said. Even ramps leading to and from I–90 were blocked to make way for the mourners.

Morrissey praised the Niles Police Dept. for organizing the funeral during this difficult time. "There's certain protocol you follow when someone is killed in action," Morrissey explained. "I'm very proud of the way the police came together."

Visitation took place at Colonial Wojciechowski Funeral Home, 8025 W. Golf Rd., on Monday (Apr. 11). Tuesday the line of mourners proceeded from the funeral home to St. Isaac Jogues Church at 8149 Golf Road for a funeral mass. Various lanes of traffic on Golf Road were blocked-off Tuesday from about Washington Avenue to Milwaukee Avenue, according to Morrissey. Streets leading into Golf Road were also closed, officials said.

The funeral procession traveled from St. Isaac Jogues south along Milwaukee Avenue to Touhy Avenue so Zourkas could once more pass the Niles Police Dept. The car then drove along Touhy Avenue to Cumberland then south to Belmont Avenue and the cemetery.

HONORING THE CONTRIBUTIONS OF HULDA KERCHEVILLE

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the public service of Hulda Kercheville of Hernandez Intermediate School.

Hulda Kercheville grew up in Martindale, Texas. As the eldest of six children, she spent much of her youth helping her parents care for her of siblings.

Mrs. Kercheville has chosen to lead a life filled with good examples for our children. She is no stranger to hard work, having served as both an educator and a former Hays County Constable.

Hulda Kercheville has taught our kids for the last thirty-five years. She is retiring from Hernandez Intermediate School, and receiving the honorary distinction of Teacher of the Year.

Hulda Kercheville survives her husband Jack Kercheville. Her four children: Michael, Cheryl, Mary, and Jaclyn, now have children and grandchildren of their own.

It is an honor to recognize the hard work and dedication of Hulda Kercheville. Her passion for the education of our students has inspired generations of Texans.

HONORING SUPER BOWL XXXIX'S MOST VALUABLE PLAYER, DEION BRANCH

HON. SANFORD D. BISHOP

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. BISHOP of Georgia. Mr. Speaker, it is an honor for me to rise in recognition of an outstanding athlete and a beloved Georgian, Mr. Deion Branch, Super Bowl XXXIX's Most Valuable Player. Earlier this year we recognized the New England Patriots when they won Super Bowl XXXIX, their third Super Bowl victory in four years. Only one other team has ever won the Lombardi Trophy so many times in so few years, yet no other receiver in history has put together back-to-back performances like Deion Branch.

In Super Bowl XXXVIII, which the Patriots won 32–29 over the Carolina Panthers, Deion Branch caught 10 passes for 143 yards, including the game's first touchdown and the catch that set up the Patriot's winning field goal. He should have won MVP then, but this year he bested even himself, tying the Super Bowl record with 11 catches for a total of 133 yards.

From the days when he was deemed too small for middle school football, to his years on the Monroe High School team, to the University of Louisville, to his historic career in professional football, Deion Branch has made up for what he lacks in size with a spirit and a talent that defines him as one of the best to ever play the game.

This Saturday, April 23, 2005, we will be observing "Deion Branch Day" in the City of Albany, with all of the pomp and circumstance due our hometown hero. But here in these hallowed walls, I rise on behalf of the city of Albany, Georgia, the 2nd Congressional District and football fans everywhere to recognize his outstanding achievement and to wish him continued success in his already remarkable career.

HONORING THE CONTRIBUTIONS OF MARY ANNE GUERRERO KOLB, CROCKETT ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Mary Anne Guerrero Kolb, Crockett Elementary School Teacher of the Year.

Mrs. Kolb graduated from Texas State University in 1974 with a B.S. in education, and in 1981 with a Masters in Education. She has taught kindergarten for the San Marcos Consolidated Independent School District for 30 years, after being handpicked by the administration as a student teacher.

Mrs. Kolb is a dedicated practitioner of bilingual education. She aims to make her students into enthusiastic readers and writers, in both English and Spanish. Her methods have produced consistent results: every year her students meet or exceed the state requirements in math and reading.

In addition to her distinguished career in education, Mrs. Kolb is also a military veteran. She enlisted in the United States Navy after high school, and worked as a dental technician. She is a consistent innovator in education. Mrs. Kolb eagerly applies new computer technology and teaching techniques in her classroom, using new information to reinforce time-tested procedures. She has been recognized for her achievements many times, receiving the 2004 Outstanding Teacher Award from the VFW as well as Teacher of the Year from her own Crockett Elementary School.

Mary Anne Kolb is one of our state's outstanding educators. Her tireless work has contributed to a brighter future for hundreds of Texan children, and her energy serves as an example to us all. I am proud to have the opportunity to recognize her here today.

INTRODUCTION OF THE EMPLOYEE FREE CHOICE ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, the right of working men and women to freely organize and bargain collectively is a fundamental human right. It is a long-time American value, a principle recognized by international agreement, and a standard by which our government measures adherence to democratic principles.

And yet, disregard for the right of free association is rampant right here. In its report entitled, "Unfair Advantage," Human Rights Watch (2000) declared—

> Many workers who try to form and join trade unions to bargain with their employers are spied on, harassed, pressured, threatened, suspended, fired, deported or otherwise victimized in reprisal for their exercise of the right to freedom of association.
>
> Labor law enforcement efforts often fail to deter unlawful conduct. When the law is applied, enervating delays and weak remedies invite continued violations.

This is not a report on human rights abuses in Iran, or Honduras, or China. This subject is the United States of America.

When the National Labor Relations Act was enacted 70 years ago, it represented the hope of millions of Americans who sought to gain the right to bargain with their employer. Today, however, that law has become so weakened and so easily manipulated that it is one of the greatest hindrances to the right of Americans to form and join unions.

Today, I am honored to be joined by the Hon. PETER T. KING and 121 of our colleagues in introducing the Employee Free Choice Act. We commit ourselves to a new effort to strengthen and protect a human right and an American principle: the right of men and women to band together to improve their working conditions.

The Employee Free Choice Act is a bipartisan bill designed to provide a realistic ability for working men and women to form and join unions.

The Employee Free Choice Act provides: A simple, fair, direct method for workers to form unions by signing cards or petitions; three times the amount of lost pay when a worker is fired during an organizing campaign or first-contract negotiations; and impartial mediation or arbitration to resolve disputes over first-time labor contracts.

Employees and the nation benefit from a strong union movement. Median weekly wages of union workers are 28% higher than nonunion workers. Almost 70% of union workers have a guaranteed retirement benefit, five times the likelihood for a nonunion worker. Eighty percent of union workers have health insurance compared to 50% of nonunion workers.

The ten States with the highest percentage of organized workers have higher household incomes, greater medical insurance coverage, higher education spending per pupil, lower violent crime rates, fewer people living in poverty, and a greater electoral participation than the ten States with lowest percentage of organized workers. This issue is not just about human rights—it's about economic security for us all.

Workers should be able to make the decision about union representation without intimidation, indoctrination or misinformation. When we undercut the ability of working men and women to join unions, we are abandoning our own history and ideals, and sending a terrible message to the rest of the world. I commend this legislation to the attention of my colleagues and urge those who yet to do so, to join me in sponsoring this important legislation.

RECOGNIZING EQUAL PAY DAY

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. SOLIS. Mr. Speaker, I rise today to recognize Equal Pay Day. On this day, thousands of advocates across the country will participate in events to bring attention to the continued gender wage gap.

The Equal Pay Act, enacted in 1963, established pay equity for women in the United States. Nonetheless, 40 years after the enactment, women are still paid less than men—despite similar education, skills and experience. In fact, women still only earn 76 cents to each dollar paid to their male counterparts.

Although we have made progress since 1963, women have not yet achieved pay equity. Women, particularly single mothers, continue to face financial burdens, including the cost of rent, groceries and utilities. Compounding this situation is the reality that the wage gap inevitably leaves women with less money for retirement, smaller pensions and will also disproportionately depend on social security.

While working women in California are farther along the road to reaching equal pay in comparison to other states, the gap still exists. In 2000, women in California earned 82 cents as much per hour as men. Regrettably, at this current rate, women in California will not have pay equity until 2044.

Women of color are at an even higher disadvantage than non-minority women. Latinas earn merely 53 cents and African American women earn 65 cents for every dollar that men earn. We must recognize workplace discrimination and barriers faced by women of color across the country.

The wage gap between men and women is unacceptable. That is why I strongly support the "Paycheck Fairness Act," introduced by Representative DELAURO. This bill will take the necessary steps to eliminate gender-based wage discrimination and ensure that women will finally earn what men earn for doing the same job. I urge Congress to pass this bill and end wage discrimination for all women.

HONORING THE CONTRIBUTIONS OF ROSALINDA DE LA ROSA, BONHAM EARLY CHILDHOOD CENTER TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize Teacher of the Year Rosalinda De La Rosa for her countless contributions to the children of the Bonham Early Childhood Center.

Mrs. De La Rosa began her career at Bonham by teaching Pre-Kindergarten Bilingual Education. She has now taught at Bonham for 2 years. She has a Bachelor of Science in Elementary Education from Texas State University and she is certified in Early Childhood Education and Bilingual Education.

Mrs. De La Rosa is a teacher who loves to shape and mold the minds of her students. She helps them understand that school is a safe and wonderful environment and encourages them to learn everything that they can. She teaches them that even though they may be young they are important to the class, and she helps them understand about classrooms and rules.

Her goal as a teacher is to make every day an enjoyable day by letting her preschoolers know that she cares about them and that she is there to listen to their concerns.

Mr. Speaker, I am proud to have Mrs. De La Rosa teaching the students of my district and I am honored to have had the chance to recognize her today.

HONORING THE 70TH ANNIVERSARY OF THE WOODBURY LIONS CLUB

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. GORDON. Mr. Speaker, I rise today to honor the 70th anniversary of the Woodbury Lions Club. The Lions Club motto is "We Serve," and for 70 years, the Woodbury Lions have been serving Cannon County well.

The Woodbury Lions Club has grown significantly from its humble beginnings in 1935 when Minor Bragg first explained Lionism to a group of men in Lee Baker's Drug Store. Weeks later, 21 men formed the club in S.D. Wooten's Grocery Store. Now, the club has more than 100 members and meets in Lions Memorial Building.

The Lions may be best known for their outstanding work in providing vision services to the needy. When Helen Keller addressed the Lions Club's 1925 International Convention, she called upon them to become "Knights of the Blind in the crusade against darkness." The Lions answered that call. Today, more than 46,000 clubs worldwide are dedicated to providing vision screening in schools as well as eyeglasses and surgery to those in need.

Lions also are committed to building parks and working with youth in their communities. The Woodbury Lions have built Lions Field and a walking trail to provide residents with more opportunities to enjoy the natural beauty of Cannon County. In addition, the Lions work closely with organizations such as Boy Scouts and 4–H. They also have introduced Lioness and Leo Clubs at local schools to instill the value of service to our future leaders.

Woodbury is a better place because of the wonderful work of the Woodbury Lions Club. I commend the Lions for all they do, and I congratulate them on 70 years of service.

HONORING THE CONTRIBUTIONS OF SHERRI HARRIS STOKES, MILLER JUNIOR HIGH TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the accomplishments of Sherri Harris Stokes, Miller Junior High Teacher of the Year.

Mrs. Stokes has a Bachelor of Science degree in Elementary Education from Texas A&M University. She is certified in kindergarten, mathematics, and gifted and talented education. She has taught mathematics at Miller Junior High for 6 years, and is already producing excellent results.

Mrs. Stokes knows that math can be intimidating for many students, and works constantly in her classroom to make mathematics more accessible, and to help her students build confidence in the subject. She constantly challenges her students and encourages them to try new things, an approach she learned from the mentors who were important in her own development.

She has been heavily involved in helping students grow outside her classroom, as well. She has served for 3 years as the Math Department Chair, 4 years as a National Junior Honors Society Sponsor, and 1 year as a Student Council Sponsor. She strives to make a personal connection with students, continuing to check on their progress as they move forward into high school.

Teachers of math are enormously important for getting our children ready for the jobs of the 21st century, and Mrs. Stokes has worked unfailingly toward that goal. Her commitment to education and to her students is laudable, and I am proud to have had the chance to recognize her here today.

SENATE—*Wednesday, April 20, 2005*

The Senate met at 9:31 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who redeems our lives and snatches us from the powers of death, help us to see that in spite of our best plans for today, Your purposes will prevail. Teach us to submit to Your unstoppable providence, knowing that You desire to prosper us and give us success. Remind us that when we help those on life's margins, we lend to You.

Accompany our lawmakers today in their challenging work. Give them the security of Your spirit, as You protect them from harm. Shine the warmth of Your presence upon them during their moments of uncertainty. Answer them from Your holy heaven, and rescue them by Your great might. We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The bill clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 20, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

SCHEDULE

Mr. McCONNELL. Mr. President, today, following a 1-hour period for morning business, we will resume consideration of the emergency supplemental appropriations bill. Yesterday, the Senate invoked cloture with a unanimous vote of 100 to 0. I hope that the vote is an indication that the Senate is prepared to finish this bill in short order. There are a number of pending germane amendments to the bill. We hope that not all of these will require votes; however, Senators should expect a busy day as we try to wrap up our business on this emergency funding bill. At this particular time, we do not have a set time for the first vote, and Senators will be notified when that vote is scheduled. Again, I would anticipate a late evening as we continue to try to complete our work on this bill.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee, the second half of the time under the control of the majority leader or his designee.

Who seeks time?

The Senator from North Dakota.

DRU'S LAW

Mr. DORGAN. Mr. President, last week I introduced legislation in the Senate dealing with a critically important subject. I am proud to say that the Senator from Pennsylvania, ARLEN SPECTER, joined me as cosponsor of this legislation. It deals particularly with the murder of young women in this country by sexual predators.

We all know the story recently about the murder of Jessica Lunsford. Jessica Lunsford was a 9-year-old young girl abducted in February from the bedroom of her home in Florida. Her body was found a month later. The crime was allegedly committed by a 46-year-old convicted sex offender with a 30-year criminal history.

More recently, we all remember the April 9 abduction of Sarah Michelle Lunde from her family's mobile home south of Tampa, FL. A convicted sex offender who had once had a relationship with the girl's mother has now confessed to killing her.

In March, Jetseta Gage of Cedar Rapids, IA, was abducted, sexually assaulted, and murdered. A convicted sex offender on Iowa's sex offender registry was charged with that crime and arrested for that crime.

In August of last year, a 6-year-old Nebraska girl whose name has been withheld was sexually assaulted by a 39-year-old convicted sex offender.

We all remember the case of Polly Klaas, the 12-year-old who was kidnapped and murdered by a previously diagnosed sex offender.

There was a young woman in my State named Dru Sjodin who was murdered in late 2003. Walking out of the shopping center into a parking lot about 5 in the afternoon, she apparently was abducted by a formerly convicted sex offender who has now been charged with this crime.

Dru Sjodin was a wonderful young woman. She was, as has been the case with these other circumstances, the innocent victim of a sex offender. Alfonso Rodriguez has been charged in her case. Alfonso Rodriguez served 23 years in prison as a violent sexual predator. He was deemed by prison officials to be a high-risk offender who would reoffend when released. He was nonetheless released from prison, and within 6 months he allegedly murdered Dru Sjodin.

I have introduced a law called "Dru's Law." It is supported by Mr. Lunsford, Mr. Klaas, and so many other families who have been visited by these tragedies.

Dru's Law does three things. First, it says there should be a national registry of convicted sex offenders. There is not one now. There are State registries but not a national registry. Many Americans live near a State border. If they check their State registry of who the violent sex offenders are in their region, they will find out who is in their State but not who is 5 or 20 miles away across the border. There should be a national registry of convicted sex offenders. No. 1.

No. 2, if a high-risk sex offender is about to be released from prison and if that person is deemed to be at high risk for committing another violent offense, the local State's attorneys must be notified that this high-risk sex offender is about to be released so they can seek further civil commitment if they believe it appropriate.

No. 3, if, in fact, a high-risk sex offender is released from prison and there is no further civil commitment, there must be monitoring of that sex offender upon release. There cannot be at the prison door a wave and say: So long, you served your 23 years, have a good life. There must be high-level monitoring.

It is unbelievable to me that we know the names of these people who are committing these murders because they have been behind bars and they are released despite the fact that psychiatrists, psychologists, and others judge them to be at high risk for reoffending. I don't want to see the list of victims, which includes Dru Sjodin, Polly Klaas, Jessica Lunsford, and Sarah Lunde, get longer. We can do something about this. We can pass this legislation.

Incidentally, this legislation which I reintroduced now with ARLEN SPECTER was passed by unanimous consent last year. We did not get it through the House, but I have now reintroduced it. I am going to try again, and I hope this time that this legislation gets to the President's desk for signature. It is long past the time that we do what is necessary to save lives. We ought not any longer accept the status quo. Violent sexual predators need to be identified, need to be on a national registry, and need to be either recommitted, if they are at high risk for reoffending, or there needs to be high-level monitoring when they are released. That is simply the case.

How much time have I consumed?

The ACTING PRESIDENT pro tempore. The Senator from North Dakota has consumed 6 minutes.

NUCLEAR OPTION

Mr. DORGAN. Mr. President, on another subject, this morning I read some very troubling comments by a member of the House leadership, on the subject of judges. I normally would not comment about remarks made by a member of the House, but we face in the Senate the prospect of what some are calling the nuclear option. This relates to an attempt by an arrogant majority to violate the rules of the Senate, in order to change the rules with respect to the confirmation of judicial nominations. Because of the real possibility that this so-called nuclear option will be exercised, I wish to react to some of these things that have been said about judges.

Judges serve for a lifetime. There are two steps to put a judge on the bench for a lifetime. One, the President must nominate. Second, the Senate advises and consents. In other words, the Senate decides whether it agrees a judge is fit for service for a lifetime.

It is not unusual for the Senate to decide that a judicial nominee by a President should not go forward. In fact, that happened to America's first President, George Washington. He lost one of his judicial nominations.

The Senate has approved 205 out of 215 Federal judicial nominations sent to us by President Bush. Because we have only approved 205 out of 215, which is 95 percent-plus, because there are a few who we have selected who we would not want to confirm, there are those who speak of changing the Senate rules, and to do so by violating the Senate rules. That is called the nuclear option.

What is the origin of all of this? Some of it has been described in stark terms by colleagues in the Congress. It is that they would like to define what good behavior means for judges. They do not agree with some judicial rulings, so they want to impeach Supreme Court Justices.

They must have missed that course in high school and college that talked about checks and balances, as well as the course that talked about separation of powers. Some in the Congress believe the judiciary ought to report to them and believe America's judiciary ought to conform to their interests, to their notions, of how to read our Constitution.

It reminds me again that there is a very big difference between an open mind and an empty head when I hear people talking about how we must find ways to get the Federal judiciary to bend to the will of the Congress. That is exactly what our Framers did not intend to have happen.

Let me say again, we have confirmed 205 of 215 requested lifetime appointments to the Federal bench offered to us by this President. That is an incredibly good record. But because 10 have not been confirmed—because this Congress has decided not to be a rubberstamp for lifetime appointments on the Federal bench—we have some who have decided they want to break the Senate rules in order to change the Senate rules. I read in today's papers we have others who are deciding they would like to take a crack at impeaching Federal judges and bend the Federal judiciary to the will of the majority here in the Congress.

I think it is arrogant and I think it is dangerous and I think most of the American people would believe the same.

I hope, as we proceed in the coming days, there will be some sober reflection among those who understand the roles of those in this institution and the judiciary, who understand the separation of powers, and who understand checks and balances. If that is the case, those who now talk about the so-called nuclear option will rethink their position.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

THE ENERGY BILL

Mr. KERRY. Mr. President, once again, today, President Bush is going to talk about the rising cost of gas and how it is hurting Americans at the pump. He is going to talk again about our dangerous dependence on foreign oil.

Last weekend, President Bush used his radio address to urge Americans to support his energy legislation. He said, and I quote him:

> American families and small businesses across the country are feeling the pinch from rising gas prices.

President Bush is right. The fact is American families are struggling. But unfortunately he is wrong about his support of the energy bill and his approach. The issue is not that the President doesn't understand the problem; it is that he does not have a real solution. He has not proposed the kinds of steps that are staring us in the face, available to us to be able to put together a real energy policy for the country. The energy plan he continues to campaign for will, in fact, make the United States more dependent on foreign oil, it will keep gas prices at record highs instead of making them affordable for consumers, and it will make our air and our water more polluted instead of investing in a cleaner future. These are pretty stark choices. Each and every one of them, on examination, is proven in the ways in which this administration has moved backwards on enforcement, backwards with respect to its commitment to a major independent energy policy for the Nation.

What we need to do is provide the Nation with sound solutions that are going to create jobs, instill a greater confidence in our relationships with other countries, and begin to move away from that dependency and to excite the economy through the creation of those kinds of jobs and the commitment to new technologies and to the research and development to create them.

The crisis, as it is currently unfolding, affects our economy. It is a drag on the economy, a drag on growth, a drag on our security, and it is obviously harming our environment.

The status quo energy policies the President is promoting are also hurting consumers at the pump, and no amount of taxpayer-funded, campaign-style events are going to cover up this reality because the evidence is plain for everybody to see at gas stations all across the country. People are now paying an average of $2.28 a gallon at the pump. That is up 6 cents in the last week and over 50 cents in the last year.

All of this has been predictable. The rise of demand in China and the rise of demand in less-developed nations has been there for every economist to lay out over the course of the last years. Notwithstanding the rise in demand and the competition for available oil resources, the United States continues down the same old road. All of the hype about the Arctic Wildlife Refuge or other sources is never going to make up for the reality of how much of the oil reserves are actually available to the United States versus that increasing demand curve.

For the fourth week in a row, gas prices are at an all-time high. They have now increased a staggering 56 percent since 2001. A recent Gallup survey revealed that 44 percent of Americans believe it is extremely important for Congress and the President to address gas prices. But you only need to look at the legislation that is promoted by the President, and set to be voted on in the House this week, to see that, yet again, Washington is turning its back on common sense and turning its back on the best interests of the American people.

Under this administration, higher gas prices cost American consumers an extra $34 billion. If the House passes this bill, the Senate passes it, and the President signs it, it will cost the American consumer $34 billion. Airlines, truckers, and farmers spent an extra $20 billion last year alone. That is a regressive energy tax on the backs of working Americans.

But the administration's friends got off a lot easier than the average American. This energy bill is going to make their load even lighter. While American workers and families were struggling, oil companies earned record profits in the fourth quarter of 2004: ExxonMobil, up 218 percent, ConocoPhillips, up 145 percent; Shell, up 51 percent; ChevronTexaco, up 39 percent; and BP, up 35 percent.

Show me the American worker whose income has gone up by several percentage points, let alone double digits. Show me the American worker whose income has risen so they can keep up with the higher cost of fuel.

What is the President proposing to do about this? Well, 95 percent of the tax benefits included in the President's bill, the bill he supports, more than $8 billion, goes directly into the pockets of big oil and gas companies. At a time when oil prices are at historic highs, our energy policy ought to be aimed at investing in new and renewable sources of energy, not providing another big giveaway to special interests, particularly to the big oil and gas companies that have had these remarkable increases in their profits over the course of the last year.

Simply put, what is good for the administration's contributors has not been good for our economy. Federal Reserve Chairman Alan Greenspan has said:

> Markets for oil and natural gas have been subject to a degree of strain over the past year not experienced for a generation.

The Chairman of the President's own Council of Economic Advisors has admitted:

> High energy prices are now a drag on our economy.

But the problem goes even deeper. The administration's failure to propose a real energy policy also threatens our national security. We are more dependent on foreign oil than ever before, forcing us into risky and even compromising political entanglements with nations that we rely on for the fuel oil. America will never be fully secure until we free ourselves from the noose of foreign oil.

Unfortunately, the so-called energy plan of the administration does nothing, nothing to reduce our dependency on foreign oil. Don't take my word for it. The President's own economists found that oil imports will actually increase 85 percent by 2025 under a proposal such as we see at this point. The President's economists also found that "changes to production, consumption, imports, and prices are negligible."

You don't have to be an expert on oil or on energy policy to understand the basics of where we find ourselves. All you have to do is be able to count. The United States of America only has 3 percent of the world's oil reserves. That is all God gave us, 3 percent. Saudi Arabia has 65 percent of the world's oil reserves. There is no possible way, with the current population growth, the current increase in demand for oil, the current increases in other countries, no possible way for the United States to drill its way to energy independence. We have to invent our way to it.

But the President's energy policy is completely lacking in the major commitment necessary. There are token commitments, yes, but not the major commitment you need in order to spur the investment strategies, in order to spur the research and development and the fast transition in the marketplace we need to provide for the alternative energy sources the country ought to demand.

The President's energy bill is not even a real Band-Aid on the energy crisis that threatens our economy and challenges our national security. What it does do for sure is fatten the coffers of big energy companies.

There is a reason Senator McCain called the energy bill the No Lobbyist Left Behind Act.

What kind of message do these policies send? If your profits go up, your subsidies go up. If the policy makes us more dependent on foreign oil, it makes the status quo even worse.

What we ought to be doing is something profoundly better than this, and we know we could. Energy policy gives us a rare opportunity to address a whole series of challenges at the same time. If we end our dependence on foreign oil and move in that direction, then we begin to strengthen our national security, and we become more independent and more capable of making choices that are less founded in that dependency. If we lead the world in inventing new energy technologies, we create thousands of high-paying jobs in the United States, and we create products we can export and an expertise we can also export at the same time. If we learn to tap clean sources of energy, then we preserve a clean environment, and we reduce the level of environment-induced cancers and other problems we face. If we remove the burden of high gas prices, then American consumers will have more cash in their pockets, more ability to spend elsewhere, and we give our economy the boost it needs.

Unfortunately, the energy bill before the Congress achieves none of these fundamental goals in the way we could and in the way we need to, given the crisis we face. It is laden with handouts to corporate interests. Over the period of the next days, I will lay out further the specifics of those particular linkages and what they mean to us.

We have an opportunity to change the direction of our country, to change our economy and make ourselves more secure and to create jobs. The solutions to our energy crises, all of them, are staring us in the face. The fact is, a number of years ago, back in 1973, when the first oil crisis hit, and then in the latter part of the 1970s, this country did move to try to create a real policy of alternative energy. The result was thousands of small companies started up around solar or wind or alternatives. But then, unfortunately, in the 1980s, the Government pulled back from that commitment and many of those companies were lost and much of that technology shifted and was lost to Japan or to Germany or to other countries. The record of jobs lost versus jobs created and of opportunities lost versus opportunities seized is a clear one. It is long past time we get the politics out of this and put practical, real and, in some cases, visionary solutions on the table so we can strengthen our own economy, strengthen our country, and provide ourselves with alternatives that will make our Nation both healthier and safer at the same time.

I believe we owe the Nation more than staged political events and rhetoric in the effort to move to that future, and I hope we will do so.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL NOMINATIONS

Mr. DURBIN. Mr. President, the saga of the judiciary continues on Capitol Hill. The Constitution of the United States, which we all keep close at hand, makes it clear that there are three independent branches of Government. Each has an important role in the governance of this democracy. And certainly the independence of the judiciary is something we have valued from the beginning of this Nation, for all the time that we have enjoyed this great country. But it is under attack today from the right wing of the Republican Party in a way that we have not seen in quite some time.

It was reported in this morning's paper that House Majority Leader TOM DELAY, Republican of Texas, was interviewed by Tony Snow on Fox NEWS radio. Mr. DELAY said of the judges whom he has been critical of in the past, when asked if he would include any Supreme Court Justices among those he considered activist and isolated, he said Anthony M. Kennedy, who was named to the Court by President Ronald Reagan.

Mr. DELAY said:

> Absolutely. We've got Justice Kennedy writing decisions based upon international law, not the Constitution of the United States. That's just outrageous.

Mr. DELAY went on to say:

> And not only that, but he—

Justice Kennedy—

> said in session that he does his own research on the Internet. That is just incredibly outrageous.

That is a direct quote from TOM DELAY—that a Justice of the Supreme Court who does research on the Internet is one who is a judicial activist.

Has the Internet become the devil's workshop? Is it some infernal machine now that needs to be avoided by all right-thinking Americans? What is Mr. DELAY trying to say as he is stretching to lash out at judges who happen to disagree with his political point of view?

This coming Sunday, this saga will continue at a church in Kentucky with the so-called "Judge or Justice Sunday" sponsored by the Family Research Council. They are arguing that any time we question a nominee from the Bush White House we are attacking people of faith.

I can tell you, of the 205 judicial nominees we have approved of this President—and only 10 have not been approved—many of them were undoubtedly people of faith. I have to say "undoubtedly" because I can't say for certain. Do you know why? Because this Constitution prohibits anyone from asking a person seeking a job with the Federal Government or a position in the Federal Government what their religious faith happens to be. We cannot under the terms of article VI of the Constitution establish any religious test for office.

So now those who support the rejected nominees are saying they were rejected because of their faith.

You see what they are trying to do. They are trying to draw us into a position where we are going to use religion as some sort of weapon in this debate. That is a mistake.

The Constitution, which has carefully separated church and state throughout our history, says to every American that they have a right of conscience to decide what they want to believe. When we start imposing religious tests, as some in the right would have us do, it is a serious mistake.

As Mr. DELAY lashes out at Supreme Court Justices and others for their outrageous conduct in "doing research on the Internet," and we see these rallies that are attacking those who are upholding Senate rules and traditions of over 200 years based on some flawed interpretation of our Constitution, we understand it is time for Americans who really want to see moderate and balanced and fair judges to speak out.

We have to have the process where the rules are respected, where we have checks and balances in our Government, and where people seeking lifetime appointments must demonstrate not only honesty and competency but the fact that they are in tune with the values and the needs of the American people. Unfortunately, in the case of 10 judges, many of us believe the nominees sent by the White House do not meet that test.

Mr. President, 95 percent of President Bush's nominees have been approved. That is not enough for some, but I think it reflects the fact that the Senate has a constitutional responsibility to look closely at each nominee and decide whether they are worthy of this lifetime appointment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

CONSTITUTIONAL CONFLICT

Mr. CRAIG. Mr. President, is it a religious test? Is it an environmental test? Is it a right-to-life test? Is it a racial test? No. Now we say it is TOM DELAY's test.

If it weren't so deadly serious, it would be laughably humorous.

But the other side has reduced what is a tremendously important constitutional responsibility of this Senate into a political game.

From the very outset, when the Bush administration came to town, telegraphed across the Nation was a very clear message by our colleagues from the other side. Inside their internal party politics and beyond, it was all about politics and who they would reject, or who they would disallow the right to have a vote on the floor of the Senate when nominated by this President—if that nominee made it through the Judiciary Committee—whether they would be allowed to became a sitting judge in one of the courts of the United States for which the President, the Congress, and the Senate are responsible.

Religious test, environmental test, a right-to-life test, a racial test, now a TOM DELAY test. Doesn't the other side have anything to talk about nowadays? Don't they have a policy they can take to the American people that will grasp the majority of the American people's minds or is it simply targeting around the edges?

It is deadly serious, and it is not humorous at all.

I rise today to discuss what is a most important constitutional conflict that has developed here in the Senate, and the response that I believe the Senate must act clearly and profoundly on this issue.

In the time that I have been in public office, I have watched the Congress and participated in the Congress in conflicts that some would call historic by nature—an impeachment, a contested election, a midsession shift of party control of the Senate, just to name a few.

But no issue, in my opinion, has threatened to alter the fundamental architecture of Government in the way that it is now being threatened today by the conflict over judicial nominees.

Some of our colleagues have attempted to downplay the importance of the issue. I think that is what you heard this morning—a reduction of the issue to a debate about TOM DELAY's wisdom or a quote about the Internet. This is a lot more important than any one individual, including TOM DELAY.

This is really about the Constitution of the United States. They have attempted to call it, Well, it is "just business as usual" to oppose nominees. They have tried to portray it as insignificant in terms of the number of judges. You just heard that a few moments ago about their selective filibuster. They say that is fair and full in the process.

They have characterized it as a simple political struggle between the parties. Well, it is political, but it is constitutional.

In reality, this issue has the potential of altering the balance of power established by the Constitution between our two branches of Government.

I say this because the Constitution gives the Senate a role in Presidential appointments—the ability to accept or reject an appointment—and when a filibuster stops the Senate from taking that vote, it is frustrating the ability of all Senators to fulfill their constitutional duty, to exercise their fundamental constitutional power and participate in the essential function of the executive.

A filibuster doesn't just prevent the Senate from acting, it also stops a nominee in midprocess without a final decision as to whether a nominee is confirmed or rejected, in essence giving the minority of Senators the power to prevent the executive branch from performing its constitutional duty.

That is exactly what we have seen by design, by intent, and without question by votes.

Let me talk about a candidate specifically. Let me talk about my own home State of Idaho and the President's nominee to the Ninth Circuit, Bill Myers.

Bill has had a distinguished career as an attorney, particularly in the area of natural resources and the public land laws of our country where he is nationally recognized by both sides as an expert. These are issues of particular importance to public land States in the West, such as Idaho, represented in the Ninth Circuit.

These issues aren't just professional business to him. In his private life, he has also long been an outdoorsman, and he has spent a significant amount of time volunteering for the National Park Service.

Bill Myers is a public lands man. He loves it, he enjoys it, and he has participated in it. He came to this Senate to work for a former Senator, Allen Simpson, Deputy General Counsel at the Department of Energy, and Assistant to the Attorney General of the United States. The Senate confirmed him by unanimous consent as the Solicitor to the Department of the Interior in 2001.

The entire Idaho delegation supports him.

So what is wrong with Bill Myers? Is it a partisan issue? No. Democrat Governor of Idaho, Cecil Andrus, Secretary of the Interior for President Carter, said Bill Myers is a man of great "personal integrity, judicial temperament, and legal experience," as well as he has "the ability to act fairly on matters of law that will come before him on the court." Democratic Governor from Wyoming, Mike Sullivan, said the same thing.

So what is wrong with Bill Myers? Why, when last year the Senate Judiciary Committee voted him out, to send him to the Senate floor, did he never get a vote? Why was he refused a vote and filibustered?

Let me tell you why. I know it firsthand. I served on the Judiciary Committee. I watched the vote. And the day the Senate Judiciary Committee voted him to the floor of the Senate, a senior member from the other side of that committee walked out with me and said: You know, LARRY, your nominee is not going to get a vote on the floor.

They had planned it well in advance. They had picked Bill Myers like they have picked other judicial nominees for their political pawn. The conversation went on, but it was private and I don't divulge it.

But I will say this: From the conversation, I understood very clearly why Bill Myers would not get a vote and why they would filibuster him. It was just prior to the election, a very important election, a Presidential election. They had already picked the candidate they could argue had racial undertones. They had already picked the candidate they believed might be pro-life. They had already picked other candidates who didn't fit their political demographics. They picked Bill Myers because of his environmental record, and they told me so.

Is that picking a person because of their talent, because of their experience, because of their judicial temperament, or is it simply playing what I call the "nominee process of political roulette"? Pick the candidate who serves your political purpose and prove to your constituent base that you are out there for them.

If that is what the nominating process has reduced itself to, then we are not only in a constitutional crisis—we are without question in a political constitutional crisis. No. What we do is important in the Senate. We affect the lives of all Americans in one way or another. But we have a constitutional responsibility when it comes to judges who are nominated by our President who are sent forth by the Judiciary Committee of this Senate once fully vetted and interviewed and questioned.

Once the majority of that committee has spoken, and that nominee comes to the floor of the Senate, I firmly believe that nominee deserves an up-or-down vote. That is the history of the Senate. That is the responsibility of advice and consent. That is what this Senate has done down through the decades.

But not now. Not in the politics of the other side. It does not serve their purpose anymore. So they have reduced it to the rhetoric of saying this is normal; this is usual; this is the politics of the day. Those Republicans are being terribly political at this moment.

I don't agree with that. I have watched this much too long. It is now time the Senate act to establish once again our constitutional role in the advice and consent with the executive branch of Government.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I rise today to urge our leadership and the rest of my colleagues in the Senate to preserve the significance of our responsibility, enumerated in the Constitution, and to work together to address the judicial crisis that threatens to severely damage our system.

As Members of the Senate, we each bring our own unique background and experience to this institution. And our progress as a body often requires us to make difficult decisions as individuals. While our individual positions on various issues will certainly differ, we must stand together to repair the judicial confirmation process in this body.

Several judicial vacancies have been lingering in our courts for years, causing many jurisdictions, including one in my home State of North Carolina, to be declared "judicial emergencies." It is our responsibility as Senators to respond to these judicial emergencies with action and determination.

It is inexcusable that we allow judicial vacancies to linger for 6 years or, in some cases, longer. Such is the case for the people of my State in the Eastern District of North Carolina. The North Carolina Eastern District post is the longest district court vacancy in the Nation—a seat vacant since 1997. In 1999, the administrative office of the courts declared the district a "judicial emergency" and it has been categorized this way for the last 6 years.

In North Carolina we face challenges on the appellate level as well. There are 15 circuit court judgeships in the Fourth Circuit but only one of these is occupied by a North Carolina judge. North Carolina is significantly underrepresented at the circuit court level. A great deal of this can, of course, be attributed to the political nature of the debate surrounding nominations to the Fourth Circuit. All North Carolinians deserve another voice on the Fourth Circuit.

Judge Boyle, currently serving as a District Court judge for the Eastern District of North Carolina, was nominated in May, 2001, by the President to serve on the Fourth Circuit Court of Appeals. The American Bar Association has unanimously rated Judge Boyle as "well-qualified," and has stated he would make an outstanding appellate judge.

The act of merely considering Judge Boyle's nomination should not be a political issue for this distinguished body. Unfortunately, over the past few years it has become one. Before the 108th Congress, when Judge Boyle was first nominated, no judicial nomination which had a clear majority of Senators supporting the nomination was ever prevented from receiving an up-or-down vote. This current judicial confirmation situation is unprecedented.

We should put aside the grievances that have prevented the consideration of judges through the past three Presidential administrations and work together to find a solution. As Senators we must face this crisis with optimism and confidence. Working together we must address this situation directly because I believe that our constituents do not hope for, nor do they expect, inaction from us on such an important part of our system of government. Partisan bickering or avoidance of our procedural challenges is not a responsible course of action.

Let me be clear. I believe if one of my colleagues objects to a particular judicial nominee, it is certainly appropriate and fair for my colleague to vote against that nominee on the Senate floor. But denying these patriotic Americans, of both parties, who seek to serve this country an up-or-down vote is simply not fair, and it certainly was not the intention of our Founding Fathers when they designed and created this very institution.

As our country plants the seeds of democracy across the world, we have the essential obligation to continue to operate as the model. The integrity of the judicial system is vital and will certainly suffer as a result of inaction. Maintaining our Nation's long-standing distinction requires that its legislature act to ensure harmony and balance among its citizens and its branches of government.

We need to fix this broken process. We need to end the judicial crisis. And we need to vote on our judges.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. There is approximately 14 minutes remaining.

Mr. HATCH. I ask unanimous consent I be permitted to finish my statement if it goes a little bit longer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, in Lewis Carroll's book "Through the Looking Glass," Humpty Dumpty has a famous exchange with Alice in which he says:

> When I use a word it means just what I choose it to mean—neither more nor less.

Many partisans in the debate over judicial nominations or appointments in the Senate and among interest groups, particularly, have the same attitude. Let me offer two examples. One is, they play games with the word "filibuster." The current filibusters against judicial nominations have four features: First, they involve defeating attempts to end debate such as defeating a motion to invoke cloture under rule XXII; second, they target nominations with clear bipartisan majority support that would be approved if there were a confirmation vote; three, they are not about debating these nominations but about defeating them; and fourth, these filibusters are completely partisan, organized, and driven by party leaders.

For 2 years, Democrats have claimed these filibusters are nothing new, that they happened before the 108th Congress. Last Friday, the distinguished assistant minority leader Senator DURBIN offered his evidence. He printed in the RECORD a document titled "History of Filibusters and Judges." It was a list of 12 judicial nominations which it said "needed 60 (or more) votes—cloture—in order to end a filibuster."

Yet these are filibusters only if, as Humpty Dumpty put it, the word filibuster means whatever you choose it to mean.

Listed first is the 1881 nomination of Stanley Matthews to the Supreme Court. President Rutherford B. Hayes nominated Matthews shortly before leaving office and the Judiciary Committee postponed consideration. Hayes' successor, President James Garfield, renominated Matthews on March 14, 1881, and the Senate confirmed him on May 12. That is hardly a filibuster, yet that is the big news. They have looked so hard to try to find some justification for the inappropriate actions they have taken in the Senate.

Two days ago, Senator NELSON of Florida repeated Senator DURBIN's claim that this was the first judicial nomination filibuster in American history. That claim also appears on the Web site of the leftwing Alliance for Justice whose president is shopping it around on the talk radio circuit.

This claim is incomprehensible. There was no cloture vote on the Matthews nomination for a very simple reason: Our cloture rule would not exist, would not even come into existence, for another 36 years. Nor were 60 votes needed even for confirmation since the Senate contained only 76 Members.

If, as Senator DURBIN apparently urges, we today use the Matthews nomination as a model, we would debate judicial nominations, including those resubmitted after a Presidential election, and then vote them up or down because that is what happened in the Matthews case they used as an example of a filibuster. Humpty Dumpty would be proud of them.

The other nominations on Senator DURBIN's list fare no better. Appeals court nominees Rosemary Barkett and Daniel Manion are on the filibuster list even though we did not take a cloture vote on them. Both of them were confirmed and currently sit on the bench.

Eight others, including Republican nominee Edward Carnes and Democratic nominee Stephen Breyer, are on the list even though the Senate voted to invoke cloture on their nominations. The purpose was to get to the vote up and down.

Abe Fortas is on the list even though his nomination was withdrawn after a failed cloture vote showed he did not have majority support and the opposition was solidly bipartisan—almost as many Democrats as there were Republicans. It was not an all-Democrat filibuster such as these have been.

Here is the kicker: Eleven of the 112 nominees on Senator DURBIN's filibuster list were confirmed by the Senate—all 11 of them—with 9 of them sitting on the Federal bench today. And as for Fortas, President Lyndon Johnson withdrew his nomination, not because there was a filibuster, because no less an authority than Robert Griffin, former Senator from Michigan, who had a reputation of impeccable honesty, has said that there was no filibuster. They had the votes to defeat Fortas up and down. They wanted 2 more days of debate so they could make the case better, but Fortas was going to be defeated up and down. So there was no filibuster there either.

But even if there were, and even if you could stretch it and say there were, it was a bipartisan filibuster, if you could use the term filibuster, with almost as many Democrats as Republicans voting against Fortas. But I would take Senator Griffin's word on that, a man of impeccable honesty, who said there was no intent to filibuster by any Republican or Democrat on that nomination.

None of these situations bears any resemblance to the filibuster of majority-supported judicial nominations underway today.

Let me put this as clearly as I can. Not taking a cloture vote is no precedent for taking a cloture vote. Ending debate is no precedent for not ending debate. Confirming judicial nominations is no precedent for not confirming judicial nominations. And withdrawing nominations lacking majority support is no precedent for refusing to vote on nominations that have majority support.

The second word they play on is "extremists." Democrats and their leftwing interest group allies tell us they only use the filibuster against what they call extremist nominees. Trying to define this label, however, is like trying to nail Jell-O to a cactus in the Utah desert. Like the Constitution in the hand of an activist judge, it means whatever you want it to mean.

No matter what the word means, this word extremist. Senators who truly believe a judicial nominee is an extremist may vote against him. They have a right to vote against anybody they think is an extremist. But this is no argument for refusing to vote in the first place.

As our colleague Senator KENNEDY said in February, 1998:

> We owe it to Americans across the country to give these nominees a vote. If our . . . colleagues don't like them, vote against them. But give them the vote.

I wonder why the change today? I think he meant that statement back then. Why doesn't he mean it today?

In September, 1999, the Judiciary Committee ranking member Senator LEAHY similarly said our oath of office requires us to vote up or down on judicial nominations. Why the change today? It seems to me he meant it back then.

Priscilla Owen, nominated by President Bush to the U.S. Court of Appeals for the Fifth Circuit, was reelected to the Texas Supreme Court in 2000, with 84 percent of the vote. There was no major party opposition, and the endorsement of every major newspaper in the State of Texas. Yet her opponents on the other side call her an extremist. No fewer than 15 presidents of the State bar of Texas, Democrats and Republicans, strongly endorse her nomination. Yet these opponents call her an extremist.

She has been praised by groups such as the Texas Association of Defense Counsel and Legal Aid of Central Texas. Yet her opponents call her an extremist.

The American Bar Association, often referred to by our friends on the other side as the "gold standard" to determine whether a person can sit on the bench, unanimously gave Justice Owen its highest rating of "well qualified." This means she has outstanding legal ability and breadth of experience, the highest reputation for integrity, and such qualities as compassion, openmindedness, freedom from bias, and commitment to equal justice under law. Yet some of the very Democrats who once said the ABA rating was the gold standard for evaluating judicial nominees now call Justice Owen an extremist.

Another nominee branded an extremist is California Supreme Court Justice Janice Rogers Brown, nominated to the U.S. Court of Appeals for the DC Circuit. She is the daughter of Alabama sharecroppers. She attended segregated schools before receiving her law degree from the University of California at Los Angeles—in other words, UCLA. She has spent a quarter century in public service, serving in all three branches of State government.

Off the bench, she has given speeches in which she expressed certain ideas through vivid images, strong rhetoric, and provocative argument. Yet it is what she does on the bench that matters most, and there she has been an evenhanded, judicious, and impartial justice on the California Supreme Court.

George Washington University law professor Jonathan Turley knows the difference and recently wrote in the Los Angeles Times:

> But however inflammatory her remarks outside the courtroom, Brown's legal opinions show a willingness to vote against conservative views, particularly in criminal cases, when justice demands it.

In recent terms, Justice Brown has written more majority opinions than any of her colleagues on the California Supreme Court. Yet some in this body brand her an extremist. How can that be? Again, Humpty Dumpty would be proud of this type of misuse of words.

A group of California law professors, including Democrats, Republicans, and Independents, wrote to our Judiciary Committee to say that Justice Brown's strongest credential is her openmindedness and thorough appraisal of legal argumentation "even when her personal views conflict with those arguments." Yet some leftwing extremist groups call her an extremist.

A diverse group of her current and former judicial colleagues wrote us that Justice Brown is "a jurist who applies the law without favor, without bias, and with an even hand." It is no wonder that 76 percent of her fellow Californians voted to retain her in her State's highest court. Yet her opponents call her an extremist.

If words mean anything, if we in the Senate really want to have a meaningful and responsible debate about such important things, then we should stop playing games with words such as "filibuster" or "extremist." There is no precedent whatsoever for these partisan, organized filibusters intended to defeat majority supported judicial nominations and, I might add, bipartisan majority supported judicial nominations.

If Senators believe such highly qualified nominees, who know the difference between personal and judicial opinions and are widely praised for their integrity and impartiality, are extremists, then they should vote against them. But these people should be given an opportunity by having an up-and-down vote. Let's have a full and fair debate. Perhaps the critics will win the day against one or more of these nominees. I doubt it. But we must vote. That is what advise and consent means.

Mr. President, as I close, let me return to the 1881 Matthews nomination for a moment, the one they have had to stretch to try to claim was a filibuster.

In the 47th Congress, a Senate equally divided between Republicans and Democrats confirmed Justice Matthews by a single vote. No doubt, some opponents called him many things, perhaps even an extremist. Well, I doubt that because that has not happened until President Bush became President, as far as I can see in the way it has happened here. But we settled the controversy surrounding the Matthews nomination the old-fashioned way—not by filibustering but by debating and voting up and down. There is no question we should return to that standard.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The journal clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's licenses and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Feinstein amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

Salazar amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families.

Reid amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq.

Frist (for Chambliss/Kyl) amendment No. 432, to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers.

Frist (for Craig/Kennedy) modified amendment No. 375, to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers.

DeWine amendment No. 340, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

DeWine amendment No. 342, to appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement.

Schumer amendment No. 451, to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

Reid (for Reed/Chafee) amendment No. 452, to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

Chambliss further modified amendment No. 418, to prohibit the termination of the existing joint-service multiyear procurement contract for C/KC–130J aircraft.

Bingaman amendment No. 483, to increase the appropriation to Federal courts by $5,000,000 to cover increased immigration-related filings in the southwestern United States.

Bingaman (for Grassley) amendment No. 417, to provide emergency funding to the Office of the United States Trade Representative.

Isakson amendment No. 429, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, and to ensure expeditious construction of the San Diego border fence.

Byrd amendment No. 463, to require a quarterly report on audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan and to address irregularities identified in such reports.

Warner amendment No. 499, relative to the aircraft carriers of the Navy.

Sessions amendment No. 456, to provide for accountability in the United Nations Headquarters renovation project.

Boxer/Bingaman amendment No. 444, to appropriate an additional $35,000,000 for Other Procurement, Army, and make the amount available for the fielding of Warlock systems and other field jamming systems.

Lincoln amendment No. 481, to modify the accumulation of leave by members of the National Guard.

Reid (for Durbin) amendment No. 443, to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances.

Reid (for Bayh) amendment No. 388, to appropriate an additional $742,000,000 for Other Procurement, Army, for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

Reid (for Biden) amendment No. 537, to provide funds for the security and stabilization of Iraq and Afghanistan and for other defense-related activities by suspending a portion of the reduction in the highest income tax rate for individual taxpayers.

Reid (for Feingold) amendment No. 459, to extend the termination date of Office of the Special Inspector General for Iraq Reconstruction, expand the duties of the Inspector General, and provide additional funds for the Office.

Ensign amendment No. 487, to provide for additional border patrol agents for the remainder of fiscal year 2005.

Byrd amendment No. 516, to increase funding for border security.

Reid (for Biden) amendment No. 440, to appropriate, with an offset, $6,000,000 for the Defense Health Program for force protection work and medical care at the Vaccine Health Care Centers.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, we made good progress on this legislation yesterday. We considered a number of amendments. We were able to accept some in terms of being able to agree that they be adopted on voice vote. We had some rollcall votes on others. We are pleased that Senators cooperated with our committee. We hope to complete action on this bill today, certainly by tomorrow. But if we move with dispatch to consider the amendments that we know about, it is likely we can finish today, with the cooperation of all Senators. We appreciate that very much.

I know the Senator from Wisconsin, Mr. KOHL, has an amendment relating to PL 480 accounts, and we are prepared to consider that amendment at this time if he wishes to send it to the desk and offer it for the Senate's consideration.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 380

Mr. KOHL. Mr. President, I call up amendment No. 380 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The journal clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUYE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE, proposes an amendment numbered 380.

Mr. KOHL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpopse: To provide supplemental funding for international food assistance)

On page 171, line 2 strike "$150,000,000" and all through line 6 and insert in lieu thereof the following:

"$470,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That of the funds provided under this heading, $12,000,000 shall be available to carry out programs under the Food for Progress Act of 1985: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).".

Mr. KOHL. Mr. President, this amendment increases funding for Public Law 480 Title II to provide food assistance to people around the world where the need is urgent. Senator DEWINE joins me as a cosponsor of this amendment. I also announce that the amendment is cosponsored by Senators HARKIN, DURBIN, LEAHY, MIKULSKI, INOUYE, LANDRIEU, MURRAY, DORGAN, COLEMAN, OBAMA, and CORZINE.

I also ask unanimous consent to add Senators JOHNSON, ROBERTS, DOLE, LUGAR, BINGAMAN, SARBANES, NELSON OF NEBRASKA, and HAGEL as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Our amendment increases the food aid amount by $320 million for a total of $470 million. This is not an arbitrary figure but, rather, was designed to meet three definite objectives.

First, our amendment is crafted to meet the U.S. share of emergency food aid assistance needs that have already been identified for fiscal year 2005.

Second, it restores funds for food aid development programs that are vital to end the cycle of starvation in the world's poorest nations. These funds were diverted to meet worsening conditions in the Darfur region of Sudan, and our amendment simply restores them to their original food aid purpose.

Third, our amendment restores funding for the Food for Progress Program for commodities that were diverted to provide assistance to victims of the Indian Ocean tsunami.

Mr. President, I have a letter from President Bush, dated January 13, 2005, and signed by 43 Senators. It points out the dire shortfall in meeting world food aid needs this year. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 13, 2005.

Hon. GEORGE W. BUSH,
President of the United States, The White House, Pennsylvania Avenue, NW., Washington, DC.

DEAR MR. PRESIDENT: The December 26 tsunami that struck several countries in the Indian Ocean Basin is now known to have killed over 150,000 people, with hundreds of thousands or even millions of others injured or left homeless by the catastrophe. Many of these people have lost all their possessions and find themselves in dire need of essentials such as food, clean water, medical attention and shelter. Over the past several decades, the food aid programs run by the U.S. Agency for International Development and the U.S. Department of Agriculture have demonstrated their capacity to help people in need, but their fiscal 2005 funding will have to be increased for them to do the job properly.

Even before the massive tsunami struck, other unanticipated natural disasters and wars had strained these agencies' ability to provide emergency food aid while still maintaining long-term commitments to development assistance projects. According to one estimate provided to the Senate Committee on Agriculture, Nutrition and Forestry by USAID officials, customary food aid contributions by the United States and other donor countries were expected to fall $1.2 billion short of emergency needs worldwide as of December 9, 2004.

As part of the supplemental appropriations bill you are planning to submit within the next several weeks to cover the cost of military operations in Iraq and Afghanistan, we urge you to include a request for food aid programs to help the tsunami victims in South Asia as well as to address the food aid shortfall generated by pre-existing emergency assistance needs in Africa and elsewhere in the world. A portion of that money should be used to reimburse recent withdrawals from the Bill Emerson Humanitarian Trust.

It is crucial that you take these steps and not attempt to meet the emergency needs by further cutting existing programs. We believe that previous cuts made to developmental food aid programs in this fiscal year should be restored. It would not be appropriate to help the people of South Asia by reducing aid to people in other developing countries. Such a move would be tantamount to feed one group with the seed corn that another group was supposed to sow for crops the following year. We urge you to consider carefully this situation and take whatever actions are necessary to ensure our ability to meet all of our food aid commitments.

Sincerely yours.

Tom Harkin; Dick Lugar; Debbie Stabenow; Bill Nelson; Mary Landrieu; Max Baucus; Pat Roberts; Herb Kohl; Jeff Bingaman; E. Benjamin Nelson; Barbara A. Mikulski; and Dick Durbin.

Larry E. Craig; Norm Coleman, Dianne Feinstein; Byron L. Dorgan; Tim Johnson; Ken Salazar; Conrad Burns; Kent Conrad; Frank R. Lautenberg; J. Lieberman; Chuck Grassley; Daniel K. Akaka; Barack Obama; and Mike DeWine.

Kit Bond; Mark Pryor; Lincoln Chafee; Mike Crapo; Russell D. Feingold; Ron Wyden; Chuck Hagel; Elizabeth Dole; Patty Murray; Blanche L. Lincoln; Jon Corzine; and Olympia Snowe.

Patrick Leahy; Evan Bayh; Christopher Dodd; Jim Talent; and Mark Dayton.

Mr. KOHL. This letter was signed by Republicans and Democrats alike. That is as it should be. Compassion should not be a partisan issue.

Mr. President, I also ask unanimous consent to have printed in the RECORD an article from the April 13, 2005, Wall Street Journal that makes a very strong case why additional funding for these programs is necessary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, April 13, 2005]

SUDAN'S FARMERS HUNGER FOR U.S. AID

(By Scott Kilman and Roger Thurow)

Seventeen years ago, Philip Majak abandoned his 30-acre farm in southern Sudan, fleeing the ethnic and religious fighting that would kill two million people over two decades, including his first wife. Now, with a tentative peace treaty holding since January, he is itching to go home.

"My house is destroyed, and my tractor. My 70 cows were stolen, the land has grown wild," he says at a refugee camp outside Khartoum, Sudan's capital. "I'll need help to start farming again." He looks to two sources of support: "God will provide. And America."

Maybe not.

The U.S. government for years pushed hard for peace in the south of Sudan between the Muslim-dominated government in Khartoum and the rebel group supported by the region's Christian residents. The Americans said that as peace came, so would seeds and tools to help Sudanese farmers rebuild one of Africa's potential breadbaskets.

But Sudan's reconstruction period is dawning just as budget pressures in Washington are siphoning money from precisely this sort of U.S.-backed development work around the globe. One project now in limbo would have given Sudanese refugees food for rebuilding farms and roads in the Bahr el Ghazal region—Mr. Majak's home—in the southern part of the country.

The U.S. Agency for International Development is reducing funding this fiscal year for 67 development projects in such far-flung places as Angola, Bolivia and Peru. Those projects represent 80 percent of all international development work financed by USAID's Food for Peace office, the budget for which is shrinking at least 13 percent to $1.4 billion during the fiscal year ending in September.

The food-aid crunch could worsen next year. The Bush administration, trying to rein in the U.S.'s record federal budget deficit with broad spending cuts, proposes to slice a further 33 percent from US AID's Food for Peace budget in fiscal 2006 to $964 million.

Food for Peace donates cash and American-grown commodities, such as wheat flour, corn, soybeans, lentils and peas, to humanitarian groups for two types of foreign assistance: emergency feeding and long-term-development work. Development projects help poor nations modernize their farms so they are less vulnerable to famine. Humanitarian groups sell the donated commodities to raise money for such things as repairing farm roads, digging irrigation wells and vaccinating children. Some groups give the commodities to villagers and farmers as pay for work on these projects.

Chariable groups rely heavily on the Food for Peace program for their hunger-fighting work in the poorest parts of the world. Catholic Relief Services, for example, says USAID is withholding $1.6 million of the $4.4 million in Food for Peace support promised for its work in Angola. As a result, Catholic Relief Services has shelved plans for everything from farming classes to food-for-work projects.

"How can a country as wealthy as the U.S. break these sorts of commitments?" says Marianne Leach, director of government relations in Washington for CARE, which has lost about half of its U.S. funding for development programs in Mozambique and Tajikistan.

White House budget spokesman Noam Neusner says the Bush administration is "providing as much support as we can in an effective way. . . . Eradicating hunger is an important priority of this administration."

USAID officials say it is all a matter of priorities. Given budget constraints on the Food for Peace program, they are raiding development projects for commodities and cash to respond to a wave of immediate food shortages in places such as Ethiopia, northern Uganda, Chad and Darfur, the western region of Sudan where fighting continues. Last year 35 countries needed emergency food aid, according to the United Nations' Food and Agriculture Organization.

"We have a budget crunch," says Andrew S. Natsios, USAID administrator. "Our first priority is to save peoples' lives."

As the swelling U.S. budget deficit creates momentum in Congress and the White House to cut government spending, the Food for Peace budget is particularly vulnerable because America's food-aid practices are under attack at the World Trade Organization. Rival exporting powers long have complained that Washington uses food aid to dump surplus crops, thereby subsidizing U.S. growers.

Congress is on record recognizing the importance of development projects in preventing famines. The 2002 Farm Bill that guides U.S. agricultural policy mandates that 75 percent of the 2.5 million tons of commodities USAID is supposed to donate through the Food for Peace program goes to non-emergency development projects. But the law gives USAID the power to ignore the mandate during an emergency. As a result, the Bush administration is spending for more of the Food for Peace budget on food emergencies than on development projects.

Other federal programs beyond Food for Peace sponsor overseas development work, too. USAID plans to spend $562.2 million on agricultural development this fiscal year, double what was spent in fiscal 2001 by all of its programs. But much of the increase is going to a few countries, such as Iraq and Afghanistan. A study released this week by two Washington advocacy groups—Partnership to Cut Hunger and Poverty in Africa and Resources for the Future—found that U.S. government support for agricultural development in Africa has stagnated in recent years.

An exception in Africa is Sudan, where Washington plans to spend more on agricultural development in places where peace takes hold. Donors at an international aid conference yesterday pledged $4.5 billion to rebuild southern Sudan; of that total, $1.7 billion was committed by the U.S., including $850 million already committed.

But that represents total aid, not just agriculture. Many needs are still going unmet in southern Sudan. Citing tight funds, USAID rejected a request from World Vision Inc. in September for $7.8 million of cash and commodities to use in Bahr el Ghazal for emergency food rations as well as food-for-work projects from digging wells to building seed-storage facilities.

Washington would seem to have a lot riding on the reconstruction of southern Sudan. Beyond its plentiful oil, Sudan presents a test of the Bush administration's ability to bring peace to a region that has been a source of instability and terrorism in Africa. The U.S. has given it about $2.9 billion of humanitarian aid since 1983.

U.S. officials thought long and hard about how to restart the Sudanese economy. A blueprint of sorts is laid out in a 2003 report by USAID. Looking beyond a recent history of three famines and several near-famines, it sees a potential breadbasket. Blessed with a diverse climate and abundant arable land for a wide range of crops, a peaceful Sudan could, with help, emerge as an agricultural exporter.

Mr. KOHL. The simple truth is that current funds are insufficient due to worsening conditions in the world. Those conditions include the ongoing conflict in Darfur and food shortages in the south of Sudan; drought conditions in Ethiopia; flooding in Bangladesh; infestations of locusts in western Africa; and ongoing fighting and refugee conditions in the Democratic Republic of Congo, Chad, Rwanda, and Uganda.

By far, the vast majority of spending in this supplemental is to support our efforts in Iraq. While it is important we show the world we are a strong nation, it is also important we show the world we are a compassionate nation.

In his inaugural address, the President spoke forcefully about ending tyranny and spreading democracy. Everyone shares those objectives. We also know those objectives cannot be achieved solely by force or gesture politics. Instead, they demand a commitment to diplomacy and human compassion.

I am proud this amendment has drawn bipartisan support. I am grateful to Senator DEWINE and the other cosponsors for their help. I hope this amendment will meet with the approval of all Senators, and I ask for its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, Senator KOHL has indicated a very impressive list of cosponsors who ask that the Senate agree to this amendment. I know of no other request for time to debate the amendment. I do not want to cut off any Senator, but we are prepared to go to a vote on the amendment if there are no Senators who wish to debate.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 380) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 388

The PRESIDING OFFICER (Mr. COBURN). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, Senator BAYH and I have an amendment on Humvees the floor manager is familiar with. I am going to speak on that issue. The amendment is a Bayh-Kennedy amendment. My colleague and friend, the Senator from Indiana, intends to address the Senate very shortly on this issue. I wanted to take an opportunity, in these final hours of consideration of the supplemental, to bring this to the attention of the Senate and the American people.

I am delighted to join my colleague Senator BAYH in sponsoring our amendment which increases the funding for the procurement of up-armored Humvees for the Army. The Senate is currently debating an appropriations bill that will provide $81 billion primarily for the ongoing war in Iraq. This funding will bring the total United States bill for the war in Iraq to $192 billion and still counting. All of us support our troops. We obviously want to do all we can to see that they have the proper equipment, vehicles, and everything else they need to protect their lives and carry out their missions.

It is scandalous that the administration has kept sending them into battle in Iraq without the proper equipment. No soldier should be sent into battle unprotected. That is exactly what happened in Iraq. As recently as December 2004, soldiers were still digging through landfills to find metal plating to attach to their vehicles for protection—their "hillbilly" armor, they call it. It has also been well documented that parents went in desperation to the local Wal-Mart to buy armored plates and mail them to their sons and daughters serving in Iraq. That is incomprehensible and unacceptable for our soldiers. More than 400 troops have already died in military vehicles, vulnerable to roadside bombs, grenades, and other so-called improvised explosive devices. Our amendment will provide additional funding to buy up-armored Humvees and add-on armor kits for the Humvees for the Army.

As we all know, the Humvee is a highly mobile four-wheel-drive vehicle. The up-armored Humvee is a version with bullet-resistant windows and steel-plate armor on the doors and underside to protect against rifle rounds and explosive blasts. It has additional armor for the turret gunner on the roof to protect against artillery, and a powerful air conditioning system. The add-on armor kits are mounted on the existing Humvees to give almost as much protection.

According to a Philadelphia Inquirer article 2 weeks ago, the Army says all of its 35,000 vehicles in Iraq now have some sort of armor. But a third of them are protected with nothing more than crudely cut sheets of steel which are inadequate by the Army's own standards, according to figures released Friday. The largest threats for vehicles are improvised explosive devices, rocket-propelled grenades, small arms fire, and landmines.

Humvees and other military vehicles have become the target of choice for insurgents. Shrapnel from roadside bombs or even a simple AK-47 round can slice through an unprotected Humvee. Some of them have little more than vinyl fabric for their roofs and doors. Our troops in unprotected Humvees in Iraq would be safer riding in SUVs.

According to the Center for Army Lessons Learned, the harm to both personnel and equipment from improvised explosive devices is greatly reduced when traveling in an up-armored Humvee. It has taken far too long to solve this problem. We have to make sure we solve it now, once and for all. We can't keep throwing money at it and hope it goes away. The delay in correcting the problem has cost the lives of many brave young men and women killed in combat because they were in unarmored vehicles.

On July 20, 2003, SGT Justin Garvey, a Massachusetts casualty, was with the 101st Airborne Division and was killed in Mosul when his unarmored Humvee was hit by a rocket-propelled grenade while on patrol.

A few months later, on September 1, 2003, SSG Joseph Camara and SGT Charles Caldwell, Massachusetts natives with the Rhode Island National Guard, were killed north of Baghdad when their unarmored Humvee struck a mine.

On October 18, 2003, PFC John Hart of Bedford, MA, was killed in Taza in Iraq, when his unarmored Humvee was hit by a rocket-propelled grenade. I attended his burial at Arlington National Cemetery on November 4, 2003. I still remember the letter the parents showed me from that young man saying he was out on patrol and if he did not get armor on his Humvee, the chances of his survival were going to be very limited. Three weeks later he was lost.

Last week, a Kentucky National Guard soldier died when shrapnel came through the window of his vehicle. A comrade says James A. Sherrill, 27, could have been saved if antiballistic glass had been installed.

The saddest part of this story is that the Army could have and should have moved more quickly to correct the problem. As retired GEN Paul Kern, who headed the Army Materiel Command until last November, said:

> . . . It took too long to materialize. In retrospect, if I had it to do all over again, I would have just started building up-armored Humvees. The most efficient way would have been to build a single production line and feed everything into it.

In a letter to me dated October 20, 2003, General Abizaid, the CENTCOM Commander, said:

> The FY 2004 Supplemental Request will permit the services to rapidly resolve many of the equipment issues that you mentioned to include the procurement of . . . Humvees.

That goes back to October 20, 2003. General Abizaid saying that the 2004 appropriations were going to solve this problem.

In February 2004, General Schoomaker, Chief of Staff of the Army, testified at an Armed Services Committee hearing that:

> . . . the army never intended to up-armor every Humvee—never until this kind of situation that we have today . . . We have taken armored units, artillery units, all kind of other units and put them into Humvees as motorized formations, which never existed before. And so this is an area where you cannot fix it overnight.

That is in February of 2004. And we are now in April of 2005. The problem still hasn't been fixed.

On December 8, 2004, during a town-hall meeting with the United States Secretary of Defense Rumsfeld in Kuwait, a young soldier alerted the American public to the issue of armor shortages when he asked:

> Why do we soldiers have to dig through local landfills for pieces of scrap metal and compromised ballistic glass to up-armor our vehicles and why don't we have those sources readily available to us?

After the applause from the troops, Rumsfeld replied:

> It's essentially a matter of physics. It isn't a matter of money. It isn't a matter on the Army of desire. It's a matter of production and capability of doing it. As you know, you to go war with the army you have, not the army you might want or wish to have at a later time.

He later remarked in the same town-hall meeting:

> You can have all the armor in the world on a tank and a tank can be blown up. And you can have an up-armored Humvee and it can be blown up.

We have been told for months that the shortage of up-armored Humvees was a thing of the past and the Army has enough to ensure that every Humvee that left a protected base in Iraq would be an up-armored Humvee or a Humvee with an add-on kit. This month, the GAO released a report that clearly identifies the struggle the Army has faced. In August 2003, only 51 up-armored Humvees were being produced a month. It took the industrial base a year and a half to work up to making 400 a month.

Imagine that. It took a year and a half for the United States of America to move from 50 a month to 400 a month; a year and a half. I don't know how many saw that incredible documentary on the History Channel the other night of President Roosevelt talking about the gearing up in World War II, where we were producing a victory ship a day, over 350,000 planes a year, this country. A victory ship a day we were producing, 350,000 planes a year, and it took us a year and a half to move from 50 to 400 a month. This wasn't given a priority. Of the 35 young Americans from Massachusetts who have been killed, a third of them have been killed from attacks on Humvees. The great majority of those, the veterans say, could have survived if they had had the protected Humvees.

It is obvious the Department has no solution, did not have the priority to provide for the up-armor of the Humvees. Secretary of the Army Brownlee told the Armed Services Committee in October 2003 that:

> . . . with the up-armored Humvee, it is more of a challenge. If we go strictly with the up-armored Humvee, it could be as late as the summer of '05 before we would have them all.

This is in October 2003, we are told in the Armed Services Committee it is going to be the summer of 2005 before our troops are going to have the protection they should. Since it is now spring 2005, it looks as though he was right.

According to the GAO report, there are two primary causes for the shortage of up-armored vehicles and add-on armor kits. First, a decision was made to ramp up production gradually rather than use the maximum available capacity. Second, the funding allocations did not keep up with the rapidly increasing requirements. Obviously, the Pentagon was still being influenced by its cakewalk mentality.

The GAO report specifically states that the Pentagon decisionmakers set the rate at which both up-armored Humvees and armor kits would be produced and did not tell Congress about the total available production capacity. The GAO was unable to determine what criteria were used to set the pace of production. In both cases, additional production capacity was available, particularly for the kits, but not used.

The funding issue was part of the problem. Funds were available to support the planned pace of production of up-armored Humvees. But GAO found that four program managers were not aware of the timeframe for releasing funds. Although the Army received over $1.4 billion between fiscal years 2003 and 2004 to produce 7,500 vehicles, it was not released in a timely and predictable way. In August of 2003, the managers received requirements for 1,407 vehicles, but had received funding to produce less than half of that number.

By October 2003, program managers had a requirement to produce 3,000 vehicles, but once again received funding to produce less than half of that. Significant differences continued until April of 2004, when requirements reached 4,400 vehicles and the program managers received funding to produce 4,300 vehicles.

The major short-term solution to the up-armored Humvee funding issue has been the additional funds from congressional increases. Parents and spouses of fallen service members contacted Members of Congress to demand attention to the problem. For fiscal years 2003 and 2004, the Army received over $1.4 billion to produce 7,500 up-armored Humvees to meet worldwide requirements, including 8,000 vehicles required for the CENTCOM's area of operation.

In fiscal year 2004, the Army received more than $1 billion to produce up-armored Humvees. Compared to the Bush administration's budget request for $51 million, the parents and spouses made an enormous impact. To meet the continuing needs for force protection, Congress recommended $865 million in the 2005 appropriations bill to be used by the Army for additional armor for Humvees and other vehicles.

As part of the Rapid Response Force Protection Initiative, Congress intends the funds to be used for a variety of vehicles to respond rapidly to the threat of improvised explosive devices and mortar attacks against our forces. These are short-term fixes.

Amazingly, the GAO found that Army officials have still not made long-term efforts to improve the availability of up-armored Humvees or add-on armor kits. We need to get ahead of this problem. The requirements for up-armored Humvees keep changing.

Of the time I have been in the Armed Services Committee, we have had nine different estimates by the military—I will include them in the RECORD—in their testimony before us, going from 30 September 2003, for 1700; November 2003, 3,000. Then they kept going up by thousands over time.

Young American servicemen who are out on patrols do not have that equipment. It is one thing if the insurgents have some surprise capability and some technique or technology that we are not prepared to deal with, but we know how to uparmor humvees and we know how to make armor plating.

The fact that we have young people who are risking their lives without that protection is what this amendment is about. I know we will hear from the other side—because I have heard it every time I have been part of offering an increase in the funding for the last 3 years—we have enough, we don't need more. We will hear that here again. But we find out that we are still shortchanging the military.

Gary Motsek, Director of Support Operations for the Army Materiel Command in Fort Belvoir, VA, said:

> I'm going to get in trouble, but the real challenge is, there had always been an assumption, quite frankly, that the requirements would continue to tail off.

Obviously, since we are still losing an average of more than one soldier a day since the Iraqi elections in January, those assumptions are clearly wrong.

It is a tragedy that our soldiers are still paying the price for this delay. In 2003, when it came time to mass-produce uparmored humvees, the Army had only a single source to turn to. It had little interest in this work before Iraq and did not shop for others. Pentagon Acquisition Chief, Michael Wynne, testified to Congress a year ago:

> It's a sad story to report to you, but had we known then what we know now, we would probably have gotten another source involved. Every day, our soldiers are being killed or wounded in Iraq by IEDs, RPGs, small arms fire. Too many of these attacks are on humvees that are not uparmored. . . . We are directing that all measures to provide protection to our soldiers be placed on a top priority, most highly urgent, 24-7 basis.

That is his recent statement and we welcome it. In his testimony, Wynne said: It is a sad story, but had we known what the parents knew and what those on the front lines knew, certainly we would have acted quicker.

But 24-7 didn't happen even then until January this year. The plant had capacity that the Army never consistently used, as the plant manager has said.

In November 2003, I asked Secretary Brownlee about armor delays, noting that the three Massachusetts soldiers had died in unarmored humvees. "Are they running their plant 24 hours?" Secretary Brownlee said the plant in Ohio was running at "maximum capacity." But it wasn't. Army documents show the monthly armor production at the plant fell after that, from about 55 to 45 humvees a month, in December.

The plant took its usual week off at Christmas and the armoring plant took two 4-day weekends. Owners say they could have built more—if the Army had ordered it.

In early 2004, Members of Congress toured the plant and found that its ballistic glass operation was operating on just one shift.

Now we have an opportunity to end this frustration once and for all. Our soldiers in Iraq deserve the very best, and it is our job to make sure the Department of Defense is finally getting it right. Too many soldiers have died because of these needless delays, but hopefully this will be solved by what we do in this bill today.

The Bayh-Kennedy amendment contributes significantly to this goal. I urge my colleagues to support this bill.

Mr. President, I point out that in the House they have found that there wasn't sufficient funding for the President's request. The House appropriators increased their appropriations by $232 million. They thought that was the bare minimum to bring it up on their review of the shortage.

I think the Bayh-Kennedy amendment is much closer to the real need. But clearly it is very important that we have an increase in this particular funding in this area.

Mr. President, I hope the committee is willing to accept the amendment.

I ask unanimous consent that a paper indicating rising humvee requirements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RISING HUMVEE REQUIREMENTS

30 September 2003	1,723
17 November 2003 (Iraq and Afghanistan)	3,142
17 November 2003 (total including backfill)	3,331
17 November 2003 (potential increase)	3,600
10 December 2003 CENTCOM requirement	3,506
8 January 2004 CENTCOM requirement	3,512
30 January 2005 CENTCOM requirement	4,149
01 July 2004 CENTCOM requirement	8,125
08 April 2005 CENTCOM requirement	10,079

Mr. KENNEDY. Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 380

Mr. DEWINE. Mr. President, in the Senate just a few minutes ago, we passed an amendment offered by Senator KOHL and myself, which was an amendment for international aid for $470 million to help provide food for the millions of people in the world who are in dire need of food.

First, I thank Chairman COCHRAN for working with Senator KOHL and myself on this amendment. Senator COCHRAN is someone who has been a leader in this area, a leader in providing food for people around the world throughout his career. I thank him for his great work.

I also thank the cosponsors: Senators COLEMAN, HAGEL, LUGAR, ROBERTS, DOLE, HARKIN, DURBIN, LEAHY, MIKULSKI, INOUYE, LANDRIEU, MURRAY, DORGAN, JOHNSON, CORZINE, and OBAMA.

Additionally, I thank the Coalition for Food Aid, the U.S. Conference of Catholic Bishops, InterAction, and the numerous other groups who have been calling offices in the Senate in support of this important amendment. Their support has made a difference.

This past year has been notable for the very high profile humanitarian crises we have seen in the world, in the Darfur region of Sudan, and the catastrophic tsunami that swept throughout Southeast Asia. Little attention, however, has been paid to other horrible crises that have occurred, such as the locust damage to crops and livelihoods in sub-Saharan Africa, or the devastating floods in Bangladesh and Haiti. They have not received nearly as much attention. These crises have drained the international food aid system, and clearly this system is now in need of replenishment. That is what this deals with.

This month, the U.N. World Food Program announced that it would be forced to cut rations in Darfur. Our own U.S. Agency for International Development has been forced to cut food aid programs in such countries as the Sudan, Angola, Nicaragua, Ghana, and Eritrea.

We cannot wait for the regular appropriations cycle to replenish the food aid resources that have been expended on the extraordinary emergencies that have occurred and are anticipated to occur in the remainder of this fiscal year. That is why this amendment was so very important. Waiting is simply not an option because lives are on the line. Waiting for the regular appropriations cycle will simply be too late.

We have an opportunity with this amendment and this bill to help show the hungry people of the world that they are not forgotten. I thank my colleagues for their support for this amendment. It is important that we maintain it in conference. It will, in fact, make a difference.

Again, I thank the chairman for his assistance and my colleagues for their support.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I rise today to discuss what we are doing and why we are doing it and the overall evaluation of this bill.

We are going to run at least a $600 billion deficit this year, a real deficit. What is said out there is that it is going to be $410 billion, but it is not. We are going to take $150 billion worth of Social Security money and spend that, and then we are going to have this supplemental, which is now at $81 billion. So we are going to be at about $630 billion, $640 billion in deficit.

What is that deficit? That deficit is money we don't have today, that we are going to go borrow, but we are going to ask our grandchildren to pay it back. I don't want anybody to have any misunderstanding. I believe we need to have an emergency supplemental appropriation right now. I believe it ought to be designed for emergencies—true emergencies. That is what it is here for. I believe we ought to do whatever is needed for our troops and our efforts in the war on terrorism. I also believe we need to meet the commitments in terms of catastrophic weather events and the tsunami.

I think we ought to pass out of this body what can truly be spent on that in the near term. What I don't think we should be doing—and I realize I am in a minority—is spending money and authorizing money to be spent from 2007 to 2012 that is surely and obviously not an emergency. I will have a hard time going home and looking at some of the poor children in Oklahoma when we spend this extra $21 billion out of this emergency. Each one of those poor children, when they grow up, is going to have to pay back about $5,000. That is what the difference is personally to them after 30 years of us borrowing. It is interesting to note that we have not truly paid off any of our bills, except for one short period of time, around 1999, 2000. So when we borrow the money, it continues to go up and it continues to compound and it continues to undercut the standard of living of future generations of this country.

If there is anything our heritage teaches us, it is that the prices that were paid for us to have the opportunity we have today is something that we ought to transmit to future generations.

I understand there are going to be objections to me bringing up my amendments; they aren't germane. I understand I need to have unanimous consent to be able to bring those up. I am not going to call for them at this time, but I will continue to talk about each one of those issues. I think it is important that the American public understand what is in this bill.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. COBURN. Yes.

Mr. MCCAIN. I think amendments have been called up in the regular order. I ask the Senator why he would have reluctance to call up these amendments. If someone objects to it, then I will start objecting to the calling up of other amendments, if that is the way Members want the Senate to work. I understand this is a pretty straightforward amendment. The University of Hawaii's library is going to get $10 million for free on something that has nothing to do with Afghanistan, Iraq, the tsunami, or anything else. If somebody wants to object, I would like to inform my colleagues that we will start objecting to amendments being called up. It is a pretty straightforward amendment that strikes a $10 million earmark for the University of Hawaii library and the legislative rider for the Philadelphia Regional Port Authority; is that correct?

Mr. COBURN. That is correct.

Mr. McCAIN. I ask my friend, why don't we bring them up? If somebody objects, then I will object to other amendments being brought up, particularly ones that are this straightforward.

Mr. COBURN. I thank the Senator.

Mr. McCAIN. Does the Senator have a response?

Mr. COBURN. I will call them up and we will see what happens. I want to set the field a little bit more.

I think it is important that the American people understand what is in this bill, and there are legitimate things in this bill that we need to have to fund the war on terrorism. I don't want to debate this issue or delay it. I want us to pass it. I don't want us to have to vote on every amendment I put up.

I think it is incumbent upon us to be honest with the American people. When we call something an emergency, it ought to be an emergency. This bill has $21 billion in it that is going to eventually cost our children $100 billion in the next 30 years, and it is not an emergency. It should go through the regular appropriations process. It is important for the American people to also understand if it is regular stuff that is in the emergency, the budget rules don't count. So we are going to spend $20 billion that should be taken out of next year's budget requirement, and we are going to sneak it in now so we can spend $20 billion more next year. That is what it is about.

We need to be honest. We are never going to solve our budgetary problems or spending problems, or we are never going to have the process work in this country where the pressure comes on this body to not spend our children's future, unless we are honest about what is in the budget and how the appropriations process works.

Let's take, for example, the embassy in Iraq. This is a $500 million embassy—$500 million, a half-billion dollars. It is not just an embassy. It is the whole thing there, to give credit. It is going to have greater requirements than any other embassy we have, but it is a half-billion dollars.

In this appropriation bill, only $106 million of it is going to be spent over the next 2 years; $385 million is going to be spent from 2007 to 2012. That is not an emergency. What you will hear from the Appropriations Committee is they have to let the contracts. It is only 3 months between now and the time we start the regular appropriations process. We can let a contract and the conditional authority for a $500 million embassy. We should not move that up now.

There are also some good questions about whether we ought to be spending $500 million on an embassy complex in Baghdad. That needs to be looked at. That needs to be talked about before we commit our children's future. That is one example of the areas in which we need to be making sure the American public knows what is going on.

The purpose of an emergency wartime supplemental is to immediately fund ongoing emergency needs for our troops or for disaster—emergency needs. My objection to this bill is it has $19 billion to $20 billion in it that is not emergency. It does not have anything to do with an emergency, but it has to do with outyear spending we can now put into this bill which has to pass to fund our troops.

Let me just give some history. Since September 11, 2001, Congress has passed four individual supplemental bills in ongoing efforts to fund the war against terror. In those bills was $56 billion that did not have anything to do with the war on terror or homeland security. Think about that, $56 billion. When we add this up, we are going to be at $72 billion over the last 4 years in money that is not emergency and money that is not about the war on terrorism and that is not money about homeland security.

Why is that? It is because our process is broken. The only way it changes is for the American public to become informed about how the process works. This is not to question the motives of any of our Members. They want us to control spending as well, but they also want to satisfy the demands that are placed on them, the office, for all the demands that come in from across this country.

The fact is, we are our own worst enemy because we have trouble saying no to those we care about, even though we do not have the money to do it or do not recognize we are really stealing a standard of living from our children and our grandchildren.

There is $10 million, as Senator McCAIN mentioned, for a library. There is no question that the University of Hawaii has an emergency. By their own quoted statements, the president of the University of Hawaii said the damage is about $50 million. With this $10 million and what the State legislature has done there, they are going to collect over $100 million for a $50 million damage, and with the requirements under FEMA for having a 75-percent/25-percent grant, even though it was required, we are now going to supply that.

It may not be a one on one, it may not be their intent, but the fact is $10 million is fungible, which is exactly their matching grant to get it repaired. Is it an emergency? Is it something that needs to be done or is it something that is going to be covered already? Is it something we, as Congress, should be supplying or is it something for which the people of Hawaii should be responsible? It is a legitimate question, and if it should be there, then it ought to go through the appropriations process where it can be looked at, not stuck in a bill that is a "must pass" bill. That is something about which we need to talk.

Mr. President, 6 years ago, the Capitol Police were told they needed to move out of their storage and receipt building in southeast Washington, DC. We now have $23 million in this bill to move the Capitol Police receiving station out of the area so we can build a baseball stadium. I have a whole lot of trouble thinking that comes anywhere close to the emergency requirements of our troops in Iraq and Afghanistan. It is almost laughable that we would put that in as an emergency.

I understand people have a very different opinion of that than I do, but I think a baseball stadium pales in comparison to what the need of an emergency appropriation is. I think it is wrong to have money in an emergency appropriation to do something such as that. It can come through the regular order, especially since they have had 6 years to have done it.

I must say the chairman of this committee has been very kind to me in answering questions and working with me. I think he has brought what he thought the body could pass and get back to the President. I do not want to cast any direction against any individual, but I believe we have to have a challenge, and one of the reasons I came to the Senate is so I can look at what we are doing so I can help educate the American people on what is really happening.

I call up my amendments Nos. 450, 467, 506, and 471, and I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. I object.

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendments be set aside and that I be allowed to call up four amendments.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Yes. I object.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. COBURN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendments be set aside and that I be allowed to call up three amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENTS NOS. 450, 467, AND 471, EN BLOC

Mr. COBURN. Mr. President, I call up amendments Nos. 450, 467, and 471.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes amendments numbered 450, 467, and 471, en bloc.

Mr. COBURN. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 450

(Purpose: To remove a non-emergency provision)

On page 166, strike lines 8 through 20.

AMENDMENT NO. 467

(Purpose: To remove non-emergency spending)

On page 202, strike lines 1 through 13.

AMENDMENT NO. 471

(Purpose: To reduce appropriations for the Iraqi embassy to reduce outlays expected to occur in fiscal year 2007 or later)

On page 172, strike "$592,000,000" and insert "$106,000,000".

Mr. COBURN. Mr. President, the first amendment deals with contracting in the Defense Department. There is no objection or intent to label anything other than the process under which we allow $40 million of expenditures to go out that does not go through a true competitive bidding process. There is no question it will benefit what we are doing. There is no question it is a need in terms of what we had. The question in bringing this amendment up is because of the process and the lack of open, competitive bidding associated with $40 million of the taxpayers' money.

I have no question that possibly the person who has this contract or will get this contract under the present bill may be the best, but the American people and future generations of this country need to make sure that is what happens and it happens every time so that we do not spend any money unwisely.

I believe it is tremendously prudent on our part, in reassessing where we are and the tremendous risks facing our economy from the valuation of the dollar, our deficit spending, and the difficulties we are going to be facing on Social Security and health care, that we pay attention to every detail. This was noted in the report language. There may be a much better explanation for it.

Without losing control of the floor, I yield to my chairman, the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I thank the Senator from Oklahoma for yielding to permit me to respond to the amendment which he has filed.

When the Senator from Oklahoma commented earlier about the need to hold down the deficit, I am in complete agreement with what he had to say. The amendment pending does not have any expenditure at all. It is a clarification of a preexisting allocation which was in the Omnibus appropriations bill last year, and it was in a proper bill. It was not designated as emergency spending; it was an appropriations bill.

This money is being allocated to develop the port facilities in Philadelphia to accommodate a very new kind of ship which will compete with air travel and which has very substantial military as well as commercial purposes.

There is a long history to this particular item. Originally, there was an effort to have the construction undertaken partly in the United States, and this $40 million was to be a loan guarantee. Without going into a very elongated history, the manufacturers of the ship worked it out to have it done overseas. It is a loss to the United States. We had a meeting with members of the Armed Services Committee and the Secretary of the Navy. Secretary English tried to work it out and could not. Then the decision was made that the $40 million that already had been appropriated would be directed toward the port facility in Philadelphia to accommodate these ships.

There is no other port facility that can take these ships. This is part of a larger expenditure where the Port Authority is putting up $75 million of its own. So there is nobody in the market here to say we have $75 million and we would like to have access to this $40 million that has already been allocated.

In broader terms, I think it is fair to characterize this expenditure and reallocation. The Navy is prepared to do it, but they want to have the language so they are complying with the congressional direction. This is part of the effort to make up for the Philadelphia industrial base, what happened when the Philadelphia navy yard was closed some years ago. That yard was closed with fraudulent misrepresentations made by the Department of the Navy, not something I am saying today for the first time. I filed a lawsuit in the Federal court of Philadelphia because they had concealed opinions, letters, from two admirals who said the navy yard should be maintained but downsized.

I argued the case personally in the district court and went to the Court of Appeals for the Third Circuit and lost it in the Supreme Court where the Supreme Court was faced with the alternative of disallowing some 300 base closures if they were to upset the Philadelphia navy yard closure. It was the basis of delegation of constitutional authority.

It would be my hope that my colleagues in the Senate would allow this committee report to stand because it is not an expenditure, it does not burden the deficit. It is clarification so that the Secretary of the Navy can act in accordance with congressional wishes, and it has a military as well as a commercial purpose.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I happen to have been at the meeting that the Senator from Pennsylvania—whom I admire and respect enormously—had with the Secretary of the Navy. I was so proud of the Secretary of the Navy because unequivocally the Secretary of the Navy said: No, we do not want this money, we do not have the technology, we do not have the design for this, this is not one of our requirements, and we do not want to spend $40 million in this fashion. It was as strong a statement as I have ever heard from the Secretary of the Navy.

This is basically a $40 million giveaway of the taxpayers' dollars to a private corporation that has nothing to do with the war in Iraq and Afghanistan. It has nothing to do with it. The language of the bill says "support" high-speed military sealift and other military purposes.

Maybe there are other military purposes. There is no design today for a high-speed military sealift. I wish there were. It is affordable. But the fact is that there is not. The fact is the Navy unequivocally said they do not want taxpayers' dollars, defense dollars, spent on this port in the city of Philadelphia, another legislative rider.

This has nothing to do with Afghanistan, it has nothing to do with the tsunami, it has nothing to do with Iraq, and it has nothing to do with the Navy's requirements for a high-speed military sealift capability. This is really an egregious example of what happens in appropriations bills because there has never been a hearing before the Armed Services Committee nor any consideration in the Armed Services Committee of this particular request and would not be because it is not something we would rationally consider. But we put it on—$40 million worth on an appropriations at a time when the GAO says:

> If we continue on our present path, we'll see pressure for deep spending cuts or dramatic tax increases.

And Federal Reserve Chairman Alan Greenspan says:

> It falls on the Congress to determine how best to address the competing claims.

Which is our trade deficit as well as our burgeoning Federal deficit.

We do not need to spend the $40 million. I appreciate the efforts Senator SPECTER has made, over many years, for the city of Philadelphia and the Navy yard. I can guarantee the Senator from Philadelphia that a lawsuit will probably hire some more lawyers. But if he thinks it is going to reverse a BRAC decision and reopen the Philadelphia Navy Shipyard as a naval shipyard, it will be one of the more fantastic outcomes in the history of the United States of America.

Again, I respect his advocacy for the Port of Philadelphia. I respect his belief that somehow we are going to come up with a high-speed military sealift. That vision and view is not shared by the Armed Services Committee nor by the Secretary of the Navy nor the Secretary of Defense. I hope we will be able to pass this, and I am sure we probably will not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am a little at a loss to hear the Senator from Arizona talking about reopening the Navy shipyard. Maybe it is a good idea but it is not my idea. It is not my idea today.

This $40 million has already been appropriated. It was done in the Omnibus appropriations bill last year in regular order. So contrary to what the Senator from Arizona says, we are not talking about appropriating $40 million. What we are talking about is clarifying the purpose for which $40 million has been appropriated.

While the Senator from Arizona may not think there is the realism of a high-speed military sealift, these fast ships can move military cargo as fast as they can be transported by air.

I hate to repeat myself. I have already done it once. There is no outlay of money. This money has been appropriated. It is a direction to the Department of the Navy as to how it is being expended for a very important purpose.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. The Senator from Pennsylvania is correct. It was in last year's Omnibus appropriations bill, it was not in the Defense appropriations bill. It was not authorized in the Defense authorization bill.

Let me tell you what is so egregious about it. In the appropriations bill, in the Omnibus appropriations bill, it says, blah, blah, blah:

> . . . for a grant to Philadelphia Regional Port Authority, to be used solely for the purpose of construction, by and for a Philadelphia-based company. . . .

Here we are in an Omnibus appropriations bill we passed last year that not only designates $40 million that needs to be spent but without competition, without scrutiny, without examination:

> . . . by and for a Philadelphia-based company established to operate high-speed, advanced-design vessels for the transport of high-value, time-sensitive cargoes in the foreign commerce of the United States, of a marine cargo terminal and IT network for high-speed commercial vessels that is capable of supporting military sealift requirements.

Last year, it was astonishing that we would put in an omnibus appropriation a requirement that $40 million be spent by and for a Philadelphia-based company. In other words, a company in Seattle or a company in Charleston or a company in Oklahoma, they couldn't compete for this. It had to be a Philadelphia-based company. What is it about Philadelphia-based companies that warrants them receiving a $40 million contract without competition from anybody else?

I say to my friend from Pennsylvania, this is egregious. We should not be designating certain cities as a base for any company to compete for any contract of any kind.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I want to make certain everybody understands. This was appropriated. It was not directed clear enough for the Department of Defense to want to spend the money. What we are seeing is they want a clearer direction. I do not fault the Senator from Pennsylvania at all for trying to give them a clearer direction. I would like to do that for some companies in my area as well.

The fact is, it is not the way to run an airline, it is not the way to run a company. The omnibus appropriations process is not the way to run a country either, and it is my hope we don't get there this year either.

Mr. McCAIN. Is the Senator aware—I misspoke. This is the language in this bill designating it for a Philadelphia-based company. Designating it for a Philadelphia-based company is in this legislation before us. I hope that is clear.

Mr. COBURN. The reason it is there is because they wanted the direction on where to spend it. I understand the intention of the Senator from Philadelphia, his purpose. The reason I raise this question is I believe this is the wrong way we should be doing things. We need to stop. Our future depends on the integrity of a budgeting and appropriations process that is not based on politics but is based on having the future best will for our country.

I don't have anything further to say on this, other than the Senator has given a great explanation. I understand what it is. He is trying to do something. The problem is, the military doesn't necessarily want to do that.

I yield to my chairman, the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, by way of very brief reply: There is no other competitor which has $75 million put up and which is in a position to accommodate these fast ships. This matter came up last year. It seems to me it is a decided matter. It is not quite a principle of res judicata. If there is to be an objection—perhaps there was an objection. I don't recall last year. There were many objections raised to expenditures in the appropriations bill. But if there was an occasion to defeat it, that was the time, not on what is essentially a technical amendment to accommodate the Department of the Navy so they know precisely what they are doing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I view this as a technical amendment to last year's bill. Last year, we provided these funds for the maritime cargo terminal, primarily because it is going to present us now with one of the most high-speed, advance-design capabilities of handling military sealift requirements. This provision clarifies the intent of the funds provided in prior fiscal years and provides authority to the Navy to execute those funds as we intended. The Navy says it needs this amendment in order to do that. We tried to clarify this issue in the 2004 bill but the Navy lawyers again said it wasn't sufficient. They want the greater authority to execute the funds in the way that is necessary for this port authority. Our language in the bill has been now reviewed by the Navy. The Navy now agrees with this language. If we finally enact this language, it will be sufficient to carry out our original intent.

I see the Senator from Arizona is on the floor. It is my intention to make a motion to table this amendment but I would be pleased to yield to the Senator. I do not want to offer my motion in a manner that would reduce his right to speak on the amendment.

Does the Senator wish time on this amendment?

Mr. McCAIN. I do.

Mr. STEVENS. I understand the Senator from Oklahoma has four amendments—three more?

Mr. McCAIN. Two more.

Mr. STEVENS. Two more. I think they are all to the Defense portion of the bill. Are they? Is this the only one to the Defense portion of the bill?

Mr. COBURN. Yes.

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I do not want to take any more of the body's time. I would point out this provision appeared in the conference report of the Omnibus appropriations bill, which meant I never had a chance to propose an amendment to strike that $40 million because it was in the conference report. It was never in the original omnibus which would have been—or Defense Appropriations Committee bill and considered on the floor of the Senate. So I had no opportunity.

The Senator from Pennsylvania asked why we didn't object then. It is because I couldn't. I had an up-or-down vote on a bill that was "that" high. We had, I believe, less than 24 hours to act on that, much less read it.

If there is any objection to me or consternation about me objecting to it now, I didn't have the opportunity to object to it because $40 million, along with tens of billions of dollars of pork, was stuffed in it last year in this egregious and outrageous process we have evolved into called the Omnibus appropriations bill, and this was stuck in it.

I want to say again, it is not appropriate to designate "by and for a Philadelphia-based company" any money, any of our tax dollars. Our tax dollars should be competed for.

With respect to the chairman of the Defense Appropriations Subcommittee, when he says "the Navy agrees," of course the Navy agrees because it is there. But the Navy did not agree in a meeting the Senator from Pennsylvania and I had with the Secretary of the Navy, where they adamantly refused to agree to have this money spent because they have no fast ship even on the drawing boards, much less any that could be based in Philadelphia.

We are going to pass this. I do not believe we can beat it. But now we are in the practice of designating a locality-based company to spend $40 million of American taxpayers' dollars. That is not right.

I will bet there is expertise around the country—even if this were necessary—to be able to compete for this $40 million contract. But now we are designating it to the city of Philadelphia. I wonder if people out in the county might be able, or maybe someone in Pittsburgh might be able to compete for it. Probably not.

This is a wrong way to legislate. In these times of burgeoning fiscal deficits, for us to designate money to be spent by a local-based company is just the wrong way to designate, and I think most Americans would agree.

I do not intend to extend this debate any further. I yield the floor.

Mr. COBURN. Mr. President, I ask unanimous consent to withdraw the amendment.

Mr. McCAIN. I object.

Mr. COBURN. I ask for a voice vote on the amendment, amendment No. 450.

The PRESIDING OFFICER. It is not in order to request a voice vote.

Mr. COBURN. Mr. President, I would like to discuss amendment No. 471.

The PRESIDING OFFICER. The amendment is pending.

Mr. STEVENS. Will the Senator yield?

Mr. COBURN. I will.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 450

Mr. COBURN. I ask for the regular order on amendment No. 450.

The PRESIDING OFFICER. That amendment is now the regular order.

Mr. COBURN. I would like to ask for a voice vote on this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 450) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 471

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I want to visit amendment No. 471, which reduces funding in the supplemental for the Iraqi Embassy. According to the report language on this bill, $592 million is to be appropriated over the next 7 years for an embassy in Iraq. I do not have any objection. I think there ought to be tremendous hearings on the amount of money expended on that, but $592 million? Mr. President, $106 million of that is all that will be expended over the next 2 years. So what is going to happen is we are going to have $486 million hanging out there that will be rescinded and spent on something else.

First of all, we had a vote in this body, of which 61 Members of this body voting on the Byrd amendment this week agreed that the President ought to put everything that he sought for the war in Iraq and for its needs in the regular budget and the regular appropriations request he sends to the Congress.

By far, 61 Members out of 100 of this body will agree with the principle that I am bringing forward. They voted for it. The idea with this amendment is to trim the appropriations from what is expected to be spent for the next 2 years. And it is even questionable whether that is an emergency.

I also note that the House, in passing the supplemental bill, eliminated the ability of this money to be spent for an embassy. I will state that the purpose of the emergency wartime supplemental ought to be to fund operations and projects that are emergencies. Money that is going to be needed for this embassy and complex in 2007, 2008, 2009, 2010, 2011, and 2012 can be appropriated at that time. It can be authorized before then, but it can be appropriated at the proper time.

Again, quite simply, the emergency supplemental should only contain items we need right now in order to fight the war on terror.

I will have trouble finding somebody who will actually debate on why we need to spend $586 million on an embassy complex, and we need to do it now rather than run it through the regular appropriations process.

Mr. COCHRAN. Mr. President, will the Senator yield for a response to that statement?

Mr. COBURN. I would be happy to yield.

Mr. COCHRAN. The Senator suggested he does not know anyone who would debate the issue or support the funding that is contained in the bill. The Senator is totally incorrect about that. There is a difference of opinion as reflected in the House-passed bill and the bill as reported by the Senate Committee on Appropriations. We had hearings on this issue. We had testimony that was compelling from the Secretary of State, Dr. Condoleezza Rice. We had an appeal that was made personally to Senators on the committee by the Secretary, which were very compelling.

To give some example of what the Secretary said, we have personnel, who are trying to live and stay alive in the Bagdad regions, who are representing the interests of the United States, who are trying to contribute toward a democracy being established under very difficult and dangerous circumstances. Many of them are located in temporary shelters, some are in tents, some are in other structures. We have people trying to carry on the work of our U.S. Embassy in a palace that was formerly occupied by Saddam Hussein that is not safe from mortar attacks or other military actions and terrorist activities. There is a perimeter that is very difficult to defend that we have all heard about and read about in the newspapers and seen on television. And to follow the suggestion of the Senator from Oklahoma to do nothing to try to establish quarters that are safe, that can be protected, that will permit our Ambassador to operate safely in a secure environment, we would be neglecting our obligations as representatives of the people of this great country.

To say that they are on their own, to continue to try to manage the way they have been for the last year and a half, I think that would be an absolute abrogation of responsibility for this Senate.

Our committee recommended that we approve the request submitted by the administration for these funds. I strongly support the appropriation. I will defend the action of this committee on this issue as long as the Senator wants to debate it.

So to say there is no one who is willing to argue the point is absolutely without basis in fact.

Mr. COBURN. Mr. President, I agree with everything the chairman said except he didn't talk about the issue I am raising. The issue I am raising is spending $400 million in the years 2007 through 2012 should go through the regular appropriations process. I want us to have an embassy over there. I want us to do the very things the chairman outlined.

But, again, we are playing a game with the appropriations process. The administration is playing the same game by requesting it. We have $592 million, and only $106 million is going to be spent in the next 2 years to accomplish what the honorable chairman of the Appropriations Committee said. Why not run the rest through the regular order? Why put this to the bottom line and not make us do what we need to do in time of parity in how it is spent?

Again, I think this extra money, this $486 million, ought to go through the regular order. We are going to go out and borrow and ask our kids and our grandchildren to pay it back. When you ask them to pay it back, it is going to be at a rate of about seven or eight times what we borrow. We are not paying back money, we are paying interest, and then we are paying interest on the interest. That very well equates to us abandoning the vision that we want to give the future of this country; that is, opportunity and freedom, and we can't do that if we continue. All of this money in this bill goes straight to debt. None of it goes through the budget process. There is no limit. We are going to go out and borrow the money tomorrow. It is going straight to debt.

I don't disagree with the chairman at all. I appreciate his working with me on this committee in terms of learning, of teaching a new Senator the ropes. He has been wonderfully kind to me. But the fact is, only $106 million is going to be expended over the next 24 months after this is put out, and the rest of it ought to go through the regular order. That is all I am asking. I am saying it should come through the regular appropriations process. That is all I am asking. I am not saying don't do it. I am saying do it in a way in which we are held accountable, and we are going to hold our children accountable. It isn't just about numbers. It is about the future of our country and whether we are going to change the process in Washington that truly recognizes that we have to start being responsible.

The South Korean Government, about a month ago, made one little, small comment about changing their mix on foreign holdings. The dollar fell 1.8 percent that day. We will not be able to hold the value of the dollar in the international financial community unless we are seen as being competent and secure about solving our problems and not spending money we don't have. This is a good first place to start.

There is nothing wrong with sending it through the appropriations process on the regular order. It makes it a little harder for the appropriations team; I understand that. They have already done what they have been asked by the administration to do. But we need to send a signal to the administration to quit asking for money in outyears on the appropriations process so we don't look as bad when we count the so-called deficit. Remember, this is going against the deficit. It won't go against the published numbers. It is outside the rules of the game because we call it all an emergency. Money spent on an embassy in Iraq in 2011 is not an emergency to anybody in this country I know of. I think we would have trouble finding it.

With that, I will cease discussion on that issue and discuss amendment No. 467.

Mr. COCHRAN. Mr. President, will the Senator yield before he abandons this issue?

Mr. COBURN. I would be happy to yield to the chairman.

Mr. COCHRAN. I want to point out that the Department of State submitted to the committee a letter on April 18, 2005 in justification for proceeding with the funding for the embassy compound and pointed out the reasons it was important to approve the full funding now. It is not something we dreamed up or that we are doing to undermine the integrity of our fiscal soundness as a country. It is not irresponsible in any way whatsoever.

Here is what the letter says in part:

> This funding request in the supplemental is more urgent as a result of the highly successful Iraqi elections. Now that it is clear that Iraq is on the road to full sovereignty, building a permanent United States embassy has become imperative. In order to complete compound construction within 24 months construction must start now.

That is why it is an emergency in any sense of the word. That is why our committee was impressed with this argument. This argument wasn't made very well over on the House side of the Capitol. But it was in person by the Secretary in appeals to individual Members. I can recall being in my State and getting a telephone call from the Secretary of State on this subject to emphasize the importance of doing what we are recommending the Senate approve.

Here is another sentence from this same letter signed by Nicholas Burns. I will have it printed in the RECORD so Senators will be able to read the letter in its entirety.

> We need the Committee-recommended level of funding to ensure that we can adequately house and protect U.S. Government staff for our mission in Baghdad. Less than the full Committee-recommended funding level will delay moving our people into more safe, secure, and functional facilities, causing greater risks to U.S. Government personnel.

That is good enough for me. I think it is good enough for the Senate, and I hope the Senate will reject this amendment.

I ask unanimous consent that a copy of this letter that I referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, DC, April 18, 2005.

Hon. THAD COCHRAN,
Chairman, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN, As the Senate considers the President's FY 2005 Supplemental request, I would like to draw attention to the Committee recommendation of $592 million for funding the New Embassy Compound (NEC) in Baghdad. We appreciate the Senate Appropriations Committee including the funding for the NEC and while each element of the President's request is critical and deserves the full support of Congress, I understand that amendments may be offered that would drastically reduce the funding level recommended by the Appropriations Committee to build the new Embassy.

On behalf of the Secretary of State, I am writing to support the full funding recommendation of the Senate Appropriations Committee. We need the Committee-recommended level of funding to ensure that we can adequately house and protect U.S. Government staff for our mission in Baghdad. Less than the full Committee-recommended funding level will delay moving our people into more safe, secure, and functional facilities, causing greater risks to U.S. Government personnel. The completed NEC, as currently planned and budgeted, will provide personnel from the Department of State and the other civilian agencies with the best possible security situation under the circumstances. We must begin construction of this compound as soon as possible to improve the safety and security of our U.S. Government employees. The current offices and housing in the Palace complex are operationally inadequate, as the facilities were never designed as offices and are only marginally usable as an Embassy. We need an appropriate, secure facility to carry out the U.S. Government's business in Iraq. Furthermore, the Palace complex has symbolic importance to the Iraqi people. We have agreed to return the Palace and other properties to them and returning the Palace will be a symbol of normalization in our relations.

This funding request in the supplemental is more urgent as a result of the highly successful Iraqi elections. Now that it is clear that Iraq is on the road to full sovereignty, building a permanent United States embassy has become imperative. In order to complete compound construction within 24 months construction must start now. The NEC buildings are being planned with the maximum flexibility so that the mission needs for U.S. Government agencies, including the State Department, can be accommodated upon completion. We have sized the NEC to meet interagency vetted diplomatic, functional, and security requirements. Should we not receive the full Committee recommended funding level in the Senate passed supplemental, we would be unable to build an embassy that meets those safety, security and space requirements. Additionally, without full funding of the Committee recommendation site maintenance costs would be extended and the costs of construction could rise. In the meantime, the high security and operating costs associated with the interim embassy facilities would remain.

We look forward to continuing to work with the Congress to secure the funding required for this important project. Thank you for your support of this Supplemental request.

Sincerely,

R. NICHOLAS BURNS,
Under Secretary of State for Political Affairs.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Wyoming.

Mr. COBURN. Madam President, again, great words. True. We need to do it. But that doesn't address the issue of why that money should not go through the regular process on the outyears. I understand the tough job the chairman has to do.

AMENDMENT NO. 467, WITHDRAWN

With that, I will move, if I may, to the next amendment, No. 467.

Madam President, this is an amendment that ought not have to be brought forward. There is no question that there was, in fact, significant damage and flooding at the University of Hawaii. There was, in fact, significant loss of records and volumes at the University of Hawaii. There was, in fact, over $30 million in FEMA money that was sent to the University of Hawaii. There was, in fact, a $10 million matching contribution from the State of Hawaii for that matching grant. There is at least $25 million in insurance proceeds to go with the State assembly that was also trying to actively increase that amount, and public statements were made by the president of the University of Hawaii outlining the damage assessment, with this $10 million that is not truly an emergency anymore in this bill.

This is not directed toward the Senator from Hawaii in any way. I wanted to talk about this, and then I am going to withdraw this amendment, if I have a unanimous consent to do it. But I want to use it as an example of what we shouldn't be doing.

The fact is, they haven't even spent all the money that has been sent out there for the repair of this facility right now. On an emergency basis, we are going to appropriate $10 million more. If you total up everything, if you take what the University of Hawaii said and others have said about the total cost of the flood, $50 million, there is going to be $100 million that goes toward the University of Hawaii for a $50 million flood. That is bad enough. But this is not the way we ought to be doing this process.

I am standing on the floor of the Senate today to offer amendments, not critical of any one individual but critical of the process because I believe if we don't have a functional, structural process change in how we appropriate taxpayer dollars in this country, we are going to undermine the standard of living for the next few generations. We very well could be the first generation of Americans to leave the next generation worse off.

I believe things that are in an emergency bill ought to be truly emergencies. No. 1, they ought to have to be spent out in a short period of time, and with that comes the authorization for further spending so the appropriations committees can have the direction, so they don't have to spend it all and then rescind it.

I believe we need to change things. We look around to our children. We see a future, we see hope, we see promise. But we see all of that in light of what we see today. We don't think down the road about what potentially can happen to our country—now $9 trillion in debt, with $600 billion worth of trade deficit every year with multiple poor countries in the world that export agricultural products holding large amounts of our dollars that are also dependent on our dollars staying at a certain value. We have to think long range about how we do this.

I am challenging how we think, not to make a mark or to direct anything toward any individual person. We have to change. I will stand on every appropriations bill to come in the future and I will personally read the appropriations report language to find out what is there, and use the privilege granted to me as a Member of this body to raise these issues until we change how we do it.

It is my hope I don't have to do that. I don't want to have to do that. But it is very important we start down a new road. It is not a partisan issue. It does not have anything to do with Democrats or Republicans but it has to do with our children, the future of our country, the viability of defending ourselves.

Every dollar we waste or do not spend appropriately is $1 we cannot use to defend ourselves or create the technology to compete in this global economy. We have to do what is right for future generations.

I will withdraw this amendment, as well, but I want to put my fellow Members on notice that I will be bringing this up. It is time to change. I don't do that with any ill will. I don't do it saying I have all the knowledge. But what I do know is I want a future for our country and for the children. We cannot continue doing what we are doing in terms of spending. We cannot continue either the process or the procedure on how we are doing it.

With that, I ask unanimous consent to withdraw amendment numbered 467.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I thank my colleague from Oklahoma for withdrawing this amendment.

If I may, for clarification, so the record can be clear, the United States historically has responded expeditiously to all disasters—natural or domestic, manmade—when American communities seek assistance. For example, we provided $2 billion for the Midwest floods in 1993. We provided $56 million to Oklahoma City for the Murrah Federal Building disaster—not for the building itself but for other projects, community development, street alignments, and such. We also provided over $3 billion for Midwest floods in 1997, and for all of the hurricanes.

This flood in Manoa Valley on the island of Oahu in Hawaii was one of those extraordinary disasters that occurs about once every 100 years. It went down the valley and literally wiped out parts of the University of Hawaii. I point out that the university library has not received any FEMA funds. These funds are beyond what the State has put in for construction and reconstruction and rebuilding. This is for cleanup. This is for restoration of books so our students can continue studying. We are not asking for anything more than what other communities have been receiving.

I am most grateful to the Senator from Oklahoma for withdrawing his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 443

Mr. DURBIN. Madam President, I have an amendment pending numbered 443 and I would like to speak to it. I will not call it for a vote because there may be need for debate in the Senate.

This is an amendment I am cosponsoring with Senator LEVIN and Senator FEINSTEIN. The amendment requires that none of the funds appropriated by this supplemental appropriations bill be expended to subject anyone in the custody or control of the United States to torture or cruel, inhuman, or degrading treatment.

I know the managers of the bill are trying to dispense with amendments. I understand this amendment has been cleared by the managers. However, one Senator or another on the other side of aisle has objected, so a rollcall vote might be necessary.

I ask my colleagues to consider for a moment what could possibly be the basis for a Senator objecting to an amendment which says we won't spend any American taxpayer funds to torture prisoners. We have signed all the treaties. We have passed the laws. This is the law of the land.

This amendment says, let's remind people again that what happened at Abu Ghraib is not American policy. The abuses at Guantanamo Bay are not American policy. It is aberrant conduct. It is the kind of conduct which we do not condone.

We should state clearly in this appropriations bill that all the money being appropriated—$80 billion plus—is not to be used for the purposes of torture.

This should be an easy amendment. In fact, it has passed twice in the Senate by unanimous consent. But now a Senator on the other side of the aisle has problems with it. I don't understand. It simply affirms our Nation's very important, longstanding obligation not to engage in torture or other cruel treatment. That standard is in the U.S. Constitution and in many treaties ratified by the United States.

I wrote this amendment very carefully. I am not putting in any new language, new ideas. I am restating existing law that governs the conduct of Americans. It is limited to the torture or cruel and inhuman or degrading treatment "that is prohibited by the Constitution, laws or treaties of the United States." In other words, it prohibits conduct already prohibited under U.S. law. It simply restates it. It is important we do restate it.

I am afraid one of the terrible legacies of the invasion of Iraq is going to be this whole question of how we treated prisoners. We should not mince words. We are opposed to torture and cruel, inhuman, or degrading treatment. We have voted that way before. The American people support that. We should say so in this supplemental appropriations bill.

This amendment specifically provides:

> Nothing in this section shall affect the status of any person under the Geneva Conventions or whether a person is entitled to protections of Geneva Conventions.

So the amendment does not extend the protections of the Geneva Conventions to anyone who does not already have those protections.

It is important to note this amendment is virtually identical to an amendment I offered to last year's Defense authorization bill and an amendment Senators McCAIN and LIEBERMAN offered to the intelligence reform bill. Both of them were adopted by the Senate by unanimous voice votes. In fact, this amendment is actually more limited than those because it applies only to funds appropriated and does not contain any reporting requirements.

Last year, when he accepted my amendment to the Defense authorization bill, Senator WARNER, the chairman of the Armed Services Committee, said in the Senate:

> The unambiguous policy of this and preceding administrations is to comply with and enforce this Nation's obligations under international law. These obligations are embedded in American domestic law.

Senator WARNER continues:

> So I think it is very important we do the codification, as the Senator [from Illinois] recommends.

Unfortunately, in conference, the Defense authorization amendment was revised to a nonbinding sense-of-the-Senate amendment. The intelligence reform amendment was eliminated in conference. That is why I am offering this amendment today.

It is important. Many around the world, especially in the Muslim world, are watching us, watching the United States, and they want to know whether we will stand by our treaty obligations in this age of terrorism. With American troops in harm's way, Congress must send a clear signal that we are committed to treating all detainees humanely.

The prohibition on torture and other cruel treatment is deeply rooted in American history. The Framers of the Constitution made clear they intended the Bill of Rights to prohibit torture and other forms of cruel punishment. It was un-American then; it is un-American now.

These principles guided us during times of war. In the Civil War, President Abraham Lincoln asked Francis Lieber, a military law expert, to create a set of rules to govern the conduct of U.S. soldiers in the field. The result, the so-called Lieber Code, prohibited torture and other cruel treatment of captured enemy forces. This was the foundation for the modern law of war, which is embodied in the Geneva Conventions.

After World War II, we discovered what had happened in Nazi Germany. Horrified by those abuses, the United States and its allies created a new international legal order based on respect for human rights. One of the fundamental tenets of this new order was a universal prohibition on torture and cruel, inhuman, and degrading treatment. The United States took the lead in this effort, establishing a number of treaties that banned the use of torture and other cruel treatment against all persons at all times. There are no exceptions to this prohibition.

The United States, along with a majority of countries in the world, is a party to the Geneva Conventions, the International Covenant on Civil and Political Rights, and the Torture Convention, all of which prohibit torture and cruel, inhuman, or degrading treatment, the exact words in my amendment.

Aside from our legal obligations, there are also important practical reasons for standing by this commitment.

Torture is ineffective. It is an interrogation tactic that produces unreliable information. People who are being tortured will say almost anything to stop the pain.

Resorting to torture will make it harder for us to defeat terror. In the words of the independent 9/11 Commission:

> Allegations that the United States abused prisoners in its custody make it harder to build the diplomatic, political, and military alliances the government will need [to win the war on terrorism.]

The 9/11 Commission was right.

Most importantly, engaging in torture or cruel treatment places our brave service men and women at risk. The U.S. Army knows this. The Army Field Manual on Intelligence Interrogation says the following:

> Use of torture or other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear. Revelation of use of torture by U.S. personnel will bring discredit upon the U.S. and its Armed Forces while undermining domestic and international support for the war effort. It may also place U.S. and allied personnel in enemy hands at greater risk of abuse by their captors.

Retired RADM John Hutson served our country 28 years. For the last 3 years he was the Judge Advocate General, the top lawyer in the Navy. Last week he sent me a letter in support of this amendment. He wrote as follows:

> Clarion opposition to torture and other abuse by the U.S. will help protect U.S. troops who are in harm's way.

Former Congressman Pete Peterson, a personal friend of mine, a man I served with in the House of Representatives, was a prisoner of war in Vietnam for 6½ years. He came to see me recently. He is doing great. He was our former Ambassador to Vietnam under President Clinton. In a letter of support for this amendment he said:

> Congress must affirm that America stands by its moral and legal obligation to treat all prisoners, regardless of status, as we would want the enemy to treat our own. Our courageous service men and women deserve nothing less.

As the great American patriot Thomas Paine said:

> He that would make his own liberty secure must guard even his enemy from oppression.

This year, Congress should affirm that the United States will not engage in torture and other cruel treatment.

I thank the chairman for his leadership on the bill. We are reaching a point where there are only four or five identified germane amendments and this is one of them. I would like to call this amendment for a vote. I know there are some on your side who may want to speak to the amendment so I will not try to do it at this time, but I would hope any staffers or those listening to the debate who know of opposition to this amendment would contact the chairman and let him know when they are coming to the floor. I will join them and in short order summarize what I have said, answer their comments, and ask for a vote. I know the chairman is anxious to get this bill completed to send to the President.

Mr. COCHRAN. Mr. President, I am happy to assure the Senator we will have an opportunity to vote on any amendments that require votes. There are some Senators who are off the premises right now and I ask they be given some notice so they can get back. We will confer with the leader and I will consult with the Senator from Illinois. I thank the Senator for his assurances.

REAL ID ACT

Madam President, I rise in opposition to the REAL ID Act. The REAL ID Act is a measure the House Republicans attached to the supplemental appropriations bill. It has little or nothing to do with appropriations for tsunami victims, or appropriations for our men and women in uniform. It is a separate immigration matter, and a very controversial one.

They chose this bill because they know we need this bill. It needs to be signed by the President. So they are hoping to push through this change in immigration law on a bill that is a must-pass bill. We have had no hearings, no debate, no votes in the Senate on this so-called REAL ID Act.

The Senate Republican leadership has stated it is opposed to including this act in the appropriations bill. I hope they mean it. The test will come when this bill returns from the conference committee.

I want to take a couple minutes to explain why the REAL ID Act is something we should debate. The proponents of this act claim it is simple, that all it wants to do is prevent illegal immigrants from obtaining driver's licenses.

Several States across America have decided, in their State legislatures, to allow the issuance of State driver's licenses to people who are not documented. You know the argument: Those people are going to drive anyway. It is better they are licensed, that they clearly have demonstrated they can drive a truck or a car, and they have insurance.

Now, we can get into that debate, and it would be an interesting one, as to whether those States have made the right decision. This bill says all the States that have decided to issue the driver's licenses are wrong. So it would prohibit those who are undocumented from receiving driver's licenses.

If that were the only issue, it is one we could debate for a little while and decide whether we ought to preempt all of these State legislatures. But this bill does so much more. The REAL ID Act would mean real big problems for the States and a lot of people. It imposes very difficult standards for driver's licenses on the States.

When we passed the intelligence reform bill, we carefully crafted language—bipartisan language—to establish standards for States issuing driver's licenses. We did not tell the States who could receive a driver's license. That has always been a State decision. But we required that the Federal Government work cooperatively with the States to create minimum Federal standards for driver's licenses. Standards will be established for, among other things, documents presented as proof of identity, fraud prevention, and security features included in driver's licenses.

The REAL ID bill goes far beyond this intelligence reform provision. Its impact will be felt by every American when they go in for a driver's license. It requires that the State DMV verify every document, including birth certificates, presented by every applicant, including American citizens. This means significant expense and long processing delays.

If a State, incidentally, fails to comply with the REAL ID provisions included in the House bill, no resident of that State—listen to this carefully—no resident of that State will be able to use their driver's license for Federal purposes. So what would that mean? The most common form of identification in an airport is a driver's license. If you have been on an airplane, you know it. People bring out their driver's license.

This provision coming over from the Republican House says if your State does not comply with this law, if you are a resident of that State, you cannot use your driver's license to get on an airplane. What will you use? If you have a passport, I guess you could use it, but many people do not have a passport. So it goes way beyond what it needs to do to make certain we have secure driver's licenses.

As I mentioned earlier, we have already addressed the issue of driver's license security in the intelligence reform bill. The Federal Government is already meeting with State governments to negotiate new minimum Federal standards for driver's licenses. The REAL ID Act would stop this process dead in its tracks by repealing the driver's license provision in the intelligence reform bill.

Incidentally, the REAL ID Act is opposed strongly by the States. Every Senator has received a letter opposing the REAL ID Act from the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, and the American Association of Motor Vehicle Administrators. They have said clearly, this REAL ID Act will "impose technological standards and verification procedures, many of which are beyond the current capacity of even the Federal Government."

Madam President, I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 17, 2005.

Hon. WILLIAM H. FRIST,
Majority Leader,
U.S. Senate, Washington, DC.
Hon. HARRY REID,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR FRIST and SENATOR REID: We write to express our opposition to Title II of H.R. 418, the "Improved Security For Driver's Licenses and Personal Identification Cards" provision, which has been attached to H.R. 1268, the fiscal year 2005 supplemental spending measure. While Governors, state legislatures, other state elected officials and motor vehicle administrators share your concern for increasing the security and integrity of the driver's license and state identification processes, we firmly believe that the driver's license and ID card provisions of the Intelligence Reform and Terrorism Prevention Act of 2004 offer the best course for meeting those goals.

The "Driver's Licenses and Personal Identification Cards" provision in the Intelligence Reform Act of 1004 provides a workable framework for developing meaningful standards to increase reliability and security of driver's licenses and ID cards. This framework calls for input from state elected officials and motor vehicle administrators in the regulatory process, protects state eligibility criteria, and retains the flexibility necessary to incorporate best practices from around the states. We have begun to work with the U.S. Department of Transportation to develop the minimum standards, which must be completed in 18 months pursuant to the Intelligence Reform Act.

We commend the Members of the U.S. House of Representatives for their commitment to driver's license integrity; however, H.R. 418 would impose technological standards and verification procedures on states, many of which are beyond the current capacity of even the federal government. Moreover, the cost of implementing such standards and verification procedures for the 220 million driver's licenses issued by states represents a massive unfunded federal mandate.

Our states have made great strides since the September 11, 2001 terrorists attacks to enhance the security processes and requirements for receiving a valid driver's license and ID card. The framework in the Intelligence Reform Act of 2004 will allow us to work cooperatively with the federal government to develop and implement achievable standards to prevent document fraud and other illegal activity related to the issuance of driver's licenses and ID cards.

We urge you to allow the provisions in the Intelligence Reform Act of 2004 to work. Governors, state legislators, other state elected officials and motor vehicle administrators are committed to this process because it will allow us to develop mutually agreed-upon standards that can truly help create a more secure America.

Sincerely,

RAYMOND C. SCHEPPACH,
Executive Director, National Governors Association.
LINDA R. LEWIS,
President and CEO, American Association of Motor Vehicle Administrators.
WILLIAM T. POUND,
Executive Director, National Conference of State Legislatures.
DAN SPRAGUE,
Executive Director, Council of State Governments.

Mr. DURBIN. COL Margaret Stock, who is a law professor at West Point, points out that military personnel around the world will be dramatically impacted if their State driver's licenses are not accepted by the Federal Government. It is not simply a matter of getting on an airplane. For our men and women overseas it can be much worse. She wrote:

> This law threatens to disrupt thousands of routine yet official acts that occur daily on every military post in the world. . . .The proposed law threatens vital functions of the Department of Defense, and promises unforeseen headaches for military personnel and their family members.

Madam President, I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE "REAL ID" ACT—A REAL NIGHTMARE FOR DOD

(By LTC Margaret D. Stock, USAR)

If you watched or heard the congressional debate over H.R. 418, the "REAL ID Act of 2005," you might have thought this proposed law—which passed the House of Representatives Friday, February 11, 2005, by a vote of 261-161—was all about stopping terrorists from getting on airplanes. But you would be wrong. This bill—which sets new rules for state motor vehicle departments (DMVs)—promises to be more of a nightmare for DoD than a deterrent to any terrorists.

Consider this language, which is found in the section creating federal standards for state driver's licenses and identification cards:

"Beginning 3 years after the date of the enactment of this Act, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section."

No state currently meets the requirements of the proposed law, and it's unlikely that many will be able to comply within three years. the "REAL ID" Act would require, among other things, that each state create an expensive new computer system for issuing state driver's licenses and identification cards; obtain security clearances for its DMV employees; verify with the issuing agency the validity of each document offered by an applicant in support of a driver's license application; put digital photos on all licenses; print the principal residence of the applicant on the face of the license; ensure that all prior licenses have been terminated before issuing a new one; verify the immigration status of all applicants; and color-code licenses to show that the state has complied with the law. While all these goals may be laudable, achieving them any time soon is almost impossible, particularly within three year. And yet any license issued in violation of this law cannot be used "for any official" federal purpose unless a special waiver is granted by the secretary of homeland security.

Here are some "official" federal purposes for which state driver's licenses and identification cards are commonly used by military members, their families, and their friends:

Enlisting in the military; obtaining an initial military identification card; Obtaining a U.S. passport; voting in a federal election; registering a vehicle on a military installation; entering a military installation; driving on a military installation; entering a federal building; writing a check to a federal agency; obtaining federal firearms licenses; boarding an airplane; boarding an Amtrak train; or obtaining federal hunting or fishing licenses.

If this law passes, military members and their families won't be able to do any of these things with their state driver's licenses and ID cards—unless they are lucky enough to be residents of a state that manages to meet the three-year deadline for compliance.

Military personnel will be harmed by this law in other ways as well: Deployments often prevent soldiers from renewing their licenses in a timely manner, and many states give them "automatic extensions." These extensions would be barred. Many states currently issue licenses to military members that are "valid without photo." This practice will not be barred by federal law. The REAL ID Act on its face also bars military police and other federal law enforcement officials from using state driver's licenses and ID cards to identify criminal suspects.

At a time when federal and state budgets are under tremendous pressure, the Congressional Budget Office (CBO) estimates the cost of complying with "REAL ID" to be in excess of $120 million—$20 million more than the cost of complying with the legislation enacted last year in Public Law 108–458, the Intelligence Reform and Terrorism Prevention Act of 2004. This CBO estimate, however, is probably a vast underestimate of the true cost of the proposed law. Worse, Congress has not agreed to pay for the required upgrades to state DMV systems, making "REAL ID" yet another "massive unfunded mandate," according to both the National Governor's Association and the American Association of Motor Vehicle Administrators. If the federal government isn't going to pay to implement this law, most states won't be able to pay for it without raising taxes—and all of their residents will be punished accordingly.

Indirectly, however, DoD will suffer—because this law threatens to disrupt thousands of routine yet official acts that occur daily on every military post in the world. Those who already have military ID cards or who carry a passport around at all times can avoid some of the problems with this law—but a US passport or military ID doesn't give a person the right to drive on a military base. Also, anyone without a passport or other Federal ID prior to the effective date of the law will have difficulty obtaining one unless she can produce some other valid government-issued picture identification, such as a foreign passport. Strangely, this law will make it easier for foreigners or naturalized citizens to travel than native-born Americans: The law allows the use of a foreign passport, but bars the use of American state-issued licenses and identification cards.

REAL ID's sponsors claim the law will stop terrorists from getting on airplanes. The flaw in this logic is that the 9/11 terrorists did not need state driver's licenses to board the airplanes they hijacked—they could have used their foreign passports, and at least one of them did. Is meeting a false "security gap" a reason to spend millions forcing the states to conform to the "REAL ID" requirements?

REAL ID's sponsors are seeking support in the Senate. Their bill, however, goes far beyond the common-sense driver's license provisions enacted last year in Public Law 108–458, the Intelligence Reform and Terrorism Prevention Act of 2004. The "REAL ID" Act almost completely preempts state regulation of driver's licenses and effectively creates a national ID card by federal fiat. The proposed law threatens vital functions of the Department of Defense, and promises unforeseen headaches for military personnel and their family members. The reforms enacted late last year by Congress were sensible and worthy, but the "REAL ID" Act is a recipe for chaos.

Mr. DURBIN. Separate and apart from the driver's license issue, the REAL ID Act goes into other equally important and controversial issues. It would dramatically raise the standards for receiving asylum. This provision is supposedly aimed at terrorists but applies to all asylum applicants. Current law already prohibits—already prohibits—suspected terrorists from obtaining asylum. That is not an issue.

In Illinois, there is a wonderful social-services agency called Heartland Alliance. One of the things they do is provide assistance to refugees who have come to Illinois from all over the world. Heartland Alliance is not a political organization. They are down in the trenches doing important work for people in need. So when I received a letter from them telling me the REAL ID Act would hurt the people they serve, I paid attention.

Let me tell you what they said:

REAL ID threatens to eliminate relief for immigrants most in need of protection—those fleeing persecution in their home countries. REAL ID is inconsistent with our commitment to international agreements relating to refugees, and it violates some of the rights that we, as a nation of immigrants and a global leader of human rights, cherish.

Madam President, I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEARTLAND ALLIANCE,
Chicago, IL, March 25, 2005.

DEAR SENATOR DURBIN: At the opening of the 109th Congress, national security and immigration reform concern Americans as never before. In response to these concerns, the House of Representatives introduced legislation that, if passed into law, would undermine the asylum provisions of immigration law while doing nothing to effectively advance national security REAL ID (HR 418) will not provide the immigration reform needed or advance national security, but it will force us to turn our backs on asylum seekers.

REAL ID is not Congress' first attempt to dismantle the asylum system in an effort to further national security. These ill-conceived changes to asylum law were proposed as part of the intelligence reform bill last year, but Congress (following the lead of the 9/11 Commission which found no fault with the current asylum system) wisely excluded these changes from the National Intelligence Reform Act of 2004. Despite the findings of the 9/11 Commission, REAL ID threatens to eliminate relief for immigrants most in need of protection—those fleeing persecution in their home countries. REAL ID is inconsistent with our commitments to international agreements relating to refugees, and it violates some of the rights that we, a nation of immigrants and a global leader of human rights, cherish.

REAL ID Eviscerates Due Process Protections In the Asylum Adjudication Process:

Judicial oversight guarantees a full and fair process in proceedings that can literally mean life or death to asylum applicants. The 7th Circuit Court of Appeals has recognized that "caseload pressures and . . . resource constraints" can cause errors in Immigration Courts; the growing dockets make these errors more inevitable. However, because all immigrants are "entitled to a national analysis of the evidence," judicial review must exist to maintain this standard.

REAL ID would suspend habeas corpus review for many immigrants, denying them one of the most cherished protections from government abuse. This provision would prevent parole for immigrants challenging unwarranted detention or deprivation of fundamental freedoms.

REAL ID eliminates stays of removal pending judicial review. Stays of removal exist to allow asylum seekers to remain in the United States while petitioning for relief. The 7th Circuit has explained that this right is especially "vital when the alien seeks asylum or contends that he would be subject to torture if returned," but by deporting asylum seekers, REAL ID would make it impossible for these asylum seekers to see their case to its judicial end.

REAL ID Will Result in the Denial of Asylum to Those Who Are Persecuted:

REAL ID raises the burden of proof for asylum applicants by requiring them to prove that the central reason for their persecution is one of the five protected grounds. Applicants can rarely prove the unspoken intent of their persecutors. Moreover, persecution rarely happens for one specific reason. The current law recognizes this limitation and grants asylum to many individuals who have suffered persecution for complex or multiple reasons. Women fleeing female genital mutilation, domestic violence, and honor killings, and victims from political contexts where economic or sexual violence such as extortion, kidnapping for ransom, and rape are political tools can find safe haven in the United States. REAL ID would eliminate asylum for these and other deserving individuals.

Under current law and longstanding international authority, individuals may be granted asylum based solely on their credible testimony explaining their well-founded fear of persecution. The law relects the reality that refugees cannot obtain documents from their persecutors. REAL ID would give Immigration Judges wide discretion to deny relief from removal simply because the immigrant lacks corroborating evidence, even when the applicant's testimony is found to be credible. For example, under this provision, a refugee may be denied protection if his country lacks sufficient infrastructure to issue official documentation.

Because credibility determinations are notoriously subjective, judges must substantiate their findings in reasoned judgments, and they may not make negative credibility findings based on minor inconsistencies in testimony. REAL ID eliminates these safeguards. It would allow judges to determine credibility based on any alleged inconsistency with any prior statements, even if that inconsistency is immaterial to the person's claim. Judges could also use an applicant's demeanor, perceived candor, or responsiveness as a basis for a credibility finding.

REAL ID will damage asylum seekers' right to protection while doing nothing to enhance our national security. The current U.S. asylum system screens all applicants using thorough background checks and allows the U.S. State Department to comment on all applications. Under the existing system, asylum is granted only to those who establish that they are refugees and who have no ties to criminal or terrorist organizations. If REAL ID is passed in its current form, many deserving applicants will be denied refuge in this country.

If Congress truly wishes to address the link between immigration and national security, it must turn its full attention to the problem. Because of their piecemeal nature, the asylum provisions of REAL ID are ineffective. Furthermore, attempts to tack on these provisions as amendments to appropriations bills reflect an unwillingness to recognize the need for immigration reform. We need a better system for tracking arriving and departing non-citizens; we need to improve security screening while reducing backlogs that keep families separated for years and U.S. employers short of labor. We do not, however, need to throw out an effective system and replace it with harmful provisions in REAL ID.

As a representative of the people of Illinois and a Senate leader, we appeal to you to vigorously oppose REAL ID and to encourage your colleagues to do the same. We hope you will work as our ally to ensure that the bill does not pass. Moreover, we hope to continue working with you to ensure comprehensive reform that improves our immigration system, strengthens our national security, and reflects the will of the general public and our common values; REAL ID does none of these. We would welcome an opportunity to talk to you further about the REAL ID and will contact your office within the next few days to arrange a meeting with you or your staff. In the meantime, if you have any questions or comments, please contact Mary Meg McCarthy, Director of Heartland Alliance's Midwest Immigrant & Human Rights Center at (312) 660-1351 or mmccarthy@heartlandalliance.org.

Sincerely,

Natalie Spears, Sonnenschein Nath & Rosenthal LLP, Co-Chair MIHRC Leadership Counsel; Mary Meg McCarthy, Director, Midwest Immigrant & Human Rights Center; William B. Schiller, Davidson & Schiller, LLC Co-Chair MIHRC Leadership Counsel; Brain Neuffer, Winston & Strawn LLP; Lee Ann Russo, Jones Day; David Austin, Jenner & Block LLP; Bart Brown, Chicago-Kent College of Law; Linus Chan, Butler Rubin Saltarelli & Boyd LLP; Sid Mohn, President, Heartland Alliance; Carlina Tapia-Ruano, Minsky, McCormick & Hallagan, PC, American Immigration Lawyers Association, First Vice President; Nicole Nehama Auerbach, Katten Muchin Zavis Rosenman;

Terrance Norton, Sonnenschein Nath & Rosenthal LLC; Amalia Rioja; David Berten, Competition Law Group LLC; Craig Mousin, DePaul University College of Law; James Morsch, Butler Rubin Saltarelli & Boyd LLP; Martin Castro, Sonnenschein Nath & Rosenthal LLP; Terry Yale Fiertag, Mandel Lipton & Stevenson Ltd.; Hugo Dubovoy, Baker & McKenzie LLP; Joseph A. Antolin, Executive Director, Heartland Human Care Services; Elissa Steglich, Asylum Project Managing Attorney, Midwest Immigrant & Human Rights Center; Maria Woltjen, Unaccompanied Children's Advocate Project, Midwest Immigrant & Human Rights Center; Jennifer K. Fardy, Seyfarth Shaw LLP; Marketa Lindt.

Mr. DURBIN. I agree with Heartland Alliance. Our country has always stood with, not against, refugees. I have heard Members of Congress, Democrats and Republicans, Senators and Congressmen, step forward and talk about religious persecution in other countries. I have heard people on both sides of the aisle lamenting some of these human rights abuses in other countries where people who are simply expressing their points of view are imprisoned.

We have said, and I believe, that the United States is in favor of freedom around the world. So the victims of oppression, the victims of tyranny, the victims of dictatorships, when they escape, come to the shores of the United States and ask us if we will give them refuge until their country changes. And we have done it. It is one thing to say you stand for freedom of religion and freedom of speech and freedom of the press; it is another to prove it by accepting these refugees.

This bill, the so-called REAL ID Act, will make it much more difficult for those refugees to come to our shores. If this becomes law, it will become very difficult for individuals fleeing persecution and torture to receive asylum in the United States. If we shut the door to the most vulnerable, how can we continue to preach to the rest of the world about our commitment to democracy?

Remember President Reagan's vision of our Nation. He called it "a shining city on a hill." Here is what he said:

> If there have to be city walls, the walls have doors and the doors are open to anyone with the will and heart to get here. . . . The city is a beacon . . . a magnet for all who must have freedom, for all pilgrims from all the lost places who are hurtling through the darkness, toward home.

Like me, President Reagan was the son of an immigrant. We had very different political philosophies, but President Reagan understood that our great country has always been a sanctuary for those fleeing persecution and oppression.

Even the conservative Wall Street Journal is opposed to the REAL ID Act. In an editorial they called the driver's license provisions "costly and intrusive." They said:

> It's not hard to imagine these de facto national ID cards—

Which they believe this bill would create—

> turning into the kind of domestic passport that U.S. citizens would be asked to produce for everyday commercial and financial tasks.

They also called the asylum provisions "dubious." That is the Wall Street Journal. Listen to what they said:

> The last thing a terrorist would want to do is apply for asylum. Not only would he be bringing himself to the attention of the U.S. government—the first step is being fingerprinted—but the screening process for applicants is more rigorous than for just about anyone else trying to enter the country. . . . Raising the barrier for asylum seekers at this point would only increase the likelihood of turning away the truly persecuted.

That is the Wall Street Journal, not known as a bleeding-heart publication. They think the REAL ID Act makes no sense in fighting terrorism.

Madam President, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 17, 2005]

NATIONAL ID PARTY

Republicans swept to power in Congress 10 years ago championing State prerogatives, and one of their first acts was to repeal Federal speed-limit requirements. Another was aimed at ending unfunded State mandates. So last week's House vote to require costly and intrusive Federal standards for State drivers' licenses is a measure of how far the party has strayed from these federalist principles.

More important, it reveals a mindset among some that more enforcement alone will bring better border security and reduce illegal immigration. The bill that passed the House last week and now goes to the Senate is known as the Real ID Act, and the driver's license requirements may not even be the worst part of the legislation. Also included are unnecessary provisions that would make it much more difficult for foreigners to seek asylum in the U.S.

House Judiciary Chairman James Sensenbrenner, who authored the bill, insists that his goal is to reduce the terrorist threat, not immigration. But it just so happens that the bill's provisions have long occupied the wish list of anti-immigration lawmakers and activists. Mr. Sensenbrenner produced a photo of Mohammed Atta during the floor debate last week, arguing that the 9/11 hijackers' ability to obtain drivers' licenses and use them to board airplanes represents a security loophole.

His solution is to force States to issue federally approved drivers' licenses with digital photographs and "machine-readable technology." In theory, states can opt out, but if they do their drivers' licenses will no longer be accepted as identification to board planes, purchase guns, enter Federal buildings and so forth. It's not hard to imagine these de facto national ID cards turning into a kind of domestic passport that U.S. citizens would be asked to produce for everyday commercial and financial tasks.

Aside from the privacy implications of this show-us-your-papers Sensenbrenner approach, and the fact that governors, State legislatures and motor vehicle departments have denounced the bill as expensive and burdensome, there's another reality: Even if the Real ID Act had been in place prior to 9/11, it's unlikely that the license provisions would have prevented the attacks.

That's because all of the hijackers entered the U.S. legally, which means they qualified for drivers' licenses. The Real ID Act wouldn't change that. Moreover, you don't need a driver's license to fly. Other forms of identification—such as a passport—are acceptable and also were available to the hijackers. Nothing in the Sensenbrenner bill would change that, either.

The biggest impact will be on undocumented workers in the U.S., which is why the immigration restrictionists are pushing for the legislation. But denying drivers' licenses to illegal aliens won't result in fewer immigrants. It will result in more immigrants driving illegally and without insurance.

Mr. Sensenbrenner's claims that tougher asylum provisions will make us safer are also dubious. The last thing a terrorist would want to do is apply for asylum. Not only would he be bringing himself to the attention of the U.S. government—the first step is being fingerprinted—but the screening process for applicants is more rigorous than for just about anyone else trying to enter the country. In the past decade, perhaps a half-dozen individuals with some kind of terrorists ties have applied for asylum. All were rejected.

The Real ID Act would raise the bar substantially for granting asylum to people fleeing persecution. But this is a solution in search of a problem. A decade ago the U.S. asylum laws were in fact being abused by foreigners with weak claims who knew they would receive work permits while their cases were pending.

But in 1994, the Clinton Administration issued regulations to curb this abuse. The law now says that asylum seekers cannot receive work permits until they have won their case. Applications per year subsequently have fallen to about 30,000 today from 140,000 in the early 1990s. This was the biggest abuse of the system, and it's been fixed. Raising the barrier for asylum seekers at this point would only increase the likelihood of turning away the truly persecuted.

But the bigger problem with Mr. Sensenbrenner's bill is that is takes our eye off the ball. Homeland security is about taking useful steps to prevent another attack. It's not about keeping gainfully employed Mexican illegals from driving to work, or cracking down on the imagined hordes gaming our asylum system.

President Bush realizes this and is pushing for a guest-worker program that would help separate people in search of employment from potential terrorists. If the Republican Congress doesn't realize that, perhaps a Presidential veto of the Real ID Act would focus its attention.

Mr. DURBIN. Madam President, clearly, the REAL ID Act is a Draconian piece of legislation that would impose unnecessary hardships on the States and the American people and lead us to turn away deserving refugees who are fleeing persecution.

I sincerely hope the Senate Republican leadership, which has said they do not want this provision in this bill, will oppose its inclusion in the conference report.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 340

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 340.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is well taken and sustained. The amendment falls.

AMENDMENT NO. 351

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 351.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 375

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 375.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 395

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 395.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 417

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 417.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 432

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 432.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 445

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 445.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 451

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 451.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 452

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 452.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 456

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 456.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 459

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 459.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 463

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 463.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 499

Mr. COCHRAN. Madam President, I ask for the regular order with respect to amendment No. 499.

The PRESIDING OFFICER. The amendment is now the pending question.

Mr. COCHRAN. Madam President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

Mr. COCHRAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 471

Mr. COCHRAN. Madam President, the Senator from Oklahoma offered an amendment No. 471 relating to the Embassy in Iraq. We have had a discussion of that amendment. I ask unanimous consent that it be in order to table the amendment, and I ask for the yeas and nays. And I ask unanimous consent that the vote be ordered to occur at 1:45.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURR. Madam President, I ask unanimous consent to speak on another topic and ask that the time be charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BURR are printed in today's RECORD under "MORNING BUSINESS.")

Mr. BURR. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 498

Mr. WARNER. Mr. President, I ask unanimous consent that the pending amendment be laid aside and amendment No. 498 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for himself, Mr. NELSON of Florida, Mr. ALLEN, and Mr. TALENT, proposes an amendment numbered 498.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the aircraft carriers of the Navy)

On page 169, between lines 8 and 9, insert the following:

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1122. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy by this Act, necessary funding will be made available for such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available by this Act may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(1) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(2) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to Congress that such agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers as are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

Mr. WARNER. Mr. President, I inquire of the distinguished Presiding Officer, is this amendment germane?

The PRESIDING OFFICER. This amendment is germane.

Mr. WARNER. I thank the Chair. The amendment is germane; therefore, it can be made a part of the business pending before the Senate and, hopefully, it will be acted upon by a record vote and included as a part of the underlying bill. I will seek that at an appropriate time.

Mr. President, this is an amendment that follows on an amendment that I earlier put in on this bill, which understandably failed to meet the germaneness test, and therefore just early this morning it was stricken. Nevertheless, I have carefully crafted this, and now it is confirmed by the Parliamentarian that this amendment is germane.

This amendment applies to the question of the USS *John F. Kennedy*, a very famous and historic ship of the U.S. Navy, which recently was designated to be retired by the Department of Defense as a consequence of a restricted budget that was placed in the waning hours of the budget process on the Department of the Navy. Quite unexpectedly, the Department of the Navy departed from its steadfast opinions, published statements, and records that this Nation required 12 aircraft carriers in our fleet. It came as a complete surprise to the Congress. I didn't feel that we had any particular consultation. Nevertheless, the executive branch has the right to make budget decisions, so that history is behind us.

I believe it is imperative that the Congress—and now, at this time, the Senate—examine this situation and determine whether at this point in time this ship should be stricken from the active force and designated for mothballs. I say that because the Department of Defense is well along in its Quadrennial Defense Review. The Congress has 180 days, once that is completed, to look at that report. Therefore, the purpose of this amendment is to say that this ship stays in the fleet in an active status until two things happen: the Department completes its Quadrennial Defense Review and the Congress has had 180 days to study the results of that review; and the Secretary of Defense certifies to the Congress that necessary agreements have been entered into with other nations to provide for the permanent forward deployment of aircraft carriers in the Pacific necessary to carry out the mission within the Pacific Command area of responsibility.

The reasons I am offering this amendment are simple. Congress has a constitutional role and mandate to maintain a navy. I will repeat that. Under the Constitution, we raise armies in time of need, but we maintain a navy. As I have heard many colleagues say—and I recently heard my colleague, Senator MCCAIN, speaking to a group—a warship really has two purposes. It has its underlying missions to deter aggression and, if necessary, to repel aggression, but it also has a very valuable role as a silent ambassador wherever it is beyond the shores of the United States. Particularly when the magnificence of an American ship is in a harbor beyond our shores, people from that country come from all over to take a look. It is a silent way of saying America is there to help protect freedom. It is called ship diplomacy. It is well documented in the long history of this country. We being, in many respects, an island nation, we have always depended upon our maritime arm of defense to play a role in diplomacy and, if necessary, to take up arms.

The funds for the *Kennedy*'s scheduled maintenance were authorized and appropriated in previous bills. Money to do the work that is necessary to keep this ship active in the fleet is in the coffers of the U.S. Navy today. For that reason, we are not trying to touch a single dollar that is in this bill. We will maintain the *Kennedy* in the fleet until 2018. The ship will be quite old; nevertheless, in the opinion of the sailors who sail it today and the sailors who will sail it tomorrow, it can be an effective ship and be counted upon as a full partner in the fleet of some 12 carriers.

All analyses presented to the Congress, to include the last two Quadrennial Defense Reviews, in 1997 and 2001, set the minimum number of aircraft carriers at 12. There has been no analysis to support reducing the aircraft carrier fleet to 11—that is, formal analysis. I realize there are working documents in the Department of the Navy, but I have not seen that type of analysis that I believed fully justified a decision of this importance. I think that analysis will be done in the forthcoming 2005 review.

Next, the reason the Department submitted the budget request with the decommissioning of an aircraft carrier was because the Navy was handed a budget cut in December, somewhat unexpectedly. The Navy's original budget submission included the *Kennedy*. I point that out. Throughout the budget process, that particular process, and the budget of the Department of Defense, the *Kennedy* was always included with the 12 carriers. Then, with the flick of a wrist and some very brief analysis I have seen, out she went.

The *Kennedy*, as I say, is in good material condition. In the words of the battle group commander who just returned on this ship from a 6-month deployment in support of Operation Iraqi Freedom in December, it is in "outstanding material condition."

With the scheduled decommissioning of the USS *Kitty Hawk* in fiscal year 2008, the *Kennedy* would be the only, assuming this amendment prevails, conventionally powered aircraft carrier available in the Pacific Command area of responsibility where there are nations that simply will not allow a nuclear warship to enter its waters.

Again, I believe Congress should now show its responsibility—I repeat, its responsibility—in making force structure decisions and go back and review what the Navy has done and say to the Department of the Navy: Not at this time should we be decommissioning this ship. We should await the normal processes of the QDR, the BRAC process, and other ongoing congressional and active procedures until such time, and then the decision can be made, in a balanced way, as to the fate of the carrier.

Mr. President, I thank my principal cosponsor, the distinguished Senator from Florida. We are joined in this matter by Senator ALLEN, Senator MARTINEZ, and Senator TALENT, who is chairman of the Armed Services Seapower Subcommittee. This is a bipartisan approach. It is not a political matter. We are simply here in the best interests of the Department of Defense and this country in suggesting strongly to our colleagues we should have a voice in this matter, and to do so, the Senator from Florida and I and others are bringing this amendment to the attention of the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I express my personal appreciation to the senior Senator from Virginia, who has, just like the old Navy man he is, risen again to the call to duty of what he thinks is in the best defense interest of this country.

It is one thing for the senior Senator from Florida to make this argument when it is perceived as an argument in this Senator's parochial interest because the *John F. Kennedy* aircraft carrier is stationed in Mayport in Jacksonville. I could argue all of the specifics Senator WARNER has, and it would still be interpreted that it was the position of the Senator from Florida looking out for his constituency. Certainly, that is a part of my motivation. But a part of my motivation also is that in my title is "United States Senator," and a very fortunate and proud member of the Senate Armed Services Committee. I am trying to make decisions that are in the best defense interests of our country.

That defense interest is clearly that we, the United States, must have a carrier homeported in Japan. We simply do not know, since it is not a decision of the central Government of Japan—it is a decision of the local municipal governments that influence the decision—whether they will be receptive to a nuclear-powered carrier. If some time between now and 2008, when the conventionally powered carrier, the *Kitty Hawk*, that is residing in Japan, is scheduled to be decommissioned, if at some time in that time period Japan says no to a nuclear carrier, suddenly we are without an aircraft carrier homeported in Japan.

I remind the Senate what the Chief of Naval Operations, the four-star chief admiral of the Navy, testified to before the Senate Armed Services Committee: With the rising threat of China, one carrier in Japan is worth a great deal to him as opposed to other carriers that are stationed elsewhere around the world.

If I could get the attention of the Senator from Virginia, I want him to hear my appreciation because he has, in his independent and expert judgment, come to this conclusion. He has stepped forth and offered this amendment so it would be led by the chairman of the Senate Armed Services Committee and many of his bipartisan membership who have joined with him.

Mr. President, I say to all Senators, listen to the chairman. He knows what he is talking about. Then on down the road, if because of new capabilities of ships we are able to lessen the carriers from 12 to 11, we will be in a position where we will not have this window of vulnerability for projecting our force structure in the Pacific area of operations.

I plead with the Senate. This should not be a fight. We ought to be listening to the chairman of the committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if the time is appropriate for the Senator from Florida and me to ask for the yeas and nays on this amendment?

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Florida. I think other Senators desire to speak on this amendment. I yield to the good judgment and fair judgment of the senior members of the Appropriations Committee as to the timing of the vote on this amendment. I do urge Senators to come and express their views on this important issue.

Mr. President, I see the distinguished Senator from West Virginia. Therefore, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia, Mr. WARNER.

AMENDMENT NO. 516

Mr. BYRD. Mr. President, when Congress passed the USA PATRIOT Act in 2001, the Enhanced Border Security Act of 2002, and the Intelligence Reform and Terrorism Prevention Act of 2004, Congress recognized, on a bipartisan basis, the need to provide more people and more resources to patrol and secure our borders.

The PATRIOT Act called for tripling the number of Border Patrol agents and Immigration and Customs investigators on our northern border. The Enhanced Border Security Act called for an additional 200 investigators a year—on top of the PATRIOT Act increases—for fiscal years 2003 through 2006. The Intelligence Reform and Terrorism Prevention Act authorized the hiring of an additional 2,000 Border Patrol agents and 800 new ICE immigration investigators, and provided for another 2,000 detention bed spaces per year for 5 years. Together these laws reflect a consensus in the Congress that more needs to be done. But a consensus and a series of authorization bills produces only promises of progress, but promises do not make our borders more secure.

In written testimony before the Senate Intelligence Committee on February 16, the Department's then-Deputy Secretary, Admiral James Loy, cited recently received intelligence as the reason for his concern about the threat facing the Mexican border. He said the intelligence "strongly suggest(s)" that al-Qaida "has considered using the Southwest border to infiltrate the United States. Several al-Qaida leaders believe operatives can pay their way into the country through Mexico and also believe illegal entry is more advantageous than legal entry for operational security reasons."

On March 10, 2005, Secretary of State Condoleezza Rice said:

> There is no secret that al-Qaida will try to get into this country. . . . They're going to keep trying on our southern border. They're going to keep trying on our northern border.

In his December 6, 2004, letter to Congress urging final passage of the Intelligence Reform Act, the President said:

> I also believe the Conference took an important step in strengthening our immigration laws by, among other items, increasing the number of border patrol agents and detention beds.

Remarkably, despite the threat to our borders as enunciated by senior administration officials, despite the clear intent of Congress in three separate authorization laws, and despite the President's commendation of the intelligence reform conferees for increasing the number of Border Patrol agents and detention beds, the President included virtually nothing in his budget to actually hire and train those Border Patrol agents or to hire and train immigration investigators or to purchase or construct detention facilities for illegal aliens.

Our citizens are concerned about the security gaps along our borders. It has reached such a fever pitch in some locations that private groups, such as the self-proclaimed "Minutemen," are banding together to form watch groups along the borders to act as additional "eyes and ears" and report suspicious border crossings to the Border Patrol for appropriate response. While perhaps not reaching the level of vigilante activity, this is a clear expression of the frustration felt by many citizens along the border areas that the Federal Government is asleep at the switch and failing to address a key Federal function.

Even our military is concerned about border security. According to an April 7 CNN report, Marines preparing for combat in Iraq or Afghanistan have lost significant amounts of training time because undocumented immigrants from Mexico have constantly wandered onto a bombing test range at the Marine Corps air station near Yuma, AZ. The range has been shut down more than 500 times over this past 6 months for a total of 1,100 training hours lost. Last year, more than 1,500 illegal immigrants were caught in the training area. In the first 3 months of this year, more than 1,100 have already been apprehended.

Today, I am offering a bipartisan amendment, cosponsored by Senator CRAIG of Idaho, that will fund the real work of securing our borders. The amendment provides $389.6 million for border security, and the amendment is paid for by reducing funding for diplomatic and consular programs the Department of State has indicated is not necessary until fiscal year 2006.

The amendment begins to address the security gap on our borders by funding the hiring of 650 new Border Patrol agents, and this number may fall short of the authorization goals set by the various acts, but it is a responsible level which Customs and Border Protection can meet in the coming months.

During an April 4, 2005, interview on C-SPAN's Washington Journal, Customs and Border Patrol Commissioner Robert Bonner said, "The Border Patrol is almost . . . being overwhelmed by illegal immigration. This is like a sinking ship with a hole in it. You've got to plug the hole. You've got to stop the illegal migration into the United States. . . ."

The agency responsible for enforcing our immigration laws, known as Immigration and Customs Enforcement, ICE, has been forced to endure a hiring freeze and funding shortfall for more than a year. Vehicles are not being replaced. Body armor is not being purchased. Travel to pursue immigration investigations has been curtailed. ICE continues to lose personnel, and the agency has not been able to fill those positions because of a hiring freeze. Through the end of January alone, ICE lost a total of 299 personnel.

My amendment—and it is cosponsored by several senators—would give ICE the resources that are so vital to beginning the process of hiring and training the personnel it needs to enforce our immigration laws.

This amendment also provides funds for deploying unmanned aerial vehicles along the Southwest border. The Border Patrol has tested and operated, for a limited period of time this year, unmanned aerial vehicles, UAVs, along the Southwest border. Using funds provided to it by the Congress, the Border Patrol conducted successful tests using UAVs to assist in the surveillance and detection of individuals attempting to enter the U.S. illegally. The operation, known as the Arizona Border Control Initiative, used these drones to monitor and patrol a 350-mile long swath of the desert border. More than 350,000 illegal immigrants crossing into the U.S. were apprehended during the operation. Regrettably, this program was shut down on January 31 of this year. The funds provided in this amendment would allow for the immediate resumption of these surveillance and detection operations.

Finally, the amendment includes funds for the Federal Law Enforcement Training Center Border Patrol Academy in Artesia, NM, to train the new personnel.

The case for this amendment is clear; the need for it is critical; and the support for it should be bipartisan. This amendment is focused and targeted to address key border security shortfalls. The Border Patrol's role is to apprehend those illegally entering this country. They also work with ICE investigators to crack down on illegal immigration. They then turn over those who are here illegally to ICE, which needs the detention bed space and to deportation officials to hold, process, and then remove these individuals.

We must start now. This cannot wait.

The job of our immigration officers is staggering, and their resources are meager.

Along the 2,000 miles of land border with Mexico, the United States has deployed only 1,700 agents at any given time. That is one agent, just one, guarding more than one mile of border.

Of the 10 million illegal aliens in the country, 2,000 interior enforcement agents are charged with locating and arresting them. That is one agent, just one, charged with locating and arresting 5,000 illegal aliens.

Of the 10,000 border patrol agents authorized in the Intelligence Reform and Terrorism Prevention Act, the President's budget included funds to hire just 210. Of the 4,000 interior enforcement agents authorized, the President's budget included funds to hire only 500 of them. Of the 40,000 detention beds authorized, the President's budget included funding for a mere 5 percent of them. However, in every case, the very modest proposed increases for 2006 will barely make up for the 137 border patrol positions lost during the first two quarters of fiscal year 2005, the 299 ICE personnel lost and the 2,000 detention beds that do not exist, for lack of funding.

We ask how and why illegal aliens continue to pour into our country, and the answer lies in every border patrol increase we do not fund, every agent we do not hire, and every illegal alien we release due to lack of detention space.

This is our opportunity to reverse that sorry record. This is our opportunity to strengthen our border defenses. This is our opportunity to support a substantive, concrete effort to address the alarming rise in illegal immigration.

Sir Edward Coke wrote that a man's house is his castle, for where shall a man be safe if not in his own home?

The United States is home to 296 million people. They, by right, demand that their Government secure their castle against the unknown threat seeking to infiltrate its sanctuary.

I urge adoption of the amendment. It is cosponsored by Senators CRAIG, BAUCUS, DORGAN, LIEBERMAN, OBAMA, LEAHY and FEINSTEIN.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I ask unanimous consent to speak as in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. THOMAS are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we will soon have a time for a recorded vote. I will yield the floor at the appropriate time, if the Chair will notify me when it is time to start that vote.

Mr. President, there are a series of amendments now that have been filed on this bill to earmark money in the portion of the supplemental dealing with Defense. Our subcommittee and the full Appropriations Committee did not earmark any money in the Defense portion of this bill. It was my position and the position of the Senator from Hawaii, Mr. INOUYE, that this is, after all, supplemental money on an emergency basis to deal with the problems of those who are in combat now: Iraq and Afghanistan and the war against terror.

We have urgent needs of those people. This money must be approved and must be available to them no later than the first week in May. Under those circumstances, I have come to the floor to tell the Senate now we are going to oppose any amendment that would earmark money in this bill.

There are some legitimate desires here on the floor for the Department to spend some of the money it has for specific purposes. I think a sense-of-the-Senate resolution in most of those instances would call that matter to the attention of the Department, and to a great extent I believe the Department would follow the suggestion of the Senate—of the Congress, if you want to make it a sense-of-the-Congress, as an amendment to this bill. We can change the amendments into a sense-of-the-Senate concept. But we cannot start taking these amendments. We turned down the amendments that came to us in subcommittee. We turned down the amendments that came to us in markup in the subcommittee. We turned down the amendments when they came to the full committee. Now to have them come to the floor in a cloture situation I think exacerbates the situation.

This is to say it is my intention to move to table any amendment that will attempt to earmark money in this bill or elsewhere for nonemergency purposes. I know of none of them I have seen that are emergencies that have been filed on this bill. But I assure the Senate we are sympathetic to many of the amendments. As a matter of fact, I think I may have cosponsored one or two of them myself in connection with previous bills, the annual appropriations bills for Defense.

But this is a supplemental. It is primarily designed to provide emergency funds. This is not the time for us to be taking up policy questions that should be addressed in the authorization bill or amendments that should be offered to the bills when we bring the bills out of the committee dealing with fiscal year 2006.

I believe it is almost time for the vote that is scheduled. Again, I urge my friends who have offered these amendments to stay on the floor and discuss them with us. Again, I say, many of them are very well intentioned. I personally would support them in many circumstances, but I cannot in good conscience do that now. We should take this bill as clean as possible to conference and get it out of conference as quickly as possible.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to the motion to table the Coburn amendment No. 471. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—54

Akaka
Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Burns
Cantwell
Cochran
Coleman
Corzine
Dayton
DeWine
Dole
Domenici
Durbin
Feinstein
Frist
Hagel
Hutchison
Inouye
Johnson
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Voinovich
Warner

NAYS—45

Bayh
Boxer
Brownback
Bunning
Burr
Byrd
Carper
Chafee
Chambliss
Clinton
Coburn
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
Dodd
Dorgan
Ensign
Enzi
Feingold
Graham
Grassley
Gregg
Harkin
Hatch
Inhofe
Isakson
Kennedy
Kohl
Kyl
Lincoln
Lott
Nelson (NE)
Obama
Pryor
Sarbanes
Schumer
Sessions
Sununu
Thomas
Thune
Vitter
Wyden

NOT VOTING—1

Jeffords

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(The remarks of Mr. LEAHY, Mr. REID, and Mr. BAUCUS are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 466

Mr. SHELBY. Mr. President, I call up amendment No. 466 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. Shelby], for himself, and Mr. Dorgan, proposes amendment numbered 466.

Mr. SHELBY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a refundable wage differential credit for activated military reservists)

On page 169, between lines 8 and 9, insert the following:

REFUNDABLE WAGE DIFFERENTIAL CREDIT FOR ACTIVATED MILITARY RESERVISTS

Sec. 1122. (a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. WAGE DIFFERENTIAL FOR ACTIVATED RESERVISTS.

"(a) In General.—In the case of a qualified reservist, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the qualified active duty wage differential of such qualified reservist for the taxable year.

"(b) Qualified Active Duty Wage Differential.—For purposes of this section—

"(1) In general.—The term 'qualified active duty wage differential' means the daily wage differential of the qualified active duty reservist multiplied by the number of days such qualified reservist participates in qualified reserve component duty during the taxable year, including time spent in a travel status.

"(2) Daily wage differential.—The daily wage differential is an amount equal to the lesser of—

"(A) the excess of—

"(i) the qualified reservist's average daily qualified compensation, over

"(ii) the qualified reservist's average daily military pay while participating in qualified reserve component duty to the exclusion of the qualified reservist's normal employment duties, or

"(B) $54.80.

"(3) Average daily qualified compensation.—

"(A) In general.—The term 'average daily qualified compensation' means—

"(i) the qualified compensation of the qualified reservist for the one-year period ending on the day before the date the qualified reservist begins qualified reserve component duty, divided by

"(ii) 365.

"(B) Qualified compensation.—The term 'qualified compensation' means—

"(i) compensation which is normally contingent on the qualified reservist's presence for work and which would be includible in gross income, and

"(ii) compensation which is not characterized by the qualified reservist's employer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence.

"(4) Average daily military pay and allowances.—

"(A) In general.—The term 'average daily military pay and allowances' means—

"(i) the amount paid to the qualified reservist during the taxable year as military pay and allowances on account of the qualified reservist's participation in qualified reserve component duty, determined as of the date the qualified reservist begins qualified reserve component duty, divided by

"(ii) the total number of days the qualified reservist participates in qualified reserve component duty during the taxable year, including time spent in travel status.

"(B) Military pay and allowances.—The term 'military pay' means pay as that term is defined in section 101(21) of title 37, United States Code, and the term 'allowances' means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

"(5) Qualified reserve component duty.—The term 'qualified reserve component duty' means—

"(A) active duty performed, as designated in the reservist's military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code, or

"(B) full-time National Guard duty (as defined in section 101(19) of title 32, United States Code) which is ordered pursuant to a request by the President, for a period under 1 or more orders described in subparagraph (A) or (B) of more than 90 consecutive days.

"(c) Qualified Reservist.—For purposes of this section—

"(1) In general.—The term 'qualified reservist' means an individual who is engaged in normal employment and is a member of—

"(A) the National Guard (as defined by section 101(c)(1) of title 10, United States Code), or

"(B) the Ready Reserve (as defined by section 10142 of title 10, United States Code).

"(2) Normal employment.—The term 'normal employment duties' includes self-employment.

"(d) Disallowance With Respect to Persons Ordered to Active Duty for Training.—No credit shall be allowed under subsection (a) to a qualified reservist who is called or ordered to active duty for any of the following types of duty:

"(1) Active duty for training under any provision of title 10, United States Code.

"(2) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

"(3) Full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

"(e) Credit Included in Gross Income.—Gross income includes the amount of the credit allowed the taxpayer under this section.".

(b) Conforming Amendments.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36 of such Code".

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 36. Wage differential for activated reservists.

"Sec. 37. Overpayments of tax.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

Mr. SHELBY. Mr. President, I ask unanimous consent to add Senator Dorgan as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I rise this afternoon to speak about this amendment because I believe it is very important to our Reserve and Guard units who have been called upon to serve their country during this time of war.

This amendment is based on a bill I introduced last month with Senator Dorgan. It provides a financial safety net for the families of our service members proudly serving in our Nation's military Reserve and National Guard.

Today, our National Guard and Reserve units are being called upon, as you well know, more than ever and are being asked to serve their country in a very different way than they have in the past. The global war on terror and the high operational tempo of our military require that our Reserve components play a more active role in the total force.

These long tours and frequent activations have a profound and disruptive effect on the lives of these men and women and on the lives of their families and loved ones. Many of our reservists suffer significant loss of income when they are mobilized, forcing them to leave often higher paying civilian jobs to serve their country. Such losses can be compounded by additional family expenses associated with military activation, including the cost of long distance phone calls and the need for additional childcare. These circumstances create a serious financial burden that is extremely difficult for reservists' families to manage.

I believe we can and we should do more to alleviate the financial burden; therefore, the amendment I am discussing this afternoon would provide a completely refundable income tax credit of up to $20,000 annually to a military reservist called to active duty. The amount of the tax credit would be based upon the difference between wages paid by the reservist's civilian job and the military wages paid upon mobilization. The tax credit would be available to members of the National Guard or Ready Reserve who are serving for more than 90 days and would vary according to their length of service.

Now is the time to recognize the service and sacrifice of the men and women in the Guard and Reserves. I believe the Congress should focus on this issue. It is important to thousands of service members who are serving their country and their families who are struggling financially.

Mr. President, I recognize that the emergency supplemental before us today may not be the best place to begin a discussion about this subject, so I urge my colleagues on the Senate Armed Services Committee and the Finance Committee to not only study but to work with me and Senator Dorgan to act on this issue this year. This is very important to thousands and thousands of families in this country.

At a time when the Nation is calling our guardsmen and reservists to active duty to execute the war in Iraq, fight the war on terrorism, and to defend our homeland, I believe it is imperative that Congress recognize their vital role and acknowledge that the success of our military depends on these troops. It is not too much to ask of our Nation and, more importantly, I believe it is the right thing to do.

AMENDMENT NO. 466, WITHDRAWN

Mr. President, I want to withdraw my amendment because I don't think this is the proper place for it on the supplemental, but it is the proper place to begin the debate in the Senate. I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 481

Mrs. LINCOLN. Mr. President, first, I withdraw a pending amendment, No. 481, which I offered earlier in this debate.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 482

Mrs. LINCOLN. Mr. President, I call up my amendment 482.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN], for herself and Mr. PRYOR, proposes an amendment numbered 482.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a report assessing the feasibility and advisability of implementing for the Army National Guard a program similar to the Post Deployment Stand-Down Program of the Air National Guard)

On page 169, between lines 8 and 9, insert the following:

REPORT ON IMPLEMENTATION OF POST DEPLOYMENT STAND-DOWN PROGRAM BY ARMY NATIONAL GUARD

SEC. 1122. Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report containing the assessment of the Secretary of the feasibility and advisability of implementing for the Army National Guard a program similar to the Post Deployment Stand-Down Program of the Air National Guard. The Secretary of the Army shall prepare the assessment in consultation with the Secretary of the Air Force.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that I may add Senator PRYOR as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, first of all, I compliment Chairman COCHRAN for all of his hard work on this bill, and I appreciate so many of the Members who I have been able to work with for a better understanding in how we approach the ability we have to help our service men and women. That is exactly the intention of my amendment—to provide the Army the ability to study some of the tools that are used in other branches of the armed services in order to be able to provide the correct direction on the leave policies that they have.

We all certainly share our pride and our gratitude for the service men and women from our Guard units and Reserve units in our home States who have portrayed such courage and dedication to our Nation and to the freedoms for which they fight. As they return, we want to ensure that every opportunity is made available to them, and certainly we want to give them everything they need to readjust and transition back into their communities. So I am delighted to be able to offer this study. It is giving the Army National Guard the opportunity to study what the Air National Guard and Air Force do in their leave policy. I hope we can do more with the leave policy of our Guard and Reserve as they return home.

I appreciate the work the chairman has done. I look forward to the opportunity to be able to move our amendment forward. We got an OK from our side and, apparently, got the OK from the other side. Hopefully, we can move it forward.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. It is my understanding that the Senator's amendment is before the Senate at this time. Would she object to it being set aside for the purpose of the consideration of another amendment?

Mr. COCHRAN. Mr. President, I suggest we adopt the amendment offered by the Senator from Arkansas on a voice vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi?

If not, the question is on agreeing to amendment No. 482, offered by the Senator from Arkansas.

The amendment (No. 482) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 475

Mr. CRAIG. Mr. President, I call up amendment No. 475 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI, proposes an amendment numbered 475.

Mr. CRAIG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the use of funds to restrict the issuance of general licenses for travel to Cuba in connection with authorized sales activities, and for other purposes)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. (a) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office to implement or enforce section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) or any other provision of law in a manner other than a manner that permits payment by the purchaser of an agricultural commodity or product to the seller, and receipt of the payment by the seller, at any time prior to—

(1) the transfer of the title of the commodity or product to the purchaser; and

(2) the release of control of the commodity or product to the purchaser.

(b) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office that refuses to authorize the issuance of a general license for travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations, for travel to, from, or within Cuba undertaken in connection with sales and marketing, including the organization and participation in product exhibitions, and the transportation by sea or air of products pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000.

(c) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office that restricts the direct transfers from a Cuban financial institution to a United States financial institution executed in payment for a product authorized for sale under the Trade Sanctions Reform and Export Enhancement Act of 2000.

Mr. CRAIG. Mr. President, this amendment is very straightforward. Its purpose is to limit the use of funds to restrict the issuance of general licenses for travel to Cuba in connection with authorized sales activities and for other purposes.

This amendment responds specifically to an action by the Department of Treasury in a new rulemaking process that dramatically curtails the potential of agricultural trade with the nation of Cuba. A group of us—one of my colleagues who is on the Senate floor, MAX BAUCUS, and others—sent a letter to our Secretary of Agriculture. We know agricultural trade is extremely important for American agriculture. Last year, there was a surplus of $9.5 billion. That is going to drop precipitously this year to as much as $2.5 billion.

Trade with Cuba has been growing. This amendment dramatically restricts that trade by the unwillingness of the Treasury Department to offer the necessary licenses for agricultural traders to travel to Cuba for that purpose.

I hope we can consider it. It is very straightforward. I understand my colleague from Montana has a second-degree amendment.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 549 TO AMENDMENT NO. 475

Mr. BAUCUS. Mr. President, I call up amendment No. 549, an amendment in the second degree.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself and Mr. CRAIG, proposes an amendment numbered 549 to amendment No. 475.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the terms of payment under the Trade Sanctions Reform and Export Enhancement Act of 2000)

Strike all after "Sec.", and insert the following:

6407. CLARIFICATION OF PAYMENT TERMS UNDER TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.

(a) IN GENERAL.—Section 908(b)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)) is amended by inserting after subparagraph (B) the following:

"(C) Notwithstanding any other provision of law, the term 'payment of cash in advance' means the payment by the purchaser of an agricultural commodity or product and the receipt of such payment by the seller prior to—

"(i) the transfer of title of such commodity or product to the purchaser; and

"(ii) the release of control of such commodity or product to the purchaser.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales of agricultural commodities made on or after February 22, 2005.

AMENDMENT NO. 549, AS MODIFIED

Mr. BAUCUS. Mr. President, I have a modification to my amendment. It changes the effective date. I ask unanimous consent that the amendment be modified with the text I send to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, is as follows:

Strike all after "Sec.", and insert the following:

6407. CLARIFICATION OF PAYMENT TERMS UNDER TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.

(a) IN GENERAL.—Section 908(b)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)) is amended by inserting after subparagraph (B) the following:

"(C) Notwithstanding any other provision of law, the term 'payment of cash in advance' means the payment by the purchaser of an agricultural commodity or product and the receipt of such payment by the seller prior to—

"(i) the transfer of title of such commodity or product to the purchaser; and

"(ii) the release of control of such commodity or product to the purchaser.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales of agricultural commodities made on or after October 28, 2000.

Mr. BAUCUS. Mr. President, this is an amendment which I think is agreeable all the way around. It addresses the basic problem we are facing where the U.S. Government is essentially changing the rules of the game. I hope the Senate will adopt this amendment so we can overturn the Treasury Department ruling.

This is for farmers, this is for ranchers, this is for agricultural cooperatives, and this is for shipping companies and port authorities around our country. It is not only my State of Montana but Mississippi, Alaska, Alabama, and others. Farmers in all of our States are looking for new markets. That is clear. They are asking Congress to expand current markets and open up new markets overseas, including the country of Cuba.

Last year alone, Cuba was worth $400 billion of U.S. agricultural exports, making it the 25th agricultural export market. This amendment I worked on with Senator CHAMBLISS and Senator CRAIG would overturn a recent Treasury Department rule that restricts the payment terms of agricultural sales to Cuba. That rule cuts across $200 million worth of open contracts, including sales of Montana wheat and beans.

These contracts are now on hold. The shipments cannot be made. Why? Because of the recent Treasury ruling which we all think has gone way beyond the intent of legislation. I do not think we should sit idly by as Government bureaucrats down at Treasury try to shut down a promising export market that, again, Congress purposely opened.

Congress, in the 2000 act, opened trade to Cuba for agriculture and medicine on a cash basis. This amendment does nothing to change that. It makes sure we live up to that intent. Congress purposely opened the market of Cuba to U.S. exporters when it passed the Trade Sanctions and Export Enhancement Act of 2000. While I think there is a lot more we can do and should do to make our exporters more competitive in the Cuban market, this amendment does nothing more than deal with the emergency they are now experiencing.

Agricultural trade with Cuba will remain on a one-way cash basis only. We do not seek to change that here. But why should we turn down opportunities to sell even on a cash basis from Cuba? We should not. Producers, port authorities, and shipping companies alike urgently need this rule overturned if they are going to remain competitive in the Cuban market.

I remind my colleagues, every other country in the world freely ships products to Cuba. We are the only country in the world that is restricted. Other countries' trade is some indication we should perhaps trade as well. This amendment does not deal with lifting the travel ban. It does not deal with the embargo or anything else, except it makes clear the act we passed in the year 2000 is lived up to. That is all this is.

Our farmers and ranchers face mounting pressures of a tricky trade surplus. We should be working to open, not close, export markets with them.

I thank my colleagues for working this out. I see Senator CHAMBLISS in the Chamber. I thank him and I thank Senator CRAIG. I thank the chairman of the Appropriations Committee, Senator COCHRAN, and others who are trying to make sure our agricultural producers are able to get markets they justly deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise in support of this amendment and the second-degree amendment thereto. I thank my friend from Montana, Senator BAUCUS, as well as Senator CRAIG from Idaho. All three worked very hard to come to a compromise on this very sensitive issue.

What we are doing is basically restoring the normal trade discourse between our two countries to what it was before this change in a regulation that occurred about 2 months ago. We think the regulation does not state what Congress intended with the act that was passed 4 years ago.

Mr. President, 4 years ago, we did pass the Trade Sanctions Reform and Export Enhancement Act which allows sales of food and medicine only to Cuba for the first time in nearly four decades. The act did not signal an end to the embargo, exactly as Senator BAUCUS said, or efforts to do so but merely exempted food and medicine from unilateral sanctions that harm populations.

U.S. exporters require payment before turning over title and control of the goods. That is a standard operating procedure in the shipping business. The exporters routinely ship U.S. goods to

Cuba where they remain under the custody of the seller until such time as the seller certifies full payment. Only then are goods released to Cuba. At no time is credit extended in any form to Cuba. I cannot overemphasize that because that is exactly what the act requires.

This standard method of doing business has been in practice since sales to Cuba began. This amendment will overturn OFAC's new definition of "cash in advance." The legislation allows exporters to resume normal trading and does not include any extraneous provisions that are unrelated to the immediate problem.

I again thank my colleagues for working on this issue and coming to a good resolution to return to the way trading was done prior to the arbitrary change in the regulation by OFAC. I thank Senator COCHRAN for his cooperation in letting us get this to the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I strongly support the second-degree amendment. I think it has been well spoken by the ranking member of the Finance Committee, Senator BAUCUS. He has detailed exactly what we intend to do. The chairman of the Senate Agriculture Committee has echoed that very clearly. I support reinstating the 2000 act, in its clarity, in its simplicity, to allow agricultural and medical supply trade with Cuba. To see that changed by a regulatory process in the Treasury Department was not, nor is it, in my opinion, the intent of Congress.

I thank my colleagues for their collective effort in reinstating this issue.

The PRESIDING OFFICER. Is there further debate on the second degree amendment? If not, the question is on agreeing to amendment No. 549, as modified.

The amendment (No. 549), as modified, was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 475, as amended.

Mr. COCHRAN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I have been notified that there is a Senator who wants to be heard on the issue of germaneness on this amendment—or on the issue itself.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 443

Mr. DURBIN. I ask the pending amendment be set aside temporarily to consider my pending amendment No. 443.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment? Without objection, the amendment is set aside.

The Senator from Illinois.

Mr. DURBIN. I urge the adoption of amendment No. 443.

The PRESIDING OFFICER. Without objection, the amendment is called up.

The question is on agreeing to the amendment.

The amendment (No. 443) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURBIN. Mr. President, at this point I return to the pending amendment subject to the wishes of the chairman—the previous pending amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that at 3:15 today the Senate proceed to votes in relation to the following amendments; provided further that no second-degree amendment also be in order to the amendments prior to the vote: the Byrd amendment No. 516 on border security, the Warner amendment No. 498 on carriers; further, that there be 2 minutes of debate equally divided prior to each vote.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Reserving the right to object, is there any objection to add to that list the Landrieu amendments Nos. 414 and 479?

Mr. COCHRAN. Mr. President, those amendments have not been offered yet. These are amendments that have been offered and debated. We are simply proceeding to dispose of them.

Ms. LANDRIEU. Reserving the right to object, I would like to add after that vote Senator LANDRIEU would be allowed to take up amendments Nos. 414 and 479.

Mr. COCHRAN. Mr. President, I add that as part of the unanimous consent request.

The PRESIDING OFFICER. Is there objection? The request is so modified.

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, Senator WARNER has offered an amendment relating to delaying the decommissioning of the *John F. Kennedy* aircraft carrier CV-67. Is that the pending amendment?

AMENDMENT NO. 516

The PRESIDING OFFICER. The pending amendment is the Byrd amendment, No. 516.

Mr. STEVENS. Is the Warner amendment scheduled for a vote?

The PRESIDING OFFICER. The Byrd amendment is scheduled to follow the Warner amendment.

Mr. STEVENS. I ask unanimous consent the vote on the Warner amendment be scheduled to accompany the next vote requested by the Senate. I have been unable to make the statement I wanted to make on this amendment. I have been taken away for several other problems. I don't know when the next vote will be scheduled. But I do wish some time to discuss the amendment.

The PRESIDING OFFICER. A vote is currently scheduled on the Warner amendment.

Mr. STEVENS. I ask unanimous consent that be postponed until the next amendment that is scheduled.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, do I have a couple of minutes before the vote?

The PRESIDING OFFICER. There are 2 minutes equally divided before the vote on the Byrd amendment.

Who yields time?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the Byrd amendment.

The PRESIDING OFFICER. The yeas and nays were previously ordered.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—65

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Bunning
Byrd
Cantwell
Carper
Chambliss
Clinton
Coburn
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Grassley
Gregg
Harkin
Hutchison
Inhofe

Inouye
Isakson
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Snowe
Stabenow
Sununu
Talent
Thune
Vitter
Wyden

NAYS—34

Alexander
Allard
Allen
Bennett
Bond
Brownback
Burns
Burr
Chafee
Cochran
Coleman
Collins
DeMint
DeWine
Dole
Ensign
Enzi
Frist
Graham
Hagel
Hatch
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Shelby
Smith
Specter
Stevens
Thomas
Voinovich
Warner

NOT VOTING—1

Jeffords

The amendment (No. 516) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the name of Senator BINGAMAN be added as a cosponsor of the amendment just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 498

Mr. STEVENS. Mr. President, is the Warner amendment the pending amendment?

The PRESIDING OFFICER. That had been the pending amendment. The Senator obtained consent to postpone its consideration.

Mr. STEVENS. I have come to the Senate to oppose this amendment.

The PRESIDING OFFICER. There were to be 2 minutes equally divided at this time on the Warner amendment.

Mr. STEVENS. Mr. President, I have not had the opportunity to speak on this amendment. I seek to oppose it.

I ask unanimous consent that we have 15 minutes on each side on this amendment.

Mr. WARNER. Mr. President, I wish to oblige the distinguished chairman. May I hear the request again.

Mr. STEVENS. I asked unanimous consent that we have 15 minutes on each side, and I intend to oppose the amendment. I assume the Senator from Virginia would have another 15 minutes on the amendment.

Mr. WARNER. I am perfectly agreeable to an equal division of the time. If the Senator needs 15, we have had the opportunity, Senator NELSON, myself, and others, and I believe the Presiding Officer may wish to speak, and Senator ALLEN. So that is agreeable.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. Mr. President, reserving the right to object, will the Senator yield for a second first to take care of a procedural matter?

Mr. BAUCUS. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I have two Senators on the floor who wish to argue about who gets the floor, but I have the floor. The Senator from Nevada wishes to have an opportunity to do something.

I ask unanimous consent that I be able to allow the Senator from Nevada to make his presentation without losing my right to the floor.

Mr. BAUCUS. I object.

The PRESIDING OFFICER. There is objection. The Senator from Alaska retains the floor.

Mr. STEVENS. I regret that the Senator from Nevada is unable to do that.

Mr. President, I have come to the Senate floor now to oppose the amendment offered by my friend from Virginia. He is the chairman of the Armed Services Committee, and I do so very reluctantly. However, at hearings held by the Defense Appropriations Subcommittee, the Secretary of the Navy and the Chief of Naval Operations have opposed the goal of this amendment, which is to maintain 12 carriers in our fleet.

I want to read from that transcript. I said this to the Secretary:

> Are you going to be terribly disturbed if we tell you to keep the *Kennedy* where it is?

The Secretary of the Navy said:

> Yes, sir, we would be terribly disturbed to keep the *Kennedy* where it is. First of all, the money is out for the *Kennedy*. It is not in our budget. If we have to keep the *Kennedy*, then something else has to go. So we don't have the money in the budget for the *Kennedy*. It's gone. It is $1.2 billion and it is 40 years old. It has never been through a major upgrade. It is a Reserve carrier. So we have always had the expense and serious issues in keeping the *Kennedy* properly maintained. Frankly, it is so expensive for us and it has marginal capability. As the CNO said, our carriers are 4 times more capable than they were during Desert Storm. We are about to double capability by 2010 and, frankly, we do not need this carrier.

We have a disagreement of opinion between the Senator from Virginia and myself caused by the testimony. Parenthetically, I say to my friend, I hope he will look at the amendment.

Mr. WARNER. Mr. President, at this time, will you entertain a brief question?

Mr. STEVENS. Yes.

Mr. WARNER. The Senator has read from a transcript. We have had a discussion about it. Wouldn't you say that the Chief of Naval Operations expressed a different view at a different time?

Mr. STEVENS. Mr. President, I have been so informed by the Senator from Virginia, but he has not said that in my presence. Let me note for the Senator, the way this amendment is drafted, the money to maintain 12 carriers would come out of this bill, the supplemental appropriations, to be used for nonemergency purposes. Whatever happens to my objection, I hope that you will look at this amendment because we are informed that this would take $288 million out of the funds in this bill.

From a policy point of view, decommissioning the *Kennedy* as the Navy proposes in the fiscal year 2006 budget will have minimal near-term operational impact due to a previously scheduled complex overhaul that was scheduled to begin in May of this year. This complex overhaul would result in 2 years of nonavailability for the ship.

Decommissioning the *Kennedy* also has minimal near-term industrial base impacts and allows the Navy to free resources necessary to fight the global war on terrorism while preparing to face future challenges.

The Navy's plan to decommission the *Kennedy* will save $1.2 billion over fiscal years 2006 through 2011. These savings are critical for modernizing our Naval forces, and for providing the necessary resources for the Navy's shipbuilding account.

The *Kennedy* was chosen for decommissioning because of its material condition and operational readiness. The *Kennedy* has never been through a major upgrade. It served as a Reserve carrier from 1995 to 1998. The Navy has always had expenses and issues keeping the *Kennedy* properly maintained. It is expensive for the Navy and it is of marginal capability.

The *Kennedy* was scheduled to go through a complex overhaul from May 2005 to August 2006. It would be 40 years old coming out of this overhaul with the intent of extending it to 50 years of age.

The Navy now believes it would be difficult to maintain this platform within reasonable cost even after the complex overhaul given that it did not go through a mid-life service life extension program.

The overhaul risk in reducing the number of carriers from 12 to 11 is mitigated by several improvements realized in the multimission capabilities of today's carrier strike groups. For example, carrier aircraft such as the F/A-18E and F/A-18F Super Hornets, are transitioning to the fleet with improved capabilities to hit multiple targets on a single sortie.

Our carriers today are at least four times more capable, as measured in number of targets serviced per day, than they were during Desert Storm. The Navy is expected to almost double this capability by 2010 as we bring on new airplanes, more precision weapons, and increased sortie rates with future carriers currently in development.

The Navy's fleet of nuclear-powered aircraft carriers has significant capabilities over conventional carriers, such as the *Kennedy*. Nuclear-powered carriers have greater range and speed, and can operate at full speed for indefinite periods without the need for refueling.

During flight operations, conventional carriers will need to refuel and re-arm every 2 to 3 days, compared to nuclear-powered carriers which will only need to re-arm and refuel every 7 to 10 days. The nuclear carriers have the capacity to carry 35 percent more fuel and ordnance than conventional carriers. Therefore, nuclear carriers are far less reliant on logistics support.

The Navy is also transforming how they operate and extracting more readiness out of the force. The Navy's fleet response plan is revolutionary and is providing greater availability of carrier strike groups.

The fleet response plan is supportable with an 11-carrier force as the emphasis is on enhanced readiness, speed of response, and increased carrier employability. These precepts continue to apply even with fewer carriers, as the Navy has ensured me that they will be fully able to meet combatant commander's requirements in key regions.

The Department has already begun to implement mitigation strategy to address the impact of the *Kennedy*'s complex overhaul workload cancellation. Approximately $28 million has been expended in supporting the Puget Sound Naval Shipyard and Intermediate Maintenance Facility to execute required maintenance on the USS *John C. Stennis*, CVN–74.

Norfolk Naval Shipyard personnel are also executing work on the USS *George Washington*, CVN–73, currently undergoing a docking phased incremental availability at Newport News.

Approximately $26 million has been obligated to Norfolk Naval Shipyard and the private sector to accomplish this additional required maintenance.

Additionally, there are other nonrecoverable costs totaling $47.1 million. Some of these are planning costs that will be required to be spent again if the complex overhaul of the *Kennedy* is reinstated, thereby increasing the original cost estimate of the complex overhaul.

The Navy also informs me that workload disruptions throughout all shipyards would be severe if their workload mitigation plans were changed at this point in the fiscal year.

I repeat that. They have told me workload disruptions throughout all naval shipyards would be severe if their workload mitigation plans were changed at this point in the fiscal year.

I will try to respond to my colleagues who suggest the *Kennedy* would be available to replace the USS *Kitty Hawk*, which is currently forward deployed and permanently homeported in Japan, if the *Kitty Hawk* was not available for operations.

The Navy assures me the *Kennedy* would not be moved to Japan if something happened to the *Kitty Hawk*. The Navy leadership believes the *Kennedy* does not provide the capabilities required to meet the mission for that area of responsibility.

Although the *Kennedy* is older than the *Kitty Hawk*, the Navy provides regular upgrades and maintenance on the *Kitty Hawk* to keep her in excellent material condition. If the *Kitty Hawk* becomes unavailable for operations, the Navy will rotate a nuclear carrier into the region until the *Kitty Hawk* would be repaired.

Finally, I know many Senators are concerned that the retirement of the *Kennedy* will negatively impact base realignment and closure decisions, BRAC decisions, regarding Mayport, FL, and possibly leave the Nation with only one port facility on the east coast capable of supporting large-deck, deep-draft vessels.

I can tell those Senators the Navy is committed to retaining two strategic ports capable of accommodating large-deck, deep-draft ships on each coast.

To this end, Mayport continues to be a critical large-deck-capable port. In the near term, the Navy will look at homeporting a large-deck amphibious ship in Mayport to mitigate the impact to the community for the loss of the *Kennedy*.

As I said, I am here to oppose this amendment because of the cost it will impose on the Navy and the risk it will impose on future capabilities being developed for our naval forces.

There is no question in my mind this is the wrong way to go. The Navy has stated that to us very clearly in statements made to the Appropriations Committee, following the time of the comments to the Armed Services Committee.

I want to again say Secretary English, with the Chief of Naval Operations sitting by him, said this to our committee:

> So we fully support taking out the *Kennedy*, and, Mr. Chairman, if we are required to keep the *Kennedy*, then we're going to have to take money out of someplace else because we do not have the money to keep the *Kennedy*.

The impact of this amendment is it will be taking money out of this supplemental appropriations for this purpose. My good friend from Virginia I do hope will take, in any event, a look at his amendment because I do not think this emergency money ought to be diverted to a change in a policy decision and overruling the Secretary of the Navy with regard to how many carriers there are in our fleet.

I reserve the remainder of my time.

Mr. WARNER. Mr. President, I say to my good friend the funds needed, to the extent funds are needed, to keep this ship in an operational status are in the 2005 budget. The only reason we had to make reference with the sentence "of the amount appropriated for the Department of Navy by this act" was to get it germane so we could get it to the floor so the Senate of the United States can make a decision.

I say to the Senator most respectfully, the funds that are needed to put this ship in such condition to continue are there. However, just today the admiral, who was the battle fleet commander who brought this ship back from its most recent deployment, said as follows:

> If improvements made to the *JFK* avionics maintenance facility prior to deployment—

The access to this ship. And he concludes by saying:

> The results from our aggressive self-sufficiency and superb technical support, mostly via aviation technology, enabled us to return from the deployment in outstanding material condition.

That is the status of the ship. The reason we are trying to keep this in is not a political one, it is not relating to our various jurisdictions. It is for the interest of this country to keep a ship in port in Japan which is nonnuclear, while the Japanese Government and the local mayoral government—I think it is called a precept—make the decision as to whether they will ever allow a nuclear carrier in there.

I think there is adequate testimony in our records of the Armed Services Committee to the effect the Navy believes keeping a ship in that area of operation, particularly at this time of heightened tension, is in the interest of our national security and our ability to work with our allies and friends in that region.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I want to underscore so Senator STEVENS can hear what Senator WARNER said. The funds were provided in the 2005 Defense appropriations bill. There were funds in excess of $300 million in that bill. To the best of my recollection, it was $317 million for the purpose of dry dock. Some of those funds have already been expended for the planning of the dry dock. However, there are approximately $288 million already appropriated in the 2005 bill for the drydocking of the *John F. Kennedy*. This is not the expenditure of moneys in the supplemental bill.

I want to underscore also what the distinguished chairman of the Senate Armed Services Committee has said in quoting Admiral McCollum, the battle group commander of the *John F. Kennedy*, which has just returned from operation, and what he quoted from the written testimony of the admiral. I was at that committee meeting.

I just came from a committee meeting. I said: "Admiral," and I read the statement the chairman just read to the Senate, "are you saying that the *John F. Kennedy* is seaworthy?"

He said: Yes, sir.

Thirdly, I emphasize what the distinguished chairman has said, and that is, this all boils down to a matter of defense of our interests with a rising threat from China in the Pacific area of operations. It is clear, in testimony after testimony by four-star admirals, we have to have a carrier homeported in Japan so they can get to an area of conflict quickly. Between now and when the *Kitty Hawk* is going to retire in 2008, we do not have any assurance the municipal government in Japan is going to say: We will accept a nuclear-powered carrier. Therefore, out of prudent and conservative planning for our projection of forces in the Pacific region, we should keep this conventional carrier alive.

Mr. WARNER. Mr. President, can I inquire of the time remaining under my control? My understanding is there were 15 minutes to Senator STEVENS and 15 minutes given to my side.

The PRESIDING OFFICER. It is the opinion of the chair that agreement on time was never formally reached. However, the Senator from Virginia has used 3 minutes and the Senator from Alaska 10.

Mr. WARNER. I think, in the interest of moving this along, that we adhere to the request there be 15 minutes to each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. That was my understanding of the situation at the time. I think there have been more requests for time.

Mr. WARNER. We failed to achieve an agreement. So can I reinstate the original request, 15 minutes to each side—it is now less the amount of time consumed by both sides—so the Senate can get on with its business?

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I say to Senator NELSON and my colleagues, it is clear this decision to take the *Kennedy* and put it in a situation where it is going into mothballs was made in the final hours of the budget process.

It was driven by the budget. The Chief of Naval Operations had testified before our committee, which testimony is before the Senate, that he always wanted 12 carriers. If we are to make a decision to go from 12 carriers to 11, that should be done in the QDR process which is underway now, which will be concluded this year, possibly impacted by the BRAC process which likewise is underway, and consequently there are orderly procedures legislated by the Congress by which a decision of this magnitude should be made.

There are three Senators who desire to speak, and I will yield 2 minutes to each of them: Senator ALLEN, 2 minutes; Senator MARTINEZ, 2 minutes, and Senator TALENT, 2 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, I thank my good colleague Senator WARNER for his great leadership on this matter. This is a bipartisan effort.

Let us recall what this amendment is about. It is to provide our Navy with the maximum flexibility to project our power in East Asia. The Senator's amendment says before we mothball the *JFK*, two things have to happen. There is the Quadrennial Defense Review to determine how this mixture should be, and actually 180 days thereafter, and also assure us we can have a nuclear carrier ported in Japan, which prohibits nuclear-powered ships in their land.

A little over 2 years ago, Admiral Clark said: The current force of 12 carriers and 12 amphibious groups is the minimum we can have to sustain the operations we are in. In the 2002 naval posture statement: Aircraft carrier force levels have been set at 12 ships as a result of fiscal constraints. However, real-world experience and analysis indicate that a carrier force of at least 15 ships is necessary to meet the warfighting Commander in Chief's requirements for carrier presence in all regions of importance to the United States.

What has happened in the last 2 years? Nothing to restrain or think that these threats are less than they were before. We are still in the war on terrorism. China is building up their navy. They are passing anticession laws, threatening Taiwan more than ever. So while we are standing down, to some extent, our building of a navy, then reducing a carrier which would not be available to be in Japan in that theater of concern, it is illogical to take away this flexibility of protecting our security interests in the Indian Ocean as well as, for that matter, the Pacific Ocean. I believe a plan to mothball the *Kennedy* at this time is shortsighted, especially in this time of war and with the rapid buildup of the Chinese Navy.

The PRESIDING OFFICER. The Senator from Virginia has used 2 minutes.

Mr. STEVENS. How much time remains?

Mr. ALLEN. I ask unanimous consent for an additional 30 seconds.

Mr. WARNER. Mr. President, might I inquire as to the total time remaining under my control?

The PRESIDING OFFICER. The Senator from Virginia has 7 minutes remaining and the Senator from Alaska has 5 minutes remaining.

Mr. WARNER. I yield 30 additional seconds to the Senator from Virginia.

Mr. ALLEN. The threats in the western Pacific are greater than they were before. Even last year, the funding was put in for this year for the refurbishment and the maintenance of the JFK. For the sake of our security and the flexibility we need for projecting our power, protecting our interests in the Far East, the wise thing to do is accept the amendment of the Senator from Virginia, which is shared by cosponsors from Florida and elsewhere.

I yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I rise in support of Senator WARNER's amendment. I believe it is of crucial importance to our Nation that we maintain the readiness of our carrier force.

I thank my colleagues from Virginia, and also the senior Senator from my State, Mr. NELSON, who has been so dogged in his fight in this effort. I believe we have made a lot of progress since we began to talk about keeping the *Kennedy* and keeping 12 carriers in the fleet.

The thing that has impressed me as this discussion has proceeded is a commentary from the Secretary of the Navy, as well as the Chief of Naval Operations as they have discussed the need for readiness of 12 carriers, as well as the fact there is a need for maintaining operations on the east coast of the United States with two ports available to our Navy.

I believe as this debate and this discussion has ensued, it has become increasingly clear that at a time of great stress upon our Armed Forces, at a time when we expect our global reach to be just that, global, we cannot make do with 11 carriers to satisfy short-term budgetary goals.

The fact is our Nation is best served by a 12-carrier force. Our Nation is also best served by having two ports on the east coast that can handle nuclear carriers. I believe we should move forward in that regard as well to allow that diversity and that opportunity.

I yield the remainder of my time and thank the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I thank the chairman for yielding. I am the chairman of the Seapower Subcommittee, which is kind of strange given that I am from Missouri. It is not as though we have ports or shipyards in Missouri, although we do build the planes that go on these carriers.

I want to endorse this amendment, which I have cosponsored, and endorse what other Senators have said in support of it and briefly give the Senate the broader picture. Several years ago the Chief of Naval Operations opined that we needed about 375 ships in the U.S. Navy to meet the national military strategy, basically to protect our security. We now have around 288.

A Quadrennial Defense Review is underway. It is going to be completed next year. We are looking very carefully in the Armed Services Committee at how many ships we need and what we need to do to the shipbuilding budget and what we need to do to demand more efficiency from our shipyards and our shipbuilders.

I am very hopeful in the next year or so we will move forward with a major package in this area. I know the chairman of the full committee feels the same way.

In the meantime, especially given the rising tensions in the western Pacific, I think allowing the Navy to go from 12 to 11 carriers would send exactly the wrong statement. We need to make the point to everyone around the world that we are going to sustain naval strength at the level necessary to protect the security of the United States. So we as a Congress need to begin resolving now that we are going to do what is necessary to accomplish that, which means in part, yes, not allowing the number of carriers to shrink, at least not before the Quadrennial Defense Review is finished, but also it means sustaining the shipbuilding and conversion account at a funding level that is necessary to buy the ships we need to sustain a 300-ship or more Navy.

There is going to be more on this next year. We have to stand by on that. I am sympathetic with the concerns of the Senator from Alaska, but I sponsored the amendment and I support it now. Passing it would be the prudent thing to do.

I yield back.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have 5 minutes?

The PRESIDING OFFICER. That is correct, the Senator has 5 minutes.

Mr. STEVENS. Please notify me when I have 1 minute remaining.

Mr. President, pursuant to rule VI, paragraph 2, I ask unanimous consent that Senator BYRD be considered necessarily absent and he be excused from any further service of the Senate for the remainder of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, this amendment says the money will come out of this bill. Now, it is true that for 2005 we did appropriate money to the Navy for the CV–67, the *John F. Kennedy*. But I have in my hand the cancellation of the complex overhaul. We know exactly where the money has been reallocated. It has been reallocated to a series of functions. Some of those functions are already prepared.

I say to my colleagues, no matter what we do, the money will come out of this bill because the money that was allocated in the 2005 bill has been used for the *Stennis*, for the *George Washington*, support travel for the CVN–73 and 74, for the USS *Truman*, CVN–75, for additional work at Hampton Roads, for the USS *Charlotte*, which is the SSN–766, a submarine, and for work inactivation of the carrier at Mayport. As a practical matter, they have already spent the $288 million in the 2005 bill—at least obligated it. The Senator from Virginia, I understand, disputes that. But that is the information we have received.

What I am saying, for our committee I oppose this amendment of Senator WARNER because it, No. 1, will preserve 12 carriers; No. 2, it will take money from this bill or somewhere to go back and reinstate the basic complex overhaul which, as I said to the Senate, the Navy now believes is unwarranted because of the age of this vessel. This vessel is so old and it did not have a midlife service program. So there is no reason to suspect it will have 10 years' service after this overhaul is completed.

What this will do, if we spend the money, we are going to delay the modernization of the Navy. We know throughout the world nations are building more ships. We cannot keep up with them. We cannot keep up with them because we are keeping old hulls. It is time we woke up. We need smaller, faster, more capable vessels than these vessels we are talking about. To prolong their life is wrong.

The Secretary of the Navy and the CNO have taken a different position than they did 6 months ago on this issue. They finally came to the conclusion they could not do what they wanted to do, and they told us that in our committee. I am reporting that to the Senate.

The choice of the Senate is to support the Navy's position now as expressed by the Secretary and the Chief of Navy Operations and spend this money the way they want to spend it for the future, or to go back and reverse that decision and try to maintain a 40-year-old carrier and extend its life for 10 years when the experts say you can spend all this money and it still will not be a serviceable vessel to meet the needs of the Navy.

I reserve the remainder of my time.

Mr. WARNER. Mr. President, I simply say to my good friend in a very dispassionate, calm way, you read from a document that is only 10 days old. They learned that I differed with them, and they have done everything they can to build a case to stop it. But not a dollar has gone out of the Navy Treasury. It is still there. You will see that that was done just 10 days ago.

I say to my good friend, they made the decision to keep this in the budget. It was in the budget up until the last 2 days when down came a cut in dollars and they decided to go to where they maybe cut a few bucks out. They can restore them and that ship can stay alive and that ship can be added to address any problem to defend our interests in that area for an indefinite period of time because it is in good condition as certified today—am I correct, Senator?—by the admiral in charge of that ship?

Mr. NELSON of Florida. The Senator is absolutely correct; just 30 minutes ago from the admiral.

Mr. WARNER. So as a former Secretary of the Navy myself, I feel very strongly. I do not know of any Senator who stood on this floor more times to defend the Department of the Navy—I say with a sense of humility—than I. But I believe this time the decision was driven by the budget, and it is not a correct one given the status of forces in that area, given the uncertainty about the ability to continue the homeporting of a Navy carrier in our expensive base that we have maintained—as a matter of fact, as Secretary I put it together—in Yokosuka.

If there is more time, I yield the time back and suggest the Senate work its will.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute 30 seconds.

Mr. STEVENS. Mr. President, I regret being here with this argument because I have such deep respect for Senator WARNER, the Senator from Virginia, the former Secretary of Navy. But I think this year I am going to be at this desk saying this again and again. We are in a program of reshaping our military. We are looking out to the future, based on the lessons we have learned in Afghanistan and Iraq and the war on terrorism.

We note some of the failures of our system. One of them is the failure to modernize in time. We got behind. The very fact that this 40-year-old vessel is out there with overhaul appropriations was wrong to begin with. We should be looking to the future and to the needs of this Navy. I congratulate the Secretary of the Navy and the CNO for being willing to reverse their stand and come to us and say: Please oppose this amendment. Keep the schedule we have decided on and let us modernize the Navy.

That is the decision before the Senate. Are we going to go forward with the people making the tough decisions? Are we going to do it after BRAC? Are we going to do it for the Air Force? We are going to have some tough ones for the Air Force. Are we going to do it for the Army? We are going to have some tough decisions on the Army. Every single part of the military is going to be realigned in terms of spending this year, and this is the beginning.

I leave it to the Senate. Make the decision. Shall we follow the Chief of Naval Operations and the Secretary of Navy, their current position, or shall we follow the position they had just 6 months ago?

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. All time has expired. The yeas and nays have been ordered.

Mr. WARNER. I ask Senator COLLINS be added to those as cosponsor, and that the list remain open because we have received a lot of calls from people who want to support this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Dakota (Mr. CONRAD), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The vote was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—58

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Brownback
Burr
Cantwell
Carper
Chambliss
Clinton
Coburn
Coleman
Collins
Cornyn
Corzine
Craig
Dayton
DeWine
Dodd
Dole
Durbin
Ensign
Feinstein
Graham
Hagel
Harkin
Hatch
Inhofe
Inouye
Isakson
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Martinez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Salazar
Sarbanes
Snowe
Stabenow
Talent
Thune
Vitter
Warner

NAYS—38

Alexander
Allard
Bennett
Bond
Bunning
Burns
Chafee
Cochran
Crapo
DeMint
Domenici
Dorgan
Enzi
Feingold
Frist
Grassley
Gregg
Hutchison
Johnson
Kohl
Kyl
Lugar
McCain
McConnell
Murkowski
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Thomas
Voinovich
Wyden

NOT VOTING—4

Byrd
Conrad
Jeffords
Kennedy

The amendment (No. 498) was agreed to.

Mr. ENSIGN. Mr. President, I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. By previous order, the Senator from Louisiana is to be recognized.

The Senator from Louisiana.

AMENDMENT NO. 414

Ms. LANDRIEU. Mr. President, I call up amendment No. 414.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 414.

The amendment is as follows:

(Purpose: To encourage that funds be made available to provide assistance to children affected by the tsunami)

On page 194, line 13, after "tsunami:" insert "*Provided further*, That of the funds appropriated under this heading, not less than $25,000,000 should be made available to support initiatives that focus on the immediate and long-term needs of children, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the facilitation and promotion of domestic and international adoption for orphaned children, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and promote the integration of war affected youth:".

Ms. LANDRIEU. Thank you.

Mr. President, I ask unanimous consent that Senator BINGAMAN be recognized for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I thank my colleague, the Senator from Louisiana.

AMENDMENT NO. 483, AS MODIFIED

Mr. President, I ask unanimous consent that the pending amendments be set aside and that amendment No. 483 be called up.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is pending.

Mr. BINGAMAN. Mr. President, I send a modification to the amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. Is there objection to the amendment being modified?

The Senator from Nevada.

Mr. ENSIGN. Reserving the right to object, which amendment is this?

The PRESIDING OFFICER. The amendment previously offered by the Senator from New Mexico——

Mr. BINGAMAN. No. 483.

The PRESIDING OFFICER. No. 483.

Mr. ENSIGN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 202, lines 22 through 24, strike "*recent Supreme Court decisions and recently enacted legislation, $60,000,000*" and insert "increased immigration-related filings, recent Supreme Court decisions, and recently enacted legislation, $65,000,000".

Mr. BINGAMAN. Mr. President, this modification would provide that instead of the $60 million that is in the bill now for the operation of our Federal courts, there would be $65 million, and that the additional funding could be used for both responding to recent Supreme Court decisions, responding to recently enacted legislation, and responding to the increased immigration-related filings in the Federal court. This is a good amendment. It is one that is important, particularly for the States where these immigration-related filings are happening. I believe this is an acceptable amendment to both sides, and I urge my colleagues to support it. I believe it can be agreed to on a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 483, as modified.

The amendment (No. 483), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 414, AS MODIFIED

Ms. LANDRIEU. Mr. President, I am glad I was able to accommodate our colleague. At this time I send a modification to amendment No. 414 to the desk and ask unanimous consent that we discuss this slightly modified version.

The PRESIDING OFFICER. Is there objection to the modification of the amendment?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 194, line 13, after "tsunami:" insert "*Provided further*, That of the funds appropriated under this heading, not less than $25,000,000 should be made available to support initiatives that focus on the immediate and long-term needs of children for protection and permanency, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, assistance to improve the capacity of governments and appropriate private entities to facilitate domestic and international adoption of orphaned children, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and promote the integration of war affected youth:".

Ms. LANDRIEU. Mr. President, as we continue to discuss the supplemental bill, it is not the largest bill in terms of dollar amounts that we have talked about on the Senate floor. Of course, we manage to move through 13 appropriations bills most years. That is billions and billions of dollars in priorities that we are trying to reflect on behalf of our constituents in our States and around the Nation.

One of the important components of this $80 billion supplemental bill is about $1 billion for relief for tsunami victims. We remember all too vividly and dramatically and traumatically when on Sunday, December 26, a wave of about 50 feet hit several countries in the Indian Ocean, primarily Indonesia, and within a few hours or a few days, 120,000 people were dead, some of them children who were simply unable to get out of the way of the wave; there was no warning.

The Senators who have forwarded this supplemental are very aware of the needs. I offer this amendment on behalf of Senator CRAIG and myself because part of the effort to reconstruct this region is to help not only rebuild the roads, rebuild the houses, rebuild the schools, reinvest in the health and education infrastructure. I argue that it is most important for us to rebuild the families. We talk about nation rebuilding. We talk about building nations. We talk about reconstruction. All of that is wonderful and terrific, but I don't know if people are understanding that nations are built, communities are built, cities are built on families.

When I read through the many pages of this very well put together bill, one of the problems was there was not a mention under the title for USAID of this Government's efforts to reunite orphans and parents, to establish strong programs or initiatives to help reunite children with parents who are still alive or with extended family relatives so that those family units can be strong.

I can tell you, I know from experience—and I think every Republican and Democrat on this floor would agree with me—you can build the strongest buildings in the world. You can build the mightiest interstate systems. You could have the finest school buildings and the finest universities. But if you don't have strong families, the nation, the community, is not going to thrive, and there will be no future. The future is passed from parent to child, from grandparent to grandchild, not from a bureaucratic government. Governments do a lot of things well, but let me stand here on behalf of the Coalition on Adoption, which represents 180 Members of Congress, to say, governments do a lot of things well. Raising children is not one of them. Parents raise children.

Senator CRAIG and I—and I see the Senator on the floor, and I would like him to add his insights—want to strongly go on the record saying that if we are going to spend a billion dollars to help tsunami victims, certainly we can carve out of that money, not adding money to this, $25 million for the express purpose of strengthening families, identifying those children who have been orphaned, working to see if some relative would adopt them. If that relative who wants to adopt has lost their fishing boat and is no longer able to provide for their surviving children and the orphans of the sister or brother who was lost next to them in the wave, then these programs we are establishing could help to reunite that family and keep them together and not pull these children out of these family units and send them to be raised in an orphanage or in a boarding school and give them food.

They need more than food. They need emotional support. They need spiritual support. They need care. I could go on and on for hours, which I won't do, to give you documents that are alarming to me from people whose salaries we pay saying that this is not important.

I want to say to the Members—and all of us feel it is quite important—it is a real problem when these pages do not reflect that principle and that priority.

I know Senator CRAIG's time may be short. Let me yield at the moment to him. He may want to add a word. I am hoping we can get this adopted without a vote.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from Louisiana has made the point so very clearly. We are sending a billion dollars to the tsunami region and the tsunami victims. We speak not once about reuniting families.

The Senator from Louisiana traveled with our majority leader to the tsunami area immediately following that tragedy. She saw firsthand the phenomenal difficulties. I was in India recently on behalf of the congressional coalition on adoption and children and once again heard about the tremendous problems that are real to this region.

One of the things that both the Senator from Louisiana and I know, because we immediately extended our assistance and opened our arms and said, Americans are ready to adopt these orphan children, we got a very nice, polite response: No, we will work to take care of our own.

The reason that response was appropriate was because in those regions of that part of our world, in those cultures and religions, the extended family is phenomenally important. They work very hard at taking care of their own under most difficult situations of the kind we have seen. It isn't just that they can reach out their arms for love and care; it is that they have the resources to assume those children into their families who are part of the extended family.

I do believe this is an appropriate amendment. It does some targeting within. It is not adding money to; it is not taking money away from; it is simply defining and shaping a very important use. I would hope we could agree on that and accept this amendment of the Senator from Louisiana as an appropriate amendment to the underlying bill.

Ms. LANDRIEU. I thank the Senator from Idaho for his insight and his addition to the record. Let me make two additional points. As we know, President Bush has asked former President Bush and former President Clinton to head up an international private sector effort, so the money that we lay down, the $1 billion, is sort of a guide to the private dollars being raised.

This Congress cannot, with the power that we have, let this budget go out without a mention or a specific dedication or at least an underscore that we in the Congress think families are important, we would like to send that message out to private donors saying: Please, let's rebuild the highways, let's rebuild the schools, let's rebuild the hospitals. But while we are doing that, let's respect the family. Let's honor the family. Let's try to keep children within families through extended kinship adoption, through adoption domestically and, if not, through international adoption with all the proper safeguards.

Second, we have spent a lot of time coming up with new rules and regulations about child trafficking, child exploitation. It is terrible to see children sold into the sex trade, and many of these children are sold into the sex trade because they don't have parents who are watching them and protecting them. Yet in some cultures it is unfortunate that even children have children and the parents are not strong enough, either economically or in a strong enough physical position, to protect these children from these exploitations.

So I say to my friends in this room, if we want to protect children from exploitation, if we want to protect children from child trafficking, then, heavens, help them find a parent. Parents do a lot better job of protecting children than any army in the world. Nobody could get my children out from underneath my watchful eye. So I know. We all hover around our children and protect them. The least our Government can do is honor the work parents in the United States of America do in trying to protect their children, and when their parents are killed or separated from them, move them to adoptive parents who will protect them and keep them away from the traffickers.

So I say to the leaders, the managers of the bill, we are not adding money to the bill; $25 million is not that much money when you are talking about continents and nations and hundreds of thousands of families that could benefit. Please consider accepting this amendment. If not, you can understand why Senator CRAIG and I would have to ask for a vote. We are not asking for any more money. We have mentioned everything in this bill—physical disabilities, mental illness, loss of fishing boats, highways, houses, schools. I have read every page of it, and I am on the Appropriations Committee. I cannot find a mention in here about the

U.S. Government—after many of us have traveled to the region and taken pictures with orphans and with the families and promised aid, I don't see why we cannot earmark and set as a priority $25 million, which is a small amount of money, to this end.

That is basically the argument. I hope the leadership will accept it. I thank the chairman, the Senator from Mississippi, for his great help and support. I know it is a difficult bill to move through. Whether he wants to vote now or if he wants to stack it for later, I am open to that.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I know of no other requests for debate on the amendment. I have no objection to our proceeding to a voice vote on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 414), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. ENSIGN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 475

Mr. ENSIGN. Mr. President, I call for the regular order with respect to amendment No. 475 and make a point of order that the amendment is not germane under the provisions of rule XXII.

The PRESIDING OFFICER. The point of order is well taken and sustained. The amendment falls.

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me say how disappointed I am that the action taken by the Senator from Nevada has just happened. We were working very hard to solve a very specific problem that the administration had chosen to rule by regulation, what I believe is a total subversion of a law that was critically necessary and helpful to our agricultural people. But that has now happened, and the Senator was in his right, as disappointed as I am, by what I believe is a near bushwhack, but then again that is chosen.

I yield to the Senator from Georgia.

AMENDMENT NO. 472, AS MODIFIED

Mr. CHAMBLISS. Mr. President, at this time, I ask unanimous consent to call up amendment No. 472, as modified, which is at the desk.

Mr. ENSIGN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that Senators LUGAR, ROBERTS, HARKIN, DORGAN, ENZI, and JOHNSON be added as cosponsors of amendment No. 472, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I ask unanimous consent to withdraw amendments Nos. 388 and 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 520

Mr. BAYH. Mr. President, I call up amendment No. 520.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. BAYH] proposes an amendment numbered 520.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate an additional $213,000,000 for Other Procurement, Army, for the procurement of Up-Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMWVs))

On page 169, between lines 8 and 9, insert the following:

UP-ARMORED HIGH MOBILITY MULTIPURPOSE WHEELED VEHICLES

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $213,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OTHER PROCUREMENT, ARMY", as increased by subsection (a), $213,000,000 shall be available for the procurement of Up-Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMWVs).

(c) REPORTS.—(1) Not later 60 days after the date of the enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the current requirements of the Armed Forces for Up-Armored High Mobility Multipurpose Wheeled Vehicles.

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the most effective and efficient options available to the Department of Defense for transporting Up Armored High Mobility Multipurpose Wheeled Vehicles to Iraq and Afghanistan.

Mr. BAYH. Mr. President, I call up this amendment to address what has been a chronic and pressing need on the part of our military forces in both Iraq and Afghanistan.

Mr. President, there is an old saying we are all familiar with: Fool me once, shame on you. Fool me twice, shame on me.

Mr. President, fool me nine times, and it qualifies as an emergency that must be addressed, particularly when the lives and limbs of our military men and women are at stake. Specifically, I refer to the fact that the United States Army has now, on nine consecutive occasions, underestimated the need for uparmored humvees in the theater of Iraq. This has been a matter of some public attention in Newsweek Magazine and elsewhere. It is a chronic need we need to address now.

The figure the Army indicates they currently need—and allegedly have met—would not have been met at all if, last year, we had not taken similar action to do what I am currently requesting. They would have had funding for thousands of fewer vehicles and not met the need that currently they suggest is imperative. The figure they are saying is sufficient today includes—think about this—a range of attrition of 226 vehicles throughout the combat in Iraq. They have only lost 226 uparmored humvees throughout the last 2 years in that theater. This is below the attrition rate of 10 to 15 percent, suggesting strongly that they are erring yet again—for the tenth time.

I ask my colleagues, when it comes to something this important, with a track record of underestimating the need this clear, should we not err on the side of doing more, rather than less, when it comes to protecting the lives and safety of our military men and women?

I note some of my colleagues, who I esteem greatly on the other side of the aisle, will suggest the generals are simply saying we don't have an additional need at this time. Mr. President, that is not what the troops are saying. Do you remember the one brave soldier who brought to the attention of the Secretary of Defense the fact that they were having to resort to what he called "hillbilly armor" for their protection? We should not allow this deplorable condition to continue.

I remind my colleagues again, in spite of what the generals are currently saying in a letter circulating, they have been wrong nine consecutive times. The credibility on this issue is not that great. It is also suggested perhaps we should take our resources—and I understand they are scarce—and allocate them instead to have striker vehicles instead of uparmored humvees.

Mr. President, I submit this is a false choice. When it comes to protecting our troops, we should do whatever it takes to get the job done and not leave some exposed to unnecessary harm while choosing instead to protect others. We can afford to do both.

Mr. President, I conclude my comments by saying how much I respect Senator COCHRAN and Senator STEVENS but the track record here is very clear. On nine consecutive occasions, the Army has underestimated the need. The need wouldn't be met today for the number of vehicles suggested in their letter if we had not acted last year. Let us err on the side of doing more rather than less. Let us take this action to protect our troops. It is the very least we can do when they are in harm's way on our behalf.

Mr. President, on behalf of Senator KENNEDY, myself, and others, I ask we take this action.

I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the global war on terrorism requirement for these uparmored humvees is 10,079 units. I have a letter from the Department of the Army signed by David Melcher, Lieutenant General, U.S. Army, and James Lovelace, Lieutenant General, Deputy Chief of Staff, which states the amount already appropriated and supported in reprogramming actions will fund the total requirement of 10,079 humvees by June of this year.

Without any money from this supplemental request, the total requirements have been set down for this system for this fiscal year.

This, after all, is a supplemental request, and we will be dealing with the Army's 2006 requirements in the full bill for the fiscal year 2006. We have appropriated and programmed moneys to meet the requirements. As a matter of fact, the funds we put up already will exceed that requirement by 266 vehicles. The manufacturer is currently producing these humvees at the maximum capacity of 550 per month and will exceed the Department's requirements in June.

I am sad to oppose my good friend from Indiana, but the requirement for these uparmored humvees is not going to expand, in our judgment. The Army maintains they do not need more uparmored humvees in Afghanistan because they are too heavy to maneuver in the mountainous Afghan terrain. In the areas where they are capable of being used, we are bringing more and more critically needed equipment, such as the Strikers, into Iraq.

We should focus on the total funding for validated global war on terrorism requirements. These requirements were validated by the Army through its team system. There is no question that the procurement we have already paid for is sufficient to meet the total needs of the Army through the remainder of this fiscal year.

As I said, we are going to look at this in terms of 2006. The Army procurement request so far for 2005 has been sufficient. We do have critical force protection requirements, but we also have the problem of recapitalization of equipment used in operation and equipment that is coming up for rotation.

This is a very expensive time for the Army with the rotations that are going on. If we fund unvalidated requirements as proposed by this amendment at this time, that will come at the expense of validated requirements that have not been met.

We will look at this again in conference. I promise the Senator from Indiana. There is no question this is a system we provided in recent months for the global war on terrorism. This capacity of 550 per month is an enormous amount of production. We commend the manufacturer for increasing its rate of production, but what happens when you increase rate of production is you get to the end sooner.

We validated these requirements. We have met the requirements, and we do not need any additional money from this emergency bill to be spent for uparmored humvees.

I do not know if anyone else wishes to speak on the matter, but I oppose it. I urge a "no" vote on the amendment.

Again, at the request of the Department of Defense and the Department of the Army I oppose the Senator's amendment.

If there is no further debate, I am pleased to have the vote on this matter.

The PRESIDING OFFICER. Is there further debate?

Mr. BAYH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask unanimous consent that the rollcall vote ordered on this amendment commence at 5:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EPILEPSY AND RETURNING WOUNDED SOLDIERS

Mr. OBAMA. Mr. President, I thank the senior Senator from Alaska for joining me to discuss an issue of growing importance for our service members wounded in Iraq and Afghanistan.

Mr. STEVENS. I am pleased to join the Senator from Illinois to discuss this issue.

Mr. OBAMA. Recently, USA Today reported that many of our injured soldiers are returning from Iraq with a condition known as traumatic brain injury, or TBI. Even though new technology and better body armor are helping soldiers survive bomb and rocket attacks, the blasts are still causing brain damage to them. As of January, 437 cases have been diagnosed in Army hospitals alone, and some doctors are saying that it could become the "signature wound of the Iraq war."

TBI is the greatest risk factor for developing epilepsy. In fact, a study of Vietnam vets showed that 51 percent of those who suffered TBI went on to develop this disorder. That is why I filed an amendment to provide $1 million to the Department of Defense Peer Reviewed Medical Research Program for epilepsy research—including research on the relationship between TBI and epilepsy. The Epilepsy Foundation of America supports the amendment.

However, I understand that this important issue is more appropriately addressed in the fiscal year 2006 appropriations process. With that understanding, I will not offer the amendment at this time.

Mr. STEVENS. I appreciate the Senator not offering the amendment at this time.

Mr. OBAMA. I look forward to working with the Senator from Alaska on this issue. Because epilepsy is a disorder that remains latent for many years, it is important that we work now to better understand the relationship between TBI and epilepsy and prevent the onset of epilepsy in these service members.

Mr. STEVENS. I look forward to working with the Senator from Illinois on this issue during the appropriations process and ensuring that the needs of our service members are being met.

Mr. OBAMA. I thank the Senator.

AMENDMENT NO. 440, AS MODIFIED

Mr. STEVENS. Mr. President, I call up amendment No. 440 and ask that it be brought before the Senate.

The PRESIDING OFFICER. The amendment is already pending.

Mr. STEVENS. Mr. President, I send to the desk a modification of that amendment.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

AMENDMENT NO. 440

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON FUNDING FOR VACCINE HEALTH CARE CENTERS

SEC. 1122. It is the sense of the Senate that. of the amount appropriated or otherwise made available by this chapter under the heading "DEFENSE HEALTH PROGRAM", not less than $6,000,000 should be available for the Vaccine Health Care Centers.

Mr. STEVENS. I ask that the amendment be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 440), as modified, was agreed to.

AMENDMENT NO. 518, AS MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a modification of amendment No. 518.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BUNNING, proposes an amendment numbered 518.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding to meet critical needs for ceramic armor plates for military vehicles)

On page 231, between lines 3 and 4, insert the following:

SEC. . SILICON CARBIDE ARMOR INITIATIVE.

Of amounts available to the Department of Defense in this Act, $5,000,000 may be used for the purpose of funding a silicon carbide armor initiative to meet the critical needs for silicon carbide powders used in the production of ceramic armor plates for military vehicles.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is modified.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that the Department of Defense should provide funding sufficient, but not less than $5,000,000, under the Defense Production Act Title III to increase the domestic manufacturing capability to produce silicon carbide powders for use in the production of ceramic armor plates for armored vehicles, personal body armor systems, and other armor needs.

Mr. STEVENS. Mr. President, I ask for the adoption of the amendment, as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 518), as modified, was agreed to.

AMENDMENT NO. 519, AS MODIFIED

Mr. STEVENS. I send to the desk a modification of amendment No. 519.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BUNNING, proposes an amendment numbered 519.

The amendment is as follows:

(Purpose: To provide funding to meet critical needs for urban assault and structure breaching)

On page 231, between lines 3 and 4, insert the following:

SEC. . RAPID WALL BREACHING KITS.

Of amounts available to the Department of Defense in this Act, $5,000,000 may be used for procurement of Rapid Wall Breaching Kits.

The PRESIDING OFFICER. Is there objection to the modification of this amendment?

Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Department of Defense should allocate sufficient funding, but not less than $5,000,000, in Fiscal Year 2005 to procure Rapid Wall Breaching Kits for use in Operation Iraqi Freedom, Operation Ensuring Freedom, and other uses;

(2) the Department of Defense should submit to Congress an amendment to the proposed Fiscal Year 2006 budget to procure sufficient Rapid Wall Breaching Kits for use in Operation Iraqi Freedom, Operation Enduring Freedom, and other uses in Fiscal Year 2006; and

(3) the Department of Defense should include in its budget requests for Fiscal Year 2007 and beyond funds to procure sufficient Rapid Wall Breaching Kits for use in Operation Iraqi Freedom, Operation Enduring Freedom, and other uses.

Mr. STEVENS. I ask for adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 519), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the votes, and to lay the motions on the table, en bloc.

The motions to lay on the table were agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 480, AS MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a modification of No. 480.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Ms. LANDRIEU, proposes an amendment numbered 480.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate an additional $17,600,000 for Operation and Maintenance, Army Reserve, and make the amount available for tuition assistance programs for members of the Army Reserve)

On page 169, between lines 8 and 9, insert the following:

TUITION ASSISTANCE PROGRAMS OF THE ARMY RESERVE

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY RESERVE.—The amount appropriated by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE" is hereby increased by $17,600,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", as increased by subsection (a), $17,600,000 shall be available for tuition assistance programs for members of the Army Reserve as authorized by law.

The PRESIDING OFFICER. Is there objection to modifying this amendment?

Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

IT IS THE SENSE OF THE SENATE THAT

The amount appropriated by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE" may be increased by $17,600,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", as increased by subsection (a), $17,600,000 may be available for tuition assistance programs for members of the Army Reserve as authorized by law.

Mr. STEVENS. I ask for adoption of that amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 480, as modified.

The amendment (No. 480), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we have gone through a series of amendments that have been offered to the Defense portion of this bill and have been able to work out substantial changes and modifications to meet the objectives of the sponsor as well as the urgency to get this bill done.

For the portion of the bill that represents Defense, I urge Members to come and discuss with us these amendments so we may find out how we can handle them. We are informed there are still three amendments that affect the Defense portion of the supplemental. There may be other Defense amendments, but those are all we have been notified of so far.

Again, I urge Members to contact us to see if we can work out these remaining Defense amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 444, AS MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a modification of amendment No. 444.

The PRESIDING OFFICER. Is there objection to modifying the pending amendment?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. It is the sense of the Senate that—

(1) $60,000,000 may be made available for the rapid deployment of Warlock and other field jamming systems; and

(2) in conference, the Senate should recede to the House position.

Mr. STEVENS. I ask for adoption of the amendment. It is now a sense-of-the-Senate amendment and I urge its approval.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 444), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 416

Mr. FEINGOLD. Mr. President, I ask unanimous consent to set aside the pending amendment and I call up amendment No. 416 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 416.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize travel and transportation for family members of members of the Armed Forces hospitalized in the United States in connection with non-serious illnesses or injuries incurred or aggravated in a contingency operation)

On page 169, between lines 8 and 9, insert the following:

TRAVEL AND TRANSPORTATION FOR FAMILY OF MEMBERS OF THE ARMED FORCES HOSPITALIZED IN UNITED STATES IN CONNECTION WITH NON-SERIOUS ILLNESSES OR INJURIES INCURRED OR AGGRAVATED IN A CONTINGENCY OPERATION

SEC. 1122. (a) AUTHORITY.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "and" at the end of subparagraph (A); and

(B) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) either—

"(i) is seriously ill, seriously injured, or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility in or outside the United States; or

"(ii) is not described in clause (i), but has an illness or injury incurred or aggravated in a contingency operation and is hospitalized in a medical facility in the United States for treatment of that condition."; and

(2) by adding at the end the following new paragraph:

"(3) Not more than one roundtrip may be provided to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B).".

(b) CONFORMING AMENDMENTS.—

(1) HEADING FOR AMENDED SECTION.—The heading for section 411h of such title is amended to read as follows:

"§ 411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members.".

(c) FUNDING.—Funds for the provision of transportation in fiscal year 2005 under section 411h of title 37, United States Code, by reason of the amendments made by this section shall be derived as follows:

(1) In the case of transportation provided by the Department of the Army, from amounts appropriated for fiscal year 2005 by this Act and the Department of Defense Appropriations Act, 2005 (Public Law 108-287) for the Military Personnel, Army account.

(2) In the case of transportation provided by the Department of the Navy, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Navy account.

(3) In the case of transportation provided by the Department of the Air Force, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Air Force account.

(d) REPORT ON TRANSPORTATION IN EXCESS OF CERTAIN LIMIT.—If in any fiscal year the amount of transportation provided in such fiscal year under section 411h of title 37, United States Code, by reason of the amendments made by this section exceeds $20,000,000, the Secretary of Defense shall submit to the congressional defense committees a report on that fact, including the total amount of transportation provided in such fiscal year under such section 411h by reason of the amendments made by this section.

AMENDMENT NO. 416, AS MODIFIED

Mr. FEINGOLD. I ask unanimous consent to modify the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FEINGOLD. I send a modification to the desk.

Mr. STEVENS. Reserving the right to object, can we have a copy of that.

Mr. FEINGOLD. I sent a copy to the desk.

Mr. STEVENS. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 416), as modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

TRAVEL AND TRANSPORTATION FOR FAMILY OF MEMBERS OF THE ARMED FORCES HOSPITALIZED IN UNITED STATES IN CONNECTION WITH NON-SERIOUS ILLNESSES OR INJURIES INCURRED OR AGGRAVATED IN A CONTINGENCY OPERATION

SEC. 1122. (a) AUTHORITY.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "and" at the end of subparagraph (A); and

(B) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) either—

"(i) is seriously ill, seriously injured, or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility in or outside the United States; or

"(ii) is not described in clause (i), but has an illness or injury incurred or aggravated in a contingency operation and is hospitalized in a medical facility in the United States for treatment of that condition."; and

(2) by adding at the end the following new paragraph:

"(3) Not more than one roundtrip may be provided to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B).".

(b) CONFORMING AMENDMENTS.—

(1) HEADING FOR AMENDED SECTION.—The heading for section 411h of such title is amended to read as follows:

"§ 411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members.".

(c) FUNDING.—Funds for the provision of transportation in fiscal year 2005 under section 411h of title 37, United States Code, by reason of the amendments made by this section shall be derived as follows:

(1) In the case of transportation provided by the Department of the Army, from amounts appropriated for fiscal year 2005 by this Act and the Department of Defense Appropriations Act, 2005 (Public Law 108-287) for the Military Personnel, Army account.

(2) In the case of transportation provided by the Department of the Navy, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Navy account.

(3) In the case of transportation provided by the Department of the Air Force, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Air Force account.

(d) REPORT ON TRANSPORTATION IN EXCESS OF CERTAIN LIMIT.—If in any fiscal year the amount of transportation provided in such fiscal year under section 411h of title 37, United States Code, by reason of the amendments made by this section exceeds $20,000,000, the Secretary of Defense shall submit to the congressional defense committees a report on that fact, including the total amount of transportation provided in such fiscal year under such section 411h by reason of the amendments made by this section.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. My amendment is designed to correct a flaw in the current law that unintentionally but severely restricts the number of families of injured servicemembers that qualify for assistance to travel to the bedside of their wounded loved ones.

This issue came to my attention when Tina Justice, the wife of Wisconsin Army National Guard 1LT Christopher Justice, contacted my office late last fall. First Lieutenant Justice and eight other members of Company B of the 118th Medical Battalion were traveling in a three vehicle convoy near Baghdad on September 12, 2004 and were waiting to clear a roadblock when they noticed a suspicious vehicle racing towards them. Members of Company B quickly responded, but the driver was still able to blow up his vehicle. The swift reaction undoubtedly saved many lives that day, but eight of the nine members of Company B still sustained injuries from the powerful blast, three severe enough to require evacuation to the United States.

First Lieutenant Justice was one of the three soldiers seriously injured and evacuated, first to Germany, and finally to Walter Reed, where he underwent several surgeries for his injuries. All three injured Wisconsin guardsmen received exceptional medical care from the outstanding medical staff at Walter Reed. The guardsmen were also very grateful to be able to see their families who quickly rushed to be with them during this very traumatic time. Tina Justice was one of those who immediately went to Walter Reed to be with her husband, bringing along her 4-year-old daughter and 1-year-old son.

Congress has enacted legislation to help family members of injured servicemembers like First Lieutenant Justice. We have passed a law that provides Federal assistance to help pay for the travel and transportation costs of family members of very seriously or seriously ill or injured servicemembers. With her husband being injured seriously enough to require evacuation to Germany and then Walter Reed, Mrs. Justice naturally assumed that she would qualify for help under this provision. However, she found something quite different. According to the Army, her husband's injuries, which required evacuation to Europe and then to the U.S., did not qualify as "serious," and therefore she would not be eligible for reimbursement. Despite her many attempts to reverse this decision, the Army continued to deny her claim.

After much frustration, Mrs. Justice contacted my office. When I heard about the case, I believed there must have been some sort of bureaucratic mix-up. After all, it makes no sense that the Army would spend all that money to evacuate personnel out of the theater, on to Germany, and finally to the United States if that person was not seriously injured. However, my inquiries to the Army and to Secretary of Defense Donald Rumsfeld did not satisfactorily resolve Mrs. Justice's problem.

The Justices are not alone. I was also recently contacted by the Carter family from Ladysmith, WI. Their son, SPC Andrew Carter, sustained shrapnel injuries to his legs and feet while serving his country in Iraq and was evacuated to Walter Reed. He and his family were also frustrated by the fact that they did not qualify for travel cost reimbursement because Specialist Carter's injuries weren't classified as serious by the Army.

The Army Surgeon General's office finally helped shed some light on the problem. Although the law provides travel benefits for family members of very seriously or seriously injured military personnel, what constitutes a very serious or serious injury to the Army is very different from what the average American may think. The Army's technical definition of very seriously ill or injured, VSI, is that the soldier is in imminent danger of death. In order to be classified as seriously ill or injured, SI, the soldier must require a very high level of care, such as being in the intensive care unit, but be expected to survive. All other injuries, including those that may require extensive and multiple surgeries and months of hospital care are listed as not seriously ill or injured, NSI.

Now I think that the average American would agree with the VSI classification. However, if someone has taken major shrapnel and other wounds from a suicide car bomber requiring several surgeries and is evacuated all the way to the United States from Iraq, my guess is that the average American would call that pretty serious. I know I did and I know that Mrs. Justice, the Carters, and others have as well. I also think that Congress, in passing laws to allow family members to visit their injured loved ones, had a definition of VSI and SI in mind more closely aligned to that of the average American rather than the technical definition used by the Army. What we have, therefore, is a well-intentioned law that is creating expectations that just aren't being met because our definitions don't match up.

The denial of travel benefits, known as Invitational Travel Orders, ITO, to families like the Justices and Carters, because their loved ones' injuries aren't bad enough comes at the absolute worst time for the injured men and women and their families. They are in the midst of an extremely traumatic time, trying to come to grips with what has happened and working to heal physically and emotionally. They need to be concentrating on these important tasks, not worrying about whether or not they can even afford to be there and fighting the bureaucracy for travel cost reimbursement.

The unfortunate and avoidable aftereffect of the current policy is that the injured troops and their families feel unappreciated by the Defense Department and by the country for which the servicemember almost lost their life.

The amendment I introduce today will help rectify this problem and more closely align expectations with what families are provided. This legislation would make an addition to current law by allowing for one ITO for up to three family members of a servicemember medically evacuated from a war zone to the United States, whether that injured person is listed as VSI, SI or NSI. It is important that families get this first trip and don't have to worry about whether or not they can afford to pay for it. This amendment would provide that first trip.

During that first trip, families can also acquaint themselves with the many fantastic public and private programs there to help them. The Red Cross, Fisher House, Operation Hero Miles, many veterans and military service organizations, the list goes on, all provide those injured in the line of duty and their families with many resources. Families can use that first trip to learn about and tap into these resources to assist them with future needs. I know the Justices and Carters deeply appreciated the help from these and other organizations.

Some may be worried that this amendment will simply crowd out the good work being done by private organizations with another Government program. This is an understandable concern. However, after consulting with some of these organizations, I am confident that this legislation will not do so. It will, in fact, complement current private efforts to assist servicemembers and their families. The experiences of the Justices and Carters also show that this proposed legislation fills a void in the current assistance efforts.

We are all very conscious of supporting our troops and making sure that those who have been injured receive the best possible medical care. This should be a priority. At the same time, we must not forget the families of these servicemembers. They, too, make great sacrifices and must cope with the changes in their lives brought about by the injuries and recovery of their loved ones. The amendment I introduce today will help reduce some of the burden faced by injured troops and their families so that they can concentrate on the important work of healing.

I ask the managers if they are willing to accept this amendment.

Mr. STEVENS. Mr. President, we commend the Senator for his modification and this necessary amendment. It deals with travel by dependents and loved ones with those who are seriously ill or injured or in a situation of imminent death. I do think the modification meets the increasing needs of our service men and women and their families. So we are pleased to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senators for their support. I hope they will be willing to work to keep this small but important amendment in the conference report.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 416), as modified, was agreed to.

Mr. FEINGOLD. Mr. President, I again thank the managers very much. I would like to make a brief statement about another amendment.

Mr. STEVENS. Will the Senator mind reconsidering that amendment at this time?

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 459

Mr. FEINGOLD. Mr. President, I also want to speak very briefly regarding an amendment that I had filed, amendment No. 459. Chairman COCHRAN raised a point of order against the amendment today, but I want to spend just a few minutes to explain what this amendment was about, because it concerns the success or failure of the U.S. effort in Iraq, and it concerns every American taxpayer.

In 2003 I offered an amendment to the supplemental bill for Iraq and Afghanistan that established an inspector general for the Coalition Provisional Authority so that there would be one auditing body completely focused on ensuring taxpayer dollars are spent wisely and efficiently, and that this effort is free of waste, fraud, and abuse.

Then the CPA phased out and, happily, Iraqi sovereignty was transferred back into Iraqi hands. Congress agreed that continued oversight of the reconstruction effort was important, and agreed to an amendment that I offered last year to turn the CPAIG into the Special Inspector General for Iraq Reconstruction. But even today, many months after that change, in many ways the reconstruction effort has only just begun. According to the Congressional Research Service, as of about a month ago, only a little more than $6 billion of the nearly $21 billion reconstruction fund had actually been expended. The work of the Special Inspector General must continue.

My amendment is simple and largely technical. This amendment would adjust the termination date for the Special IG to link to expenditures rather than obligated funds. Obligations are dramatically outpacing expenditures in the reconstruction effort today. If we let the Special IG sunset after the bulk of the money is obligated but not expended, we will not have a clear picture of what these billions of U.S. taxpayer dollars actually achieved on the ground. The imminent disappearance of auditors can also create a real incentive for cutting corners in actually implementing projects. So we need to make sure that Congress signals its support for the Special IG continuing to see this reconstruction effort through.

Transparency and accountability in the reconstruction effort is not about finding new things to criticize. It is about responsible stewardship of taxpayer resources, and it is about getting reconstruction right. Ultimately, it is about achieving our goals in Iraq. Congress appropriated reconstruction funds in an emergency supplemental. Congress created this IG in an emergency supplemental. It is entirely appropriate to make these technical changes to the IG's mandate in this supplemental to ensure that Congressional intent—which is to have ongoing, vigorous, focused oversight of the reconstruction effort—is respected.

I am deeply disappointed that the managers of this bill did not see fit to devote any effort to this important amendment. The amendment had been cleared on the Democratic side, but apparently there was some problem, or some lack of interest, that prevented this amendment from being accepted. This is troubling. It is difficult to understand why anyone would oppose solid oversight of the reconstruction effort. The IG's team needs some sense of certainty as the obligation rate soars and their termination grows closer and closer, yet the bulk of reconstruction funds remain unexpended. The Senate addressed this issue in the $87 billion 2003 supplemental for Iraq, and then made an important adjustment by unanimous consent last year while we considered the DOD Authorization bill. This needs to get done, and I will continue to work to make sure that happens.

The PRESIDING OFFICER. Under the previous order, the hour of 5:45 having arrived, the Senate will proceed to a vote on the Bayh amendment.

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 418, AS FURTHER MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a modification of amendment No. 418.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is further modified.

The amendment (No. 418), as further modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC-130J AIRCRAFT

SEC. 1122. No funds in this Act may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC–130J aircraft that is in effect on the date of the enactment of this Act.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. I urge the adoption of the amendment as modified.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 418), as further modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 493, AS MODIFIED

Mr. COCHRAN. Mr. President, I ask unanimous consent that I be permitted to send to the desk a modification of amendment No. 493 in behalf of Senator LEAHY.

The PRESIDING OFFICER. Is there objection to modifying the amendment? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 493, as modified.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 176, line 12, after the colon insert the following:

Provided further, That of the funds appropriated under this heading, not less than $5,000,000 should be made available for assistance for families and communities of Afghan civilians who have suffered losses as a result of the military operations:

On page 183, line 23, add the following new section:

MARLA RUZICKA IRAQI WAR VICTIMS FUND

SEC. . Of the funds appropriated by chapter 2 of title II of PL 108–106 under the heading "Iraq Relief and Reconstruction Fund", not less than $30,000,000 should be made available for assistance for families and communities of Iraqi civilians who have suffered losses as a result of the military operations. *Provided*, That such assistance shall be designated as the "Marla Ruzicka Iraqi War Victims Fund".

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 493), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 489, AS MODIFIED

Mr. COCHRAN. Mr. President, I send to the desk another modification in behalf of Senator DURBIN.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is modified.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. DURBIN, proposes an amendment numbered 489, as modified.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 489), as modified, is as follows:

On page 194, line 9, after the colon insert the following:

Provided further, That of the funds appropriated under this heading, not less than $10,000,000 should be made available for programs and activities which create new economic opportunities for women:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 489), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 342, AS MODIFIED

Mr. COCHRAN. Mr. President, I send to the desk another modification of an amendment in behalf of Senator DEWINE, No. 342.

The PRESIDING OFFICER. The amendment is pending.

Is there objection to the modification? Without objection, the amendment is so modified.

The amendment (No. 342), as modified, is as follows:

On page 183, after line 23, add the following:

ASSISTANCE FOR HAITI

SEC. . Of the funds appropriated by title II, chapter 2 of this Act, not less than $20,000,000 shall be made available for assistance for Haiti: *Provided*, That this assistance should be made available for election assistance, employment and public works projects, and police assistance: *Provided further*, That the obligation of such funds shall be subject to prior consultation with the Committees on Appropriations.

The PRESIDING OFFICER. Is there further debate on the amendment, as modified? If not, the question is on agreeing to the amendment.

The amendment (No. 342), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 425, AS MODIFIED

Mr. COCHRAN. Mr. President, I send to the desk another modification to amendment No. 425, in behalf of Mr. BENNETT.

The PRESIDING OFFICER. Is there objection to the modification of the amendment? Without objection, the amendment is so modified.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BENNETT, proposes an amendment numbered 425, as modified.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 425), as modified, is as follows:

On page 194, line 13, after "tsunami:" insert "*Provided further*, That of the funds appropriated under this heading, not less that $20,000,000 should be made available for microcredit programs in countries affected by the tsunami, to be administered by the United States Agency for International Development:".

The PRESIDING OFFICER. Is there further debate on the amendment, as modified? If not, the question is on agreeing to the amendment.

The amendment (No. 425), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, I ask unanimous consent to address the Senate for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

AMENDMENT NO. 429 WITHDRAWN

Mr. ISAKSON. Mr. President, as the Senate is aware, I proposed an amendment identified as No. 429, which is still pending in the Senate. That amendment is verbatim the amendment that came out of the House of Representatives with regard to the REAL ID and came to us on the supplemental appropriations emergency bill.

I am about to ask unanimous consent to withdraw that amendment. Prior to doing so, I want to be clear for the record I believe the House position on the REAL ID, the 9/11 Commission position, which is where that came from, and the security of our borders is truly an emergency situation and an appropriate place for that amendment to be on the emergency supplemental for Iraq and Afghanistan.

I respect those who had differences, and I respect those who have withdrawn amendments to this bill. Because of that, and because we are reaching a conclusion, I will respectfully ask unanimous consent my amendment be withdrawn with the express understanding that I sincerely hope the conferees and the conference committee, before this bill finally comes to rest, will have agreed that position is correct; that REAL ID will have been included, and they will have addressed the security of our borders and the identification of those entering the United States of America.

I ask unanimous consent amendment No. 429 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 429) was withdrawn.

Mr. KENNEDY. Mr. President, today I rise in opposition to the inclusion of the so-called REAL ID bill in the emergency supplemental appropriations conference report. That bill is harmful and unnecessary. The Intelligence Reform Act we approved overwhelmingly last year provides real border security solutions. The so-called REAL ID bill contains controversial provisions we rejected last year and should reject again. It's a false solution on border security. There's no need to revisit these issues again, and they serve no purpose except to push an anti-immigrant agenda.

The supporters of the REAL ID bill continue to say that loopholes exist in our immigration and asylum system that are being exploited by terrorists, and this bill will close them. In fact, it does nothing to improve national security, and leaves other big issues unresolved.

Asylum seekers would find no refuge. Battered women would be exposed to abuse. Many Americans would have problems getting driver's licenses, and law enforcement would be outsourced to bounty hunters. All of our laws, including labor laws, would be waived to build a wall. For the first time since the Civil War, habeas corpus would be prohibited.

Each year, countless refugees are forced to leave their countries, fleeing persecution. America has always been a haven for those desperate for that protection. At the very beginning of our history, the refugee Pilgrims seeking religious freedom landed on Plymouth Rock. Ever since we've welcomed refugees, and it's made us a better nation. They represent the best of American values. They have stood alone, at great personal cost, against hostile governments for fundamental principles like freedom of speech and religion. With this legacy, we have a responsibility to examine our asylum policies carefully, to see that they are fair and just.

The REAL ID bill would trample this noble tradition and make it devastating for legitimate asylum-seekers fleeing persecution. It would make it more difficult for victims fleeing serious human rights abuses to obtain asylum and safety, and could easily lead to their return to their persecutors.

Supporters of the REAL ID bill want us to believe that its changes will keep terrorists from being granted asylum. But current immigration laws already bar persons engaged in terrorist activity from asylum. Before they receive asylum, all applicants must also undergo extensive security checks, covering all terrorist and criminal databases at the Department of Homeland Security, the FBI, and the CIA.

Another section of the REAL ID bill contains a provision that would complete the US-Mexico border fence in San Diego. But it goes much further than that. It would require DHS to waive all laws necessary to build such fences, not just in San Diego, but anywhere else along our 2,000 mile border with Mexico and our 4,000 mile border with Canada. This unprecedented and unchecked power covers all Federal or State law deemed necessary to build the barriers, even child labor laws, worker health and safety laws, minimum wage laws, and environmental laws. It would even take away the rights of Native Americans to control their land.

The cost of building such fences is into the hundreds of millions of dollars, and still won't stop illegal immigration. Immigrants who can find jobs in the U.S. and have no legal visas to enter will simply go around these walls. What we need are safe and legal avenues for immigrants to come here and work, not more walls.

The REAL ID driver's license provisions don't make us safer either. The Intelligence Reform Act sets up a process for States and the Federal Government to work together to establish Federal standards for driver's licenses and identification cards, and progress is being made to implement these important measures. The REAL ID bill would repeal the driver's license provisions and replace them with highly problematic and burdensome requirements. According to the National Conference of State Legislatures, the REAL ID prescribes "unworkable, unproven, costly mandates that compel States to enforce federal immigration policy rather than advance the paramount objective of making State-issued identity documents more secure and verifiable."

The bill does nothing to address the threat of terrorists or to address legitimate security concerns. It would not have prevented a single 9/11 hijacker from obtaining a driver's license, or a single terrorist from boarding a plane. All 13 hijackers could have obtained licenses or IDs under this proposal, and foreign terrorists can always use their passports to travel.

The REAL ID bill contains other broad and sweeping changes to laws that go to the core of our national identity. If enacted, it would deny judicial review and due process which could result in devastating consequences for immigrants and refugees.

By restricting judicial review and habeas corpus, it could force people to be deported before they can challenge basic errors made in their cases. It would deny the constitutionally protected writ of habeas corpus, which has not been changed since the Civil War. Habeas corpus is a fundamental principle of American justice. It's called the "great writ" for a reason—because it's brought justice to people wrongly detained.

Just as absurd, the bill will outsource law enforcement by giving "bounty hunters" unprecedented authority to apprehend and detain immigrants, even if a bond has not been breached. Bonding agents would be given the discretion and decision-making power that belongs to judges who have the necessary legal training to make these determinations.

A major additional problem in the REAL ID bill is that it could result in the deportation even of long-time legal permanent residents, for lawful speech or associations that occurred twenty years ago or more. It raises the burden of proof to nearly impossible levels in numerous cases.

A person who made a donation to a humanitarian organization involved in Tsunami relief could be deported if the organization or any of its affiliates was ever involved in violence. The burden would be on the donor to prove by clear and convincing evidence that he knew nothing about any of these activities. The spouse and children of a legal permanent resident could also be deported too based on such an accusation, because of their relationship to the donor.

The provision could be applied retroactively, so that a permanent resident who had once supported the lawful, nonviolent work of the African National Congress in South Africa, Sinn Fein in Northern Ireland, the Northern Alliance in Afghanistan, or the contras in Nicaragua would be deportable. It would be no defense to show that the only support was for lawful nonviolent activity. It would be no defense to show that the United States itself supported some of these groups.

More than 600 organizations across the political spectrum oppose this legislation. A broad coalition of religious, immigrant, human rights, and civil liberties groups have expressed their own strong opposition. Also opposing the bill are the National Governors Association, the American Association of Motor Vehicle Administrators, and the National Conference of State Legislators, and a 9/11 family group, the September 11 Families for Peaceful Tomorrows.

In these difficult times for our country, we know that the threat of terrorism has not ended, and we must do all we can to enact genuine measures to stop terrorists before they act, and to see that law enforcement officials have the full support they need. The REAL ID bill will not improve these efforts. It will not make us safer or prevent terrorism and it is an invitation to gross abuses.

It is a false solution to national and border security. I urge the Senate to oppose the REAL ID bill.

Mr. LEAHY. Mr. President, there are many Members on both sides of the aisle with strong objections to the REAL ID Act, which the House included in its version of the emergency supplemental and which Senator

ISAKSON has offered as an amendment. I oppose the REAL ID Act because I value our Nation's historic commitment to asylum, and do not want to see severe restrictions placed on the ability of asylum seekers to obtain refuge here. I oppose it because I value States rights, and side with the National Governors Association, the National Conference of State Legislatures, and the Council of State Governments in objecting to the imposition of unworkable Federal mandates on State drivers license policies. And I oppose the REAL ID Act because I support environmental protection and the rule of law, both of which the act would subvert by requiring the DHS Secretary to waive all laws, environmental or otherwise, that may get in the way of the construction of border fences or barriers, and by forbidding judicial review of the Secretary's actions.

Although I oppose the REAL ID Act, I respect Senator ISAKSON's desire to debate it in the Senate. The Senate should have a debate and vote on his amendment, and state clearly where we stand. I fear that if we do not, the Senate's silence will be treated as acquiescence by the Republican conferees from both Chambers. As a result, we will see this highly objectionable legislation included in an unamendable conference report. Such a backdoor approach may be the preferred course of action for the Senate's Republican leadership, but it is no way for us to conduct our business.

In addition to my substantive objections to the Isakson amendment, I oppose it because it would deprive the Judiciary Committee of the opportunity to consider and review these wide-ranging provisions. If the majority party believes this is good legislation, it should schedule committee consideration and move it through the regular order.

The majority leader has indicated in recent weeks that the Senate will be considering immigration reform this year. The provisions in the REAL ID Act should be considered at that time and in conjunction with a broader debate about immigration. We should consider the Isakson amendment and we should vote it down.

Mr. LIEBERMAN. Mr. President, I rise to speak in opposition to the House legislation known as the REAL ID Act and to urge that it not be included in the conference report for this spending bill. Last year Congress enacted comprehensive antiterrorism legislation, the Intelligence Reform and Terrorism Prevention Act, which implemented the recommendations of the 9/11 Commission. Some of the most important provisions we enacted strengthen our borders against terrorist infiltration and provide the government with new weapons in tracking terrorist travel around the globe. The act also requires minimum Federal standards to ensure that State-issued drivers' licenses are always secure and reliable forms of identification.

The REAL ID Act would repeal much of our work from last year, and replace it with provisions that impose on State governments unworkable standards for drivers' licenses. The REAL ID Act also includes punitive immigration provisions that we rejected last year, and that have no place on an emergency spending bill. Do not be fooled. Our nation is safer if we implement the protections we passed just last December. We must not allow an ideological debate over immigration policy to derail initiatives vital to the war against terrorism.

Last year I was privileged to work with my colleagues on both sides of the aisle and in both Chambers to develop antiterrorism and intelligence reform legislation of which we can all be proud. Among other things, the Intelligence Reform Act called for large increases in the numbers of Border Patrol agents, immigration enforcement agents, and detention beds. It strengthened consular procedures for screening visa applicants. It closed a gaping vulnerability by requiring people entering the United States at our land borders to show a passport. And it required minimum Federal standards to ensure that State-issued drivers' licenses are always secure and reliable forms of identification.

At the same time, I joined with my fellow conferees to ensure that the intelligence reform bill focused on genuine antiterrorism measures and excluded extraneous measures. In particular, in conference we rejected a number of antiasylum and anti-immigration provisions. The REAL ID Act simply recycles several of the controversial immigration provisions which we rejected last year. When the REAL ID Act was debated on the House floor this year many of its supporters claimed that these provisions had been recommended by the 9/11 Commission, and are essential to the war on terrorism. That is simply not the case.

Last October, the 9/11 Commissioners made clear that the immigration provisions in the House bill were irrelevant to fighting terrorism. I would like to quote from a letter the conferees received from Gov. Thomas Kean and Congressman Lee Hamilton, a letter that reflected the unanimous view of the commissioners. Referring to the House provisions on immigration, they said, "We believe strongly that this bill is not the right occasion for tackling controversial immigration and law enforcement issues that go well beyond the Commission's recommendations. We note in this regard that some of these provisions have been advocated in response to Commission recommendations. They are not Commission recommendations." The commissioners then added, "We believe we are better off with broad bipartisan agreement on key recommendations of the Commission in support of border security than taking up a number of controversial provisions that are more central to the question of immigration policy than they are to the question of counterterrorism."

As the commissioners made clear, the provisions in the REAL ID Act have more to do with immigration than with national security. These are controversial provisions that need to be fully considered by our Judiciary Committee. The legislation would make it harder for refugees fleeing oppressive regimes to get asylum. That provision does not target terrorists because current law already states that no member of a terrorist organization can be eligible for asylum. The REAL ID Act would suspend habeas corpus review in deportation proceedings. Not since the Civil War has habeas corpus been suspended. The House bill would allow the Department of Homeland Security to waive all laws so that fences and barriers can be built on any of our land borders. There is no limitation as to what laws can be waived environmental laws, labor laws, laws allowing property owners to be compensated for the confiscation of their land. These provisions have serious negative consequences and should be more carefully considered. I do not believe they could ever be enacted if they were carefully considered with our normal procedures.

I would also like to address the provisions in the REAL ID Act that would establish new Federal standards for drivers' licenses. My colleagues no doubt remember that just last December Congress enacted standards for drivers' licenses, as recommended by the 9/11 Commission, to ensure drivers' licenses are secure and identities are verified. The standards are now being implemented through a rulemaking, in which state governments are given a seat at the table to share their expertise. These legislative standards were a great accomplishment, a result of fine work done by Senators MCCAIN, DURBIN, COLLINS, ALEXANDER, and other colleagues. Last year the administration declared that the Senate's provisions were preferable to those drafted by the House, and the 9/11 Commission endorsed them.

The REAL ID Act would repeal the work Congress did last year. It would replace our provisions with much more rigid provisions from last year's House bill. The provisions are so unrealistic that States could not implement them. All Americans applying for drivers' licenses would have to wait for weeks while State DMVs tried to confirm the authenticity of paper birth certificates and other records, records filed away at county offices across the country. State governments would have no opportunity to provide input for the regulations, as they have under current law.

That is why the State government organizations think the REAL ID Act is a terrible idea. The National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, and the American Association of Motor Vehicle Administrators have all announced their strong opposition to the REAL ID Act. The organizations have written to congressional leadership that the REAL ID Act would impose requirements on state governments which, "are beyond the current capacity of even the federal government." The State government groups have asked that the law we passed last December be given a chance to work. I ask unanimous consent that a joint letter from these four organizations be printed in the CONGRESSIONAL RECORD following the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LIEBERMAN. Mr. President, when the State governments of our Nation say that these drivers' license provisions are unworkable, we need to take notice. State governments have been issuing drivers' licenses for decades. They are the experts, and we will need their input and coordination if we are going to implement the drivers' license standards recommended by the 9/11 Commission.

I urge my colleagues to oppose the REAL ID Act. We must ask our Senate conferees not to allow such a controversial measure to be pushed through Congress on an emergency spending bill. The REAL ID Act contradicts our historic identity as a nation that provides a haven for the oppressed. The REAL ID Act would not make us safer. It would make us less safe. It would repeal provisions enacting a central recommendation of the 9/11 Commission, and it would undermine a vital counterterrorism initiative.

EXHIBIT 1

MARCH 17, 2005.

Hon. WILLIAM H. FRIST,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. HARRY REID,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST AND SENATOR REID: We write to express our opposition to Title II of H.R. 418, the "Improved Security For Driver's Licenses and Personal Identification Cards" provision, which has been attached to H.R. 1268, the fiscal year 2005 supplemental spending measure. While Governors, state legislatures, other state elected officials and motor vehicle administrators share your concern for increasing the security and integrity of the driver's license and state identification processes, we firmly believe that the driver's license and ID card provisions of the Intelligence Reform and Terrorism Prevention Act of 2004 offer the best course for meeting those goals.

The "Driver's Licenses and Personal Identification Cards" provision in the Intelligence Reform Act of 2004 provides a workable framework for developing meaningful standards to increase reliability and security of driver's licenses and ID cards. This framework calls for input from state elected officials and motor vehicle administrators in the regulatory process, protects state eligibility criteria, and retains the flexibility necessary to incorporate best practices from around the states. We have begun to work with the U.S. Department of Transportation to develop the minimum standards, which must be completed in 18 months pursuant to the Intelligence Reform Act.

We commend the Members of the U.S. House of Representatives for their commitment to driver's license integrity; however, H.R. 418 would impose technological standards and verification procedures on states, many of which are beyond the current capacity of even the federal government. Moreover, the cost of implementing such standards and verification procedures for the 220 million driver's licenses issued by states represents a massive unfunded federal mandate.

Our states have made great strides since the September 11, 2001 terrorists attacks to enhance the security processes and requirements for receiving a valid driver's license and ID card. The framework in the Intelligence Reform Act of 2004 will allow us to work cooperatively with the federal government to develop and implement achievable standards to prevent document fraud and other illegal activity related to the issuance of driver's licenses and ID cards.

We urge you to allow the provisions in the Intelligence Reform Act of 2004 to work. Governors, state legislators, other state elected officials and motor vehicle administrators are committed to this process because it will allow us to develop mutually agreed-upon standards that can truly help create a more secure America.

Sincerely,

RAYMOND C. SCHEPPACH,
Executive Director, National Governors Association.
WILLIAM T. POUND,
Executive Director, National Conference of State Legislatures.
LINDA R. LEWIS,
President and CEO, American Association of Motor Vehicle Administrators.
DAN SPRAGUE,
Executive Director, Council of State Governments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 563

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendments?

Mr. LEVIN. I thank the Chair and ask unanimous consent that be done.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 563.

The amendment is as follows:

(Purpose: To authorize the Secretary of Labor to convey the Detroit Labor Building to the State of Michigan)

At the appropriate place, insert the following:

SEC. ____. The Secretary of Labor shall convey to the State of Michigan, for no consideration, all right, title, and interest of the United States in and to the real property known as the "Detroit Labor Building" and located at 7310 Woodward Avenue, Detroit, Michigan, to the extent the right, title, or interest was acquired through a grant to the State of Michigan under title III of the Social Security Act (42 U.S.C. 501 et seq.) or the Wagner-Peyser Act (29 U.S.C. 49 et seq.) or using funds distributed to the State of Michigan under section 903 of the Social Security Act (42 U.S.C. 1103).

Mr. ENZI. Mr. President, may I enquire of the Senator from Michigan what his amendment seeks to accomplish?

Mr. LEVIN. My amendment will release the 55-percent equity position of the Department of Labor in the State-owned Detroit Labor Building in anticipation of its sale.

Mr. ENZI. It is my understanding that the equity the Department of Labor has acquired is attributable to Federal grants extended to the State and used for leasehold improvements over the last 50 years. These grants were provided under the auspices of Federal jobs programs including job training and unemployment compensation. Before consenting to this amendment, I seek assurance that the portion of the sale proceeds in question be used solely for job training purposes by the State of Michigan.

Mr. LEVIN. I have been assured by the Office of the Governor of Michigan that should my amendment be accepted, the entirety of the 55 percent of the proceeds from the sale of the building that would have otherwise been remitted to the Federal Government will instead be used by the State of Michigan to provide job training grants.

Mr. ENZI. With that assurance, I do not object to this amendment. I thank the Senator from Michigan for addressing my concerns.

Mr. LEVIN. Mr. President, I understand this amendment has been cleared on both sides. I know it has been cleared by Senator ENZI.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 563) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I thank my dear friend from Mississippi for his understanding of this matter. I know it held up the Senate for a few minutes. I greatly appreciate it.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 537

Mr. COCHRAN. Mr. President, I ask for the regular order with respect to amendment No. 537.

The PRESIDING OFFICER. The amendment is now pending.

Mr. COCHRAN. I make the point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is sustained, and the amendment falls.

AMENDMENT NO. 454

Mr. COCHRAN. Mr. President, on behalf of the Senator from Colorado, Mr. SALAZAR, I call up amendment No. 454 and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SALAZAR, proposes an amendment numbered 454.

The amendment is as follows:

(Purpose: To ensure that Afghan security forces who receive training provided with United States assistance are professionally trained and that certain minimum standards are met)

On page 169, between lines 8 and 9, insert the following:

REPORT ON AFGHAN SECURITY FORCES TRAINING

SEC. 1122. (a) Notwithstanding any other provision of law, not later than 60 days after the date on which the initial obligation of funds made available in this Act for training Afghan security forces is made, the Secretary of Defense, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that includes the following:

(1) An assessment of whether the individuals who are providing training to Afghan security forces with assistance provided by the United States have proven records of experience in training law enforcement or security personnel.

(2) A description of the procedures of the Department of Defense and Department of State to ensure that an individual who receives such training—

(A) does not have a criminal background;

(B) is not connected to any criminal or terrorist organization, including the Taliban;

(C) is not connected to drug traffickers; and

(D) meets certain age and experience standards;

(3) A description of the procedures of the Department of Defense and Department of State that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(4) A description of the procedures of the Department of Defense and Department of State to ensure the coordination of such training efforts between these two Departments.

(5) The number of trained security personnel needed in Afghanistan, an explanation of how such number was determined, and a schedule for training that number of people.

(6) A description of the methods that will be used by the Government of Afghanistan to maintain and equip such personnel when such training is completed.

(7) A description of how such training efforts will be coordinated with other training programs being conducted by the governments of other countries or international organizations in Afghanistan.

(b) Not less frequently than once each year the Secretary of Defense, in conjunction with the Secretary of State, shall submit a report to the appropriate congressional committees that describes the progress made to meet the goals and schedules set out in the report required by subsection (a).

(c) In this section the term "appropriate congressional committees" means the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

AMENDMENT NO. 454, AS MODIFIED

Mr. COCHRAN. Mr. President, I send a modification to the desk to amendment No. 454, and I ask unanimous consent that the modification of the amendment be considered.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 183, line 23 after the period, insert the following:

REPORT ON AFGHAN SECURITY FORCES TRAINING

SEC. 112. (a) Notwithstanding any other provision of law, not later than 90 days after the date on which the initial obligation of funds made available in this Act for training Afghan security forces, including police, border security guards and members of the Afghan National Army, is made, the Secretary of State, in conjunction with the Secretary of Defense, shall submit to the appropriate congressional committees a report that includes the following:

(1) An Assessment of whether the individuals who are providing training to Afghan security forces with assistance provided by the United State have proven records of experience in training law enforcement or security personnel.

(2) A description of the procedures of the Department of State and Department of Defense to ensure that an individual who receives such training—

(A) does not have a criminal background;

(B) is not connected to any criminal or terrorist organization, including the Taliban;

(C) is not connected to drug traffickers; and

(D) meets certain age and experience standards.

(3) A description of the procedures of the Department of State and Department of Defense that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(4) A description of the procedures of the Department of State and Department of Defense to ensure the coordination of such training efforts between these two Departments.

(5) A description of methods that will be used by the Government of Afghanistan to maintain and equip such personnel when such training is completed.

(6) A description of how such training efforts will be coordinated with other training programs being conducted by the governments of other countries or international organizations in Afghanistan.

(b) In this section the term "appropriate congressional committees" means the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 454), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 517, AS MODIFIED

Mr. COCHRAN. Mr. President, I ask unanimous consent to send a modification of amendment No. 517 to the desk and that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. CORZINE, proposes an amendment numbered 517.

The amendment is as follows:

(Purpose: To impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes)

On page 183, after line 23, insert the following:

DARFUR ACCOUNTABILITY

SEC. 2105. (a) It is the sense of the Senate that—

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that—

(A) imposes additional sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the Government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as the Government of Sudan fully complies with all relevant United Nations Security Council resolutions;

(B) establishes a military no-fly zone in Darfur and calls on the Government of Sudan to immediately withdraw all military aircraft from the region;

(C) urges member states to accelerate assistance to the African Union force in Darfur, sufficient to achieve the expanded mandate described in paragraph (5);

(D) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force, the United Nations Mission in Sudan (UNMIS), international humanitarian organizations, and United Nations monitors;

(E) extends the embargo of military equipment established by paragraphs 7 through 9 of United Nations Security Council Resolution 1556 and expanded by Security Council Resolution 1591 to include a total prohibition of sale or supply to the Government of Sudan; and

(F) expands the mandate of UNMIS to include the protection of civilians throughout Sudan, including Darfur, and increases the number of UNMIS personnel to achieve such mandate;

(3) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that the Government of Sudan has fully complied with all relevant United Nations Security Council resolutions and the conditions established by the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018);

(4) the President should work with international organizations, including the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union to undertake action as soon as practicable to eliminate the ability of the Government of Sudan to engage in aerial bombardment of civilians in Darfur and establish mechanisms for the enforcement of a no-fly zone in Darfur;

(5) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence;

(6) the President should accelerate assistance to the African Union in Darfur and discussions with the African Union, the European Union, NATO, and other supporters of the African Union force on the needs of the African Union force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and command and control assistance, and intelligence;

(7) the President should appoint a Presidential Envoy for Sudan to support peace, security and stability in Darfur and seek a comprehensive peace throughout Sudan;

(8) United States officials, at the highest levels, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and other relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur; and

(9) the United States should actively participate in the UN Committee and the Panel of Experts established pursuant to Security Council Resolution 1591, and work to support the Secretary-General and the United Nations High Commissioner for Human Rights in their efforts to increase the number and deployment rate of human rights monitors to Darfur.

(b)(1) At such time as the United States has access to any of the names of those named by the UN Commission of Inquiry or those designated by the UN Committee the President shall—

(A) submit to the appropriate congressional committees a report listing such names;

(B) determine whether the individuals named by the UN Commission of Inquiry or designated by the UN Committee have committed the acts for which they were named or designated;

(C) except as described under paragraph (2), take such action as may be necessary to immediately freeze the funds and other assets belonging to such individuals, their family members, and any associates of such individuals to whom assets or property of such individuals were transferred on or after July 1, 2002, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control; and

(D) except as described under paragraph (2), deny visas and entry to such individuals, their family members, and anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(2) The President may elect not to take action described in paragraphs (1)(C) and (1)(D) if the President submits to the appropriate congressional committees, a report—

(A) naming the individual named by the UN Commission of Inquiry or designated by the UN Committee with respect to whom the President has made such election, on behalf of the individual or the individual's family member or associate; and

(B) describing the reasons for such election, and including the determination described in paragraph (1)(B).

(3) Not later than 30 days after United States has access to any of the names of those named by the UN Commission of Inquiry or those designated by the UN Committee, the President shall submit to the appropriate congressional committees notification of the sanctions imposed under paragraphs (1)(C) and (1)(D) and the individuals affected, or the report described in paragraph (2).

(4) Not later than 30 days prior to waiving the sanctions provisions of any other Act with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons for such waiver.

(c)(1) The Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to achieve such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, and the status of United States and other assistance to the African Union force.

(2)(A) The report described in paragraph (1) shall be submitted every 90 days during the 1-year period beginning on the date of the enactment of this Act, or until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(B) After such 1-year period, and if the President has not made the certification described in subparagraph (A), the report described in paragraph (1) shall be included in the report required under section 8(b) of the Sudan Peace Act (50 U.S.C. 1701 note), as amended by section 5(b) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018).

(d) In this section:

(1) The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) The term "Government of Sudan" means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this title.

(3) The term "member states" means the member states of the United Nations.

(4) The term "Sudan North-South Peace Agreement" means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People's Liberation Army/Movement on January 9, 2005.

(5) The term "those named by the UN Commission of Inquiry" means those individuals whose names appear in the sealed file delivered to the Secretary-General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Security Council.

(6) The term "UN Committee" means the Committee of the Security Council established in United Nations Security Council Resolution 1591 (29 March 2005); paragraph 3.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 183, after line 23, insert the following:

DARFUR ACCOUNTABILITY

SEC. 2105. (a) It is the sense of the Senate that—

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that—

(A) imposes additional sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the Government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as the Government of Sudan fully complies with all relevant United Nations Security Council resolutions;

(B) establishes a military no-fly zone in Darfur and calls on the Government of Sudan to immediately withdraw all military aircraft from the region;

(C) urges member states to accelerate assistance to the African Union force in Darfur, sufficient to achieve the expanded mandate described in paragraph (5);

(D) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force, the United Nations Mission in Sudan (UNMIS), international humanitarian organizations, and United Nations monitors;

(E) extends the embargo of military equipment established by paragraphs 7 through 9 of United Nations Security Council Resolution 1556 and expanded by Security Council Resolution 1591 to include a total prohibition of sale or supply to the Government of Sudan; and

(F) expands the mandate of UNMIS to include the protection of civilians throughout Sudan, including Darfur, and increases the number of UNMIS personnel to achieve such mandate;

(3) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that the Government of Sudan has fully complied with all relevant United Nations Security Council resolutions and the conditions established by the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018);

(4) the President should work with international organizations, including the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union to undertake action as soon as practicable to eliminate the ability of the Government of Sudan to engage in aerial bombardment of civilians in Darfur and establish mechanisms for the enforcement of a no-fly zone in Darfur;

(5) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence;

(6) the President should accelerate assistance to the African Union in Darfur and discussions with the African Union, the European Union, NATO, and other supporters of the African Union force on the needs of the African Union force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and command and control assistance, and intelligence;

(7) the President should appoint a Presidential Envoy for Sudan to support peace, security and stability in Darfur and seek a comprehensive peace throughout Sudan;

(8) United States officials, at the highest levels, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and other relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur; and

(9) the United States should actively participate in the UN Committee and the Panel of Experts established pursuant to Security Council Resolution 1591, and work to support the Secretary-General and the United Nations High Commissioner for Human Rights in their efforts to increase the number and deployment rate of human rights monitors to Darfur.

(b)(1) At such time as the United States has access to any of the names of those named by the UN Commission of Inquiry or those designated by the UN Committee the President shall—

(A) submit to the appropriate congressional committees a report listing such names;

(B) determine whether the individuals named by the UN Commission of Inquiry or designated by the UN Committee have committed the acts for which they were named or designated;

(C) except as described under paragraph (2), take such action as may be necessary to immediately freeze the funds and other assets belonging to those named by the UN Commission of Inquiry and those designated by the UN Commission, their family members, and any assets or property that such individuals transferred on or after July 1, 2002, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control; and

(D) except as described under paragraph (2), deny visas and entry to those named by the UN Commission of Inquiry and those designated by the UN Commission, their family members, and anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(2) The President may elect not to take action described in paragraphs (1)(C) and (1)(D) if the President submits to the appropriate congressional committees a report—

(A) naming the individual or individuals named by the UN Commission of Inquiry or designated by the UN Committee with respect to whom the President has made such election, on behalf of the individual or the individual's family member or associate; and

(B) describing the reasons for such election, and including the determination described in paragraph (1)(B).

(3) Not later than 30 days after United States has access to any of the names of those named by the UN Commission of Inquiry or those designated by the UN Committee, the President shall submit to the appropriate congressional committees notification of the sanctions imposed under paragraphs (1)(C) and (1)(D) and the individuals affected, or the report described in paragraph (2).

(4) Not later than 30 days prior to waiving the sanctions provisions of any other Act with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons for such waiver.

(c)(1) The Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to achieve such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, and the status of United States and other assistance to the African Union force.

(2)(A) The report described in paragraph (1) shall be submitted every 90 days during the 1-year period beginning on the date of the enactment of this Act, or until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(B) After such 1-year period, and if the President has not made the certification described in subparagraph (A), the report described in paragraph (1) shall be included in the report required under section 8(b) of the Sudan Peace Act (50 U.S.C. 1701 note), as amended by section 5(b) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018).

(d) In this section:

(1) The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) The term "Government of Sudan" means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this title.

(3) The term "member states" means the member states of the United Nations.

(4) The term "Sudan North-South Peace Agreement" means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People's Liberation Army/Movement on January 9, 2005.

(5) The term "those named by the UN Commission of Inquiry" means those individuals whose names appear in the sealed file delivered to the Secretary-General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Security Council.

(6) The term "UN Committee" means the Committee of the Security Council established in United Nations Security Council Resolution 1591 (29 March 2005); paragraph 3.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 517), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the following list of cosponsors to the Corzine amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CO-SPONSORS OF THE CORZINE DARFUR ACCOUNTABILITY AMENDMENT

Brownback, DeWine, Bill Nelson, Mikulski, Kerry, Johnson, Bingaman, Schumer, Coleman, Leahy, Wyden, Feinstein, Lautenberg, Murray, Jeffords, Obama, Ben Nelson, Boxer, Specter, Kohl, Landrieu, Feingold, Bayh, Levin, Durbin, Lieberman, Clinton, Salazar, and Talent.

AMENDMENT NO. 488

Mr. COCHRAN. Mr. President, on behalf of Senator MCCONNELL, I call up amendment No. 488.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, proposes an amendment numbered 488.

Mr. COCHRAN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 183, line 23 after the period insert the following:

CANDIDATE COUNTRIES

SEC. . Section 616(b)(1) of the Millennium Challenge Act of 2003 (Public 108–199) is amended—

(1) by striking "subparagraphs (A) and (B) of section 606(a)(1)"; and,

(2) inserting in lieu thereof "subsection (a) or (b) of section 606".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 488) was agreed to.

Mr. COCHRAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I am pleased, on behalf of the leader, to present the following agreement that has been cleared.

I ask unanimous consent that the only remaining amendments to the bill be the Ensign amendment No. 487 and the Bayh amendment No. 520; provided further, that all time be considered expired under rule XXII, with the exception of 15 minutes prior to the votes; provided further, that on Thursday, at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate resume consideration of the bill and that there be 15 minutes for debate equally divided between the chairman and Senator BAYH or his designee prior to votes in relation to the remaining amendments, and that following the disposition of the amendments, the bill be read a third time and the Senate proceed to vote on passage, with no intervening action or debate; finally, I ask unanimous consent that following passage of the bill, the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint the Appropriations Committee as conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VITTER). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be allowed to speak up to 25 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHINA'S INCREASING GLOBAL INFLUENCE

Mr. INHOFE. Mr. President, today I will deliver my third speech in 2 weeks on the issue of China's increasing global influence. In these past speeches I addressed alarming trends such as China's proliferation problem, the distressing potential that the EU may drop their Arms embargo, and other events that have obvious impact on our national security.

In 2000, Congress established the bipartisan U.S.-China Economic and Security Review Commission to collect and provide Congress with authoritative information on how our relationship with China affects our economy and industrial base, the impact of China's military and weapons proliferation on our security, and the status of our national interests in Asia. I fear that the Commission's findings have largely been ignored. I will continue to draw America's attention to the issue until we address it.

As China becomes increasingly interdependent with its Asian neighbors, it is presenting its economic rise as a win-win situation for its trade and investment partners. According to political economist Francis Fukuyama:

> Over the long run, [China] wants to organize East Asia in a way that puts them in the center of regional politics.

The implications of this are disturbing. As the 2004 Commission report points out:

> . . . the United States' influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy, and that greater attention must be paid to U.S. relations in the region.

The Commission recommends that the U.S. increase visibility in Asia through initiatives that demonstrate our commitment to regional security. One avenue for this is the Asia-Pacific Economic Cooperation forum—APEC.

A careful look will show that China's regional outreach is at best inconsistent. It certainly has not offered win-win benefits to Taiwan or Hong Kong. As the tense situation in Taiwan continues to simmer, China's ongoing intimidation of this country seems to undermine the rosy picture they are trying to paint. A few weeks ago the Chinese Communist Party formalized a new stance on Taiwan. This is a total diversion from their old policy. The following was approved by the National Peoples Congress:

> If possibilities for a peaceful reunification should be completely exhausted, the state shall employ nonpeaceful means and other necessary measure to protect China's sovereignty and territorial integrity.

This represents a change from earlier ambiguous language that would have allowed China flexibility to consider other options should conflict arise. As it is, China has taken away its own alternatives.

China has also backed itself into a troubling situation with its skyrocketing demand for oil; since my floor speeches in 1999 its oil imports have doubled, and last year alone surged upwards of 57 percent. Some analysts project China's oil needs will double again by 2010 and it will use up its reserves within 14 years. China's alarming need for oil has caused it to look around the world for new sources, sources that are often problematic states with security concerns for the United States.

In Venezuela, anti-American President Hugo Chavez announced a $3 billion trade strategy with China, including provisions for oil and gas. This came on the heels of his statement, "We have invaded the United States, [not with guns] but with our oil."

Beijing recently signed a $70 billion oil/gas deal with Iran, from whom it receives 11 percent of its oil imports. Naturally, China has come out firmly against the U.N. Security Council holding Iran economically accountable for its nuclear program.

Likewise, in Sudan, China seeks to defuse or delay any U.N. sanctions against Khartoum. It hardly seems coincidence that 4 percent of its oil imports come from that conflict stricken country, a supply that China seems ready to protect at all costs.

Keep in mind we are talking about the same area in northern Uganda and southern Sudan where they have the terrorist attacks that have consistently gone out, where they abduct these young children, train them to be soldiers, instruct them to kill their parents, and if they do not do it, they cut their arms off, their lips off, and their ears off. That makes no difference to China. If it means 4 percent of its oil imports potential in the future, they are willing to do it.

The United States and the European Union have sanctioned Zimbabwe, hoping to pressure its corrupt regime into reforms. China, on the other hand, has boosted aid and investment, working to blunt the sanctions.

The sources China has used to meet its oil needs and increase its world standing are clearly questionable. The Commission makes an unpopular but straightforward observation:

> . . . [China's] pursuit of oil diplomacy may support objectives beyond just energy supply. Beijing's bilateral arrangements with oil-rich Middle Eastern states also helped create diplomatic and strategic alliances with countries that were hostile to the United States. For example, with U.S. interests precluded from entering Iran, China may hope to achieve a long-term competitive advantage relative to the United States. Over time, Beijing's relationship-building may counter U.S. power and enhance Beijing's ability to influence political and military outcomes. One of Beijing's stated goals is to reduce what it considers U.S. superpower dominance in favor of a multipolar global power structure in which China attains superpower status on par with the United States.

And while the search for energy is not yet a zero-sum game, the way the U.S. and China acquire oil is strikingly different. James Caverly, of the U.S. Department of Energy states, "The U.S. strategic framework makes certain that plenty of oil is available in the world market so that the price will remain low and the economy will benefit." China, in contrast, seeks to "gain control of the oil at the source.

Geopolitically, this could soon bring the United States and Chinese energy interests into conflict." I have a chart that shows the countries that China has been buying oil from. This is the most up-to date information available. What I would like to point out is how China is using whatever leverage it can to find new energy sources, particularly in Africa. If you add up these amounts, China is acquiring about one third of its oil from African countries like Angola, Sudan, Congo, Equatorial Guinea, Nigeria and Libya. Other countries China has begun seeking oil from are Algeria, Cameroon, Chad, Gabon, and Guinea.

I have had occasion to go there. And any of these countries that you go to, you see that China is giving them everything they want.

I have been traveling to Africa for many years. I just got back from a trip through Tanzania, Ethiopia and Uganda. Chinese influence is everywhere. I see conference centers and sports stadiums being constructed, donated by the Chinese. China has been expanding its influence throughout Africa with projects like this. The one thing I keep hearing is, "The U.S. tells you what you need, but China gives you what you want." Has China suddenly become compassionate and generous? No. One thing consistent with all of these countries where they are building these stadiums, sports complexes, and arenas, if you go to them, is they are places that the Chinese are depending on for their oil in the future. I think the fact these countries have large oil and mineral deposits is the reason for their generosity.

Last year, China spent nearly $10 billion on African oil. As I said, this is nearly one third of its total crude oil imports. To gain access to these resources, China shows no qualms about catering to some of the worst governments. The fact is that China is ignoring western sanctions and redrawing the usual geopolitical map to help it level whatever advantages the U.S. may have.

The U.S.-China Comission—again, talking about the Commission that spent 4 years looking at this—has been doing an outstanding job in translating how recent these events affect our national security. Their observations in the 2004 U.S.-China Economic and Security Review Commission report demand our attention.

The Commission outlines how China's energy search has both economic and security concerns for the United States:

> China's rising energy demand has put added pressure on global petroleum supplies and prices. Indeed, the recent escalation in gasoline prices in the United States has been attributed, in part, to the impact of China's growing pressure on world oil supplies and the absence of any mechanism in place to counter this pressure and maintain stable prices for consumers . . . China's growing energy needs, linked to its rapidly expanding economy, are creating economic and security concerns for the United States. China's energy security policies are driving it into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

I plan on giving another speech highlighting the significance of these illegal weapons transfers, followed by a resolution to effect the Commission's recommendations. This is a critical issue and will become a greater threat as we continue to ignore it; I hope America is listening.

I would like to say it goes far beyond that. When you have people like Chavez making statements that they would defeat America not with guns but with the economy, or with oil, we have a very serious problem.

I was disturbed over the last few years with not just the nuclear capabilities that China has and is trading with other countries, such as North Korea and Iran, but also with their conventional weapons. It took a lot of courage back in 1998 for General John Jumper to stand up and say publicly that now the Russians have a better strike vehicle than we have in the United States—better than our F–15s and F–16s, speaking of the SU–30 and SU–31 series. Yet China purchased about 240 of these vehicles. It is not just their nuclear and economic capability in trading with countries that are potentially dangerous to the United States but also their nuclear and conventional base.

I will look forward to delivering a floor speech on China.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PLAN

Mr. BURR. Madam President, I rise to talk about the overdue need for a long-term domestic energy plan, one that reflects the needs of a 21st century economy that will depend on a reliable, modernized electric grid.

As a Member of the House of Representatives, I introduced bipartisan, comprehensive energy legislation in each of the three previous Congresses and, as a member of that body's Energy and Commerce Committee, examined and investigated the energy crisis in California and the massive blackouts in the Northeast two summers ago.

Out of these two fiascoes emerged a common theme: Without an aggressive rehabilitation and modernization of this Nation's transmission grid, we are bound for more brownouts, blackouts, and forced outages, and an inability to deal with the capacity needs of an economy that grows in the future.

Earlier this year, I introduced, along with Senators LANDRIEU and LOTT, S. 498, the Interstate Transmission Act, which addresses the fundamental elements necessary for a successful electricity policy. The bill sets out to achieve three goals:

No. 1, to ensure reliability;

No. 2, to modernize the transmission grid:

No. 3, to reaffirm the role of State and Federal regulators.

In this year's State of the Union Address, President Bush challenged the Congress to pass an energy bill that modernizes the electricity grid. S. 498 achieves exactly that goal. How do we do it?

No. 1, mandatory reliability standards. The Interstate Transmission Act makes a mandatory set of reliability standards for the electric grid. Currently, the North American Electric Reliability Council, or, as we call it, NERC, has standards and guidelines and criteria for assuring the transmission of electricity through the system is secure and reliable. However, compliance with the standards of NERC is voluntary. It is not subject to any Government oversight.

The standards in our bill are the product of consensus and cooperation, and the language is identical to the reliability language from the energy conference report that received 58 votes in the Senate.

In its 2004 report on the U.S.-Canadian blackout of 2003, the bilateral committee tasked with investigating the blackout made as its No. 1 recommendation that Congress enact mandatory reliability standards.

Without mandatory rules on the books for reliability standards, we will continue to leave our grid and our country vulnerable to another massive blackout like the one the Northeast experienced.

No. 2, we need to attract new investment in transmission. While investment in the generation sector of electricity has resulted in the construction of new powerplants, these gains in supply are negated by a substandard electric transmission grid. It is estimated that the transmission investment over the past 25 years has declined at a rate of $115 million per year.

Additional research further indicates that there needs to be an investment of at least $56 billion in the transmission sector to upgrade existing lines and add additional capacity in order to meet existing peak electricity demands over the course of the next decade. It is currently projected, however, that the industry will only spend an average of $3 billion each year during the decade on upgrades and new transmission lines.

Wall Street is not promoting the transmission sector as a worthy investment. Why? Because it is not particularly profitable to invest in transmission today because it takes over 30 years to realize gains on transmission investments. Even with the good news we continue to hear about the economy, people can invest in other places and realize greater profits and quicker returns on their investment. Thus regulators must implement policies that ensure quicker, more attractive returns on investment in transmission.

The legislation I have introduced allows FERC to adopt transmission rules to promote capital investment in the system, improve operation of the system, and allow for returns to investors reflecting financial, operational, and other risks inherent in transmission investments.

Let me give you a great example of how innovative capital investments can spur the upgrade of the grid. It is estimated that electricity consumption in the West has grown 60 percent in the last 20 years. Yet transmission capacity has only grown 20 percent.

Last week, the Governors of California, Nevada, Utah, and Wyoming unveiled the "Frontier Line Project," a series of new transmission lines spanning 1,300 miles from Wyoming to California. Knowing of how fast southern California and Nevada are growing, it would seem that as an investor, one would naturally be drawn to providing capital to build out this project. Yet these Governors are relying on State money and matching funds from DOE to make up the $2 billion it will cost to have the lines up and running by 2011. Granted the utility customers receiving the power will pay back the States for the project, but is the rate of return on what looks like such a needed project so low that we have to ask cash-strapped States to put money upfront to pay for these lines?

Mr. President, I sense the need to conclude. I believe my colleagues understand just how severe the challenge and the threat is to this country. We have to address these three things. We have to have a vibrant transmission grid. The Interstate Transmission Act will accomplish all these goals.

In the State of the Union Address, the President made it clear that 4 years of debate is enough; Congress needs to pass legislation that makes America more secure and less dependent upon foreign energy. I agree with the President that 4 years is enough. A fundamental, sound economy is only as stable as a fundamental, sound energy policy. I urge my colleagues to support S. 498. Let's get back on track and be prepared for the future.

NATIONAL PARKS WEEK

Mr. THOMAS. Mr. President, one of the things that all of us enjoy a great deal and are very proud of are our national parks. I call attention to this week, which is National Parks week, April 18 to 24. It is the time when we can recognize all of those wonderful places that have been set aside. We will have a number of events take place this week to commemorate our national parks.

Famed western author Wallace Stegner once said:

> National parks are the best idea we ever had. Absolutely American, absolutely democratic—they reflect us at our best rather than our worst.

Our uniquely American idea began with the creation of Yellowstone Park, the world's first national park, in 1872. I am very proud to say that this park is in Wyoming, my home State. As a matter of fact, I grew up 25 miles out of the gates of Yellowstone Park, and I certainly believe it is one of the great parks we have.

Since that time, of course, we have adopted more. We have exported and adopted worldwide this idea of parks, something of which we can be very proud. America's gift to the world is the theme of our National Parks Week this year, a very fitting theme.

Each year, more than 260 million people from all over the world visit our 388 national park units in our national park system. Collectively, of course, these sites reflect our heritage. We have an amazing array of resources, whether it is Teton Park, the Everglades of Florida, or Alaska, and the Service includes natural resources, cultural resources, historic sites commemorating events, significant people and places in our history, and memorials to fallen defenders of our Nation. Visitors to the parks enjoy these through the services provided by employees and, increasingly, the park volunteers and partners. I am amazed at the number of people who volunteer to not only show people around the parks but to do much of the work there.

I recognize and thank these employees, these volunteers, the partners who work in organizations that support the foundations of our parks. I certainly suggest to all of you that you give some thought this week to our national parks.

As the chairman of the subcommittee, I will work to continue to assure the national parks meet the standard of our world today.

SENATOR JIM JEFFORDS

Mr. LEAHY. Mr. President, it is with sadness and appreciation I come to the floor today to speak about the announcement my colleague from Vermont, Senator JEFFORDS, just made this afternoon in Burlington. He announced he will retire from the Senate at the end of his current term.

Not surprisingly, Senator JEFFORDS went back to his native State, our native State, of Vermont to make the announcement. When I called him this morning to talk with him, I said, "JIM, how are you doing?" He said, "The air is so clear and so nice here in Vermont." He was speaking about the fact, of course, that he felt so much at peace. I know that is the case because JIM and I have known each other and we have worked with each other since the days, long ago, when he was the attorney general of Vermont and I was prosecuting criminals as State's Attorney of Chittenden County.

Our wives, Liz Jeffords and Marcelle Leahy, knew each other even before that from their high school days in Burlington. When JIM and I speak of our wives, we have to admit, we both married way above ourselves. We both chose extremely well. Our thoughts and thanks today are also with Liz and their children, Leonard and Laura.

JIM JEFFORDS is beloved by the people of Vermont, as well as by millions of Americans nationwide who have come to know him through the courage and independence he showed in making the difficult decision to become an Independent. Since then, JIM has had a national following. He has never had more public support and popularity in Vermont than he does today.

Though many Americans outside of Vermont only came to know of his independence in recent years, the truth is that, throughout his public service, JIM Jeffords has shown that same streak of Vermont independence. It is deep, it is wide, and it is genuine—from his days as a State senator from Rutland County, to being Attorney General, to being a Member of the House of Representatives, to being a Senator.

JIM has ably continued the Vermont legacy of national leadership on the environment in the tradition of Senator Bob Stafford of Vermont, from JIM's early days in the other body, to his chairmanship and now being ranking member in the Environment and Public Works Committee in this body.

Vermonters, no matter what their political affiliation, are good stewards of the gorgeous land that surrounds us. With our pristine mountains and lush valleys, we have sometimes said we have air so clean it has never been breathed. That is the air JIM JEFFORDS was enjoying this morning in Vermont.

So we consider the pollution that creeps across our borders from dirty powerplants upwind of our State to be an offense not only against our health but against the natural environment we want to enjoy and pass on to our children and grandchildren. JIM JEFFORDS has been a stalwart national leader in that fight.

JIM JEFFORDS also feels passionately about improving education in America and his imprint can be found on innumerable laws and initiatives over the years in pursuit of that goal.

Children with disabilities, they especially have had a champion in Senator JEFFORDS.

Senator JEFFORDS of Vermont and I have also been partners in defending the hard-working dairy farmers of our States and—I might say—of a lot of other States. Vermonters and I will miss the seniority that he has gained in this body, which has been put to so many good purposes not only for our States but for our Nation.

When the time comes for him to carve his initials in his desk and retire from the Senate, JIM JEFFORDS will leave with a legacy of principled public service of which he and Vermonters can be proud.

I know that, for the Senator from Vermont, nothing compares to the scarce and precious days he has been able to spend on his farm in Shrewsbury. We are both native Vermonters and we feel that tug of the land. Our colleagues may remember the time years ago when he broke his leg doing farm chores.

He was doing them instead of hiring somebody else because it felt good. He believed it brought him closer to his native State. Down the road I am sure that my good friend looks forward to a time when those precious days at home will be a little less scarce.

So with fondness and with appreciation, I will conclude with a phrase that was often heard from Vermonters, even seen on bumper stickers during his last reelection campaign: Thanks, JIM.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, if the distinguished chairman of the committee would allow me to say a few words prior to getting back on the important legislation before us, JIM JEFFORDS, above all else, is a gentleman. I am so sorry he is not going to be running for reelection. The people of Vermont would have elected him again, as they have on so many occasions.

The reason I mentioned what a gentleman he is, as everyone knows, he made a very important decision a few years ago that changed the balance of power in the Senate. I can remember his telling me of the difficulty of the decision he made, not because of what he wanted to do—he knew it was the right thing—but how it affected his friends with whom he had served for so long. He mentioned specifically Senator WARNER.

I know the decision he has made today was a difficult one for him, as it was when he switched the balance of power in the Senate and in the country. I am sure he believes, as he indicated to me last night in a private meeting I had with him, he is making the right decision, but he hates to let down his friends. I want everyone to know within the sound of my voice that JIM JEFFORDS has not let us down. He is going to finish this term with dignity.

JIM JEFFORDS is an interesting man. I don't know of a recent Senator or House Member who could walk into a restaurant in Washington and other places in the country and people would stand and clap for him, give him a cheer. He is a man who is revered and loved around the country.

He was so kind to me in my last reelection. I asked him if he could send a fundraising letter for me. He did. It was the most successful fundraising event I did during my whole reelection campaign. He is somebody who is so well thought of around the country.

He has done a wonderful job as chairman of the Environment and Public Works Committee. The record now is pretty clear. This is his love. But to show the dignity and class of this man, that wasn't part of the deal in making the arrangements to become part of our caucus. That was done after he had made the decision.

He is a fighter. I realized that when, as the chairman of the Energy and Water Subcommittee of Appropriations, we didn't put enough money, Senator DOMENICI and I, in that bill for alternative energy. And, frankly, I didn't have a lot of seniority at the time, but it was enough to be chairman of that subcommittee. But Senator DOMENICI had a lot of seniority. He was a member of Senator DOMENICI's party, and he took us both on and won. He offered an amendment on the floor of the Senate and opposed REID and DOMENICI and JEFFORDS won.

I have great respect and admiration for him as being a person who believes a certain way, and he won't let anyone get in the way of his beliefs.

Those people he met with before he decided to make that decision a number of years ago, to a man and to a woman because there was at least one woman there, would acknowledge that he is their friend.

I will have more to say about JIM JEFFORDS at a later time. But I want everyone to know within the sound of my voice that America is a better place because of JIM JEFFORDS.

The PRESIDING OFFICER. Without objection, the Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, not too many years ago, Senator Mike Mansfield, a great former Senator from Montana, would have breakfast every morning with Senator George Aiken of Vermont. That helped develop a strong relationship between the two of them. It helped bridge party differences. In addition to the goodwill of Senator George Aiken of Vermont, those daily breakfasts contributed to the collegiality in the Senate.

I like to think that there is something about Vermont, about the people of Vermont, that is basic. They are down to earth. They know their roots. Their rudder is well set. They are good people, commonsense people. That is why they elected George Aiken to come to the Senate.

It must also be why they elected JIM JEFFORDS because JIM JEFFORDS is a real person. What he says is true. He doesn't speak in long paragraphs or long treatises because he doesn't have to. He gets straight to the point. He is a man of few words because he doesn't have to equivocate, doesn't have to qualify, doesn't have to dissemble. He just gets straight to the point.

I have found that in my relationship with that wonderful man, JIM JEFFORDS. We work together on the Environment and Public Works Committee. Time and time again he turns to me, defers to me, and says: Max, whatever you want to do, that is fine with me.

I know that he is also saying: Just keep me informed of what you are doing. And I do. It is a wonderful personal relationship. We know each other. We trust each other eminently, immediately. We don't have to ask questions such as: What do you really mean? We don't question assumptions. We just know.

That is JIM JEFFORDS.

It has been said that he believes strongly in a few issues, and he does. The environment certainly is one. There are other issues in which my friend from Vermont believes. If you will pardon the overworked phrase, one might possibly disagree with JIM, but he does so in such an agreeable manner that you don't know that there is really a disagreement.

It has been said on the floor of the Senate not too long ago that it is hard to name a Senator who could walk into a restaurant and get the same applause, stand-up applause, as JIM JEFFORDS has so many times around this country.

It is true, he does and he did. It is because people recognize his intestinal fortitude. It took a lot of courage for him to decide he was, after all, an Independent and not a Republican. It was a very difficult decision. But he did it. He did it on the basis of principle. People know that. They see that. They sense that, and they understand that. That is why they stand and applaud JIM JEFFORDS. It is not just the United States, it is in other cities around the world, where people would stand up and applaud when the U.S. Senator from Vermont would walk into the room. In his usual way, JIM would be very humble about it, and it would not go to his head. He would not take it seriously. Obviously, it was not something he disagreed with, but it didn't go to his head.

I am hard-pressed to think of any man I know who is as wonderful as my good friend and colleague from Vermont. I am sad to see him retire. The Senate needs more people like

Senator JEFFORDS. I hope whoever replaces him as Senator from Vermont is in the mold of JIM JEFFORDS.

I yield the floor.

OBSERVANCE OF THE ARMENIAN GENOCIDE

Mr. REID. Mr. President, I rise today to honor the victims and commemorate the 90th anniversary of the tragic Armenian Genocide, where over 1.5 million Armenian men, women and children were systematically killed, and over 500,000 Armenians were displaced. This was the first genocide of the 20th century, and one where the international community failed to intervene to stop the killing.

We have learned a great deal since those dark days. We learned that the world cannot sit on the sidelines as systematic massacres of innocents take place. We learned that the rule of law must be upheld, and that violations of law must have consequences. And, we learned that the Armenian people are a strong, proud and persevering people who could not be defeated. Today, hundreds of thousands of Armenian Americans live in the United States, and I am proud to represent a thriving Armenian-American population—3,000 strong—in Nevada.

But we must never forget the painful lessons learned from the Armenian Genocide. This week, events around my State and the Nation will recognize this important anniversary. I am grateful for the strong and active work of the Armenian-American community in Las Vegas, who will hold their annual commemoration on April 24. To the Armenian American Cultural Society of Las Vegas and to the work of Mr. John Dadaian, I say thank you for all that you have done for the people of Nevada, and Armenia.

I am also proud of the fine work done by the University of Nevada's Center of Holocaust, Genocide and Peace Studies to inform the public about the horrors of the Armenian Genocide. Raising awareness and educating today's generations about the horrors of genocide is crucial for a safer, more peaceful future. That is why I was so proud to join my friend and colleague, Senator ENSIGN, in cosponsoring a resolution commemorating the signing of the Genocide Convention.

The people of Armenia suffered greatly during the 20th century. We cannot allow genocide to occur ever again. So today I come to the Senate floor to honor the victims of the Armenian Genocide and pledge to uphold their sacrifice by standing against genocide and the systematic killing of innocents wherever it may occur again.

NATIVE AMERICAN APOLOGY RESOLUTION

Mr. BROWNBACK. Mr. President, I rise today to speak about a joint resolution that seeks to address an issue that has lain unresolved for far too long. That issue is our Nation's relationship with the Native peoples of this land.

Long before 1776 and the establishment of the United States of America, this land was inhabited by numerous nations. Like our Nation, many of these peoples held a strong belief in the Creator and maintained a powerful spiritual connection to this land. Since the formation of the American Republic, there have been numerous conflicts between our Government and many of these tribes conflicts in which warriors on all sides fought courageously and in which all sides suffered. However, even from the earliest days of the Republic, there existed a sentiment that honorable dealings and peaceful coexistence were preferable to bloodshed. Indeed, our predecessors in Congress in 1787 stated in the Northwest Ordinance, "The utmost good faith shall always be observed toward the Indians."

Many treaties were made between this Republic and the American Indian tribes. Treaties, as my colleagues in this Chamber know, are far more than words on a page. Treaties are our word, our bond. Treaties with other governments are not to be treated lightly. Unfortunately, too often the United States of America did not uphold its responsibilities as stated in its covenants with the Native American tribes. Too often our Government broke its oaths to the Native peoples.

I want my fellow Senators to know that the resolution I have introduced this week does not dismiss the valiance of our American soldiers who bravely fought for their families in wars between the United States and a number of the Indian tribes. Nor does this resolution cast all the blame for the various battles on one side or another. What this resolution does do is recognize and honor the importance of Native Americans to this land and to our Nation in the past and today—and offers an official apology to the Native peoples for the poor and painful choices our Government sometimes made to disregard its solemn word.

This is a resolution of apology and a resolution of reconciliation. It is a first step toward healing the wounds that have divided us for so long—a potential foundation for a new era of positive relations between tribal governments and the Federal Government. It is time—it is past time—for us to heal our land of division, all divisions, and bring us together as one people.

Before reconciliation, there must be recognition and repentance. Before there is a durable relationship, there must be understanding. This resolution will not authorize or serve as a settlement of any claim against the United States, nor will it resolve the many challenges still facing Native peoples. But it does recognize the negative impact of numerous deleterious Federal acts and policies on Native Americans and their cultures. Moreover, it begins the effort of reconciliation by recognizing past wrongs and repenting for them.

Martin Luther King, a true reconciler, once said, "The end is reconciliation, the end is redemption, the end is the creation of the beloved community." This resolution is not the end. But, perhaps it signals the beginning of the end of division and the faint first light and first fruits of the creation of beloved community.

In the 108th Congress, I worked with the chairman and ranking member of the Indian Affairs Committee, Senator Campbell and Senator INOUYE, in crafting this apology resolution. I also reached out to the Native tribes as this bill was being formed, and I continue to receive helpful and supportive feedback from them. The resolution I submitted this week, S.J. Res. 15, is identical to the version that was approved unanimously by the Indian Affairs Committee last year. I ask that my colleagues in this Chamber, and those in the House of Representatives, join in support of this important resolution.

THE 90TH ANNIVERSARY OF THE ARMENIAN GENOCIDE OF 1915–1923

Mr. KOHL. Mr. President, this is in observance of the 90th anniversary of the Armenian Genocide where atrocities were committed against the Armenian people of the Ottoman Empire during the First World War. In April 1915, the Ottoman government embarked upon the systematic decimation of its civilian Armenian population. The Armenian genocide was centrally planned and administered against the entire Armenian population of the Ottoman Empire. The Armenian people were subjected to deportation, expropriation, abduction, torture, massacre, and starvation. The great bulk of the Armenian population was forcibly removed from Armenia and Anatolia to Syria, where the vast majority was sent into the desert to die of thirst and hunger.

Large numbers of Armenians were methodically massacred throughout the Ottoman Empire. Women and children were abducted and horribly abused. After only a little more than a year of calm at the end of WWI, the atrocities were renewed between 1920 and 1923, and the remaining Armenians were subjected to further massacres and expulsions. In 1915, 33 years before the UN Genocide Convention was adopted, the Armenian Genocide was condemned by the international community as a crime against humanity.

In 1923, the people of the region overthrew the Ottoman government and established modern day Turkey. Since its establishment, the Republic of Turkey has disputed the tragic suffering inflicted on the Armenian people during this period. Sadly, it is estimated that 1.5 million Armenians perished between 1915 and 1923.

Affirming the truth about the Armenian genocide has become an issue of international significance. The recurrence of genocide in the twentieth century has made the recognition of the criminal mistreatment of the Armenians by Turkey all the more a compelling obligation for the international community. It is a testament to the perseverance and determination of the Armenian people that they were able to overcome one of the most egregious acts in history. I support this important annual commemoration of a horrible chapter of history so that it is never repeated again. Congress should continue to show support for Armenia and their struggle to set the historical record straight on this tragedy.

Mr. FEINGOLD. Mr. President, we solemnly remember the men and women who perished in the Armenian genocide 90 years ago. A million and a half Armenians were systematically massacred at the hands of the Ottoman Empire and more than 500,000 fled their homeland.

When the Armenian genocide occurred from 1915 to 1923, the international community lacked a name for such atrocities. In January 1951, the Convention on the Prevention and Punishment of the Crime of Genocide entered into force to affirm the international commitment to prevent genocide and protect basic human decency. Today, we have the words to describe this evil, and we have an obligation to prevent it. But we must also have the will to act.

During the Holocaust, and later in the former Yugoslavia and in Rwanda, the world has seen the crimes of ethnic cleansing and genocide recur again and again. Too often, the will to stop atrocities has been lacking, or far too late in coming. Today, as we read report after report detailing the horrific plight of the people of Darfur, Sudan, we must muster the will and the sense of urgency required to save lives.

The international community has made the first steps, but it has a long way to go in punishing and, especially, preventing genocide. As we move forward, we must learn the lessons of Armenia's genocide. We cannot be misled by the rhetorical veils of murderous leaders, thrown up to disguise the agenda at hand. We cannot respond to evidence of methodical, brutal violence by wringing our hands and waiting for some definitive proof that these events qualify as genocide. Enforcing a collective, international commitment to prevent and stop genocides from occurring is imperative. We owe the victims of the Armenian genocide this commitment.

This is why we must remember the Armenian genocide. To forget it is to enable more genocides and ethnic cleansing to occur. We must honor its victims by reaffirming our resolve to not let it happen again.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2005

Mr. COLEMAN. Mr. President, of the 27 million working uninsured, 63 percent are working in firms with fewer than 100 employees. It is crucial that we develop a comprehensive plan to remedy the problem of the working uninsured. For this reason I support legislation that would allow for the creation of association health plans, which would allow small businesses to band together to purchase health insurance for their employees.

Because of the current structure of the health care industry, too many small business owners and their employees do not have access to affordable health insurance. When I talk to small business owners as I travel the State, I have found that most of them want to provide this benefit because it not only helps provide the uninsured with coverage but it also helps small businesses retain good employees.

A recent Census Bureau report says slightly more than 45 million Americans now lack health coverage. While Minnesota is out front in tackling the issue of the uninsured, with uninsured in my State at about 7 percent, I still believe that providing affordable access to health care is a critically important national interest, that there are no silver bullet solutions, and so we need as many tools to fix this problem as possible. According to Kaiser Family Foundation, employer-based health insurance has decreased markedly from covering 66 percent of the non-elderly in 2000 to 62 percent by 2003. The Census Bureau says the drop-off in employer health coverage occurred in the small business sector, largely in firms with fewer than 25 employees. It's no coincidence that these events are taking place as the cost of insurance continues to skyrocket double-digit increases year after year, pricing more and more small firms out of the market.

I want to thank the chairwoman of the Small Business Committee, Senator SNOWE, for her strong leadership and sponsorship of S. 406, The Small Business Health Fairness Act of 2005. I also want to thank my very good friend and colleague, Senator JIM TALENT of Missouri, who has long championed this issue in the same thoughtful and forward looking way that he is renowned for in tackling all important public policy issues in which he gets engaged. I look forward to working with members of the committee to enact this legislation.

ADDITIONAL STATEMENTS

IN MEMORY OF EDWARD MOSKAL

• Ms. MIKULSKI. Mr. President, I honor the life and legacy of Edward J. Moskal.

Edward Moskal was a giant in the Polish-American community. He was President of the Polish American Congress and the Polish National Alliance. These are empowering organizations—rooted in heritage, history and philanthropy. Their members are humanitarians and patriots—dedicated to Polish history and culture, and to strengthening the historic links between America and Poland. Because of Ed Moskal's leadership, these organizations have flourished.

The Polish American Congress and the Polish National Alliance were created during one of the darkest periods in Polish history. We know that the history of Poland has, at times, been a melancholy one. Every king, kaiser, czar or comrade who ever wanted to have a war in Europe always started by invading Poland. But we know that while Poland was occupied, the heart and soul of the Polish nation has never been occupied.

The Polish American community never abandoned Poland. We supported them during the long, cold years of Soviet domination. And then in 1980, when an obscure electrician in the Gdansk Shipyard jumped over a wall proclaiming the Solidarity movement, he took the Polish people and the whole world with him, to bring down the Iron Curtain. Ed Moskal and the Polish American community played an important role—sending supplies to the strikers and their families and educating the world about what was going on in Poland.

After the fall of the Iron Curtain, I worked with Mr. Moskal for NATO membership for Poland. Mr. Moskal and the Polish American community helped Poland take its rightful place as a member of the family of democratic nations. Poland is now a full, contributing member of NATO. Our Polish allies serve alongside Americans in Afghanistan and in Iraq.

Now, after so many years of foreign domination, Poland has made the difficult transition to democracy and a free market. Poland is now a real democracy with a vibrant market economy, as well as a reliable NATO ally.

And so, today, we in the Polish community mourn the loss of Ed Moskal. We send our thoughts and prayers to his wife, Wanda Sadlik, and to his family.•

TRIBUTE TO PETER F. FLAHERTY

• Mr. SANTORUM. Mr. President, today I rise to reflect on the passing of Peter F. Flaherty. On Monday, April 18, 2005, Peter Flaherty passed away at his home in Mount Lebanon, PA, after a battle with cancer. The Flaherty family has suffered a tremendous loss, and I offer them my condolences and deepest sympathy during this difficult time.

Pete Flaherty has had incredible influence over the Pittsburgh region and also over his party. As a Democrat, Pete Flaherty did not always follow the party line, which sometimes got him into trouble, but mostly made him an effective leader.

Pete's roots extend back to Alpine Avenue in the north side of Pittsburgh where he was born. He attended St. Peters, a Catholic elementary school, went on to Latimer Middle School, and graduated from Allegheny High School. His family, devout Irish Catholics, attended St. Peters in Pittsburgh, where Pete served as an altar boy.

Before attending Carlow University and Notre Dame Law School, Pete joined the Army Air Corps and was trained as a navigator. As the war was coming to a close, Pete was shipped to a B-29 squadron in Guam.

It was after law school that Pete began his political career. He was elected to his first office as city council in 1965. It did not take long for Pete to make his mark on Pittsburgh.

In more than 40 years of public service, Pete was three times the Democratic nominee for statewide office, served as deputy U.S. attorney general, was mayor of Pittsburgh, and was a county commissioner for 12 years. His career of public service was truly remarkable.

Pete Flaherty not only leaves behind a legacy but also a wonderful family. My thoughts and prayers are with the Flaherty family during the days and months ahead.•

PAUL DAVIS

• Mr. SHELBY. Mr. President, I rise today to recognize Mr. Paul Davis, who was recently awarded with the 2005 Alabama Press Association Lifetime Achievement Award. Paul Davis has been in the newspaper business for more than 35 years, and his career has been filled with courageous accomplishments.

The Alabama Press Association Lifetime Achievement Award honors outstanding service in journalism for individuals who have spent a large percentage of their newspaper career in Alabama. Paul has been recognized for standards of excellence in journalism, courage and controversy on tough issues, and a voice for those less fortunate.

Paul has spent most of his professional career in Alabama. From 1969 to 1973, he was a reporter, columnist and then associate editor at the Tuscaloosa News, my hometown newspaper. Following his time at the Tuscaloosa News, he moved on to serve as editor of the Selma Times Journal and then as vice president and general manager of the Natchez Democrat in Mississippi. From 1983 to 1998, Paul served as editor, publisher and president of the Auburn Bulletin, the Spirit Magazine, and the Tuskegee News. Today, he serves as the president and publisher of Davis Publications of Auburn.

I believe that Paul is well-known for his work as a young reporter at the Tuscaloosa News. Through his investigative reporting, he exposed the abuse of retarded youth and adults at Partlow School and the horrific treatment of patients at the state mental institution, Bryce Hospital. He uncovered the unthinkable details about patients living in wards with no air-conditioning during hot Alabama summers with only one psychiatrist to care for some 5,000 patients. He reported that attendants would dispense pills every hour to keep patients sedated day after day. Even worse, we learned that patients helped construct caskets in the basement and buried their fellow patients in fields behind the hospital, using only numbers to identify the graves. His work on this issue earned him a nomination by his publisher, Buford Boone, for the Pulitzer Prize.

Paul also played an important role in the Federal case regarding the treatment of mental patients. In this important case, U.S. District Judge Frank M. Johnson, Jr. ruled that mental patients have a constitutional right to treatment. Following Judge Johnson's ruling, Paul was asked to serve as chairman of the Human Rights Committee at Bryce Hospital. Indeed, his investigative work in this area helped reform Alabama's mental health hospitals.

Long before his reporting exposed the horrific conditions of the mental hospital in Tuscaloosa, Paul spent many days during his youth at Partlow School, visiting and playing games with the residents. Later in life, as president of the Civitan Club in Tuscaloosa, he helped open the first rehabilitation center at Partlow.

Paul Davis has also been an outspoken critic of the leadership at Auburn University. A devoted Tiger fan himself, he has written numerous articles about the school's board of trustees. Supporters and opponents alike agree that, while you may not like what he has to say, he is in-depth and thorough in his reporting. He was recently honored with the Academic Freedom Award from the Auburn University chapter of the American Association of University Professors for his articles on governance issues at Auburn.

In addition to the Lifetime Achievement Award and the Academic Freedom Award, Paul has received numerous professional and civic awards and has twice been nominated for the Pulitzer Prize. Paul is a member of the American Political Science Association; Society of Professional Journalists, Sigma Delta Chi; and the National Mental Health Association. He also served as past presidents of both the Alabama Press Association and the Alabama Press Association Journalism Foundation.

His company, Davis Publications, publishes the Tuskegee News weekly, and he is a columnist for the Auburn-Opelika News. Paul and his wife Gayle have five sons, one daughter, and thirteen grandchildren.

I have tremendous respect for Paul Davis and his devotion to uncovering the truth. He is most deserving of the Alabama Press Association Lifetime Achievement Award, and I am pleased to congratulate him on this important achievement.•

HONORING THE CAREER OF ROBERT H. McKINNEY

• Mr. BAYH. Mr. President, today I rise to pay tribute to the career of a distinguished civil servant and friend, Bob McKinney, who is retiring as chairman of First Indiana Corporation this week. His long career has been filled with acts of conscientious service on behalf of friends, family members, and Hoosiers. The contributions he made through his work in financial services and public service have touched the lives of many across the country.

A resident of Indianapolis, Bob is a graduate of the U.S. Naval Academy at Annapolis, the Naval Justice School, and the Indiana University School of Law. He served his country in the Navy in the Pacific following his graduation and again during the Korean war.

Bob's career has been long and illustrious. Throughout it, his commitment to the public good has been remarkable. Bob retires from his post as the chairman of First Indiana Corporation, a publicly traded bank holding company, which operates First Indiana Bank, the largest bank based in Indianapolis. Bob was previously chairman of the Somerset Group. He is also a founding partner of Bose McKinney & Evans LLP, one of the largest law firms in Indianapolis.

These posts are impressive on their own, and yet Bob also devoted himself to a number of philanthropic and nonprofit organizations. Aside from his duties as the chairman of First Indiana Bank, he has served as the trustee or director of the Hudson Institute, the U.S. Academy Foundation, the Indiana University Foundation, the Sierra Club Foundation, the Indianapolis Economic Club, the Indiana Chamber of Commerce, the Chief Executives Organizations, Inc., the World Presidents' Organization, and the Indianapolis Committee on Foreign Relations. He is also a member of the Presidential Advisory Board for Cuba and a director of Lynx

Capital Corporation, a minority investment fund. In honor of his service to the community, Bob was the recipient of a number of awards including the Indianapolis Archdiocese Spirit of Service Award.

Bob's career shows his belief in the power of public policy to improve people's lives. I can personally attest to Bob's talent as a public servant, as I worked with him during my gubernatorial and senatorial campaigns. As Governor, I frequently called on Bob to serve the State of Indiana, and he was always responsive. As Senator, I was lucky enough to have the honor of appointing Bob to the Naval & Merchant Marine Academy Selection Committee.

His involvement in national politics dates back to 1960, and since then he has chaired the Indiana campaigns of Presidential candidates Kennedy, Muskie, Carter, and Mondale. He served under President Carter as Chairman of the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, the Federal Savings & Loan Insurance Corporation, and the Neighborhood Reinvestment Corporation.

Bob is a man who walks with kings but has never lost the common touch. It is a rare man who can make such an impact on so many people over the course of a career. Bob McKinney is admired by those who know him professionally and personally for his great integrity, commitment to serving the community, his concern for those less fortunate than himself, his unswerving loyalty and dedication to his friends, family, and country. We will continue to recognize Bob as a loving friend and an incredible leader and colleague. As he retires from First Indiana, and leaves the corporation in his daughter's capable hands, he is merely moving on to the next great challenge, which—like all of his work—will undoubtedly make the world a better place.

I am proud to honor Bob McKinney, a truly great man, and enter his name in the CONGRESSIONAL RECORD on the occasion of his retirement.●

CONGRATULATING HEATHER BOLEJACK

● Mr. LUGAR. Mr. President, I rise today to call to the attention of my colleagues the appointment of Heather Bolejack to the position of executive director of the Indiana Criminal Justice Institute, CJI. I am pleased that Governor Mitch Daniels has nominated her to this important position, and I am confident that she will serve my home State of Indiana with distinction.

A product of Indianapolis, Heather graduated with high honors including being named a Fund for Hoosier Excellence Lugar Scholar, an honor bestowed upon the top minority students in Indiana. Heather attended Butler University and graduated with a degree in Spanish and journalism. She then went on to earn a law degree from the Indiana University School of Law, Indianapolis, where she received the Zazas Award, a full academic merit based scholarship. Heather served as General Corporate Council for McFadden Solutions Group, a law clerk and associate for Bingham McHale, and since 2004 has worked as a litigation associate at Ice Miller, an Indianapolis law firm, where she concentrated on practicing in the areas of drug and medical devices, as well as insurance coverage. I am pleased that she is not only a member of the 2004-2005 Richard G. Lugar Excellence in Public Service Class, but also a board member of the Fund for Hoosier Excellence.

I am proud that Heather has taken this opportunity to heed the call of public service in this tremendously significant capacity. I join her family, friends, and colleagues in acknowledging this noteworthy achievement.●

HONORING FAIR OAKS FARMS AND RANDY KRAHENBUHL

● Mr. BAYH. Mr. President, I rise today to commend Fair Oaks Farms for winning the 2005 U.S. Championship Cheese Contest. Fair Oaks Farms was founded in 1999 and is a large dairy operation in northwest Indiana committed to producing the highest quality milk and dairy products.

The U.S. Championship Cheese Contest included more than 1,000 entries from 25 different states. Despite such tough competition, Fair Oaks Farms took home first prize with Randy Krahenbuhl's 45-pound wheel of nutty Emmenthaler Swiss. The cheese was awarded a score of 98.55 out of a possible 100. Randy Krahenbuhl's sweet Swiss also won honors as the second gold-medal cheese in the championship round.

Although nearly half of the entries for top honors were from Wisconsin, Krahenbuhl put Indiana on the cheese map with his incredible quality cheeses. I come from a tradition of family farming, so I know firsthand that Indiana's farmers have played a key role in Indiana's rich history. Our farms have long been recognized as some of the best in the country and this contest is yet another example of Hoosier farming representing the very best of Indiana.

Randy Krahenbuhl presides over the dairy operation at Fair Oaks Farm, where he has the chance to design his own cheese and ice cream factory, and the freedom to run it as he pleases. I am pleased to congratulate Randy Krahenbuhl and Fair Oaks Farm on winning such an honor and bringing recognition to Indiana. We are proud to have him in the Hoosier State.●

HONORING DAKOTA STATE UNIVERSITY

● Mr. JOHNSON. Mr. President, I am proud to rise today to commend Dakota State University in Madison, SD, for its outstanding commitment to the national security of the United States through Dakota State University's information assurance program. The program has developed important technologies to protect community banks from information breaches, simultaneously training its undergraduate and graduate students to be leaders in this highly technical field.

In 2004, DSU was one of 10 universities receiving National Security Agency designation for this bank-focused program and DSU is the only National Center of Academic Excellence in information assurance that tailors its information assurance curriculum to the banking industry. Recent security breaches by information brokers and financial institutions highlight the importance of DSU's work in this area. I believe strongly that the future of information security will include a combination of careful review and oversight of laws, but also looking to security innovators like DSU and other institutions around the country to protect our financial information.

As security innovators, graduates and employees of Dakota State University have engineered a new information technology security company called Secure Banking Solutions, SBS. With 93 banks in South Dakota, SBS will soon be able to provide IT security to most of the community banks in my home State, as well as to protect the personal information of the hardworking South Dakotans that bank at those institutions.

The Independent Community Bankers of South Dakota and I have encouraged the replication of the SBS model in other States. The security of banking in all of South Dakota has been greatly enhanced by the university's commitment to innovation in the area of IT security, and I thank Dakota State University for its pioneering leadership in this arena.●

TRIBUTE TO REVEREND T. F. TENNEY

● Mr. VITTER. Mr. President, today I recognize Reverend T. F. Tenney, United Pentecostal Church District Superintendent for the State of Louisiana. Reverend Tenney retired on March 31, 2005, after 26 years of service in central Louisiana and throughout the State. More than 4,000 people attended a celebration of his service to offer heartfelt appreciation and best wishes at his retirement ceremony, and I join in their sentiments today.

Through his role as district superintendent he was responsible for overseeing all of Louisiana's United Pentecostal Churches. Reverend Tenney created a level of stability in the church and brought the United Pentecostal Church to a new level during his 26 years of service. His professionalism and guidance in handling Louisiana's churches and their congregations will be missed, as will his great wisdom and leadership.

I personally commend, honor and thank Reverend Tenney on the occasion of his retirement from service to the people of Louisiana after 26 years as United Pentecostal Church District Superintendent for the State of Louisiana.•

IN MEMORY OF CLARENCE EDWARD "BIG HOUSE" GAINES

• Mr. BURR. Mr. President, today I mourn the passing of a great North Carolinian. Clarence "Big House" Gaines of Winston-Salem, NC passed away yesterday at the age of 81. He is survived by his lovely wife, Clara, and by his two children, Lisa and Clarence, Jr. All of North Carolina mourns his passing and our thoughts, prayers, and blessings are with his family.

Clarence "Big House" Gaines was an institution in Winston-Salem, where he coached at Winston-Salem State University for 47 years. Coach Gaines won 828 basketball games during his 47 years, fifth best of all time. To understand just how successful a coach he was, Gaines won more games than legends John Wooden and Phog Allen, and finished not too far behind Dean Smith. Perhaps Gaines' most successful season came in 1967 when he coached the Rams to a 31-1 record and an NCAA Division II National Championship.

His was the first predominantly black college team to win an NCAA title and he became the first black coach to be named NCAA Coach of the Year. He went on to win eight Central Intercollegiate Athletic Association titles and was named the CIAA's Coach of the Year five times. Coach Gaines was named to the Naismith Memorial Hall of Fame in 1982. Winston-Salem State University honored Clarence Gaines by naming the Athletic Department facility and the school's Hall of Fame for him.

It would be a mistake, however, to merely list his coaching accomplishments. Clarence "Big House" Gaines was more than a coach. He was a community leader, an educator, a mentor and a father figure. His most important achievement was the near 80 percent graduation rate of his student athletes, a legacy that all college coaches should look to emulate.

Coach Gaines taught school up to his retirement from coaching in 1993 and continued to involve himself in the lives of the young people at Winston-Salem State. His marriage and family served as an example to the young people he coached. In his memoirs, published last year, Clarence Gaines wrote that "When these boys, most growing into old men themselves, continue to call their old coach and thank him for helping them get a college degree, it makes me proud to answer to the nickname of Big House." He will not be forgotten in North Carolina or in the hearts and memories of the many young lives he touched.•

LEXINGTON CATHOLIC HIGH SCHOOL GIRLS BASKETBALL TEAM

• Mr. BUNNING. Mr. President, I pay tribute in the Senate to the Lexington Catholic Girls' Basketball Team. The team won the Kentucky State Girls Basketball State Championship.

Lexington Catholic's Lady Knights finished the most successful season in school history by capturing the program's third State championship in seven seasons with a 59–54 victory over Clinton County. The team finished the season with a 36–1 record and ranked No. 6 nationally.

The Commonwealth of Kentucky should be very proud of this team. Their example of hard work and determination should be followed by all in the Commonwealth.

Congratulation to the members of the team for their success. But also, I want to congratulate their coach, Greg Todd, along with their peers, faculty, administrators, and parents for their support and sacrifices they have made to help the Lady Knights meet their achievements and dreams. Keep up the good work.•

MESSAGE FROM THE HOUSE

At 11:48 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 683. An act to amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment.

H.R. 1038. An act to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes.

H.J. Res. 19. Joint resolution providing for the appointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 20. Joint resolution providing for the appointment of Robert P. Kogod as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House has passed the following bill, without amendment:

S. 167. An act to provide for the protection of intellectual property rights, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 53. Concurrent resolution expressing the sense of the Congress regarding the issuance of the 500,000th design patent by the United States Patent and Trademark Office.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 787. An act to designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse".

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bills and joint resolutions were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 683. An act to amend the Trademark Act of 1946 will respect to dilution by blurring or tarnishment; to the Committee on the Judiciary.

H.R. 1038. An act to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes; to the Committee on the Judiciary.

H.J. Res. 19. Joint resolution providing for the appointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

H.J. Res. 20. Joint resolution providing for the appointment of Robert P. Kogod as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 53. Concurrent resolution expressing the sense of the Congress regarding the issuance of the 500,000th design patent by the United States Patent and Trademark Office; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 8. An act Reserved.

S. 839. A bill to repeal the law that gags doctors and denies women information and referrals concerning their reproductive health options.

S. 844. A bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

S. 845. A bill to amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt.

S. 846. A bill to provide fair wages for America's workers.

S. 847. A bill to lower the burden of gasoline prices on the economy of the United

States and circumvent the efforts of OPEC to reap windfall oil profits.

S. 848. A bill to improve education, and for other purposes .

S. 851. A bill to reduce budget deficits by restoring budget enforcement and strengthening fiscal responsibility.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, and was referred as indicated:

EC–1832. A communication from the Acting Assistant Secretary—Water and Science, Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled, "43 CFR Part 423, Public Conduct on Bureau of Reclamation Lands and Projects (extension of expiration date)" (RIN1006–AA49) received on March 28, 2005; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–37. A resolution adopted by the City Commission of the City of Lauderdale Lakes of the State of Florida relative to the community development financial institutions programs ("CDFI"); to the Committee on Banking, Housing, and Urban Affairs.

POM–38. A joint resolution adopted by the Legislature of the State of Maine relative to the Brunswick Naval Air Station in Maine; to the Committee on Armed Services.

JOINT RESOLUTION

Whereas within the year, Secretary of Defense Donald Rumsfeld, through the Base Realignment and Closure (BRAC) Commission, will make recommendations about which military installations are to be considered for closure in cost-cutting measure for the military and has indicated that reduction may total 25% or an estimated 100 bases; and

Whereas the State of Maine has a distinct and important military installation that is at risk of closure, the Brunswick Naval Air Station; and

Whereas Brunswick Naval Air Station is one of 4 remaining bases at the corners of the continental United States that are perfectly situated for maritime interdiction of weapons of mass destruction threats; and

Whereas Brunswick Naval Air Station is the only fully capable active duty military airfield in the northeastern United States and is indispensable in both our current and future efforts to counter threats to our security; and

Whereas Brunswick Naval Air Station has more than 63,000 square miles of unencumbered airspace for training and exercise missions and has plenty of space for expansion, even for housing other branches of the military; and

Whereas Brunswick Naval Air Station is the only airfield in the region with a completely secured perimeter for military operations, and Brunswick's 2 parallel runways allow for the operation of all aircraft the Department of Defense possesses today and anticipates for the future; and

Whereas Brunswick Naval Air Station has an outstanding force protection layout, is on the coast and is easily accessible by all forms of transportation, and aircraft can take off and land there without flying over major centers of population; and

Whereas the Maine National Guard is coordinating an initiative to construct an Armed Forces Reserve Center on Brunswick Naval Air Station. Tenants would include the Maine Army National Guard, the Maine Air National Guard and the Marine Corps Reserves; and

Whereas the Army National Guard has begun the process of replacing its current fixed-wing utility fleet with a fixed-wing cargo fleet; and

Whereas Brunswick Naval Air Station has been selected by the National Guard Bureau as one of its regional cargo hubs, and the bureau's recommendation has been sent to the Department of the Army; and

Whereas the Maine Army National Guard is evaluating the possibility of stationing 2 UH–60 Blackhawk helicopters at Brunswick Naval Air Station to provide search-and-rescue missions along the Maine coast; and

Whereas the people of the State of Maine have long been at the forefront of our Nation's defense, and first to join and send troops in any conflict and have a strong tradition of support and appreciation for the bases within our borders: Now, therefore, be it

Resolved, That we, your Memorialists, take this opportunity to convey our appreciation for the advocacy and support for Brunswick Naval Air Station that the Congress of the United States and the Maine Congressional Delegation have provided over the years, and we strongly urge the Congress of the United States to consider the importance of this installation in this time of war on terrorism and the vital need to protect our Nation; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

POM–39. A Senate concurrent resolution adopted by the Legislature of the State of Kansas relative to the Purple Heart medal; to the Committee on Armed Services.

SENATE CONCURRENT RESOLUTION 1607

Whereas Marine Corporal Travis Eichelberger, a native of Atchison, Kansas, enlisted in the United States Marine Corps in 2000 and was awarded the Purple Heart medal for injuries received while in Iraq. After being hospitalized for some time at the National Naval Medical Center in Bethesda, Maryland, and returning to Kansas awaiting a medical discharge from the medical service, he was notified that the award of his medal was a mistake and would be withdrawn; and

Whereas Corporal Eichelberger is included in a group of 11 marines whose Purple Heart medals have been withdrawn for injuries received while serving in Operation Iraqi Freedom; and

Whereas it is through the patriotic efforts of young men such as Corporal Eichelberger that the United States is able to take military action to bring freedom and democracy to nations such as Iraq. Corporal Eichelberger is very proud of his service in the Marine Corps and would gladly serve again if physically able: Now, therefore, be it

Resolved by the Senate of the State of Kansas, the House of Representatives concurring therein, That the Kansas Legislature memorializes the Congress of the United States to direct that necessary action be taken so that Corporal Eichelberger retain the Purple Heard medal he so richly deserves; and be it further

Resolved, That the Secretary of State provide enrolled copies of this resolution to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each member of the Kansas Congressional delegation.

POM–40. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Congressional Medal of Honor; to the Committee on Armed Services.

HOUSE RESOLUTION 23

Whereas United States Army and Department of Defense officials are reviewing a recommendation to upgrade Major Winters' Distinguished Service Cross to the Congressional Medal of Honor; and

Whereas Major Winters was originally nominated for the Medal of Honor by Colonel Robert F. Sink, commander of the 506th Regiment, for heroic actions on June 6, 1944, during the Allied invasion of Normandy, France, as 1st Lieutenant, Acting Commanding Officer of E Company, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division, VII Corps; and

Whereas Major Winters' extraordinary planning, fighting and commanding on that day 60 years ago in Nazi-occupied Normandy during his regiment's first combat operation saved countless lives and expedited the Allied inland advance; and

Whereas with his company outnumbered by German soldiers, Major Winters destroyed German guns at Brecourt Manor and secured causeways for troops coming off Utah Beach; and

Whereas Major Winters' battle plan for a small-unit assault on German artillery has been taught at the United States Military Academy at West Point; and

Whereas Major Winters accomplished a hazardous mission with valor, inspired his service colleagues through example and effectively organized his company into support and assault teams on the day of invasion in the campaign for European liberation during World War II: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress of the United States to award the Congressional Medal of Honor to Major Richard D. Winters without further delay; and be it further

Resolved, That a copy of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–41. A resolution adopted by the General Assembly of the State of Ohio relative to the protection of the Defense Supply Center Columbus (DSCC) from the Base Realignment and Closure process; to the Committee on Armed Services.

HOUSE RESOLUTION 16

Whereas the DSCC is the twelfth largest employer in central Ohio, employing more than six thousand Ohioans; and

Whereas the DSCC is known throughout the world by more than twenty-four thousand military and civilian customers as one of the largest suppliers of weapons systems parts; and

Whereas the proud men and women of our armed forces rely on the proven competence, efficiency, and effectiveness of the DSCC; and

Whereas the DSCC is economically vital to central Ohio, managing almost two million items and accounting for more than two billion dollars in annual sales; and

Whereas the employees of the DSCC, along with the employees' family members, are active members of central Ohio's communities, schools, and neighborhoods; and

Whereas State and local leaders and leaders from businesses, organizations, and various associations around central Ohio have formed a team, known as "Team DSCC," to promote and preserve the DSCC. "Team DSCC" has made strong efforts to save DSCC from closure, which include increasing local- and federal-level advocacy, increasing awareness about DSCC, and striving to relocate military personnel to the base: Now, therefore be it

Resolved, The members of the House of Representatives offer support of the Defense Supply Center Columbus, its mission, and its employees, recognizing that they are an integral part of central Ohio's economy and community, as well as the nation's defense. The members of the House of Representatives join "Team DSCC" in recognizing and promoting the current capabilities and future growth opportunities of the DSCC. The members of the House of Representatives stand ready to assist as necessary to protect the DSCC from the Base Realignment and Closure process; and be it further

Resolved, That the Clerk of the House of Representatives transmit duly authenticated copies of this resolution to the President of the United States, to the Secretary of Defense, to the members of the Ohio Congressional delegation, to the Speaker and Clerk of the United States House of Representatives, to the President Pro Tempore and Secretary of the United States Senate, and to the news media of Ohio.

POM-42. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the military death gratuity payment and the Servicemembers' Group Life Insurance program; to the Committee on Armed Services.

HOUSE RESOLUTION 59

Whereas the United States Armed Forces, a total force comprised of active, National Guard and reserve personnel, are now undertaking courageous and determined operations against insurgents in Iraq and terrorist forces in Afghanistan and other parts of the world; and

Whereas the men and women of our armed forces, while continuously in harm's way, perform their duties and missions in all military conflicts in which the United States is currently engaged; and

Whereas in time of war, each member of our armed forces may have to pay the ultimate sacrifice in the performance of duty to our nation; and

Whereas an increase in the current Servicemembers' Group Life Insurance (SGLI) program's maximum coverage amount of $250,000 and an increase in the current $12,420 death gratuity payment would greatly benefit the surviving family of an armed forces member killed in action; and

Whereas a program change to require the Federal Government to pay the SGLI program's premiums for each armed forces member would greatly benefit those men and women who served our nation in times of need: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President and Congress of the United States to increase the military death gratuity payment and the SGLI maximum benefit and to require the Federal Government to pay the SGLI premiums for members of our armed forces; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-43. A joint resolution adopted by the Legislature of the State of Maine relative to the Portsmouth Naval Shipyard in Kittery, Maine; to the Committee on Armed Services.

JOINT RESOLUTION

Whereas within the year, Secretary of Defense Donald Rumsfeld, through the Base Realignment and Closure (BRAC) Commission, will make recommendations about which military installations are to be considered for closure in cost-cutting measures for the military; and

Whereas the State of Maine has a distinct and important military installation that is potentially at risk for closure, the naval shipyard in Kittery, a shipyard located on an island in the Piscataqua River between New Hampshire and Maine, which specializes in maintaining and overhauling nuclear submarines; and

Whereas the Portsmouth Naval Shipyard in Kittery is one of only 4 public shipyards in the nation, is vital to our maritime strength and is of major importance to the local economies of 3 states, employing almost 5,000 people from Maine, New Hampshire and Massachusetts; and

Whereas the naval shipyard in Kittery has unobstructed access to the open ocean, delivers submarine overhauls ahead of schedule, is in a very secure location and has the space to accommodate more personnel and duties; and

Whereas the people of the state of Maine have long been at the forefront of our nation's defense, are first to join and send troops in any conflict and have a strong tradition of support and appreciation for the military bases within our borders: Now, therefore, be it

Resolved, That we, your memorialists, take this opportunity to convey our appreciation for the advocacy and support for the naval shipyard in Kittery that the Congress of the United States and the Maine Congressional Delegation have provided over the years, and we strongly urge the Congress of the United States to consider the importance of the naval shipyard in Kittery in this time of war on terrorism and the vital need to protect our nation; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

POM-44. A joint resolution adopted by the Legislature of the State of Nevada relative to the sale of land in Nevada to lower the federal deficit; to the Committee on the Budget.

SENATE JOINT RESOLUTION 2

Whereas in 1998, Congress passed the Southern Nevada Public Land Management Act, Public Law No. 105-263, which allows the Bureau of Land Management to sell certain federal lands in Clark County, Nevada, for possible development, which also allowing for the acquisition, conservation and protection of environmentally sensitive lands in the State of Nevada; and

Whereas at the time of the passage of the Act, and to this day, the Las Vegas Metropolitan Area was the fastest growing urban area in the United States, and the Act was passed in response to that growth in an effort to offset negative environmental impact on national recreational and conservation areas surrounding the Las Vegas Valley; and

Whereas under the provisions of the Act, 5 percent of the profits from sales of the land is allocated to fund education in Nevada, 10 percent is allocated for water and airport infrastructure projects, and the remaining 85 percent is deposited into an account to acquire other environmentally sensitive land in Nevada, to develop a multispecies habitat plan, to develop parks and trails and to provide for other conservation initiatives; and

Whereas the passage of the Southern Nevada Land Management Act was intended to replace lost state revenue resulting from 84 percent of the land in the State of Nevada being owned by the Federal Government at the time of the passage of the Act, uniquely depriving this State of receiving any tax proceeds from a substantial majority of the land located in this State; and

Whereas in addition to the benefits provided in Southern Nevada and in other areas of the State where environmentally sensitive lands have been acquired, the Lake Tahoe Basin is now benefiting from a 2003 amendment to the Act which allocated $300 million to be administered for the preservation of the Lake Tahoe Basin, the first installment of which was received in August 2004; and

Whereas since the first auction of land in 1999, this program has generated approximately $1.6 billion, which has assisted the State of Nevada in funding education and numerous land and water conservation projects, and in acquiring environmentally sensitive lands; and

Whereas in the face of a soaring federal deficit, estimated at $527 billion, President Bush has proposed to change federal law and reallocate 70 percent of the profits from the land sales, generously approximated to reach $70 million in future years, which would do little to offset the deficit; and

Whereas the loss of such a substantial source of revenue for this State would have a direct and devastating impact on the State, negatively impacting dozens of ongoing and future projects: Now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, That the members of the Nevada Legislature urge President Bush to reverse his position on this matter, abandoning his proposal to divert from this State profits from the sales of land in the State of Nevada that rightfully belong in this State to replace lost revenue resulting from the uniquely high percentage of federally owned property in this State; and be it further

Resolved, That Congress is similarly urged to reject this portion of President Bush's budget proposal and to allow the State of Nevada, its residents and visitors to be the sole beneficiaries of the proceeds from the sales of land in Nevada; and be it further

Resolved, That the Secretary of the Senate prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives, and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage.

POM–45. A joint resolution adopted by the Legislative Assembly of the State of Oregon relative to the Secure Rural Schools and Community Self-Determination Act of 2000; to the Committee on Energy and Natural Resources.

HOUSE JOINT MEMORIAL 1

Whereas the National Forest System, managed by the Forest Service of the United States Department of Agriculture, was established in 1907 and has grown to include approximately 192,000,000 acres of federal lands, of which more than 15,000,000 acres are in Oregon; and

Whereas the revested Oregon and California Railroad ("O & C") grant lands and the reconveyed Coos Bay Wagon Road grant lands, which are managed predominantly by the Bureau of Land Management, were once in private ownership but were returned to federal ownership in 1916 and 1919 and now comprise approximately 2,600,000 acres of federal lands, all of which are in Oregon; and

Whereas Congress recognized that, by its decision to secure these lands in federal ownership, the counties across the United States where these lands are situated, of which 33 counties are located in Oregon, would be deprived of opportunities for economic development and of tax revenues they would otherwise receive if the lands were held in private ownership; and

Whereas these same counties have expended public funds year after year to provide services such as road construction and maintenance, search and rescue, law enforcement, waste removal and fire protection that directly benefit these federal lands and the people who use these lands; and

Whereas to accord a measure of compensation to these affected counties for the critical services they provide to county residents and to visitors to these federal lands and for the lost economic opportunities stemming from federal ownership as compared to private ownership, Congress determined that the federal government should share with these counties a portion of the revenues the United States receives from these federal lands; and

Whereas Congress enacted in 1908 and subsequently amended a law that requires that 25 percent of the revenues derived from the National Forest System lands be paid to the states for use by counties where the lands are situated for the benefit of public schools and roads; and

Whereas Congress enacted in 1937 and subsequently amended the O & C Art (50 Stat. 874; 43 U.S.C. 1181 et seq.) that requires that revenues derived from the O & C grant lands and the Coos Bay Road grant lands be shared with the counties in which those lands are situated and be used for a broad range of essential public services as other county funds are used; and

Whereas Oregon counties dependent on and supportive of these federal lands received and relied on shared revenues from these lands for many decades to provide essential funding for schools, road maintenance and other critical public services; and

Whereas in recent years, the principal source of these revenues, federal timber sales, has been sharply curtailed, and as the volume of timber sold annually from the federal lands in Oregon has decreased substantially, so too have the revenues shared with the affected counties, adversely affecting funding for education, road maintenance and other public programs and services; and

Whereas in the Secure Rural Schools and Community Self-Determination Act of 2000, Congress recognized this trend and temporarily mitigated the adverse consequences by providing annual safety-net payments through 2006 to counties across the United States, including all counties in Oregon that traditionally shared in timber receipts from national forest lands, O & C grant lands and Coos Bay Wagon Road grant lands; and

Whereas the authority for these safety-net payments will expire in 2006, and, if that occurs and thereafter revenue sharing is based on actual federal timber receipts, Oregon will experience a net loss of more than $230 million per year in payments for schools and counties under Titles I and III of the Secure Rural Schools and Community Self-Determination Act of 2000, with associated losses of essential programs and services and thousands of jobs in both the government and private sectors, and will lose an additional $26 million per year that is currently spent by counties on special projects under Title II of the Secure Rural Schools and Community Self-Determination Act of 2000, for a total loss of more than $512 million per biennium, most of which is currently spent on programs and services that the state would have no ability to replace; and

Whereas there is a need to maintain funding for education, road maintenance and other public services through predictable payments to the affected counties, as well as job creation in those counties and other opportunities associated with restoration, maintenance and stewardship of federal lands available under the Secure Rural Schools and Community Self-Determination Act of 2000: Now, therefore, be it

Resolved by the Legislative Assembly of the State of Oregon, That we, the members of the Seventy-third Legislative Assembly, respectfully urge the Congress of the United States to pass legislation that will reauthorize and extend the Secure Rural Schools and Community Self-Determination Act of 2000 for an additional 10-year period through federal fiscal year 2016, and that the Act be continued in its present form and be funded through a mandatory, continuing appropriation; and be it further

Resolved, That a copy of this memorial shall be sent to the President of the United States, to the Senate Majority Leader and the Speaker of the House of Representatives and to each member of the Oregon Congressional Delegation.

POM–46. A joint resolution adopted by the Legislature of the State of Wyoming relative to the funding match for a flood control feasibility study in the Bear River Basin; to the Committee on Environment and Public Works.

JOINT RESOLUTION 1

Whereas the ongoing drought in the State of Wyoming and surrounding states has a profound impact throughout the area, including Bear River Basin. Bear Lake is the major reservoir for containing floodwaters of the Bear River within the Bear River Basin. The effects of drought in the Bear River Basin could be significantly reduced in the event alternative storage sites were available; and

Whereas the Bear River Basin encompasses a portion of the State of Wyoming. Originating in Utah's Uintah Mountains, the Bear River crosses state boundaries five times, has tributaries in Idaho, Utah and Wyoming, and ultimately discharges into the Great Salt Lake; and

Whereas the Bear River did not naturally divert into Bear Lake. The Utah Sugar Company and the Telluride Power Company first proposed diversion of the Bear River into Bear Lake for water storage in 1898. That project was taken over by Utah Power and Light for the purpose of producing hydropower. The project, which included a diversion dam on the Bear River, a canal, and a pumping station was completed in 1918; and

Whereas a multi-state compact between the states of Idaho, Utah and Wyoming, known as the Bear River Compact, was entered into in 1958 and amended in 1980. The Compact governs the operation of Bear River and, for management purposes, the Compact divides the river into three segments. The three segments are known as the upper division, located in Utah and Wyoming, the central division, located in Wyoming and Idaho, and the lower division, located in Idaho and Utah. The Bear River Commission, made up of three members from each of the Compact states, a Chairman appointed by the President of the United States, and engineer/manager, manage the day-to-day operation of the river; and

Whereas as a result of two lawsuits against Utah Power and Light Company during the 1970s, which claimed damaged to crops due to flooding along Bear River, the power company is under court order to keep Bear River within its banks. Based on the court order, in the event the irrigation season ends with Bear Lake above five thousand nine hundred eighteen (5,918) feet in elevation, water is released downstream to make room in Bear Lake for the spring runoff; and

Whereas since the 1970s, millions of acre-feet of water have been released from Bear Lake to provide capacity for flood control. The most recent releases were in 1997, 1998, and 1999; and

Whereas lowering the elevation of Bear Lake for flood control potentially also impacts water users in the upper and central divisions. Under the Compact, storage allocations under the amended Bear River Compact located in the upper division are not allowed to fill whenever the elevation of Bear Lake is below five thousand nine hundred eleven (5,911) feet above sea level; and

Whereas dredging has been necessary to provide water for irrigation releases from Bear Lake due to low lake levels; and

Whereas if alternative storage sites were available, water that is usually available during the spring runoff, could be stored and could prevent any flooding of the Bear River. The water could then be used for irrigation, domestic and commercial development and recreation. Alternative storage sites would provide for the conservation, preservation and best utilization of the water to which the state is entitled. This storage is desperately needed to allow residential, commercial and municipal development in the Bear River drainage without reducing irrigated agricultural lands; and

Whereas the United States Army Corps of Engineers is the federal agency responsible for flood control. The Corps has indicated a willingness to conduct a feasibility study or possible water storage sites upstream of Bear Lake, which could be used for flood control of the Bear River. Costs of the study could range from six hundred thousand dollars ($600,000.00) to two million dollars ($2,000,000.00) depending on the areas the study would include. The study will require an equal match of federal and nonfederal funds. However, with congressional approval, past local expenditures may be used as the local match; and

Whereas past local expenditures that have been made include one hundred seventy-four thousand dollars ($174,000.00) by the State of Wyoming for the Cokeville Reservoir Project on Smith's Fork, three hundred fifty thousand dollars ($350,000.00) by the State of Wyoming for the Bear River Plan, and over two million ($2,000,000.00) of state funds from Idaho, Wyoming, and Utah throughout the Bear River Commission for stream gaging; and

Whereas concerned citizens of the Bear River Drainage, including the Bear Lake County Commissions, the Bear Lake Regional Commission, Lake Watch, Inc., and Love Bear Lake, Inc., are asking for Congressional approval to recognize past expenditures as the local match to make the Corps of Engineers feasibility study possible: Now, therefore, be it

Resolved by the members of the legislature of the State of Wyoming:

Section 1. That Congress is urged to pass and vote for legislation that will authorize and fund a feasibility study by the United States Corps of Engineers relating to the possibilities, benefits and costs of providing flood control above Bear Lake.

Section 2. That Congress is urged to allow and approve past local expenditures, equivalent to fifty percent of the total cost of the allowed and approved one hundred seventy-four thousand dollars ($174,000.00) by the State of Wyoming for the Cokeville Reservoir Project on Smith's Fork, three hundred fifty thousand dollars ($350,000.00) by the State of Wyoming for the Bear River Basin Plan and two million dollars ($2,000,000.00) of state funds from Idaho, Wyoming and Utah for stream gaging.

Section 3. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to the Wyoming Congressional Delegation.

POM–47. A resolution adopted by the Senate of the Legislature of the State of New Jersey relative to the Passaic River Restoration Initiative; to the Committee on Environment and Public Works.

SENATE RESOLUTION 75

Whereas the Passaic River Restoration Initiative (PRRI), a new cooperative approach to restore the Passaic River, will utilize the leadership of the United States Army Corps of Engineers, in partnership with the United States Environmental Protection Agency, and various concerned federal, state and local agencies; and

Whereas the Passaic River and its surrounding wetlands have been degraded as a result of commercial growth in the State that brought industrial development to the shores of the Passaic River and surrounding properties; and

Whereas the Passaic River, which traverses New Jersey through Newark, is an ideal pilot project to showcase nationally the restoration of urban waterways, wildlife habitat, and one of America's most historic rivers; and

Whereas the PRRI, the United States Army Corps of Engineers will engage in a cooperative project planning and development process to identify and apply feasible solutions to achieve environmental restoration and economic revitalization of the Passaic River; and

Whereas the results of the project development process will be incorporated in a report to Congress from the Chief of Engineers as project implementation will require authorization by Congress; and

Whereas the PRRI is related to several other current major federal initiatives, such as those under brownfields redevelopment, the NY/NJ Harbor Estuary Program, and the Natural Resources Damage Assessment and Restoration Program; and

Whereas on April 11, 2000 the Committee on Transportation and Infrastructure in the United States House of Representatives approved a resolution authorizing the United States Army Corps of Engineers to conduct the Passaic River Environmental Restoration reconnaissance study, which is currently underway by the New York district of the United States Army Corps of Engineers; and

Whereas it is in the best interest of the State to support the enactment of the Passaic River Restoration Initiative in order to restore and preserve healthy environmental and economic conditions in and along the Passaic River: Now, therefore, be it

Resolved by the Senate of the State of New Jersey:

1. This House urges the United States Congress to support the Passaic River Restoration Initiative in order to restore and preserve the Passaic River to healthy environmental and economic conditions, and to provide the funding for the federal share of the project development process and the necessary study funds of the United States Army Corps of Engineers to advance the Passaic River Restoration Initiative.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary thereof, shall be transmitted to the Vice President of the United States, the Speaker of the United States House of Representatives, the majority and minority leaders of the United States Senate and the United States House of Representatives, and each member of Congress elected from this State.

POM–48. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to highway reauthorization legislation; to the Committee on Environment and Public Works.

HOUSE RESOLUTION 31

Whereas the sixth short-term extension of the federal road and transit funding authorization act known as the Transportation Equity Act for the 21st Century, or TEA 21, expires on May 31, 2005. The uncertainty regarding long-term federal funding hampers Michigan's ability to effectively plan investments in infrastructure and may contribute to delays in critical highway and transit projects; and

Whereas Michigan has long been a "donor state," contributing a greater share to the Federal Highway Trust Fund and Mass Transit Account than the share of federal transportation funds returned for use in Michigan; and

Whereas last session, the United States Senate passed highway reauthorization legislation that would have provided $318 billion for highways and transit systems nationwide over six years and increased Michigan's rate of return on our federal transportation taxes from 90.5 percent to 95 percent. In addition, the bill would have provided up to $300 million more for Michigan transportation systems each year, and could have created several thousand new jobs. The House passed reauthorizing legislation that would have provided $284 billion for highways and transit systems and would have reduced Michigan's rate of return below the current level of 90.5 percent. The Conference Committee narrowed the funding difference to between $284 and $299 billion, but left unresolved the question of funding equity for donor states such as Michigan: Now, therefore, be it

Resolved by the House, That we memorialize Congress to enact highway reauthorization legislation with a level of funding that closes the gap between federal fuel tax dollars paid by Michigan motorists and dollars received to address Michigan's transportation needs; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–49. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to highway reauthorization legislation; to the Committee on Environment and Public Works.

SENATE RESOLUTION 14

Whereas the sixth short-term extension of the federal road and transit funding authorization act known as the Transportation Equity Act for the 21st Century, or TEA 21, expires on May 31, 2005. The uncertainty regarding long-term federal funding hampers Michigan's ability to effectively plan investments in infrastructure and may contribute to delays in critical highway and transit projects; and

Whereas Michigan has long been a "donor state," contributing a greater share to the Federal Highway Trust Fund and Mass Transit Account than the share of federal transportation funds returned for use in Michigan; and

Whereas last session, the United States Senate passed highway reauthorization legislation that would have provided $318 billion for highways and transit systems nationwide over six years and increased Michigan's rate of return on our federal transportation taxes from 90.5 percent to 95 percent. In addition, the bill would have provided up to $300 million more for Michigan transportation systems each year, and could have created several thousand new jobs. The House passed reauthorizing legislation that would have provided $284 billion for highways and transit systems and would have reduced Michigan's rate of return below the current level of 90.5 percent. The Conference Committee narrowed the funding difference to between $284 and $299 billion, but left unresolved the question of funding equity for donor states such as Michigan: Now, therefore, be it

Resolved by the Senate, That we memorialize Congress to enact highway reauthorization legislation with a level of funding that closes the gap between federal fuel tax dollars paid by Michigan motorists and dollars received to address Michigan's transportation needs; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–50. A resolution adopted by the Legislature of the State of Arizona relative to the Collegiate Housing and Infrastructure Act; to the Committee on Finance.

SENATE MEMORIAL 1001

Whereas colleges and universities nationwide are experiencing severe housing shortages due to increasing student enrollment; and

Whereas dormitory rooms are filled to capacity, requiring colleges and universities to employ such creative housing measures as placing students in student lounges and study rooms, converting two-student rooms into three-student rooms and housing students in nearby hotels; and

Whereas quality collegiate housing options will become an even greater challenge if current predictions, that postsecondary enrollment will increase fifteen percent between 1999 and 2011, hold true; and

Whereas fraternities and sororities greatly help alleviate the housing burden of colleges and universities by housing 250,000 students each year. Yet fraternal housing faces several unique challenges in accommodating student populations, particularly the lack of funds to install badly needed safety upgrades; and

Whereas the Collegiate Housing and Infrastructure Act (S. 1246/H.R. 1523), introduced in April 2003, would allow tax-deductible charitable contributions to fraternity and sorority foundations to be used to add such fraternal housing improvements as fire sprinklers, new roofing and security equipment, along with other infrastructure improvements. The passage of this important legislation would allow fraternal educational foundations to use tax-deductible charitable contributions to make the same student infrastructure improvements that colleges and universities currently can make with tax-deductible funds; and

Whereas the Collegiate Housing and Infrastructure Act is critical to ensuring the long-term availability and safety of collegiate and university housing nationwide.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

1. That the Congress and President of the United States take immediate steps to ensure the passage and enactment of the Collegiate Housing and Infrastructure Act.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM-51. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to grants received as payment for damage done by natural disaster; to the Committee on Finance.

HOUSE RESOLUTION 84

Whereas the Internal Revenue Service has recently issued a ruling that grant moneys received by homeowners who incurred damage due to a natural disaster shall include those payments as gross income under section 61 of the Internal Revenue Code and therefore subject the payments to Federal income taxation; and

Whereas many homeowners in the Commonwealth of Pennsylvania incurred flood damage due to the 2004 hurricane season; and

Whereas at least 19 homeowners along the Neshaminy Creek have received grants to elevate their homes in accordance with the Federal Emergency Management Agency Hazard Mitigation Grant Program; and

Whereas the Federal income tax burden on these homeowners, who are required to include the emergency grant payments in their income, could total several thousand dollars; and

Whereas the Internal Revenue Service may try to make its ruling apply retroactively, further impacting homeowners who have received emergency grant payments in the past: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress to direct the Internal Revenue Service to rescind its ruling that certain emergency grant payments be subject to Federal income tax; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-52. A joint resolution adopted by the Legislature of the State of Maine relative to the reform of Social Security offsets of the government pension offset and the windfall elimination provision; to the Committee on Finance.

JOINT RESOLUTION

Whereas under current federal law, individuals who receive a Social Security benefit and a public retirement benefit derived from employment not covered under Social Security are subject to a reduction in the Social Security benefits; and

Whereas these laws, contained in the federal Social Security Act, 42 United States Code, Chapter 7, Subchapter II, Federal Old-Age, Survivors, and Disability Insurance Benefits, and known as the Government Pension Offset and the Windfall Elimination Provision, greatly affect public employees, particularly women; and

Whereas the Windfall Elimination Provision reduces by a formula the Social Security benefit of a person who is also receiving a pension from a public employer that does not participate in Social Security; and

Whereas the Government Pension Offset and the Windfall Elimination Provision are particularly burdensome on the finances of low-income and moderate-income public service workers, such as school teachers, clerical workers and school cafeteria employees, whose wages are low to start; and

Whereas the Government Pension Offset and the Windfall Elimination Provision both unfairly reduce benefits for those public employees and their spouses whose careers cross the line between the private and public sectors; and

Whereas since many lower-paying public service jobs are held by women, both the Government Pension Offset and the Windfall Elimination Provision have a disproportionately adverse effect on women; and

Whereas in some cases, additional support in the form of income, housing, heating and prescription drug and other safety net assistance from state and local governments is needed to make up for the reductions imposed at the federal level; and

Whereas other participants in Social Security do not have their benefits reduced in this manner; and

Whereas to participate or not to participate in Social Security in public sector employment is a decision of employers, even though both the Government Pension Offset and the Windfall Elimination Provision directly punish employees and their spouses; and

Whereas although the Government Pension Offset was enacted in 1977 and the Windfall Elimination Provision was enacted in 1983, many of the benefits in dispute were paid into Social Security prior to that time; and

Whereas bills are present in Congress in both the House of Representatives and the Senate, known as "The Social Security Fairness Acts," that would amend the federal Social Security Act, 42 United States Code, Chapter 7, Subchapter II and totally repeal both the Government Pension Offset and the Windfall Elimination Provision: Now, therefore, be it

Resolved, That we, your memorialists, request that the President of the United States and the United States Congress work together to support reform proposals that include the following protections for low-income and moderate-income government retirees:

1. Protections permitting retention of a combined public pension and Social Security benefits with no applied reductions;

2. Protections permanently ensuring that level of benefits by indexing it to inflation; and

3. Protections ensuring that no current recipient's benefit is reduced by the reform legislation; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the President of the United States Senate; the Speaker of the House of Representatives of the United States; and each Member of the Maine Congressional Delegation.

POM-53. A joint memorial adopted by the Legislature of the State of Idaho relative to the Pocatello Proton Accelerator Cancer Treatment Facility in Pocatello, Idaho; to the Committee on Health, Education, Labor, and Pensions.

HOUSE JOINT MEMORIAL 3

Whereas proton therapy is a form of radiation that provides numerous advantages over conventional radiation and surgery in the treatment of many cancers, some of which are not otherwise treatable, based on the fact that it is noninvasive, painless and is performed on an outpatient basis. Protons provide a superior dose to tumors while sparing surrounding healthy tissue, eliminating painful and life-impairing side effects associated with surgery and other forms of radiation therapy; and

Whereas Loma Linda University Medical Center located in California, established a research team in 1987 for the purpose of developing and designing the world's first proton beam treatment center. The research team, now known as "Optivus," maintains exclusive worldwide rights to the Loma Linda University Medical Center proprietary technology. In over a decade, the facility at Loma Linda University Medical Center has delivered in excess of 200,000 patient treatments and the market for the technology continues to grow; and

Whereas the concept of a proton accelerator cancer treatment facility in Pocatello, Idaho, has been under study for a number of years; and

Whereas the Portneuf Medical Center, located in Pocatello, Idaho, is in the process of an eight-year expansion program with a goal of providing a single hospital facility with many services decentralized into five centers of excellence; and

Whereas Optivus has the expertise to deliver, operate and maintain a proton beam treatment center, with FDA cleared technology, capable of delivering a high volume of patient treatments each year in Pocatello, Idaho; and

Whereas the City of Pocatello, Bannock County, Portneuf Medical Center, and other available resources have agreed, in concept, to provide support for the development of the Pocatello Proton Accelerator Cancer Treatment Facility at or near the campus of the new Portneuf Medical Center; and

Whereas the facility will provide state-of-the-art medical services to the communities of rural Idaho, the surrounding states, and other national and international markets for cancer treatment, as well as create numerous high paying jobs and generate significant revenue for the local economy; and

Whereas funding for the facility will be secured through a combination of funds, debt and/or financial guarantees: Now, therefore, be it

Resolved by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, That we urge the President and Congress to vigorously support the campaign to develop the Pocatello Proton Accelerator Cancer Treatment Facility in Pocatello, Idaho, supporting the concept that rural health is a significant issue affecting every rural community in this nation and that the development of the Pocatello Proton Accelerator Cancer Treatment Facility will not only provide much needed medical care to rural Idaho, but also to surrounding states and other national and international markets; be it further

Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM-54. A resolution adopted by the Senate of the Legislature of the State of New Jersey relative to the reauthorization of the assault weapons ban; to the Committee on the Judiciary.

SENATE RESOLUTION 84

Whereas the provision included in the federal Violent Crime Control and Law Enforcement Act of 1994 which banned the sale of semi-automatic assault weapons is set to expire on September 13, 2004; and

Whereas the assault weapons covered by the ban are not designed for sport use, but incorporate military features intended for combat in a war setting; and

Whereas the ban not only required domestic gun manufacturers to stop producing semi-automatic assault weapons and ammunition clips which held more than 10 rounds, except for military or police use, but also halted imports of assault weapons not already banned; and

Whereas prior to their ban, semi-automatic assault weapons had become the "weapon of choice" for drug traffickers, gangs and paramilitary extremist groups; and

Whereas many major national law enforcement organizations support the federal assault weapons ban, in light of their high firepower and ability to penetrate body armor; and

Whereas one in five police officers slain in the line of duty during the years 1998 through 2001 were killed with an assault weapon; and

Whereas assault rifles have been used in some of the nation's most shocking crimes, including the Stockton schoolyard massacre, the CIA headquarters shootings, and the Branch-Davidian standoff in Waco, Texas; and

Whereas the continuing confiscation of assault weapons from crime scenes will result in criminals having less access to these dangerous weapons; and

Whereas there are various bills pending in Congress which would have the affect of reauthorizing the assault weapons ban, including a proposal to postpone the sunset of the provision for ten years and another to repeal the sunset date entirely: Now therefore, be it

Resolved by the Senate of the State of New Jersey:

1. The President and the Congress of the United States are urged to enact a reauthorization the assault weapons ban. The members of this State's Congressional delegation are urged to work diligently to achieve the enactment of this legislation.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary thereof, shall be transmitted to the Vice President of the United States, the Speaker of the United States House of Representatives, the majority and minority leaders of the United States Senate and the United States House of Representatives, and each member of Congress elected from this State.

POM-55. A resolution adopted by the City Commission of the City of Lauderdale Lakes of the State of Florida relative to the community development block grant program ("CDBG"); to the Committee on Banking, Housing, and Urban Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 853. A bill to direct the Secretary of State to establish a program to bolster the mutual security and safety of the United States, Canada, and Mexico, and for other purposes; to the Committee on Foreign Relations.

By Mr. FEINGOLD:

S. 854. A bill to require labeling of raw agricultural forms of ginseng, including the country of harvest, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS:

S. 855. A bill to improve the security of the Nation's ports by providing Federal grants to support Area Maritime Transportation Security Plans and to address vulnerabilities in port areas identified in approved vulnerability assessments or by the Secretary of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROCKEFELLER (for himself and Mr. DURBIN):

S. 856. A bill to amend title XVIII of the Social Security Act to extend the minimum medicare deadlines for filing claims to take into account delay in processing adjustment from secondary payor status to primary payor status; to the Committee on Finance.

By Mr. SUNUNU (for himself, Mr. BROWNBACK, and Mr. DEMINT):

S. 857. A bill to reform Social Security by establishing a Personal Social Security Savings Program and to provide new limitations on the Federal Budget; to the Committee on Finance.

By Mr. VOINOVICH (for himself and Mr. INHOFE):

S. 858. A bill to reauthorize Nuclear Regulatory Commission user fees, and or other purposes; to the Committee on Environment and Public Works.

By Mr. SANTORUM (for himself, Mr. KERRY, Mr. SMITH, Ms. STABENOW, Mr. ALLARD, and Mr. SARBANES):

S. 859. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Finance.

By Mr. ALEXANDER (for himself and Mr. KENNEDY):

S. 860. A bill to amend the National Assessment of Educational Progress Authorization Act to require State academic assessments of student achievement in United States history and civics, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ISAKSON (for himself and Mr. ROCKEFELLER):

S. 861. A bill to amend the Internal Revenue Code of 1986 to provide transition funding rules for certain plans electing to cease future benefit accruals, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself and Ms. LANDRIEU):

S. 862. A bill to amend title XVIII of the Social Security Act to increase inpatient hospital payments under the Medicare Program to Puerto Rico hospitals; to the Committee on Finance.

By Mr. CONRAD (for himself, Mr. ALLEN, Mr. ALEXANDER, Mr. BAUCUS, Mr. BINGAMAN, Mr. CHAFEE, Mr. COCHRAN, Mr. CORZINE, Mr. CRAIG, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. HAGEL, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. MCCAIN, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Ms. STABENOW, Mr. STEVENS, and Mr. WARNER):

S. 863. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INHOFE (for himself and Mr. VOINOVICH):

S. 864. A bill to amend the Atomic Energy Act of 1954 to modify provisions relating to nuclear safety and security, and for other purposes; to the Committee on Environment and Public Works.

By Mr. VOINOVICH:

S. 865. A bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions; to the Committee on Environment and Public Works.

By Mrs. MURRAY:

S.J. Res. 16. A joint resolution authorizing special awards to World War I and World War II veterans of the United States Navy Armed Guard; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAPO:

S. Res. 114. A resolution recognizing the 100th anniversary of the American Thoracic Society, celebrating its achievements, and encouraging the Society to continue offering its guidance on lung-related health issues to the people of the United States and to the world; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SALAZAR (for himself, Mrs. MURRAY, Mr. COLEMAN, Mr. WYDEN, Mrs. DOLE, Mr. DURBIN, Mr. BUNNING, Mr. KENNEDY, and Mrs. FEINSTEIN):

S. Res. 115. A resolution designating May 2005 as "National Cystic Fibrosis Awareness Month"; to the Committee on the Judiciary.

By Mrs. DOLE (for herself, Mr. BURR, Mr. CORZINE, and Mr. SANTORUM):

S. Res. 116. A resolution commemorating the life, achievements, and contributions of Frederick C. Branch; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. SANTORUM):

S. Res. 117. A resolution designating the week of May 9, 2005, as "National Hepatits B Awareness Week"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 154

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. 154, a bill to grant a Federal charter to the National American Indian Veterans, Incorporated.

S. 185

At the request of Mr. NELSON of Florida, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Ms. STABENOW) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 211

At the request of Mrs. CLINTON, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 217

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 217, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 246

At the request of Mr. BUNNING, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 246, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 300

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 300, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

At the request of Ms. COLLINS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 300, supra.

S. 371

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 371, a bill to provide for college quality, affordability, and diversity, and for other purposes.

S. 432

At the request of Mr. ALLEN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 432, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 440

At the request of Mr. BUNNING, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 473

At the request of Ms. CANTWELL, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 473, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 500

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 500, a bill to regulate information brokers and protect individual rights with respect to personally identifiable information.

S. 501

At the request of Ms. COLLINS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 501, a bill to provide a site for the National Women's History Museum in the District of Columbia.

S. 515

At the request of Mr. BYRD, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 521

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 521, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 559

At the request of Mr. BIDEN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 559, a bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 604

At the request of Mr. CRAIG, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Washington (Mrs. MURRAY), the Senator from South Carolina (Mr. GRAHAM), the Senator from Minnesota (Mr. DAYTON), the Senator from North Dakota (Mr. CONRAD), the Senator from Indiana (Mr. LUGAR), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. CORZINE), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 604, a bill to amend title XVIII of the Social Security Act to authorize expansion of medicare coverage of medical nutrition therapy services.

S. 629

At the request of Mr. SESSIONS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 629, a bill to amend chapter 97 of title 18, United States Code, relating to protecting against attacks on railroads and other mass transportation systems.

S. 643

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 643, a bill to amend the Agricultural Credit Act of 1987 to reauthorize State mediation programs.

S. 740

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 740, a bill to amend title XIX and XXI of the Social Security Act to expand or add coverage of pregnant women under the medicaid and State children's health insurance program, and for other purposes.

S. 756

At the request of Mr. BENNETT, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 758

At the request of Mr. ALLEN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to ensure that the federal excise tax on communication services does not apply to internet access service.

S. 783

At the request of Mr. KYL, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 783, a bill to repeal the sunset on the 2004 material-support enhancements, to increase penalties for providing material support to terrorist groups, to bar from the United States aliens who have received terrorist training, and for other purposes.

S. 784

At the request of Mr. THOMAS, the names of the Senator from California (Mrs. BOXER) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 784, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 802

At the request of Mr. BAUCUS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 802, a bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 817

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 817, a bill to amend the Trade Act of 1974 to create a Special Trade Prosecutor to ensure compliance with trade agreements, and for other purposes.

S. 821

At the request of Mr. STEVENS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 821, a bill to require the Secretary of the Treasury to mint coins in commemoration of the founding of America's National Parks, and for other purposes.

S. 841

At the request of Mrs. CLINTON, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 841, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

AMENDMENT NO. 342

At the request of Mr. DEWINE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 342 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 380

At the request of Mr. KOHL, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Kansas (Mr. ROBERTS), the Senator from North Carolina (Mrs. DOLE), the Senator from Indiana (Mr. LUGAR), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maryland (Mr. SARBANES), the Senator from Nebraska (Mr. NELSON), the Senator from Nebraska (Mr. HAGEL), the Senator from Missouri (Mr. BOND) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 380 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 414

At the request of Ms. LANDRIEU, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of amendment No. 414 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 443

At the request of Mr. DURBIN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 443 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 466

At the request of Mr. SHELBY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 466 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 482

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of amendment No. 482 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 493

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 493 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 498

At the request of Mr. WARNER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 498 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

At the request of Ms. SNOWE, her name was added as a cosponsor of amendment No. 498 proposed to H.R. 1268, supra.

AMENDMENT NO. 504

At the request of Mrs. CLINTON, the name of the Senator from Maryland

(Ms. MIKULSKI) was added as a cosponsor of amendment No. 504 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 516

At the request of Mr. BYRD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of amendment No. 516 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 549

At the request of Mr. BAUCUS, the names of the Senator from Idaho (Mr. CRAIG), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Kansas (Mr. ROBERTS), the Senator from Wyoming (Mr. ENZI), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. HARKIN), the Senator from Indiana (Mr. LUGAR) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 549 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 853. A bill to direct the Secretary of State to establish a program to bolster the mutual security and safety of the United States, Canada, and Mexico, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce the North American Cooperative Security Act, NACSA. The purpose of this bill is to enhance the mutual security and safety of the United States, Canada, and Mexico by providing a framework for better management, communication and coordination between the Governments of North America. To advance these goals, this bill would: Improve procedures for exchanging relevant security information with Mexico and Canada; improve our military-to-military relations with Mexico; improve the security of Mexico's southern border; establish a database to track the movement of members of Central American gangs between the United States, Mexico, and Central American countries; require U.S. government agencies to develop a strategy for achieving an agreement with the Mexican government on joint measures to impede the ability of third country nationals from using Mexico as a transit corridor for unauthorized entry into the United States.

Our Nation is inextricably intertwined with Mexico and Canada historically, culturally, and commercially. The flow of goods and people across our borders helps drive our economy and strengthen our culture. The Department of Transportation reports that goods worth more than $633 billion crossed our land borders in 2004. According to the Census Bureau more than 26 million of the 39 million individuals of Hispanic-origin who are legal residents in the United States are of Mexican background.

But our land borders also serve as a conduit for illegal immigration, drugs, and other illicit items. Given the threat of international terrorism, there is great concern that our land borders could also serve as a channel for international terrorists and weapons of mass destruction.

The threat of terrorist penetration is particularly acute along our southern border. In 2004, fewer than 10,000 inividuals were apprehended entering the U.S. illegally through our 5,000 mile land border with Canada. This compared with the more than 1.1 million that were apprehended while trying to cross our 2,000 mile border with Mexico. The Department of Homeland Security reports that about 996,000 of these individuals were Mexicans crossing the border for economic or family reasons.

The Homeland Security Department refers to the rest as "other than Mexicans,"—or "OTMs." Of the approximately 100,000 OTMs apprehended, 3,000 to 4,000 were from so-called "countries of interest" like Somalia, Pakistan, and Saudi Arabia, which have produced or been associated with terrorist cells.

A few of the individuals who have been apprehended at our southern border were known to have connections to terrorists or were entering the U.S. under highly suspicious circumstances. For example, one Lebanese national, who had paid a smuggler to transport him across the U.S.-Mexican border in 2001, was recently convicted of holding a fundraiser in his Michigan home for the Hizbollah terrorist group.

Last July, a Pakistani woman swam across the Rio Grande River from Mexico to Texas. She was detained when she tried to board a plane to New York with $6,000 in cash and a severely altered South African passport. Her husband's name was found to be on a terrorism watch list. She was convicted on immigration charges and deported in December 2004.

Since September 11, 2001, progress has been made in deterring cross-border threats, while maintaining the efficient movement of people and cargo across North America. The United States signed "Smart Border" agreements with Canada and Mexico, in December 2001 and March 2002, respectively. These agreements seek to improve pre-screening of immigrants, refugees, and cargo. They include new documentation requirements and provisions for adding inspectors and updating border security technologies. We also have established Integrated Border Enforcement Teams to coordinate law enforcement efforts with Canada.

Additional initiatives are included in the Presidents' Security and Prosperity Partnership of North America Agreement announced on March 23, 2005, at the North American Summit meeting in Texas. But, additional work lies ahead. We must sustain attention and accountability at home for enhancing our Continental security, and continue to press our neighbors for improved cooperation in combating security threats.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "North American Cooperative Security Act".

SEC. 2. NORTH AMERICAN SECURITY INITIATIVE.

(a) IN GENERAL.—The Secretary of State shall enhance the mutual security and safety of the United States, Canada, and Mexico by providing a framework for better management, communication, and coordination between the Governments of North America.

(b) RESPONSIBILITIES.—In implementing the provisions of this Act, the Secretary of State shall carry out all of the activities described in this Act.

SEC. 3. IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary of State, in coordination with the Secretary of Homeland Security and the Secretary of Defense, each responsible for their pertinent areas of jurisdiction, shall submit a joint report, to the congressional committees listed under subsection (b) that contains a description of the efforts to carry out this section and sections 4 through 7.

(b) Appropriate Congressional Committees Defined.—The congressional committees listed under this subsection are—

(1) the Committee on Foreign Relations of the Senate;

(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

(3) the Committee on International Relations of the House of Representatives;

(4) the Select Committee on Homeland Security of the House of Representatives;

(5) the Committee on Armed Services of the Senate; and

(6) the Committee on Armed Services of the House of Representatives.

(c) Contents.—A report submitted under subsection (a) shall contain a description of each of the following:

(1) Security and the Movement of Goods.—The progress of the development and expansion of public-private partnerships to secure the supply chain of goods coming into North America and expedite the movement of low-risk goods, including the status of—

(A) the Fast and Secure Trade program (referred to in this subsection as "FAST") at major crossings, and the progress made in implementing the Fast and Secure Trade program at all remaining commercial crossings between Canada and the United States;

(B) marketing programs to promote enrollment in FAST;

(C) finding ways and means of increasing participation in FAST; and

(D) the implementation of FAST at the international border between Mexico and the United States.

(2) Cargo Security and Movement of Goods.—The progress made in developing and implementing a North American cargo security strategy that creates a common security perimeter by enhancing technical assistance for programs and systems to support advance reporting and risk management of cargo data, improved integrity measures through automated collection of fees, and advance technology to rapidly screen cargo.

(3) Border Wait Times.—The progress made by the Secretary of State, in consultation with national, provincial, and municipal governments, to—

(A) reduce waiting times at international border crossings through low-risk land ports of entry facilitating programs, including the status of the Secure Electronic Network for Travelers Rapid Inspection program (referred to in this section as "SENTRI") and the NEXUS program—

(B) measure and report wait times for commercial and non-commercial traffic at the land ports, and establish compatible performance standards for operating under normal security alert conditions; and

(C) identify, develop, and deploy new technologies to—

(i) further advance the shared security goals of Canada, Mexico, and the United States; and

(ii) promote the legitimate flow of both people and goods across international borders.

(4) Border Infrastructure.—Efforts to pursue joint investments in and protection of border infrastructure, including—

(A) priority ports of entry;

(B) plans to expand dedicated lanes and approaches and improve border infrastructure in order to meet the objectives of FAST;

(C) the development of a strategic plan for expanding the number of dedicated FAST lanes at major crossings at the international border between Mexico and the United States; and

(D) an inventory of border transportation infrastructure in major transportation corridors.

(5) Security Clearances and Document Integrity.—The development of more common or otherwise equivalent enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with the Governments of Canada and Mexico to encourage foreign governments to enact laws controlling alien smuggling and trafficking, use, and manufacture of fraudulent travel documents and information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are equally committed to travel document verification before transit to other countries, including the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(6) Immigration and Visa Management.—The progress on efforts to share information on high-risk individuals that might attempt to travel to Canada, Mexico, or the United States, including—

(A) immigration lookout data on high risk individuals by implementing the Statement of Mutual Understanding on Information Sharing, which was signed by Canada and the United States in February 2003; and

(B) immigration fraud trends and analysis, including asylum and document fraud.

(7) Visa Policy Coordination and Immigration Security.—The progress made by the Governments of Canada, Mexico, and the United States to enhance North American security by cooperating on visa policy and identifying best practices regarding immigration security, including—

(A) enhancing consultation among visa issuing officials at consulates or embassies of Canada, Mexico, and the United States throughout the world to share information, trends, and best practices on visa flows;

(B) comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) converging the list of "visa waiver" countries;

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) developing and implementing a North American immigration security strategy that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) the progress made toward sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of the Governments of Canada, Mexico, and the United States; and

(G) the progress made by the Department of State in collecting 10 fingerprints from all visa applicants.

(8) North American Visitor Overstay Program.—The progress made to implement parallel entry-exit tracking systems between Canada and the United States—

(A) to share information on third country nationals who have overstayed in either country; and

(B) that respect the privacy laws of each country.

(9) Terrorist Watch Lists.—The progress made to enhance capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including—

(A) bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) establishing appropriate linkages between Canada, Mexico, and the United States Terrorist Screening Center; and

(C) working to explore with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(10) Money Laundering, Income Tax Evasion, Currency Smuggling, and Alien Smuggling.—The progress made to improve information sharing and law enforcement cooperation in organized crime, including—

(A) information sharing and law enforcement cooperation, especially in areas of currency smuggling, money laundering, alien smuggling and trafficking in alcohol, firearms, and explosives;

(B) implementing the Canada-United States Firearms Trafficking Action Plan;

(C) the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) developing a joint threat assessment on organized crime between Canada and the United States;

(E) the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(11) Counterterrorism Programs.—Enhancements to counterterrorism coordination, including—

(A) reviewing existing counterterrorism efforts and coordination to maximize effectiveness; and

(B) identifying best practices regarding the sharing of information and intelligence.

(12) Law Enforcement Cooperation.—The enhancement of law enforcement cooperation through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including—

(A) exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures from such teams; and

(B) assessing the threat and risk of the St. Lawrence Seaway System and the Great Lakes and developing appropriate marine enforcement programs based on the integrated border team framework.

(13) BIOSECURITY COOPERATION.—The progress made to increase and promote cooperation in the analysis and assessments of intentional threats to biosecurity, including naturally occurring threats, as well as in the United States prevention and response capacity and plans to respond to these threats, including—

(A) mapping relationships among key regulatory and border officials to ensure effective cooperation in planning and responding to a biosecurity threat; and

(B) working jointly in support of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 116 Stat. 594) to develop a regime that employs a risk management approach to the movement of foods and food products in our countries and across our shared border, and which builds upon and harmonizes with customs processes.

(14) PROTECTION AGAINST NUCLEAR AND RADIOLOGICAL THREATS.—The progress made to increase cooperation to prevent nuclear and radiological smuggling, including—

(A) identifying opportunities to increase cooperation to prevent smuggling of nuclear or radioactive materials, including improving export controls for all materials identified on the high-risk sources list maintained by the International Atomic Energy Agency;

(B) working collectively with other countries to install radiation detection equipment at foreign land crossings to examine cargo destined for North America;

(C) enhancing border controls through effective technical cooperation and other forms of cooperation to—

(i) prevent the smuggling of radiological materials; and

(ii) examine related next-generation equipment;

(D) enhancing physical protection of nuclear facilities in North America through effective technical and other forms of cooperation; and

(E) developing a program on physical protection for Mexican nuclear installations that increases the level of the "nuclear security culture" of those responsible for the physical protection of nuclear installations and transport of nuclear material.

(15) EMERGENCY MANAGEMENT COOPERATION.—The progress made regarding the appropriate coordination of our systems and planning and operational standards for emergency management, including the development of an interoperable communications system or the appropriate coordination of existing systems for Canada, Mexico, and the United States for cross-border incident management.

(16) COOPERATIVE ENERGY POLICY.—The progress of efforts to—

(A) increase reliable energy supplies for the region's needs and development;

(B) streamline and update regulations concerning energy;

(C) promote energy efficiency, conservation, and technologies;

(D) work with the Governments of Canada and Mexico to develop a North American energy alliance to bolster our collective security by increased reliance on North American energy sources; and

(E) work with the Government of Mexico to—

(i) increase Mexico's crude oil and natural gas production by obtaining the technology and financial resources needed by Mexico for energy sector development;

(ii) attract sufficient private direct investment in the upstream sector, within its constitutional framework, to foster the development of additional crude oil and natural gas production; and

(iii) attract the private direct investment in the downstream sector, within its domestic legal framework, to foster the development of additional domestic refining capacity to reduce costs for consumers and to move Mexico toward self-sufficiency in meeting its domestic energy needs.

(17) FEASIBILITY OF COMMON EXTERNAL TARIFF AND DEVELOPMENT ASSISTANCE TO THE ECONOMY OF MEXICO.—The progress of efforts to determine the feasibility of—

(A) harmonizing external tariffs on a sector-by-sector basis to the lowest prevailing rate consistent with multilateral obligations, with the goal of creating a long-term common external tariff;

(B) accelerating and expanding the implementation of existing "smart border" actions plans to facilitate intra-North American travel and commerce;

(C) working with Mexican authorities to devise a set of policies designed to stimulate the Mexican economy that—

(i) attracts investment;

(ii) stimulates growth; and

(iii) commands broad public support and provides for Mexicans to find jobs in Mexico; and

(D) working to support the development of Mexican industries, job growth, and appropriate improvements to social services.

SEC. 4. INFORMATION SHARING AGREEMENTS.

The Secretary of State, in coordination with the Secretary of Homeland Security and the Government of Mexico, is authorized to negotiate an agreement with Mexico to—

(1) cooperate in impeding the ability of third country nationals from using Mexico as a transit corridor for unauthorized entry into the United States; and

(2) provide technical assistance to support stronger immigration control at the border with Mexico.

SEC. 5. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary of Homeland Security, the Canadian Department of Foreign Affairs, and the Government of Mexico, shall establish a program to—

(1) assess the specific needs of Guatemala and Belize in maintaining the security of the borders of such countries;

(2) use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) provide technical assistance to Guatemala and Belize to secure issuance of passports and travel documents by such countries; and

(4) encourage Guatemala and Belize to—

(A) control alien smuggling and trafficking;

(B) prevent the use and manufacture of fraudulent travel documents; and

(C) share relevant information with Mexico, Canada, and the United States.

(b) IMMIGRATION.—The Secretary of Homeland Security, in consultation with the Secretary of State and appropriate officials of the Governments of Guatemala and Belize, shall provide robust law enforcement assistance to Guatemala and Belize that specifically addresses migratory issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain tighter control over the border.

(c) BORDER SECURITY BETWEEN MEXICO AND GUATEMALA OR BELIZE.—The Secretary of State, in consultation with the Secretary of Homeland Security, the Government of Mexico, and appropriate officials of the Governments of Guatemala, Belize, and neighboring contiguous countries, shall establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international border between Mexico and Guatemala and between Mexico and Belize.

(d) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary of Homeland Security, the Director of the Federal Bureau of Investigation, the Government of Mexico, and appropriate officials of the Governments of Guatemala, Belize, and other Central American countries, shall—

(1) assess the direct and indirect impact on the United States and Central America on deporting violent criminal aliens;

(2) establish a program and database to track Central American gang activities, focusing on the identification of returning criminal deportees;

(3) devise an agreed-upon mechanism for notification applied prior to deportation and for support for reintegration of these deportees; and

(4) devise an agreement to share all relevant information with the appropriate agencies of Mexico and other Central American countries.

(e) AERIAL INTERDICTION OF NARCOTRAFFICKING THROUGH CENTRAL AMERICA AND PANAMA.—The Secretary of State shall examine the feasibility of entering into an agreement with Panama and the other countries of Central America regarding the aerial interdiction program commonly known as "Airbridge Denial".

SEC. 6. NORTH AMERICAN DEFENSE INSTITUTIONS.

(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of State, shall examine the feasibility of—

(1) strengthening institutions for consultations on defense issues among the United States, Mexico, and Canada, specifically through—

(A) the Joint Interagency Task Force South;

(B) the Permanent Joint Board on Defense;

(C) joint-staff talks; and

(D) senior Army border talks;

(2) proposing mechanisms to reach agreements with the Government of Canada or Mexico regarding contingency plans for responding to threats along the international borders of the United States;

(3) in consultation with the Governments of Canada and Mexico, and with input from the United States Northern Command—

(A) developing bilateral and trilateral capabilities and coordination mechanisms to address common threats along shared borders; and

(B) work together to clearly define the term "threats" to only encompass military or defense-related threats, rather than other threats to homeland security;

(4) offering technical support to willing regional parties to maintain air space security, including consultation mechanisms with the Joint Interagency Task Force and the North American Aerospace Defense Command, to

improve security in the North American and Central American space; and

(5) proposing mechanisms to strengthen communication information and intelligence sharing on defense issues among the United States, Mexico, and Canada.

SEC. 7. REPATRIATION.

The Secretary of State shall—

(1) apply the necessary pressure on, and negotiate with, other countries to accept the International Civil Aviation Organization Annex 9 one-time travel document provided by the United States in lieu of official travel documents if an inadmissible immigrant has not presented official travel documents or has presented fraudulent ones; and

(2) provide the proper support and international pressure necessary to facilitate the removal of inadmissible aliens from the United States and their repatriation in, or reinstatement by, a responsible country, with a focus on criminal aliens that are deemed particularly dangerous or potential terrorists.

By Mr. FEINGOLD:

S. 854: A bill to require labeling of raw agricultural forms of ginseng, including the country of harvest, and for other purposes; to the Committee on agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I would like to discuss legislation I am introducing that would protect ginseng farmers and consumers by ensuring that ginseng is labeled accurately with where the root was harvested. The "Ginseng Harvest Labeling Act of 2005" is similar to bills that I introduced in previous Congresses and developed after hearing suggestions from ginseng growers and the Ginseng Board of Wisconsin.

I would like to take the opportunity to discuss American ginseng and the problems facing Wisconsin's ginseng growers so that my colleagues understand the need for this legislation. Chinese and Native American cultures have used ginseng for thousands of years for herbal and medicinal purposes. As a dietary supplement, American ginseng is widely touted for its ability to improve energy and vitality, particularly in fighting fatigue or stress.

In the U.S., ginseng is experiencing increasing popularity as a dietary supplement, and I am proud to say that my home State of Wisconsin is playing a central role in ginseng's resurgence. Wisconsin produces 97 percent of the ginseng grown in the United States, and 85 percent of the country's ginseng is grown in just one Wisconsin county, Marathon County. Ginseng is also grown in a number of other States such as Maine, Maryland, New York, North Carolina, Oregon, South Carolina, and West Virginia.

For Wisconsin, ginseng has been an economic boon. Wisconsin ginseng commands a premium price in world markets because it is of the highest quality and because it has a low pesticide and chemical content. In 2002, U.S. exports of ginseng totaled nearly $45 million, much of which was grown in Wisconsin. With a huge market for this high-quality ginseng overseas, and growing popularity for the ancient root here at home, Wisconsin's ginseng industry should have a prosperous future ahead.

Unfortunately, the outlook for ginseng farmers is marred by a serious problem—smuggled and mislabeled ginseng. Wisconsin ginseng is considered so superior to ginseng grown abroad that smugglers will go to great lengths to label ginseng grown in Canada or Asia as "Wisconsin-grown."

Here's how the switch takes place: Wisconsin ginseng is shipped to China to be sorted into various grades. While the sorting process is itself a legitimate part of distributing ginseng, smugglers too often use it as a ruse to switch Wisconsin ginseng with Asian- or Canadian-grown ginseng considered inferior by consumers. The lower quality ginseng is then shipped back to the U.S. for sale to American consumers who think they are buying the Wisconsin-grown product.

There is good reason consumers should want to know that the ginseng they buy is American-grown considering that the only accurate way of testing ginseng to determine where it was grown is to test for pesticides that are banned in the United States. The Ginseng Board of Wisconsin has been testing some ginseng found on store shelves, and in many of the products, residues of chemicals such as DDT, lead, arsenic, and quintozine (PCNB) have been detected. Since the majority of ginseng sold in the U.S. originates from countries with less stringent pesticide standards, it is vitally important that consumers know which ginseng is really grown in the U.S.

To capitalize on their product's preeminence, the Ginseng Board of Wisconsin has developed a voluntary labeling program, stating that the ginseng is "Grown in Wisconsin, U.S.A." However, Wisconsin ginseng is so valuable that counterfeit labels and ginseng smuggling have become widespread around the world. As a result, consumers have no way of knowing the most basic information about the ginseng they purchase—where it was grown, what quality or grade it is, or whether it contains dangerous pesticides.

My legislation, the Ginseng Harvest Labeling Act of 2005, proposes some common sense steps to address some of the challenges facing the ginseng industry. My legislation requires that ginseng, as a raw agricultural commodity, be sold at retail with a label clearly indicating the country that the ginseng was harvested in. "Harvest" is important because some Canadian and Chinese growers have ginseng plants that originated in the U.S., but because these plants were cultivated in a foreign country, they may have been treated with chemicals not allowed for use in the U.S. This label would also allow buyers of ginseng to more easily prevent foreign companies from mixing foreign-produced ginseng with ginseng harvested in the U.S. The country of harvest labeling is a simple but effective way to enable consumers to make an informed decision.

These common sense reforms would give ginseng growers the support they deserve and help consumers make informed choices about the ginseng that they consume. We must ensure that when ginseng consumers reach for a high-quality ginseng product—such as Wisconsin-grown ginseng—they are getting the real thing, not a knock-off.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ginseng Harvest Labeling Act of 2005".

SEC. 2. DISCLOSURE OF COUNTRY OF HARVEST.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

"Subtitle E—Ginseng

"SEC. 291. DISCLOSURE OF COUNTRY OF HARVEST.

"(a) DEFINITION OF GINSENG.—In this section, the term 'ginseng' means an herb or herbal ingredient that—

"(1) is derived from a plant classified within the genus Panax; and

"(2) is offered for sale as a raw agricultural commodity in any form intended to be used in or as a food or dietary supplement under the name of 'ginseng'.

"(b) DISCLOSURE.—

"(1) IN GENERAL.—A person that offers ginseng for sale as a raw agricultural commodity shall disclose to potential purchasers the country of harvest of the ginseng.

"(2) IMPORTATION.—A person that imports ginseng into the United States shall disclose the country of harvest of the ginseng at the point of entry of the United States, in accordance with section 304 of the Tariff Act of 1930 (19 U.S.C. 1304).

"(c) MANNER OF DISCLOSURE.—

"(1) IN GENERAL.—The disclosure required by subsection (b) shall be provided to potential purchasers by means of a label, stamp, mark, placard, or other clear and visible sign on the ginseng or on the package, display, holding unit, or bin containing the ginseng.

"(2) RETAILERS.—A retailer of ginseng shall—

"(A) retain disclosure provided under subsection (b); and

"(B) provide disclosure to a retail purchaser of the raw agricultural commodity.

"(3) REGULATIONS.—The Secretary of Agriculture shall by regulation prescribe with specificity the manner in which disclosure shall be made in transactions at wholesale or retail (including transactions by mail, telephone, or Internet or in retail stores).

"(d) FAILURE TO DISCLOSE.—The Secretary of Agriculture may impose on a person that fails to comply with subsection (b) a civil penalty of not more than—

"(1) $1,000 for the first day on which the failure to disclose occurs; and

"(2) $250 for each day on which the failure to disclose continues.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on the date that is 180 days after the date of enactment of this Act.

By Ms. COLLINS:

S. 855. A bill to improve the security of the Nation's ports by providing Federal grants to support Area Maritime Transportation Security Plans and to address vulnerabilities in port areas identified in approved vulnerability assessments or by the Secretary of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce the Port Security Grants Act of 2005. This legislation would establish a dedicated grant program within the Department of Homeland Security to enhance terrorism prevention and response efforts at our ports. It would provide the resources needed to better protect the American people from attack through these vital yet still extremely vulnerable centers of our economy and points of entry.

I am very pleased that my partner in this effort, Representative JANE HARMAN, today is introducing the same legislation in the House of Representatives. Congresswoman HARMAN knows well the vulnerability of our Nation's ports. Indeed, earlier this year, I accompanied her to the ports of Long Beach and Los Angeles to witness first hand the incredible volume of activity that occurs at these thriving economic centers—and the incredible security challenges that they pose. Congresswoman HARMAN's dedication to the security of our ports and our Nation as a whole makes her one of Congress' acknowledged leaders on homeland security matters. I am pleased that we have been able to join forces on this important initiative.

Funding to date to address security needs at our ports has been woefully inadequate. The Coast Guard estimates that implementing the provisions of the Maritime Transportation Security Act and similar requirements for international port security will cost $7.3 billion over the next decade. Yet, since MTSA was enacted, only the fiscal year 2005 budget request contained a line item for this crucial need, and that at a mere $46 million. Although the Administration's fiscal year 2006 budget request includes $600 million for infrastructure protection, it does not contain a dedicated line item for port security grant funding.

As a point of comparison, the Transportation Security Administration's fiscal year 2006 budget dedicates $4.9 billion for aviation security. As Dr. Stephen Flynn of the Council on Foreign Relations testified at a Homeland Security and Governmental Affairs Committee hearing in January, port security has received approximately 5 cents on the dollar—with the remaining 95 cents going to aviation security.

The legislation we propose will break the hand-to-mouth cycle that ports have faced for years. It does the following: First, it creates a competitive grant program administered by the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security. This is the same office that administers the State Grant and Urban Area Security Initiative programs.

Second, under our bill, grant funds will be used to address port security vulnerabilities identified through Area Maritime Transportation Security Plans, currently required by Federal statute, or through other DDS-sanctioned vulnerability assessments. In other words, grant dollars must be spent consistent with an established plan, not through a process divorced from efforts already underway.

Authorized uses of these grant funds include: acquiring, operating, and maintaining equipment that contributes to the overall security of the port area; conducting port-wide exercises to strengthen emergency preparedness; developing joint harbor operations centers to focus resources on port area security; implementing Area Maritime Transportation Security Plans; and covering the costs of additional security personnel during times of heightened alert levels.

Third, we require DHS to prioritize efforts to promote coordination among port stakeholders and integration of port-wide security, as well as information and intelligence sharing among first responders and federal, state, and local officials.

Fourth, we authorize funding for port security grants at $400 million per year for fiscal years 2007 through 2012. This steady, dedicated stream of funding would represent a substantial down payment on the billions of dollars of port security needs identified by the Coast Guard. It is also the amount the American Association of Ports Authorities believes needs to be dedicated annually to port security in order to begin addressing serious vulnerabilities.

Under our bill, port security dollars will originate from duties collected by Customs and Border Protection, and—with exceptions made for small or extraordinary projects—recipients will be required to contribute 25 percent of the cost. This cost-sharing requirement has precedents in other transportation funding and will ensure the development of true partnerships between the federal government and grant recipients.

Fifth, our legislation includes strong accountability measures—including audits and reporting requirements—to ensure the grant funds awarded under the bill are properly accounted for and spent as intended.

This legislation does call for a major commitment of resources. I am confident, however, that my colleagues recognize, as I do, that this commitment is fully proportional to what is at stake.

Approximately 95 percent of our Nation's trade, worth nearly $1 trillion, enters through one of our 361 seaports on board some 8,555 foreign vessels, which make more than 55,000 port calls per year. Clearly, an attack on the U.S. maritime transportation system could devastate our economy.

The potential for this devastation was amply demonstrated by the 2002 West Coast dock labor dispute, which cost our economy an estimated $1 billion per day, affected operations in 29 West Coast ports, and harmed businesses throughout the country. An unanticipated and violent act against a cargo port could result in economic costs that are incalculable, not to mention a potential loss of life that would be horrifying.

Much of the discussion regarding port security revolves around the security of inbound containers. At his confirmation hearing, Homeland Security Secretary Chertoff stated that his major concern is the introduction into the United States of chemical, biological, radiological, nuclear, or explosive threats via a shipping container. Secretary Chertoff is absolutely correct in identifying this as a major vulnerability.

But there are many other threats against ports. Just last month, the State Department issued a warning concerning information that terrorists may attempt to mount a maritime attack using speedboats against a Western ship, possibly in East Africa. This isn't the first instance of this type of attack—the USS *Cole* in 2000 and the French tanker *Limberg* in 2002 were both attacked by this method. The repeated use of suicide bombers and truck bombs around the world also raises great concern about our ports, and the critical infrastructure and population centers located around them.

Coming from a State with a strong maritime tradition and vital maritime industry, I am keenly aware of what is at stake. Maine has three international cargo ports. Each is a vital and multifaceted part of our economy: State, regional, and even national.

The Port of Portland, for example, is the largest port by tonnage in New England and the largest oil port on the East Coast. Ninety percent of its foreign cargo was crude oil. In addition, Portland has a booming cruise-ship industry, a vigorous fishing fleet, and an international ferry terminal. This wide range of activity provides economic opportunity and also provides terrorism vulnerability.

It is not my intention to suggest that our security agencies and ports are at a standstill. Indeed, much has been done to improve port security. The Coast Guard's Sea Marshals program places armed units on ships at sea to ensure their safe arrival and departure. The Container Security Initiative Bureau of Customs and Border Protection works with foreign governments to target high-risk cargo and to prevent terrorists from exploiting cargo containers. Detailed information is now required on each ship and its passengers, crew, and cargo. To upgrade security at international ports, the United States worked with the International Maritime Organization for the adoption of the International Ship and Port Security Code, the first multilateral port security standard ever created.

It is, however, my intention to assert that we must do more to improve port security on the front lines—the ports that line the harbor of cities and towns along our vast coastlines, the Great Lakes, our immense inland river network and in Alaska and Hawaii.

We observed this week two anniversaries that bear upon this issue. Monday was Patriot's Day, the 230th anniversary of the ride of Paul Revere. While I am not suggesting "one if by land, two if by sea" be adopted as a funding formula for homeland security, that famous phrase does remind us of the bond between security and transportation that has existed since our nation's very first days.

On a far more somber note, Tuesday was the 10th anniversary of Oklahoma City. As we paused to reflect on that horrific attack, we once again were confronted with the harsh reality that terrorists—whether foreign or domestic—will strike wherever they see vulnerability.

Our seaports are vulnerable. I urge my colleagues to join me in cosponsoring this legislation that will help deny terrorists an opportunity to strike at a vulnerable target.

By Mr. VOINOVICH (for himself and Mr. INHOFE):

S. 858. A bill to reauthorize Nuclear Regulatory Commission user fees, and or other purposes; to the Committee on Environmental and Public Works.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Nuclear Fees Reauthorization Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NRC USER FEES

Sec. 101. Nuclear Regulatory Commission user fees and annual charges.

TITLE II—NRC REFORM

Sec. 201. Treatment of nuclear reactor financial obligations.
Sec. 202. Period of combined license.
Sec. 203. Elimination of NRC antitrust reviews.
Sec. 204. Scope of environmental review.
Sec. 205. Medical isotope production.
Sec. 206. Cost recovery from government agencies.
Sec. 207. Conflicts of interest relating to contracts and other arrangements.
Sec. 208. Hearing procedures.
Sec. 209. Authorization of appropriations.

TITLE III—NRC HUMAN CAPITAL PROVISIONS

Sec. 301. Provision of support to university nuclear safety, security, and environmental protection programs.
Sec. 302. Promotional items.
Sec. 303. Expenses authorized to be paid by the Nuclear Regulatory Commission.
Sec. 304. Nuclear Regulatory Commission scholarship and fellowship program.
Sec. 305. Partnership program with institutions of higher education.
Sec. 306. Elimination of pension offset for certain rehired Federal retirees.
Sec. 307. Authorization of appropriations.

TITLE I—NRC USER FEES

SEC. 101. NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES.

(a) IN GENERAL.—Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "Except as provided in paragraph (3), the" and inserting "The"; and

(B) by striking paragraph (3); and

(2) in subsection (c)(2)—

(A) in subparagraph (A)—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) amounts appropriated to the Nuclear Regulatory Commission for the fiscal year for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (118 Stat. 2162; 50 U.S.C. 2601 note)"; and

(B) in subparagraph (B)(v), by inserting "and each fiscal year thereafter" after "2005".

(b) NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.—Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 2213) is repealed.

TITLE II—NRC REFORM

SEC. 201. TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.

Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—

"(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

"(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and

"(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170 c. of that Act (42 U.S.C. 2210(c)) is terminated.".

SEC. 202. PERIOD OF COMBINED LICENSE.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by striking "forty years" and inserting "40 years from the authorization to commence operations".

SEC. 203. ELIMINATION OF NRC ANTITRUST REVIEWS.

Section 105 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

"(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility or production facility under section 103 or 104 b., if the application is filed on or after, or is pending on, the date of enactment of this paragraph.".

SEC. 204. SCOPE OF ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—Chapter 10 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amended—

(1) by redesignating sections 110 and 111 as section 111 and 112, respectively; and

(2) by inserting after section 109 the following:

"SEC. 110. SCOPE OF ENVIRONMENTAL REVIEW.

"In conducting any environmental review (including any activity conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332)) in connection with an application for a license or a renewed license under this chapter, the Commission shall not give any consideration to the need for, or any alternative to, the facility to be licensed.".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by striking the item relating to section 110 and inserting the following:

"Sec. 110. Scope of environmental review.
"Sec. 111. Exclusions.
"Sec. 112. Licensing by Nuclear Regulatory Commission of distribution of certain materials by Department of Energy.";

(2) Section 57 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended in the last sentence by striking "section 111 b." and inserting "section 112 b.".

(3) Section 131 a.(2)(C) of the Atomic Energy Act of 1954 (42 U.S.C 2160(a)(2)(C), by striking "section 111 b." and inserting "section 112 b.".

(4) Section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842) is amended—

(A) by striking "section 110 a." and inserting "section 111 a."; and

(B) by striking "section 110 b." and inserting "section 111 b.".

SEC. 205. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

(1) by redesignating subsections a. and b. as subsections b. and a., respectively, and by moving subsection b. (as so redesignated) to the end of the section;

(2) in subsection b. (as so redesignated), by striking "b. The Commission" and inserting "b. Restrictions.—Except as provided in subsection c., the Commission"; and

(3) by adding at the end the following:

"c. Medical Isotope Production.—

"(1) Definitions.—In this subsection:

"(A) Medical isotope.—The term 'medical isotope' includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

"(B) Radiopharmaceutical.—The term 'radiopharmaceutical' means a radioactive isotope that—

"(i) contains byproduct material combined with chemical or biological material; and

"(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

"(C) Recipient country.—The term 'recipient country' means Belgium, Canada, France, Germany, and the Netherlands.

"(2) Licenses.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection b.), the Commission determines that—

"(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

"(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

"(i) uses an alternative nuclear reactor fuel; or

"(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

"(3) Review of physical protection requirements.—

"(A) In general.—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

"(B) Imposition of additional requirements.—If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

"(4) First report to congress.—

"(A) National academy of sciences study.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

"(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

"(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

"(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

"(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

"(B) Feasibility.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

"(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

"(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

"(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

"(C) Report by the secretary.—Not later than 5 years after the date of enactment of the Nuclear Fees Reauthorization Act of 2005, the Secretary shall submit to Congress a report that—

"(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

"(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

"(5) Second report to congress.—If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after the date of enactment of the Nuclear Fees Reauthorization Act of 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

"(6) Certification.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

"(7) Sunset provision.—After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate the review of the Commission of export license applications under this subsection.".

SEC. 206. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking "for or is issued" and all that follows through "1702" and inserting "to the Nuclear Regulatory Commission for, or is issued by the Nuclear Regulatory Commission, a license or certificate";

(2) by striking "483a" and inserting "9701"; and

(3) by striking ", of applicants for, or holders of, such licenses or certificates".

SEC. 207. CONFLICTS OF INTEREST RELATING TO CONTRACTS AND OTHER ARRANGEMENTS.

Section 170A b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210a(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking "b. The Commission" and inserting the following:

"b. Evaluation.—

"(1) In general.—Except as provided in paragraph (2), the Commission"; and

(3) by adding at the end the following:

"(2) Nuclear regulatory commission.—Notwithstanding any conflict of interest, the Nuclear Regulatory Commission may enter into a contract, agreement, or arrangement with the Department of Energy or the operator of a Department of Energy facility, if the Nuclear Regulatory Commission determines that—

"(A) the conflict of interest cannot be mitigated; and

"(B) adequate justification exists to proceed without mitigation of the conflict of interest.".

SEC. 208. HEARING PROCEDURES.

Section 189 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended by adding at the end the following:

"(C) Hearings.—A hearing under this section shall be conducted using informal adjudicatory procedures unless the Commission determines that formal adjudicatory procedures are necessary—

"(i) to develop a sufficient record; or

"(ii) to achieve fairness.".

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title and the amendments made by this title such sums as are necessary for fiscal year 2006 and each subsequent fiscal year.

TITLE III—NRC HUMAN CAPITAL PROVISIONS

SEC. 301. PROVISION OF SUPPORT TO UNIVERSITY NUCLEAR SAFETY, SECURITY, AND ENVIRONMENTAL PROTECTION PROGRAMS.

Section 31 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(b)) is amended—

(1) by striking "b. The Commission is further authorized to make" and inserting the following:

"b. Grants and Contributions.—The Commission is authorized—

"(1) to make";

(2) in paragraph (1) (as designated by paragraph (1)) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(2) to provide grants, loans, cooperative agreements, contracts, and equipment to institutions of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) to support courses, studies, training, curricula, and disciplines pertaining to nuclear safety, security, or environmental protection, or any other field that the Commission determines to be critical to the regulatory mission of the Commission.".

SEC. 302. PROMOTIONAL ITEMS.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"SEC. 170C. PROMOTIONAL ITEMS.

"The Commission may purchase promotional items of nominal value for use in the recruitment of individuals for employment.".

SEC. 303. EXPENSES AUTHORIZED TO BE PAID BY THE NUCLEAR REGULATORY COMMISSION.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by section 302) is amended by adding at the end the following:

"SEC. 170D. EXPENSES AUTHORIZED TO BE PAID BY THE COMMISSION.

"The Commission may—

"(1) pay transportation, lodging, and subsistence expenses of employees who—

"(A) assist scientific, professional, administrative, or technical employees of the Commission; and

"(B) are students in good standing at an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) pursuing courses related to the field in which the students are employed by the Commission; and

"(2) pay the costs of health and medical services furnished, pursuant to an agreement between the Commission and the Department of State, to employees of the Commission and dependents of the employees serving in foreign countries.".

SEC. 304. NUCLEAR REGULATORY COMMISSION SCHOLARSHIP AND FELLOWSHIP PROGRAM.

Chapter 19 of the Atomic Energy Act of 1954 is amended by inserting after section 242 (42 U.S.C. 2015a) the following:

"SEC. 243. SCHOLARSHIP AND FELLOWSHIP PROGRAM.

"(a) Scholarship Program.—To enable students to study, for at least 1 academic semester or equivalent term, science, engineering, or another field of study that the Commission determines is in a critical skill area related to the regulatory mission of the Commission, the Commission may carry out a program to—

"(1) award scholarships to undergraduate students who—

"(A) are United States citizens; and

"(B) enter into an agreement under subsection (c) to be employed by the Commission in the area of study for which the scholarship is awarded.

"(b) Fellowship Program.—To enable students to pursue education in science, engineering, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission, in a graduate or professional degree program offered by an institution of higher education in the United States, the Commission may carry out a program to—

"(1) award fellowships to graduate students who—

"(A) are United States citizens; and

"(B) enter into an agreement under subsection (c) to be employed by the Commission in the area of study for which the fellowship is awarded.

"(c) Requirements.—

"(1) In general.—As a condition of receiving a scholarship or fellowship under subsection (a) or (b), a recipient of the scholarship or fellowship shall enter into an agreement with the Commission under which, in return for the assistance, the recipient shall—

"(A) maintain satisfactory academic progress in the studies of the recipient, as determined by criteria established by the Commission;

"(B) agree that failure to maintain satisfactory academic progress shall constitute grounds on which the Commission may terminate the assistance;

"(C) on completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, engage in employment by the Commission for a period specified by the Commission, that shall be not less than 1 time and not more than 3 times the period for which the assistance was provided; and

"(D) if the recipient fails to meet the requirements of subparagraph (A), (B), or (C), reimburse the United States Government for—

"(i) the entire amount of the assistance provided the recipient under the scholarship or fellowship; and

"(ii) interest at a rate determined by the Commission.

"(2) Waiver or suspension.—The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by a recipient of a scholarship or fellowship under this section.

"(d) Competitive Process.—Recipients of scholarships or fellowships under this section shall be selected through a competitive process primarily on the basis of academic merit and such other criteria as the Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a, 1885b).

"(e) Direct Appointment.—The Commission may appoint directly, with no further competition, public notice, or consideration of any other potential candidate, an individual who has completed the academic program for which a scholarship or fellowship was awarded by the Commission under this section.".

SEC. 305. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF HIGHER EDUCATION.

Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) (as amended by section 304) is amended by inserting after section 243 the following:

"SEC. 244. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF HIGHER EDUCATION.

"(a) Definitions.—In this section:

"(1) Hispanic-serving institution.—The term 'Hispanic-serving institution' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

"(2) Historically black college and university.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(3) Tribal college.—The term 'Tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

"(b) Partnership Program.—The Commission may establish and participate in activities relating to research, mentoring, instruction, and training with institutions of higher education, including Hispanic-serving institutions, historically Black colleges or universities, and Tribal colleges, to strengthen the capacity of the institutions—

"(1) to educate and train students (including present or potential employees of the Commission); and

"(2) to conduct research in the field of science, engineering, or law, or any other field that the Commission determines is important to the work of the Commission.".

SEC. 306. ELIMINATION OF PENSION OFFSET FOR CERTAIN REHIRED FEDERAL RETIREES.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by sections 302 and 303) is amended by adding at the end the following:

"SEC. 170E. ELIMINATION OF PENSION OFFSET FOR CERTAIN REHIRED FEDERAL RETIREES.

"(a) In General.—The Commission may waive the application of section 8344 or 8468 of title 5, United States Code, on a case-by-case basis for employment of an annuitant—

"(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(2) when a temporary emergency hiring need exists.

"(b) Procedures.—The Commission shall prescribe procedures for the exercise of authority under this section, including—

"(1) criteria for any exercise of authority; and

"(2) procedures for a delegation of authority.

"(c) Effect of Waiver.—An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5, United States Code.".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title and amendments made by this title such sums as may be necessary for fiscal year 2006 and each fiscal year thereafter.

By Mr. SANTORUM (for himself, Mr. Kerry, Mr. Smith, Ms. Stabenow, Mr. Allard, and Mr. Sarbanes):

S. 859. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I rise today to introduce the Community Development Homeownership Tax Credit Act. I am very pleased to be joined in this effort by Senators Kerry, Smith, Stabenow, Allard, and Sarbanes, who are original cosponsors of this legislation.

Homeownership is a key component of the American Dream. Many people around this country dream of and plan for the day they can buy a home of their own in which to raise their children, to settle down in a community, and to build equity and wealth. They see the importance of homeownership and the stability it can bring to families and neighborhoods. It is often homeownership that financially anchors American families and civically anchors our communities. But I believe our focus on homeownership also returns our attention to the basic ideals of the American Dream. Ensuring access to homeownership is among the most significant ways we can empower our citizens to achieve the happy, productive and stable lifestyle everyone desires.

Having a house of one's own that provides security and comfort to one's family and that gives families an active, vested interest in the quality of life their community provides is central to our collective ideas about freedom and self-determination. As a nation, we know that homeownership helps the emotional and intellectual growth and development of children. We know that homeowners show greater interest and more frequent participation in civic organizations and neighborhood issues. We know that when people own homes, they are more likely to accumulate wealth and assets and to prepare themselves financially for such things as their children's education and retirement.

In America today, homeownership is at a record high. Unfortunately, there remains a significant homeownership gap between minority and non-minority populations, leaving homeownership an elusive financial prospect for many. According to the Census Bureau, in 2004, the homeownership rate for non-Hispanic whites reached 76 percent, compared to 49.1 percent for African-Americans and 48.1 percent for Hispanics or Latinos.

The bill I introduce today enjoys strong bipartisan support in the Senate and will encourage increased homeownership rates, more stable neighborhoods and strong communities. This legislation would give developers and investors an incentive to participate in the rehabilitation and construction of homes for low- and moderate-income buyers. It will also spur economic development in low- and moderate-income communities across our country and provide an important stimulus for the development of our nation's economy.

This proposal is modeled after the very successful low-income rental tax credit. It will allow states to allocate tax credits to developers and investors to construct or substantially rehabilitate homes in economically disadvantaged communities, including rural areas, for sale to low- or moderate-income buyers. These tax credits will help bridge the gap between the cost of developing affordable housing and the price at which these homes can be sold to eligible buyers in low-income neighborhoods where housing is scarce. It provides investors with a tax credit of up to 50 percent of the cost of home construction or rehabilitation. It is estimated that this legislation will encourage the construction and substantial rehabilitation of up to 500,000 homes for low- and moderate-income families in economically distressed areas over the next ten years.

President Bush has long supported the creation of a homeownership tax credit as have the majority of both the House and Senate in the last Congress. This proposal also has the backing of a large and broad coalition of housing-related groups, including the National Association of Home Builders, the National Council of State Housing Agencies, and the National Association of Realtors. In addition, this initiative has the backing of major non-profit groups, including Habitat for Humanity, as well as the Local Initiatives Support Corporation and the Enterprise Foundation.

This important legislation addresses a key issue facing many Americans today, housing affordability. It also addresses the community development needs of many neighborhoods. It continues to have strong bipartisan support, and I am hopeful that it will be enacted this year. I ask my colleagues to join me in supporting homeownership by cosponsoring this legislation.

By Mr. ALEXANDER (for himself and Mr. KENNEDY):

S. 860. A bill to amend the National Assessment of Educational Progress Authorization Act to require State academic assessments of student achievement in United States history and civics, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, today I am introducing the "American History Achievement Act" and am pleased to be joined in this effort by the senior Senator from Massachusetts. This is part of my effort to put the teaching of American history and civics back in its rightful place in our schools so our children can grow up learning what it means to be an American.

The "American History Achievement Act" gives the National Assessment Governing Board (NAGB) the authority to administer a ten State pilot study of the National Assessment of Education Progress (NAEP) test in U.S. history in 2006. They already have that authority for reading, math, science, and writing. The bill also includes a new provision that would permit a 10-state pilot study for the Civics NAEP test if funding is available.

This modest bill provides for improved testing of American history so that we can determine where history is being taught well—and where it is being taught poorly—so that improvements can be made. We also know that when testing is focused on a specific subject, states and school districts are more likely to step up to the challenge and improve performance.

We could certainly use improvement in the teaching of American history. According to the National Assessment of Education Progress (NAEP), commonly referred to as the "Nation's Report Card," fewer students have just a basic understanding of American history than have a basic understanding of any other subject which we test—including math, science, and reading. When you look at the national report card, American history is our children's worst subject.

Yet, according to recent poll results, the exact opposite outcome is desired by the American people. Hart-Teeter conducted a poll last year of 1300 adults for the Educational Testing Service (ETS), where they asked what the principal goal of education should be. The top response was "producing literate, educated citizens who can participate in our democracy." Twenty-six percent of respondents felt that should be our principal goal. "Teach basics: math, reading, writing" was selected by only 15 percent as the principal goal of education. You can't be an educated participant in our democracy if you don't know our history.

Our children don't know American history because they are not being taught it. For example, the state of Florida recently passed a bill permitting high school students to graduate without taking a course in U.S. history.

And when our children are being taught our history, they're not learning what's most important. According to Harvard scholar Samuel Huntington, "A 1987 study of high school students found that more knew who Harriet Tubman was than knew that Washington commanded the American army in the Revolution or that Abraham Lincoln wrote the Emancipation Proclamation." Now I'm all for teaching about the history of the Underground Railroad—my ancestor, the Reverend John Rankin, like Harriet Tubman, was a conductor on the Underground Railroad—but surely children ought to learn first about the most critical leaders and events in the Revolution and the Civil War.

Let me give a few examples of just how bad things have gotten:

The 4th grade NAEP test asks students to identify the following passage: "We hold these truths to be self-evident: That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. . . ." Students were given four choices for the source of that passage: (a) Constitution, (b) Mayflower Compact, (c) Declaration of Independence, and (d) Article of the Confederation.

Only 46 percent of students answered correctly that it came from the Declaration of Independence. The Declaration is the fundamental document for the founding of our Nation, but less than half the students could identify that famous passage from it.

The 8th grade test asks students to "Imagine you could use a time machine to visit the past. You have landed in Philadelphia in the summer of 1776. Describe an important event that is happening." Nearly half the students—46 percent were not able to answer the question correctly that the Declaration of Independence was being signed. They must wonder why the Fourth of July is Independence Day.

We can't allow this to continue. Our children are growing up without even learning the basics of our Nation's history. Something has to be done. This legislation aims to help in that effort.

The pilot program authorized in the bill should collect enough data to attain a state-by-state comparison of 8th and 12th grades student's knowledge and understanding of U.S. history. That data will allow us to know which States are doing a better job of teaching American history and allow other States to model their programs on those that are working well. It will also put a spotlight on American history that should encourage States and school districts to improve their efforts at teaching the subject.

I suspect that the pilot program will tell us that history programs like those of the House Page School, right here on Capitol Hill, are the model to follow. On January 25, the College Board announced that the House page school ranked first in the Nation among institutions with fewer than 500 pupils for the percentage of the student body who achieved college-level mastery on the advanced placement exam in U.S. history. The page school achieved this result not only by teaching American history, but also because teachers highlight American history in all of their classes—from science to literature—as well as taking students on field trips around the Washington area, from Monticello to the American History Museum here in Washington, to historical sites in Philadelphia. The House Page School's success is evidence that we can succeed in teaching our children the history of this great Nation. I suspect we will uncover more effective models for the teaching of American history with the enactment of this legislation.

Our children are growing up ignorant of our Nation's history. Yet a recent poll tells us that Americans believe the principal goal of education is "producing literate, educated citizens who can participate in our democracy." It is time to put the teaching of American history and civics back in its rightful place in our schools so our children can grow up learning what it means to be an American. This bill takes us one step closer to achieving that noble goal. I urge my colleagues to support it.

Mr. KENNEDY. Mr. President, I'm pleased to join Senator ALEXANDER again this year in introducing the American History Achievement Act. This bill is part of a continuing effort to renew the national commitment to teaching history and civics in the Nation's public schools. It lays the foundation for more effective ways of teaching children about the Nation's past and the value of civic responsibility. It contains no new requirements for schools, but it does offer a more frequent and effective analysis of how America's schoolchildren are learning these important subjects.

Our economy and our future security rely on good schools that help students develop specific skills, such as reading and math. But the strength of our democracy and our standing in the world also depend on ensuring that children have a basic understanding of the nation's past and what it takes to engage in our democracy. An appreciation for the defining events in our nation's history can be a catalyst for civic involvement.

Helping to instill appreciation of America's past—and teaching the values of justice, equality, and civic responsibility—should be an important mission of public schools. Thanks to the hard work of large numbers of history and civics teachers in classrooms throughout America, we're making progress. Results from the most recent assessment under the NAEP show that fourth and eighth graders are improving their knowledge of U.S. history. Research conducted in history classrooms shows that children are using primary sources and documents more often to explore history, and are being assigned historical and biographical readings by their teachers more frequently.

But much more remains to be done to advance the understanding of both of these subjects, and see to it that they are not left behind in classrooms.

A recent study by Dr. Sheldon Stern—the Chief Historian Emeritus at my brother's Presidential Library—suggests that State standards for teaching American history need improvement. His research reveals that 22 States have American history standards that are either weak or lack clear chronology, appropriate political and historical context, or sufficient information about real events and people. As many as 9 States still have no standards at all for American history.

Good standards matter. They're the foundation for teaching and learning in every school. With the right resources, time, and attention, it's possible to develop creative and effective history standards in every State. Massachusetts began to work on this effort in 2000, through a joint review of history standards that involved teachers, administrators, curriculum coordinators, and university professors. After monthly meetings and three years of development and revision, the state released a new framework for teaching history in 2003. Today, our standards in American history and World history receive the highest marks.

School budget problems at the local level are also a serious threat to these goals.

Other accounts report that schools are narrowing their curriculums away from the social sciences, arts, and humanities, in favor of a more concentrated approach to the teaching of reading and math in order to meet the strict standards of the No Child Left Behind Act.

Meeting high standards in reading and math is important, but it should not come at the expense of scaling back teaching in other core subjects such as history and civics. Integrating reading and math with other subjects often gives children a better way to master literacy and number skills, even while learning in a history, geography, or government lesson. That type of innovation deserves special attention in our schools. Making it happen requires added investments in teacher preparation and teacher mentoring, so that teachers are well prepared to use interdisciplinary methods in their lesson plans.

Our bill today takes several important steps to strengthen the teaching of American history and civics, and raise the standing of these subjects in school curriculums. Through changes to the National Assessment for Educational Progress, schools will be better able to achieve success on this important issue.

First, we propose a more frequent national assessment of children in American history under the NAEP. For years, NAEP has served as the gold standard for measuring the progress of students and reporting on that progress. Students last participated in the U.S. history NAEP in 2001, and that assessment generated encouraging results. But the preceding assessment with which we can compare data—was administered in 1994—too long before to be of real assistance.

It makes sense to measure the knowledge and skills of children more frequently. This bill would place priority on administering the national U.S. history NAEP assessment, to generate a more timely picture of student progress. We should have an idea of children's knowledge and skills in American history more often than every 6 or 7 years, in order to address gaps in learning.

The bill also proposes a leap forward to strengthen State standards in American history and civics, through a new State-level pilot assessment of these subjects under NAEP. The assessment would be conducted on an experimental basis in 10 States, in grades 8 and 12. The National Assessment Governing Board would ensure that States with model standards, as well as those that are still under development, participate in this assessment.

Moving NAEP to the State level does not carry any high stakes for schools. But it will provide an additional benchmark for States to develop and improve their standards. It's our hope that states will also be encouraged to undertake improvements in their history curricula and in their teaching of civics, and ensure that both subjects are a beneficiary and not a victim of school reform.

America's past encompasses great leaders and great ideas that contributed to our heritage and to the principles of freedom, equality, justice, and opportunity for all. Today's students will be better citizens in the future if they learn more about that history and about the skills needed to participate in our democracy. The American History Achievement Act is an important effort toward that goal, and I encourage my colleagues to support it.

By Mr. ISAKSON (for himself and Mr. ROCKEFELLER):

S. 861. A bill to amend the Internal Revenue Code of 1986 to provide transition funding rules for certain plans electing to cease future benefit accruals, and for other purposes; to the Committee on Finance.

Mr. ISAKSON. Mr. President, today I join with Senator ROCKEFELLER to introduce the Employee Pension Preservation Act of 2005. This bill seeks to eliminate the threat that airline employees are facing to their earned pensions as a result of funding laws that make pension funding schedule volatile and unpredictable. The Employee Pension Preservation Act of 2005 would allow their employers to make the required pension payments in a more predictable and manageable way. This common sense, industry specific approach is supported by airline employees and their employers.

We are giving airlines the ability to fund their pension obligations to their employees on a more manageable and stabilized 25-year schedule using stable long-term assumptions. It is analogous to refinancing a short-term adjustable rate mortgage to a more predictable long-term fixed rate mortgage. It protects the interests of the American taxpayer by capping the Pension Benefit Guarantee Corporation's liabilities at current levels, and ensures that a uniform evenhanded policy is taken with respect to the entire industry. Finally, this must be a joint decision made by the airline and its employees.

We are establishing a payment schedule for unfunded liabilities that is both affordable and practical, while properly protecting the interests of airline employees, airlines, and the American taxpayer. I commend Senator ROCKEFELLER for joining me in introducing this important legislation, and look forward to its passage so that we can provide stability to airline employees with regards to the funding of their earned pensions.

Mr. ROCKEFELLER. Mr. President, the U.S. airline industry continues to teeter on the brink of financial collapse. The industry lost over $9 billion in 2004 and the airlines are expected to lose another $1.9 billion in 2005. Our Nation cannot afford to let this vital part of our economy collapse. Our economic prosperity is tied to a healthy and growing aviation industry.

As we saw after the events of September 11, 2001, the shutdown of our aviation systems caused a massive disruption to the flow of people and goods throughout the world. Without a healthy airline industry, our economy will not grow. I do not believe the significance of aviation to our economy can be overstated. I do not think many in Congress and across the country realize that over 10 million people are employed directly in the aviation industry. For every job in the aviation industry, 15 related jobs are produced. In my State of West Virginia, aviation represents $3.4 billion of the State's gross domestic product and directly and indirectly employs 51,000 people.

The airline industry has been hard hit in recent years by high oil prices, weak revenue, and low fare competition. Since 2001, the airline industry has lost more than $30 billion collectively, and while aviation analysts expect 2005 will be a significant improvement over recent years, most estimates assume oil prices drop significantly from current levels—a matter that increasingly remains in doubt.

Many airlines have aggressively cut costs through a number of means, most notably by reducing labor expenditures and through decreasing capacity by cutting flight frequencies, using smaller aircraft, or eliminating service to some communities.

Despite the airlines' efforts, they have not been able to return to financial stability. The Federal Government is faced with serious and difficult choices in how to ensure both the short-term and long-term viability of the Nation's aviation industry. The one choice we do not have is the choice not to act. Although Congress cannot restore profitability to the airline industry with a law, we can create the atmosphere for the industry to succeed, grow, and bring people back to work. If we fail to act, tens of thousands of employees will lose their jobs on top of the 200,000 that have already lost their jobs, small communities will lose their air service, and the United States will lose its global leadership in aviation.

One of the greatest threats to the future financial viability of the airlines is pension funding. Congress needs to reform the pension rules to provide the tools airlines need to maintain their pension plans. As a step in the right direction, I am pleased to introduce legislation today with Senator ISAKSON that protects the retirement plans airline employees depend on.

The Employee Pension Preservation Act of 2005 provides critical pension funding relief to the commercial airline industry by allowing the airlines to fund their pension obligations over a 25-year time horizon. Last year, recognizing that the airlines were facing extraordinary circumstances, Congress provided airlines a temporary reprieve from deficit reduction contributions.

However, when that temporary relief expires at the end of the year, airlines will face immediate and crushing pension bills. Congress needs to provide permanent, appropriate remedies that enable airlines to maintain their pension plans. If we do not provide any flexibility in paying the pension obligations, then certainly more airlines will be forced to terminate their plans altogether. The legislation that Senator ISAKSON and I are offering enables airlines to meet all of their pension obligations on a reasonable schedule.

Some people may worry that by granting airlines an extended payment period we are increasing the risks to the Pension Benefit Guaranty Corporation, which insures the airlines' defined benefit plans. However, I am hopeful that by making the funding rules more flexible this bill will actually decrease the likelihood that pension plans will be terminated and the PBGC saddled with unfunded obligations. Let me be clear, this legislation requires airlines to fully fund all of their past and future pension promises. It merely provides a more reasonable schedule for recovering from the recent downturn that hurt many pension plans.

Moreover, the bill includes provisions to limit the liability potentially faced by the Government insurance agency. In contrast to the status quo, any pension plans that take advantage of the funding relief offered by our legislation would accrue no additional PBGC obligation. To the extent that any additional pension benefits are earned by employees, the benefits would have to be immediately and fully funded by the employer.

As a member of the Senate Finance Committee, I have been working for years to improve our defined benefit pension system. I recognize that there are few easy answers or quick fixes. And I do not suggest that the legislation we are introducing today is a silver bullet for the airlines' defined benefit plans. Still, I am pleased to support this bill because it is a responsible compromise agreed to by both the labor and management representatives in the airline industry. That is very important to me, because this legislation will require some difficult sacrifices especially on the part of workers who may no longer accrue guaranteed benefits. While I have reservations about any agreement to limit the PBGC guarantee of pensions, I have been assured that in this particular case employees support this compromise and see it as the best opportunity to save their hard earned retirement benefits.

I hope that my colleagues will carefully examine this proposal and join Senator ISAKSON and me in a debate about how we can better secure the pensions of airline employees. I appreciate that our legislation is not likely to pass the Congress without negotiation and compromise. Indeed, I welcome opportunities to improve this legislation. But I do not believe that we can ignore the plight that the airlines face, and I will work to enact prudent reforms as soon as possible.

By Mr. CONRAD (for himself, Mr. ALLEN, Mr. ALEXANDER, Mr. BAUCUS, Mr. BINGAMAN, Mr. CHAFEE, Mr. COCHRAN, Mr. CORZINE, Mr. CRAIG, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. HAGEL, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. MCCAIN, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Ms. STABENOW, Mr. STEVENS, and Mr. WARNER):

S. 863. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CONRAD. Mr. President, I am pleased to introduce, with Senator ALLEN, and 27 of our colleagues, the Theodore Roosevelt Commemorative Coin Act, which would commemorate the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt. This bill authorizes the Secretary of the Treasury to mint and issue coins bearing the likeness of Theodore Roosevelt. The sales of these coins would support programs to educate the public about the impressive achievements of our 26th President.

President Roosevelt is one of our most celebrated presidents. Among his many achievements, Roosevelt received the Congressional Medal of Honor for leading a daring charge up San Juan Hill, which turned the tide in that battle near Santiago, Cuba.

North Dakota has a special connection with Theodore Roosevelt. Roosevelt liked to say that the years he spent in the Badlands of North Dakota were the best of his life. He even attributed his success as President to his experiences as a hunter and rancher in western North Dakota.

It is with great pride that I introduce the Theodore Roosevelt Commemorative Coin Act, which honors President Roosevelt's foreign policy achievements and commitment to conservation in this country. In particular, the bill highlights his success in drawing up the 1905 peace treaty ending the Russo-Japanese War. This accomplishment earned him the 1906 Nobel Peace Prize—making him the first citizen of the United States to receive the Peace Prize. The bill also pays tribute to his enduring respect for our nation's wildlife and natural resources. During his tenure as President, Roosevelt established 51 Bird Reserves, 4 Game Preserves, 150 National Forests, 5 National Parks, and 18 National Monuments, totaling nearly 230 million acres of land placed under public protection.

It is fitting that the proceeds from the surcharge associated with the coin be used for educational programs at two very important sites in the life of Theodore Roosevelt—his home in New York, Sagamore Hill National Historic Site, and the national park that bears his name and honors his conservation efforts, Theodore Roosevelt National Park, located in Medora, North Dakota. These two sites played a significant role in the development of Teddy Roosevelt's policies and offered him refuge away from the stress associated with public life.

As a North Dakotan and an American, it is my hope that this bill will renew interest in the life of Theodore Roosevelt. Roosevelt's courage, patriotism, optimism, and spirit reflect what is best about our country, and he is remembered not only as a great statesman, but also a friend to the environment. I encourage my colleagues to support this important legislation to honor Theodore Roosevelt's contributions to U.S. foreign and domestic policy and build upon his efforts to promote respect for our Nation's lands.

By Mr. INHOFE (for himself and Mr. VOINOVICH):

S. 864. A bill to amend the Atomic Energy Act of 1954 to modify provisions relating to nuclear safety and security, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Safety and Security Act of 2005".

SEC. 2. DEFINITION OF COMMISSION.

In this Act, the term "Commission" means the Nuclear Regulatory Commission.

SEC. 3. GENERAL PROVISIONS.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended—

(1) by striking "SEC. 161" and all that follows through "authorized to—" and inserting the following:

"SEC. 161. GENERAL PROVISIONS.";

(2) in each of subsections a., b., c., d., e., f., h., i., j., m., n., o., p., s., t., v., and w., by inserting "In carrying out the duties of the Commission, the Commission may" after the subsection designation;

(3) in subsection u., by striking "(1) enter into" and inserting "In carrying out the duties of the Commission, the Commission may—

"(1) enter into";

(4) in subsection x., by striking "Establish" and inserting "In carrying out the duties of the Commission, the Commission may establish";

(5) in each of subsections a., b., c., d., e., f., h., j., m., n., s., and v., by striking the semicolon at the end and inserting a period;

(6) in subsection o., by striking "; and" at the end and inserting a period;

(7) in subsection t., by striking the semicolon at the end; and

(8) by indenting each subdivision appropriately.

SEC. 4. USE OF FIREARMS BY SECURITY PERSONNEL.

The Atomic Energy Act of 1954 is amended by inserting after section 161 (42 U.S.C. 2201) the following:

"SEC. 161A. USE OF FIREARMS BY SECURITY PERSONNEL.

"(a) DEFINITIONS.—In this section, the terms 'handgun', 'rifle', 'shotgun', 'firearm', 'ammunition', 'machinegun', 'short-barreled shotgun', and 'short-barreled rifle' have the meanings given the terms in section 921(a) of title 18, United States Code.

"(b) AUTHORIZATION.—Notwithstanding subsections (a)(4), (a)(5), (b)(2), (b)(4), and (o) of section 922 of title 18, United States Code, section 925(d)(3) of title 18, United States Code, section 5844 of the Internal Revenue Code of 1986, and any law (including regulations) of a State or a political subdivision of a State that prohibits the transfer, receipt, possession, transportation, importation, or use of a handgun, a rifle, a shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for any such gun or weapon, or a large capacity ammunition feeding device, in carrying out the duties of the Commission, the Commission may authorize the security personnel of any licensee or certificate holder of the Commission (including an employee of a contractor of such a licensee or certificate holder) to transfer, receive, possess, transport, import, and use 1 or more such guns, weapons, ammunition, or devices, if the Commission determines that—

"(1) the authorization is necessary to the discharge of the official duties of the security personnel; and

"(2) the security personnel—

"(A) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws relating to possession of firearms by a certain category of persons;

"(B) have successfully completed any requirement under this section for training in the use of firearms and tactical maneuvers;

"(C) are engaged in the protection of—

"(i) a facility owned or operated by a licensee or certificate holder of the Commission that is designated by the Commission; or

"(ii) radioactive material or other property owned or possessed by a licensee or certificate holder of the Commission, or that is being transported to or from a facility owned or operated by such a licensee or certificate holder, and that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

"(D) are discharging the official duties of the security personnel in transferring, receiving, possessing, transporting, or importing the weapons, ammunition, or devices.

"(c) Background Checks.—A person that receives, possesses, transports, imports, or uses a weapon, ammunition, or a device under subsection (b) shall be subject to a background check by the Attorney General, based on fingerprints and including a background check under section 103(b) of the Brady Handgun Violence Prevention Act (Public Law 103–159; 18 U.S.C. 922 note) to determine whether the person is prohibited from possessing or receiving a firearm under Federal or State law.

"(d) Effective Date.—This section takes effect on the date on which regulations are promulgated by the Commission, with the approval of the Attorney General, to carry out this section."

SEC. 5. FINGERPRINTING AND CRIMINAL HISTORY RECORD CHECKS.

Section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) is amended—

(1) in subsection a.—

(A) by striking "a. The Nuclear" and all that follows through "section 147." and inserting the following:

"a.(1)(A)(i) The Commission shall require each individual or entity described in clause (ii) to fingerprint each individual described in subparagraph (B) before the individual described in subparagraph (B) is permitted access under subparagraph (B).

"(ii) The individuals and entities referred to in clause (i) are individuals and entities that, on or before the date on which an individual is permitted access under subparagraph (B)—

"(I) are licensed or certified to engage in an activity subject to regulation by the Commission;

"(II) have filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

"(III) have notified the Commission in writing of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission.

"(B) The Commission shall require to be fingerprinted any individual who—

"(i) is permitted unescorted access to—

"(I) a utilization facility; or

"(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

"(ii) is permitted access to safeguards information under section 147.";

(B) by striking "All fingerprints obtained by a licensee or applicant as required in the preceding sentence" and inserting the following:

"(2) All fingerprints obtained by an individual or entity as required in paragraph (1)";

(C) by striking "The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant." and inserting the following:

"(3) The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A)."; and

(D) by striking "Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to licensee or applicant submitting such fingerprints." and inserting the following:

"(4) Notwithstanding any other provision of law—

"(A) the Attorney General may provide any result of an identification or records check under paragraph (2) to the Commission; and

"(B) the Commission, in accordance with regulations prescribed under this section, may provide the results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).";

(2) in subsection c.—

(A) by striking ", subject to public notice and comment, regulations—" and inserting "requirements—"; and

(B) in paragraph (2)(B), by striking "unescorted access to the facility of a licensee or applicant" and inserting "unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)";

(3) by redesignating subsection d. as subsection e.; and

(4) by inserting after subsection c. the following:

"d. The Commission may require a person or individual to conduct fingerprinting under subsection a.(1) by authorizing or requiring the use of any alternative biometric method for identification that has been approved by—

"(1) the Attorney General; and

"(2) the Commission, by regulation.".

SEC. 6. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 of the Atomic Energy Act of 1954 (42 U.S.C. 2278a) is amended—

(1) by striking "Sec. 229. Trespass Upon Commission Installations.—" and inserting the following:

"SEC. 229. TRESPASS ON COMMISSION INSTALLATIONS.";

(2) by adjusting the indentations of subsections a., b., and c. so as to reflect proper subsection indentations; and

(3) in subsection a.—

(A) in the first sentence, by striking "a. The" and inserting the following:

"a.(1) The";

(B) in the second sentence, by striking "Every" and inserting the following:

"(2) Every"; and

(C) in paragraph (1) (as designated by subparagraph (A))—

(i) by striking "or in the custody" and inserting "in the custody"; and

(ii) by inserting ", or subject to the licensing authority of the Commission or certification by the Commission under this Act or any other Act" before the period.

SEC. 7. SABOTAGE OF NUCLEAR FACILITIES, FUEL, OR DESIGNATED MATERIAL.

(a) In General.—Section 236a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking "storage facility" and inserting "treatment, storage, or disposal facility";

(2) in paragraph (3)—

(A) by striking "such a utilization facility" and inserting "a utilization facility licensed under this Act"; and

(B) by striking "or" at the end;

(3) in paragraph (4)—

(A) by striking "facility licensed" and inserting ", uranium conversion, or nuclear fuel fabrication facility licensed or certified"; and

(B) by striking the comma at the end and inserting a semicolon; and

(4) by inserting after paragraph (4) the following:

"(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

"(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

"(7) any radioactive material or other property subject to regulation by the Commission that, before the date of the offense, the Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security;".

(b) Conforming Amendment.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended by striking "intentionally and willfully" each place it appears and inserting "knowingly".

By Mr. VOINOVICH:

S. 865. A bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Price-Anderson Amendments Act of 2005".

SEC. 2. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) Indemnification of Nuclear Regulatory Commission Licensees.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking "**LICENSES**" and inserting "**LICENSEES**";

(2) by striking "December 1, 2003" and inserting "December 1, 2025"; and

(3) by striking "December 31, 2003" each place it appears and inserting "December 31, 2025".

SEC. 3. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "August 1, 2025".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act take effect on December 1, 2003.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 114—RECOGNIZING THE 100TH ANNIVERSARY OF THE AMERICAN THORACIC SOCIETY, CELEBRATING ITS ACHIEVEMENTS, AND ENCOURAGING THE SOCIETY TO CONTINUE OFFERING ITS GUIDANCE ON LUNG-RELATED HEALTH ISSUES TO THE PEOPLE OF THE UNITED STATES AND TO THE WORLD

Mr. CRAPO submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions.

S. RES. 114

Whereas in 1905, Drs. Olser, Trudeau, Janeway, and Knopf, leaders in the fight in the United States against tuberculosis, created the American Sanatorium Association, an organization dedicated to the improvement of tuberculosis care and treatment at tuberculosis sanatoriums in the United States;

Whereas in 1939, the name of the American Sanatorium Association was changed to the American Trudeau Society, honoring Dr. Edward Livingston Trudeau and recognizing the growing scientific interest in the study of lung diseases beyond tuberculosis, and in 1960 the American Trudeau Society became the American Thoracic Society in keeping with the evolution of the medical specialty area from phthisiology to pulmonology, that is, from tuberculosis to the whole range of respiratory disorders;

Whereas in 1917, to fulfill its mission as a scientific society, the American Sanatorium Association began the publication of an academic journal, the American Review of Tuberculosis, a text that carried articles on the classification of tuberculosis, diagnostic standards, and related topics on the diagnosis, treatment, cure and prevention of tuberculosis, and in the following years, the journal was renamed the American Review of Tuberculosis and Pulmonary Disease, and finally, the American Journal of Respiratory and Critical Care Medicine;

Whereas in 1989, the American Thoracic Society began publication of the American Journal of Respiratory Cell and Molecular Biology to recognize the contribution of basic research to the field of respiratory medicine;

Whereas the American Thoracic Society hosts the largest global scientific meeting dedicated to highlighting and disseminating research findings and clinical advances in the prevention, detection, treatment, and cure of respiratory diseases;

Whereas the American Thoracic Society continues to meet its clinical and scientific mission through its publication of academic journals and clinical statements on the prevention, diagnosis, treatment, and the cure of respiratory-related disorders, and through providing continued medical education in respiratory medicine; and

Whereas the American Thoracic Society has a long tradition of working in collaboration with the Federal Government to improve the respiratory health of all Americans: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the scientific, clinical, and public health achievements of the American Thoracic Society as its members and staff commemorate and celebrate the milestone of its 100th anniversary;

(2) recognizes the great impact that the American Thoracic Society has had on improving the lung-related health problems of people in the United States and around the world; and

(3) congratulates the American Thoracic Society for its achievements and trusts that the organization will continue to offer scientific guidance on lung-related health issues to improve the public health of future generations.

SENATE RESOLUTION 115—DESIGNATING MAY 2005 AS "NATIONAL CYSTIC FIBROSIS AWARENESS MONTH"

Mr. SALAZAR (for himself, Mrs. MURRAY, Mr. COLEMAN, Mr. WYDEN, Mrs. DOLE, Mr. DURBIN, Mr. BUNNING, Mr. KENNEDY, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 115

Whereas cystic fibrosis, characterized by chronic lung infections and digestive disorders, is a fatal lung disease;

Whereas cystic fibrosis is 1 of the most common genetic diseases in the United States and 1 for which there is no known cure;

Whereas more than 10,000,000 Americans are unknowing carriers of the cystic fibrosis gene and individuals must have 2 copies to have the disease;

Whereas 1 of every 3,500 babies born in the United States is born with cystic fibrosis;

Whereas newborn screening for cystic fibrosis has been implemented by 12 States and facilitates early diagnosis and treatment which improves health and longevity;

Whereas the Centers for Disease Control and Prevention and the Cystic Fibrosis Foundation recommend that all States consider newborn screening for cystic fibrosis;

Whereas approximately 30,000 people in the United States have cystic fibrosis, many of them children;

Whereas the average life expectancy of an individual with cystic fibrosis is in the mid-thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of people who have the disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies beneficial to people who have the disease;

Whereas this innovative research is progressing faster and is being conducted more aggressively than ever before, due in part to the establishment of a model clinical trials network by the Cystic Fibrosis Foundation;

Whereas the Cystic Fibrosis Foundation marks its 50th year in 2005, continues to fund a research pipeline for more than 2 dozen potential therapies, and funds a nationwide network of care centers that extend the length and the quality of life for people with cystic fibrosis, but lives continue to be lost to this disease every day; and

Whereas education of the public on cystic fibrosis, including the symptoms of the disease, increases knowledge and understanding of cystic fibrosis and promotes early diagnosis: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2005 as "National Cystic Fibrosis Awareness Month";

(2) calls on the people of the United States to promote awareness of cystic fibrosis and actively participate in support of research to control or cure cystic fibrosis, by observing the month with appropriate ceremonies and activities; and

(3) supports the goals of—

(A) increasing the quality of life for individuals with cystic fibrosis by promoting public knowledge and understanding in a manner that will result in earlier diagnoses;

(B) encouraging increased resources for research; and

(C) increasing levels of support for people who have cystic fibrosis and their families.

Mr. SALAZAR. Mr. President, I rise today to submit a bipartisan resolution deeming May 2005 as "National Cystic Fibrosis Month." I wish more than anything that this resolution were not necessary, and that we had already cured this terrible disease. But CF continues to haunt thousands of families, and with this resolution, the Senate is saying to those families that we hear your suffering and we are going to do all we can to ensure we help stop it.

I have seen many advances in medicine since my childhood on the ranch in Conejos County, CO. These advances have opened up opportunities for people living with disabilities and debilitating disease. People are living longer and healthier lives, even as they face debilitating diseases.

One such disease is Cystic Fibrosis, a genetic disease that leads to life-threatening lung infections. Through advances in medication and other treatments, people with CF are living longer lives. In the 1950s, people with CF rarely lived to school age. Today, life expectancy for people with CF has reached into the thirties. That is an improvement—and as a result people with CF get many more years to spend with their families and to follow their dreams—but it is not good enough.

This resolution supports the CF Foundation's goal of increased screening of newborns for CF. The earlier the disease is detected, the more likely that treatments can extend life. It also applauds the Cystic Fibrosis Foundation's work to create and maintain communication among researchers on Cystic Fibrosis across the nation. As a result of the CF Foundation's efforts, close to 200 centers across the nation are sharing information. That research and experience can improve lives.

Following the tradition of my predecessor and fellow Coloradan, Ben Nighthorse Campbell, I have submitted this resolution to send a clear signal to the country that we are dedicated to defeating this disease. The resolution has broad and deep bipartisan support, and I thank my colleagues for the dedication to health research on Cystic Fibrosis.

SENATE RESOLUTION 116—COMMEMORATING THE LIFE, ACHIEVEMENTS, AND CONTRIBUTIONS OF FREDERICK C. BRANCH

Mrs. DOLE (for herself, Mr. BURR, Mr. CORZINE, and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 116

Whereas Frederick C. Branch was born on May 31, 1922, in Hamlet, North Carolina, studied at Johnson C. Smith University, and graduated from Temple University with a degree in Physics;

Whereas Frederick C. Branch was drafted in May of 1943, and was one of 20,000 African American Marines to serve in World War II;

Whereas Frederick C. Branch was one of the original Montford Point Marines, having received training alongside other African American Marines during World War II at the Marine Barracks in New Point, North Carolina, which was separated by 5 miles from the training grounds for all other Marines at Camp Lejeune, North Carolina;

Whereas Frederick C. Branch, after having served in the South Pacific during World War II, was offered the opportunity to receive officer training;

Whereas Frederick C. Branch excelled by making the dean's list as an officer trainee, and was the sole African American candidate in a class of 250 future officers;

Whereas Frederick C. Branch became the first African American to be commissioned as an officer of the United States Marine Corps, having earned the rank of second lieutenant on November 10, 1945;

Whereas Frederick C. Branch proudly served our nation during the Korean War, and left the service after having risen to the rank of Captain;

Whereas Frederick C. Branch established a science department at Dobbins High School in Philadelphia, Pennsylvania, where he taught until his retirement in 1988;

Whereas in 1997 the United States Marine Corps recognized Frederick C. Branch's contributions to integration, and named a training facility in his honor at Marine Corps Officer Candidate School in Quantico, Virginia;

Whereas Frederick C. Branch was widowed upon the death of his wife and partner of 55 years, Camilla "Peggy" Robinson, and is survived by 2 brothers, William and Floyd, and a godson, Joseph Alex Cooper;

Whereas Frederick C. Branch passed away on April 10, 2005, having paved the way for the 1,700 African American Marine Officers serving our nation today; and

Whereas Frederick C. Branch was buried with full military honors at Marine Corps Base Quantico on April 20, 2005; Now, therefore, be it

Resolved, That the Senate—

(1) honors the life, achievements, and contributions of Frederick C. Branch; and

(2) extends its deepest sympathies to the family of Frederick C. Branch for the loss of a great, courageous, and pioneering man.

SENATE RESOLUTION 117—DESIGNATING THE WEEK OF MAY 9, 2005, AS "NATIONAL HEPATITIS B AWARENESS WEEK"

Mrs. FEINSTEIN (for herself and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 117

Whereas hepatitis B is the most common serious liver infection in the world;

Whereas chronic hepatitis B infections cause 80 percent of all primary liver cancer cases worldwide;

Whereas 10,000,000 to 30,000,000 people will be infected with the hepatitis B virus worldwide in 2005;

Whereas approximately 100,000 people in the United States will become infected with hepatitis B virus this year alone;

Whereas fewer than 10 percent of diagnosed chronic hepatitis B patients in the United States are currently receiving treatment for their disease;

Whereas healthcare and work loss costs from liver disease and liver cancer-caused hepatitis B infections total more than $700,000,000 annually;

Whereas the Centers for Disease Control and Prevention (CDC) estimates that 1,250,000 Americans are already infected with hepatitis B and nearly 6,000 will die of liver complication each year;

Whereas a person who has become infected with hepatitis B may not have symptoms for up to 40 years after the initial infection has occurred, and there is currently no routine screening in place for early detection;

Whereas the CDC has identified African-Americans, Asian-Americans, and Pacific Islanders, as well as Native Americans and Alaskan Natives, as having higher rates of hepatitis B infection in the United States;

Whereas Asian-Americans and Pacific Islanders account for more than half of the chronic hepatitis B cases and half of the deaths resulting from chronic hepatitis B infection in the United States; and

Whereas there is need for a comprehensive public education and awareness campaign designed to help infected patients and their physicians identify and manage the secondary prevention of the disease and to help increase the length and quality of life for those diagnosed with chronic hepatitis B: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 9, 2005, as "National Hepatitis B Awareness Week";

(2) calls upon the people of the United States to observe the week with appropriate programs and activities; and

(3) supports raising awareness of the consequences of untreated chronic hepatitis B and the urgency to seek appropriate care as a serious public health issue.

AMENDMENTS SUBMITTED AND PROPOSED

SA 563. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

TEXT OF AMENDMENTS

SA 563. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. The Secretary of Labor shall convey to the State of Michigan, for no consideration, all right, title, and interest of the United States in and to the real property known as the "Detroit Labor Building" and located at 7310 Woodward Avenue, Detroit, Michigan, to the extent the right, title, or interest was acquired through a grant to the State of Michigan under title III of the Social Security Act (42 U.S.C. 501 et seq.) or the Wagner-Peyser Act (29 U.S.C. 49 et seq.) or using funds distributed to the State of Michigan under section 903 of the Social Security Act (42 U.S.C. 1103).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 20, 2005, at 10 a.m., to conduct a hearing on "Regulatory Reform of the Housing Government-Sponsored Enterprises."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 20, 2005, at 9:30 a.m. to conduct a hearing regarding the following nominations: Gregory B. Jaczko—Nominated by the President to be a Member of the Nuclear Regulatory Commission;

Peter B. Lyons—Nominated by the President to be a Member of the Nuclear Regulatory Commission on Wednesday, April 20, 2005 at 9:30 a.m. SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Education and Early Childhood Development, be authorized to hold a hearing during the session of the Senate on Wednesday, April 20, 2005 at 10:00 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled, "Solving the Small Business Health Care Crisis: Alternatives for Lowering Costs and Covering the Uninsured" on Wednesday, April 20, 2005, beginning at 10:00 a.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 20, 2005, at 2:30 p.m., to hold a briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on April 20, 2005, at 2 p.m., in open session to receive testimony on the readiness of military units deployed in support of Operation Iraqi Freedom and Operation Ending Freedom in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space be authorized to meet on Wednesday, April 20, 2005, at 10 a.m., on International Space Station Research Benefits.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology, and Homeland Security be authorized to meet to conduct a hearing on "A Review of the Material Support to Terrorism Prohibition Improvements Act" on Wednesday, April 20, 2005, at 2:30 p.m., in Dirksen 226.

Witness List

Wednesday, April 20, 2005, at 2:30 p.m., Dirksen Senate Office Building Room 226.

Mr. Barry Sabin, Chief of Counterterrorism Section, Criminal Division, Department of Justice; and Mr. Dan Meron, Deputy Assistance Attorney General, Civil Division, Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Douglas Thompson, a Navy fellow in my office, be granted the privileges of the floor during consideration of H.R. 1268, the emergency supplemental.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT EXECUTIVE CALENDAR

Mr. INHOFE. Mr. President, I ask unanimous consent that on Thursday, April 21, at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session to consider the following nomination on the calendar: No. 69, John Negroponte to be Director of National Intelligence.

I further ask unanimous consent that there be 4 hours of debate equally divided between the two leaders or their designees, and that the Democratic time be equally divided between Senators ROCKEFELLER and WYDEN; provided further that at the expiration or yielding back of that time the Senate proceed to a vote on confirmation of the nomination with no intervening action or debate; provided further that immediately following the vote the President be notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—S. 839, S. 844, S. 845, S. 846, S. 847, S. 848, S. 851, H.R. 8

Mr. INHOFE. Mr. President, I understand that there are eight bills at the desk that are due for a second reading. I ask unanimous consent that they be read for a second time, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the bills for a second time by title.

The assistant legislative clerk read as follows:

A bill (S. 839) to repeal the law that gags doctors and denies women information and referrals concerning their reproductive health options.

A bill (S. 844) to expand access to preventive health care services that help reduce unintended pregnancies, reduce the number of abortions, and improve access to women's health care.

A bill (S. 845) to amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt.

A bill (S. 846) to provide fair wages for America's workers.

A bill (S. 847) to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall profits.

A bill (S. 848) to improve education, and for other purposes.

A bill (S. 851) to reduce budget deficits by restoring budget enforcement and strengthening fiscal responsibility.

A bill (H.R. 8) making repeal of the estate tax permanent.

Mr. INHOFE. Mr. President, in order to place the bills on the Calendar under the provisions of rule XIV, I would object to further proceeding en bloc.

The PRESIDING OFFICER. The objection is heard. The bills will be placed on the calendar.

ORDERS FOR THURSDAY, APRIL 21, 2005

Mr. INHOFE. I ask unanimous consent when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, April 21. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the second 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate proceed to executive session for the consideration of the Negroponte nomination as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. INHOFE. Tomorrow, following morning business, the Senate will consider the nomination of John Negroponte to be Director of National Intelligence. Following that debate, the Senate will resume consideration of the emergency supplemental for the final two amendments. Therefore, Senators can expect a series of votes tomorrow on the two supplemental amendments, final passage, and the Negroponte nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. INHOFE. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:11 p.m. adjourned until Thursday, April 21, 2005, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, April 20, 2005*

The House met at 10 a.m.

Monsignor George B. Flinn, Vicar General, Pastoral Life in Ministry, Diocese of Altoona-Johnstown, Pennsylvania, offered the following prayer:

Almighty God, source of all that is good and holy, be with us today. These men and women gather here as representatives of the people, honored by such a call to service, but also fully aware of the awesome responsibility such a vocation demands.

Grant them the insight to discern what is in the best interest of all our citizens, the wisdom to choose what is good and moral and just, and the courage to do what is necessary, even in the face of adversity, misunderstanding and opposition.

Help them to grasp the nobility of their calling to serve in the arena of politics, aptly named the "art of the possible," as they face the challenge of making possible the growth of our citizens and our Nation, in virtue and integrity and prosperity.

May all that is accomplished today reflect a true spirit of justice, compassion, concern and real dedication to the well-being of all the citizens of our beloved country. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania (Mr. SHUSTER) come forward and lead the House in the Pledge of Allegiance.

Mr. SHUSTER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 one-minutes on each side.

WELCOMING MONSIGNOR GEORGE B. FLINN

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise today to thank, honor and express my sincere appreciation for Monsignor George Flinn, our guest chaplain. Reverend Flinn, originally from Cresson, Pennsylvania, and as we say back home, up the mountain, has dedicated his life to faith and community outreach. His service has made the Altoona-Johnstown area a better place to live because of his commitment to our local parishes.

Reverend Flinn has been assigned to a number of churches in central Pennsylvania, including Sacred Heart and Saint Rose of Lima in Altoona, and Saint Monica of Chest Springs. Most notable to me, though, is his service at Saint John Gualbert, where he organized a major campaign to renovate the interior walls of the cathedral.

This drive became known as "This is Our Church," while Monsignor Flinn uniquely reached out to local businesses, community leaders and the Diocese of Altoona-Johnstown. This type of outreach has truly made our neighborhoods and small towns a much better place and a more memorable place. His story is a reminder to us all to take a moment from our busy schedules to help others and reach out to the community.

As we mourn the passing of Pope John Paul and celebrate the appointment of Pope Benedict, we should also commend and thank our local church leaders like Monsignor Flinn, because their hard work is truly making our Nation a better place to live.

END THE FILIBUSTERS ON QUALIFIED NOMINEES

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, John Bolton is the President's nominee to be U.S. ambassador to the U.N. The Senate has not yet voted on his nomination. A few Members are holding up that vote so they can explore his treatment of lower-level staffers.

Janice Rogers Brown and Priscilla Owen are two of the President's nominees to be Federal judges. The Senate has not yet voted on their nominations. A few Democrats have promised to hold up these votes so they can prove a political point.

What do these three have in common, I mean, other than being victims of the Senate's partisan machinations? They are all highly qualified. They would all do a great job. They would all receive the support of a majority of Senators. They are all nominated for jobs that are currently vacant. That is right; the jobs the President has asked these people to do are not being done.

That is not the President's fault. That is not BILL FRIST's fault. Some Democrats paid a political price for obstructionism last November. It seems that some of them are still slow learners.

AN INDEPENDENT JUDICIARY

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, over in Baghdad, we are attempting to establish a democracy which will require an independent judiciary. Iraqis will learn that to have a society of laws, you need an independent judiciary to enforce them. But here in Washington, D.C., we have a majority leader who is attempting to demagogue and abuse the independence of our American judicial system, to intimidate them to one particular ideological position.

This is undemocratic, it is unhealthy, and it does not respect the democratic traditions that require an independent judiciary in this country. It is a case of an abuse of power and it needs to stop.

We see today in the energy bill a provision to ignore the independence of the law to give immunity to a polluter. We need the majority leader of the U.S. House to understand that our freedoms come from an independent judiciary. The freedom of speech, the freedom of religion that would be taken away in one single moment from the U.S. Congress stands because of an independent judiciary.

This arrogance and abuse of power needs to stop.

FINANCIAL LITERACY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, balancing a checkbook and principles such as saving and investing seem like a foreign language to much of our Nation's youth. Sadly, many of our high school graduates lack the basic skills to handle their own finances. Combine that with the spending power of teenagers, $150 billion annually, and it should come as no surprise that when

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

they go off to college, credit card companies cannot hand out the plastic fast enough to these new customers who have no credit history, no income and no job. In fact, in 2001, more young people filed for bankruptcy than graduated from college.

With April being Financial Literacy Month, it is time to show that finance and economic lessons simply do not end in the classroom. The earlier students learn about dollars and cents, the better equipped they will be to enter the world with knowledge about how to save, how to earn and how to spend.

Mr. Speaker, studies have shown financial education has been linked to lower delinquency rates for mortgage borrowers, higher participation and contribution rates in retirement plans, improved spending and saving habits and higher net worth.

The need for financial education in our classrooms and at home has never been more apparent. Increasing financial literacy is key to helping our next generation reach their full potential.

THE ENERGY BILL

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, I have nothing against classics. I drove a 1968 Barracuda to work today. But I am looking at hybrids because of the high cost of gas and to get a little more efficient.

The Republicans are offering us a classic energy bill today, firmly rooted in the 1950s: no improvements in efficiency, no investment in energy-efficient technologies, no breakthroughs. Even worse, $8 billion of subsidies to the oil and gas industry. Well, heck, they need it. That was only the quarterly profit of ExxonMobil gouging people at the pump last quarter. They want to give us more of the same.

The President's own energy information administration says this bill will, quote, have only negligible impact on production, consumption and imports of oil. In fact, they said it will probably increase the price of gasoline by 3 cents per gallon. I guess that is to pay for the new subsidies to the suffering oil and gas industry.

That is an energy policy for the 21st century?

THE PROMISING PARTNERSHIP OF INDIA AND THE UNITED STATES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, under the leadership of President George W. Bush and Indian Prime Minister Manmohan Singh, India and the United States continue to make progress toward strengthening our strategic partnership.

Last week, President Bush and Secretary Rice met with Indian External Affairs Minister Natwar Singh. Secretary Rice highlighted, "It is important that the U.S.-India relationship continues to grow as we recognize the growing importance of India as a global factor." Due to shared values as the world's largest democracy working with the world's oldest democracy, our countries are continuing on a path of cooperation that will strengthen economic opportunities and enhance national security.

After years of military conflict between India and Pakistan, the two nations recently approved numerous efforts of bilateral relations. And this week India's Prime Minister Singh met with Pakistan President Pervez Musharraf in his birthplace in New Delhi to discuss the next steps to furthering the peace process. It is mutually beneficial for both countries to cooperate for bilateral trade while helping win the war on terrorism.

In conclusion, God bless our troops and we will never forget September 11.

OIL DRILLING IN THE GREAT LAKES

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, earlier this week the President said he would have written a different energy bill without the $8 billion in giveaways for the oil and gas companies. "The President has made his views known, in terms of any incentives in the legislation, that oil and gas companies don't need any incentives when the price of oil is where it is right now." That is the President of the United States commenting on the legislation we are going to have before us. Imagine if we spent those $8 billion of taxpayer money on developing new energy-efficient cars or new types of cars that would make America free.

We have got to get rid of the old politics of special interest politics, writing legislation for special interests who give resources to campaigns, and start building a stronger America.

In addition to giving the big oil companies $8 billion of taxpayer money, imagine the oil rigs along the shores of Chicago, Pittsburgh, Buffalo, western Michigan. It is an unwelcome thought for 30 million Americans who get their daily drinking water from the Great Lakes. Drilling is currently banned on the Great Lakes, but this bill would change the law from today's outright ban.

Last night, the gentleman from Michigan (Mr. STUPAK), the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentleman from Michigan (Mr. EHLERS), the gentleman from Illinois (Mr. KIRK), the gentleman from Wisconsin (Mr. GREEN), the gentleman from New York (Mr. MCHUGH), the gentlewoman from New York (Ms. SLAUGHTER) and I offered a bipartisan amendment to permanently extend the ban on drilling in the Great Lakes.

Consequently, this bill places the Great Lakes directly in harm's way. Imagine those oil rigs. Now imagine an oil spill closing the beaches and endangering drinking water.

KEYSTONE HEIGHTS HIGH SCHOOL BAND

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, this morning I wish to brag on my talented young constituents, the cover girls and boys that were featured in Roll Call this week. The band and color guard of the Keystone Heights Marching Indian, Florida, high school band visited Washington, D.C., this weekend. While here with Band Director Jason Dobson, they performed at the Jefferson Memorial and Capitol Hill. They played "El Capitan," a John Philip Sousa march; "Pevensey Castle" by Robert Sheldon; "Tis the Gift to Be Simple," an 18th century Shaker folk tune; and saving, of course, the best for last, student conductor Ashley Poplin conducted them in "The Washington Post," another Sousa march.

French horn player Karlo Martin, still fresh after three sleepless nights, described the trip as "really enjoyable."

I am proud of the students in Florida's Sixth Congressional District for their hard work and their skill. Being in a marching band is strenuous enough, but central Florida with all its heat adds an extra impediment to the challenge. Job well done.

□ 1015

WEAKENED ETHICS RULES: NO WONDER REPUBLICANS ARE SO CONFIDENT

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, what are House Republicans afraid of? True, there are constant newspaper reports about a member of the Republican leadership participating in questionable activities dealing with Washington lobbyists, trips overseas and questionable financial dealings. However, if Republicans are so confident that these activities do not constitute a breaking of the House rules, why have the Republicans made it virtually impossible for the Committee on Standards of Official Conduct to do its job?

Earlier this year, the Republicans weakened the ethics rules. Under the new Republican rules, if a majority of the committee cannot determine whether or not an investigation should proceed after 45 days of receiving a complaint, it would simply be dropped. Under the old bipartisan ethics rules, a subcommittee was created after the 45-day deadline to investigate the ethics charges.

It is no wonder Republican leaders are so confident. If they keep their Republican troops on the committee in line, they do not have to worry about an investigation. And this is no way to run an ethics committee. It is time that House Republicans join the Democrats in rejecting these new rules in favor of fair, bipartisan rules that restore confidence to the House ethics process.

F/A–22

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today in support of the F/A–22 Raptor, one of the most important weapons the Air Force has in its fight to protect our country.

On Friday the Pentagon approved the F/A–22 for full-rate production. I am glad the Pentagon is recognizing what we have known all along: the Raptor is a superior and essential weapon for our Air Force.

It is our duty in Congress to ensure the safety of every American, and fully funding the F/A–22 goes a long way toward that end. Our bloated and bureaucratic government offers many opportunities to reduce spending and balance the budget. But our Nation's defense is not the place to cut funds. The F/A–22 will let the United States military continue dominating our adversaries.

To prepare for tomorrow's threats, we need to fund these planes today. Mr. Speaker, I ask the Members to join me in supporting the F/A–22 program.

WEAKENED ETHICS RULES: ETHICS COMMITTEE NOW A SHELL

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, on January 4, 2005, the first day of the 109th Congress, this House adopted several changes to the House ethics rules that many in this body warned would severely weaken the ability of the House Committee on Standards of Official Conduct to enforce the highest standards of ethical conduct in its Members, officers, and employees.

In the middle of March, these warnings, sadly, came to pass when the House Committee on Standards of Official Conduct failed to adopt committee rules that would have given it the ability to investigate credible allegations of misconduct even in cases where partisan considerations caused the committee to be deadlocked.

Now we are left with a shell of a committee, a paper tiger that can perform only a fraction of the advisory, enforcement, and investigatory duties assigned it.

The absence of a functioning ethics committee and the collapse of the ethics enforcement process are untenable, unacceptable, and irresponsible. In the eyes of the American people, this can only serve to undermine the integrity and credibility of the Members of the House and the House as institution.

CLARENCE GAINES

(Ms. FOXX asked and was given permission to address the House for 1 minute and revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise today to pay my respects to Coach Clarence "Big House" Gaines, who passed away on Monday April 18, 2005. Coach Gaines was a college basketball icon, having guided the Winston-Salem State University Rams to an amazing 828 wins during his 47 seasons at Winston-Salem State University. His record of success places him fifth on the NCAA career coaching wins list, just behind Dean Smith, Adolph Rupp, Bob Knight, and Jim Phelean.

Under Coach Gaines's leadership, the Winston-Salem State Rams won 11 CIAA titles and became the first predominantly black college to ever win an NCAA basketball title.

Coach Gaines was inducted into many halls of fame and was named CIAA Coach of the Year several times. He was also named NCAA Coach of the Year in 1967.

Coach Gaines was a truly remarkable man, and he will be missed. My condolences go out to his wife, Clara, and his two children.

NORTHEAST REGIONAL ECONOMIC DEVELOPMENT COMMISSION

(Mr. MICHAUD asked and was given permission to address the House for 1 minute.)

Mr. MICHAUD. Mr. Speaker, this week a tripartisan group of original cosponsors has joined together to reintroduce our bill to create a Northeast Regional Economic Development Commission to invest in the most distressed areas of Maine, New Hampshire, Vermont, and New York.

Economic development commissions are now in existence in Alaska; Mississippi; the Midwest; and, of course, Appalachia; among other places. These bodies have a proven track record of success. For example, since its creation, the ARC has cut the number of distressed counties in their region in half.

Today, when one looks at the statistics, the border region of the Northeast has just as strong a need as the other areas. We need direct Federal investments to turn our economies around. Our bill does that and ensures both local planning and the advancement of regional goals like sustainable land use.

We are proud to have such a strong tripartisan group working together to promote economic development in the Northeast. We look forward to advancing our bill and working with other regions who want to grow their economies and bring prosperity back.

ENERGY POLICY

(Mr. McHENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McHENRY. Mr. Speaker, in recent months Americans have been struggling to cope with rising gas prices. And today the Republican majority and the U.S. House of Representatives bring forward a comprehensive, a comprehensive, energy program.

And let me tell the Members this: we need to have a comprehensive energy program so that we can avoid losing jobs due to high energy costs.

This week it is a comprehensive energy bill that will drastically reduce the costs of energy. It will lower energy prices for consumers, revitalize our economy, and create jobs. That is because the money that was diverted to high energy costs can now go to goods and services; and most importantly, this bill will reduce our dependence on foreign oil.

Mr. Speaker, our opponents on the other side of the aisle have only given blather. They have only given bluster. They have not offered a comprehensive policy. We today are going to offer a comprehensive energy policy to help all Americans and reduce the cost of gasoline.

NATIONAL WHEELCHAIR BASKETBALL ASSOCIATION PRESIDENT'S SPIRIT AWARDS

(Mr. SNYDER asked and was given permission to address the House for 1 minute.)

Mr. SNYDER. Mr. Speaker, the National Wheelchair Basketball Association is the largest and oldest wheelchair sports organization in the world. Established over 50 years ago, the NWBA has provided opportunities for people with physical disabilities, including children and disabled veterans, to play the game of basketball.

The NWBA runs on generosity and volunteers; and one of those volunteers is Harry Vines of Sherwood, Arkansas, who has served as president since 2001. Harry is known in Arkansas for many volunteer activities, most significantly as coach of the Arkansas Rollin' Razorbacks, a five-time national championship wheelchair basketball team that he helped found in 1978. A high school All American basketball player at Central High School in Little Rock. Harry played at Oklahoma City University before returning to Arkansas as a coach and later a rehab counselor and administrator.

Harry and the NWBA award, the NWBA Spirit Awards, recognize the work of outstanding volunteers and organizations that support the NWBA. The 2005 Spirit Award recipients include long-time UT-Arlington Jim Hayes. Bluegrass Invitational Tournament director Evelyn Bologna, Division III chairman Tim Stout, and the University of Illinois' Wheelchair Sports Program.

Congratulations to all of these outstanding individuals.

PASS DR-CAFTA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, it is hard to believe, but it was 2 long decades ago that we saw tyranny in Central America bring war and turmoil to our doorstep. Today, through U.S. assistance and the resolve of our neighbors to the south, civil war has been replaced by burgeoning democracies and free markets. Chaos has been replaced with the growing prevalence of the rule of law. Rather than a growing national security threat, this region has become an increasingly reliable partner in the war on terror, drug interdiction, and migration control. As fellow democracies, we are bound together by geography and a common commitment to liberty.

With the Dominican Republic Central American Free Trade Agreement, we have an opportunity to solidify this success and lock in the tremendous political and economic progress that has been made. President Bush has made it clear that advancing the cause of freedom and liberty is central to our foreign policy goals. Passage of the DR–CAFTA will be a significant step forward in ensuring that the institutions of democracy and political pluralism are firmly entrenched throughout this hemisphere.

WEAKENED ETHICS RULES: WHO ARE THEY TRYING TO PROTECT?

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, since the beginning of this year, the House Republican leadership has worked to undermine the ethics process here. First, the leadership floated an ethics proposal that would have allowed Members of its leadership to continue to serve in leadership if they were indicted. When that did not go over too well, the leadership decided it could protect one of its own by making it more difficult to investigate unethical behavior. The leadership rushed through a new rule that would end an ethics compliant after 45 days if no agreement could be reached on how to proceed. Under the old rules, if the two parties could not come to an agreement, a subcommittee was automatically appointed to investigate.

Finally, to guarantee that Republican leadership would be able to quash any ethic complaints, they purged the committee of three members, including the chairman, who were not always willing to toe the party line. Then they replaced them with party loyalists.

Mr. Speaker, the Republican leadership is going to extreme measures to weaken our ethics rules. It makes one wonder just whom they are trying to protect. Ethics and morals have been overtaken by hypocrisy.

CONGRESS UNDER REPUBLICAN LEADERSHIP

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, I was elected to Congress just a little over 2 years ago, and our economy was in tough shape when I got in Congress. I did not really realize how tough a shape it was in. But under the leadership of this House, the leadership of the Speaker, the majority leader, we have worked on the problems of high unemployment, the low stock market. We made the tough choices and invested in our economy in 2003, and the result was a significant job growth.

Now in this Congress we have taken on additional good work. We have passed a highway bill, class action reform, bankruptcy reform. And this week, Mr. Speaker, we are going to work on our energy bill. This is important and timely legislation. Every member on our committee was heard on their concerns. Every amendment was made in order and voted on, most on a roll call vote; and the bill passed out of committee with bipartisan support.

We had an energy bill 2 years ago, and that energy bill unfortunately was derailed by a procedural motion in the other body, and it was largely derailed by trial lawyers who felt that they were not getting their just desserts from the energy bill. Mr. Speaker, that is why it was outrageous to read in "Roll Call" yesterday that the senior vice president of the Association of Trial Lawyers of America said that they were upset with the asbestos bill over in the other body and it may have an impact on fund-raising from this particular bar.

Mr. Speaker, this is outrageous. Where are the calls for investigation? Where are the calls for ethics from the other body?

SRI LANKA

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, during the recess, I was privileged to visit the country of Sri Lanka where there exists tension and sometimes open warfare between the government and the Tamilians.

Fortunately, partially as a result of the tsunami, there is a cease fire. I trust that the cease fire will continue, that a peaceful accord will be reached. But in the meantime, I would urge that we do everything within our power to make sure that relief resources are equally and fairly deployed throughout all areas of the country that were, in fact, affected. There is a tremendous resolve to try and arrive at peace. I hope, Mr. Speaker, that we will help.

TAKE POLITICS OUT OF THE ETHICS PROCESS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, we need to ask ourselves every now and then in a moment of truth on a bipartisan basis what this House is doing. Ethics rules should be there to prosecute somebody who has broken them. The same rules should be there to protect somebody who is innocent.

The Democrat members on the Committee on Standards of Official Conduct do not want to meet. They do not want to give the gentleman from Texas (Mr. DELAY) due process. They do not want to give him an up-or-down vote. They are very content to discuss it with their allies at The Washington Post or the New York Times. They do not want to talk about how many educational trips they have been on with their families, although there is a list. They do not want to talk about how many of their family members work in their campaigns and are reimbursed and on their campaign payroll, but there is a list.

□ 1030

Is this what the Democrats really want? I think that the Democrats would be serving this House well if they would say to their ethics committee members, we want you to meet. We want due process for TOM DELAY or any other Member who may have a question about things.

Right now we cannot address that because they will not come to the meetings. I ask my Democrat colleagues to do the right thing, let us move on with the ethics process and take the politics out of this, because there are a lot of questions on both sides of the aisle right now, and the House is being underserved by this committee.

WEAKENED ETHICS RULES

(Mr. TIERNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIERNEY. Mr. Speaker, in partial response to my colleague's last statements, it is The Wall Street Journal that says, it is the odor. It is the Rocky Mountain News that says it is hypocrisy. The Christian Science Monitor calls it hubris, and the New York Times says it is autocratic behavior, and the San Diego Union Tribune simply calls it disgraceful.

It turns out that there are a lot of different ways to describe the House Republicans' ethical challenges. When the Republicans took over Congress in 1994, they promised to usher in a new era of politics. For years they had tried to make the case that Democrats were corrupt, and in a new Republican era they promised to clean house and change the rules to make Congress more accountable to the people that we represent.

Well, they changed the rules. This year they changed the rules to prevent the ethics committee from doing its job, and they tried and tried and unfortunately failed to change the rules of their own caucus to allow indicted Members to retain their leadership offices.

Mr. Speaker, it is time to reinstate the ethics rules in this House. It is time that Republicans join the Democrats in supporting the Mollohan resolution, so that people can get a fair hearing, but it is done within a body that is operating properly.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore(Mr. GRAVES). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

RAY CHARLES POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 504) to designate the facility of the United States Postal Service located at 4960 West Washington Boulevard in Los Angeles, California, as the "Ray Charles Post Office Building".

The Clerk read as follows:

H.R. 504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RAY CHARLES POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 4960 West Washington Boulevard in Los Angeles, California, shall be known and designated as the "Ray Charles Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Ray Charles Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. MARCHANT).

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 504.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I rise in support of H.R. 504. This legislation designates this post office in Los Angeles as the Ray Charles Post Office Building to celebrate the life of the great American entertainer.

All 53 members of the California congressional delegation have cosponsored this legislation to comply with the committee policy on post office-naming bills.

Mr. Speaker, Ray Charles Robinson was born in Albany, Georgia, in 1930. He was raised in Florida, and completely lost his sight by age 7. Amazingly, he overcame his lack of sight and began to study piano, saxophone, and clarinet at a school for the blind and deaf.

He ultimately became a traveling musician and shortened his name to Ray Charles to differentiate himself from the famous boxer of that time, Ray Robinson. During his career that spanned more than 5 decades, Ray Charles won an outstanding 12 Grammy Awards, including the best R&B recording three consecutive years from 1961 through 1963: "Hit the Road Jack," "I Can't Stop Loving You," and "Busted." He was unquestionably one of the world's most successful musicians of the 20th century.

Mr. Speaker, it is important for all of us to understand how groundbreaking his music fusion of gospel, blues, pop, country, and jazz really was.

His ingenuity paved the way for other giants in music history, including Aretha Franklin and Elvis Presley. Ray Charles passed away in Beverly Hills, California, on June 10, 2004. This post office will serve as an important memorial to Ray Charles's legacy and influence on American popular music.

I want to thank the distinguished gentlewoman from California (Ms. WATSON), my colleague on the committee, for her work on H.R. 504.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as she might consume to the gentlewoman from California, (Ms. WATSON) who is the author of this legislation.

Ms. WATSON. Mr. Speaker, H.R. 504, a bill to rename a post office located in Los Angeles, California, the Ray Charles Post Office, is a small act to commemorate one of the true giants of the 20th century in popular music.

Ray Charles is both a national treasure and a international phenomenon. He was also a long-time resident of Los Angeles and the 33rd Congressional District, living right around the corner from me.

The story of Ray Charles's life is full of paradoxes. It is about rags to riches, the sacred and the profane, and triumph overcoming tragedy. It is the material of Horatio Alger and Mark Twain. It is a uniquely American story; and his music, a melting pot blend of pop, country, gospel, blues and jazz, brilliantly reflects the rich American cultural and musical tapestry in its various shades, shapes, and premonitions.

Much has been written about Ray Charles's life, and his rise from poverty and obscurity in St. Augustine, Florida, to his decision to migrate to Seattle, a decision he made by asking a friend to find him the farthest point from Florida on a map of the Continental United States.

Many of you have probably seen the movie "Ray," and the Oscar-winning performance of Jamie Foxx. What we learned from the life of Ray Charles is that he constantly persevered in the face of adversity and often overwhelming odds. He learned very early that the two constants of life are change and adaptation. Those qualities are reflected in spades in his music.

He secularized gospel music, wed it to jazz rhythms and sensibilities, and popularized, almost singlehandedly, music known as rhythm and blues.

But the music of Ray Charles, as true to his legacy, cannot be confined to one genre or type of music. In 1962, Ray Charles spit in the eye of conventional wisdom, as well as his producers, and recorded one of the great country albums, "Modern Sounds in Country and Western." Billboard Magazine listed it as the number one-selling album for 14 weeks in a row, a feat that has not been duplicated since then.

Ray Charles's accomplishments were all the more profound when we consider that the races in America were still largely segregated, particularly in the South. Ray Charles's revolutionary approach to music was also reflected in his politics and his deep and abiding commitment to Martin Luther King and the plight of the African Americans.

Ray Charles may not have been on the front lines, but he put his money where his mouth was. In his autobiography, Ray Charles wrote about his life-long love affair with music. "I was born with the music inside me," he wrote. "That is the only explanation I know of. It was, of course, already with me when I arrived on the scene. It was a necessity for me like food or like water."

Ray Charles has provided comfort to millions of Americans from all races and backgrounds and made their lives brighter with the genius of his music.

In closing, Mr. Speaker, I would note that this legislation, to name a post office in honor of Ray Charles, is but a small tribute to a man who started from nowhere and ended up as a national treasure and a global phenomenon. God bless, Ray Charles.

Mr. MARCHANT. Mr. Speaker, I have no other speakers at the moment and reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume to close for our side.

Mr. Speaker, as a member of the House Government Reform Committee, I am pleased to join my colleagues in consideration of H.R. 504, legislation naming a postal facility in Los Angeles, California, after the legendary Ray Charles.

H.R. 504 was introduced by my good friend and colleague, the gentlewoman from California (Ms. WATSON), on February 1, 2005, and unanimously reported by our committee on April 13, 2005.

The bill enjoys the support of the entire California delegation. As we have already heard, Ray Charles was born in Albany, Georgia, on September 23, 1930, and moved with his family to Greenville, Florida.

And like later in his life, Charles's childhood was one marked by tragedy and hardship. At age 5, he watched helplessly as his brother drowned to death in the family bathtub. That same year he became inflicted with glaucoma and lost his sight altogether by the age of 7.

By age 15, both of his parents had died. Displaying courage far beyond his years, Ray Charles persevered during this time of unimaginable hardship. Determined to make something of his life, Ray Charles turned to music. After playing in local clubs, Charles decided that Florida was not the place for his budding music career.

So at age 17 he decided to move to Seattle and sing in a band playing Nat King Cole-style music at area nightclubs. In Seattle, Ray Charles's unparalleled skill drew rave reviews, and he had his first hit at age 19 with the rhythm and blues hit, "Confession Blues."

In all, Ray Charles would win an astounding 12 Grammy Awards, including three in 3 consecutive years for "Hit the Road Jack," "I Can't Stop Loving You," and "Busted."

Once when Ray Charles was asked if he ever considered taking it easy following all of the success he had had, Charles quickly responded, for what? Music is like a part of me. It is not something I do on the side. It is like my blood line, like my breathing apparatus.

Tragically, Ray Charles did not live long enough to witness the success of the movie hit "Ray" that told the story of his life. He died on June 10, last year, shortly before the movie's release. Jamie Foxx did an exemplary job portraying Ray Charles.

The story of Mr. Charles's life is so compelling that it is hard to imagine the American public not becoming engrossed in the story of his life. Ray Charles was truly a man for all seasons, and an incredible gospel, jazz, blues and big band artist, all rolled in one.

He has his own star on Hollywood Boulevard's Walk of Fame. He is the recipient of a bronze medallion presented by the French Republic. His version of Hoagy Carmichael's "Georgia on My Mind," was named the Georgia State song, and he was one of the original inductees into the Rock and Roll Hall of Fame.

Mr. Speaker, I want to thank the gentlewoman from California (Ms. WATSON) for introducing this legislation. Ray Charles was and will always be an American hero and icon. He has given the American people and the entire world the everlasting gift of his beautiful music.

I commend my colleague for seeking to honor the legacy of Ray Charles in this manner. Mr. Speaker, I know that the gentleman from Michigan (Mr. CONYERS), as well as the gentleman from New York (Mr. SERRANO) who are both great patrons of the arts and tremendous lovers of music had intended to be here to make some comments.

Unfortunately, they could not. So I would urge swift passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I urge all Members to support the passage of H.R. 504.

Mr. HASTINGS of Florida. Mr. Speaker, I rise in support of naming the 4960 West Washington Boulevard, Los Angeles, California post office after one of America's greatest musical artists, Ray Charles. As an international icon who mastered many styles from blues and jazz to rock 'n' roll and gospel, Ray Charles deserves this recognition

Born Ray Charles Robinson in Albany, Georgia on September 23, 1930, he would later shorten his name to Ray Charles to avoid confusion with boxer Sugar Ray Robinson. Ray's inspirational life story is well known but deserves retelling.

Blind since childhood and orphaned as a teenager, Ray Charles lived a life that traveled from despair to fame to redemption. He had been playing piano since he was three years old. In 1937, he entered the St. Augustine School for the Deaf and Blind as a charity student, studied classical piano and clarinet, and learned to read and write music in Braille. Both his parents died by the time Ray turned 15.

At that age, Ray Charles left school and joined dance bands in Florida, then moved to Seattle, where a talent content appearance led to work playing at the Elks Club. He formed the McSon Trio with two other musicians—a group modeled on the Nat King Cole jazz group—and they soon moved to Los Angeles where they recorded their first single "Confession Blues," which Charles wrote.

Throughout his life, Ray Charles overcame racial prejudice, drug addiction and other setbacks to forge a singular life in music and popular culture, and as a media celebrity. Charles' intense renditions of classic songs earned him the nickname "The Genius."

Charles' litany of awards is numerous. He was an original inductee into the Rock and Roll Hall of Fame. He is also a member of the Blues Foundation Hall of Fame, the Blues Hall of Fame, the Songwriters' Hall of Fame, the Grammy Hall of Fame, the Jazz Hall of Fame, the Florida Artists Hall of Fame, and the Georgia Music Hall of Fame to name some. His definitive version of Hoagy Carmichael's 1930 classic "Georgia on My Mind" (1960) became the official state song of Georgia.

Ray said once, "Music's been around a long time, and there's going to be music long after Ray Charles is dead. I just want to make my mark, leave something musically good behind. If it's a big record, that's the frosting on the cake, but music's the main meal."

Mr. Speaker, we all can dine on his wide assortment of musical treats. Ray Charles' American legacy is well served by the naming of a public building after him.

Mr. RANGEL. Mr. Speaker, it greatly pleases me that Congress has decided to name the facility of the United States Postal Service located at 4960 West Washington Boulevard in Los Angeles, California after Ray Charles. He fully deserves this honor, and I congratulate Congresswoman DIANE WATSON for sponsoring this successful and appropriate legislation.

In a career that spanned more than 50 years, Ray Charles enjoyed immense fame in the U.S. and abroad. His music unified people, crossing all lines of nationality, race, age and class. His music was universal in appeal and style, from gospel to country and everything in between. Sightless, he uniquely opened the eyes of all people to appreciate the beauty and talent of others.

He saw no differences in the aspirations of all people for freedom and justice. He advocated with equal vigor on behalf of African Americans for civil rights, freedom for South Africans and security for the people of Israel.

In his own life, he overcame blindness, poverty, racial discrimination, and personal failures, including drug abuse, to become a beacon of hope for anyone faced with challenges of any kind.

Ray Charles deserves to have a post office named after him, and more. I have introduced legislation that would award him the Congressional Gold Medal for his lifetime of achievement and service to the world community. I hope Congress supports this legislation and continues to honor this great man.

Mr. MARCHANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 504.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SERGEANT BYRON W. NORWOOD POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1001) to designate the facility of the United States Postal Service located at 301 South Heatherwilde Boulevard in Pflugerville, Texas, as the "Sergeant Byron W. Norwood Post Office Building".

The Clerk read as follows:

H.R. 1001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERGEANT BYRON W. NORWOOD POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 301 South Heatherwilde Boulevard in Pflugerville, Texas, shall be known and designated as the "Sergeant Byron W. Norwood Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Sergeant Byron W. Norwood Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. MARCHANT).

☐ 1045

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1001.

The SPEAKER pro tempore (Mr. GRAVES). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1001 is an important piece of legislation that names this Pflugerville, Texas, Post Office as the Sergeant Byron W. Norwood Post Office Building.

I am proud the House is considering this bill today because Sergeant Byron Norwood is, without question, an American hero.

Mr. Speaker, Byron Norwood grew up in Pflugerville, a small town outside of Austin, and enjoyed playing the trumpet in the high school jazz band and marching band. He was a star in several high school theater productions. After graduation, he joined the Marines, following in the footsteps of both of his grandfathers who served with the Marine Corps during World War II. He ultimately became a sergeant assigned to the 3rd Battalion, 1st Marine Regiment, 1st Marine Division in Camp Pendleton, California.

Mr. Speaker, Sergeant Norwood bravely served two tours of duty in Iraq. During his second tour he was tragically killed by a sniper in the Anbar province of Iraq on November 13 of 2004. In the trying days that followed, Byron's mother, Janet Norwood, wrote a letter to President Bush to say how dedicated her son was to his country. Mrs. Norwood said in the letter that in spite all that the family had been through, they still supported the war. Afterwards, the White House invited Mr. and Mrs. Norwood to the State of the Union speech.

Mr. Speaker, I would like to thank my colleague, the gentleman from Texas (Mr. MCCAUL), for introducing this legislation and seeing it to the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of the H.R. 1001, legislation naming a U.S. postal facility in Pflugerville, Texas, after Sergeant Byron Norwood.

H.R. 1001 was introduced by the gentleman from Texas (Mr. MCCAUL) on March 1, 2005 and unanimously reported by our committee on April 13, 2005. The bill enjoys the support and cosponsorship of the entire Texas delegation.

Sergeant Byron W. Norwood died on November 13, 2004, as a result of enemy action in Fallujah. Sergeant Norwood was assigned to the 3rd Battalion, 1st Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, in Camp Pendleton in California before being deployed to Iraq.

Sergeant Norwood was recognized by the President posthumously during his State of the Union address for his bravery and sacrifice to our country. The President also recognized Sergeant Norwood's parents, Janet and Bill, for the tremendous grace they displayed in the wake of their son's death.

A native of Texas, Byron was well liked by his fellow soldiers because not only was he an exemplary soldier, but he was also a terrific person. He was described by members of his regiment as a person who was not afraid to show his emotions, and was always there to listen and lend support to his friends during difficult times.

Mr. Speaker, it is important that during times of war we take time to remember its human cost, that people as loving and caring as Sergeant Byron Norwood are sacrificing their lives to protect ours.

Mr. Speaker, I want to thank the gentleman from Texas (Mr. MCCAUL) for introducing this legislation. It is a wonderful tribute to a great man and an extraordinary soldier. I urge swift adoption of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. MCCAUL).

Mr. MCCAUL of Texas. Mr. Speaker, I would like to thank my colleague and fellow classmate, the gentleman from Coppell, Texas (Mr. MARCHANT), for yielding me time.

Mr. Speaker, this morning I rise in support of this bill which I introduced to name the Pflugerville Post Office after Marine Sergeant Byron Norwood.

I am honored to come before the House and the American people to tell them of the sacrifice of the family and the heroics of a Marine who embodies all who are engaged in helping keep this world safe.

You may remember one of the high points of President Bush's State of the Union address is when he honored the memory of Sergeant Norwood, who was killed last November during the assault on Fallujah in Iraq.

There the President said, "We have said goodbye to some very good men and women who died for our freedom, and whose memory this Nation will honor forever. One name we honor is Marine Corps Sergeant Byron Norwood. Ladies and gentlemen, with grateful hearts we honor our military families represented here this evening by Sergeant Norwood's mom and dad, Janet and Bill Norwood."

The President read from a letter Byron's mother wrote to him. She said, "When Byron was home the last time, I said that I wanted to protect him like I had since he was born. He just hugged me and said, 'You've done your job, Mom. Now it's my turn to protect you.' "

He protected not only his mother, but the Nation.

President Bush honored Sergeant Norwood's parents, Bill and Janet, who stood up to represent all of the families who have found themselves paying the ultimate price for freedom. And we all remember the embrace between Janet and Safia from Iraq right here in the Chamber of this House, up there. It was truly the defining moment of the State of the Union.

The cameras panned towards the Norwoods seated behind First Lady Laura Bush. The Members of the Congress, the Cabinet and assembled dignitaries turned and recognized Mr. and Mrs. Norwood with applause. With the eyes of the Nation on the Norwoods, a woman seated next to Mrs. Bush named Safia, an Iraqi refugee and activist against Saddam Hussein's terrible regime, turned and embraced Mrs. Norwood. It was truly a remarkable moment of gratitude that was seen around the world. And it was one of the most emotional experiences in the long history of State of the Union speeches.

In some of the fiercest fighting since the fall of Saddam Hussein, Sergeant Norwood and his fellow Marines waged an assault to liberate Fallujah from the evil that impeded our efforts to free and liberate the people of Iraq. During the fighting, Sergeant Norwood found himself positioned outside of a house where seven of his fellow Marines were being held captive by the insurgents. A trained and experienced Marine, Norwood stormed the residence and freed his band of brothers from their captors. Tragically, during his efforts to liberate his buddies, Sergeant Norwood was mortally wounded.

But by his actions Sergeant Norwood embodied the verse found in the Gospel of John, Chapter 15:13, "Greater love hath no man than this, that a man lay down his life for his friends."

Sergeant Byron Norwood loved his country, and we as a Nation can do something to honor the sacrifice he made in saving the lives of those seven Marines. Today I ask my colleagues' support for legislation to name the post office in Pflugerville after Sergeant Byron Norwood.

When I approached Bill and Janet Norwood with the idea of naming the post office in Pflugerville after their son, they were humble; but they wanted to make sure that this bill would honor not only Byron but all of our fallen heroes, and today we can honor their request.

In a letter sent to me by Sergeant Norwood's mother, Janet, they wrote a very compelling and powerful message to me. This is a picture of Sergeant Byron Norwood and she wrote to me, "Representative McCAUL, we wanted you to know how much we have appreciated your visits to our home. It was a pleasure to meet you and Linda and to be able to share more about Byron with you. Knowing that you and so many other Americans honor and respect his sacrifice helps greatly to ease our sorrows.

"Thank you also for the flag, the one that was flown over the Capitol on the day that Byron died, which will always have a special place in the beautiful display box with his other treasures from his Marine Corps service.

"He would be so amazed and so proud. The whole idea of naming the post office is such a stunning honor. One of the things we worried about was that people would soon forget about Byron. If your bill passes, that will never happen and that is such a great comfort."

No, we will not forget about Byron and we will not forget about the other fallen heroes defending freedom. As with all the parents I have met with who have lost a loved one in this war, they all say the same thing, "Finish the job."

We must realize that while this Federal building will bear his name, it will also stand as a symbol for all those who have died in the name of America's freedom and security by showing the world Americans never forget their heroes. Today we can honor those heroes through Sergeant Byron Norwood by giving the post office in his hometown his name.

Mr. Speaker, naming the Pflugerville, Texas, Post Office for Marine Sergeant Byron Norwood is the very least we can do for the memory and the family whose son paid the ultimate sacrifice.

May God bless Janet and Bill Norwood and may He hold Byron in the palm of His hand.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to be a cosponsor of House Resolution 1001 that honors Sergeant Byron Norwood. I urge all Members to support this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 1001.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECOGNIZING A NATIONAL WEEK OF HOPE IN COMMEMORATION OF THE 10-YEAR ANNIVERSARY OF THE TERRORIST BOMBING IN OKLAHOMA CITY

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 184) recognizing a National Week of Hope in commemoration of the 10-year anniversary of the terrorist bombing in Oklahoma City.

The Clerk read as follows:

H. RES. 184

Whereas on April 19, 1995, at 9:02 a.m. central daylight time in Oklahoma City, Oklahoma, America was attacked in one of the worst terrorist attacks on American soil, killing 168 and injuring more than 850 Americans;

Whereas this dastardly act of domestic terrorism affected thousands of families and horrified millions of people across the State of Oklahoma and the United States;

Whereas the people of Oklahoma and the United States responded to this tragedy through the remarkable efforts of local, State, and Federal law enforcement, fire, and emergency services, search and rescue teams from across the United States, public and private medical personnel, and thousands of volunteers from the community who saved lives, assisted the injured, comforted the bereaved, and provided meals and support to those who came to Oklahoma City to help those endangered or otherwise affected by this terrorist act;

Whereas the people of Oklahoma and the United States pledged themselves to create, build, and maintain a permanent national memorial to remember those who were killed, those who survived, and those changed forever;

Whereas the Oklahoma City National Memorial draws hundreds of thousands of visitors from around the world every year to the site of this tragic event in American history;

Whereas the Oklahoma City National Memorial brings comfort, strength, peace, hope, and serenity to the many visitors who come to the memorial and museum each year to remember and to learn about this tragic event;

Whereas the 10th anniversary of the terrorist bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, is on April 19, 2005; and

Whereas the Oklahoma City National Memorial will commemorate the anniversary of the terrorist bombing by recognizing the week of April 17–24, 2005, as the National Week of Hope, which will include a day of faith, a day of understanding, a day of remembrance, a day of sharing, a day of tolerance, a day of caring, and a day of inspiration, and the annual Oklahoma City Memorial Marathon, A Run to Remember: Now, therefore, be it

Resolved, That the House of Representatives—

(1) joins with all Americans to send best wishes and prayers to the families, friends, and neighbors of the 168 people killed in the terrorist bombing of the Alfred P. Murrah Federal Building;

(2) thanks the thousands of first responders, rescue workers, medical personnel, and volunteers from the Oklahoma City community and from communities around the Nation who answered the call for help that April morning and in the days and weeks that followed;

(3) sends best wishes and thoughts to those injured in the bombing, and expresses gratitude for their recovery;

(4) resolves to stand with all Americans to promote the goals and mission established by the Oklahoma City National Memorial as stated in the following mission statement of the memorial: "We come here to remember those who were killed, those who survived, and those changed forever. May all who leave here know the impact of violence. May this memorial offer comfort, strength, peace, hope, and serenity.";

(5) encourages Americans to observe a National Week of Hope—

(A) to commemorate the 10th anniversary of the Oklahoma City bombing; and

(B) to allow each American to participate in an event each day of that week to teach a lesson that—

(i) hope can exist in the midst of political violence;

(ii) good endures in the world even among those who commit bad acts: and

(iii) there is a way to resolve differences other than by resorting to terrorism or violence;

(6) congratulates the people of Oklahoma City for making tremendous progress over the past decade and for demonstrating their steadfast commitment to such lessons; and

(7) applauds the people of Oklahoma City as they continue to persevere and to stand as a beacon to the rest of the Nation and the world attesting to the strength of goodness in overcoming evil wherever it arises.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. MARCHANT).

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 184.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this important resolution recognizes the National Week of Hope in commemoration of the 10th-year anniversary of the terrorist bombing in Oklahoma City.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. ISTOOK), the distinguished sponsor of House Resolution 184.

Mr. ISTOOK. Mr. Speaker, I thank the gentleman for yielding me time.

House Resolution 184 recognizes a National Week of Hope. Some people might be surprised to think that we are commemorating an incident that took 168 lives, and we are talking not in terms of the lives taken, but we are talking in terms of the hope that has been generated.

It was 10 years ago yesterday that, intentionally, domestic terrorists exploded a truck bomb in front of the Alfred P. Murrah Federal Building in Oklahoma City. One hundred sixty-eight lives were lost, including 19 children. Eight hundred fifty people were injured; hundreds of buildings were damaged in addition to the destruction of the Murrah Building. Thirty children were orphaned; 219 children lost at least one parent. And yet despite all this, all this, we talk about hope because the response of Oklahoma City has shown that not only are we not deterred by acts of terrorism, but the best qualities of our community in Oklahoma City are brought to the forefront by that.

□ 1100

We are grateful for the thousands of people who came from across America to assist in the disaster relief efforts, but we are more grateful for the thousands of Oklahomans who since that time have pitched in to remember what happened there and to use it as a foundation for making better lives.

The children of those who were killed, all through private donations, have college funds guaranteed to them. We have now the national memorial built on the site of the former Murrah Building where yesterday we had services with Vice President CHENEY, former President Bill Clinton, the governor and former governor of Oklahoma, myself and many others, speaking to commemorate and remember the lives lost and the lives changed forever in that building.

The Murrah Building housed regional offices for a number of Federal agencies: Secret Service; Social Security; Drug Enforcement Agency; Housing and Urban Development; Bureau of Alcohol, Tobacco, Firearms and Explosives: Armed Services Recruiting and many others. But where once it was a symbol of the Federal Government, now it is a symbol of people who, because of tragedy, turned to their faith, turned to caring for one another, caring for the victims, caring for the survivors, caring for the rescue workers.

We want to commemorate that with a National Week of Hope, to know not only will we not be deterred by terrorist acts, but also we are resolved to make it known that even among hate there is a people and a community of faith in the United States of America. That is the community of Oklahoma City, and hope can exist in the midst of violence.

God endures in the world, even when bad acts are committed, and there is a way to resolve differences other than by resorting to terrorism or violence. Because of that, a museum was established that promotes hope. The Murrah National Institute for the Prevention of Terrorism has been established, and we are grateful to the entire Nation, not only for the outreach of people that came for rescue operations and have helped in the rebuilding, but for the thoughts and the prayers, and we want to remember that with the National Week of Hope.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from Oklahoma (Mr. BOREN), a new Member of the House and a cosponsor of this resolution from the 2nd District of Oklahoma.

Mr. BOREN. Mr. Speaker, I thank the gentleman from Illinois for yielding time. I want to thank the Members of the Oklahoma delegation, the gentlemen from Oklahoma (Mr. ISTOOK, Mr. LUCAS, Mr. SULLIVAN and Mr. COLE), for coming together to support this resolution.

Mr. Speaker, I rise today and join my colleagues in voicing support for House Resolution 184. Just over 24 hours ago marked the 10th anniversary of the Murrah Federal Building bombing in Oklahoma City. We should never forget the lives lost and forever changed by the events of this day.

On April 19, 1995, at 9:02 a.m. while the building employees worked at their desks, the visitors walked the halls and the children played in the day care center, a massive explosion caused by a terrorist bomb leveled the entire north side of the building. In the end, 168 innocent men, women and children senselessly lost their lives as they were carrying on with their daily schedules.

The devastation does not end, however, with the sons and daughters, the husbands and wives, and the brothers and sisters that lost their lives on that day. Left in the aftermath were 30 orphaned children and 219 children who lost at least one parent. These, too, are victims of this horrific act. In total, 850 people were physically injured by the bombing.

In addition to the human loss, there was damage to over 300 buildings. This damage caused over 7,000 Oklahomans to be left without a place to work and left 462 residents homeless. With this in mind, my heartfelt sympathy goes out to all the families in my State of Oklahoma and around the Nation who suffered a loss during this tragedy.

I tell my colleagues that during the 10 years since the bombing, the healing process has been taking place in Oklahoma City, and the scars are healing in a remarkable fashion. The healing is attributable to the people of the city and the State who have shown their strong will and perseverance over the past decade by rebuilding. Out of the rubble and the heartbreak, they have built a beautiful memorial for all to visit.

Rather than allowing fear to keep them away from the downtown area, the people of Oklahoma City have continued the city's growth beyond the memorial. The area surrounding the memorial is now flourishing with businesses, restaurants and family entertainment. Oklahoma City and the State of Oklahoma could have given up during this tragedy, but instead, they became emboldened as they faced the difficult challenges placed before them.

This growth in Oklahoma City shows the strength that can be accomplished through the power of hope. My colleague, the gentleman from Oklahoma (Mr. ISTOOK) mentioned that earlier. It shows Oklahomans' hope for a safe place to work, our hope for a safe place to take our families, and above all, our hope for normalcy after such a tragic event.

The great accomplishments that have been demonstrated by my fellow Oklahomans since April 19, 1995, should be an example to all those in our Nation and around the world who face adversity in their own lives.

The people of Oklahoma City deserve the recognition and remembrance that this resolution provides them. I am honored to give my support to this resolution which recognizes a National Week of Hope and commemoration of not only the loss in Oklahoma City, but the resilience of its residents.

Mr. MARCHANT. Mr. Speaker, I yield as much time as he may consume to the gentleman from the State of Oklahoma (Mr. COLE), my distinguished colleague. The gentleman from Oklahoma (Mr. COLE) was the Oklahoma Secretary of State on April 19, 1995.

Mr. COLE of Oklahoma. Mr. Speaker, I want to thank the gentleman from Texas for yielding me time, and I certainly want to thank the gentleman from Oklahoma (Mr. ISTOOK) for offering this thoughtful and gracious and heartfelt resolution.

I want my remarks on the floor today to be spontaneous, just as the response to the bombing in Oklahoma City was by thousands of Oklahomans and millions of Americans.

There are some dates that one remembers in their life. If one is from my generation, they remember the day that President Kennedy was assassinated, with crystal clarity; and I think all Americans remember where they were and what they were doing when the awful tragedy of 9/11 unfolded; and certainly all Oklahomans, and I think many Americans, remember where they were on April 19, 1995.

I certainly remember where I was. I was walking into the West entrance of the State capitol through a tunnel just at 9 o'clock, and I felt the tremble, and I wondered what it was, walked on down the hall into my office. My secretary immediately came and said something awful has happened in downtown Oklahoma City; we do not know what, but something terrible has happened.

That was followed immediately by a call from my wife who at the time was three blocks away from the blast site, working in a law office in downtown Oklahoma City, fortunately on the 14th floor and fortunately out of harm's way. But she called to say, something terrible is occurring. She said, I can see through my windows there is smoke billowing up out of downtown, and there are hundreds of people in the streets, streaming away; something awful has happened.

I immediately left my office and walked upstairs to the governor's office. As I walked through the door, I looked to my right, which was where the press room was located in that suite of offices, and I saw Governor Keating and his chief of staff, Clinton Key, and they were watching on television, only 9 minutes into the disaster at that point, but already helicopters from local televisions stations were there and giving us an aerial view. There was a great deal of speculation on the television about what had occurred, people attributing this to a natural gas explosion.

Governor Keating, who was a former FBI agent and had investigated incidents of terrorism in the 1960s on the West Coast, knew immediately what it was. He said that is no natural gas explosion. That is a car bomb. That is some sort of explosive device that has been set off deliberately.

From that moment forward, I watched an extraordinary response from one of the great public leaders that I have ever been privileged to associate with, Governor Frank Keating, as he marshaled the State and moved it forward to deal with the tragedy in front of him.

I saw a marvelous response from his wife, to skip ahead just a moment, Cathy Keating, who organized the memorial service that moved most Americans. That was her idea on the second day of the tragedy.

We were meeting that night, still not knowing, frankly, how many people had died, whether or not survivors were there, still dealing with all the tragedy associated with the event. She came into the meeting we were having in the governor's mansion and said, We need to have a memorial service; people need to grieve.

I remember honestly thinking at the time, how in the world can we pull off something like this; we have more than we can handle in front of us. I made that sentiment known, and the first lady, to her enduring credit, said, You leave it to me. People want to be involved.

I watched that extraordinary thing come forward as volunteers pitched in, as thousands of people who could not help immediately wanted to do something to respond and to help and to assist the victims of the tragedy. She made that happen, and without her, frankly, it would have never occurred.

I remember many other people. There were so many heroes in those days, so many people. Ron Norick, the mayor of Oklahoma City, again I think one of the great public leaders in history, certainly in my State, the fire chiefs, the police officers, the responders, but most important, just average people, we could not ask for something and not get it. Frankly, we had more help pouring in than we could easily coordinate on the first few days.

I will tell my colleagues this, too. I am a very strong and very good Republican, and I certainly never voted for Bill Clinton, but I have got to tell my colleagues, he was a great President of the United States in that particular tragedy. I will always be grateful for what he did.

I remember the first day, again, of the incident, and President Clinton had called at 1 o'clock in the afternoon. By that point, the governor and his team had moved to the Civil Emergency Management Center, an underground location at the capitol complex in Oklahoma City, and President Clinton and Frank Keating were old friends. Frank Keating had been the student body president at Georgetown when President Clinton was the sophomore class president at Georgetown. So there was a familiarity and an ease of communication that was wonderful to have in a crisis like that.

I remember the President immediately offering all the aid at the disposal of the United States of America; and let me tell my colleagues, my fellow Americans, you do not know how lucky you are when you are in a crisis to be an American until that happens to you, because the response was overwhelming, and the President was generous and gracious and amazingly helpful.

As we moved forward in that discussion, President Clinton asked Governor Keating the obvious and most important question in some ways: Do you have any idea who is responsible for this terrible event? I remember there was lots of speculation about who might be responsible. There is still some speculation today, I suppose, but Governor Keating was nothing if not cautious and careful as a law enforcement official; and he said, We have no earthly idea and we need to be very careful here that blame not be placed on communities or things that did not happen.

The President very thoughtfully said, Well, I certainly hope it was not a foreign national, because if it was, we will be at war someplace in the world in 6 months. I thought about that a lot after 9/11 and what unfolded there and how prophetic he was, indeed, in that particular vision.

The day went on and it was a remarkable day, it was an intense day, but I suppose my most enduring memory of the day is leaving the capitol at 3:00 in the morning and driving down Lincoln Boulevard to get home and looking out the window and seeing this incredible line of people standing outside of a blood center at 3:00 in the morning, still wanting to do something to help. Amazing.

□ 1115

My role in that particular crisis, as it unfolded, was to do what Governor Keating told me to do; and that was to work with the Federal Government on the rebuilding process, and I focused my energy on that. We got a study and figured out how much damage there had been, and we began to understand how many lives and how terrifically awful it would be. And then I turned to the person that I knew would be the most helpful in that crisis at the Federal level and that was my good friend, Congressman LUCAS. He represented that area of Oklahoma City at that point. And let me tell you, he was a tyrant, a Trojan in working on behalf of Oklahoma City and the victims. He did everything you could ask him to do and more, just simply a magnificent response on the part of my dear and good friend.

In that crisis, there was a lot of praise, and I think justifiably for Oklahomans, but I also think a vein of speculation, Well, only Oklahomans would respond this way. It is kind of a frontier community, it is relatively homogeneous, it is very conservative, it is very family oriented, has a strong basis of faith, and only in a place like that would a response like that occur.

I did not think that was true, but I have to tell you, on 9/11, when I watched a very diverse and very secular and very different New York City respond in exactly the same way as Oklahomans had responded, I had confirmed in an awful moment what I knew then, that the Oklahoman response was fundamentally an American response. That is the way Americans behave toward one another when things do not go well. So I will always remember this particular day.

Obviously, it is seared in my memory very, very deeply, and I remember the tragedies that unfolded afterwards and, frankly, remember the response to those tragedies even more profoundly.

But in closing, I would like to say, in reflecting on Oklahoma City, and I think it is clearly the lessons of 9/11 as well, that out of evil, grace comes; and I saw enormous grace on April 19, 1995, in Oklahoma City. And out of terror, courage comes; and I saw great courage, from the first responders to the average person that went in.

I remember Rebecca Anderson, who was the one first responder and nurse whom we lost, because she went back into a dangerous building. And I remember my good friend Tim Giblet, who was working downtown at the time, who saved a number of people, again going into a building, doing what he had no training to do. He was not an emergency worker, he just knew people needed help. So the courage was there.

And out of despair, hope, because there is a great deal of hope that comes when you see how your country and your fellow human beings respond in a crisis. And, finally, out of adversity, as my good friend, the gentleman from Oklahoma (Mr. ISTOOK) mentioned, triumph. Because if you went to Oklahoma City today and you went to that exact spot, you would find a magnificent memorial. You would find, more importantly, a museum that not only tells the story, but puts the awful nature of terrorism in a broader context; and you would find a city that believes in itself and its future, probably more profoundly today than it did on April 18 of 1995.

That is a lesson I think all of us as Americans ought to remember. We all believe in our country, but when you have a particular crisis, that is when America is at its very best. Certainly, on this particular day that is when Oklahoma was at its very best. And I will always be grateful to Governor Keating, the First Lady, Cathy Keating; to my good friend FRANK LUCAS, who was there when we needed him; to the other members of our delegation, Senator Nickles, Senator INHOFE, who were also magnificent; but first and foremost to the people of Oklahoma City, who showed when you are challenged what you can do; and then to our fellow Americans, who at every level, at every moment, responded in the most helpful, the most thoughtful, and in the most supportive of ways.

It is a day to remember not only in terms of what is worst in humanity but what is best about America.

Mr. Speaker, I rise today in strong support of H. Res. 184, a resolution recognizing a National Week of Hope in commemoration of the 10-year anniversary of the terrorist bombing in Oklahoma City. I also would like to commend my friend and colleague, the gentleman from Oklahoma, Mr. ISTOOK, for his efforts in bringing such a meaningful bill before the House for consideration.

April 19, 1995, will always be seared in my memory as a day on which I see the worst and the best of human nature. As the then acting Secretary of State for Oklahoma, it was not just the facts of that fateful day alone that cut quick to my heart. It was the realization that what happened in Oklahoma City would impact all of Oklahoma, all of America, and all of the world in the weeks ahead.

But, Mr. Speaker, as the world witnessed this tragedy, and as Americans sought answers to untold numbers of questions—the most compelling being why—there came an unexpected response: it was clear that Americans did not need an answer in order to move forward. Mr. Speaker, Oklahomans responded immediately, and that response began at the exact same place of the tragedy the base of the Murrah Federal Building itself, only moments after 9:02 AM. Amazingly, this reply sent a shockwave that was not only felt for just a few miles radius, but one that resonated all over the world.

On April 19, 1995 terrorism struck the heartland of America. But, if 168 lives taken, 850 individuals injured, families ripped forever of loved ones, and lives changed forever represented America's loss, then 12,384 volunteers and rescue workers, 190,000 estimated Oklahomans attending funerals for bombing victims, and an unprecedented outpouring of love, aid, and hope from across the country represented America's spirit. And Americans response America's heart may have suffered a terrible blow, but America's spirit only grew stronger.

This bill commemorates the 10 year anniversary of a terrible tragedy and I am proud as an Oklahoman to stand in this chamber to offer my full support of its passage. This anniversary is not only an opportunity to remember, but an opportunity to celebrate the American spirit that unifies and buoys her citizens in their most challenging times of need.

Mr. Speaker, I again praise the gentleman from Oklahoma for this timely legislation and urge support for the passage of H. Res. 184.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the United States was forever changed on April 19, 1995, at 9:02 a.m. Central time. What began as a perfect spring day in Oklahoma City, quickly turned into a nightmare when a bomb exploded in front of the Alfred P. Murrah Federal Building, killing 168 people and injuring more than 850.

Today, as we reflect on that horrific event, I am proud to stand before you in support of H. Res. 184, recognizing a National Week of Hope in commemoration of the 10th-year anniversary of the terrorist bombing in Oklahoma City. So much has changed since that fateful day. No longer do we as American citizens believe that we are isolated from terror. We know that the threat of another terrorist attack is very real. In the face of this threat, however, we have chosen to face our fears and to work together to keep our country safe.

Immediately following the explosion on April 19, the true character of Americans emerged. Law enforcement personnel, bystanders, and those who had narrowly escaped harm rushed toward danger to attend to those who were injured by the explosion. Because of their heroism, many lives that otherwise would have been lost were saved that day.

In Oklahoma City today, where the Alfred Murrah Building once stood, stands a poignant memorial that reminds us of each cherished life that was lost that tragic day. It also serves as an important reminder to all of us that each day is truly a blessing.

Mr. Speaker, I want to state my emphatic support for this bill. The National Week of Hope will provide all Americans with the opportunity to reflect on the importance and value of human life. The National Week of Hope will include a day of faith, a day of understanding, a day of remembrance, a day of sharing, a day of tolerance, a day of caring, and a day of inspiration. Each day represents a core value that reflects the strength of our Nation.

I want to thank the gentleman from Oklahoma (Mr. ISTOOK) for introducing this meaningful legislation. I pray that all Americans will take cognizance of it and continue to demonstrate the bravery and compassion that were exhibited that tragic day in Oklahoma.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, how much time does our side have remaining?

The SPEAKER pro tempore (Mr. GRAVES). The gentleman from Texas has 5 minutes remaining.

Mr. MARCHANT. Mr. Speaker, I yield 4 minutes to my distinguished colleague, the gentleman from Oklahoma (Mr. LUCAS).

Mr. LUCAS. Mr. Speaker, I rise today in support of H. Res. 184, a bill recognizing a National Week of Hope in commemoration of the 10th anniversary of the terrorist bombing in Oklahoma City.

Yes, Mr. Speaker, 10 years ago, on April 19, 1995, an act of unimaginable death and destruction occurred in Oklahoma City when the Alfred P. Murrah Federal Building was blown up in one of the deadliest terrorist attacks on American soil, killing 168 of our friends and family, 19 of them children. In that instance, America's heartland lost its innocence. It shocked our Nation. It changed our lives forever.

Few events in the past quarter century have rocked Americans' perceptions of themselves and their institutions and brought together the people of our Nation with greater intensity than this heinous act. My primary district office was a block and a half away from the Murrah Building. I will never forget. I will never forget being in Dallas with the rest of the Oklahoma Federal delegation at a BRAC hearing when a news station radio reporter tapped me on the shoulder and said, Congressman, we have a report that the Federal building in Oklahoma City has been bombed. They say the building is gone. Where is your office? The thoughts that went through my mind in that instant about my loyal staffers.

The delegation came rushing back. As I walked through my damaged office, a block and a half away, on the opposite side of the Murrah Building, looking at the destruction, and being thankful I had lost none of my people, but knowing the heartbreak, the helplessness we all felt looking at that terror, that devastation that transpired on that day.

Now, the bombing was a cowardly act of tragic proportions, and 10 years after the bombing, many of those affected are still trying to make sense of it. But what we know for certain is that on that day we came together as a State and as a Nation in the face of adversity. We comforted those afflicted, we rebuilt our devastated city, we did not let the terrorists win.

I want to take this time to honor and remember not only those who lost their lives, but also those who survived. We honor those who lost loved ones, those who upon hearing of the devastation rushed to the city to offer what help they could, the firemen, the policemen, the nurses, the structural engineers, even the community members who brought food and water for the rescuers. They are heroes to all Oklahomans.

Like so many other people in Oklahoma, this event has shaped my life, and as the U.S. Congressman representing downtown Oklahoma City at the time of the bombing, I have had the privilege and the opportunity to work these past 10 years to help ease the burden on Oklahoma City as a result of that devastating tragedy. From requesting Federal money to assisting in the rebuilding efforts, to introducing to the House the legislation that established the national memorial, I am honored to have had the chance to help in some small way.

Mr. Speaker, I close today the way I closed a speech I made on this very House floor on May 2, 1995, just 13 days after the attack. As you remember, a spontaneous memorial formed around the perimeter of the Murrah Building, just as one did years later in New York City, a mound of wreaths, bouquets, teddy bears, tear-stained poems laid out, paying tribute to those who perished.

One particular offering spoke, I believe, for all Oklahomans. It consisted of a teddy bear with a paper heart attached, bearing a crayon inscription which read as follows: "Oklahoma, brokenhearted, yes; broken spirit, never." Ten years after the bombing, we Oklahomans are stronger than ever.

Mr. MARCHANT. Mr. Speaker, I yield 1 additional minute to the gentleman from Oklahoma (Mr. ISTOOK), the sponsor of House Resolution 184, to close.

Mr. ISTOOK. Mr. Speaker, as is evident a great many people responded to this situation. Over 12,000 emergency workers, rescue workers and volunteer workers, were at the site within a matter of only a couple of days. They came from all over America, for which we are grateful and will always remember.

I want to add some additional thanks to some people that have not been mentioned that I, as someone who shared representation of Oklahoma City with Congressman LUCAS at the time, and as someone who now represents that specific building site, I want to express appreciation for those with whom we also worked.

As a member of the Committee on Appropriations, I worked directly with former Chairman Bob Livingston, former Speaker Newt Gingrich, and former Infrastructure Chairman Bud Shuster in making sure that we fashioned the correct Federal response. And, in fact, something in the neighborhood of $200 million flowed in to reimburse law enforcement and safety expenses, to pay the cost of rebuilding hundreds of damaged properties, to establish a permanent revolving loan fund for the redevelopment of the area, the area that surrounds the former Murrah site, to build the new Federal building and campus, which was opened just over a year ago, and of course to establish the national memorial, museum, and the antiterrorism institute in Oklahoma City.

We are grateful for how the country reached out to our community and to our State, and as has been made clear by everyone who has spoken, we are most grateful of all for the wonderful nature, character and spirit of the people of Oklahoma that have taken disaster and used it as something to build upon and make a stronger America, with stronger faith and a stronger Oklahoma.

COMMENTS BY CONGRESSMAN ERNEST ISTOOK AT APRIL 19, 2005, 10-YEAR ANNIVERSARY COMMEMORATION OF MURRAH BUILDING BOMBING, OKLAHOMA CITY, OKLAHOMA

Today we gather to remember and renew our strength and our bonds as Americans and as Oklahomans.

Tomorrow, the U.S. House will designate this week as a National Week of Hope, to carry across the Nation the message of hope that we share today.

In this resolution, we state that we join with this community in hope and prayer in a national week of hope and ask the Nation to join us in the wish that we will all learn these 3 lessons stated in the resolution: that hope can exist in the midst of political violence, that good endures in the world even among those who commit bad acts, and that there is a way to resolve our differences other than by resorting to terrorism and violence.

The resolution states that the Congress congratulates the people of Oklahoma City for making tremendous progress over the past decade and for demonstrating their steadfast commitment to these three lessons. It applauds the people of Oklahoma City for standing as a beacon to the Nation, and a beacon to the world, attesting to the strength of goodness in overcoming evil. How proper it is that it says that Oklahoma City stands as a beacon.

So often I heard the words of former President Ronald Reagan saying America needs to be a shining city on a hill. Those looking for a shining city need look no farther than Oklahoma City. We will adopt the resolution because America has learned from what has happened here. America has learned from our actions, not from our words, that have touched the soul of the Nation. I want to mention 2 symbols; one not far away from here sits atop the dome of the state Capitol. It is a special symbol, a statue crafted by Enoch Kelly Haney called 'The Guardian,' an Indian brave with a tall spear, its end planted in the earth.

That statue is a way of saying 'Here we stand. We shall not be moved.' That thought says a lot about the spirit of Oklahoma, and the spirit of Oklahoma City, and our refusal to be deterred by the obscenity of terrorism.

But being steadfast and immobile, we recognize here is only a virtue if we are already in the right place and doing the right thing. If we send a message that we will not be moved, then we must make sure we are standing firm for what is good and for what is virtuous. Fortunately, this is a place that aspires to stand for the good, and we have fertile soil for virtue.

Oklahomans know that it is not enough to inherit great blessings; blessings have to be shared. We have to make this a better community and a better land than we found it, better for our children, better for our grandchildren.

And the key is to this found in the other symbol the enduring emblem of this memorial, an American elm know as the survivor tree.

The survivor tree was damaged. It was scarred. It was denuded. Almost, but not quite, it was killed. Why did the survivor tree withstand the blast and the shock? The answer is quite simple, as President Clinton mentioned, it is the roots: the roots preserved it. Despite all that it suffered, its roots were deep, and they preserved it. And that is why this city endures and prospers, despite the blast, the deaths, the injuries. Here we stand, and the reason we shall not be moved is because our roots go deep, and they are planted in the proper soil. And that is the soil of faith the eye that sees the foliage gradually return concealing some of the scars as we see in the lives of so many survivors. Those scars and the progress may be visible but what is not visible is the roots. The roots were not created by any public official, not any organization of survivors, not by the many who so willingly came here to give aid. The roots of the survivor tree were made by God, and this city's roots are planted deeply in the faith in God. It is God who has inspired the enduring faith that has mended hearts, sparked outpourings of generosity, and provided sheltering arms for people to shed their tears in that embrace. As one person expressed it to me, 'our faith is greater than their sin.'

So often, we invoke the words, 'God bless America.' We need to remember, God has already blessed America. God has already blessed Oklahoma. God has already blessed Oklahoma City. Instead of only asking for God's blessings, maybe we need to spend more time with us blessing God, and praising him for our lives and our land, and praising him for the faith that sustains the city.

Without God, this city, this state, and this Nation have no roots. With Him, our roots are solid and they nourish us. We have many great symbols here in the city and in the memorial, but it is God who has provided the greatest symbol of all—the Survivor Tree. We could never do that, for only God can make a tree.

Thank you for being the people of faith, and may America bless God.

Mr. SULLIVAN. Mr. Speaker, on April 19, 1995, Oklahoma City, Oklahoma suffered one of the worst terrorist attacks on American soil, killing 168 people and injuring more than 850 Americans. Before the terrorist attacks of 9/11, the Oklahoma City bombing was the worst act of terrorism ever committed on American soil.

As a native Oklahoman, I was devastated by this terrible act of terror, the innocent loss of life, the destruction of the Alfred P. Murrah Federal Building and the hundreds of other buildings that were damaged in the surrounding Oklahoma City area.

The people of Oklahoma responded to this tragedy through the remarkable and valiant efforts of local, state, and federal law enforcement, fire, emergency services, and search and rescue teams from across the United States. Thousands of volunteers from the community came and saved lives, assisted the injured, comforted the bereaved and gave hope to the victims and their families.

This tragedy could have torn Oklahoma City apart, but instead, the tragedy united an entire community and an entire nation. On that terrible day, out of the rubble, the people of Oklahoma City resoundingly stood up against terror to stand as a beacon of light to the rest of the nation and the world, attesting to the fact that good will always triumph over evil, wherever evil may arise.

On the 10th anniversary of this tragedy, I commend my fellow Oklahomans for their strength, their faith, and for their resolve to move forward in the face of overwhelming odds to build a better Oklahoma and a greater America.

Mr. MARCHANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and agree to the resolution, H. Res. 184.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1130

JUDGE EMILIO VARGAS POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1072) to designate the facility of the United States Postal Service located at 151 West End Street in Goliad, Texas, as the "Judge Emilio Vargas Post Office Building".

The Clerk read as follows:

H.R. 1072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JUDGE EMILIO VARGAS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 151 West End Street in Goliad, Texas, shall be known and designated as the "Judge Emilio Vargas Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Judge Emilio Vargas Post Office Building".

The SPEAKER pro tempore (Mr. GRAVES). Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. MARCHANT).

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this meaningful legislation honors Emilio Vargas, a committed social advocate in south Texas. H.R. 1072 designates the postal facility in Goliad, Texas, as the Judge Emilio Vargas Post Office Building. I am pleased to join with all Members of my home State of Texas as a cosponsor of H.R. 1072.

Judge Vargas worked at the Department of Human Services as a caseworker directly helping citizens in need for 28 years. He also served as a trustee on the Goliad Independent School District Board, and for the past 10 years he has been a justice of the peace for Goliad County, which in Texas is an elected position in which one earns the title "judge."

I know the gentleman from Texas (Mr. HINOJOSA) feels strongly about the contributions of Judge Vargas, and I congratulate my colleague for advancing H.R. 1072 on the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. CUELLAR).

Mr. CUELLAR. Mr. Speaker, I stand in support of H.R. 1072, which, as the gentleman from Texas (Mr. MARCHANT) has said, has the unanimous support of the whole Texas delegation, both Democrats and Republicans, the 32 members of the Texas delegation.

H.R. 1072 is a piece of legislation that will name the post office in Goliad, Texas, after a great American, a great Texan, Judge Emilio Vargas. Judge Emilio Vargas is a first-generation American who was born in Goliad.

As a child, he attended segregated schools because of his Hispanic background. Despite that, he went off to Bee College, graduated, and then he volunteered, joined the American Air Force where he served as an airman. After serving his country, he went home and focused on improving the lives of his people in the community.

During the 1960s, Judge Vargas was active in the civil rights movement and worked to eliminate the poll tax in Texas. He worked to increase Hispanic participation in government and focused on getting an educated population in his community. For 14 years he served in the Goliad Independent School District Board of Trustees, where he focused on education. He believed in the words of President John F. Kennedy when President Kennedy said the progress of a Nation can be no swifter than the progress of its educational system; and he worked hard to make sure that students could go to school, go to college, and become good citizens and become part of the American Dream.

I stand here with the gentleman from Texas (Mr. HINOJOSA) in support of this particular bill, H.R. 1072, and ask that we name the post office in Goliad after this great American, great Texan, Judge Vargas.

Mr. MARCHANT. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. HINOJOSA), the sponsor of this legislation.

Mr. HINOJOSA. Mr. Speaker, I rise today in strong support of H.R. 1072, a bill to name the post office in Goliad, Texas, in honor of Judge Emilio Vargas.

I thank the gentleman from Virginia (Chairman TOM DAVIS) and the ranking member, the gentleman from California (Mr. WAXMAN), for their assistance in moving this legislation to the floor prior to the Cinco de Mayo celebration. I also thank the gentleman from Illinois (Mr. DAVIS) and the gentleman from Texas (Mr. MARCHANT) as well as four other Members of Congress, the gentleman from Texas (Mr. ORTIZ), the gentleman from Texas (Mr. REYES), the gentleman from Texas (Mr. GONZALEZ), and the gentleman from Texas (Mr. CUELLAR) for their kind words on behalf of this legislation to name this Federal building for an outstanding citizen.

Judge Vargas is a first-generation American who was born in Goliad, Texas. As a child, he attended segregated schools because of his Mexican heritage. Yet his father and mother always taught him to be proud of being an American. He took this lesson to heart and after graduating from Bee College, he volunteered and joined the Air Force where he served as an airman. After leaving the Air Force, he returned home and spent the rest of his life working to improve the lives of the people in his community of Goliad.

During the 1960s, Judge Vargas was active in the civil rights movement and worked to eliminate the poll tax in Texas. Since then, he has fought to increase Hispanic participation in government at all levels.

Judge Vargas understands the importance of developing an educated population. For 14 years, he served on the Goliad Independent School District Board of Trustees. During his tenure, the Goliad School District was voted one of the 10 best school boards in Texas. Because of his commitment to quality education, numerous students from Goliad have gone to prestigious colleges and universities, including the U.S. military academies.

For over 28 years, Judge Vargas served with the Texas Department of Human Services as a caseworker, distinguishing himself for helping the indigent and vulnerable in a six-county region. He worked with a Job Corps program helping to train new workers and with the surplus commodity programs feeding hungry families.

For the past 10 years, he has served as the justice of the peace for Goliad County and for 9 years was a reserve deputy for the Goliad County Sheriff's Department.

In addition to his military, his public and civic service, Judge Vargas has also dedicated a large part of his life to the preservation and celebration of Goliad's rich heritage and historical significance. For my fellow colleagues who may not be aware, Goliad, Texas, is the birthplace of Mexican General Ignacio Zaragoza. General Zaragoza is a Texas-born hero who on May 5, 1862, led his Army of 4,000 Mexican soldiers to defeat 1,000 of Napoleon's men. This military victory is credited as the action that turned the tide of the French-Mexican War in Mexico's favor.

To honor General Zaragoza's memory and heroism, citizens throughout Texas and Mexico celebrate May 5 every year as the international holiday of Cinco de Mayo. The city of Goliad and her citizens also played a significant role in the war for Texas independence. The massacre at Goliad of Colonel James Fannin and 342 of his troops who had surrendered to General Santa Ana made "Remember Goliad" as important a rallying cry for Texans in their struggle for independence as "Remember the Alamo."

As a member of the Zaragoza Society for over 45 years and as chairman for at least a decade, Judge Emilio Vargas has worked to bring national recognition to Goliad's historic significance in Mexican history, and Texas and U.S. history. He has participated in numerous cultural exchanges with Mexico and has been awarded the Promio Ohtli Award by the Mexican Ministry of Foreign Affairs for his outstanding work in fostering better international relations between the United States and Mexico.

In closing, I often have heard Judge Emilio Vargas say no mission is too difficult and no sacrifice too great. Judge Vargas has truly lived by these words as he has dedicated his life to the people of Goliad. I can think of no better way to honor this distinguished service to his community than by naming the Goliad Post Office in his honor. I urge my colleagues to support this legislation.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I simply want to commend and congratulate the gentleman from Texas (Mr. HINOJOSA) for his outstanding recognition and sensitivity and in raising awareness relative to the contributions of local residents of his congressional district. People who would otherwise never be heard of or heard from, he takes the time to highlight their accomplishments and their achievements. I commend the gentleman for it, join in full support of this legislation, and urge its swift passage.

Mr. ORTIZ. Mr. Speaker, I join my South Texas colleague, RUBÉN HINOJOSA, in asking the House to pass H.R. 1072 to name the Post Office in Goliad, Texas, after Judge Emilio Vargas.

A child of our times, Judge Vargas, a first-generation American, was born in Goliad and attended segregated schools because he was Mexican. He overcame the disadvantages inherent in segregation by graduating from Bee College and serving in the U.S. Air Force.

After his service, he came home to spend his life laboring to improve the lives of South Texans. During the 1960s, Judge Garza was a civil rights pioneer. He fought the evil of the poll tax that flew in the face of democracy and he worked to persuade more Hispanics to participate in government.

He knew that education was the magic bullet for improving a population. He devoted much of his efforts to service on the Goliad Independent School District Board of Trustees. His inspiration—and his work on local education issues—resulted in many young people from Goliad going to prestigious colleges and universities, including the U.S. military academies.

Judge Vargas served with the Texas Department of Human Services helping those who had no money and no hope. His work with the Job Corps program helped train new workers, teaching people to help themselves. Also devoted to the rule of law, he has served as the Justice of the Peace for Goliad County and for 9 years was a Reserve Deputy for the Goliad County Sheriff's Department.

Goliad is rich in the history of both Mexico and the United States. Goliad was the birthplace of Mexican General Zaragoza who defeated the French Army, for which we celebrate Cinco de Mayo. Goliad also played a significant role in the War for Texas Independence.

For his life's work in championing the better angles of our democracy and our community, it is a just reward for the Goliad Post Office to carry the name of this unique American Patriot.

Mr. GONZALEZ. Mr. Speaker, I rise in support of H.R. 1072, a bill to designate the postal facility in Goliad, Texas, as the "Judge Emilio Vargas Post Office Building." This bill was introduced by my good friend and colleague, Congressman RUBEN HINOJOSA.

Born in Goliad, Texas, Judge Vargas has dedicated his life to the people of Goliad, and I find it most fitting to honor his service by naming the Goliad Post Office after him.

As a first-generation American, Judge Vargas attended segregated schools because of his Mexican heritage. After attending Bee College, he volunteered and joined the Air Force as an airman. Upon leaving the Air Force, Judge Vargas worked to improve the lives of the people in the community. He was active during the civil rights movement during the 1960s and he continues to fight to increase Hispanic participation in government.

Judge Vargas served 14 years on the Goliad Independent School District Board of Trustees. While he was there, the Goliad School Board was voted one of the 10 best school boards in Texas. Judge Vargas understands the importance of developing an educated population, and because of his commitment, numerous students have gone on to prestigious colleges and universities, including the U.S. military academies.

For 28 years, Judge Vargas served as a caseworker with the Texas Department of Human Services, helping the indigent and vulnerable in a six-county region. During his tenure, he worked with the Job Corps program helping to train new workers, and with the Surplus Commodity Programs to feed hungry families.

During the past 10 years, Judge Vargas has served as the Justice of the Peace for Goliad County and for 9 years was a Reserve Deputy for the Goliad County Sheriff's Department.

Goliad is the birthplace of Mexican General Zaragoza whose defeat of the French Army is celebrated as Cinco de Mayo. In addition, Goliad has played a significant role in the War for Texas Independence. Judge Vargas has been a member of the Zaragoza Society for over 45 years, and the chairman for at least a decade. Through this work, Judge Vargas brought national recognition to Goliad's historic significance both in Mexican and Texas history.

I believe it is most fitting to honor Judge Vargas' service to the people of Goliad by naming the Goliad Post Office after him, and urge my colleagues to support this legislation.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 1072.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING GOALS AND IDEALS OF NATIONAL INDOOR COMFORT WEEK

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 130) recognizing the contributions of environmental systems and the technicians who install and maintain them, the quality of life of all Americans and supporting the goals and ideals of National Indoor Comfort Week, as amended.

The Clerk read as follows:

H. RES. 130

Whereas for over 100 years, our Nation has been improved by the heating, ventilation, air conditioning, and refrigeration systems that keep our buildings warm in the winter and cool in the summer;

Whereas the contractors that install heating, ventilation, air conditioning, and refrigeration systems are comprised of small businesses located in all 50 states;

Whereas according to the Office of Advocacy at the Small Business Administration, small businesses [represents] *represent* 99.7 percent of all employers and employ half of all private sector employees;

Whereas the heating, ventilation, air conditioning, and refrigeration industry is a growing field that continues to create jobs and grow small businesses;

Whereas indoor environmental systems have saved millions of lives and improved the health of our citizens;

Whereas because of environmental systems, food is preserved, modern medicine is possible, and children breathe easier;

Whereas the men and women who design, manufacture, install, and maintain heating, ventilation, air conditioning, and refrigeration systems play a crucial role in our economy;

Whereas professional certified technicians save the Nation millions of dollars each year through the design and installation of more efficient equipment that provides essential comfort while reducing energy usage; and

Whereas the Air Conditioning Contractors of America have proposed designating the week of April 17–23, 2005, as National Indoor Comfort Week: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the contributions that environmental systems have made to the quality of life of all Americans;

(2) commends the technicians who install and maintain environmental systems;

(3) recognizes that these small business contractors have benefited from the reduced regulatory burden provided as a result of passage of the Regulatory Flexibility Act of 1980 and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA);

(4) commends small business air conditioning contractors for participating in the Occupational Safety and Health Administration panels required by SBREFA to better educate regulators on the effect of Federal rules on small businesses;

(5) recognizes that small business air conditioning contractors have actively supported the Section 7(a) loan guarantee program administered by the Small Business Administration; and

(6) supports the goals and ideals of National Indoor Comfort Week, as proposed by the Air Conditioning Contractors of America.

The SPEAKER pro tempore (Mr. ADERHOLT). Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

GENERAL LEAVE

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume.

This resolution recognizes the contributions of indoor environmental systems, commonly known as heating and air conditioning, and the technicians who install and maintain these systems. On a day like today where the temperature is expected to go above 80 degrees, I am particularly grateful for air conditioning that makes it easier to do our jobs each day. Heating and air conditioning provide a high quality of life for all Americans. This resolution simply supports the goals and ideals of National Indoor Comfort Week, which is taking place this week and sponsored by the Air Conditioning Contractors Association.

The Air Conditioning Contractors of America are comprised mainly of small businesses. In fact, over 98 percent of HVAC contractors are small businesses. This is an industry that many of us take for granted, until we call upon them for service. They are responsible for ensuring that in the winter our heating systems work and in the summer our air conditioner hums along without interruption.

And it is because of air conditioning that many parts of our great Nation, particularly in the South and West, have grown into booming areas, creating new jobs and enhancing our economy.

There are very few people left in our country who can remember what it was like without refrigeration. Now refrigeration takes away most of the concerns we used to have about how our food is preserved. Refrigeration also protects vital medicines from contamination and helps us conquer diseases that have plagued mankind for generations.

☐ 1145

Children and seniors have cleaner, safer air to breathe. The filtration systems in many HVAC units in our homes, office buildings and factories help purify the air that we breathe, helping to lower the effect of airborne diseases.

For all these reasons and more, I urge all of my colleagues to support passage of this resolution and salute the small business men and women who work in the HVAC industry.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

We are here today to consider legislation honoring the contributions of the heating, ventilation, air conditioning and refrigeration industries, a large segment of our small business constituency. Although we often fail to think about the relevance to our everyday lives, the impact of these industries and firms can be seen in every household across the Nation. This resolution honors the men and women that strive to improve the lives of Americans by providing quality services on a daily basis.

This industry has helped to drive the economy by creating thousands of good-paying jobs every year. In 2002, heating, air conditioning and refrigeration mechanics and installers held nearly 250,000 jobs, and approximately 15 percent of these workers were classified as self-employed.

The heating and cooling industry has also set the standard for creating innovative, environmentally safe products that help to preserve and strengthen our environment for future generations to enjoy. New technologies are constantly developed to ensure efficient energy use so that we can keep indoor environments safe and comfortable while protecting our outdoor environments. Without the modern conveniences and environmental advances the industry has developed, Americans would not have the means to enjoy the quality of life as we know it today. Clearly, given the unique contributions of the small businesses in this industry, it is only fitting that we find ways to recognize the exceptional work of these service men and women.

In recognizing what they have brought to the table, we must also strive to equip the indoor cooling industries with the resources they need to succeed, including access to capital, reduction of regulatory burden, affordable health care, business development and technical assistance. Entrepreneurs in service industries across the board deserve our full support in ensuring that these programs and initiatives are utilized to their fullest potential.

I would like to take a moment to recognize Tim Slattery and Allyson Ivans of the House Small Business Committee minority staff and Piper Largent of the majority staff for their work on this legislation. I would also like to commend the Air Conditioning Contractors of America. This organization has been instrumental over the years in demonstrating how vital their industry is to communities across the country.

I am pleased to offer my support in designating the week of April 17–23, 2005, as National Indoor Comfort Week. The heating, ventilation, air conditioning and refrigeration industries are deserving of our attention. I cannot overstate the important role that the small businesses in these industries have played in improving our health, safety and overall quality of life.

Mr. Speaker, I yield back the balance of my time.

Mr. MANZULLO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ADERHOLT). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and agree to the resolution, H. Res. 130, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING CONDOLENCES OF CONGRESS IN AFTERMATH OF RECENT SCHOOL SHOOTING IN RED LAKE, MINNESOTA

Mr. KLINE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 126) expressing the condolences and deepest sympathies of the Congress in the aftermath of the recent school shooting at Red Lake High School in Red Lake, Minnesota.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I ask unanimous consent that the Clerk read the entire resolution into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Minnesota?

There was no objection.

The Clerk read as follows:

H. CON. RES. 126

Whereas, on March 21, 2005, a troubled teenager opened fire at the Red Lake High School in Red Lake, Minnesota, killing five students, one teacher, and one security guard, after previously killing his grandfather and his grandfather's companion in their own home, before killing himself: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns, in the strongest possible terms, the tragic violence which occurred at Red Lake High School in Red Lake, Minnesota;

(2) honors the heroism and memory of Derrick Brun, whose courageous actions and self-sacrifice no doubt saved the lives of others;

(3) honors the heroism, courage, and memory of Daryl Lussier, Michelle Sigana, Neva Rogers, Dewayne Lewis, Chase Lussier, Alicia Spike, Thurlene Stillday, and Chanelle Rosebear, who lost their lives in this terrible tragedy;

(4) offers condolences to all of the families, friends, and loved ones of the victims;

(5) honors the heroism of Ryan Auginash, Steven Cobenais, Lance Crowe, Jeffrey May, and Cody Thunder, all of whom were wounded, and expresses hope for the rapid and complete recovery of these victims as well as support for their families, friends, and loved ones;

(6) applauds the Red Lake Band of Chippewa for their strength as a community in dealing with this tragedy;

(7) applauds the hard work, dedication, and professional conduct exhibited by local, State, and Federal law enforcement officials and the other community leaders and private citizens who offered their support and assistance; and

(8) applauds the hard work and dedication of the health care personnel and commends them for providing tireless and sensitive care to the victims, the families, and the entire community;

(9) encourages the American people to renew their commitment to and support for efforts to prevent school violence.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. KLINE) and the gentlewoman from Minnesota (Ms. MCCOLLUM) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KLINE).

GENERAL LEAVE

Mr. KLINE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Con. Res. 126.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KLINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 126, which expresses the condolences and deepest sympathies of the Congress in the aftermath of the recent shooting at Red Lake High School in Red Lake, Minnesota. I want to express my appreciation to the gentleman from Minnesota (Mr. PETERSON) for his leadership in introducing this resolution and providing an opportunity for Members of Congress to express our condolences and support for the Red Lake community.

On March 21, 2005, a 16-year-old student opened fire at the Red Lake High School, taking the lives of five students, one teacher and one security guard before ending his own. This troubled teenager is also responsible for the deaths of his grandfather and his grandfather's friend.

As we express our sympathies today, we pause to honor the bravery of heroes such as Derrick Brun, an unarmed school security guard whose self-sacrifice allowed time for a fellow security guard to rush a group of students to safety while costing Derrick his own life. We also honor the memories of those who lost their lives in this terrible tragedy and offer our heartfelt sympathy and condolences to the loved ones they left behind.

Finally, we express our support for the tight-knit Red Lake community. We wish a speedy and complete physical recovery for the five students who were wounded, and a complete emotional recovery for all those affected by this tragedy. The continued recovery of the Red Lake community would not be possible without the hard work and dedication shown by the local, State and Federal law enforcement officials who have responded to this situation and the support, care and assistance given by health care personnel and private citizens both inside and outside this community.

Mr. Speaker, we are all saddened by this tragedy and condemn the violence which occurred at Red Lake High School on that awful day in March. I am thankful for the opportunity to express the condolences of Congress to the victims of this tragedy as well as to their loved ones and surrounding community.

Again, I thank the gentleman from Minnesota (Mr. PETERSON) for his leadership on this resolution and urge my colleagues to support H. Con. Res. 126.

Mr. Speaker, I reserve the balance of my time.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 126, and I want to thank my colleague from Minnesota for bringing this resolution to the floor. Our hearts have been with the Red Lake Band of Chippewa over the past month, and I want to express my deepest sympathies to the families and friends who lost loved ones on March 21. I also wish a speedy recovery to those who still remain in the hospital.

I would like our opening statement to come from the gentleman from Minnesota (Mr. PETERSON). He represents the Red Lake in Congress and has introduced this resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. PETERSON).

Mr. PETERSON of Minnesota. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I have the honor of representing the people of the Red Lake Nation, which is a very strong people, a very proud people. They have a beautiful reservation in northwestern Minnesota, fairly remote, but they have some of the most beautiful land in the country. This tragedy that occurred on March 21 has affected every single member of the Red Lake Band of Chippewa Indians.

This is a very tight-knit community. I was there to attend many of the funerals. I can tell from personal experience that there was not, I think, a single person on the reservation that was not affected by this terrible tragedy. Lives were lost, as has been said, families were shattered, and this entire community was reduced to quiet heartbreak and painful tears. Many of us witnessed that.

But, as I said, they are a strong community, they are responding well under the circumstances, and what I am doing here is giving people an opportunity to show what we have experienced up at the Red Lake Reservation during this period of time.

I cannot tell you how many letters and e-mails and phone calls we have received, a tremendous outpouring within Indian country from every part of the world, the United States, from other parts of the world, calling and offering their sympathy, their condolences and their support for the people of the Red Lake Nation.

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So I think I speak for all Members of Congress when I say that we here offer our heartfelt sympathy and support for these families.

I heard from many of my colleagues shortly after this incident occurred. And we also want to, as was said, offer thanks and appreciation to everybody who stepped up to help in the aftermath of this tragedy. Of course, the tribal leadership has done an outstanding job and they were there to make sure that the response was coordinated and effective. The tribal police did an outstanding job. We had a lot of other local first responders that came in and helped out. The health care professionals on the reservation and in the surrounding area were outstanding in their help and support. Social workers, the school personnel, everybody up there just really pulled together. And because of that, some of these young people that were wounded look like they are going to come out of this, after a long recovery, doing okay.

Of the five people that were wounded, two of them still remain in the hospital, and they are going to have a long recovery. But they are doing well. They are actually coming around faster than people expected. I have had the opportunity to go up and visit with them and their family on two different occasions. And shortly after this occurred, it was kind of a touch-and-go situation. But they really have responded. And there are some brave young men that are still in the hospital and are going to take some time to recover.

One of the things that, in trying to do what one can do to console people in this kind of situation, the one thing that I think everybody agreed with up at the Red Lake Band is that something good has to come out of this terrible tragedy. And as we speak, there is a meeting going on over in the Rayburn office building that some of us pulled together with the tribal leaders, with the members of the Minnesota delegation, and, by the way, I want to thank all of my fellow members of the Minnesota delegation for co-sponsoring this resolution and being there to support us in any way that they can. They have been outstanding both in the House and in the other body. But that meeting is going on now, and I have never seen such a group of high-level Federal officials from the administration in one place in just the time that I have been in Washington.

And that shows that this is not only something that concerns us in the Congress. The President and the administration have stepped up. The President had a representative up at the Red Lake Reservation for the first funerals. The director of the BIA spent considerable time up there, as well as many other folks from different agencies. So we have had a tremendous response from not only Members of Congress but from members of the administration. And I can speak on behalf of all of the people in Red Lake, that response has been greatly appreciated.

But as I said, the Tribal Council, they are having a tough time because it is a remote area. They do not have the resources to meet the basic needs, and what we need to do in this Congress is help them to put together a plan so that they can emerge as a stronger Red Lake Nation but, more importantly than that, that we can give the young people of this reservation that are going to be the future leaders the hope and opportunity of support that they need so that they can carry on the great tradition of the Red Lake Nation.

And, lastly, I would like to say that a number of these folks that were involved in this were true heroes. They shielded classmates, friends. Because of their actions, fewer people were injured and fewer people died. They were true heroes. And in the tradition of the Red Lake Nation, what they would refer to these people as is warriors. They earned the designation of warrior because they stood up at a time when it was needed.

So I just appreciate the support of all my colleagues. I encourage my colleagues to support us and to continue to support us as we move forward to help the Red Lake Nation become stronger and have more opportunity for young people in the future.

Mr. KLINE. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to join my colleagues from Minnesota in expressing my condolences, all of Minnesota's condolences, all of the country's condolences, to the families and loved ones of the victims of the tragic shooting at Red Lake High School. And I too would like to thank the gentleman from Minnesota (Mr. KLINE) and the gentlewoman from Minnesota (Ms. MCCOLLUM) for bringing this to the floor, as well as the leadership, especially the leadership that the gentleman from Minnesota (Mr. PETERSON) has had on this issue in his district.

I think all of us would have a difficult time imagining the profound sadness that the families are feeling. But beyond the immeasurable human tragedy of the lives lost that day, this incident has created fear in the minds of parents and teachers and, most importantly, kids, who may no longer view their school as a safe place. Schools must be a place of learning and a place that challenges young minds, not a place where students live in fear.

However, in this tragedy we found heroes. Heroes, as the gentleman from Minnesota (Mr. KLINE) mentioned, like Derrick Brun, who bravely stood at the entrance to the school and confronted the shooter, giving his partner time to alert school officials. This courage and other courage we saw from others throughout this incident no doubt saved lives.

We all honor the memories of all of the victims whose lives were cut tragically short by the needless act of violence.

Mr. Speaker, we must all work together to make sure that events like this do not happen again. Our thoughts and prayers go out to everyone who was touched by this tragedy. We are committed to work together, all of us, to find solutions so that no more young lives are cut short.

I thank the gentleman for yielding me the time.

Ms. McCOLLUM of Minnesota. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Speaker, I join my Minnesota colleagues in expressing sorrow and support to the people of Red Lake, Minnesota, as they take steps to heal their community after the unspeakable tragedy of March 22.

It must have been a moment of unimaginable horror when parents realized that the children they sent off to school that morning were caught up in such terrible violence. In addition to those killed and injured, the entire community has been victimized by these acts of violence. After the initial shock, the community must come together to grieve their losses and ask the difficult questions: What went wrong and what can be done to keep it from happening again?

We were also reminded that there are heroes in tragedy who put their own safety aside to save the lives of others. Derrick Brun showed us what is good about this world in a moment that we needed reassuring.

The world watched a tragedy unfold in Red Lake. We must stand with this community as it pulls together to treat its injured and to heal its wounds. We offer our condolences and support as they continue the healing process that they have just begun.

Ms. McCOLLUM of Minnesota. Mr. Speaker, I reserve the balance of my time

Mr. KLINE. Mr. Speaker I yield 3 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding me this time.

And I thank my colleague from the Seventh Congressional District for offering this resolution at this time to pay tribute and to offer our condolences to all of the people, not only of the victims but even of the people who committed these terrible acts up in Red Lake.

Unfortunately, I think most of America, most Members of Congress will always think of Red Lake now in the terms of this great tragedy. But I would like to take a few minutes to think of a happier time, of a prouder time. And it is a story that most of the Members should know, and most of the Members do not, of what happened in 1997 in Red Lake. And that was the story of Gerald Kingbird and the story of the warriors who came down from Red Lake and brought a basketball team to the Minnesota State basketball tournament, and they offered something that had not been seen on many Indian reservations for many years, and that was a sense of pride, a sense of hope, and a sense of unity.

It was perhaps one of the greatest basketball teams ever assembled. They lost in the semi-finals that year to the Wabasso Rabbits 117 to 113, and it was perhaps the greatest basketball game ever played in the history of the State of Minnesota. And I bring that to Members' attention because, yes, this high school has been the scene of a terrible tragedy, but it has also been the scene of enormous pride in Native American activities. And what they did in 1997 in that game and in that tournament, I think, should also stand as a tribute to the people of Red Lake.

So, Mr. Speaker, I will insert an article into the CONGRESSIONAL RECORD, and I hope that my colleagues will read this article because I think it speaks of the kind of pride that we saw in 1997.

Clearly, this is a terrible tragic time for the people in Red Lake. But I hope that they will reflect and that we will reflect that there have been better days before and there will be better days to come.

I agree with my colleagues that we must do all that we can to make our schools safe. I agree with my colleagues when we say that schools should be places where kids want to go and feel comfortable. And we at the Federal level, and I am sure our colleagues at the State level, will do all that we can.

But I do not think we should take from this a belief that this is going to be a common occurrence or that this is really what happens in too many schools today. This is a rare occurrence, and we hope that it will never happen again. But we also hope that Members will remember that there have been happy and proud days in the days of the Red Lake Reservation and there will be happy and proud days to come.

The material previously referred to is as follows:

[From the Star Tribune, Apr. 3, 2005]

"I'M GOING TO STAY HERE ALWAYS," SAYS A RED LAKE STAR

(By Doug Grow)

RED LAKE, MN.—At the time, I didn't get it.

In 1997, the Red Lake High School boys' basketball team earned a trip to the Twin Cities for the state high school basketball tournament.

Not only were Red Lakers thrilled by this first-time development, all of Indian country adopted this group of kids. The Red Lake Warriors were Native America's team.

After a few days here, I think I've finally begun to understand why. That team represented something far greater than winning on the basketball court. It represented triumph. Finally, the rest of us were linking these words: success and reservation.

The Red Lake team lost in the semifinals of the tournament that year, but in the process they won over the hearts of thousands of Minnesotans. Behind the incredible performance of a sophomore point guard, Gerald Kingbird, the team overcame a huge fourth-quarter deficit and forced overtime against Wabasso.

The Wabasso Rabbits finally pulled out a 117-113 victory in what many believe was the most magnificent high school game ever played in Minnesota. Videos of that game still are constantly played all over Red Lake.

In fact, new teachers at the high school often are shown a tape of the game as part of their orientation. At a place where there is often failure, the tape of that game shows what is possible.

Smiling shyly, Kingbird talked of how he recently played the tape for one of his three daughters.

"I showed it and when you get to the fourth quarter, the announcer is always saying, 'Kingbird! Kingbird! Kingbird!' " he said. "When it was over she started calling me 'Daddy Kingbird.' "

Kingbird's 24 now. He's married to his high school sweetheart, Kimberly Pemberton. They both have degrees in elementary education from Bemidji State University. They have three daughters and a home in the reservation town of Redby. He works at the Seven Clans Casino in Red Lake, but both hope to begin teaching at the reservation's elementary school in the fall.

"Why did you come back?" I asked Kingbird in a conversation Friday morning. "You could live anywhere. What's the draw of this place that seems so harsh?"

Kingbird looked at me, befuddled. There was a long period of silence as he mulled over what he considered an absurd question.

"This is my home," he said. "I grew up here; my family is here; I'm going to stay here always. I've lived in Bemidji. I've been to the Cities. From what I can see, this is no different than any other place, except for the color of skin of the people."

It is no different and it is vastly different.

Visitors often are reminded that they aren't really in Minnesota anymore when they cross into Red Lake.

"You just have to remember that it's no different than going to any other foreign country," said Gene Dillon, a white man who was reluctantly closing his Redby restaurant after running it for 18 years with his wife, Darlene, who is also white. "It was just like when I was in the Navy. When you went to another country, the commander would always remind us that 'now you play by their rules.' "

In Red Lake in the past few days, there often was anger at the sight of reporters. But there also was extraordinary graciousness.

One morning, my colleagues and I were in the home of Chunky and Barbara Brun, the parents of Derrick Brun, the security guard who was among those killed on March 21.

The phone was ringing off the hook. Reporters from across the country were calling for interviews.

Each time the phone rang, Brun would pick up the receiver and quietly explain to the reporter that he wasn't doing interviews on this day. He hoped they understood. He wasn't trying to be rude.

It typically took Brun five minutes to run down an interview request. Despite his grieving, he never became angry.

In the past few days, I met political hacks but also saw people move into positions of leadership with strength and dignity.

At the moment his son was arrested and charged with conspiracy in the March 21 killings at Red Lake High, Tribal Chairman Floyd (Buck) Jourdain Jr. no longer was in a position to be the face of Red Lake in these days of pain and media attention.

Tribal secretary Judy Roy took on the task of being the public leader. She did not relish the role. She constantly urged all of us to be patient in judging the Jourdain family. At the same time she filled his shoes as the person in front of cameras, speaking for Red Lake.

There are several problems at Red Lake. Fear of more violence now has been added to such longtime ills as poverty, family dysfunction, truancy and chemical addiction.

Kingbird knows all about the woes. But, he said, when he and Kimberly were adolescent sweethearts, they vowed to get college educations and come back home to teach.

"Maybe we can help," he said.

And it never should be forgotten that Red Lake can be a place of triumph.

Thursday night, for example, the Kingbirds' youngest daughter, 1-year-old TeAnndra, took her first steps.

"She took four steps," her proud father said, "and then looked around and started clapping."

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentlewoman for yielding me this time and commend the gentleman from northwestern Minnesota (Mr. PETERSON) for offering this resolution and all of my Minnesota colleagues in joining in a moment of reflection and of solidarity for the people of the Red Lake Band, to pray for those whose lives were taken, for those who survived, for the families of all, victims and perpetrator alike.

This is an occasion to mourn, but it is an occasion also to reflect, to join our hearts in prayer, but to reflect on the past and to consider what might be for the future.

The gentlewoman from Minnesota (Ms. MCCOLLUM) has spoken eloquently about the tragedy at Red Lake. The gentleman from Minnesota (Mr. PETERSON) who represents the district, who knows the people intimately, the people of Red Lake, has spoken about the spirit of warrior on the reservation. I would like to think in a broader term about the Nishnawbe people, who have not been well treated going back to the times of the treaties of the 1850s; and particularly among them, the Red Lake, that ceded in 1863 11 million acres to the United States for $500,000, a paltry sum in comparison to the value and the expanse of land.

☐ 1215

In 1889, they ceded an additional 2.9 million acres for a 50-year trust fund, only a third of which went to the people of Red Lake.

And again to the 1902 Western Township Treaty, they again ceded 256,000 acres to the United States for very little in return, except for recognition. The Nishnawbe people deserve better than recognition, deserve more than beads and blankets, for their land, their rights, the rights to hunt and fish, the right to earn a living.

Over 100 years ago, the first education was introduced into Red Lake. Lewis and Clark passed through the Red Lake territory, but it was not until the mid-1930s that a high school was established in Red Lake. They have been a proud people, proud to rely upon themselves and the resources of their traditions. It is going to take more than a visit to the sweat lodges to heal the pain and the suffering that the people feel because of this tragedy.

I pray that Red Lake will be known for more than this incident that is just an intrusion upon a long and proud history. But I pray also, and I urge this body, to pay attention not just to Red Lake, to the Nishnawbe people and to the First Americans, but to the needs that they have throughout this country, for greater investment in education, greater investment in job training and opportunities, for greater investment in health care, and housing and water and sewer and road and development and access on the reservations of this country. That is the great tragedy, that they are not served, our first peoples of this land.

We have taken from them the riches, the resources, minerals and hydrocarbons; we have given very little back in return. In recent years, casino gambling has provided a revenue stream and a source of opportunity for investment on many of the reservations of the native American peoples. But it has not benefited, all. Red Lake is among those that has not benefited, has not been able to enjoy a revenue stream.

But even for those who have been able to develop a revenue stream over the last 20 years, you cannot erase 200 years of mistreatment in 2 decades. And let this incident, while an anachronism, not resulting from internal ferment and neglect on the reservation, but an intrusion upon the people of Red Lake, let this be a call to attention to think more constructively and productively about the needs of native Americans and our responsibility to invest more and to help them lift themselves out of poverty.

Over 50 percent unemployment rate on this reservation alone. There is more we can do together. First we must heal. First we must help those at Red Lake, proportionately a greater scar for them than was Columbine, to heal, to look forward, to look to the future, and to rebuild and ignite again the spirit of pride and of accomplishment, which should be their heritage.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, could I inquire how much time is left on this side.

The SPEAKER pro tempore (Mr. ADERHOLT). The gentlewoman from Minnesota has 4½ minutes remaining.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I reserve the balance of my time.

Mr. KLINE. Mr. Speaker, I have no other speakers in the room.

Mr. Speaker, I reserve the balance of my time.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I would like to use the words of the Red Lake Band of the Chippewa, and I quote from a document that they shared with us today: "The Red Lake Band of Chippewa Indians is experiencing the worst crisis in our history. Throughout this ordeal, our law enforcement officers, teachers, students, medical personnel, our people have acted with great courage and honor. Our people are strong, our children are strong, and our hope is strong.

"Our greatest hope is that you, our President, Senators, and Representatives and Department officials, will be our partners as we undertake the task of making these essential improvements towards a better way of life for the people of Red Lake."

Mr. Speaker, 1 month ago a disturbed young man took the lives of nine people on the Red Lake Reservation, and then he took his own. This violent act devastated the Red Lake community, and once again tragically demonstrates to all of America how violence can happen by our children, against our children and educators, and it can happen anywhere at any time.

This tragedy, along with other school shootings that have occurred over the past several years leave no question that we still have much work to do in addressing the needs of our youth in this country. Too many of our children are in crisis, unable to find the help that they need from either families or communities.

As policymakers, we have a responsibility to invest the resources, and more importantly, the attention into the lives of our young people and in their families' lives as well before tragedy occurs.

All Americans and Minnesotans extend our prayers, our condolences, and support for the families of the Red Lake Nation as they heal and rebuild their community.

I would like to close with just once again saying that this resolution deserves our support. The Red Lake Band of Chippewa have our deepest condolences at this time of enormous grief. Our prayers are with you.

Mr. Speaker, I yield back the balance of my time.

Mr. KLINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want again to thank my colleagues in the Minnesota delegation for their words today and my colleague, the gentleman from Minnesota (Mr. PETERSON), for offering this resolution. And I would just urge all of my colleagues in the House to support H. Con. Res 126.

Mr. KILDEE. Mr. Speaker, I rise in support of House Concurrent Resolution 126. Today, I join my colleagues in expressing my deepest sympathies to the people of the Red Lake Reservation.

This tragedy reveals the sad truth that school-related violence can occur anywhere in this country regardless the socio-economic conditions of a community.

In Indian country, however, the statistics show that Indian children face greater barriers than non-Indian youth. Indian youth suffer from the highest rates of suicide. They have the highest rates of school victimization and use alcohol, drugs and tobacco more than their counterparts. Indian youth also drop out of school at higher rates than other students.

What can we do? For starters, we can reauthorize the Indian Health Care Improvement Act which will provide significant improvements to the delivery of health care services for Indian people and authorize funding for health programs, projects, and facilities.

We can increase funding for Indian country law enforcement, public safety and victim assistance programs to help combat the problems of juvenile crime and violence on our Indian lands.

We can also increase funding for schools and colleges located on Indian reservations that were the subject of significant decreases in the president's 2006 budget.

I look forward to working with my colleagues to identify how we can help the Red Lake Community specifically.

Mr. RAMSTAD. Mr. Speaker, I rise on behalf of all Minnesotans to extend my heartfelt sympathy to the families, friends and loved ones of the victims of the school shootings at Red Lake High School and to the entire Red Lake community.

On March 21, 2005, tragedy struck Red Lake, Minnesota and left a community devastated and a Nation shocked.

Mr. Speaker, we are all deeply saddened by this horrific event, and our thoughts and prayers go out to the families of the victims and the entire Red Lake community.

We commend the Red Lake tribal leaders and members, local law enforcement officers, school officials and medical support staff for their heroism and courage in response to this tragedy.

Now, we must use this occasion to mourn the loss of loved ones and prevent similar tragedies in the future. The people of Minnesota will never forget this terrible loss of innocent lives. May those who died be remembered forever in our hearts.

Mr. KLINE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 126.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. McCOLLUM of Minnesota. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING THE UNIVERSITY OF PITTSBURGH AND DR. JONAS SALK ON THE FIFTIETH ANNIVERSARY OF THE DISCOVERY OF THE SALK POLIO VACCINE

Mr. MURPHY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 208) recognizing the University of Pittsburgh and Dr. Jonas Salk on the fiftieth anniversary of the milestone discovery of the Salk polio vaccine, which has virtually eliminated the disease and its harmful effects, as amended.

The Clerk read as follows:

H. RES. 208

Whereas Dr. William S. McEllroy, Dean of the University of Pittsburgh School of Medicine, in 1947 recruited Dr. Jonas Salk to develop a virus research program at the University of Pittsburgh;

Whereas Dr. Salk, the first member of his family to attend college, had prior to moving to the University of Pittsburgh served in an appointment at the University of Michigan for 5½ years, and during this period at the University of Michigan, which was during World War II, Dr. Salk became known for his expertise on the immunology of influenza and developed the vaccine that continues to be used against influenza;

Whereas Dr. Salk set up a research laboratory in The Municipal Hospital for Contagious Diseases, now Salk Hall at the University of Pittsburgh;

Whereas the epidemic of polio peaked in 1952, having affected nearly 58,000 people, mainly children and young adults;

Whereas many of those affected were confined to mechanical ventilators known as iron lungs to breathe while many others were crippled and needed crutches for mobility;

Whereas University of Pittsburgh faculty member Dr. Jonas Salk and his team of researchers developed the first vaccine against polio;

Whereas in April 1955, at the University of Michigan's Rachkam Auditorium, Dr. Francis announced the results of the most comprehensive field trial ever conducted in the history of public health, involving 1,830,000 children in 217 areas of the United States, Canada, and Finland, indicating the vaccine was safe and effective;

Whereas the Salk polio vaccine was approved for widespread public use and the incidence of polio in the United States fell by 85-90 percent during the first 3 years of widespread use of Salk's polio vaccine (1955–1957);

Whereas the Salk polio vaccine developed at the University of Pittsburgh is considered one of the most significant medical achievements of the twentieth century;

Whereas the international immunization of children and young adults at that time resulted in the worldwide eradication of polio by 1962 and since that time has prevented any significant re-emergence of the disease;

Whereas in 1963 Dr. Salk founded the Jonas Salk Institute for Biological Studies, an innovative center for medical and scientific research; and

Whereas Dr. Salk's last years were spent searching for a vaccine against AIDS: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the University of Pittsburgh and the University of Michigan on the fiftieth anniversary of the discovery and the declaration that the Salk polio vaccine was potent, virtually eliminating the disease and its harmful effects;

(2) recognizes the pioneering achievement of Dr. Jonas Salk and his team of researchers at the University of Pittsburgh in the development of the Salk polio vaccine;

(3) recognizes the unprecedented scope and magnitude of the field trials conducted by Dr. Thomas Francis, Jr., and his team of more than 100 statisticians and epidemiologists at the University of Michigan; and

(4) states its appreciation to—

(A) the University of Pittsburgh for the elimination of a disease that caused countless deaths and disabling consequences;

(B) the members of Dr. Salk's research team;

(C) the individuals, a majority of whom were residents of Allegheny County, Pennsylvania, who generously agreed to participate in clinical trials to validate the efficacy of the polio vaccine;

(D) the family members of Dr. Salk for their participation in medical history;

(E) the University of Michigan for its efforts in proving the Salk polio vaccine was safe and effective; and

(F) the members of Dr. Francis' team of statisticians and epidemiologists.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. MURPHY) and the gentleman from Pennsylvania (Mr. DOYLE) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MURPHY).

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to speak on a resolution that I have introduced with my colleague, the gentleman from Pennsylvania (Mr. DOYLE), and the honorable ranking member of the U.S. House Energy and Commerce Committee, the gentleman from Michigan (Mr. DINGELL), to recognize the 50th anniversary of the discovery of the Salk polio vaccine and the efforts of the University of Pittsburgh, Dr. Salk, the University of Michigan, Dr. Thomas Francis, Jr., which has virtually eliminated the disease and its devastating effects.

Polio is a disease that can attack the motor nerves and the spinal cord leaving one paralyzed. In the most severe cases, the muscle of the respiratory system and throat are affected, impairing speech, swallowing and breathing which can lead to paralysis or even death.

While polio is still present in varying degrees in at least six countries, the discovery of the Salk polio vaccine was a monumental achievement in reducing the effects of the disease and preventing any significant reemergence of the disease in the Western Hemisphere.

Prior to moving to the University of Pittsburgh, Dr. Jonas Salk, who was the first member of his family to attend college, served in an appointment at the University of Michigan for 5½ years during World War II, where he became known for his expertise on the immunology of influenza.

In 1947, Dr. William McEllroy, dean of the University of Pittsburgh School of Medicine at the time, recruited Dr. Salk to develop a virus research program at the University of Pittsburgh where Dr. Salk set up a research laboratory in a municipal hospital for contagious diseases, now Salk Hall at the University of Pittsburgh.

In 1952, a marked increase in polio saw tens of thousands confined to iron lungs unable to breathe. Others were confined to wheelchairs and could only walk with the assistance of steel braces and crutches. Along with the spreading disease each summer, there was an increasing spreading fear in many parents and also within communities to close down theatres, public swimming pools, and other public places in hopes of reducing this disease.

During this time, Dr. Salk's research continued. And in 1953 human trials of the developing Salk polio vaccine were extended to include almost 500 children and adults, the majority of whom were residents of Allegheny County, Pennsylvania.

It was not until 1955 that Dr. Salk and his researchers discovered the actual polio vaccine at the University of Pittsburgh. That same year at the University of Michigan's Rachkam Auditorium, Dr. Salk's mentor, Dr. Francis, announced the results of the most comprehensive field trial ever conducted in the history of public health, involving 1,830,000 children in 217 areas of the United States, Canada and Finland, indicating the vaccine was safe and effective.

As a result of Dr. Salk's innovative vaccine, the incidence of polio in the United States fell by 85 to 90 percent during the first 3 years of vaccination use. Some 450 million dosages were administered worldwide. And the effectiveness of this vaccine is responsible for not only international immunization but also for the suppression of polio in most of the world, even by 1962.

Dr. Salk's team brought under control an escalating health problem and a dreaded virus, which is why the Salk polio vaccine is considered one of the most significant medical achievements of the 20th century, and has effectively safeguarded the world from the menacing virus for 50 years.

The March of Dimes has raised millions of dollars for research of polio. In addition, Rotary International initially pledged 125 million back in 1985 to fund the Polio Plus program to immunize the world. But the money the Rotary has contributed so far exceeds 600 million.

These models of public-private partnership to eradicate polio worldwide, Polio Plus and the March of Dimes, have delivered vaccine across the globe on camel, helicopter, and motor bike.

Arguably, the Salk polio vaccine and the public-private efforts in the eradication of polio rank among the greatest public health achievements in the history of humankind.

As we celebrate this 50th anniversary, I am particularly pleased that I remain an adjutant associate professor at the University of Pittsburgh School of Medicine and the University of Pittsburgh School of Public Health. I am particularly proud of the role my alma mater has played in this great public health achievement, and we in Congress join in this celebration.

I would also like to express my high esteem and appreciation to the chairman of the U.S. House Energy and Commerce Committee, the gentleman from Texas (Mr. BARTON); and the ranking member, the gentleman from Michigan (Mr. DINGELL), for agreeing to consider this important resolution to recognize Dr. Salk, Dr. Francis, the University of Pittsburgh, the University of Michigan on the 50th anniversary of the discovery of the Salk polio vaccine.

In addition, I would like to thank my colleagues for their support in helping to bring this resolution to the House floor to recognize this medical breakthrough that has protected, prevented, and saved countless numbers of lives from the ravages of polio.

I encourage my colleagues to adopt the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DOYLE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today to recognize the heroic efforts of researchers from the University of Pittsburgh and the University of Michigan to develop the first vaccine against polio.

Before I do that, though, I do want to thank my colleague and good friend, the gentleman from Pennsylvania (Mr. MURPHY), for introducing this resolution and for managing the time on his side, as well as to thank our chairman, the gentleman from Texas (Mr. BARTON), and the ranking member, the gentleman from Michigan (Mr. DINGELL), for their support in this effort.

A devastating polio epidemic struck the United States in the early 1950s, causing thousands of cases of lingering paralysis and death.

□ 1230

By 1952 the epidemic had affected nearly 58,000 people, mainly children and young adults. Many of those affected were combined to mechanical ventilators known as iron lungs, while others were crippled and needed crutches to get around.

Dr. Jonas Salk, Dr. Julius Youngner, and a team of dedicated researchers at the University of Pittsburgh School of Medicine worked diligently for years to find a vaccine against this terrible disease, despite the belief by many of their colleagues that vaccination would never prevent polio. Nevertheless, thousands of Pittsburgh schoolchildren offered up their arms to be injected with the experimental vaccine providing enough evidence of its effectiveness to launch a large-scale trial of 1.8 million children.

On April 12, 1955, at a convocation held at the University of Michigan, Dr. Thomas Francis, Jonas Salk's former mentor, announced that the massive field trial of the Salk vaccine, which he had overseen, had been successful. The announcement that the vaccine was safe, effective and potent cleared the way for widespread use of the vaccine and made Dr. Salk one of the Nation's most revered figures. Subsequent inoculations of children and young adults virtually eradicated polio from the United States by 1962.

In light of this momentous achievement it is appropriate that the House recognize the many individuals who were involved in the effort, including those who generously agreed to participate in the clinical trials that validated the efficacy of this vaccine.

The importance of the pioneering work of Dr. Jonas Salk and his team of researchers at the University of Pittsburgh cannot be overstated. Their work saved countless lives and had a monumental impact on the quality of life around the globe. Consequently, I want to take the opportunity of this anniversary to recognize the University of Pittsburgh for its vital contribution to eliminating this devastating threat to public health; and I want to commend Dr. Youngner, now professor emeritus at the University of Pittsburgh, for his hard work and dedication those many years ago.

I urge my colleagues to join me in supporting this resolution.

Mr. DINGELL. Mr. Speaker, I rise in support of the Murphy resolution. I would like to thank my colleagues, Representatives MURPHY and DOYLE, for offering this resolution today, commemorating the development and the field trials of the Salk polio vaccine 50 years ago.

Fifty years ago, Dr. Thomas Francis, Jr. announced from the University of Michigan's Rackham Auditorium words that people around the globe were waiting to hear: the Salk polio vaccine works. With those simple words, eradication efforts began in earnest to rid the world of this terrible disease.

Mr. Speaker, in the early 1950s, Dr. Jonas Salk, a postdoctoral student of Dr. Francis' at the University of Michigan, developed a promising vaccine against poliomyelitis in his laboratory at the University of Pittsburgh. In what has been called the largest cooperative effort undertaken in peacetime, the Salk vaccine was tested in the most comprehensive field trials ever conducted. Overseeing those trials was Dr. Francis, Director of the Poliomyelitis Vaccine Evaluation Center and founding chair of the Department of Epidemiology at the University of Michigan School of Public Health.

Mr. Speaker, the polio field trials were unprecedented in scope and magnitude. Dr. Francis and his team of more than 100 statisticians and epidemiologists tabulated data received from hundreds of public health officials and doctors who participated in the study. The trials involved. 1,830,000 children in 217 areas of the United States, Canada and Finland. No field trial of this scale has been conducted since.

This historic event is a source of pride for the University of Michigan and the state of Michigan as a whole. Since that day 50 years ago, polio has been nearly eradicated. In August 2002, there were no confirmed cases reported in the United States, and only 483 confirmed cases of acute poliomyelitis reported to authorities worldwide.

I would like to thank Representatives MURPHY and DOYLE for their work on this resolution and congratulate the University of Michigan and the University of Pittsburgh on the 50th anniversary of the Salk polio vaccine.

Mr. MURPHY. Mr. Speaker, I rise to speak on a resolution that I have introduced with my colleague from Pennsylvania, Congressman MICHAEL DOYLE, and the Honorable Ranking Member of the U.S. House Energy and Commerce Committee, Congressman JOHN DINGELL of Michigan, to recognize the 50th anniversary of the discovery of the Salk polio vaccine and the efforts of the University of Pittsburgh, Dr. Jonas Salk, the University of Michigan, and Dr. Thomas Francis, Jr., which has virtually eliminated the disease and its devastating effects.

Polio is a disease that can attack the motor nerves in the spinal cord, leaving one paralyzed. In the most severe cases, the muscles of the respiratory system and throat are affected, impairing speech, swallowing and breathing, which can lead to paralysis or even death. While polio is still present in varying degrees, the discovery of the Salk polio vaccine was a monumental achievement in reducing the effects of the disease and preventing any significant reemergence of the disease in the western hemisphere.

Prior to moving to the University of Pittsburgh, Dr. Jonas Salk, who was the first member of his family to attend college, served in an appointment at the University of Michigan for 5½ years during World War II, where he became known for his expertise on the immunology of influenza.

In 1947, Dr. William S. McEllroy, Dean of the University of Pittsburgh School of Medicine, recruited Dr. Salk to develop a virus research program at the University of Pittsburgh where Dr. Salk set up a research laboratory in the Municipal Hospital for Contagious Diseases, now Salk Hall at the University of Pittsburgh.

Others were confined to wheelchairs or could only walk with the assistance of steel braces and crutches. Along with the disease fear spread in many parents which led communities to close down theaters, public swimming pools and other public places. In 1952, a marked increase in polio saw tens of thousands confined to iron lungs to be able to breathe.

During this time, Dr. Salk's research continued. In 1953, human trials of the developing Salk polio vaccine were extended to include almost 500 children and adults, the majority of whom were residents of Allegheny County, PA.

It was not until 1955 that Dr. Salk and his researchers discovered the actual polio vaccine at the University of Pittsburgh. That same year, at the University of Michigan's Rachkam Auditorium, Dr. Salk's mentor, Dr. Francis, announced the results of the most comprehensive field trial ever conducted in the history of public health, involving 1,830,000 children in 217 areas of the United States, Canada, and Finland, indicating the vaccine was safe and effective.

As a result of Dr. Salk's innovative vaccine, the incidence of polio in the United States fell by 85–90 percent during the first 3 years of vaccination use. Some 450 million doses were administered worldwide.

The effectiveness of this vaccine is responsible for not only international immunization, but also for the suppression of polio in most of the world in 1962. Dr. Salk's team brought under control an escalating health problem and a dreaded virus, which is why the Salk polio vaccine is considered one of the most significant medical achievements of the twentieth century and has effectively safeguarded the world from the menacing virus for 50 years.

The March of Dimes raised millions for research and treatment of Polio. In addition, Rotary International pledged $120 million in 1985 to fund the Polio Plus program to immunize the world. The money the Rotary has contributed so far exceeds $600 million. A model of public-private partnership to eradicate polio worldwide, Polio Plus delivered vaccine across the globe on camel, by helicopter and motorbike.

Arguably, the Salk Polio vaccine and the public-private efforts to eradicate polio are among the greatest public health achievements in the history of the world. I am particularly proud of the role my alma mater has played in this great public health achievement and we in Congress join in this celebration.

I would also like to express my high esteem and appreciation to the Chairman of the U.S. House Energy and Commerce Committee, the gentleman from Texas Mr. JOE BARTON (R–TX) and the Ranking Member, the gentlemen from Michigan Mr. JOHN DINGELL (D–MI), for agreeing to consider this important resolution to recognize Dr. Salk, Dr. Francis, the University of Pittsburgh and the University of Michigan on the fiftieth anniversary of the discovery of the Salk polio vaccine.

In addition, I would also like to thank my colleagues for their support in helping to bring this resolution to the House floor to recognize this medical breakthrough that has protected, prevented and saved countless numbers of lives from the ravages of polio.

I encourage my colleagues to adopt the resolution, and Mr. Speaker, and I reserve the balance of my time.

Mr. WELDON of Florida. Mr. Speaker, I want to express strong support for the resolution before the House today. I thank Representative MURPHY for introducing this bill.

Immunizations have been the most successful medical intervention in terms of saving lives and sparing mankind from life-long disabilities resulting from infectious disease.

Fifty years ago we began using the Salk polio vaccine discovered by Dr. Jonas Salk. In 1957, three years after the first widespread use of Dr. Salk's vaccine in the United States, polio in the U.S. fell by 85–90 percent. Polio, which annually ravaged communities across this nation and the world, causing death and permanent disability, has been virtually absent in the United States for quite some time now.

Polio and its harmful effects have been virtually eliminated in nation after nation. Presently, there are less than a handful of nations that are plagued by polio in largely isolated communities. We are on the brink of elimination of this scourge.

Mr. DOYLE. Mr. Speaker, I yield back the balance of my time.

Mr. MURPHY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and agree to the resolution, H. Res. 208, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MURPHY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 6, ENERGY POLICY ACT OF 2005

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 219 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 219

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour and 30 minutes, with 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and 20 minutes equally divided and controlled by the chairman and ranking minority member of each of the Committees on Science, Resources, and Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

UNFUNDED MANDATE POINT OF ORDER

Mr. McGOVERN. Mr. Speaker, I make a point of order.

Mr. Speaker, pursuant to section 426 on the Congressional Budget Act of 1974, I make a point of order against consideration of the rule, H. Res. 219.

Page 1, line 7, through page 2, line 1, of H. Res. 219 states, "All points of order against consideration of the bill are waived." The rule makes in order H.R. 6, the Energy Policy Act of 2005, which contains a large unfunded mandate on State and local governments in violation of Section 425 of the Budget Act. Section 426 of the Budget Act specifically states that the Committee on Rules may not waive Section 425, and therefore this rule violates section 426.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. McGOVERN) makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

In accordance with section 426(b)(2) of that Act, the gentleman has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

Under section 426(B)(4) of the act, the gentleman from Massachusetts (Mr. McGOVERN) and the gentleman from Texas (Mr. SESSIONS) each will control 10 minutes of debate on the question of consideration.

Pursuant to section 426(b)(3) of the act, after that debate, the Chair will put the question of consideration, to wit: "Will the House now consider the resolution?"

The Chair recognizes the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, back in 1995, my Republican colleagues, the so-called champions of States' rights, led the fight to pass the Unfunded Mandates Reform Act, a bill they claimed would stop the Federal Government from imposing the costs of federally mandated programs on States and localities.

Well, here we are 10 years later and the tables have turned. My Republican colleagues are bringing a bill to the floor that imposes a multibillion dollar unfunded mandate on communities around the country whose water supplies have been tainted by the fuel additive MTBE. This additive, a known brown water contaminant used by oil companies for nearly two decades, has seeped into our Nation's water supply. In all, MTBE has been detected in over 1,800 water systems, which serve 45 million Americans. This is the water that our constituents, our communities and our families use, and it has been contaminated with a potential human carcinogen.

Despite knowing all of this, the Republican leadership has no reservations about shielding oil companies from any liability to the damages caused by MTBE. And then if that were not bad enough, they have included a nearly $2 billion bailout for these same companies. So while communities will be left to cover the overwhelming costs of cleanup, not only will these oil companies get a free pass, but they will also get another kickback at the expense of taxpayers.

Here the Republican leadership is once again weighing the interests of big oil above the health and safety of our communities.

Specifically, Section 1502 of the energy bill we are talking about today creates a safe harbor for MTBE manufacturers against lawsuits that attempt to hold them accountable for the damage their product has wrought on the water supplies of communities all over the country.

As the letter the Congressional Budget Office sent to the gentleman from California (Chairman DREIER) yesterday explains, while the bill creates a safe harbor for the MTBE manufacturers, it sticks our State and local governments with a bill that could be as large as $29 billion.

During these bad economic times, how many States and local communities can afford that?

By blocking the claims of local governments against the MTBE manufacturers, this bill will force communities to come up with hundreds of millions of dollars to clean up their water. CBO concludes that the annual cost of this mandate over the next 5 years is likely to exceed $62 million, which accordingly triggers the unfunded mandate law Republicans so proudly backed in 1995.

The fact is that the rule waives all points of order against the bill. The Budget Act specifically says that the Committee on Rules cannot waive points of order against unfunded mandates, yet the Republican leadership blatantly ignores this.

Mr. Speaker, the House can either choose to consider this bill in spite of the bill's unfunded mandate, or it can send this bill back to committee and strike the MTBE section from the bill, eliminating the violation of this point of order. At the end of this debate, therefore, I will call for a vote on a motion to continue consideration or fix this problem.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman from Massachusetts (Mr. McGOVERN) bringing this issue up. In fact, the issue about the MTBE liability safe harbor is part of the bill. We believe that we are responsibly dealing with a problem that exists, has existed for quite some time.

Years ago the EPA made a very clear decision about not only MTBE, they understood some of the effects of MTBE, they understood some of the problems of MTBE, but they also understood MTBE cleans the air. It does a very effective job of making sure that the smog which we had seen in our cities, in our airways all across the United States was a huge problem and one that needed to be dealt with not only from a health perspective, but also from a perspective of the ability that we have of what we were creating as a result of emissions.

So the EPA made a decision to ensure that MTBE would be a product that would be available in gasoline, and in many instances and in many States there was a provision that required companies to put MTBE in as additives in gasoline.

We are aware that there are problems. We are aware that not because of MTBE but just as a result of storage tanks, underground storage tanks that do leak, that MTBE has been a part of that that has leaked into our underground water sources.

Parties that are responsible for those tanks have paid almost 95 percent of the underground storage tank cleanup according to the EPA. And we recognize that there are many other sites where this is still a problem, where cleanup is needed, where cleanup would be involved.

Today what we are asking is part of this wonderful energy bill. We are asking to make sure that we will limit the liability, a safe harbor for those people who have been a part of this so that we can clean up these storage tanks and we can move on.

There is more than $850 million in what is called a LUST Fund that has been set aside in this bill that will help communities to clean up, to work with those people who own those storage tanks, to clean up the groundwater, to clean up the contaminants and to clean up the problem.

But the fact of the matter is that MTBE by itself is simply not necessarily a problem. And under the Federal Rules of Evidence and under the many statutes that are being claimed in lawsuits, they are calling this a defective product. MTBE is not a defective product. We knew from the EPA and we understood what MTBE was, the problems that were associated with it; and the EPA has never labeled it as a carcinogenic. It is still being utilized today because it does a great job of cleaning up smog.

So what we are attempting to do in this bill is to make sure that we move forward with the problem, provide money, but let us move on with this country in going straight to the cleanup.

We support, I support what is in the energy bill. I appreciate all of my colleagues voting in support of this, not only the MTBE provision, but also the bill.

Mr. Speaker, I reserve the balance of my time.

□ 1245

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank the gentleman from Massachusetts for raising this point of order. I believe that it goes right to the heart of the problem with the MTBE provisions in this bill. They pass on huge costly problems to other parties.

In this case, H.R. 6 would shift the costs of cleaning up MTBE groundwater contamination on to the towns, the cities, and the water districts around this country. In other words, it would shift these cleanup costs from the oil companies responsible for the mess to our constituents, who have to live with the mess.

Mr. Speaker, MTBE has caused damage to the groundwater across our Nation. It is found in 1,861 different water systems, 29 different States, serving 45 million people. Cleanup costs are estimated at around 29, maybe $30 billion. I might point out to my colleagues that there are about $2 billion in the LUST fund, and it is to cover all kinds of leakage, not just MTBE.

This is a huge problem, and it is not going away. It is the fault of the MTBE industry, and they should have to fix it.

Mr. Speaker, the MTBE industry says it was forced to put MTBE in gasoline by the Clean Air Act amendments of 1990. There is no MTBE mandate in that law. Even the chairman of the Committee on Energy and Commerce has acknowledged that.

Industry representatives have testified before Congress that MTBE has been widely used since 1979. This is an ARCO circular from around the 1980s urging refiners to add MTBE. By the time of the 1990 Clean Air amendments, the industry had already added 120 million barrels of MTBE to gasoline.

Even more damning are the documents unearthed in recent court cases proving conclusively that the industry knew as early as the 1980s about the dangers MTBE posed to groundwater. It still went on adding it to gasoline. The special protection for MTBE manufacturers is in this bill because they are finally being taken to task for the damages they knowingly caused.

Recent court cases regarding responsibility for MTBE groundwater contamination have come down on the side of local water companies and cities. These cases have forced manufacturers to pay to clean up or replace MTBE-contaminated water supplies. The most celebrated has been the $60 million settlement for south Lake Tahoe and the nearly $400 million for Santa Monica.

In my district, the tiny little coastal town of Cambria had one of its two drinking water sources permanently damaged by MTBE. After it sued, Cambria was able to get Chevron to pay a $9 million settlement to help the town to build a desalinization plant; but under this bill, the taxpayers of Cambria, and of hundreds of towns, large and small, across this country would be forced to pay for the MTBE cleanup on their own.

Mr. Speaker, the gentleman from Massachusetts (Mr. McGOVERN) is right to raise this point of order. We should support the point of order and take this terrible provision out, which is going to force our constituents to shoulder the burden of cleanup on to the constituents.

Mr. SESSIONS. Mr. Speaker, I am proud to yield 5 minutes to the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce, who is an expert on this issue.

Mr. BARTON of Texas. Mr. Speaker, of all the things to come on the floor of the House of Representatives and claim with a straight face that we should have a debate about, claiming that what is in the bill with regards to the MTBE is an unfunded mandate, is one of the biggest whoppers I can imagine, with all due respect.

I want to read some of the language of the bill, and I have to put my reading classes on to do it.

We specifically authorize in the bill additional funding, $50 million, to avoid the creation of unfunded mandates. It is in the bill, a specific allocation of $50 million to avoid the creation of unfunded mandates.

The Leaking Underground Storage Trust fund has a balance right now of $2 billion. The bill before us dedicates some of that balance specifically to go out and inspect existing underground storage tanks, to enforce if those inspections find that there is a leak, and to fund improvements in the operation of these underground storage tank programs. It is in the bill. That is not an unfunded mandate. If anything, it is a specific allocation in the bill to enforce the program that we have, to put additional funds into it and to make sure that we prevent the problem. That is funded. That is not unfunded.

Now, the real debate is not whether it is an unfunded mandate or not. The real debate is what we should do about MTBE; and as my good friend, the gentleman from Texas (Mr. SESSIONS), has already pointed out, we can have a legitimate policy debate about that. The bill allows States that want to ban MTBE to do it. That is not mandating the States. That is telling the States, you want to use MTBE in your gasoline supply to get cleaner air, fine. You do not want to use it, that is fine, too.

The bill also has a provision in it that over the course of the next, I think, 10 years, depending on some scientific studies and various things, there could be a point in time that we have a Federal ban on MTBE. It may not, it may, but it could happen.

People forget in the 1991 Clean Air amendments we required an oxygen amendment to make the gasoline burn cleaner in nonattainment areas. There were two ways to do that at the time: use ethanol or use MTBE. There was not a mandate to use MTBE, but there was a requirement in nonattainment areas you had to do something in terms of putting more oxygen in the gasoline to make it burn cleaner. Most of the market went to MTBE.

We then found out, and we knew before the fact actually, that if the gasoline that had MTBE leaked out into the environment that the MTBE would disassociate a little bit quicker because it was more missable, and it would get into the water supply, or water table, and it causes an odor. So there have been a number of lawsuits. The gentlewoman mentioned two of them, in Lake Tahoe, one in California, where there have been out-of-court settlements for several millions of dollars because of that odor. That did not establish that MTBE is a defective product.

This bill does have a safe harbor, not just for MTBE but also for ethanol, that by definition of the product, the chemical composition, that it is not defective; but if you use it negligently, you can be sued upon it. If the right warnings are not with it, you can be sued. There are all kinds of reasons. You can sue and win, as has been shown; but that does not mean that it in and of itself is defective.

Interestingly enough, in one of the cases the gentlewoman from California quoted, the amount of the settlement was less than the legal fees that the law firm representing the community in California claimed. So that community is now suing their law firm, saying you ripped us off, you are asking for more money to settle the suit than we got to clean the water up.

Mr. McGOVERN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, let me respond to my colleague, the gentleman from Texas (Mr. BARTON), and simply say this is an unfunded mandate. The CBO says so. Here is the letter we received yesterday, and it says very clearly that this is an unfunded mandate.

I know my colleagues all have great confidence in the CBO. My colleague, the gentleman from Texas (Mr. SESSIONS), made the following statement on CBO just a few months ago. He said, the Congressional Budget Office is a professional organization that assists the United States Congress in knowing in a nonpartisan way those impacts on the laws that we pass.

Well, here it is in black and white. CBO says this is an unfunded mandate, and people need to understand that if they do not vote for what we are saying here today, they are supporting an unfunded mandate.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 19, 2005.

Hon. DAVID DREIER,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Based on a preliminary review of H.R. 6, the Energy Policy Act of 2005, as introduced in the House of Representatives on April 18, 2005, CBO estimates that enacting this legislation would reduce direct spending by $1.1 billion over the 2006-2010 period and by $0.4 billion over the 2006-2015 period. CBO and the Joint Committee on Taxation estimate that the legislation would reduce revenues by $4.0 billion over the 2006-2010 period and by $7.9 billion over the 2006-2015 period. The estimated direct spending and revenue effects are summarized below. A table with additional details is attached.

	By fiscal year, in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Estimted Budget Authority	0	221	509	−1,640	211	−331	146	139	141	139	62
Estimated Outlays	0	196	424	−1,605	221	−311	166	139	141	139	62
Estimated Revenues [1]	163	−272	−1,175	−1,227	−707	−655	−673	−714	−761	−820	−865

[1] The JCT estimate assumes the bill will be enacted by July 1, 2005. CBO's estimate assumes enactment near the end of fiscal year 2005.

Sources: CBO and Joint Committee on Taxation (JCT).

Implementing this legislation also would affect spending subject to appropriation action, but CBO has not completed an estimate of the potential discretionary costs.

H.R. 6 contains numerous mandates as defined in the Unfunded Mandates Reform Act (UMRA) that would affect both intergovernmental and private-sector entities. Based on our review of the bill, CBO expects that the mandates (new requirements, limits on existing rights, and preemptions) contained in the bill's titles on motor fuels (title XV), nuclear energy (title VI), electricity (title XII) and energy efficiency (title I) would have the greatest impact on State and local governments and private-sector entities.

CBO estimates that the cost of complying with intergovernmental mandates, in aggregate, could be significant and likely would exceed the threshold established in UMRA ($62 million in 2005, adjusted annually for inflation) at some point over the next five years because we expect that future damage awards for state and local governments under the bill's safe harbor provision (title XI) would likely be reduced. As explained below, that provision would shield the motor fuels industry from liability under certain conditions.

Section 1502 would shield manufacturers of motor fuels and other persons from liability for claims based on defective product relating to motor vehicle fuel containing methyl tertiary butyl ether or renewable fuel. That protection would be in effect as long as the fuel is in compliance with other applicable federal requirements. The provision would impose both an intergovernmental and private-sector mandate as it would limit existing rights to seek compensation under current law. (The provision would not affect other causes of action such as nuisance or negligence.)

Under current law, plaintiffs in existing and future cases may stand to receive significant amounts in damage awards, based, at least in part, on claims of defective product. Because section 1502 would apply to all such claims filed on or after September 5, 2003, it would affect more than 100 existing claims filed by local communities, states, and some private companies against oil companies. Individual judgments and settlements for similar lawsuits over the past several years have ranged from several million dollars to well over $100 million. Based on the size of damages already awarded and on information from industry experts, CBO anticipates that precluding existing and future claims based on defective product would reduce the size of judgments in favor of state and local governments over the next five years. CBO estimates that those reductions would exceed the threshold established in UMRA in at least one of those years. Because significantly fewer such cases are pending for private-sector claimants, CBO does not have a sufficient basis for estimating expected reductions in damage awards for the private sector.

CBO cannot determine whether the aggregate cost of the private-sector mandates in the bill would exceed the threshold established in UMRA primarily for two reasons. First, some of the requirements established by the bill would hinge on future regulatory action for which information is not available. Second, UMRA does not specify whether CBO should measure the cost of extending a mandate relative to the mandate's current costs or assume that the mandate will expire and measure the costs of the mandate's extension as if the requirement were new. The bill would extend the existing mandate that requires licensees to pay fees to offset roughly 90 percent of the Nuclear Regulatory Commission's annual appropriation. Measures against the costs that would be incurred if current law remains in place, the cost to the private sector of extending this mandate would exceed the annual threshold established in UMRA ($123 million in 2005, adjusted annually for inflation).

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lisa Cash Driskill, (for federal costs), who can be reached at 226-2860, Theresa Gullo (for intergovernmental mandates), who can be reached at 225-3220, and Patrice Gordon (for private-sector mandates), who can be reached at 226-2940.

Sincerely,
DOUGLAS HOLTZ-EAKIN,
Director.

Attachment.

ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES FOR H.R. 6

	By fiscal year, in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
	CHANGES IN DIRECT SPENDING										
Title I—Energy Efficiency:											
Estimated Budget Authority	0	0	300	200	0	0	0	0	0	0	0
Estimated Outlays	0	0	255	215	30	0	0	0	0	0	0
Title VI—Nuclear Matters:											
Estimated Budget Authority	0	64	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	64	0	0	0	0	0	0	0	0	0
Title IX—Research and Development:											
Estimated Budget Authority	0	50	50	50	50	50	50	50	50	50	50
Estimated Outlays	0	25	50	50	50	50	50	50	50	50	50
Title XII—Electricity:											
Estimated Budget Authority	0	50	100	50	100	50	50	50	50	50	50
Estimated Outlays	0	50	60	70	80	70	70	50	50	50	50
Title XVIII—Geothermal Energy:											
Estimated Budget Authority	0	2	2	2	2	2	2	2	2	2	2
Estimated Outlays	0	2	2	2	2	2	2	2	2	2	2
Title XX—Oil and Gas:											
Estimated Budget Authority	0	54	56	57	59	66	44	37	39	37	34
Estimated Outlays	0	54	56	57	59	66	44	37	39	37	34

ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES FOR H.R. 6—Continued

	By fiscal year, in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Title XXI—Coal:											
Estimated Budget Authority	0	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1	1	1	1	1	1
Title XXII—Arctic National Wildlife Refuge:											
Estimated Budget Authority	0	0	0	−2,000	−1	−500	−1	−1	−1	−1	−75
Estimated Outlays	0	0	0	−2,000	−1	−500	−1	−1	−1	−1	−75
Total:											
Estimated Budget Authority	0	221	509	−1,640	211	−331	146	139	141	139	62
Estimated Outlays	0	196	424	−1,605	211	−311	166	139	141	139	62
NET CHANGES IN REVENUES											
Title XII—Electricity	0	38	38	38	38	38	38	38	38	38	38
Title XIII—Energy Tax Incentives[1]	163	−310	−1,213	−1,265	−745	−693	−711	−752	−799	−858	−903
Total	163	−272	−1,175	−1,227	−707	−655	−673	−714	−761	−820	−865

[1] The JCT estimates the bill will be enacted by July 1, 2005. CBO's estimates assume enactment near the end of fiscal year 2005.

Source: Joint Committee on Taxation and CBO.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Speaker, I want to thank the gentleman from Massachusetts for raising this point of order.

When the current majority took over the control of the Congress, one of their first actions was to pass the Unfunded Mandated Reform Act; and as a State legislator, I applauded their efforts because it was appropriate and fitting. The bipartisan legislation provided a funding cap that Congress could impose on States and local governments.

Mr. Speaker, here, today, I believe that we are breaking that commitment to our local governments and to communities if we pass this energy bill without moving to strike the legislation to MTBE. Unless we impose a spending cap, we are imposing too great of a financial burden on local government that is already hard pressed throughout our country.

There is no doubt that the MTBEs pose a significant environmental health threat to our communities. If released into the water table, a small portion of MTBEs can ruin a community's supply of drinking water. In addition, exposure to this has resulted, as we know, in a number of cases of cancer, birth defects, and other illnesses.

Mr. Speaker, it is also evident that the legislation, I believe, is a direct violation of the Unfunded Mandated Reform Act. The MTBE provisions presented in the energy bill would restrict the existing rights of States and communities to seek compensation under the law. The same provisions would impose larger financial costs of the cleanup of those communities throughout our country; and notwithstanding the argument of a Member of $50 million, that is but the tip of the iceberg.

Approximately half the Members of our House have served in our State legislatures. I was a past president of the National Conference of State Legislatures. I will enter into the RECORD at the end of my statement their opinion, in fact, that this is a violation of the Unfunded Mandates Act that they, too, supported in the mid-1990s when the majority enacted this very important piece of legislation.

For my own district, the 20th district in California, we believe the costs could exceed $150 million because of the large number of sites that we have. This bill eliminates my district's ability to hold producers liable for the problem and help them assist in cleaning up. On top of this, I believe that this does little to deal with the threats.

I urge that we support the point of order of the gentleman from Massachusetts.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,

Re H.R. 6—Unfunded Mandates

April 20, 2005.

Hon. JOE BARTON,
Chairman, House Energy and Commerce Committee, Washington, DC.
Hon. DAVID DREIER,
Chairman House Rules Committee, Washington, DC.
Hon. JOHN DINGELL,
House Energy and Commerce Committee, Washington, DC.
Hon. LOUISE SLAUGHTER,
House Rules Committee, Washington, DC.

DEAR REPRESENTATIVES: The National Conference of State Legislatures urges you to support a point of order against H.R. 6 for its inclusion of unfunded federal mandates that would be imposed on state and local governments with the adoption of this legislation. NCSL further urges you to strike those sections that include these unfunded mandates that exceed the Unfunded Mandates Reform Act threshold as identified by the Congressional Budget Office's preliminary review of H.R. 6, The Energy Policy Act of 2005.

During the 108th Congress, unfunded federal mandates exceeding $51 billion were imposed on state and local governments. The House's FY2006 Budget Resolution, H. Con. Res. 95, would impose unfunded mandates of over $30 billion in FY2006 alone if adopted by a conference committee. The unfunded mandates proposed in H.R. 6 would serve to worsen what already is an unacceptable situation.

Thank you for your consideration of our concerns and we are hopeful you will vote not to impose further unfunded mandates on state and local governments.

Respectfully,
REPRESENTATIVE JOE HACKNEY,
North Carolina House of Representatives, Chair, NCSL Standing Committees
SENATOR BEVERLY GARD,
Indiana State Senate, Vice Chair, NCSL Standing Committees

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Texas (Mr. SESSIONS) has 1 minute remaining. The gentleman from Massachusetts (Mr. MCGOVERN) has 1½ minutes remaining. The gentleman from Texas has the right to close.

Mr. MCGOVERN. May I ask the gentleman from Texas how many other speakers he has.

Mr. SESSIONS. Mr. Speaker, yes. I appreciate the gentleman asking. I will be closing, so if the gentleman would please proceed.

Mr. MCGOVERN. Mr. Speaker, I yield my remaining time of 1½ minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me time, and I rise in strong support of this point of order.

Simply saying in the legislation that this is not an unfunded mandate does not make the fact that it is not an unfunded mandate. Failure to provide the resources by which the directed activity is required under the law is what makes it an unfunded mandate.

We have communities throughout California that have had environmental and economic havoc wreaked upon them from the use of MTBE, in many instances, as the gentlewoman from California (Mrs. CAPPS) pointed out, after the knowledge was available and was continued to pursue the use of this compound as an additive to the fuels of our automobiles.

Those communities now are stuck with the costs of either cleaning up that drinking water supply, finding an alternative source and dealing with it, and they must do so. To suggest now that we are going to provide a safe harbor, that we are going to restrict the liability or prohibit the liability from those who knew of the dangers of this to our environment, to our drinking water supplies, to our citizens, and on the other hand, we are going to direct communities to clean this up when, in fact, the resources will not be available to do that, they are not there at the local level, and they are not forthcoming from the United States.

MTBE is just another way in which this Congress, this Republican leadership, wants to corrupt the process by which these communities can be made whole. They want to corrupt the process by which these companies can be protected from the liability that they assumed when they knowingly did that. It is just a continued process of corruption of the process of this Congress that we cannot deal with this straight up.

□ 1300

Mr. SESSIONS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have already heard the chairman of the Committee on Energy and Commerce tell us how this trust fund, the LUST Trust Fund, has $2 billion that has been set aside, that is waiting for this issue, for cleanup of MTBE. We heard very clearly that some almost $1 billion more will be added to the bill to make sure that we address this issue.

MTBE is not a defective product. MTBE does a very good job at what it is supposed to do, and that is clean the air.

Today and tomorrow this House will be considering the energy bill. I think it is time for us to move forward. I urge each of my colleagues to vote "yes," that we will continue the debate on the rule today.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). All time for debate has expired.

Pursuant to section 426(b)3 of the Congressional Budget Act of 1974, the Chair will now put the question of consideration.

The question is, Will the House now consider House Resolution 219?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SESSIONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

THE SPEAKER pro tempore. Pursuant to clause 8 and 9 of rule XX, this 15-minute vote on consideration of House Resolution 219 will be followed by two 5-minute votes; suspending the rules and agreeing to House Concurrent Resolution 126, and suspending the rules and agreeing to House Resolution 208.

The vote was taken by electronic device, and there were—yeas 231, nays 193, not voting 10, as follows:

[Roll No. 112]

YEAS—231

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gordon
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Case
DeGette
Diaz-Balart, L.
Foxx
Kelly
Kennedy (RI)
Kuhl (NY)
Portman
Sweeney
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1327

Messrs. PEARCE, SMITH of Texas, ORTIZ, REYES and Ms. BEAN changed their vote from "nay" to "yea."

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. FOXX. Mr. Speaker, on rollcall No. 112 I was unavoidably detained. Had I been present, I would have voted "yea."

Stated against:

Ms. BEAN. Mr. Speaker, on rollcall No. 112, I cast a vote of "yea" which should have been "nay." It is my wish to correct this matter for the record. Had I been present, I would have voted "no."

EXPRESSING CONDOLENCES OF CONGRESS IN AFTERMATH OF RECENT SCHOOL SHOOTING IN RED LAKE, MINNESOTA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 126.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 126, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 113]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—10

Bachus
Case
DeGette
Diaz-Balart, L.
Foxx
Kelly
Kennedy (RI)
Sessions
Sweeney
Young (FL)

☐ 1337

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. FOXX. Mr. Speaker, on rollcall no. 113 I was unavoidably detained. Had I been present, I would have voted "yea."

RECOGNIZING THE UNIVERSITY OF PITTSBURGH AND DR. JONAS SALK ON THE FIFTIETH ANNIVERSARY OF THE DISCOVERY OF THE SALK POLIO VACCINE

The SPEAKER pro tempore (Mr. FOLEY). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 208, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and agree to the resolution, H. Res. 208, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 12, as follows:

[Roll No. 114]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood

Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

NOT VOTING—12

Bachus
Case
DeGette
Diaz-Balart, L.
Gohmert
Kelly
Kennedy (RI)
Strickland
Sweeney
Weller
Young (AK)
Young (FL)

□ 1345

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: “Resolution recognizing the University of Pittsburgh, Dr. Jonas Salk, the University of Michigan, and Dr. Thomas Francis, Jr., on the fiftieth anniversary of the discovery and the declaration that the Salk polio vaccine was potent, virtually eliminating the disease and its harmful effects.”.

A motion to reconsider was laid on the table.

Stated for:

Mr. GOHMERT. Mr. Speaker, on rollcall No. 114 I was inadvertently detained. Had I been present, I would have voted “yea.”

PROVIDING FOR CONSIDERATION OF H.R. 6, ENERGY POLICY ACT OF 2005

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule being considered on the floor today is a very balanced rule that makes in order 22 Democratic amendments, three bipartisan amendments and five Republican amendments. This means that of the 30 amendments that we will be considering here on the floor over the next 2 days, over 80 percent of them have been substantially authored by a Democrat, giving the minority party a fair and public opportunity to come to the floor and debate how their dissenting views could improve this legislation.

Mr. Speaker, I rise in strong support of this legislation which improves and strengthens our country's national energy policy. American prosperity and American jobs rely upon energy that is abundant, affordable and reliable. Having access to save affordable energy is fundamental to America's success, both as a Nation and to each and every one of us as individual Americans and certainly our families.

The safe and reliable energy available here in America has brought economic growth, jobs, freedom, and the highest quality of life in human history. This is why the gentleman from Texas (Mr. BARTON), my good friend, has invested so much of his committee's time and effort in bringing a product to the floor today that takes important steps to ensuring that secure and reliable energy for our country is made available.

The legislation that we consider here on the floor today ensures that American producers can meet the demands placed upon them by consumers while also creating incentives to modernize the way we find, develop, and produce energy. The Energy Policy Act of 2005 will create jobs here in America as we promote innovation, new conservation requirements, and new domestic energy sources. Reliable sources of energy also will secure millions of existing jobs over the decades, and producing more domestic energy will mean Americans can worry less about whether the outcomes of distant conflicts will mean fewer jobs, less growth, and reduced opportunity.

Some of the most important accomplishments of this legislation include improving our Nation's electricity transmission capacity and reliability; promoting a cleaner environment by encouraging new innovations and the use of alternate power sources; promoting clean coal technology; and providing incentives for renewable energies such as biomass, wind, solar, and hydroelectricity; providing leadership in energy conservation; clarifying the Federal Government's role in siting liquified natural gas, known as LNG, facilities; decreasing America's dangerous dependence on foreign oil; and encouraging more nuclear and hydropower production.

The provisions in this legislation will also create hundreds of thousands of jobs due to the costs associated with the current high energy prices. The new jobs will be in all sectors, including manufacturing, construction, agriculture, and technology.

Another important benefit of this legislation is its crucial energy conservation and environmental protection measures that will improve the quality of life for all Americans for decades to come. Among other things that the bill will do, it will make the Federal Government a leading-edge creator and consumer of energy-efficient technologies; it will fund a state-of-the-art project and program to get hydrogen fuel-cell vehicles on the road by 2020; it will improve regulation on hydroelectric dams to allow for more hydroelectric power generation while preserving existing protections for the environment; increasing funding for the Department of Energy's Clean Cities program; authorize two new Clean School Bus programs; take critical steps towards reducing greenhouse gas emissions; and will bring much-needed supplies of natural gas to the public by allowing for more natural gas exploration, transportation, and development.

Further, it will increase America's use of solar energy; it will contain a renewable fuels requirement to add 5 billion gallons per year of ethanol and other renewable-based fuel to the Nation's gasoline supply; it will provide $1.8 billion for the Clean Coal Power initiative; and it will increase funding for the Department of Transportation to continue its already very important work on incorporating average fuel economy standards.

Mr. Speaker, I am very proud of these accomplishments that are being made by this legislation and would like to take this opportunity to commend the hard work of many committee chairmen who have toiled late into the night, along with their staffs, for the production of this bill, including the gentleman from Texas (Chairman BARTON), the gentleman from California (Chairman POMBO), the gentleman from California (Chairman THOMAS), and the gentleman from New York (Chairman BOEHLERT), and crafting this important legislation on behalf of American families and workers. I encourage all of my colleagues to support this very important not only fair rule but also the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes.

Mr. Speaker, last week the Republican leadership made a mockery of the democratic process with the bankruptcy bill by closing debate and not even allowing one amendment to that important bill. There was outrage across the country. And today we are considering the rule for another important bill, the energy bill, and the Committee on Rules made in order 31 amendments this time. I can only hope that the pressure to be fair is finally getting to them.

But while this may seem to be a small step in the right direction, it is a far cry from where this House should be. And once again a majority of amendments were shut out from receiving a vote on the floor. Important amendments on important issues like global warming, a topic not even mentioned once in this bill, and MTBE liability protection were denied a vote by the heavy hand of the Committee on Rules and the Republican leadership. So we still have a long way to go before democracy is restored in this House.

As for the underlying bill, we have seen this movie before. Two years ago the energy bill did nothing to help consumers with high energy costs. It did nothing to help the environment. It hurt taxpayers. It was a lousy piece of legislation. And it failed, rightly, to reach the President's desk.

It is déjà vu all over again. It is a new Congress. There is a new bill number and a new name for the bill. But let us be clear. This bill is actually worse than the bill the House considered in the last Congress.

Mr. Speaker, once again I will vote against this bill because it is nothing more than a giveaway to the oil, gas, and other energy industries at a time when they do not need these giveaways, because it will not lower energy prices for consumers, because it does not reduce our Nation's dependency on foreign oil, and because it harms the environment.

Our Nation is facing a severe energy crisis. Since January of 2001, the price of crude oil has more than doubled, reaching an all-time high just last week of $58 per barrel. In just the last 7 weeks, gasoline prices have ballooned to $2.28 per gallon nationwide. In my home State of Massachusetts, gas prices have risen over 40 cents per gallon in just 1 year. There the average driver has been forced to bear the financial burden of this dramatic increase, paying an additional $330 each year since 2000. That is a tax increase courtesy of the Bush administration and the Republican Congress.

And despite this reality, the bill we are debating today does absolutely nothing to address the rising price of gas. Instead, it gives kickbacks in the form of tax breaks and subsidies to oil and gas companies, which will actually increase the price of gas at the pump. In all, the energy industry would receive $8 billion in tax breaks under this bill despite their record-high profits.

President Bush is no friend of the environment, but at least he had the sense to propose some exploration of renewable energy sources. The President's budget called for $6.7 billion in tax breaks for energy with 72 percent of these tax breaks going toward renewable sources of energy and energy efficiency. But under this bill, only 6 percent of the $8 billion in tax breaks goes for the renewable sources of energy and energy efficiency.

It seems impossible, but the House Republicans have actually made the President look like an environmentalist. In a recent statement before the American Society of Newspaper Editors, President Bush said, "I will tell you with $55 oil, we don't need incentives to oil and gas companies to explore. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent."

If the President is really looking for that sensible strategy, he will not find it in this bill.

So if this bill does not help control the price of gas at the pump, decrease our dependence on foreign oil, or invest in renewable sources of energy, what does it do?

Unique to this year's legislation is section 320, language which would give the Federal Energy Regulatory Commission, FERC, sole authority to make decisions regarding the construction, expansion, and operation of liquefied natural gas facilities, LNGs. Currently both FERC and States play a role in the siting and environmental review of the proposed LNG facilities.

And the current process, Mr. Speaker, has not halted the construction of new LNG facilities. So why is this provision in the bill? To date, neither the House nor the Senate has held a single hearing on this issue in supporting this language. The LNG provision in this bill directly undermines the ability of State and local officials to ensure that any new LNG facility is not sited in an area where it could pose a danger to the surrounding community.

On November 21, 2003, the Department of Homeland Security warned of an increase risk of terrorist attacks, noting of particular concern al Qaeda's continued interest in targeting liquid natural gas, chemical, and other hazardous materials facilities.

In my district there is a proposal to construct an LNG storage tank in Fall River. If approved, the actual site would be just 1,200 feet from homes and over 9,000 people live within a 1-mile radius of the tank. The tankers that would deliver the LNG would have to pass under two bridges in Rhode Island and two bridges in Massachusetts. I could not think of a worse location for these tankers if I tried. So if this site were approved, thousands of American citizens would be in danger from an explosion or a spill.

To their credit, like many other State and local communities, the residents of Fall River, led by Mayor Ed Lambert, have been on the frontlines fighting against this LNG facility. They have instead pushed for more remote siting, in areas less densely populated. But if this bill passes, cities like Fall River would have little ability to block or influence the siting of future LNG facilities.

So I am pleased that the rule makes in order the Castle-Markey amendment, which would strike section 320 from the bill; and I urge my colleagues to join me in voting for this amendment. And, Mr. Speaker, I insert into the RECORD a letter of opposition to section 320 from Mayor Ed Lambert from Fall River this morning.

CITY OF FALL RIVER,
Fall River, MA, April 20, 2005.

DEAR MEMBERS OF CONGRESS: I am writing to express my concerns with language contained within the current draft of the energy bill. As the Mayor of a community involved in this debate over LNG import terminal siting, I am concerned that language currently contained within this draft of the energy bill would severely minimize or take away the right of local and state governments to participate in the process of siting LNG import terminals.

It appears to me that this bill would seek to give FERC overreaching authority when it comes to siting LNG import terminals. I find it ironic that those who normally argue for states' rights would want to give the federal government such broad and sweeping powers. Further, I am not convinced that we are currently engaged in a process that would appropriately balance energy interests with homeland security concerns. Mark Prescott, Chief of the Coast Guard's Deepwater Ports Standards Division was recently quoted in an April 3, 2005 Newsday article as saying, "Is it easier to protect an offshore facility? Probably not, but the consequences of something happening there are far less than the consequences of something happening in a ship channel in the middle of a city." If the Coast Guard recognizes that LNG import terminals, if placed in offshore or remote settings would pose less of a risk to the public in the event of an incident, then why doesn't the rest of our government? In this same article the Coast Guard also spoke to the issue of security for LNG tankers in offshore or remote settings vs. an onshore setting. The costs for bringing LNG tankers into heavily populated areas are extremely high and very burdensome for the governmental entities that must not only pick up the costs but also the increased responsibilities. I believe that these issues, security and putting additional burdens on our already overtaxed Coast Guard and Department of Homeland Security as well as associated costs are all very important matters to consider. The goal of this bill as it is currently worded appears to be to place private energy interests above all else.

In conclusion, I vehemently oppose, and believe that other local and state officials around the country involved with this LNG import terminal siting debate would also oppose, any attempts to remove or abridge a state or local community's right to be involved with any and all review processes that pertain to LNG import terminals. The goal of the federal government should be to listen to what state and local governments have to say and to use that input to set good national policy when it comes to siting these terminals. Anything less than that is a dereliction of duty.

Thank you for your time and consideration.

Very truly yours,
EDWARD M. LAMBERT, JR.,
Mayor.

Mr. Speaker, we have heard about the MTBE provision in this bill. I will not go into detail about that again, but let me say that the gentlewoman from California (Mrs. CAPPS) brought forward a very thoughtful amendment regarding MTBE. This is a very real problem in many communities across the country, and the Republican leadership should have at least had the guts to allow an up-or-down vote on the Capps amendment. I can only assume that the leadership is once again protecting their corporate friends from a vote that they know they would lose.

Finally, this legislation would open the Arctic National Wildlife Refuge, one of our Nation's few remaining environmental treasures, to oil and drilling. For years the oil industry has targeted this coastal plain; and under the guise of national security, they have argued that without access to oil in the Arctic, we will continue to be dependent upon foreign oil. Though it is certainly a good soundbite, the reality is that even under the most optimistic scenarios, oil from the refuge would meet a tiny fraction of this country's needs.

So let us be clear. Big Oil's priorities go beyond ANWR. Opening ANWR to drilling sets a precedent for the opening of other protected areas in the future. So to my friends in California and Florida, they should know one thing: they are probably next.

Mr. Speaker, I cannot say it more simply than this: the Energy Policy Act is a bad bill, and it must be defeated. This bill will destroy the environment, reward special interests at the expense of consumers and taxpayers, and limit States' rights.

We have a once-in-a-lifetime opportunity to reduce and eliminate our dependency on foreign oil. We have an opportunity to develop wind and fuel-cell technology. We have an opportunity to reduce the amount of greenhouse gases and combat global warming. This bill squanders those opportunities.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker I yield myself such time as I may consume.

This bill is pro-consumer. This energy bill is pro-growth for our economy in this country. And the Republican majority owes a great deal of the strength and ability of this strong bill to a strong leader that we have, and at this time I would like to yield time to that gentleman.

Mr. Speaker, I yield 3 minutes to the gentleman from San Dimas, California (Mr. DREIER), chairman of the Committee on Rules.

Mr. DREIER. I thank the gentleman for yielding me this time, and I appreciate his managing this rule.

Mr. Speaker, gasoline prices, gasoline prices, gasoline prices. That is what my constituents are talking to me about. And they do not need to talk to me about it. All I need to do is go and try to fill my car up myself, which I do, and I will tell the Members that it is very clear that those prices have continued to increase.

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They are increasing, in large part, because of global demand and the fact that we have to do everything that we possibly can to ensure that we move in the direction of alternative sources of energy and making sure that we have access to obtain domestic energy self-sufficiency.

We have a rule here which is a very fair and balanced rule. I wish we could have made a lot more amendments in order, but we made 30 amendments in order on this measure. In the 107th Congress, we made 16 amendments in order; in the 108th Congress, 22 amendments made in order; and now, in the 109th Congress, 30 amendments made in order.

Twenty-two of those 30 amendments were offered by Democrats. Three of those 30 amendments made in order are bipartisan amendments, Democrats and Republicans joining together to offer amendments, and five of those 30 amendments are offered by Republicans. I believe that we are going to allow for the debate to take place on a wide range of issues.

I want to congratulate all of my colleagues and committee chairmen who have worked on this. The gentleman from Texas (Mr. BARTON), the gentleman from California (Mr. THOMAS), the gentleman from New York (Mr. BOEHLERT), and my good friend, the gentleman from California (Mr. POMBO), who is here in the Chamber.

Lots of people have worked to fashion this very, very important piece of legislation. It has been in the works for 6 years. We have been this close, this close to making it happen in the past, Mr. Speaker, and unfortunately, the fact that we have not been able to make it happen in the past has played a role in increasing the cost of gasoline, has played a role in ensuring that we have not been able to pursue alternative sources of energy, has played a role in making us more dependent on foreign sources of oil.

So, Mr. Speaker, I will say that I believe that we now are on the verge of what will be another great bipartisan victory in this Congress.

I am very proud that Democrats and Republicans have come together in large numbers on both sides to pass bankruptcy reform legislation, class action reform legislation, our Continuity of Congress bill, permanent repeal of the death tax, and passage of the REAL I.D. Border Security Act. All of these measures have passed with between 42 and 122 Democrats joining with Republicans to make sure they pass.

Tomorrow, we are going to pass out this measure, again with strong, bipartisan support, ensuring that we work together to get the work of the American people done.

Support this rule and support the passage of this very important legislation.

Mr. McGOVERN. Mr. Speaker, I yield 2½ minutes to the distinguished minority whip, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I heard the previous speaker's comment. This is not a bipartisan bill. That does not mean that some Democrats will not vote for it, but none of the ranking members were involved in this policy, and they are not voting for it.

Mr. Speaker, the United States of America needs an energy strategy that not only reduces our Nation's dependence on foreign sources of oil, but also strengthens our national security.

As a bipartisan group of 26 national security officials, including Robert McFarlane, President Reagan's National Security Adviser, and Jim Woolsey, President Clinton's CIA Director, recently stated in a letter to President Bush: "It should be a top national security priority of the United States to significantly reduce its consumption of foreign oil. The United States' dependence on imported petroleum poses a risk to our homeland security and to our economic well-being."

Yet, Mr. Speaker, this Republican energy bill does virtually nothing to reduce our dependence on petroleum products. In fact, at a time of record profits for the oil and gas industries, these traditional energy producers stand to reap 93 percent of the tax incentives in this bill, or $7.5 billion.

Do we know who said they did not need it? The President of the United

States, George W. Bush said that just a day ago.

Renewable energy and conservation receive only 7 percent of the resources allotted in this bill. This bill is simply a rehash of the same policies and incentives that have made us more, not less, energy dependent.

It would provide more than $22 billion to the oil and gas and other energy industries in tax breaks, direct spending, and authorizations. Does anybody who is paying $2.50 or $3 at the pump think that the energy companies are hurting for dollars? I think not.

It would shift the costs of MTBE cleanup from manufacturers to the American taxpayers. I think most Americans do not think that is a good policy. Furthermore, the problem with it is, that is why we do not have an energy bill, because the majority leader demanded of the Senate that that be in there, and the Senate would not take it.

It would weaken the Clean Air Act and, unbelievably, this Republican bill would actually increase gas prices by 3 cents per gallon, according to the Bush administration's own Energy Department. Apparently, this Republican majority believes you need to pay more for gasoline.

There is a reason that this energy bill is going nowhere fast. It is bad policy, and it fails to address the energy needs of this great Nation. I urge my colleagues to oppose it.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, this is interesting, hearing our colleagues talk about this bill. I think that people and many of our colleagues know that this bill has been born out over 4 years of hard work, hundreds of hearings, hundreds of hours of testimony. It is a balanced bill. Mr. Speaker, I certainly believe it is one that bridges the needs that we have today with where we need to be in the future as we look to renewable energy sources and alternative sources.

One of the things that the chairman mentioned a few moments ago is bipartisan support that we have had on some of our initiatives, and certainly we feel like we will see this on the energy bill. We saw it in committee, and I would commend the gentleman from Texas (Chairman BARTON) for the wonderful work he did on the bill in committee.

Over the past few weeks, we had 122 Democrats that voted with us on the continuity of government bill, 50 Democrats voted with us on class action, 73 Democrats voted with us on bankruptcy reform, and 42 supported us on repeal of the death tax, and our REAL I.D. Act. I hope this is a sign of things to come, that there will be bipartisan cooperation as we look to this energy bill, because it is a fair bill. It is a fair rule that addresses this bill.

Mr. Speaker, supporting this rule and supporting this bill is good for small business. It is great for American small business, for Main Street, for jobs creation. We have an economy that has created nearly 2 million jobs in the past couple of years, 3 million jobs in the past couple of years. We are excited about what is happening with the growth of the economy. We know that this bill is going to do good work in continuing to support Main Street, support our small business community, support our small business manufacturers, and will address some of the concerns they have about energy policy, oil policy, electrical policy and how it affects the business that they carry forth every day.

Mr. Speaker, I encourage my colleagues to support the rule and to support the bill.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York (Ms. SLAUGHTER), the ranking Democrat of the House Committee on Rules.

Ms. SLAUGHTER. Mr. Speaker, I appreciate that we are debating a rule, for a change, that provides Members of the House a chance to offer their ideas about how we can improve the country's energy policies. We had almost 90 amendments submitted to the Committee on Rules and we were granted 30 of them. I think we can still do better than that, but it sure is better than last week's closed rule on the bankruptcy bill. In fact, this rule even makes an amendment in order that I offered. I think it is the first one I have gotten in about 9 years, and I do want to tell my colleagues that I am happy to have it, because it will save the government a lot of money.

I urge my colleagues to closely follow the debate we are having on this bill today and tomorrow because, in its current form, I believe it has the wrong priorities. At a time when oil companies are enjoying record profits, the bill gives billions of dollars in new subsidies. It gives 94 percent of its benefits to the oil and gas industry, and only 6 percent to conservation and renewable energy efforts, which are the areas that really make the country energy independent.

This brand of taxpayer-funded corporate welfare is so off the mark that even President Bush, a former energy executive himself, recently stated that oil companies have all the incentives they need to keep on drilling in the form of $50 a barrel crude.

Americans already are shelling out their hard-earned cash for the most expensive gasoline in our history. We should not ask them to give out even more in the form of corporate giveaways for the oil companies.

One of the things we will hear today and that we have been hearing for years now is that the way to reduce our use of foreign oil is to drill in the Arctic National Wildlife Refuge in Alaska. We hear claims that in a few years, ANWR will be producing 10 billion barrels a day and all of our problems will be solved. Well, Mr. Speaker, the governor of Alaska says he does not know if there is any oil in there at all.

Now, I know we have debated this issue before, but take another look at it, because recent press reports expose the ANWR drilling issue for the political Trojan horse that it is. The New York Times reported in February, and I will submit this for the RECORD, that the oil companies do not think there is much, or any, marketable oil in the Arctic Refuge.

Back in the 1980s, they drilled a couple of test holes in ANWR, and they certainly were not very excited about what they found, because even though they have held the results close to their chests, two of the companies that drilled those holes have pulled out of going to ANWR. In fact, they are saying that that is of no use to them. Over the past several years, Chevron Texaco, British Petroleum, and ConocoPhilips have all withdrawn from the group that lobbies for drilling in ANWR.

So if the major oil companies, the people who are the experts in the field, the folks we depend on to do the drilling, if they do not think there is oil there, then why are we doing it? Because it is a Trojan horse. They claim if they do not have the right to drill in ANWR, they will not have any right to drill where the oil really is, and that is off the coast of Florida, off the coast of California, and in the Gulf of Mexico, which is where they really want to go.

So pay close attention here because if this passes, the next oil exploration may be in your backyard.

The material previously referred to follows:

[From the New York Times, Feb. 21, 2005]

Big Oil Steps Aside in Battle Over Arctic

(By Jeff Gerth)

WASHINGTON, Feb. 20—George W. Bush first proposed drilling for oil in a small part of the Arctic National Wildlife Refuge in Alaska in 2000, after oil industry experts helped his presidential campaign develop an energy plan. Five years later, he is pushing the proposal again, saying the nation urgently needs to increase domestic production.

But if Mr. Bush's drilling plan passes in Congress after what is expected to be a fierce fight, it may prove to be a triumph of politics over geology.

Once allied, the administration and the oil industry are now far apart on the issue. The major oil companies are largely uninterested in drilling in the refuge, skeptical about the potential there. Even the plan's most optimistic backers agree that any oil from the refuge would meet only a tiny fraction of America's needs.

While Democrats have repeatedly blocked the drilling plan, many legislators believe it has its best chance of passage this year, because of a Republican-led White House and Congress and tighter energy supplies. Though the oil industry is on the sidelines, the president still has plenty of allies. The Alaska Congressional delegation is eager for the revenue and jobs drilling could provide. Other legislators favor exploring the refuge because more promising prospects, like drilling off the coasts of Florida or California, are not politically palatable. And many Republicans hope to claim opening the refuge to exploration as a victory in the long-running conflict between development interests and environmentalists.

The refuge is a symbol of that larger debate, said Senator Lisa Murkowski, an Alaska Republican who is a major supporter of drilling. Opponents agree. "This is the No. 1 environmental battle of the decade," said Representative Edward J. Markey, Democrat of Massachusetts.

Whether that battle will be worthwhile, though, is not clear. Neither advocates nor critics can answer a crucial question: how much oil lies beneath the wilderness where the administration wants to permit drilling?

Advocates cite a 1998 government study that estimated the part of the refuge proposed for drilling might hold 10 billion barrels of oil. But only one test well has been drilled, in the 1980's, and its results are one of the industry's most closely guarded secrets.

A Bush adviser says the major oil companies have a dimmer view of the refuge's prospects than the administration does. "If the government gave them the leases for free they wouldn't take them," said the adviser, who would speak only anonymously because of his position. "No oil company really cares about ANWR," the adviser said, using an acronym for the refuge, pronounced "an-war."

Wayne Kelley, who worked in Alaska as a petroleum engineer for Halliburton, the oil services corporation, and is now managing director of RSK, an oil consulting company, said the refuge's potential could "only be determined by drilling."

"The enthusiasm of government officials about ANWR exceeds that of industry because oil companies are driven by market forces, investing resources in direct proportion to the economic potential, and the evidence so far about ANWR is not promising," Mr. Kelley said.

The project has long been on Mr. Bush's agenda. When he formulated a national energy policy during the 2000 campaign he turned to the oil industry for help. Heading the effort was Hunter Hunt, a top executive of the Hunt Oil Company, based in Dallas.

The Bush energy advisers endorsed opening a small part—less than 10 percent of the 19-million-acre refuge—to oil exploration, an idea first proposed more than two decades ago. The refuge, their report stated, "could eventually produce more than the amount of oil the United States now imports from Iraq."

The plan criticized President Bill Clinton's energy policies, both in the Middle East, where most of the world's oil lies, and in the United States. In 1995 Mr. Clinton vetoed legislation that authorized leasing in the Alaska refuge. An earlier opportunity to open it collapsed after oil spilled into Alaskan waters in 1989 from the Exxon Valdez. Subsequent efforts, including one in Mr. Bush's first term, also failed.

Mr. Hunt, through an aide, declined an interview request. Others who advised Mr. Bush on his energy plan said including the refuge was seen as a political maneuver to open the door to more geologically promising prospects off the coasts of California and Florida. Those areas, where tests have found oil, have been blocked for years by federal moratoriums because of political and environmental concerns.

"If you can't do ANWR," said Matthew R. Simmons, a Houston investment banker for the energy industry and a Bush adviser in 2000, "you'll never be able to drill in the promising areas."

Shortly after assuming office, Mr. Bush asked Vice President Dick Cheney to lead an examination of energy policy. A May 2001 report by a task force Mr. Cheney assembled echoed many of Mr. Bush's campaign promises, including opening up part of the refuge. The report called for further study of the Gulf of Mexico and other areas. The next year, Mr. Bush said "our national security makes it urgent" to explore the refuge.

By then, the industry was moving in the opposite direction. In 2002 BP withdrew financial support from Arctic Power, a lobbying group financed by the state of Alaska, after an earlier withdrawal by Chevron Texaco. BP, long active in Alaska, later moved its team of executives to Houston from Alaska, a company executive said.

"We're leaving this to the American public to sort out," said Ronnie Chappell, a BP spokesman, of the refuge. About a year ago, ConocoPhillips also stopped its financial support for Arctic Power, said Kristi A. DesJarlais, a company spokeswoman.

Ms. DesJarlais said her company had a "conceptual interest" in the refuge but "a more immediate interest in opportunities elsewhere."

Other companies have taken similar positions. George L. Kirkland, an executive vice president of Chevron Texaco, said a still-banned section in the Gulf of Mexico, where the company has already drilled, was of more immediate interest. ExxonMobil also has shown little public enthusiasm for the refuge. Lee R. Raymond, the chairman and chief executive, said in an television interview last December, "I don't know if there is anything in ANWR or not."

For the Interior Department, however, the refuge is the best land-based opportunity to find new oil. Any lease revenues, estimated by the department to be $2.4 billion in 2007, would be split between the federal and state governments. Advocates say oil production could reach one million barrels per day. In a decade from now, when the site might be fully developed, that would be about 4 percent of American consumption, according to federal forecasts.

David L. Bernhardt, deputy chief of staff to the secretary of the interior, cited a 1998 study by the United States Geological Survey estimating that the refuge might hold 10.4 billion barrels of recoverable oil. (The estimate for offshore oil is 76 billion barrels.)

But that study has significant weaknesses, which Mr. Bernhardt acknowledged. Its estimates are of "petroleum resources"—potential oil deposits—instead of "petroleum reserves," which refers to oil that has been discovered.

Ken Bird, a geological survey official who worked on the study, said the federal geologists did not have access to test data from the only exploratory well drilled on the refuge, by Chevron Texaco and BP in the 1980's. An official with one of the companies, speaking anonymously because of the confidentiality of the test, said that if the results had been encouraging the company would be more engaged in the political effort to open the refuge.

There has not been much discussion about the refuge between the companies and the Bush administration, according to industry and government officials.

"I don't think I've talked to the oil industry over the last several years about the economic potential of ANWR," Mr. Bernhardt said.

The relationship between the administration and the oil industry has been a flashpoint for critics of Mr. Bush. Democrats, upset that Mr. Cheney refused to disclose information about his task force meetings with industry executives, see a cozy alliance.

Their concerns are heightened because of the former ties between the industry and Mr. Bush and Mr. Cheney and the administration's stance on issues like climate change. The president once headed a small exploration company, and Mr. Cheney previously was chief executive of Halliburton.

"Big oil," Senator John Kerry said in last year's presidential campaign, now calls "the White House their home."

Some industry executives say their views are more aligned with those of Republicans on a broad range of issues including regulation, the environment and energy supply, and they were heartened by the initial pronouncements of the Bush administration. But some say they feel let down by Mr. Bush's inability to lift bans on oil exploration.

"When this administration came in, the president and the vice president recognized there was a problem of energy supply and demand," said Tom Fry, the executive director of the National Offshore Industries Association. But Mr. Cheney's task force, Mr. Fry said, talked only about offshore drilling as something to be studied. "They never say they will lift the moratoria," he said.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Speaker, I rise in support of the rule and the bill.

This legislation is perhaps the most important bill we will deal with in this session. The lack of a comprehensive energy plan is hurting our families and our economy. Global energy demand is soaring. America's natural resources are finite and flat, rising energy imports are driving record trade deficits as runaway energy costs drag down the U.S. economy. Unless we implement a long-term, comprehensive energy plan, Americans will pay even more to heat their homes, drive their cars to work, and feed their families and provide other essentials for our loved ones.

For the Members of this Chamber, this bill is our opportunity to ensure a better future. The Committee on Energy and Commerce, along with other committees of jurisdiction, have produced an energy bill that recognizes today's needs while preparing for the future.

To meet today's energy needs, this legislation does several things. It expands the Nation's natural gas supply, primarily by clarifying the Federal Government's role in LNG facilities. It increases our supplies of gasoline and diesel by adding new refineries, limiting the number of specialty blends, and establishing a 5-billion-gallon renewable fuel standard.

This energy bill adds diversity to our energy portfolio by encouraging more nuclear power, clean coal, and renewable energies. It doubles our efforts in energy conservation and efficiency, it reduces America's dangerous dependence on foreign oil, and improves our Nation's electrical transmissions.

But this energy bill looks beyond the horizon as well. By boosting the use of hydrogen fuel cells, microturbines, and other forms of new energy technologies, we can begin preparing to meet the energy demands of tomorrow. I was proud to work with my colleague from across the aisle, the gentleman from Pennsylvania (Mr. DOYLE) to double the authorized funding for this year's hydrogen title. It is just one of many forward-thinking provisions in this legislation.

The energy sector represents a $650 billion piece of the American economy. It is the engine that powers other sectors of the U.S. economy, and I urge my colleagues to vote "yes" on the rule and the bill.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. MATSUI), our distinguished new Member of the Committee on Rules.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

I rise in opposition to this rule and to the underlying bill. The Republican majority has brought to the Floor a bill that subsidizes the past at the expense of the future, and we should not vote for it.

I am particularly troubled about the amnesty this bill gives to MTBE polluters and the effect it has on my home State of California. In 1990, the oil industry began adding MTBE to gasoline in order to make it burn cleaner. The industry knew that MTBE was a harsh groundwater pollutant and had safe alternatives at its fingertips.

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But the industry used MTBE anyway. 25 years later, over 18,000 water systems in 29 States are infected with MTBE, including three wells in my home district of Sacramento.

Making our drinking water clean will cost an estimated $29 billion nationwide. I think polluters should pay that bill. Our cities and towns agree. Not surprisingly, however, the Texas-based MTBE manufacturers think they deserve a bailout. So they went to their friends in Washington, and the Republican majority gave them a blanket amnesty for cleaning up their pollution. It is unbelievable and our constituents should be horrified.

Mr. Speaker, we should be investing in renewables and conservation. We should be strengthening our natural security by reducing our dependence on foreign oil. We should be doing a lot of things today. Protecting guilty polluters is not one of them.

I urge my colleagues to defeat this rule and the underlying bill.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, we need an energy policy desperately in this country. We needed it 30 years ago. This is an excellent bill. It addresses the energy policy in a very comprehensive way. It addresses oil and gas. It addresses conservation which people over here say it does not, and it does; environmental issues, electrical, hydropower, everything is addressed, nuclear. It is a very comprehensive bill.

And we need this for many perspectives, but most importantly passing this very important bill is important for National security issues as well as jobs and economic development.

You know, people talk about high gas prices in this country, and people go back to their districts and say that gas is high. Well, one way we can reduce the cost of gasoline for everyone in this country is we expand refining capacity in this country. And we address this in this bill.

Right now our refineries are operating at almost maximum capacity. Like our chairman said in the committee, if we added five new refineries today in America, it still would not address the demand that we have. In many instances when we do get oil and gas drilled here domestically, sometimes we have to send that oil to another country to refine it, and we buy it back at a higher value.

That is what third world countries do, and we need to stop that. It is very important that we address the ANWR situation, and open ANWR. And a lot of the environmentalists will say, we cannot do that, it might hurt some species of some animal or insect. But we need to think of the human species from time to time. If we open ANWR, if you put it in perspective, if it was the size of the OU football field, the area that we are talking about drilling in would be the size of a postage stamp on that football field.

And the beauty of it is, we can produce oil, experts say, at least 2 million barrels a day out of ANWR, and that is exactly what we were importing from Saddam Hussein in Iraq before all of this 9/11 happened.

It is asinine that we rely so much on foreign oil, especially in areas around the world that we have carpet-bombed. It is ridiculous. So we need to spur domestic production, support this very important comprehensive energy bill that is for jobs and economic development, as well as a National security issue for this country. I urge my colleagues to support it.

Mr. McGOVERN. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House and the ranking Democrat on the Energy and Commerce Committee.

Mr. DINGELL. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. McGOVERN) for yielding me this time. This is a bad bill. It is a bad rule, unfair; and the procedure is unfair and bad.

The rule does not allow an amendment that I submitted with the gentleman from New York (Mr. BOEHLERT) and the gentleman from New Mexico (Mr. UDALL), which related to the outrageous hydroelectric relicensing provisions in the bill; nor does it allow an amendment by the gentlewoman from California (Mrs. CAPPS) to strike the unjustified and unjustifiable gifts to the producers of MTBE.

And last of all, it denies the gentleman from Michigan (Mr. STUPAK) the right to offer an amendment to stop natural gas and oil companies from drilling in the Great Lakes. I tried to fix the hydroelectric section of this bill, which creates new rights and procedures for the licensing of dams that generate electricity from our rivers.

It gives these rights only to one group of people, the electrical utilities. Others who have legitimate concerns, the cities, the sportsmen, the States, the Indian tribes, the conservationists, the irrigators, farmers or ranchers are not afforded that same right, a grotesquely unfair procedure.

The bill also allows utilities alone to propose alternatives to the resource provisions recommended by the Secretaries of the Interior, Agriculture Or Commerce, that must, must be accepted if they meet certain criteria. Again, none of the legitimate other parties to the procedures are given this right.

This is grotesquely unfair. The rivers produce power. They are public resources, not the playthings of private utilities. The amendment we submitted would have corrected a number of the most egregious abuses unless in this section we apply the new rights to all parties in equal fashion. But by not allowing this amendment, that is foreclosed.

The bill also forecloses a vote on the billions of dollars bestowed in this bill to producers of MTBE. Again, a grotesquely and unfair and unwise proposal.

Finally, the gentleman from Michigan (Mr. STUPAK) sought to offer a simple, straightforward amendment prohibiting any State or Federal permit to lease for new oil and gas drilling in or under the Great Lakes, one of the great treasures, 20 percent of the water in the world, the free fresh water which is so important to us. Are we being allowed to debate and vote on this amendment which would inconvenience powerful oil and gas producers? The answer to that is no.

I urge my colleagues to reject this rule. I urge my colleagues to see to it that we teach the Rules Committee that their function is to facilitate debate, not to deny Members the opportunity to discuss matters of importance on this floor. This is the people's House, not the residents of a group of special interests, but it gives every appearance of that. It rather smells that way.

Mr. SESSIONS. Mr. Speaker, a gentleman who came to the Rules Committee last night to seek the opportunity to debate today this very important energy bill is here with us today.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I thank the gentleman for yielding time to me. I am torn, I will have to tell you. I support the President, and I support the President's request for a national energy policy.

But he sent a request for $6.7 billion of tax incentives, 72 percent of which was for renewables and energy efficiency; and this base bill has 6 percent of the total for those two very important functions given the crisis that we face today.

I am the cochairman of the Renewable Energy and Energy Efficiency Caucus. Over half of the House are members. We asked for four amendments last night to ratchet this back up some, just a little; and all four were denied. That is not right.

Yet there are so many important things in this bill. So I am torn. I do not want to vote against the new residential personal 15 percent tax credit for photovoltaics that does not exist today, or the 20 percent tax credit for homeowners to install energy-efficiency improvements to their home, or Charlie Bass's billion dollar rebate program for investment in renewable energy.

But I am telling you, all of it together is 6 percent instead of 72 percent that our President asked us for. I am for the President. I am for his plan. And I hope that the conference report after we work with the Senate has it all in there, because no one in this House wants an energy policy more than me. I have worked for a decade as an appropriator on those important investments, yet I asked for amendments to improve this bill, and every one of them was denied.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I appreciate the honesty of the gentleman. Let me suggest the way that he can reunite himself: help us vote down the rule. That will not jeopardize the bill. When the rule is voted down, the Rules Committee will have to do the right thing.

Mr. WAMP. Reclaiming my time, Mr. Speaker, I want to move the process forward. I want to get to the Senate. But I want a bill that is good for America. And I want the President's proposal. I want the 72 percent on renewables and energy efficiency and alternatives and clean fuels, extend the tax credit so people will drive these hybrid cars. This does not even extend that tax credit. It is not enough. We need to do more.

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. ESHOO.)

Ms. ESHOO. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in opposition to this rule. The State of California sends $50 billion more to the Federal Government while getting nothing in return for that $50 billion.

With this bill, Californians are being asked to sacrifice even more while getting nothing in return. Here are some examples: according to the Department of Energy, the bill will raise gasoline prices by 8 cents a gallon. I think that that is an outrage.

The bill's MTBE liability waiver will let refiners off the hook for cleaning up drinking water that has been contaminated by their product. Local governments are going to have to pay the entire cost. And the CBO has said this is an unfunded mandate.

The bill will undermine the ability of States to ensure that liquefied natural gas terminals are sited and operate safely. The bill will undermine States' appeals rights under the Coastal Zone Management Act.

The bill paves the way for building energy facilities on the outer continental shelf, including areas subject to gas and oil drilling.

In listening to State leaders about this bill, I could not find anyone, from the Governor on down, who has said that this is a wonderful bill and it should be supported and passed. Instead, I have heard many concerns, from the Lieutenant Governor, from members of the Governor's cabinet, the attorney general, the coastal commission, the Public Utilities Commission, local governments, and water utilities.

Mr. Speaker, I will include in the RECORD a packet of letters from the coastal commission, the California PUC, the lieutenant governor, and the California Ocean Protection Council.

Under this rule, I do not think we even have the opportunity to debate and vote on the most important amendments dealing with them.

I ask my colleagues, particularly my California colleagues, to join me in voting against the rule and the underlying bill.

The letters previously referred to are as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 19, 2005.

Re House Consideration of Comprehensive Energy Legislation.

Hon. ARNOLD SCHWARZENEGGER,
Governor, State Capitol Building,
Sacramento, California.

DEAR GOVERNOR SCHWARZENEGGER, On April 13th, our committees (the House Committee on Energy and Commerce and the House Committee on Resources) completed work on elements of a comprehensive energy bill that will come before the full House of Representatives as soon as April 20th.

After participating in the debate and reviewing the products that emerged from our respective committees, we foresee serious dangers for the State of California if this legislation is enacted.

While the delegation has received your letter supporting the removal of the participant funding section from the electricity title of the bill, we have not heard from you about other provisions that will more directly and immediately affect California. As we and other members of the delegation determine how to best represent the interests of our State, we believe it's important to understand your views on some of the key provisions before us as well as your overall position on the legislation.

Most of the elements of the legislation are not new. They were part of the conference report on H.R. 6, which was considered by the House and Senate in 2003. Among the few new provisions are those that would further disadvantage our State. We've described below some of the provisions that we consider most troubling for California.

LIQUEFIED NATURAL GAS (LNG) FACILITY SITING (NEW PROVISIONS)

The bill will hand over exclusive jurisdiction for the siting of liquefied natural gas (LNG) facilities to the Federal Energy Regulatory Commission (FERC), preventing the states from having a role in approving the location of LNG terminals and the conditions under which these terminals must operate. In addition, states will have to seek FERC permission before conducting safety inspections, and they will be barred from taking any independent enforcement action against LNG terminal operators for safety violations. Finally, for the next six years, LNG terminal operators will be allowed to withhold underutilized capacity from other LNG suppliers. In other words, LNG terminal operators can legally exercise market power to drive up the cost of natural gas. When the El Paso Corporation and its independent affiliates allegedly conspired to withhold natural gas pipeline capacity in order to inflate the costs of natural gas and electricity in California in 2000 and 2001, the State sought relief from FERC and the courts. El Paso eventually agreed to a $1.5 billion settlement to partially compensate California consumers for its anticompetitive actions. Under this bill, it would become legal for an LNG terminal operator to engage in similar anticompetitive behavior.

For these reasons, the provision is unanimously opposed by the California Public Utilities Commission, which, as you know, is fighting FERC in the courts for jurisdiction over an LNG terminal in the heart of the Port of Long Beach. This provision is also opposed by the California Ocean Protection Council, which includes two members of your cabinet, and the California Coastal Commission.

EROSION OF STATES' RIGHTS UNDER THE COASTAL ZONE MANAGEMENT ACT (CZMA) (PROVISIONS FROM H.R. 6)

The bill weakens California's rights under the Coastal Zone Management Act to object to a FERC-approved coastal pipeline or energy facility project when the project is inconsistent with the State's federally-approved coastal management program. Currently when there is a disagreement about a project, the Secretary of Commerce, through an administrative appeals process, determines whether and under what conditions the project can go forward. States can present new evidence supporting their arguments to the Secretary. Under this bill, states will not be allowed to present new evidence to the Secretary, and the Secretary will not be allowed to seek out evidence on his or her own. The Secretary will only be allowed to rely on the record compiled by FERC. Furthermore, the bill imposes an expedited timeline for appeals, which may not allow a full review of the facts. The California Coastal Commission and the California Ocean Protection Council oppose this provision.

ENERGY RELATED FACILITIES ON THE OUTER CONTINENTAL SHELF (OCS) (PROVISIONS FROM H.R. 6)

The bill will give the Department of Interior permitting authority for "alternative" energy projects, such as wind projects, situated on the Outer Continental Shelf (OCS). It also grants the Department of Interior authority to permit other types of energy facilities, including facilities to "support the exploration, development, production, transportation, or storage of oil, natural gas, or other minerals." These facilities could be permitted within coastal areas currently subject to congressional moratoria on oil and gas leasing. (Again, both the California Coastal Commission and the California Ocean Protection Council have indicated that they oppose this provision.)

ETHANOL MANDATE (PROVISION FROM H.R. 6)

The Clean Air Act's two percent oxygenate requirement forces refiners selling gasoline in California to blend more ethanol into their fuel than is needed for air quality purposes. Instead of improving air quality, the unnecessary use of ethanol is increasing pollution in parts of the State, according to a preliminary report from the California Air Resources Board. The oxygenate requirement is also adding to the cost of fuel. Last year, you asked the U.S. EPA to waive the oxygenate requirement, and last week, 50 members of the California congressional delegation reiterated support for your request in a letter to Acting EPA Administrator Stephen L. Johnson.

Under the energy bill coming before the House, however, California refiners will have to blend even more ethanol into their gasoline or pay (in the form of credit purchases) not to use it. Two years ago, a Department of Energy analysis of this provision indicated that it could add more than 8 cents to the cost of a gallon of gasoline. In a time of skyrocketing gas prices, this new mandate amounts to hidden tax on California motorists, which will subsidize a single industry located largely in the Midwest.

While some have argued that the ethanol mandate will be a boon to California agriculture, we see no evidence to support this argument. According to the U.S. Energy Information Administration (EIA), the ethanol mandate will greatly expand production of corn-based ethanol, but only 0.2% of the nation's corn is produced in California. More important, EIA projects that the ethanol mandate will result in no increase in the production of cellulosic ethanol (ethanol made from agricultural and forestry residues and other resources), which is the primary type of ethanol that can be produced in California.

MTBE LIABILITY WAIVER AND TRANSITION FUND (PROVISIONS FROM H.R. 6)

The bill provides liability protection for the producers of the gasoline additive MTBE, hampering the efforts of local governments, water utilities, and others to hold producers and oil companies responsible for the costs of cleaning drinking water supplies that have been contaminated by MTBE. In California, South Lake Tahoe and Santa Monica have been able to reach settlements with the industry for the cleanup of their drinking water after successfully arguing that the industry sold a defective product. If the liability protection in the bill is enacted, then MTBE will be deemed a safe product and the industry will be relieved from virtually any obligation to pay cleanup costs. In June 2003, fourteen state attorneys general wrote in opposition to this provision, and the provision has been opposed by the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the National Association of Towns and Townships, and the Association of California Water Agencies, among others.

REFINERY REVITALIZATION (NEW PROVISIONS)

This bill includes language which will require the Secretary of Energy to designate "refinery revitalization zones" in areas that have experienced mass layoffs or contain an idle refinery and have an unemployment rate that exceeds the national average by 10 percent. In areas that meet these criteria, the Secretary of Energy is given authority to site a new refinery within six months of receiving a petition for approval. The criteria outlined in the language would result in much of California being designated a "refinery revitalization zone," from Imperial to East Los Angeles and north of San Jose. In fact, more than half of California's 53 congressional districts would be subject to these provisions.

This language erodes the state, air board and communities permitting and enforcement authority for these refineries by granting sweeping new authority to the Department of Energy. The Department is empowered to coordinate and set binding deadlines for all federal authorizations and environmental reviews, including those currently conducted by air quality management districts. The Department of Energy, however, is not trained and experienced in issuing air permits and is not familiar with the various rules implemented by local agencies as part of the State Implementation Plan (SIP) required by the Clean Air Act. For these reasons, the South Coast Air Quality Management District has expressed serious reservations about this provision.

PREEMPTING CALIFORNIA APPLIANCE EFFICIENCY STANDARDS (NEW PROVISION)

An amendment added to the bill in the Energy and Commerce Committee will preempt California's new efficiency standards for ceiling fans, pending the implementation of a federal standard. The U.S. Department of Energy has been notoriously slow in propounding efficiency standards, falling years behind statutory deadlines for setting or updating efficiency standards for other appliances, such as air conditioners. Preempting California and forcing it to wait indefinitely for a federal standard runs completely against the State's effort to reduce electricity demand. Indeed, the ceiling fan standard is part of a California Energy Commission demand reduction package that will reduce peak power demand by 1,000 megawatts within 10 years, saving consumers $75 a year in energy costs and conserving as much power as can be generated by three large power plants.

HYDROELECTRIC DAM RELICENSING (PROVISIONS FROM H.R. 6)

The bill restructures the hydroelectric relicensing process to give special preference to dam operators. Other parties with legitimate interests in relicensing, including states, tribes, conservationists, farmers, and fishermen, would not be afforded the same opportunities.

Under current law, federal resource agencies can impose conditions on a hydroelectric license for the protection of natural resources and wildlife. Under the bill a dam operator, and only a dam operator, will be entitled to a trial-type hearing before a resource agency to dispute the evidence that the agency uses to justify placing conditions on a license. The bill also requires resource agencies to accept alternative license conditions proposed by a dam operator. Otherwise, the agencies must meet nearly impossible standards to justify a decision to deny the alternative.

River resources belong to more than dam operators. With licenses that last for up to 50 years, relicensing is one of the few chances to make sure that resources are adequately protected for all stakeholders. In California, there are more than 300 federally-regulated hydroelectric dams; over 200 will undergo relicensing in the next 10 to 15 years. Denying all stakeholders equal footing in the process is fundamentally unfair and is a recipe for protracted litigation.

CONCLUSION

We believe there are many other aspects of the legislation which will have a negative impact on our State, but these provisions clearly run contrary to the interests of California, and we believe they will undermine the policies and positions the State is pursuing under your Administration. Before the delegation votes on this legislation, Members should have the benefit of your views on these provisions and the bill as a whole. This legislation is too important a matter for the nation's largest state to be silent on.

Although time is short, the issues we've outlined have been in the public domain for the past several months, going back to November 2003 in most cases. Therefore, we ask for your input before the House votes on this legislation this week. Thank you for timely consideration of this important request.

Sincerely,

ANNA G. ESHOO,
Committee on Energy and Commerce.
HENRY A. WAXMAN,
Committee on Energy and Commerce.
LOIS CAPPS,
Committee on Energy and Commerce.
GRACE F. NAPOLITANO,
Committee on Resources.
GEORGE MILLER,
Committee on Resources.
HILDA L. SOLIS,
Committee on Energy and Commerce.

California Ocean
Protection Council,
Sacramento, CA, April 4, 2005.

Representative Henry Waxman,
30th Congressional District, Rayburn House Office Building, Washington, DC.
Representative Anna G. Eshoo,
Longworth House Office Building, Washington, DC.
Representative Lois Capps,
23rd Congressional District, Longworth House Office Building, Washington, DC.
Representative Hilda Solis,
32nd Congressional District, Longworth House Office Building, Washington, DC.

Dear Representatives Waxman, Eshoo, Capps and Solis: Thank you for your March 15, 2005 letter to the California Ocean Protection Council regarding the pending national energy bill and your concerns about potential impact of this legislation on ocean and coastal protection.

The California Ocean Protection Act is intended to help California coordinate and act on ocean and coastal issues of statewide and national significance. The membership of the Council includes the Secretary of the Resources Agency, who serves as chairman, the Secretary of the California Environmental Protection Agency (Cal/EPA), and the Chair of the State Lands Commission, who is currently the Lieutenant Governor. One State Senator and one Assemblymember also are appointed to serve as non-voting members of the Council.

The Council is committed to maintaining California as a leader in ocean and coastal management. The Council stands ready to fully implement the California Ocean Protection Act and Governor Schwarzenegger's Ocean Action Plan. At our first meeting on March 21 the Council discussed the need to maintain strong ocean and coastal protection measures. As a Council we did not suggest a position on the energy bill, but reached consensus on the need to re-affirm California's position on the following ocean and coastal protection issues:

Congressional Oil and Gas Moratorium. The Council opposes any effort to lift the Congressional moratorium on offshore oil and gas leasing activities that has been protecting our shores since 1982.

Coastal Zone Management Act. The Council opposes efforts to reduce the ocean and coastal protections provided by the Coastal Zone Management Act.

Liquefied Natural Gas Facility Siting. The Council objects to efforts to reduce or eliminate a state's role in the siting of Liquefied Natural Gas facilities.

We appreciate the opportunity to provide input on these critical issues facing California and other coastal states. Please contact Brian Maird, assistant secretary for Ocean and Coastal Policy, California Resources Agency if you have additional questions, or would like to further engage California in efforts to protect and manage ocean and coastal resources. He can be reached at (916) 657–0198 or via e-mail at brian@resources.ca.gov.

Sincerely,

Mike Chrisman,
Chairman, California Ocean Protection Council, Secretary for Resources.
Cruz Bustamante,
California Lieutenant Governor.
Alan Lloyd,
Secretary for California EPA.

State of California,
March 23, 2005.

Re Federal Legislation to Strip California of its Coastal Regulatory Authority.

Hon. Anna Eshoo,
California Congressional Representative,
Palo Alto, CA.

Dear Congresswoman Eshoo: As Chair of the California State Lands Commission and a member of the newly-created California Ocean Protection Council, I am writing to express my strong opposition to the energy legislation currently pending in Congress.

California is world-renowned for its 1,100 miles of breathtaking coastline. Our ocean supports an abundance of marine life that is critical to the health of the world's ecosystem and our state's economy. A healthy ocean is inseparable from California's heritage and way of life. The proposed energy legislation is a threat to our state's environmental autonomy and coastal stewardship. Protecting our coast means protecting a vital asset of California's economy, as it provides more than $450 billion and hundreds of thousands of jobs to our state.

The House Energy and Commerce Committee is currently reviewing substantial changes in federal energy policy, including the rewriting the Outer Continental Shelf Lands Act to grant the federal administration sweeping new authority over California's coastal management and role in planning for coastal development. These changes would give the Secretary of the Interior new authority over energy-related leases, easements and right-of-way issues without any role for the affected state. This invasion of states' rights would eliminate California's ability to adequately protect our coast.

Another concern to Californians is the federal government's effort to strip the state of the ability to determine the siting of liquefied natural gas (LNG) terminals. The state should be able to continue to play a meaningful role in determining the appropriate location of any gas terminal within the state's boundaries.

Finally, any proposal that would give way to the lifting of the moratorium on offshore oil drilling along our coast is abhorrent to the vast majority of California's voters and its public officials. The moratorium was put in place in 1990 by then-President George H.W. Bush. Californians continue to overwhelmingly support making the moratorium permanent.

On March 21, the other members of the Ocean Council joined me in expressing opposition to this "so-called" energy bill as the Council's first official act. Today, I ask that you let the voice of Californians prevail in any decisions being made about the future of our coast.

With kindest regards,

Cruz M. Bustamante
Lieutenant Governor.

California Coastal Commission,
San Francisco, CA, March 23, 2004.

Re Energy Bill, Title III Oil and Gas.

Hon. Joe Barton,
House of Representatives, Washington, DC.
Hon. John Dingell,
House of Representatives, Washington, DC.

Dear Representatives Barton and Dingell: On behalf of the California Coastal Commission (the Commission), I write to express our strong objection to provisions in the Energy Bill that would compromise the Outer Continental Shelf (OCS) moratorium on oil drilling, seriously weaken the Coastal Zone Management Act (CZMA) protection of states rights, and eviscerate California's role in siting new liquefied natural gas (LNG) terminals. Relative to the OCS moratorium, the legislation calls for a study that would open the door to carrying out an exploratory inventory of natural gas reserves within moratoria areas off the California coast. Such an inventory would seriously undermining the longstanding bipartisan legislative moratorium on new mineral leasing activity on submerged lands of the OCS that has been included in every Appropriations bill for more than twenty years. The effect of this provision is to weaken the prohibitions on oil and gas development off the California coast that were first put in place in 1990 through executive order by President George H. W. Bush and then extended to the year 2012 by President Bill Clinton.

The Commission also objects to proposed amendments to the CZMA. The proposed legislation would severely undercut the ability of coastal states to exercise their right to protect coastal resources pursuant to the federal consistency review provisions of the CZMA that have been law for more than thirty years. It would eliminate meaningful state participation in the appeal to the Secretary of Commerce of consistency decisions relative to OCS oil drilling and other federal activities by imposing unreasonable and unworkable time limitations for the processing of the appeal. The time limits set forth in the legislation are totally inadequate to enable the Secretary of Commerce to develop a complete record for the appeal and to review all the materials on which the decision must be based. Additionally, the unreasonably short time frame makes it nearly impossible for states to submit all necessary and appropriate information the Secretary must take into account in acting on the consistency appeal.

Finally, the Commission opposes the legislation's provisions to trump state's rights by giving the Federal Energy Regulatory Commission (FERC) authority over the siting of LNG terminals. The Commission objects to any amendments to the Natural Gas Act and Natural Gas Policy Act that would expand FERC's authority to preempt state regulations, condemn property for siting and construction of natural gas pipelines, and establish schedules and develop the exclusive record for administrative review of all State and Federal decisions under Federal law.

The energy legislation's provisions are directly contrary to California's strong interest in safeguarding its precious coastal resources from offshore oil and gas drilling-related activities. If you or your staff has questions, please contact Peter Douglas, Executive Director, at (415) 904-5201.

Sincerely,

Meg Caldwell,
Chair, California Coastal Commission.

Public Utilities Commission,
San Francisco, CA, April 11, 2005.

Re Energy Policy Act of 2005, Title III, Sec. 320 Proposed Amendments Concerning Siting of Liquefied Natural Gas Terminals

Representative Anna Eshoo,
Washington, DC

Dear Representative Eshoo: The California Public Utilities Commission (CPUC) strongly opposes the liquefied natural gas (LNG) provisions in section 320 of title III of the Energy Policy Act of 2005 (EPAct), and urges you to vote in favor of any proposed amendment to strike section 320 from title III during markup, which we understand will take place on Tuesday, April 12, 2005. Section

320 would give the Federal Energy Regulatory Commission (FERC) exclusive jurisdiction over proposed liquefied natural gas (LNG) facilities. This disproportionate control in the hands of FERC could have very serious consequences for California, due to FERC's lack of understanding of local conditions, such as seismic issues, and refusal to have hearings to consider the views of safety experts other than the consultants of the LNG project sponsors. The CPUC supports a more balanced approach in which amendments to the Natural Gas Act would provide for concurrent jurisdiction between the FERC and the States.

The CPUC agrees that LNG terminals are necessary. It is not a question for us should there be LNG terminals on the West Coast, including California. The real issue is how to make sure they are safely located, and what safeguards would be sufficient to mitigate the risks, especially for sites in densely populated areas. The CPUC is aware of at least seven different LNG proposals to serve Southern California. Whether the market would support more than two or three of them has been questioned by many experts. Similarly, of the 56 proposed LNG import terminals along the coast of North America, most of them will never be built due to market conditions. The point is that even without the LNG provisions in this bill, there will be new LNG terminals to meet our needs.

The LNG provisions in the proposed EPAct, if enacted, would severely undermine the careful evaluation of the safety issues that is necessary, particularly in densely populated areas, by depriving the States of decisionmaking authority, and by allowing the FERC to expedite the processes an control the administrative records. In addition, in sharp contrast to Europe and Japan, the LNG provisions would insulate the LNG terminal operators from any regulatory safeguards against their exercise of market power at least through January 1, 2011. As a result of these LNG provisions, California could end up with unsafe LNG terminals, which could pose daily risks to nearby communities, and California could be faced with the potential exercise of market power, like we faced during the energy crisis just four years ago.

These risks can be prevented or minimized if a more balanced approach, such as concurrent jurisdiction, were utilized. In that way, the States could apply their expertise, not to block LNG terminals, but to ensure that they are safely sited and some regulatory check could exist to protect the consumers. The consequences of these risks, if there were an accident, earthquake or terrorist attack at one of the California LNG terminals, would be to the nearby communities. The State of California should have decisionmaking authority and should not be made helpless and unable to protect the health and safety of our citizens. Similarly, if there were a new energy crisis caused by LNG terminal operators exercising market power, California utilities and their ratepayers would be the victims. The LNG provisions should be stricken from title III, so that the CPUC and other States can help prevent such a crisis from occurring.

This concurrent jurisdiction approach worked in the 1970s when the CPUC and the FERC both certificated proposed LNG facilities at Point Conception, instead of going forward with the initial proposal approved by the FERC at the City of Oxnard. Although the CPUC has been blamed for defending our jurisdiction over LNG terminals in California in the current litigation between the FERC and CPUC in the Ninth Circuit, the CPUC tried to resolve the dispute and work cooperatively with the FERC at the outset. It was the FERC, who resisted our efforts and chose to make this a test case for the courts. It was the FERC, who rejected the CPUC's request for a hearing in that proceeding even though the proposed LNG facilities at the Port of Long Beach would be in a densely populated area and built on landfill with 27 active earthquake faults within 100 miles of it. Section 320 would give this same FERC exclusive authority over proposed LNG terminals in California and other States, and it provides only that FERC should consult with the State Commissions prior to the FERC issuing its order. This consultation requirement will not provide any protection for California citizens.

For these reasons, we urge you to oppose section 320 and vote in favor of striking the LNG provisions from the proposed EPAct. We urge you to consider a more balanced approach, such as concurrent jurisdiction, which would combine the expertise of federal and state agencies, and result in real cooperation.

Sincerely,

MICHAEL R. PEEVEY,
President.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN) a member of the Ways and Means Committee.

Mr. RYAN of Wisconsin. Mr. Speaker, I appreciate the gentleman yielding me this time. I want to talk about a very important issue that should appeal to all Republicans and Democrats in this House, and that is gas prices.

One provision that is included in this bill, the Boutique Fuel Reduction Act, is very, very important to reducing the price spikes that we are experiencing.

Let me just explain. This map right here of America looks like a piece of modern art. It shows you all of the different fuels we have running around America.

Because of the Clean Air Act, a very good law, we never thought about having a Federal fuel system, so today we have 18 different base blends of gasoline; throw the different octanes in there, we have 45 different fuels.

So we have a full distribution system, national in scope; we have pipelines and refineries that are meant to put one fuel out there for America that was built in the 1950s, 1960s, and 1970s, which was the last time that it was upgraded. Now, when we go from winter blend to summer blend gasoline, we throw all of these different blends into the system.

What that does for all of our consumers, our constituents, is it makes those boutique fuels short in supply and therefore high in price. It makes the system which is running at full capacity very vulnerable to price spikes if there is any hiccup in supply. This map of 45 different blends is a result.

The current ozone nonattainment areas, the blue areas on this map, 217 counties. But now with the new 8-hour ozone rule which has been released last year, takes effect in 2 years, 474 counties in America will now be out of attainment with respect to the ozone rule.

That is the red counties. That means we go from 217 counties to 474 counties that will have to select new blends of gasoline. What this bill does is it says let us get some common sense to this system. Let us have the Department of Energy and the EPA figure out a Federal fuel system so we can maintain our clean air standards, but standardize our fuel blends so we can stabilize our supply of gasoline and therefore stabilize our price of gasoline.

If there is a problem in supply overnight, an immediate problem like we had in Arizona last year, Wisconsin on a couple of times with a pipeline break or a refinery fire, the EPA has waiver authority on a 20-day basis to fix that.

The second thing we do is we cap the amount of fuel blends so the problem does not get any worse now that we are running to the 8-hour rules. We can have clean air and cheap gas at the same time, Mr. Speaker. That is what this bill does. I urge adoption of this rule and this bill.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, this rule to begin with is further evidence of the contempt which the majority of this House has for something called democracy.

We have heard in a few brief minutes from both a Republican and a Democrat their unhappiness that important issues will not be brought forward.

Why? Well, we work probably all day today; we may work a half day tomorrow. So in this week when we could have worked many days and debated many amendments at length, we will have some not discussed at all and others discussed for a handful of minutes because this majority cannot be bothered with anything as cumbersome to them as open debate and having Members have to record themselves.

□ 1430

One of the issues which is given inadequate time, it is given some time but inadequate time, I think 10 minutes, is an outrageous effort by the majority to further diminish the ability of elected State governments to defend their own citizens.

State governments are sometimes popular around here and sometimes not. When State governments, democratically elected governors and legislatures. appear to be obstacles to letting major players in the energy industry get whatever they want, then they are to be diminished, they are to be dismissed, they are to be thrown out of the process.

With regard to liquefied natural gas terminals, a very important issue, an issue which has become more important because of their relevance to the terrorism threat which security officials tell us is the case, this bill takes a limited State role in the siting of these and makes it a nonexistent State role.

The ability of governors and legislatures—I have a Republican governor in my State who does not like a proposal to site an energy plant in a wholly inappropriate place, way up river in the city of Four Rivers, which the gentleman from Massachusetts (Mr. McGOVERN) and I share. This governor's objections will be muffled. So I guess I should congratulate you on the bipartisanship of your contempt for democracy. It is not just our colleague from Tennessee who could not get amendments through; my Republican governor cannot get his voice heard.

This rule and this bill ought to be defeated.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me time.

Many of you have heard the story about the fellow that was sitting on his porch and water came trickling through his yard. A fellow drove by in his Jeep and said, Jump on, the dam is giving way; this place is going to be flooded. And he said, I've got faith in God; God is going to save me.

The guy drives off.

Here comes more water. Here comes a boat. The guy in the boat says, Jump in, there is more water coming. The guy, No, I have faith in God; God is going to save me. And he climbs up on the rooftop as the water gets higher and higher.

Here comes a helicopter. He drops a ladder and with a megaphone says, Grab hold of the ladder. The man says, No. I have got faith in God; God is going to save me.

The water gets higher. The man drowns. He goes to heaven. He says, God I had faith in you. Why did you not save me? God said, I sent you a Jeep and a boat and helicopter, why did you not make use of it?

When we hear people crying today, We need oil, we need gasoline with prices that are down, we need natural gas prices to come down, I cannot help but hear this small voice saying, Use what I gave you.

This Nation has been so richly blessed with so much in the way of resources. It is time to end the excuses. We can always find excuses, things we do not like about any bill. They sure do that down the hall.

It is time to end the excuses. It is time down the hall to finally do the right thing and use the resources with which this Nation has been so richly blessed.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I rise in opposition to this rule and urge its defeat.

This is a bad bill for my State of Florida. The bill could be made much better, including by an amendment that I have offered, that the Committee on Rules refused to be made in order.

This bill, in my judgment, guts the Coastal Zone Management Act. What is this law? This is a law that allows governors, Governor Jeb Bush, Governor Arnold Schwarzenegger, to have their voices heard as to where a particular facility might be sited. It does not give the State a right to veto the decision, just simply to have its voice heard.

What this bill does is undermine that process that has worked very well for decades, and the rule deprives the House of Representatives of an open and honest debate about the fact that this bill is tantamount to repeal of the Coastal Zone Management Act, and I do not think any Member of Congress wants to stand on this floor and admit or agree that we should repeal the Coastal Zone Management Act.

We are once again, remarkably, trampling on the rights of our States. We are substituting the judgment of governors with bureaucrats in Washington that are expected to understand our States better in terms of environmental impact, in terms of economic impacts.

The beaches on the coast of State of the Florida should be judged and policed by the governor of the State of Florida, not by somebody in an agency in Washington.

I urge defeat of the rule.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I thank the gentleman for yielding me time. I rise to support the rule and the underlying bill.

As everyone knows, high energy costs are the greatest drag that we currently have on our economy and actually on world economy; and every year we delay passing this legislation, we become more dependent on foreign oil.

I would like to mention very quickly a small part of the energy bill which has to do with ethanol and biodiesel. The bill mandates 5 billion gallons of ethanol production by 2012. Interestingly enough, here this year, in 2005, we will produce 4.5 billion, so we are almost there. Next year, 2006, we will produce well over 5 billion which will be 7 years before the end date of 2012. So we have great capacity to do even better.

Ethanol today is produced in 20 different States, and I predict that within a few years, using biomass, all 50 States in the Union will produce some form of ethanol.

Today the average price of a gallon of gasoline is reduced by 29 cents by the ethanol production that we now have. The average price around the country is about $2.20. Without ethanol today, it would be roughly $2.50.

Ethanol increases the price of corn by between 25 and 50 cents a bushel. What is so big about that? The important thing is, it reduces the cost of the farm bill because as prices of corn go up, we have fewer farm payments. So over the next 10 years ethanol production will reduce the cost of the farm bill by roughly $6 billion.

It reduces the trade deficit by $64 billion over the next 8 years. It creates 243,000 jobs and adds $200 billion to GDP over the next 8 years. So it reduces our dependence on foreign oil. We think this is critical and has great potential.

At the present time, Brazil mandates 23 percent of their fuel supply be from ethanol. We certainly could hit 7 or 8 percent in this country.

Mr. Speaker, I support the rule.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I rise in opposition to this rule and the underlying bill because, despite Republican claims, this energy bill really does not help American families with the cost of power or the skyrocketing gas prices. This bill does, however, help the administration's special interest friends. It is riddled with billions of dollars of taxpayer giveaways to the nuclear, oil and gas industries.

I am appalled that we are doing nothing to reduce gas prices at a time when oil companies are reaping obscene profits. Current prices of oil are lingering at $50 a barrel and are expected to continue to skyrocket.

We should be focusing on reducing our dependence on foreign oil by diversifying our energy sources, not by encouraging more oil and gas production.

This bill does little to promote renewable energy, the energy of our future. Given the latest revelations about the wanton falsification of scientific studies of the proposed Yucca Mountain Repository, Congress should not funnel one more penny of taxpayer dollars into the Yucca Mountain Project.

Additional problems continued to plague the site. The courts have ruled that the EPA radiation standards will not protect the health and safety of the American people. Instead of making the United States safer, the proposed Yucca Mountain Project provides a terrorist target that could cause massive economic and civilian casualties.

In the Committee on Rules, my colleague, the gentleman from Nevada (Mr. PORTER) and I offered a simple amendment that would have included Yucca Mountain in the Nuclear Site Threat Assessment Study, already a part of the energy bill. Despite the findings of the GAO and the National

Academy of Sciences that there are security vulnerabilities present at reactor sites during high-level radioactive waste, there has been no threat assessment conducted at the mother of all radioactive waste sites, Yucca Mountain.

Regardless of how any of us feels about Yucca Mountain, the Federal Government has a duty to assess the risks, not just to protect Nevada and our neighbors in the West, but for the well-being of our Nation. Unfortunately, the Committee on Rules did not put that amendment in order.

Now is the time to create an energy plan that will wean our country off of foreign oil. It is not the time to line the pockets of the special interests.

I urge my colleagues to oppose this very backward, very foolish, very good piece of legislation if you are in the energy business.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HALL), the vice chairman of the Committee on Energy and Commerce.

Mr. HALL. Mr. Speaker, I thank the gentleman from Dallas for his very capable handling of this rule.

We have to have this rule. This rule spawns H.R. 6, and I feel very strongly that the time has come and gone several times for Congress to pass a comprehensive energy bill. There is not any better time to do it than today, but from this very next vote we are going to vote to give the President a bill to sign into law. This rule makes that possible.

I do not know about the rest of my colleagues, I am not positive about them, but I have been receiving a lot of phone calls from my constituents expressing their concern about the high cost of the gasoline.

According to the Department of Energy, the Energy Information Administration, a gallon of gasoline has gone up 42 cents from this very time last year, a year ago.

This is real money and that adds up. And I, for one, would like to see us be able to go home this weekend and tell our constituents that we are one step closer to a little relief, and I cannot do that without this rule.

While H.R. 6 is not going to give us $1 a gallon gas the moment this is passed into law, it is a very important first step toward bringing down the price of gasoline by allowing the production of more domestic oil and by fostering greater conservation of energy, thus increasing supply and lowering demand.

Gas prices are high now in part because we have had no comprehensive national energy policy for the past few decades. We cannot afford to watch another 10 years go by without acting. We need this rule today.

We cannot let our country to get into a situation where we are absolutely dependent on foreign sources of oil; without this rule we are dependent. We are already certainly currently today dependent on foreign sources for 62 percent of our Nation's supply. By 2010, that percentage is projected to grow to 75 percent. This is unacceptable.

H.R. 6 will decrease our country's dependence on foreign oil by increasing domestic gas and oil exploration and development on nonpark Federal lands.

I am particularly pleased about the inclusion of language to open part of ANWR. This rule makes this possible. According to the Energy Department, this coastal plain is the largest unexplored, potentially onshore basin in the United States.

The U.S. Geological Survey estimates that there are $16 billion barrels of recoverable oil there. Now hear this: This is enough oil to offset all Saudi imports for the next 30 years.

Even better, oil could be developed in ANWR as soon as 3 years from the first lease sale, and none of it would be available for export. It would all be used at home.

Of equal importance to me in this bill is my provision on Ultra-deepwater and Unconventional Onshore Natural Gas. The program created by this legislation will foster the development of new technologies to increase domestic natural gas and oil production, increase domestic oil supplies, and pay for itself through increased royalties, amongst other benefits.

According to an analysis by the Energy Information Administration, this program will increase production of natural gas by 3.8 trillion cubic feet and oil by 850 million barrels, increase Federal royalties in more than sufficient amounts to pay for the effort, and lower the price of both fuels, but not without this bill.

An analysis by the Bureau of Economic Geology at the University of Texas says this will come back to us, five to one.

It is time to save this generation of youngsters and help them be able to say what university am I going to enter rather than what branch of service am I going to have to enter to get energy, when we have plenty here at home if we could mine it.

This is a good bill and a good rule, a bill that has been worked on and debated for five years. Its purpose is to promote conservation, reduce our dependence on foreign oil, improve our economy and create new jobs and probably keep our young men and women from having to fight a war for energy when we have enough energy at home if we pass this bill. I'm proud to support it and I urge my colleagues to do the same by voting yes on this rule.

Mr. MCGOVERN. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Massachusetts (Mr. MCGOVERN) has 5½ minutes remaining, and the gentleman from Texas (Mr. SESSIONS) has 4½ minutes remaining.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I oppose this rule.

I wanted to offer an amendment to remove the bill's special protection for MTBE manufacturers, but with this rule, the House is deprived of that vote. The Republican leadership knows it could well lose a vote on such amendment.

MTBE is responsible, after all, for polluting groundwater in hundreds of communities. Cleanup costs are estimated in the billions. Currently, MTBE manufacturers are being held accountable in court, but this bill gives them safe harbor.

Many of us have water districts or towns with lawsuits against MTBE manufacturers that will be voided under this bill. For example, the gentleman from New Jersey (Mr. FERGUSON), the gentleman from New Jersey (Mr. GARRETT) and the gentleman from New Jersey (Mr. FRELINGHUYSEN);

And from Connecticut, the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Connecticut (Mr. SIMMONS);

And from my home State, the gentleman from California (Mr. HERGER), the gentleman from California (Mr. DOOLITTLE), the gentleman from California (Mr. POMBO), the gentleman from California (Mr. CARDOZA), the gentleman from California (Mr. NUNES), the gentleman from California (Mr. THOMAS), the gentleman from California (Mr. GALLEGLY), the gentleman from California (Mr. MCKEON), the gentleman from California (Mr. GARY MILLER), the gentleman from California (Mr. CALVERT), and the gentleman from California (Mr. COX).

□ 1445

Just examples, all with pending lawsuits from a few of the 29 States being polluted with this MTBE in the groundwater. The special protection in this bill for MTBE manufacturers is completely unwarranted. It will cost our constituents a fortune.

This is an unfair rule, and we should vote it down.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, I want to rise in strong support of the rule. It is a good rule in spite of some of the comments that been made about it. The process has been fair. I want to make a few very quick remarks.

The committees of jurisdiction each held an open markup. The committee that I chair, the markup, including opening statements, took 3½ days. We considered every amendment that was offered; and we accepted, I would say, 40 percent of the amendments. Many of those were accepted from Members of the minority of my committee who ended up voting against the bill; but because I felt it improved the bill, we took the amendments enthusiastically.

Eighty amendments were offered at the Committee on Rules yesterday. I believe that the Committee on Rules has made in order about 30 of those. It may be a little bit fewer than that, but a large number of amendments have been made in order, including a substitute by the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Energy and Commerce.

We accepted amendments on the floor on some of the more controversial areas in the bill. My good friend, the gentleman from Massachusetts (Mr. FRANK), was speaking earlier about the LNG siting provision. The gentleman from Delaware (Mr. CASTLE) will have an amendment on the floor sometime tomorrow to strike that provision. I happen to think the LNG siting provision is a good part of the bill. We are importing more net liquefied natural gas, and we are going to import more. We need to find areas to site those facilities. It is interstate commerce, so the Federal Energy Regulatory Commission does have primary jurisdiction; but the bill before us says the States shall be involved, not may be, shall be.

The bill before us has a specific list of conditions that have to be considered, including population density and alternative siting. The bill before us has a first-time-ever guarantee that the States have the automatic right to go in and inspect these facilities for safety conditions.

We have worked very hard on that LNG siting provision to make sure that States are very involved; but ultimately, on the final decision, as it should be because this is interstate commerce, the FERC is the one that makes the final decision.

So, Mr. Speaker, I know this is a contentious bill. It has been before the House each of the last two Congresses. We have passed it. The last Congress we passed the conference report, but the Senate did not bring it up. Today or tomorrow, we want to pass this bill. We want to go to conference with the Senate later this spring, bring back the conference report and put a bill on the President's desk to help our energy future.

I would urge a "yes" vote on the rule. It is a good rule and fair to all involved.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I thank my colleague for allowing me to take some time.

Mr. Speaker, I urge my colleagues to oppose this rule and the underlying bill. In a desire to pass any comprehensive energy bill, some of my colleagues may be willing to overlook the massive damage that this bill would do to our existing clean air policies. I do not blame the energy companies for ignoring their responsibility. It is our responsibility to protect the people as the people's representatives against dangers.

As a matter of fact, I acknowledge and applaud TXU and UPS for their efforts in the right direction in north Texas, but section 1443 of H.R. 6 would give polluters in dirty-air areas extra time to continue polluting.

Under the existing act, areas that have unhealthy air are required to reduce ozone-forming smog pollution by set statutory deadlines. Section 1443 would delay the adoption of urgently needed anti-pollution measures in communities throughout this country for a decade or more. My amendments presented to the Committee on Rules would have corrected this or would have also given some time for the companies to record their progress; but, of course, they were not made in order.

My colleagues will hear that the EPA does not disapprove of this. Well, is anybody surprised? These are the people who were appointed by the same people that allowed the energy companies to write most of this bill.

This provision will mean more asthma attacks, hospital visits, and premature deaths for residents of the ozone odor nonattainment areas which includes the area that all my great friends over here live in and I live in. We need a fair bill that addresses the urgent need for clean air for ourselves and our children.

Mr. Speaker, prolonging our dirty air problem is not the solution. I urge my colleagues that desire clean air for themselves and their constituents to oppose this rule and oppose this bill. I am from an energy-producing State.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy.

We are fond of saying around here that the world changed after September 11, but the energy bill did not. This bill is virtually identical to Dick Cheney's energy task force and where the House has been these last 4 years with concerns, notwithstanding the Enron scandal, skyrocketing gasoline prices and demands on scarce oil supplies in unstable parts of the world.

It is ironic that the American public's vision is much clearer than Congress. They want to increase the CAFE standards. The public has very clear views about the Arctic Wildlife Refuge, that it is the last place America should look for oil, not the next place.

They oppose a waiver and relief to the MTBE manufacturers at the expense of State and local authorities and the quality of local drinking water.

This bill is looking at our energy problem through a rearview mirror. It gives too much to the wrong people to do the wrong thing and is dramatically out of step with what the American public wants and needs.

The politics of today and yesterday's policies do not provide an energy road map for the future. It is true that lots of people have been working very hard on this bill, but I would suggest that never have so many worked so hard and so long to do so little to change the direction of this country's energy future.

For the sake of the country, one hopes that there will come a time when the needs and wishes of the public is heard and it will be reflected in an energy policy for this century, cost-effective and rational; preserving the quality of life, rather than operating on the cheap.

Mr. McGOVERN. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, first of all, with regard to the rule, the majority just does not get it. Out of 90 amendments that were offered last night in the Committee on Rules, there were 22 Democratic amendments made in order.

Thanks for making the 22 amendments in order; but quite frankly, it is not enough. This is the energy bill. This is an important bill. As my colleagues have heard from various Members here today, a lot of important amendments were not made in order.

The gentlewoman from California (Mrs. CAPPS) talked about the MTBE issue. Her amendment was not made in order.

The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) just talked about her clean air amendment which was not made in order.

The gentleman from West Virginia (Mr. RAHALL) had a coal amendment which was not made in order.

The gentleman from Maryland (Mr. GILCHREST), the gentleman from Massachusetts (Mr. OLVER), and the gentleman from Maryland (Mr. VAN HOLLEN) had an amendment on global warming, to come up with a strategy to deal with it. That was not made in order.

My colleagues heard from the gentlewoman from Nevada (Ms. BERKLEY) talk about Yucca Mountain. Her amendment was not made in order.

Tax credits for hybrid cars. The gentleman from Michigan (Mr. DINGELL) talked about hydroelectric licensing. That was not made in order.

So a lot of very important and vital issues, we have been shut out from offering them here today. If we are going to have a real democracy and a real debate on this issue, these important issues should have a place for debate here on the House floor.

Let me just finally say instead of bringing up yet another bill that rewards corporate donors, I wish the leadership on the other side would think about the future, about the world our children and grandchildren will inherit and give us an energy bill that actually makes the world a better place.

This bill does not do it, and I would urge my colleagues to vote against it.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my colleagues on the other side of the aisle for their vigorous debate that took place, not only yesterday in the Committee on Rules. The gentleman from Texas (Chairman BARTON) spoke about the days and days and hours of debate and amendment process of preparing this bill.

I think we have got a good bill. I think we are going to find out when the ultimate vote comes that a vast majority of Members of this House are going to say we want to make sure that America has an energy policy, an energy policy that encourages not only conservation but also the opportunity for America to be less dependent on foreign oil, one that makes sure the Federal Government begins the process to form a critical mass in solar energy and other new technologies to make sure that America's businesses catches on to this and that we become environmentally sensitive and comprehensive in our future, but mostly that we are able to grow our economy, continue job growth, and make sure that we protect jobs that exist today.

Mr. Speaker, I think that this rule was fair. I believe that the underlying legislation is common sense. America not only wants and deserves an energy policy, but today our four committee chairmen, the gentleman from New York (Mr. BOEHLERT); the gentleman from California (Mr. POMBO); the gentleman from California (Mr. THOMAS); and the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce, have led us down a path to where we have an opportunity to make history right in front of us, produce this bill, produce for the American public something that will help America to grow and become competitive in the world.

Mr. Speaker, I would say that I support this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, today I speak with mixed emotions, while passage of a comprehensive energy bill is important, there is still work to be done on the bill before us. Please do not misunderstand me, there are good aspects to the bill. For example, the bill provides for much needed advances in energy efficiency, renewable energy, and nuclear. While I understand the rationale behind a structured rule, it is unfortunate, that all the amendments offered could not be ruled in order. This would have allowed for much needed debate in our attempt to solve our Nation's energy crisis. In our efforts to pass a comprehensive bill, we must not overlook the importance of keeping dialogue open on all fronts.

I would like to take a moment to mention my essential amendments that were not ruled in order. My first amendment would have required that a report be submitted, every two years, to Congress by the Secretary of the Interior, in consultation with other appropriate Federal agencies, assessing the contents of natural gas and oil deposits at existing drilling sites off the coast of Louisiana and Texas. This amendment should have been ruled in order because new supplies are vital to long-term economic stability and to current and future employment. Exploration of the Western Gulf of Mexico will permit access to one of our largest sources of oil.

Among other things my second amendment was designed to ensure that the large fluctuations in the price of transportation fuels will not continue to pose significant impediments to budget planning for consumers, businesses, and Federal, State and local governments. Despite the fact this amendment was not ruled in order, it is crucial that there be established a sense of the Congress that the Secretary of Energy, acting through the Administrator of the Energy Information Administration, should commence an immediate investigation on the causes of high gasoline prices in the United States and, in collaboration with the petroleum industry and the Congress, develop a solution to such prices.

Finally, my third amendment would have given Historically Black Colleges and Universities, HBCU, the opportunity to develop new and existing programs in the area of alternative energy technologies. In our Nation's effort to become more energy independent, it is critical that we allow for as much research and development as possible. African Americans have made outstanding contributions to the energy industry and I see no reason not to allow them to make even more contributions now.

Mr. Speaker, while I support many aspects of the bill, I oppose the rule.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 6.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

ENERGY POLICY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 219 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6.

The Chair designates the gentlewoman from West Virginia (Mrs. CAPITO) as Chairman of the Committee of the Whole, and requests the gentleman from Iowa (Mr. LATHAM) to assume the chair temporarily.

□ 1458

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, with Mr. LATHAM (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour and 30 minutes, with 30 minutes equally divided and controlled by the chairman and ranking member of the Committee on Energy and Commerce, and 20 minutes equally divided and controlled by the chairman and ranking member of each of the committees on Science, Resources, and Ways and Means.

The gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. DINGELL) each will control 15 minutes from the Committee on Energy and Commerce.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

□ 1500

Mr. BARTON of Texas. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in strong support of H.R. 6, the Energy Policy Act of 2005. Passage of this comprehensive bill will ensure a more affordable, environmentally friendly energy supply.

America's prosperity and national security are at stake. The bill before us today is a balanced bill and it is a bipartisan bill. It will have lower energy prices over time for consumers, it will help spur our economy, create hundreds of thousands of jobs, and take unprecedented steps to promote greater energy conservation and efficiency.

The Energy Policy Act of 2005, among other things, improves our Nation's electric transmission capacity; promotes a cleaner environment with new innovations on alternative power sources, the Clean Cities authorization, and the hydrogen fuel cell car program; it promotes clean coal technologies, provides incentives for renewable energies, such as biomass, wind, solar and hydroelectricity.

The bill would provide leadership in energy conservation by establishing new mandatory efficiency requirements for Federal buildings, and expands the Energy Star program to tell American consumers what products save the most energy.

The bill also provides an efficient approval process for siting new liquified natural gas facilities. It would, for the first time, give an expedited procedure, hopefully in brownfield areas and high-unemployment areas, for expanding or building some new refineries. We have not built a new oil refinery in this country for the past 30 years.

I could go on and on, Mr. Chairman, but simply let me say at the beginning of the debate that it is time for an energy policy for America. It is time for the House of Representatives to say we want a strong economy based on the world's best and most open free market for energy supplies, and also to put some incentives in for conservation.

I strongly support the bill, and I look forward to the debate we are about to begin.

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, we have a bad bill. It is represented as being something which is going to save money and increase energy supplies. The Energy Information agency says neither of these cases is true. It is not going to reduce energy prices, but rather will increase the cost of gasoline.

Let us look at what our country needs. It needs Congress to pass a real energy bill, not a flawed bill that will hurt the environment, hurt consumers, and cost taxpayers a bundle of money. Democrats have been trying to work with our Republican colleagues to get balanced, sensible legislation, starting with a clean slate in a bipartisan fashion.

We have been denied that opportunity. The Republican leadership chose, instead, to push an outdated energy bill which had its origins in the secret Cheney Energy Task Force and was negotiated in secret conference meetings which excluded the Democrats.

The administration's own Energy Information Administration analyzed the old bill saying changes to production, consumption, imports, and prices are negligible. It even found, as I noted, that gasoline prices under the bill would increase more than if the bill were not enacted.

While the bill will little help our energy independence, it is far from benign. Despite our efforts to overturn the antienvironmental provisions of the bill, it weakens laws such as the Safe Drinking Water Act and the Leaking Underground Storage Tank program that protect the environment and public health.

The bill also changes hydroelectric power policies by undercutting safeguards for dam relicensing. It gives power producers more and better rights than States, tribes, and other public entities. It jeopardizes not only fish, but the overall health of our river systems and the recreational activities that they sustain; and it confers, unfairly, rights on people, while not taking the same care of the concern of the citizenry generally.

The bill eliminates requirements for public participation and deference to the States in decisions about the siting of electric transmission lines and natural gas facilities.

As far as consumers are concerned, it is hard to imagine a better case for increasing consumer protections than the debacle which took place in the West Coast electricity markets in 2000 and 2001. The Federal Energy Regulatory Commission has determined widespread fraud existed, and there are tapes to prove it; yet this bill gives only cosmetic reforms in law and, in point of fact, repeals the Public Utility Holding Company Act of 1935, which protects consumers and investors.

And it does nothing to assure refunds of unjust and unreasonable overcharges. While blackouts cost the consumers $80 billion, this bill holds a sensible reliability provision hostage to its more controversial provision and caps the necessary expenditure to set the job right.

Taxpayers will also be hit hard by this bill. We do not know the total cost, but last time it cost over $30 billion, four times the amount requested by the administration.

This is a bad bill. I urge my colleagues to reject it.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD), a member of the committee.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me this time, and I have a little different view of this.

This is a good bill. It is a bill this country needs. We need a national energy policy, there is no question about it, and I congratulate the gentleman from Texas (Mr. BARTON) on years of hard, dedicated work to bring this to the floor.

Having said that, like any other bill I have ever seen, it is not a perfect bill; it has its good and bad parts. And if I could, Mr. Chairman, just for the record, I would like to have a little quick colloquy with the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman will yield, I would be happy to have a colloquy with the gentleman from Georgia.

Mr. NORWOOD. Mr. Chairman, as my colleague from Texas knows, the electricity title is very, very important to my consumers and my constituents in the southeast as well as in the northwest, and one of the provisions in the title that is not there is regarding participatory funding.

Since that is a fairly standard thought-out thing in regional transmission organizations, I am concerned that the bill does not have any language in there to assure me and my constituents that they are not going to have to pay extra. We do really want to help people that are having blackouts and brownouts, but we do not think we should pay the whole load.

What can I anticipate on participatory funding down the road?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, as the gentleman well knows, the gentleman from Illinois (Mr. SHIMKUS) offered an amendment in the committee that struck the participatory funding language from the conference report, but at that time, I assured the gentleman from Georgia and the gentleman from Mississippi and several other interested Congressmen in the committee that when we go to conference with the Senate, we will work out language that is fair and balanced and protects the rights of the incumbent local utilities and also the independent power producers to find a fair and balanced way in which to build and maintain the transmission system for our great Nation's electricity grid.

Mr. NORWOOD. Mr. Chairman, reclaiming my time, I thank the gentleman very much. As he knows, I agree participatory means "everybody pays," and those that reap the advantages of this, which will be the generators of electricity and the receivers of electricity, need to pay. And I am all right with that.

I thank my colleague, and I look forward to working with him on this as we move forward toward conference.

Mr. BARTON of Texas. If the gentleman will continue to yield, there will be a provision in the conference report that comes back when we report the conference out.

Mr. NORWOOD. I thank the Chairman.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, Republican leaders say that the bill before us is comprehensive energy legislation that will meet the Nation's energy needs by protecting the environment and safeguarding consumers. Well, these are the right goals, but there is only one problem: The bill accomplishes none of them. This is an antienvironment, anticonsumer, antitaxpayer bill.

This bill fails to provide secure, sustainable, and affordable energy supplies. It does nothing about the most important energy issues facing our Nation, like addressing global warming and reducing the Nation's dependence on foreign oil. Instead, this bill lavishes taxpayer subsidies on big energy companies, while weakening our environmental laws.

I have never encountered a time when the disconnect between rhetoric and reality has been so enormous. The President says he wants to save Social Security, yet he proposes a plan that would cut benefits and privatize the program. Republicans in Congress say they want limited government, yet they enact legislation intruding on the end-of-life decisions for the poor woman in Florida. Congressional leaders say they want to support high moral standards in government, yet they gut the ethics process in the House. And in this so-called energy bill we shower billions on special interests while ignoring our Nation's serious energy needs.

The Republican energy plan is a bonanza for the energy industry. While natural gas, heating oil, and gasoline prices have skyrocketed, we are going to be giving these companies more money. Shell Oil reported the highest corporate profits in the history of the United Kingdom. ExxonMobil announced the largest annual profit ever made by a public company, $25 billion.

There are steps we could take to address our energy problems, but this legislation ignores them. We urgently need to reduce our dependence on foreign oil, yet America's dependence on oil imports will grow by 75 percent over the next 20 years under this bill.

The bill fails to address the market abuse and manipulation that caused the California energy crisis, costing consumers in California and western States billions of dollars.

This bill carves a loophole in the laws protecting our coastlines, our forests, and our public lands. And under this bill, when a big oil company pollutes community drinking water, the oil companies will no longer be held responsible for cleaning it up. It is a windfall for ExxonMobil, but an attack on communities all around this country facing contaminated drinking water.

This bill makes the most significant changes to the Clean Air Act in 15 years, allowing corporate polluters to expose 53 million Americans to air pollution for years longer than current law.

I urge my colleagues to oppose this fundamentally flawed legislation.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT), the distinguished majority whip and a member of the committee.

Mr. BLUNT. Mr. Chairman, I thank the gentleman from Texas for yielding me this time to speak in favor of this bill, and I thank him for his great leadership to bring this bill to the floor.

For 6 years now, the President of the United States has been saying that one of our primary failings as a country was to have an energy policy that moved forward. For three Congresses, our body has responded to that, first with the leadership of the gentleman from Texas as chairman of the subcommittee, and now with his leadership as chairman of the full committee, bringing an energy bill to the House floor for three straight Congresses.

What we do here today and tomorrow can be extremely important to solve the problems that we see at the gas pumps today, to solve the problems that we see if you try to buy fertilizer today, to solve the natural gas problems.

Now, it will not solve these problems next week or next month, or even maybe the month after that. If, however, we had passed the bill my colleague had brought to the floor 4 years ago, these problems we see today would not be the large problems that we see today. And for the leadership of this chairman, the leadership of the chairman of the Committee on Ways and Means, and the leadership of the chairman of the Committee on Resources, I am grateful.

I am also grateful to our friends on the other side, led by the gentleman from Michigan (Mr. DINGELL). They did the hard work they did in the markup. While they may not have agreed with all of the final product, certainly many parts of this product benefited from the work they did on this committee.

One of the things we have done is illustrated here by a map that just shows how many kinds of fuel there are all over the United States. We have tried to limit the numbers of those fuels in this bill, and even asked the EPA to look to the future and see what that right number is.

Every time you make gasoline less of a commodity and make it more of a specialty item, you increase the cost, reduce the reliability, and the access to gasoline. We hope to move away from that. We hope to do more things to use conservation and use renewable fuels.

This is the right step. It is after the right time. I wish I could say it is the right step at the right time, but, Mr. Chairman, it is not the fault of our committee or our body.

We need to move forward now. I urge passage of this bill.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

□ 1515

Mr. MARKEY. Mr. Chairman, this is truly a bad bill. Every day we have pictures on the screen of consumers pulling up to the gas pump, paying an arm and a leg for gasoline. We have 150,000 young men and women over in the Middle East protecting our country in that region, and largely as well the oil supplies coming into our country.

This bill does nothing in order to deal with that problem. In fact, the Department of Energy analysis of an almost identical bill in the last Congress concluded that changes to production, consumption, imports, and prices are negligible. The bill would open the pristine Arctic National Wildlife Refugee to oil and natural gas exploration even though there is such a small supply of oil and gas there that most of the oil companies have pulled out of the coalition trying to open it to drilling.

This bill contains a liability waiver for the big oil companies that would force cities and States to spend billions to clean up drinking water supplies that have been contaminated with the gasoline additive MTBE which is known to cause cancer.

This bill tramples on the right of State and local governments to protect their citizens from potentially dangerous energy facilities such as large liquefied natural gas terminals that would be sited right in the middle of densely populated cities in our country, even though we know they would be the number one terrorist target constructed in that city.

This bill allows oil and gas companies to pollute drinking water by granting them special exemptions from the Clean Water Act.

This bill allows refineries and utilities to increase air pollution with special exemptions from the Clean Air Act.

There is a special provision in this bill to protect Halliburton from ever facing any Federal regulation of a practice of drilling for oil using the hydraulic fracturing technique that actually injects diesel fuel into the water supply.

There is a special provision added that authorizes grants and other assistance to something called the Dine Power Authority, an enterprise of the Navaho Nation. Who are the beneficiaries of that provision? Why do they deserve our largess? We never had a hearing on it.

There is a special provision in the bill that provides a $1.3 billion subsidy to the Idaho National Laboratory to build a special advance nuclear reactor to produce hydrogen for the hydrogen car. Bad bill; vote "no."

Mr. Chairman, I rise in opposition to H.R. 6.

I have the greatest respect and affection for the Chairman of the Committee, the distinguished gentleman from Texas (Mr. BARTON), but I must say in all honesty that this is really a terrible energy bill.

The Chairman comes from Texas, and I'm sure that from a Lone Star State perspective, this looks like a pretty good bill. But most of our constituents don't come from oil producing states. Most of our constituents are energy consumers, and from a consumer perspective this bill is seriously deficient. In fact, I would suggest that this bill is a bit like that old Clint Eastwood spaghetti Western: "The Good, the Bad and the Ugly."

There is a tiny bit of good in the bill—like extending daylight saving time by a month in the Spring and a month in the Fall. Now, that was a good idea, it really was—and I'm glad that the gentleman from Michigan (Mr. UPTON) and I were able to get it in the bill.

But in all honesty I think I have to say that for the most part, what we have here before us today is one truly Bad and Ugly bill:

First, let's take a look at the Bad:

This bill does virtually nothing to address the current spike in crude oil prices or the price of gasoline at the pump. In fact, a Department of Energy analysis of an almost identical bill in the last Congress concluded that "changes to production, consumption, imports and prices are negligible."

This bill would open the pristine Arctic National Wildlife Refuge to oil and natural gas exploration, even though there is such a small supply of oil and gas there that most of the oil companies have pulled out of the coalition trying to open it to drilling.

This bill contains a liability waiver for the big oil companies that would force cities and states to spend billions to clean up drinking water supplies that have been contaminated with the gasoline additive MTBE, which is known to cause cancer.

This bill tramples on the right of state and local governments to protect their citizens from potentially dangerous energy facilities, such as large Liquefied Natural Gas (LNG) terminals sited right in the middle of densely populated urban areas.

This bill allows oil and gas companies to pollute drinking water by granting them special exemptions from the Clean Water Act.

This bill allows refineries and utilities to increase air pollution with special exemptions from the Clean Air Act.

This bill gives utilities who dam the public's waterways special rights to appeal and change conditions federal resource agencies placed on their hydropower license in order to protect fish, the environmental, irrigation, navigation or other public uses of our nation's rivers.

This bill repeals the Public Utility Holding Company Act, a consumer and investor protection law that restricts utilities from self-dealing and limits their ability to diversify into risky unregulated business ventures at the expense of utility consumers.

Second, let's take a look at the just plain Ugly.

There's a special provision in this bill for Home Depot that preempts several states existing or proposed energy efficiency standards for ceiling fans.

There's a special provision in here to protect Halliburton from ever facing any Federal regulation of the practice of drilling for oil using the hydraulic fracturing technique that actually injects diesel fuel into acquifers.

There's the special provision added that authorizes "grants and other assistance" to something called "the Dine Power Authority, an Enterprise of the Navajo Nation." Who are they? Why do they deserve our largess?

There's the special provision added that provides a special exemption from our Nation's nuclear nonproliferation law for a Canadian company named Nordion, so that they won't be required to ever agree to convert their nuclear reactor to using Low-Enriched Uranium fuel and targets, but can instead continue to use bomb-grade Highly Enriched Uranium that is a potential terrorist target.

There's the special provision in the bill that provides a $1.3 billion subsidy to the Idaho National Laboratory to build a special advanced nuclear reactor to produce hydrogen for the hydrogen car.

This is not what a national energy policy should be—a tiny bit of Good in a sea of Bad and Ugly provisions. No. We should try to seek a fair balance between the interests of consumers and producers, between the need for new production and the preservation of our natural environment. We should take advantage of America's strength—our technological superiority—and not play to our weakness (the fact that we control only 3 percent of the world's oil reserves, while OPEC controls more than 70 percent).

Americans own more cars than there are licensed drivers, and yet this energy bill does nothing to address the fuel efficiency of cars. Instead this bill offers up the false hope that drilling in the Arctic Refuge will solve our energy problems, ignoring that the United State's 3 percent of world oil reserves will never match our 25 percent of world oil consumption. For some fuzzy math, we would sacrifice the last great wilderness in America, an area biologically unique within the American Arctic.

It didn't have to be this way. I lived through the energy policy battles of the late It didn't have to be this way. It really didn't. But the Republican Majority that controls this Congress today decided to make energy policy partisan with a bill that is extreme and overreaching. So I would say to my Republican Colleagues, you may have the votes to prevail here on the House floor this week, but this extreme bill will not become law. Democrats in this body, along with our colleagues in the Senate, will fight to ensure that the Bad and Ugly provisions that presently make up the bulk of this bill are deleted or revised. And if they are not, we will fight to prevent this bill from moving to the President's desk.

I urge my colleagues to vote against this bill. We can and must do much better.

Mr. BARTON of Texas. Mr. Chairman. I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman. I thank the gentleman from Texas (Mr. BARTON) for yielding me this time and for his great work on this bill. It sounds like it is not the bill that I voted on, but I am very pleased to support it. There is no more important bill in my time here in Congress than the bill we are addressing today, and there is no more important bill for the State of Illinois than the bill we are addressing today. It makes all of the years of our work pay off because I think this time we will get it across the finish line because it meets the demands of the country. We have to diversify our energy portfolio. We can no longer rely on one fuel source, whether it is for electricity generation or to move our vehicles. We have to diversify our energy portfolio, and that is what this bill does.

This bill brings clean coal technology, strengthens nuclear power; and it actually helps renewable power in the aspect of wind power. It does great things for relicensing hydroelectric power. It helps expand the transmission grid and block the backlogs that helped cause the major blackout that we had 2 years ago. It addresses a diversified energy portfolio on fuels.

It brings renewable fuels to the forefront in this debate. Gasoline is $2.20, $2.30. Consumers can buy E-85 ethanol fuel for $1.65 a gallon. So what we have been doing in the past is working. This bill addresses the supply end, and it also addresses the demand end. We have to have a national energy policy. We can no longer allow the country to not have a plan.

I am excited about an opportunity to pass this bill on the floor tomorrow, move it to conference, and get it to the President's desk. I want to commend the bipartisan majority that passed it out of the committee, and commend the chairman for his work.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I rise in opposition, strong opposition to this bill. My colleagues have outlined the many problems with it. It does nothing to impact gas prices. In fact, according to the Energy Information Agency, it will raise prices at the pump. It gives billions to industries with already-soaring profits, and it weakens a host of environmental laws.

Mr. Chairman, one provision epitomizes the bill's failures. H.R. 6 grants liability protection for people who make MTBE who are responsible for polluting groundwater in dozens of States, leaving hundreds of communities saddled with billions of dollars in cleanup costs. Supporters claim it is fair to protect MTBE producers from liability since Congress mandated its use in the Clean Air Act, but there is no mandate for MTBE and even the chairman of the committee has acknowledged as much. In fact, 120 million barrels were added to gasoline before the clean air regulations were ever issued. Most damning, documents unearthed in court cases show that manufacturers knew the dangers MTBE posed to groundwater, and they still added it to gasoline. The result is what we have today, over 1,800 contamination sites in 29 different States serving 45 million Americans.

I wanted to offer an amendment to strike this provision because in its wisdom the House leadership would not want to vote on this. Perhaps it is because too many Members on both sides of the aisle represent districts with bad MTBE problems in places where lawsuits are pending. Because of the MTBE provisions alone, we should reject this bill.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN), one of nine Democrats on the Committee on Energy and Commerce who voted for this bill in committee.

Mr. GENE GREEN of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

There was pressure to rush this bill out of the committee without a markup, but I am glad the committee made the right decision. We had a 3-day full committee markup where almost every imaginable energy issue was raised, from cow manure energy to ocean power. We even extended daylight savings time to save energy.

Overall, there are many beneficial provisions in this bill, such as resolving permit confusion, improving electric reliability, and mandating Federal energy conservation.

Importantly, this bill provides incentives to clean coal technology, renewable energies like wind and solar; and it also increases LIHEAP funding authorization to $5 billion for this year.

Very quickly, I want to thank the chairman for inclusion of a number of provisions in the bill, such as the provision encouraging the siting on liquefied natural gas (LNG), which is important to energy security to cut into the rising natural gas prices that threaten our economy.

The top concern of homeowners and manufacturers in our district are the high natural gas prices. If we keep offshore production limits, we have to have LNG to import from other countries. We included some modern incentives for petroleum coke gasification so we can see what we can do with basically a byproduct, and important coal gasification incentives. Energy diversity brings economy-wide benefits.

I commend the authorization of a complex well-testing project at the Rocky Mountain Oilfield Testing Center. The ability to tap more resources with fewer wells provides a public benefit for environmental protection.

The bill contains a study on LIHEAP reform. Providing energy assistance to families in cold and hot weather is a public necessity, and I thank the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Chairman BARTON) for accepting two new amendments, one which would require the Department of Energy and the National Cancer Institute to conduct a health assessment of those living in proximity to petrochemical and refinery facilities.

Many of my constituents live and work near these facilities. The communities are concerned, and they deserve the most accurate health information about their community.

There is a lot to be said about this bill. We have an energy bill for the first time in my 12 years in Congress.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, today I rise in opposition to the energy bill. The bill limits States' rights to protect their water supplies and protect their air quality, risks the public health of our working families, and leaves our States to pick up the tab for contamination.

First, the bill puts important groundwater supplies at risk by allowing diesel fuel and other contaminants to be injected into the ground with no oversight by EPA.

Second, supporters of the bill refuse to take steps to prevent leaks into the groundwater from underground storage tanks by rejecting attempts to require new replacement storage tanks near drinking water wells or sensitive areas to be secondarily contained.

Third, the bill would make States weaken programs to prevent leaks during fuel delivery or risk losing Federal cleanup funds.

Finally, the language unnecessarily targets poor and underserved communities for the unrestricted siting of new refineries. Together, all these actions are environmental and public health injustices. While the bill benefits corporate America, it leaves communities like mine with more contaminated groundwater, increases the cost of cleanup borne by taxpayers and water providers, and increases the risks to public health for all Americans.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, I thank the gentleman from Texas (Mr. BARTON) for yielding me this time. The gentleman has done a magnificent job leading the committee on this new bill.

I would just say, in America we face some great challenges with regard to formulation of our energy policy. The oil demand growth keeps rising due to the industrialization of the emerging world. China consumes 7 million barrels per day; and if China's rise in world prominence is similar to that of Korea and Japan, China will consume 20 million barrels per day in less than 10 years.

The last big oil discovery was 30 years ago in the North Sea. China is trying to buy oil companies in Canada; India is trying to buy oil companies in Russia; the present world production capacity is 83 million barrels a day; and we are running an estimated 81.5 million today, which means we are in the red zone. The 14 largest oil fields in the world are 40 years old. Once they are taken out to 50 percent, water and fluids need to be pumped to keep production at existing levels. We have some significant challenges. Support this bill.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in opposition to the legislation.

Mr. Chairman, protecting our environment and promoting energy independence are two of the most important jobs I have as a Member of Congress. Unfortunately, the bill before us today represents a real missed opportunity to reduce our dependence on foreign oil, promote energy efficiency and conservation, and improve our air, land and water quality.

For decades, our country has lacked a national energy policy. While I did not agree with the Administration's energy plan, I was grateful President Bush put forward a comprehensive proposal. The President's energy plan was superior to the severely flawed bill before us today.

We had a chance to devise a forward-looking energy policy that would have increased fuel efficiency, made polluters (including MTBE producers) pay for harming our environment, and advanced a renewable portfolio standard. Instead what we have is quite a bad bill.

Instead of creating a balanced energy policy that provides incentives to make renewable energy more affordable and widely available, we are making fiscally irresponsible and environmentally-reckless decisions for the benefit of a few profitable industries that don't need this kind of help from taxpayers.

I fail to understand why the major thrust of the bill's tax provisions involve further subsidizing the fossil fuel industry, rather than providing incentives for conservation and renewable sources of energy. These are enormously profitable industries operating in a time of record energy prices. Clearly, these profits demonstrate the market has already provided the fossil fuel industries with sufficient incentive to increase production.

I strongly oppose a provision in the bill that allows for the permanent activation of the Cross Sound Cable. In doing so, the bill subverts the regulatory process and ignores sound environmental policy regarding the depth at which the Cable should be buried.

In addition to its environmental shortsightedness, I also oppose provisions in this bill related to energy transmission. For instance, the Energy Policy Act allows the Federal Electric Regulatory Commission (FERC) to preempt state siting authorities when it is determined that a high-voltage power line is of "national significance," and overrides state authorities when expanding or siting new liquefied natural gas (LNG) terminals. In our own Long Island Sound just off Connecticut, this is a very real possibility. While energy security is a national issue, it seems to me the communities who will live with these siting decisions deserve a voice in the process.

Finally, I strongly oppose opening the Arctic National Wildlife Refuge to drilling. We simply won't have a world to live in if we continue our neglectful ways. In my judgment, it would be far better to develop prudent and lasting alternate fuel energies than to risk irreparable damage to the wilderness of one of North America's most beautiful frontiers. Drilling in the Arctic will not fix our energy problems—with so little oil available up there it couldn't possibly, as it will take a decade to get the oil down here. That time would be far better spent developing clean, renewable energy sources that will provide infinite energy without imperiling our last remaining wilderness areas.

I look forward to the day when we will have an opportunity to vote for a fiscally-prudent, environmentally-responsible national energy policy. Today is not that day.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minutes to the gentleman from Florida (Mr. STEARNS), a distinguished subcommittee chairman.

Mr. STEARNS. Mr. Chairman, here we go again. As I said, this is the third time, and it should be a charm.

We have passed this comprehensive legislation before; and I know I speak for a lot of my colleagues, probably on both sides of the aisle, that we should finally move forward after the large increases in gasoline. This is a timely piece of legislation.

The Department of Energy predicts by the year 2025, U.S. oil and natural gas demand will rise by 46 percent with energy demand increasing 1 percent for every 2 percent in GDP growth. This increase in demand at home, coupled with the explosion of demand worldwide, has led to the increase in the cost of crude oil.

To combat this, and the resulting record gas prices, the American people today are looking for Congress to act and we are doing it. This legislation contains a number of provisions that would lower gas prices. H.R. 6 encourages more domestic production of oil, promotes a greater refining capacity, and increases the gasoline supply by stopping the proliferation of expensive regional boutique fuels.

□ 1530

Mr. Chairman, I urge my colleagues to support H.R. 6 and finally enact solid, comprehensive energy legislation for the American people.

Mr. Chairman, here we go again. As they say, the third time's the charm. This is the third Congress in a row we have tried to pass comprehensive energy legislation. I know I speak for many of my colleagues in saying I hope we can finally move forward and enact this very important and increasingly timely legislation.

As we all know too well, energy is the lifeblood of the economy. The availability of energy at reasonable prices is key to economic growth and stability. Comprehensive national energy policy must ensure affordable, reliable energy and also promote national security. H.R. 6 does that and I urge all my colleagues to support it.

The Department of Energy predicts that by the year 2025, U.S. oil and natural gas demand will rise by 46 percent, with energy demand increasing 1 percent for every 2 percent growth in GDP. This increased demand at home, coupled with an explosion of demand worldwide, has lead to an increase in the cost of crude oil. To combat this and the resulting record gas prices, the American people are looking to Congress to act.

This legislation contains a number of provisions that would lower gas prices. H.R. 6 encourages more domestic production of oil, promotes a greater refining capacity, and increases the gasoline supply by stopping the proliferation of expensive regional boutique fuels.

Ending our dependence on foreign oil is not only important to the economy but also doubly important to national security. Currently, the U.S. imports about 60 percent of its oil. The Department of Energy projects this number will increase to 73 percent by the year 2025. In order to ensure reliable and secure supplies of oil, we have no choice but to increase the domestic supply.

Another way H.R. 6 increases domestic production of oil is by opening ANWR to oil and gas exploration. USGS estimates that there is between 5.7 and 16.0 billion barrels of oil that is technically recoverable. This estimate does not take into account that with new technology, the share will become higher. A resource of this magnitude cannot simply be ignored. H.R. 6 goes a long way to end our reliance on foreign oil.

I once again urge my colleagues to support H.R. 6 and finally enact solid, comprehensive energy legislation for the American people.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. GILLMOR), another distinguished subcommittee chairman.

Mr. GILLMOR. I thank the gentleman for yielding me this time and for his great work on this bill.

Mr. Chairman, this country needs to create a new energy landscape that begins shrinking our disproportionate reliance on foreign energy sources and begins building one that places American ingenuity, producers and consumers at the forefront.

I want to highlight one provision and that is the provision that significantly strengthens the important Leaking Underground Storage Tank program. The bill increases State funding from the LUST trust fund for States containing a larger number of tanks or whose leaking tanks present a greater threat to groundwater, it requires onsite inspections of underground storage tanks every 3 years, it institutes operator training requirements for tank owners and operators, and the legislation allows States to stop deliveries of fuel to noncompliant regulated tanks in order to achieve legal enforcement.

These are all strong recommendations not only made by the General Accounting Office, but they have also been previously passed by the House. They are proenvironment, antipolluter provisions. I urge their support and the support of the bill.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. UPTON), another distinguished subcommittee chairman.

Mr. UPTON. Mr. Chairman, yes, we have an energy crisis, and the sad thing is that it did not start this year, but neither did this bill which started more than 4 years ago. Maybe with gas prices hovering near $2.50 a gallon, we can finally get this bill to the President's desk.

I was glad to see that my bipartisan amendment extending daylight saving time for 2 months was included in this bill. Estimates show that it will save more than 100,000 barrels of oil for every day that we extend daylight saving time. I want to remind my colleagues that 2 years ago, we had a blackout, an electric blackout through much of the Midwest. In this bill we finally impose reliability standards on the electric industry so that, hopefully, that will not happen again.

I want to say, too, as the cochair of the Auto Caucus, it was important for the chairman to agree to add $200 million for hybrid and alternative fuel cell vehicles. We hope that the Senate legislation will even go more in terms of incentives so that private consumers going to the showroom are going to be able to take advantage of those incentives to purchase those vehicles so that we can get those on the road.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I want to thank the gentleman from Michigan for yielding this time to me and commend him on his outstanding leadership with regard to the energy bill now before us.

I have supported the passage of comprehensive energy legislation for the last two Congresses, and I rise in support of the measure that is before the House this afternoon. While I do not support all of the sections of the bill, there are a number of provisions in the energy measure that I believe will enhance our Nation's energy policy and energy security. For example, the legislation makes valuable improvements in the area of energy efficiency and renewable energy and would make permanent the Northeast Home Heating Oil Reserve.

Of particular interest to me is the title on coal which would provide for the implementation of the Clean Coal Power Initiative to develop projects that would utilize clean coal technologies. The coal title also provides for the clean air coal program to enhance the deployment of fully developed clean coal technologies. Coal is our Nation's most abundant natural resource for energy production, and it is appropriate that we take steps to accomplish the goal of incenting coal use and thereby relieving to some extent the pressure that we are experiencing at the present time on natural gas prices. The Clean Air Coal Program would help to advance that objective.

The electricity title in the energy bill contains some beneficial provisions, and I particularly want to call attention to the smart metering title which I proposed 2 years ago in order to accelerate the deployment of real-time metering. When consumers have knowledge of the savings they can realize by using appliances during offpeak hours, the peaks can be flattened and the utilities can avoid the necessity of having to build some very expensive new generating facilities.

I am pleased that during the last Congress, we were able to reach a compromise which is also reflected in the bill before us today regarding the application of section 210 of PURPA, and the legislation contains the noncontroversial and much-needed section that would make transmission reliability standards mandatory.

I am concerned, however, that the bill before us includes a provision that would cap spending on the implementation of the reliability standards. I am concerned about that and would hope that when this measure becomes law, enough money will be available for adequate enforcement.

I also remain concerned about the total repeal of the Public Utilities Holding Company Act without ensuring that adequate consumer protections remain in place. And I have not been convinced that there is a need to give the Federal Energy Regulatory Commission the ultimate authority to site transmission power lines.

I support the legislation and I encourage my colleagues to vote for it. I want to conclude these remarks by complimenting again the gentleman from Michigan (Mr. DINGELL) on his outstanding leadership and also complimenting the gentleman from Texas (Mr. BARTON) of the Committee on Energy and Commerce. He was willing to work in a bipartisan fashion in order to establish consensus on a number of these measures. I applaud him for that willingness and for the effective work that he has done in bringing this measure to the floor.

Mr. Chairman, I encourage the passage of the bill.

Mr. BARTON of Texas. Mr. Chairman, I yield myself the balance of my time.

The Acting CHAIRMAN (Mr. LATHAM). The gentleman from Texas is recognized for 1 minute.

Mr. BARTON of Texas. Mr. Chairman, I want to compliment the members of the Committee on Energy and Commerce on both sides of the aisle for the way we prepared this legislation. It was reported out of committee 39–16 last Wednesday night after a 3½-day markup. Every amendment that was offered that wanted to be voted on and considered was.

Most of the members who have spoken in opposition to the bill on the floor from the Committee on Energy and Commerce had amendments that were accepted in committee. I think every member that has said something negative about the bill actually got something in the bill, and yet it was not exactly the way they wanted it in terms of the total package, so they are obviously reserving their right to vote against the bill.

It is a fair and balanced bill. It helps the existing conventional resources. It also has a title on conservation. It will reform our electricity grid. It looks to the future in the hydrogen fuel initiative and the clean coal technology. While it is not a panacea, it is a bill that is right for this country. It is right to pass it at this time and send it to the other body so that we can go to conference later this summer and put a bill on the President's desk.

I would urge a "yes" vote on final passage after all the amendments have been debated tomorrow afternoon.

Mrs. BIGGERT. Mr. Chairman, I claim the time on the majority side for the Committee on Science.

The Acting CHAIRMAN. The gentlewoman from Illinois is recognized.

Mrs. BIGGERT. Mr. Chairman, I yield myself 3 minutes.

As chairman of the Science Subcommittee on Energy, I rise today in strong support of H.R. 6, the Energy Policy Act of 2005, particularly those provisions that originated with the Science Committee and are now contained in Title IX of the bill, the Research and Development title.

H.R. 6 represents a good investment in advanced, cutting-edge energy technologies to expand and diversify our energy supply, meet growing demand and reduce the environmental impact of energy production and use. The only changes to the R&D title from the 108th Congress are ones that reflect the latest research, the emergence of innovative technologies and new ways of thinking about our power problems.

Most noteworthy is a pilot grant program to encourage the design and construction of energy-efficient buildings that demonstrates new efficiency technologies. Also worth mentioning are two new additions to the subtitle on renewable energy R&D.

First is a grant program for States to support the development and demonstration of solar technologies nationwide. Second, the bill requires the Department to work with industry to create biorefinery demonstration projects. As a result, this bill does more for renewable energy R&D than any other energy bill previously considered by the House.

The bill also recognizes that advanced energy technologies do not grow on trees. Instead, they grow out of basic scientific research like those that are supported by the DOE at our universities and national laboratories. That is why H.R. 6 increases authorized funding to the DOE Office of Science which supports over 40 percent of basic research in the physical sciences, more than any other Federal agency. This funding will support basic fusion research and greater use of supercomputers for energy applications, as well as systems biology research and the construction and operation of scientific facilities like the rare isotope accelerator.

America cannot hope to compete in the world economy based on labor costs. Our competitive strength is the depth of our ingenuity and technology, and the science programs in this bill are the basic building blocks of our technological edge.

In closing, I want to thank the leadership of the Committee on Science and my colleagues on the committee for their contributions to the development of the provisions in the R&D title of H.R. 6.

Mr. Chairman, I reserve the balance of my time.

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

First I would like to thank the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science, and the gentlewoman from Illinois (Mrs. BIGGERT), chair of the Subcommittee on Energy, for their hard work and cooperation in developing the foundation of Title IX, the R&D title of this bill.

A stable domestic energy supply is essential to the economic well-being and security of our Nation. While the bill on the floor today has provisions that are not acceptable to many Democrats and Republicans, there are good points worth mentioning in Title IX. Of particular note are the provisions ensuring greater DOE cooperation with the smaller colleges and universities who will train our next generation of scientists, mathematicians, technicians and teachers. The Department, as well as the traditional large research universities, could benefit from the enormous pool of talented researchers in the Nation's smaller colleges and universities, and I encourage greater collaboration.

I would also like to highlight the work of several of our Members on key components of DOE research and development in Title IX:

The interest of the gentleman from California (Mr. HONDA) in the progress of the Next Generation Lighting Initiative, the Stanford linear accelerator and the Joint Genomics Institute and his work with the gentleman from Connecticut (Mr. LARSON) on transit bus demonstrations of fuel cells;

The continued dedication of the gentlewoman from California (Ms. WOOLSEY) and the gentleman from Colorado (Mr. UDALL) to clean, renewable and efficient energy technologies;

The work of the gentleman from Illinois (Mr. COSTELLO) to ensure that utilization of our vast coal resources only gets cleaner and more efficient;

The vision of the gentlewoman from California (Ms. ZOE LOFGREN) in support of domestic fusion energy research and international fusion projects;

The work of the gentleman from Tennessee (Mr. DAVIS) to ensure good science continues at Oak Ridge National Laboratory, particularly in the area of high-end computing;

The efforts of the gentleman from North Carolina (Mr. MILLER) to establish a nationwide network of advanced energy technology transfer centers to get technologies off the laboratory shelf and into the marketplace;

Finally, the tireless commitment of the gentlewoman from Texas (Ms. JACKSON-LEE) to research and development at historically black colleges and universities and other minority-serving institutions.

The Committee on Science contributed virtually all of Title IX, the research and development title of this bill. While research and development programs typically have not been controversial, I believe the Title IX provisions represent a major part of this legislation. The R&D programs authorized in this bill will provide the means to produce energy that this country will need for the foreseeable future.

Mr. Chairman, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Chairman, it gives me great pleasure to yield 5 minutes to the gentleman from New York (Mr. BOEHLERT), the illustrious chairman of the Committee on Science.

Mr. BOEHLERT. Mr. Chairman, with great regret, but with even greater conviction, I rise in opposition to this bill. While this bill certainly has some worthy provisions, including those reported out by our committee, overall this bill is a step backward. This bill will not lessen our dependence on foreign oil, and it will do nothing to reduce energy prices. It will increase the deficit, weaken our economy, compromise our national security and endanger our environment.

The supporters of this bill are certainly right about one thing. We desperately need a good national energy policy. This measure does not pass that test.

□ 1545

Our growing dependence on foreign oil puts us at the mercy of unstable and unfriendly foreign regimes. It gives terrorists additional targets and puts money in their hands. It weakens the dollar by worsening the balance of trade. We would start every day $500 million-plus in the hole on our balance of trade because of the imported oil. It pumps money out of the domestic economy and into the hands of those who would wish us ill.

In short, our oil dependence represents a significant and growing threat to our national security, and national security should be first and foremost in the minds and hearts of everyone in this Chamber.

So what do we do to reduce our dependence on foreign oil? Yes, we need to increase the supply of fossil and nuclear and renewable energy.

But most importantly, we need to become more energy efficient. And does this bill do to make us more energy efficient? Virtually nothing.

The Federal Energy Information Administration found that last year's energy bill would have almost no impact on energy demand and energy prices; and that bill, if anything, made more of an effort to tame consumption. The Alliance for an Energy Efficient Economy has estimated that this year's energy bill would not save a single barrel of oil by 2020.

That is both tragedy and farce. We know how to treat our oil addiction. We can make appliances more energy efficient without inconveniencing anyone. We can make our cars more efficient without sacrificing safety. My CAFE amendment would reduce oil consumption in 2020 by 2 million barrels a day. That is more than twice the amount that is expected per day from drilling in the Arctic National Wildlife Refuge.

What does this bill do instead of trying to make us more energy efficient? At a time of fiscal crises and record oil prices, the bill provides new mandatory spending that will go directly to the oil industry, and it provides mandatory breaks for the oil industry on royalties.

The bill provides massive tax breaks for profitable oil companies and next to nothing for new technologies that could help wean us from foreign oil. Here is what the President said last week on that issue: "With $55 oil we don't need incentives to oil and gas companies to explore." The President's budget devoted 72 percent of its proposed energy tax incentives to alternatives. This bill provides just 6 percent to alternatives while providing more than a billion dollars in additional tax breaks.

We would not have to look far to come up with better ideas. While the House has been writing a bill based on ideological purity rather than careful analysis, others have come forward with bipartisan, sensible balanced approaches to energy policy. Groups like the National Commission on Energy Policy and the Alliance to Save Energy and the Energy Future Coalition have all offered carefully considered proposals that could have formed the basis of an effective bill with Republican credentials.

But instead, we have decided to close our minds and open our purse in a way that will harm taxpayers and consumers and weaken our economic health and national security.

We can do better. We ought to do better. We have an obligation to do better. Let us defeat this bill and start over.

Mr. GORDON. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, the chairman of the Committee on Science knows what is right. The energy bill before us today is bad for the consumer, bad for the environment, and it does not make us energy independent. In fact, it is the ultimate reason we are insecure as a Nation.

In fact, by promoting the interests of corporations over consumers and pollution over conservation, this bill makes the United States much less secure.

H.R. 6 will harm more than just our environment, however. America's continued reliance on Middle East oil for the majority of our energy needs is the single largest factor that contributes to our lack of national security. It is time we stopped all efforts to drill in ANWR because this is only a stop-gap measure. Instead, we need real energy independence, and that will only come when we start focusing our efforts as a Nation on clean, renewable sources of energy, conservation, and efficiency. It would be hypocritical for anyone who cares about our Nation's well-being to vote for this legislation. I urge my colleagues, join me, vote against it.

Mrs. BIGGERT. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. INGLIS), a member of the Committee on Science.

Mr. INGLIS of South Carolina. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I agree with the chairman of the Committee on Science. We have an opportunity to do better.

I hope that we do better as we improve the hydrogen title of this bill. Perhaps the other body will have a title that will work a little bit better in the hydrogen area, and I hope that we will catch the vision of a different way of getting around.

Imagine that one takes delivery today in Spartanburg, South Carolina of a brand new BMW. It runs on hydrogen. It is powered and controlled by a computer, maybe made by IBM, maybe software by Microsoft. These are companies committed to making hydrogen and to making smart cars work. They get in the car, they program it to go somewhere, they take their hands off the wheel. It seems like science fiction, but the good news is that we on the Committee on Science are in the business of making science fiction into reality, and it is not that far away.

If we can make a commitment like we made when we decided to go to the Moon, we can get there. We as a Nation can decide that now is the time to really commit to forging ahead to create a hydrogen economy. Now is the time to be spending good money on that. It is time to stop simple spending and start thoughtful investing. There is a big difference. In this bill we have the opportunity to do just that, to invest serious money in the technology that can lead us to a hydrogen economy. If we do that, we will do good work for the American people and we will lessen our dependence on Middle Eastern oil.

And, by the way, it is also about jobs. If we can retool the automobile and make it so that we not just develop the technology but also produce it here, we can tremendously expand the economy of the United States, providing jobs and, while doing that, cleaning up the environment and reducing the oil pressure on the Middle East. That is a trifecta. Let us get about it with a better title.

Mr. GORDON. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Chairman, there are very few things I like about this energy bill. However, I do support title IX, and I am proud to be the ranking member of the Committee on Science's Energy Subcommittee, which authored this portion of the bill.

We have included such beneficial programs as energy efficiency and renewable energy research and development in the areas of solar, wind, geothermal, bioenergy, and other alternative energy sources that will be critical to our future energy independence.

Also included are research programs into distributed energy and electric energy systems, which will make us less reliant on fragile transmission grid, and the next generation lighting initiative, which will reduce future demand for electricity through efficiency.

We have also increased support for the basic sciences at the Department of Energy generally and focused on several programs in particular, such as nanotechnology research and development, advanced scientific computing research, and fusion energy sciences.

It is a credit to the collegial bipartisan nature of the Committee on Science members and staff that all of these important provisions are included in a product that both sides of the aisle can support. There is so much agreement that I do not have any amendments to offer here today; and as a side bar, I would like to also commend the gentleman from New York (Mr. BOEHLERT), chairman; and the gentleman from Tennessee (Mr. GORDON), our ranking member, for this kind of collegial activity.

Unfortunately, I cannot say the same thing about the rest of the bill. Drilling in the Arctic National Wildlife Refuge and liability waivers for producers of MTBE are not going to reduce gas prices today and are not steps toward a sustainable energy future. And in contrast, the bill does not address increasing fuel economy standards, which is a concrete step we can take to reduce energy consumption.

Even President Bush, an oil man, admits that with $55 a barrel of oil, we do not need incentives for oil and gas companies to explore. He recently said, "There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent."

This bill does not do enough to make this Nation less dependent on energy, be it from imported or domestic sources. We need a bill that focuses on our long-term future needs, not one that is stuck in the past.

I urge my colleagues to oppose this bill.

Mrs. BIGGERT. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I am concerned this bill will not clear the Budget responsibility.

H.R. 6 technically does not violate the Budget Act because it is an unreported bill, and Budget Act points of order generally only apply to reported bills. The bill generally is inconsistent with the 302(a) allocations for both the 2005 and House-passed 2006 budget resolutions. Section 2053 of the bill does, however, create a new entitlement program outside the budget window (specifically, FY 2016). It uses a portion of outer-continental receipts to fund new mandatory state-run conservation, education, and infrastructure programs. Estimates indicate that the annual cost of this provision could be in the range of $1.75 billion. If H.R. 6 were a reported bill, such a provision might subject the bill to a section 303 point of order.

We just passed a Budget only after clarifying a point of order would defeat any Appropriations bill over Budget.

It appears that we have to expand this point to protect against bills like this.

Mr. GORDON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mrs. BIGGERT. Mr. Chairman, I yield myself such time as I may consume.

In closing, I express my appreciation for the leadership of the Committee on Science and my colleagues on the committee for their contributions to the development of the provisions in the R&D title of H.R. 6. They are bipartisan, forward thinking, balanced, and speak to the importance that we as a Congress place on the role of technology in our energy future.

I would also express my appreciation for the extremely professional staff of all the relevant committees, as well as the key leadership staff who worked diligently on this bill for months and in some cases years. I want to thank the able staff of Committee on Science and its Energy Subcommittee. Their contributions and those of countless others have resulted in a better bill which I urge my colleagues to support.

Mr. Chairman, I yield back the balance of my time.

Mr. GORDON. Mr. Chairman, I ask unanimous consent to take back the balance of my time for the purpose of yielding time to the gentlewoman from Texas (Ms. JACKSON-LEE).

The Acting CHAIRMAN (Mr. LATHAM). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. GORDON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding me this time.

First of all, I am grateful that the Committee on Science had an opportunity to provide insight into this legislation.

I have an amendment that I will be discussing later on in the day that speaks to the purpose of my standing today in general debate, and that is to make, I think, the declaration that we clearly need to have an energy policy.

My amendment will engage farmers and ranchers in Texas and all over the Nation to give them extra training and resources to assess the availability and viability of bioenergy. But it is important that, although this legislation may not be all that we want it to be, the very fact that there is going to be a review of electricity and transmission is important, the very fact that we acknowledge the high cost of gasoline, even though I might say to my distinguished friend from Tennessee I offered an amendment that might determine why there is such an increase in gasoline prices, why the transportation costs are so high, and of course that was not allowed.

□ 1600

But we will have a number of debates dealing with the price of gasoline.

This is not a "get-you" time in America. This should not be. We get the industry or we get the consumer. This needs to be a time when we sit down and reconcile over these very frightening issues.

I want jobs in my community. I want a thriving energy industry. In fact, I had an initiative that would report on the deposits in Texas and Louisiana offshore so that we could be more independent of foreign oil and do more domestic drilling in a safe and environmentally manageable way.

This bill today will allow us to debate these questions.

Am I disappointed? In some sense, yes, that global warming is not mentioned, that more of the environmental emphasis is not mentioned; but if we do not move from point A to point B to point C to have a real energy policy, there will be no way, if you will, to ensure for the American people a safe and secure America.

It is a question of energy security. I would ask my colleagues to consider this legislation as we move forward.

Mr. Chairman, I speak today with mixed emotions. While I realize the importance of having a comprehensive energy bill, I am concerned that the bill does not do enough. Please do not misunderstand me, there are good aspects to the bill. For example, the bill provides for much needed advances in Energy Efficiency, Renewable Energy, and Nuclear. However, there is still much work to be done. To this end, I plan to offer an amendment and work with Members, and industry with hopes of improving upon some key aspects of the bill.

Before going any further, I think it is important to touch upon the question everyone is asking, "Why Are Gas Prices So High?" Whether right or wrong, the common answer has been that supply is not able to keep up with demand. According to recent studies, overall prices are rising because of the razor-thin supply and demand balance in the global crude oil market (i.e. the increase demand for oil in China and India has played a major role in driving up oil prices around the world). In addition, the situation in Iraq has not helped. Unfortunately, there seems to be no end in sight to this problem.

According to the Energy Information Administration, EIA prices in 2005 are projected to remain high, at an expected average of $2.28 per gallon for the April to September summer season, 38 cents above last summer. Similar high motor gasoline prices are expected through 2006. Monthly average prices are projected to peak at about $2.35 per gallon in May. Summer diesel fuel prices are expected to average $2.24 per gallon. As in 2004, the primary factor behind these price increases is crude oil costs.

In the United States, additional changes in gasoline specifications and tight refinery capacity can be expected to increase operating costs slightly and limit supply flexibility, adding further pressure on pump prices. Despite high prices, demand is expected to continue to rise due to the increasing number of drivers and vehicles and increasing per-capita vehicle miles traveled.

While these may be the facts, it does not sit well with my constituents back in Texas, and for that matter with all Americans. Thus, as the bill moves along the legislative process, I will be working with Members and industry to establish a sense of the Congress that the Secretary of Energy, acting through the Administrator of the Energy Information Administration, should commence an immediate investigation on the causes of high gasoline prices in the United States and, in collaboration with the petroleum industry and the Congress, develop a solution to such prices. At the rate we are going, the average American will not be able to afford to drive.

It is important for me to mention that I will also work with Members of Congress to encourage the Secretary of the Interior, in consultation with other appropriate Federal agencies, every 2 years, to transmit a report to the Congress assessing the contents of natural gas and oil deposits at existing drilling sites off the coasts of Louisiana and Texas. It is important that we do our best to become an energy independent Nation. This can only be done through the full utilization of energy sources within our Nation's geographic influence. Currently, most if not all, of the nations we import oil from are either directly or indirectly hostile towards the U.S. Many of these nations provide funding to terrorist groups who oppose the U.S. and at any time could decide not to sell oil to us. Where would that leave us? It is important that we know what we have right hear at home. The aforementioned two-year assessment would allow an inventory of existing oil and gas supplies and an evaluation of techniques or processes that may exist in keeping those wells protected.

Needless to say, I represent residents and businesses that call the 18th Congressional District of Texas their home. Energy and energy related companies and dozens of other exploration companies are the backbone of the Houston economy. For this reason, the 18th Congressional District can claim well-established energy producing companies and suppliers as well as those engaged in renewable energy exploration and development.

I believe that the effects of rising energy prices have had and will continue to have a chilling effect on our Nation's economy. Everything we as consumers eat, touch or use in our day-to-day lives have energy costs added into the price we pay. Today, our society is in the midst of major sociological and technical revolutions, which will forever change the way we live and work. We are moving from a predominantly industrial economy to an information-centered economy. While or society has an increasingly older and longer living population the world has become increasingly smaller, integrated and interdependent.

As with all change, current national and international transformations present both dangers and opportunities, which must be recognized and seized upon. Thus, the question arises, how do we manage these changes to protect the disadvantaged, disenfranchised and disavowed while improving their situation and destroying barriers to job creation, small business, and new markets?

One way to address this issue is to ensure that this Nation becomes energy independent through the full utilization of energy sources within our Nation's geographic influence. Before concluding, let me say that as legislators, we must boldly define, address and find solutions to future energy problems. We know that the geological supply of fossil fuel in not infinite, but finite. We know that our Nation's best reserves of fuel sources are in the forms of coal and natural gas, among others.

I would only caution my colleagues, administration officials, academics, industry leaders, environmental groups and consumers not to assume that we have learned all that is there is to know about energy extraction, refining, generation, or transportation but that we are still learning. We must bring to this debate a vigor and vitality that will enliven our efforts to not have a future of energy have and have nots, due to out of control energy demand with few creative minds working on the solution to this pressing problem.

The CHAIRMAN. Pursuant to the rule, the gentleman from California (Mr. POMBO) is recognized for 10 minutes.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS), the subcommittee chairman.

Mr. GIBBONS. Madam Chairman, I rise in strong support of H.R. 6.

For too many years, Madam Chairman, our domestic energy policy has languished, driving investment overseas and increasing our reliance on foreign energy resources. Yet, we continue the cycle of tolerating irresponsible energy policies, continuing to discourage investment in domestic energy production and, subsequently, becoming more dependent on foreign sources of energy.

Relying on foreign and, sometimes, hostile nations for energy and minerals jeopardizes our national security, Madam Chairman. And for the safety and security of our homeland, I want the United States to be reasonably self-sufficient in meeting the demands of our current energy consumption.

H.R. 6 makes strides in ensuring our domestic security by streamlining the permitting process for renewable and traditional sources of energy, while protecting the integrity of the environmental review process. H.R. 6 also contains provisions to spur production of renewable energies such as geothermal so we can reduce our reliance on traditional sources.

Through this important legislation, we will have increased ability to utilize the vast renewable energy resources on our public lands in an environmentally responsible manner.

I urge all of my colleagues to support the passage of this legislation that will allow us to capitalize on our Nation's energy exploration and development technology, commitment to environmental quality and conservation, and work ethic to develop our domestic energy resources.

The CHAIRMAN. Pursuant to the rule, the gentleman from West Virginia (Mr. RAHALL) is recognized for 10 minutes.

Mr. RAHALL. Madam Chairman, I yield myself such time as I may consume.

I rise in opposition to the pending legislation, surprise, because it will do absolutely nothing to lower the price of motor fuel and reduce America's dependence on foreign oil.

This legislation is antitaxpayer, anticonsumer, and antienvironmental. It is social security for the oil industry. We have before us a bill that squanders what could have been a bold stroke for American energy independence. It could have been visionary, and it could have been daring in developing new energy technologies and fuel sources.

Instead, we have before us a bill which contains a litany of various tax breaks and polluter protections for energy producers who are already experiencing record profits at the expense of the American public.

The bill contains $8 billion in tax breaks, largely for well-heeled oil and gas conglomerates who are already milking our constituents at the pump. In the Resources title alone, CBO says there is nearly a half a billion dollars of direct spending to subsidize the oil and gas industry over the next 10 years. To put it bluntly, if the taxpayer is feeling the pain of an energy crisis, it is coming from the derrick sticking out of his back pocket, and this measure does nothing to ease it.

Even President Bush recently stated, "I will tell you, with $55 oil, we don't need incentives to oil and gas companies to explore. There are plenty of incentives." These are President Bush's own words.

But has that stopped the Republican majority from bestowing such largesse on some of their biggest benefactors? Of course not. Because when one pulls the curtain aside on this bill, what we find is a wacky old fellow pulling the manipulating levers, reaching deep into the Treasury and deep into the pockets of ordinary Americans.

This bill, as I said, could have been a bold stroke, but it missed that mark. It ignores coal, America's most abundant energy resource. It pays mere lip service to coal. There is nothing here that would actually encourage an electric utility to install or invest in clean coal technology. There is nothing here that would advance bona fide technologies for coal gasification or liquefaction to run our factories and vehicles.

And, to add insult to injury, the single substantive coal provision in this bill favors Western Federal coal, primarily in the Powder River Basin of Wyoming, over all other coals. It would give Federal coal from that region an artificial, competitive advantage to the detriment of coal producers and consumers in other States. Already, this Western coal has infiltrated utility markets traditionally served by Appalachian and Midwestern producers. To now provide these producers of Federal coal with special treatment in the form of relief from competitive bidding and the payments of royalties is unseemly and has no part in what is supposed to be a national energy policy bill.

It is, in effect, a direct assault upon all other coal, including coal from my home State of West Virginia, and it is a direct assault on consumers, jobs, and the economy and the communities which rely on coal from States like West Virginia who are not given special treatment under this provision.

Yet, under the rule governing debate on this bill, I was denied the ability to offer an amendment to strike this provision, an effort that came very close to succeeding when the House last considered this bill. Could it be that because I came so close to knocking it out of this bill on the House Floor of the last Congress I was denied that opportunity this year? Could it be because the Republican leadership fears debate on this provision and will only allow amendments that they can bet the House will fail to pass? All of this, all of it is why every newspaper in my congressional district that has editorialized on this bill has editorialized against this bill.

We are engaging in an exercise of microwave legislating today. The Republican leadership has hauled out the remains of last year's freeze-dried energy bill and are seeking to warm it up for yet another taxpayer-financed feast.

The people of America will not be played for fools. They will not be made to believe that all of our energy problems will go away if we simply grant misplaced and inappropriate tax cuts to energy fat cats, and if we allow polluters to get off the hook and shortchange the health and safety protections of our citizens.

I urge a no vote on the bill.

Madam Chairman, I reserve the balance of my time.

Mr. POMBO. Madam Chairman, I yield 1½ minutes to the gentleman from New Mexico (Mr. PEARCE), the subcommittee vice chairman.

Mr. PEARCE. Madam Chairman, I rise today in support of the energy bill that we are discussing on the floor.

Madam Chairman, the absolute truth is that Americans are paying more at the pump today than ever before. Home heating costs have escalated dramatically. These things are both reflections of the lack of an energy policy. All we are suggesting in this energy bill is that we need to recognize the dynamic forces that are at play in today's economy, and that we need to take steps to correct it.

For instance, natural gas in this Nation is hovering in the $7 range, but if we look over in the Asian areas and in Russia, it is 95 cents and 70 cents. What is happening is that we are outsourcing jobs to those other nations because they are paying one-tenth the price for natural gas that we are paying here, and yet our friends on the other side of the aisle some days want to talk about outsourcing jobs and the horrific effect that it has on the economy; and today we are doing something factual about it, and yet they want to turn an eye and say, That is okay, send those jobs; we probably did not need them to start with.

They would have us believe that what we are facing and what we are giving is simply a handout to the oil companies, and what we are doing is simply trying to develop new sources of oil that is extremely expensive to reach. We are drilling on some offshore platforms that cost billions of dollars to set in place. We are drilling on those with great risk that we will lose money, and what we are simply saying is that deep well incentives should be in place.

Now, the incentives that are in place for onshore production are either very difficult areas to drill in or the incentives only kick in after the price falls to a certain level.

Madam Chairman, it is time for us to pass an energy bill. The consumers in this Nation depend on it, and they are depending on Republicans because our friends on the other side of the aisle refuse to help.

Mr. RAHALL. Madam Chairman, I yield 4 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER), the distinguished former chairman of the Committee on Resources.

Mr. GEORGE MILLER of California. Madam Chairman, I thank the gentleman for yielding me this time.

This bill, first and foremost, should be rejected by this Congress, because it is very bad for the consumers, it is a very bad deal for the taxpayers, it is lousy for the environment, and it certainly does not do much for the American economy.

This bill is another missed opportunity to take America into the future, to take America into the leadership around the world in energy production, energy innovation, and energy technology; to create a new generation of important products, and a new generation of jobs.

But what this bill does not understand is that energy sufficiency and sustainability is very different from energy oil independence. The first is achievable in the national interest and the other is not. Oil independence is not achievable in this bill or in any bill you can bring to the floor.

If we were really seeking to strengthen America's hand with respect to energy and our economy, we would do all that is possible to develop a national sustainable energy policy that would minimize our dependence on foreign oil. That is not this bill.

Rather than placing too much of our emphasis on new oil supplies, we would build a national energy policy that is based upon the strength of our country, rather than its weaknesses. Those strengths are the marketplace, innovation, technology, and capital. If these economic forces were truly unleashed to provide a national energy policy, the role of coal and oil would be greatly diminished and would still be important, but diminished.

America's energy policy would evolve into one where business decisions, capital allocations, research commitments, and environmental policy would coincide to make businesses more efficient and productive, develop new products and services, would expand and cover the environment, would be easier and less expensive and clean.

Such a policy demands a synergy of most parts of national energy policy. To date, these ideas have been treated as a stepchild, as they are in this bill. To do so, the Congress would have to stop thinking about energy policy as an extension of the past. They would have to think about it as going out to embrace the future, with American technology, American ingenuity, American talent, American capital, and the American marketplace. America should go out and embrace the future, rather than dumping billions and billions of dollars into trying to bring the past a little bit further forward, to bring the fossil fuels a little bit further forward.

That is the mistake of this bill, that is the tragedy of this bill, and that is the missed opportunity. That is the reason why this bill does so little for the consumer.

In fact, it harms the consumer at the pump by increasing the price of gasoline. That is why it is such a bad deal for the taxpayer, because the taxes are used for old production, for old ideas, not for innovation, not for the future, and not for a sustainable energy policy. That is why it is so bad for the environment, because they use tax policy to drive environmental decisions that otherwise would not be made and, of course, that is why it is bad for the economy, because it continues our dependence. In fact, it drives us deeper into the dependence on the most unstable countries in the world, into the hands of those countries that simply cannot provide stable environments for the production of those energy resources.

That is why a different policy would be about a sustainable energy policy, not trying to achieve oil independence, or foreign oil independence as this bill does. It is unfortunate, because what we do is we miss the opportunity to bring about what the best and the brightest prospects of America have always offered, and that is new innovation, new technologies, new discoveries, new capital formation, and a new economy. But this bill does not do it.

This bill resides in the past century. This bill resides with the old industries. This bill resides with the old ideas, and it certainly resides with the old and tired subsidies that milk the taxpayers, to turn around and give them to now the most profitable companies in the American economy at this time.

It is very unfortunate, and it should be rejected.

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Mr. POMBO. Madam Chairman, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Madam Chairman, I think I am on a different bill than I just heard described here. I applaud the energy efficiency and conservation in this bill. I applaud the increasing of renewable technologies in this bill. I applaud the hydrogen fuel cell program in this bill. I applaud the next-generation nuclear in this bill. I applaud the clean coal technology.

I applaud the incentives for deep gas drilling. That is the one issue I do not think we do enough in this bill. I believe we need to do much more to increase the supply of natural gas, and I hope in conference we can.

Current natural gas prices are exporting thousands of American jobs, the best jobs we have, the chemical plants, fertilizer factories, and those who melt steel and ore and use a lot of national gas.

We as a country have an island to ourselves with natural gas; they are not world prices. When everybody pays $50 for oil, we have the highest prices for natural gas of all modern countries, and we are losing the companies who use large quantities of it.

Just to compare, we are 40 percent higher on natural gas than Europe. We are 50 percent higher than Japan. We are 600 percent higher than South America. We are 800 percent higher than Russia. We heat our homes, our schools, our hospitals, and our businesses with natural gas.

It is the bridge to hydrogen. All hydrogen today generally is made from natural gas; it is the easiest way to make it. It can assist us in transportation, with our buses, taxi cabs, delivery trucks, by using natural gas rather than oil. We need, in the final bill, to have a much stronger chapter with natural gas; it is the one area that I think we need stronger in this bill.

Mr. RAHALL. Madam Chairman, I yield the remainder of my time to the gentleman from Washington (Mr. INSLEE), a valued member of our Resources Committee.

Mr. INSLEE. Madam Chairman, the best way that I can characterize this bill is that it is a Jurassic Park bill in that it is about dinosaurs, of dinosaurs, and in a sense by dinosaurs.

It depends on the hope that somehow dead dinosaurs will appear underneath the continent of the United States where they just do not exist. We consume 25 percent of the oil; we have only 3 percent of the world's oil reserves. If you drill in Mt. Ranier National Park, the Arctic and Yosemite, the oil is not there; the dead dinosaurs decided to die somewhere else.

This is a doomed policy of searching for dead dinosaurs. And it is a dinosaur-like philosophy that we should decide to subsidize technology being developed in the late 1800s in 2005. We should be giving these subsidies to the nascent wind, solar, wave power, energy-efficient cars so we can build energy-efficient cars here rather than in Japan.

You do not give mother's milk to a 65-year-old person; you give it to the nascent infant industries that need it. That is not what happened to this bill, where 94 percent of the subsidy goes to an industry, the most profitable in American history; one company had $8 billion profit in the third quarter last year on your $55 a barrel oil.

That is what is going on in this bill. What we should be doing is hearing lessons from our successful past, where we showed where we increase the efficiency of our cars; that is an energy future. We need the new Apollo energy plan, a visionary high-tech plan, not a dinosaur-like plan.

Mr. POMBO. Madam Chairman, I yield 2½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN), the full committee vice chairwoman.

Mrs. CUBIN. Madam Chairman, I rise today in strong support of H.R. 6, the Energy Policy Act of 2005.

Wyoming is often called the energy basket of America, but people in my State who are taking out emergency loans just to fill up their pickup's tanks would not know it. In my home town of Casper, gas is $2.10 a gallon; in Cheyenne it is almost $2.20. It is $2.30 in Riverton and $2.40 in Jackson.

Madam Chairman, that is just too much. Some of the people around the country who pay close to $3 a gallon might think Wyoming's prices are a bargain. But remember, Wyoming covers almost 100,000 square miles. That is a lot of miles on the highway to do business, and a lot of money at the gas pump.

Wyoming cannot support subways or mass transit when we do not have masses in the first place. This spike in gas prices has real consequences for people in Wyoming whose drives to work are measured not by the length of the country and western song on the radio, but by the entire country and western album.

When our country was threatened by terror attacks on 9/11, Congress acted. Now Congress is called upon to act again. To keep our economy sound in Wyoming, we must pass this energy plan.

This bill will cut our reliance on foreign energy and put our focus where it belongs, on domestic production. Would you rather get the oil we need from the Middle East or from midwest Wyoming? I know where I stand, and I have a number of bills within this package that address domestic energy production.

It seems I have spent most of my congressional lifetime helping to develop this package, so I know a little bit about it. It will strengthen America's standing as the Nation with the most strict environmental laws on Earth. It will streamline the process to safely explore for new energy sources and put us on the road to energy self-sufficiency.

The opponents of this bill urge a "no" vote because it is not a quick fix at the pump. Madam Chairman, since when does a quick fix actually fix anything? When does a "no" vote without an alternative actually fix anything? What America needs and what we have needed for a long time, for more than a generation, is a comprehensive energy plan.

I urge my colleagues to support the plan before us today.

Mr. POMBO. Madam Chairman, may I inquire as to how much time is remaining.

The CHAIRMAN. The gentleman from California (Mr. POMBO) has 3¼ minutes remaining.

Mr. POMBO. Madam Chairman, I yield the balance of my time to myself.

I guess here we go again. You know, we have had the opportunity in the House four or five times to debate the energy bill. And I look at the history of energy policy in this country and the efforts of Congress to try to deal with the very real energy demands that we have today in this country.

We are not providing enough energy to meet the demands that we have. You know, you go back 30 years ago, and the United States was dependent on foreign energy about 30 percent. About 30 percent of our oil came from foreign sources.

We did very little to deal with that. There was a pledge made by then-President Carter that we were going to become independent. The President and succeeding Presidents have talked about becoming independent from foreign oil. But we did not adopt the kind of policies that we had to to increase the amount of domestic production so that we were not so dependent on foreign oil.

I look at it today and nearly two-thirds of the energy that we consume in this country comes from foreign countries. And that is a direct result of the failure on the part of Congress to pass a national energy policy. We have not addressed that. I look at what we are doing wrong in terms of producing additional energy in this country. And I think if you listen to the debate from some of my colleagues, you know what we are doing wrong. Yeah, you know, we did not have a lot of dinosaurs die under Yosemite or Yellowstone, you are right; but we had a whole heck a lot of them die in the Arctic plains.

There is oil and gas in Alaska. It is there. We all know it is there. And yet we still have the same people year after year coming down, whether gas is $20 a barrel or $60 a barrel they are still opposed to doing it. We have the same people come down here year after year after year that opposed putting a pipeline to move that gas from Alaska to the lower 48 States.

We have the same people who come to the floor year after year and oppose every single attempt that is made to increase the amount of energy produced in this country. Year after year they oppose it.

Last year we had an amendment to make it easier to site renewable energy on Federal lands. And the same people that are down here today opposing this bill opposed that bill on renewable energy. Yeah, you know, it all sounds great. You can come down here and talk about how we need more renewable energy.

But when you have a chance to vote for it, you vote no; and you do it every single time. You know, we hear this over and over again.

You know, when the bill moved through the committee, we had 20 or 25 amendments. Not a single one of those amendments was a partisan vote, a party-line vote. Every single one of them we had members of the minority and majority that joined together to either pass or defeat the amendment. There was so much support for this bill coming out of the Resources Committee, it passed on a voice vote.

Every time that we get this bill up before the House, it passes with both majority and minority votes. There is support for doing this. I ask my colleagues with $55 a barrel oil, do you not think it is time that you did something? If you do not like this bill, where is your alternative? Because as of yet all you do is the same old rhetoric.

The CHAIRMAN. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from California (Mr. STARK) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Madam Chairman, I yield myself such time as I may consume.

Once again the House is debating a "comprehensive energy package." I do have to say that as far as the Ways and Means Committee is concerned, it is just slightly less comprehensive than it has been in the past. But that is because we understand, having gone through a conference with the Senate, the kind of package that will maximize our chances in producing a fair and balanced tax section.

In discussing what we do in this particular bill, and I enjoy hearing people discuss it as though it is the conference report that is in front of us, it is in fact, and I will say it flatly, and in a negotiating position, before us to sit down and work with the Senate.

It does have renewable provisions in the tax package, but by a small amount. The majority focus is on the infrastructure of this country, the electric power lines, gas collecting lines, and supporting a structure which will be the backbone of our energy needs clearly for the next quarter of a century before any of the innovative approaches begin to carry a significant share of our energy needs.

I might also caution Members not to get too carried away looking at this particular piece of legislation under the heading of an energy bill and assume that we have done nothing since the conference report that was agreed upon between the House and Senate was passed by the House and not the Senate.

I would ask you to go back and refer to legislation passed just a short time ago under the title of the Working Families Tax Relief Act. In that bill we had incentives for wind, open biomass, electric cars, and alternative-fuel vehicles.

In the American Jobs Creation Act, we provided incentives for ethanol, biodiesel, geothermal, solar, open biomass, municipal solid mass, and refined coal.

I know the other side is going to offer that constant lament, what have you done for me lately? The answer is, let us get to conference, put together a package, once again come to the floor of the House with a conference agreement, we will pass that conference agreement, and the Senate will pass that conference agreement. And I will conclude my opening remarks by saying, I was very pleased that on the Ways and Means Committee, five Democrats understood, one, the strategy that we are undertaking, and, two, supported the content of that strategy by voting for the Ways and Means position.

I know a number of people have a definition of bipartisan, but based upon the recent history of the Ways and Means Committee, five Democrats supporting a measure offered in that committee is unprecedented bipartisan support. And I was very pleased for it.

Madam Chairman, I retain the balance of my time.

Mr. STARK. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in opposition to this bill. First of all, it is improperly titled. It is not an energy policy act at all; it is the delay bill. Now, why is it the delay bill?

Well, it is a bill that delays energy self-sufficiency by enacting tax breaks and policies that benefit the oil and gas industry and ignores renewable alternatives.

It delays protecting the Arctic National Wildlife Refuge. It delays holding the makers of MTBE accountable for destroying drinking water. It delays the end of $8 billion in special interest tax breaks. It delays fishery restoration by giving dam owners free rein.

□ 1630

It delays protecting our children who suffer more and more from asthma as this bill delays enactment of stricter smog regulations. It delays protecting our shorelines from oil and gas development. It delays cleaner air and lower gas prices by mandating an agricultural welfare program called ethanol. It delays the end of corporate welfare for the likes of Enron and Home Depot. It delays the ability of States to enact tougher energy efficiency laws.

I could keep going, Madam Chairman, but I do not want to delay the proceedings any further.

The bill was written by and for the oil and gas industry with the involvement of a small band of powerful Members of Congress. Its very existence raises questions of ethical behavior. But as we know, our Committee on Standards of Official Conduct is unable to meet to consider such transgressions because of delay by my colleagues on the Republican side of the aisle which delay Committee on Standards of Official Conduct action against one of their own.

The purpose is not to enact a sane energy policy for our country at all. In fact, as I have outlined above, it delays that very possibility. It is an antienvironment, anticonsumer, antienergy self-sufficiency and irresponsible corporate welfare bill.

Rather than considering this legislation, we should be considering why "delay" continues to rule the House of Representatives.

Madam Chairman, I reserve the balance of my time.

Mr. THOMAS. Madam Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), a member of the committee.

Ms. HART. Madam Chairman, I thank the chairman and my colleagues on the committee for moving forward such an excellent package as part of the energy bill.

I think many of us have spent the last several years hoping that we would get an energy bill passed. There are a number of reasons why; in my district, clearly one of the most important is simply the cost of energy, whether it is home heat, whether it is the cost to manufacturers which is costing us jobs. We need to move forward with this energy bill.

My district is home to a number of manufacturers. I have met with many of them since the beginning of the year when we were hoping that we would get the energy bill moving. What they have asked for us is to help them with their higher overhead, ultimately helping them with their competitiveness, helping jobs to remain in our district. Obviously, these companies' employees are much more susceptible to layoffs without the energy bill.

I am also hearing from home owners, many of the elderly in my district with older homes, who need some help, some incentives to improve their homes, some tax assistance so they will have more energy-efficient homes, to those who are building new homes, more incentives.

The bill also addresses our aging electric transmission system. Many of our transmission system lines were built 30 to 50 years ago, and it is estimated by 2015 electricity consumption will increase by 28 percent. We need to repair and rebuild the 160,000 miles of electrical transmission lines. This bill will reduce the time for depreciation recovery and improve the opportunity for those companies to update those lines, helping in efficiency, helping in opportunity to have cheaper energy.

It is important also that we encourage new kinds of fuel. Especially important are fuel cells and, in fact, providing new jobs and better technology. Fuel cell technology in the United States is growing. The use of it is growing and, in fact, jobs in that field are growing. I think it is important that this bill provide a 15 percent tax credit for business installation of fuel cell power plants and residential fuel cell investments.

This is a great technology. It is one that has been utilized in other parts of the world to a further extent than it has been utilized in the United States. The help in this bill will encourage further use of fuel cells.

This bill makes changes of the Tax Code that will speed the development of newer and cleaner production of energy. It will help curb energy costs. It will help move our economy forward.

I urge my colleagues to support this bill, and I especially commend my colleagues on the Committee on Ways and Means for the tax provisions.

Mr. STARK. Madam Chairman, I yield 3½ minutes to the gentleman from Washington (Mr. McDERMOTT) without further delay.

Mr. McDERMOTT. Madam Chairman, Friday is Earth Day, but that will not stop the Republicans from passing legislation that will make the Earth dirtier, more polluted and warmer.

The Republican legislation favors corporate America over Main Street in America. It will neither ask nor answer any of the energy issues that threaten our environment, our economy and future generations. Instead, the Republicans will answer the greatest challenge of our time by telling Americans to dig deeper into their pockets for big oil.

At a time when America needs energy vision, Republicans have provided us with their corporate donor lists. Despite soaring prices, despite dangers to our economy and security for our dependence on oil, the administration puts forward the deal of the century for big oil, gas and coal. It rewards its friends and encourages America's addiction to oil.

Nothing in this bill will lower gasoline prices a single penny. Nothing in this bill will alter our dependence on oil. Nothing in this bill will address the needs and concerns of the American people facing economic peril at the pump every morning when they put $50 worth of gas into their car. Instead, Americans from Maine to California will pay at the pump and pay through the nose. Big oil's profits today defy description.

The CEO of ExxonMobil who does not think global warming is real was paid $38 million last year. The price of crude oil jumped $2 a barrel yesterday. That added $1 billion of earnings to Mobil's earnings. Maybe that explains why oil and gas companies have reduced their investment in facilities by 20 percent even as their profits have increased 400 percent.

The oil and gas industry is sitting atop a mountain of cash looking down on Americans who are held hostage by runaway gas prices that grow the mountain of oil prices even higher. And we are giving them $7 billion more today. They do not need it. Across the country gasoline prices are 20 percent higher than they were a year ago. Neither wages nor economic opportunities come close to bridging that kind of deficit for the American family.

The only choice for more Americans is to pay more, save less, use consumer debt. Oh, yeah, remember the bankruptcy bill? And give up something to make the frayed ends meet, while ExxonMobil's CEO pockets $38 million.

With the price of crude oil sky high, you would think we would be declaring a 12-alarm economic fire that endangers the lives of every American family and the economic health of our economy.

Let me quote something that sums this up. "We are grossly wasting our energy resources and other precious raw materials as though their supply was infinite." President Jimmy Carter spoke those words in 1976, almost 30 years ago. We laughed at him when he put on a sweater and said maybe we should turn the thermostat down 1 degree.

Yet today Americans propose a policy that seeks to roll backward from the ominous warnings of the mid-1970s. America needs vision and leadership, but the Republicans will pass a bill that endorses and rewards the traditional forms of energy. It proposes cutting billions in promising renewable energy provisions. It proposes waiving liability for companies that pollute our groundwater. It subsidizes oil, gas and coal. It fails to address meaningful automobile conservation. And worst of all, we are going to go up to the Alaska Wildlife Refuge and we are going to drill.

We are going to drill our way to oblivion if we follow this pattern.

Mr. THOMAS. Madam Chairman, I yield myself 10 seconds.

I anxiously look forward to the debate on the Democrat substitute and would willingly yield time to the gentleman from Washington (Mr. McDERMOTT) to make all the points he just made on the majority bill on the minority bill since they include in their entirety the tax section of the majority's bill.

Madam Chairman, I yield 1½ minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Madam Chairman, earlier this year I reintroduced the Residential Solar Energy Tax Credit Act, which would provide a 15 percent tax credit for the purchase of solar water heating systems and photovoltaic systems to be installed in residential settings.

The maximum amount of this credit is $2,000 and the credit cannot apply to solar energy systems used to heat swimming pools. I am pleased this provision has been included in the tax title to H.R. 6, the Energy Policy Act of 2005.

The solar energy industry in our Nation has been growing at a clip of 25 percent per year for the past several years, yet U.S. manufacturers export 75 percent of their products because of the higher up-front costs of solar energy systems as compared to other energy sources.

Purchasing a solar energy system is like buying a car and prepaying for all the gas it would ever need. This makes consumers understandably hesitant despite the environmental and other gains associated with solar energy. National polls consistently find that over 85 percent of Americans want greater support for solar power, and solar power can play a role in our energy mix from coast to coast.

It is my belief that the residential solar tax credit will help advance this important form of renewable energy. And in stark contrast to the protestations of my friends on the left, we are willing to embrace these technologies. It is proven by this solar energy tax credit. I thank the chairman for its inclusion.

I urge support of the legislation.

Mr. STARK. Madam Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Madam Chairman, some folks will get a lot of mileage out of this bill, but it will not be the hard-working Americans who have to pay more and more at the gas pump as a direct result of the policies of this Bush administration.

When the same collection of fossil fuel dinosaurs and tax loophole lobbyists come here and order Congress to "fill 'er up," with special favors, they seldom go away on "empty."

National security demands a balanced energy policy that encourages more new energy technology and renewable alternatives. But in this bill, security is sacrificed at the altar of whichever lobbyist had the biggest limousine.

Our families' health depends on clean air and water, but this collection of tax breaks, loopholes, handouts and waivers ensures only continued healthy profits for some of the worst polluters in the world. And this bill is not just about more smoke in the air, it is about more smoke and mirrors.

Take, for example, the synthetic fuel provision that I tried unsuccessfully to strike in the Committee on Ways and Means; it is really about tax dodging through synthetic accounting. Unscrupulous companies get what some estimate to be up to $4 billion a year by spraying starch on coal or pine tar on coal. This does not add to the energy capability of the coal. It does not cause the coal to burn in a less polluting manner. Its sole purpose is to generate significant tax dodging. That is why Enron was about to embark on this gimmick that so many companies have abused, and which this Committee on Ways and Means refuses to end.

This energy bill is not just about over-reliance on fossil fuels. It is about fossilized ideals. It is about a lost opportunity for America to be the world's leader in energy technology.

With our security at stake, when so much of the world's oil is located in areas as inflammable above ground as the fuel they hold underground, with our families' health dependent on not letting the quality of our air and our water deteriorate even further than it has under this Administration, this energy bill is the latest example of spending today, while the future will be billed in dollars, safety and health.

That bill will be due and paid by our children and our grandchildren, like my new little Ella.

Mr. THOMAS. Madam Chairman, I yield myself 15 seconds.

I also look forward to seeking to yield to my friend from Texas (Mr. DOGGETT) during the debate on the minority substitute bill, because the provision he just viciously attacked on the floor as being totally unacceptable is in the Democrats' bill as well. I look forward to having those words spoken against their own substitute because it contains exactly the same language.

Madam Chairman, I yield 1½ minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Madam Chairman, I rise in strong support of H.R. 6, balanced legislation designed to reduce our dependence on imported energy, a balanced approach that has earned bipartisan support in the House Committee on Ways and Means, emphasizes conservation, alternative sources of energy, as well as finding more domestic sources of energy.

□ 1645

I take my brief amount of time to focus on what I consider to be the most consumer-oriented provision of this legislation, legislation that rewards conservation, conservation at home.

Twenty percent of all the energy we consume in America, one-fifth of our energy consumed, is consumed at home. In fact, the average American spends about $1,500 a year in heating and cooling their home. Just think if they could save 10, 20, 30 percent. It means not only energy conservation to save energy but it would help their pocketbooks as well.

This legislation today contains provisions out of H.R. 1212, legislation that provides up to a $2,000 tax credit that homeowners can use in their existing home to make it more energy efficient, put in better windows, better doors, better insulation, do a better job of sealing the home. If they meet the Federal standard by reducing their energy consumption by 30 percent, they can reduce their taxes with up to a $2,000 tax credit, 20 percent of the first $10,000 they invest.

Bottom line is we need to encourage energy conservation. What better place to start than right at home. I urge bipartisan support for this legislation.

Mr. STARK. Madam Chairman, I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Madam Chairman, I thank the gentleman from California (Mr. STARK) for yielding me time.

Madam Chairman, gas prices are going up every single day, and this bill does nothing to bring down the costs at the pump. In fact, it might just make the problem worse.

The energy czars must be the majority leader and company, and they wrote this bill behind closed doors. This bill is immoral. It is a shame and it is a disgrace. This bill was conceived in darkness and born in a den of iniquity.

This bill does not do one thing to bring down the price of gasoline at the pump. We can do better. We can do much better. We should vote against this bill.

Mr. THOMAS. Madam Chairman, how much time is left?

The CHAIRMAN. The gentleman from California (Mr. THOMAS) has 1¾ minutes remaining.

Mr. THOMAS. And the other side?

The CHAIRMAN. The gentleman from California (Mr. STARK) has 1 minute remaining.

Mr. THOMAS. And who has the right to close?

The CHAIRMAN. The gentleman from California (Mr. THOMAS) has the right to close.

Mr. THOMAS. We have one speaker remaining.

Mr. STARK. Madam Chairman, I am happy to yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

Ms. PELOSI. Madam Chairman, I thank the distinguished gentleman from California (Mr. STARK) who I am very proud of for yielding me time and for his leadership.

I want to commend four of our ranking members, the gentleman from Michigan (Mr. DINGELL) of the Committee on Energy and Commerce, the gentleman from West Virginia (Mr. RAHALL) of the Committee on Resources, the gentleman from New York (Mr. RANGEL) of the Committee on Ways and Means, and the gentleman from Tennessee (Mr. GORDON) of the Committee on Science for their exceptional leadership in presenting an alternative view to the Republican bill that is on the floor today. Unfortunately, we will not have a Democratic substitute, contrary to what the gentleman said.

Madam Chairman, the American people deserve an energy policy that is worthy of the 21st century, not one mired in the policies of the past, but a bill that looks forward, not backward. It is imperative that our country have an energy policy for the future, and it is a matter of national security that we reduce our dependence on foreign oil so that we will be able to take care of our own security and not have to send our troops in harm's way for oil.

It is critical to our environment that we invest in emerging technologies and renewable energy and invest in energy efficiency and conservation. It is vital for our economy that our country's economic growth is not constrained by the price of oil and that our consumers do not have to pay such a serious price at the pump for gasoline.

The opportunity is here, really, for an energy bill that would put our country on the right path. But this bill that the Republicans have put forth today misses that opportunity. Instead of a positive plan for moving our country forward, the Republican bill is warmed-over stew of old provisions and outdated policies.

The Republican bill is anti-consumer, anti-taxpayer, anti-environment, and with its MTBE provisions, it is harmful to children and other living things.

The Republican bill was conceived in secrecy. It was written with the influence of the energy lobbyists, and it shows. It should be rejected by this Congress.

First, this bill is anti-consumer. Gas prices are soaring, and this bill makes matters worse. The price of gasoline is approaching $3 in some parts of our State; and nationwide, gas prices are up 42 cents above a year ago. When it costs nearly $50 for an American worker to fill his tank, it is time for relief. Yet it is the fifth year of the Bush administration, and there has been no meaningful action to lower gas prices at the pump.

Madam Chairman, according to the Bush administration's own Department of Energy, this Republican bill will actually increase gas prices by three cents a gallon and will have almost no effect on production, consumption, or prices.

The consumer is not served well when the public interest is not served, and the public interest is not served by this bill. Indeed, it is a gift to the special interest.

This bill is wrong because by its electricity provisions it fails to protect the public from Enron-style fraud and abuse. By arbitrary caps on private spending to improve the reliability of our Nation's electricity grid, the bill goes wrong. It is also wrong by repealing the Public Utility Holding Company Act, which protects consumers and investors from corporate abuses.

Second, the bill is anti-taxpayer, and I know that the gentleman from California (Mr. STARK) and some of the members of the Committee on Ways and Means addressed some of these concerns. The bill is loaded with tax breaks and royalty relief for oil and gas companies. Of $8.1 billion in tax incentives in the bill, $7.5 billion, a staggering 93 percent, is for traditional energy sources such as oil, natural gas, nuclear power, and electricity transmission.

Even President Bush has said that when the price of oil is over $50 a barrel that the oil industry does not need relief: and yet the President wants this bill to come to his desk from Congress as soon as possible.

Democrats have better ideas. I particularly want to commend the gentleman from New York (Mr. BISHOP) and the gentleman from Massachusetts (Mr. MARKEY) for their amendment to lower gas prices, promote energy efficiency, advance emerging technologies for energy efficiency and conservation and to improve consumer protection.

This bill is anti-environment, as the gentleman from West Virginia (Mr. RAHALL) pointed out. It will open the Arctic National Wildlife Refuge to oil and gas drilling, all for the sake of a 6-month supply of oil that will not even be available for 10 years. If this unspoiled place is not special enough to save for our grandchildren, what is? Once they despoil the ANWR, nothing else is sacred.

Indeed, this bill makes it easier for oil drilling in protected areas off our magnificent coastlines.

The bill contains other anti-environmental provisions, including weakening the Clean Air Act, weakening the Clean Water Act, weakening the Safe Drinking Water Act and the National Environmental Policy Act.

Finally, this bill is harmful to children and all living things. The provision on the gasoline additive MTBE, a few drops of which can poison entire drinking water systems, the provisions in this bill for MTBE are a breathtaking example of pandering to special interests. Instead of eliminating MTBE now, remember I said a few drops can poison entire drinking water systems, instead of eliminating it now, the bill gives the MTBE industry 9 years for a phase-out, and it would give MTBE producers liability protection in contamination lawsuits.

Okay. You are poisoning the water supply, you do not have to stop for 9 years, you have no liability for contamination, and on top of that, we are going to give you $2 billion in subsidies, $2 billion in subsidies to help MTBE manufacturers.

The dirty little secret is that the MTBE industry knew all along that it would leak out of gasoline storage tanks and contaminate groundwater, but they lobbied for it to be added to our gasoline anyway. Now they do not want to pay for the cleanup. They want taxpayers to pick up the tab.

The provision on MTBE included in this bill, at the majority leader's insistence, killed the bill in the last Congress, and the gentleman from Texas (Mr. DELAY), the majority leader, is insisting on including it again this year. In fact, this is the majority leader's bill that we are debating today.

Madam Chairman, it is time for us to look forward. It is time for an energy policy worthy of the 21st century.

This Republican energy bill is clearly designed to help energy companies make more money, not to help Americans consumers save money.

I urge my colleagues to stand up for a forward-looking energy bill to ensure our national security, to grow our economy, to protect our environment, and to keep our water and air safe for our children.

I urge my colleagues to vote "yes" on the Democratic amendments for an energy policy for the future, and I urge my colleagues to "just say no" to the gentleman from Texas' (Mr. DELAY) disgraceful MTBE giveaway and his outdated boondoggle of an energy bill.

Mr. THOMAS. Madam Chairman, I would inquire of the Chair, the 1 minute that was on the minority side, does that expire?

The CHAIRMAN. The Chair has followed the tradition of the House to allow additional time to the minority leader, and her 1 minute expired.

Mr. THOMAS. Madam Chairman, I appreciate that, and I yield myself 15 seconds.

If we could get the mileage out of the gallon of gasoline that they get out of 1 minute, we would not need an energy policy in this country.

First of all, I want to thank the five Democrats on the Committee on Ways and Means who had the courage to vote for this excellent tax provision. Understanding the pressure they are under, based upon the comments that were just made, truly it was a heroic vote.

Madam Chairman, it is now my pleasure to yield the remainder of the time to the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Madam Chairman, at a time of record-high energy prices, the growth of the economy is at risk, and it is critical that Congress take the necessary steps to put in place a comprehensive energy policy.

The bill before us, frankly, is more limited in scope than I would prefer. It is not as ambitious as I would like in creating market incentives to overhaul the energy side of our economy: but, nevertheless, support of this bill is a critical first step for Congress to move forward to meet the critical goal of an effective national energy policy.

Its passage will set us on the right path by encouraging the creation of new technologies, by promoting renewable energy sources, by modernizing and expanding our energy infrastructure, including our power energy infrastructure, and encouraging conservation.

I believe we need to move forward on this bill. It is long overdue and has been a priority of Congress since this President came into office. The time has come for us to pass an energy bill.

Unfortunately, we have seen the vacancy of the debate today, the fact that we are not seeing an alternative being offered by the other side. We have heard about new ideas from them, but all we have been offered is warmed-over rhetoric, and there is no technology available to us that could ever make good use of that.

Please pass this legislation. It is long overdue. The time has come for us to put in place a national energy policy.

Mr. BLUNT. Madam Chairman, when George W. Bush was running for president six years ago, he said that our country had been without a comprehensive energy policy for a decade. We are now going on sixteen years with no energy plan for America, and it is not for lack of trying.

The House of Representatives has passed Energy legislation four times, only to have the bills die in the Senate because of partisan politicking. Keeping the lights on should not be a partisan issue. Filling up a gas tank should not be a partisan issue.

Madam Chairman, gas prices are at an all-time high. I want to thank Chairman JOE BARTON for working with me to include a provision in this bill to curb the production of boutique fuel blends and address this issue head-on.

The current gasoline supply includes specially formulated, boutique fuels which are required by law in certain communities.

When supplies are limited, gas prices rise quickly—sometimes overnight.

For example: Missourians can fill their gas tanks up in Springfield and drive 3 hours to St. Louis. When they get there, they'll be filling their tanks up with a completely different type of gasoline. But if St. Louis ever runs short on their boutique fuel, gas stations there can't sell what consumers could buy back in Springfield.

The energy bill we will vote on tomorrow caps the number of these special fuel blends and allows communities faced with a shortage due to unforeseen circumstances, such as a refinery fire, a waiver to use conventional gasoline. This plan relies on simple economics: if we create a larger market for a greater amount of gasoline, we'll help drive prices down.

By including this proposal in the energy bill, the House is moving the country one step closer to lowering the sky-high price of gas for consumers.

Madam Chairman, it's time to see some common sense at the gas pump. I urge my colleagues to support this rule, support the underlying bill, and vote for lower gas prices and increased energy independence for America.

Mr. LEVIN. Madam Chairman, if ever there was a time when this country needed a smart, forward-looking energy strategy, this is it. Energy prices throughout the country are close to record highs. Consumers in my State are struggling with soaring gasoline costs. The price of gasoline in Michigan today is 36 cents a gallon higher than it was just 1 year ago. Steep increases in the price of natural gas have resulted in skyrocketing increases in consumers' home heating bills over the past few winters.

So what is the response of the House of Representatives? The Leadership of the House has brought a bill to the Floor that will do little or nothing to reign in energy prices. This is virtually the same bill that the Senate rejected 2 years ago. According to the Bush administration's own Energy Information Administration, the policies contained in this legislation will have a negligible effect on energy production, consumption, imports and prices.

Instead of bringing us a comprehensive energy bill that brings down gas prices and encourages greater U.S. energy independence, the bill before the House is little more than a grab-bag of special interest giveaways. For example, the tax title of this legislation contains just over $8 billion worth of tax incentives. Only about 6 percent of these go to energy efficiency, renewable energy or conservation. Nearly all of the $8 billion goes to the oil, gas and nuclear industries, as well as electric utilities.

With oil and gas prices—to say nothing of energy industry profits—near record levels, why are we extending these additional subsidies? Just the other day, President Bush said that "with $55 oil we don't need incentives to oil and gas companies to explore. There are plenty of incentives." Yet this bill is chock-full of these unneeded incentives. There's $3.3 billion in oil and gas production tax incentives, plus a number of "royalty holiday" provisions for energy extraction on public lands. It's easy to see how this legislation is good for the bottom lines of oil and gas companies, but it's consumers that need our help today.

I know that the proponents of this legislation have been saying that opening up the Arctic Wildlife Refuge to oil drilling will help bring down gas prices. This simply is not the case. We have no idea how much oil lies beneath the Refuge. The New York Times reported in February that the "major oil companies are largely uninterested in drilling in the refuge, skeptical about the potential there.

"Even the plan's most optimistic backers agree that any oil from the refuge would meet only a tiny fraction of America's needs."

The crusade to drill in the Refuge is a distraction. Even if there is extractable oil there, it would take nearly a decade to bring the energy to market.

This country badly needs a balanced energy policy. We can't drill our way to energy security. We need a balance between energy production, on the one hand, and greater use of renewable sources of energy and conservation on the other. The bill before the House today doesn't even pretend to seek balance, and I urge my colleagues to reject it.

Mr. FILNER. Madam Chairman, this legislation takes our nation in the wrong direction and fails to meet our energy needs. This is a missed opportunity. We could have boosted our nation's commitment to renewable and efficient energy, thereby curbing our reliance on foreign oil, creating 21st century jobs, protecting the environment and providing affordable and reliable energy for America's families. We could have taken on the oil companies that are gouging all our constituents at the gas pumps. We could have fought for more hybrid vehicles, higher fuel economy standards and other 21st century technologies.

But, instead, the Republican energy bill doles out favors to the oil, gas and coal companies, keeping our nation stuck in the 20th century. This bill allows the oil companies to rip up the Arctic National Wildlife Refuge. This bill protects companies that have polluted our water with MTBE. We now know that GOP means gas, oil and petroleum!

The Rules Committee blocked two amendments I would have offered to this bill. The first would have simply extended the tax credit for geothermal energy, giving energy companies the time they need to build geothermal facilities and actually use the incentive this Congress already approved. My amendment would have promoted the development of geothermal energy in Imperial Valley, California, and around the nation, creating good jobs and a source of clean, domestically-produced, environmentally friendly, reliable energy. Yet the Republicans on the Rules Committee shot down this common sense amendment, preventing us from even taking a vote on it.

They also blocked my amendment to address another very serious issue we are facing in Imperial Valley—air pollution from power plants across the border in Mexico. In the 21st century, U.S. companies should not be able to skirt their environmental obligations by moving a few miles across the border! My amendment would have simply required power plants in the border region to meet our environmental standards if they wish to transmit electricity into the United States. In exchange for transmission permits from the Department of Energy, power plants in Mexicali, Mexico would have been forced to pay for projects in Imperial Valley to off-set the air pollution they are sending across the border into our communities. With the highest child asthma rate in California, Imperial County certainly needs the help, but the Republicans on the Rules Committee once again turned their backs on us.

We will continue fighting for a better approach to energy in this Nation. We will fight for an investigation of the oil companies to determine if any wrongdoing has contributed to the sky-high gas prices. We will fight for a commitment to geothermal energy and other clean and renewable energy sources. And we will continue fighting for an energy policy that reduces pollution in the border region and around the country.

Mr. GREEN of Wisconsin. Madam Chairman, I want to express my deep disappointment that the Rules Committee did not accept a bipartisan amendment authored by Mr. STUPAK, myself, and other Great Lakes area members last night. This important amendment would have permanently banned oil and gas drilling in and under the Great Lakes. The current ban is set to expire in 2007.

I am proud to say that I have long been a proponent of banning oil and gas drilling on the Great Lakes and have voted to do so at every possible opportunity. The Great Lakes are home to the world's largest supply of fresh water. In fact, the Great Lakes make up 95 percent of the United States' fresh surface water.

For those of us in the Great Lakes states, the Great Lakes represent a critical component of our environment, our economy and our identity. The risks drilling poses to the lakes are unacceptable.

Congress has a history in support of banning drilling on the Great Lakes. A ban was first approved in 2002 and has been extended twice since. However, the time has come to end the uncertainty surrounding drilling on the Great Lakes. A permanent ban should be put into place.

While I am disappointed the Rules Committee has prevented the House from including a ban on drilling on the Great Lakes, I plan to work night and day with my colleagues to get a permanent ban approved—either in conference or as a stand-alone piece of legislation. This is a fight I will not give up.

Mr. DEFAZIO. Madam Chairman, over the past couple of years I have corresponded with the Department of Energy on an issue of particular concern to me. The Department of Energy continues to spend millions of dollars, over $60 million so far, to defend private contractors who caused injury to citizens downwind of the Hanford nuclear reservation despite provisions of the Price Anderson Act to the contrary. The American taxpayers should no longer have to bear the burden of defending private contractors who have harmed citizens. I would like to submit my most recent letter to the Department of Energy and asked that it be made part of the RECORD.

MARCH 4, 2005.

Hon. SAMUEL BODMAN,
U.S. Department of Energy,
Washington DC.

DEAR MR. SECRETARY: Thank you for your September 2003 response to my questions about the Hanford Nuclear Reservation case. However, I have ongoing concerns about the Department of Energy's (DOE) willingness to represent DuPont and General Electric at a cost of millions of taxpayer dollars. I believe that the Department's financial support is not only ill conceived, but that it violates the intent of Congress in passing the Price Anderson Act (PAA).

Regarding question numbered "2" of the 2003 letter, we have been informed that while the district judge accepted the defendants' standard of proof for injuries, that decision was soundly reversed by the Ninth Circuit on the merits.

I am concerned that DOE continues to fund, at considerable taxpayer expense, an ongoing series of technical motions by the contractors.

It was the intent of the Congress of the United States when it enacted the Price Anderson Act, to encourage the development of nuclear energy and at the same time to provide "full compensation to the victims of nuclear incidents," including the people who were exposed to radiation from nuclear facilities such as Hanford. The actions of the Department of Energy in spending large sums of taxpayer dollars to forestall compensation to citizens who were exposed to radiation releases from Hanford, represents action by a federal agency that is directly contrary to the intent of Congress.

I recently learned that federal Judge Nielsen, on March 30, 2004, rejected the motion of DuPont and General Electric that they be dismissed from the case because they contracted with the government to run Hanford. In underwriting such a motion with taxpayer funds the Department violated the intent of Congress in passing the Price Anderson Act. The fact that the PAA reimburses the companies when people are injured from a nuclear incident precluded the necessity for a "contractor immunity" defense as Judge Neilsen held. I have now learned that you intend to financially support an appeal of that Order. Any further attempts to evade the intent of the PAA by the DOE we believe to be a serious concern for the Congress.

Your letter notes that the DOE does not "disagree with the proposition that low doses of radiation can cause some forms of cancer." In addition, there are government studies that show exposure to radiation contributed to the onset of the claimants' illnesses. Yet the DOE continues to defend the contractors. It would appear that contrary to the fact that workers can be compensated for thyroid cancer, non workers who were exposed to more Iodine 131 than many workers would be denied similar treatment. I do not understand this logic. What policy consideration drives this inconsistent behavior?

I also learned that the motions of DuPont and General Electric to have all cases dismissed as being filed too late based upon the Statute of Limitations has been dismissed. More than $60 million of taxpayer funds have been spent by DuPont and General Electric for 15 years of loosing motions and adverse rulings. Again, I do not understand why the Department of Energy continues to spend millions of dollars paying lawyers to attempt to defeat claims that the Congress of the United States determined should be compensated.

I further note that the Hanford plaintiffs were just successful in filing a motion declaring that the operations at Hanford were an "ultra hazardous activity." This holding is consistent with Congress' findings regarding the operations of nuclear facilities. We note again that the Department of Energy spent thousands upon thousands of dollars defending this untenable defense (Energy Employees Occupational Illness Compensation Act of 2000, 42 U.S.C. §7384 et seq).

I understand that a trial date has been set, and that General Electric and DuPont are taking the position that Iodine 131, which was released in enormous quantities from Hanford, does not cause thyroid cancer. Is that the position of the Department of Energy? If not, please explain if the Department is taking the position that the Price Anderson Act does not apply to a person exposed to radiation below a certain dose, and if so what that dose is.

I understand that several million dollars more could be spent in the next year or two continuing to defend this action. That would result in taxpayers' money approaching the $100,000,000 being paid to lawyers to prevent compensation to victims of radiation exposure from Hanford.

All of the defenses you have previously supported have been rejected by a federal court. Has the Department of Energy authorized any amount of money for settlement of this case? It would appear that more money may well be spent to thwart the intent of the Price Anderson Act than would be spent in victims' compensation.

Please provide me with a detailed justification for any continued payment by the Department of Energy for the defense of this litigation, including specific justifications for any motions currently or intending to be filed or appealed seeking to dismiss most or all of the cases and why such action does not violate Congress' intent in enacting the PAA.

Sincerely,

PETER DEFAZIO,
Member of Congress.

Mr. FARR. Madam Chairman, I rise in strong opposition to this so-called comprehensive energy bill before us today. This energy package have a new wrapping and bow but it is the same white elephant gift for the American people that sadly passed in this House last Congress.

Our Nation's energy policy must strike a sound balance by pursuing improvements in fuel technology and energy efficiency; maintaining a clean environment; and preserving our wilderness areas and public lands.

Instead, by refusing to commit to improving and investing in sustainable fuel technology, we are putting our technology and manufacturing industries at a competitive disadvantage when the rest of the planet is searching for alternatives to fossil fuels.

We are missing an opportunity here; as a future energy policy this legislation is bumbling along because of following the policies in this bill would be like driving into the future by looking through the rearview mirror with its heavily weighted dependence on fossil fuels.

H.R. 6 falls depressingly short of addressing our energy needs in both the short and the long term.

Based on the pro-industry recommendations of the Cheney Energy Task Force report, this bill is anti-taxpayer, anti-environment, anti-consumer and is loaded down with special-interest giveaways.

Madam Chairman, more than ninety percent of the subsidies in H.R. 6 would go to the oil, gas, coal and nuclear industries, leading to more pollution, more oil drilling and more radioactive-waste-producing nuclear power.

By contrast, only about six percent of the tax breaks would go to energy efficiency and renewable energy incentives that could actually save consumers money and reduce our dependence on dirty energy sources.

Madam Chairman, gas prices, gas prices, gas prices and more gas prices. It's the most asked question I hear in my district and rightly so with prices in my home town of more than $3 a gallon and a national average price at a record level of $2.24 a gallon—more than 50 percent higher than average gas prices in 2002.

According to the Bush Administration's own Energy Department estimates, this Republican bill will actually increase gas prices by 3 cents and will have virtually no effect on production, consumption, or barrel prices.

American consumers are being squeezed at the pump while the big oil companies are reaping record profits and the Republican Leadership is passing an energy bill that will further raise gas prices.

How in good faith can we go back to out constituencies with a national energy policy that does not address the future, does not address short term fixes or long term solutions.

Madam Chairman, several provisions in H.R. 6 will weaken California's rights as a State to govern itself. These include changes in: LNG terminal siting, weakening the Coastal Zone Management Act, and expanding alternative energy projects situated on the Outer Continental Shelf (OCS).

The bill will hand over exclusive jurisdiction for the siting of liquefied natural gas (LNG) facilities to the Federal Energy Regulatory Commission (FERC), preventing the states from having a role in approving the location of LNG terminals and the conditions under which these terminals must operate. This bill even goes as far as making the States seek FERC permission before conducting safety inspections! Plus, they will be barred from taking any independent enforcement action against LNG terminal operators for safety violations.

H.R. 6 weakens California's rights under the CZMA to object to a FERC-approved coastal pipeline or energy facility project when the project is inconsistent with the State's federally-approved coastal management program. Currently when there is a disagreement about a project, the Secretary of Commerce, through an administrative appeals process, determines whether and under what conditions the project can go forward. States can present new evidence supporting their arguments to the Secretary.

Under H.R. 6, states will not be allowed to present new evidence to the Secretary, and the Secretary will not be allowed to seek out evidence on his or her own. The Secretary will only be allowed to rely on the record compiled by FERC. Furthermore, the bill imposes an expedited timeline for appeals, which may not allow a full review of the facts.

We have to protect our shores and near waters. H.R. 6 will give the Department of Interior permitting authority for "alternative" energy projects, such as wind projects, situated on the Outer Continental Shelf (OCS). It also grants the Department of Interior authority to permit other types of energy facilities, including facilities to "support the exploration, development, production, transportation, or storage of oil, natural gas, or other minerals".

Another very dear issue in California is the fuel additive MTBE (methyl tertiary butyl ether), I oppose shielding MTBE producers from product liability lawsuits, thereby forcing taxpayers to pick up the tab to clean up contaminated groundwater in places such as the Salinas Valley, the salad bowl of the world, which has already tested positive for MTBE.

The bill even includes a $2 billion taxpayer-financed subsidy to MTBE producers to convert facilities to produce other chemicals.

The obvious gouging of California consumers is significant evidence that the electricity energy market lacks much needed controls.

Does H.R. 6 correct this? NO—Instead of protecting Americans from the market manipulation that has become all too prevalent, H.R. 6 is weighed down by special interest exemptions that will do more harm than good.

The bill does not give federal regulators the tools they need to prevent and punish bad actors like Enron who manipulate power markets. Instead H.R. 6 offers cosmetic reforms.

Moreover, the bill does nothing to provide refunds to my constituents and West Coast consumers who paid unjust and unreasonable electricity prices during 2000–2001.

Madam Chairman, it's plain and simple—H.R. 6: fails to lower gasoline prices; fails to improve our nation's energy efficiency or promote sustainable alternatives; fails to adequately address future infrastructure needs; fails to learn from the lessons of the California electricity crisis; and fails to prevent future "Enrons" from manipulating energy markets at the expense of consumers.

I urge my colleagues to oppose this legislation so we can develop a comprehensive energy policy that looks to the future and doesn't rely on repackaged outdated technologies from the past.

Mr. KING of Iowa. I rise today in strong support of H.R. 6, the Energy Policy Act. We need a balanced energy policy in this country, and this bill takes great strides towards achieving that balance.

As a founding co-chair of the House Ag Energy Users Caucus, I am concerned that the Corn Belt is being held hostage to high gas, diesel and natural gas prices. Farmers utilize diesel and gasoline to operate their equipment and transport their product. Farmers have had to tighten their belts as prices have increased. Therefore, I am in strong support of this energy bill that allows for exploration in the Arctic National Wildlife Reserve (ANWR), which will allow for more domestic supply of oil.

Nothing has caused more concern for agriculture than the price of natural gas. Natural gas is the primary feedstock for anhydrous ammonia and other fertilizers and accounts for 90 percent of the cost of making nitrogen fertilizer. The surge in natural gas prices over the last 4 years has been a key reason why nitrogen fertilizer costs have jumped by nearly 50 percent at the farm level. This rise in prices has contributed to the growing reliance on imported fertilizer. For that reason, I am in strong support of the natural gas provisions in this bill and would urge Members to oppose amendments that would weaken any natural gas provisions in the bill.

Finally Madam Chairman, most of my colleagues know that Iowa is not only a consumer of energy, but a producer of energy. The Fifth District of Iowa is an energy export center, exporting ethanol and biodiesel all across this nation. This bill includes a 5 billion gallon Renewable Fuels Standard that will be good for our energy independence while securing rural economies. However, I want to see the bill come back from conference with an 8 billion gallon standard.

I urge my colleagues to vote in favor of the Energy Policy Act.

Ms. SCHWARTZ of Pennsylvania. Madam Chairman, I rise today in strong opposition to the Energy Policy Act of 2005.

Madam Chairman, this bill represents a lost opportunity. Now, more than ever, we need an energy bill that will wean the Nation off of foreign oil. We need to do this so hard-working Americans are no longer subjected to the ever-rising costs of gasoline and we have to do this for the safety and security of our Nation.

In my home district, the average price for a gallon of regular unleaded is $2.22 compared to $1.76 just one year ago. Yet, the bill before us will do nothing to relieve Americans from the skyrocketing costs of gas. My colleagues, even the Bush Administration recognizes this; with the Energy Information Administration saying that the bill would actually increase gas prices rather than reduce them.

What's worse is that while the bill does nothing to relieve Americans of their burden at the gas pump, it also takes an additional $7.5 billion out of their pockets as a tax giveaway to oil, gas, coal and nuclear industries—industries that are earning record profits—without setting a course towards energy independence. The President himself said, just last week, "With $55 oil we don't need incentives for oil and gas companies to explore. There are plenty of incentives."

This Congress needs to establish an energy policy that sets America free from its dependence on imported oil. Yet, only seven percent of the tax incentives in this bill will go towards renewable energy and energy efficiency—leaving us to be reliant on the same old energy sources.

H.R. 6 is, unfortunately, par for the course for the Republican Leadership, which has turned a blind eye to scientific discovery—be it medical, physical, or otherwise. America cannot continue to be a world leader with regard to scientific discovery unless we invest and provide incentives, including for energy sources of the future.

In addition to its misdirected energy priorities, the bill contains several dirty little footnotes. It will pollute our air and water and exploit our federal lands. It exempts MTBE manufacturers from cleaning up the groundwater they polluted—violating our Nation's long-standing polluter pay policy. It will let oil and gas companies off the hook from the Safe Water Drinking Act—allowing them to skirt water standards.

Mr. Speaker, we cannot continue to go down the same worn out path. We must set the Nation on a course to energy independence which means promoting cleaner, less expensive energy that we control. That requires a balanced energy policy that aids domestic production but, more importantly, sends us in a new direction by investing in renewable and energy efficient technologies. Unfortunately, H.R. 6 does not meet this goal, leaving our Senate colleagues to find a better way. Hopefully, they will be able to craft a bill that achieves a better balance than this legislation.

I urge a "no" vote on H.R. 6.

☐ 1700

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered read for amendment under the 5-minute rule.

The text of H.R. 6 is as follows:

H.R. 6

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Energy Policy Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for the bill is as follows:

Sec. 1. Short title; table of contents.
TITLE I—ENERGY EFFICIENCY
Subtitle A—Federal Programs
Sec. 101. Energy and water saving measures in congressional buildings.
Sec. 102. Energy management requirements.
Sec. 103. Energy use measurement and accountability.
Sec. 104. Procurement of energy efficient products.
Sec. 105. Energy Savings Performance Contracts.
Sec. 107. Voluntary commitments to reduce industrial energy intensity.
Sec. 108. Advanced Building Efficiency Testbed.
Sec. 109. Federal building performance standards.
Sec. 111. Daylight savings.
Subtitle B—Energy Assistance and State Programs
Sec. 121. Low Income Home Energy Assistance Program.
Sec. 122. Weatherization assistance.
Sec. 123. State energy programs.
Sec. 124. Energy efficient appliance rebate programs.
Sec. 125. Energy efficient public buildings.
Sec. 126. Low income community energy efficiency pilot program.
Subtitle C—Energy Efficient Products
Sec. 131. Energy Star Program.

Sec. 132. HVAC maintenance consumer education program.
Sec. 133. Energy conservation standards for additional products.
Sec. 134. Energy labeling.
Sec. 135. Preemption.
Sec. 136. State consumer product energy efficiency standards.

Subtitle D—Public Housing

Sec. 141. Capacity building for energy-efficient, affordable housing.
Sec. 142. Increase of cdbg public services cap for energy conservation and efficiency activities.
Sec. 143. FHA mortgage insurance incentives for energy efficient housing.
Sec. 144. Public housing capital fund.
Sec. 145. Grants for energy-conserving improvements for assisted housing.
Sec. 147. Energy-efficient appliances.
Sec. 148. Energy efficiency standards.
Sec. 149. Energy strategy for HUD.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

Sec. 201. Assessment of renewable energy resources.
Sec. 202. Renewable energy production incentive.
Sec. 203. Federal purchase requirement.
Sec. 204. Insular areas energy security.
Sec. 205. Use of photovoltaic energy in public buildings.
Sec. 206. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, petroleum-based product substitutes, and other commercial purposes.
Sec. 207. Biobased products.
Sec. 208. Renewable energy security.

Subtitle C—Hydroelectric

PART I—ALTERNATIVE CONDITIONS

Sec. 231. Alternative conditions and fishways.

PART II—ADDITIONAL HYDROPOWER

Sec. 241. Hydroelectric production incentives.
Sec. 242. Hydroelectric efficiency improvement.
Sec. 243. Small hydroelectric power projects.
Sec. 244. Increased hydroelectric generation at existing Federal facilities.
Sec. 245. Shift of project loads to off-peak periods.

TITLE III—OIL AND GAS—COMMERCE

Subtitle A—Petroleum Reserve and Home Heating Oil

Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
Sec. 302. National Oilheat Research Alliance.
Sec. 303. Site selection.
Sec. 304. Suspension of Strategic Petroleum Reserve deliveries.

Subtitle B—Production Incentives

Sec. 320. Liquefaction or gasification natural gas terminals.
Sec. 327. Hydraulic fracturing.
Sec. 328. Oil and gas exploration and production defined.
Sec. 329. Outer Continental Shelf provisions.
Sec. 330. Appeals relating to pipeline construction or offshore mineral development projects.
Sec. 333. Natural gas market transparency.

Subtitle C—Access to Federal Land

Sec. 344. Consultation regarding oil and gas leasing on public land.
Sec. 346. Compliance with executive order 13211; actions concerning regulations that significantly affect energy supply, distribution, or use.
Sec. 355. Encouraging Great Lakes oil and gas drilling ban.
Sec. 358. Federal coalbed methane regulation.

Subtitle D—Refining Revitalization

Sec. 371. Short title.
Sec. 372. Findings.
Sec. 373. Purpose.
Sec. 374. Designation of Refinery Revitalization Zones.
Sec. 375. Memorandum of understanding.
Sec. 376. State environmental permitting assistance.
Sec. 377. Coordination and expeditious review of permitting process.
Sec. 378. Compliance with all environmental regulations required.
Sec. 379. Definitions.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

Sec. 401. Authorization of appropriations.
Sec. 402. Project criteria.
Sec. 403. Report.
Sec. 404. Clean Coal Centers of Excellence.

Subtitle B—Clean Power Projects

Sec. 411. Coal technology loan.
Sec. 412. Coal gasification.
Sec. 414. Petroleum coke gasification.
Sec. 416. Electron scrubbing demonstration.

Subtitle D—Coal and Related Programs

Sec. 441. Clean air coal program.

TITLE V—INDIAN ENERGY

Sec. 501. Short title.
Sec. 502. Office of Indian Energy Policy and Programs.
Sec. 503. Indian energy.
Sec. 504. Consultation with Indian tribes.
Sec. 505. Four Corners transmission line project.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

Sec. 601. Short title.
Sec. 602. Extension of indemnification authority.
Sec. 603. Maximum assessment.
Sec. 604. Department of Energy liability limit.
Sec. 605. Incidents outside the United States.
Sec. 606. Reports.
Sec. 607. Inflation adjustment.
Sec. 608. Treatment of modular reactors.
Sec. 609. Applicability.
Sec. 610. Prohibition on assumption by United States Government of liability for certain foreign incidents.
Sec. 611. Civil penalties.
Sec. 612. Financial accountability.

Subtitle B—General Nuclear Matters

Sec. 621. Licenses.
Sec. 622. NRC training program.
Sec. 623. Cost recovery from government agencies.
Sec. 624. Elimination of pension offset.
Sec. 625. Antitrust review.
Sec. 626. Decommissioning.
Sec. 627. Limitation on legal fee reimbursement.
Sec. 629. Report on feasibility of developing commercial nuclear energy generation facilities at existing Department of Energy sites.
Sec. 630. Uranium sales.
Sec. 631. Cooperative research and development and special demonstration projects for the uranium mining industry.
Sec. 632. Whistleblower protection.
Sec. 633. Medical isotope production.
Sec. 634. Fernald byproduct material.
Sec. 635. Safe disposal of greater-than-class c radioactive waste.
Sec. 636. Prohibition on nuclear exports to countries that sponsor terrorism.
Sec. 638. National uranium stockpile.
Sec. 639. Nuclear Regulatory Commission meetings.
Sec. 640. Employee benefits.

Subtitle C—Additional Hydrogen Production Provisions

Sec. 651. Hydrogen production programs.
Sec. 652. Definitions.

Subtitle D—Nuclear Security

Sec. 661. Nuclear facility threats.
Sec. 662. Fingerprinting for criminal history record checks.
Sec. 663. Use of firearms by security personnel of licensees and certificate holders of the Commission.
Sec. 664. Unauthorized introduction of dangerous weapons.
Sec. 665. Sabotage of nuclear facilities or fuel.
Sec. 666. Secure transfer of nuclear materials.
Sec. 667. Department of Homeland Security consultation.
Sec. 668. Authorization of appropriations.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

Sec. 701. Use of alternative fuels by dual-fueled vehicles.
Sec. 704. Incremental cost allocation.
Sec. 705. Lease condensates.
Sec. 706. Review of Energy Policy Act of 1992 programs.
Sec. 707. Report concerning compliance with alternative fueled vehicle purchasing requirements.

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART 1—HYBRID VEHICLES

Sec. 711. Hybrid vehicles.
Sec. 712. Hybrid retrofit and electric conversion program.

PART 2—ADVANCED VEHICLES

Sec. 721. Definitions.
Sec. 722. Pilot program.
Sec. 723. Reports to Congress.
Sec. 724. Authorization of appropriations.

PART 3—FUEL CELL BUSES

Sec. 731. Fuel cell transit bus demonstration.

Subtitle C—Clean School Buses

Sec. 741. Definitions.
Sec. 742. Program for replacement of certain school buses with clean school buses.
Sec. 743. Diesel retrofit program.
Sec. 744. Fuel cell school buses.

Subtitle D—Miscellaneous

Sec. 751. Railroad efficiency.
Sec. 752. Mobile emission reductions trading and crediting.
Sec. 753. Aviation fuel conservation and emissions.
Sec. 754. Diesel fueled vehicles.
Sec. 756. Reduction of engine idling of heavy-duty vehicles.
Sec. 757. Biodiesel engine testing program.
Sec. 758. High occupancy vehicle exception.
Sec. 759. Ultra-efficient engine technology for aircraft.

Subtitle E—Automobile Efficiency

Sec. 771. Authorization of appropriations for implementation and enforcement of fuel economy standards.
Sec. 772. Revised considerations for decisions on maximum feasible average fuel economy.
Sec. 773. Extension of maximum fuel economy increase for alternative fueled vehicles.
Sec. 774. Study of feasibility and effects of reducing use of fuel for automobiles.

TITLE VIII—HYDROGEN

Sec. 801. Definitions.
Sec. 802. Plan.
Sec. 803. Programs.
Sec. 804. Interagency task force.
Sec. 805. Advisory Committee.
Sec. 806. External review.
Sec. 807. Miscellaneous provisions.
Sec. 808. Savings clause.
Sec. 809. Authorization of appropriations.
Sec. 810. Solar and wind technologies.

TITLE IX—RESEARCH AND DEVELOPMENT

Sec. 900. Short title; definitions.

Subtitle A—Science Programs

Sec. 901. Office of Science programs.
Sec. 902. Systems biology program.
Sec. 903. Catalysis Research and Development Program.
Sec. 904. Hydrogen.
Sec. 905. Advanced scientific computing research.
Sec. 906. Fusion Energy Sciences program.
Sec. 907. Science and Technology Scholarship Program.
Sec. 908. Office of Scientific and Technical Information.
Sec. 909. Science and engineering pilot program.
Sec. 910. Authorization of appropriations.

Subtitle B—Research Administration and Operations

Sec. 911. Cost Sharing.
Sec. 912. Reprogramming.
Sec. 913. Merit-based competition.
Sec. 914. External technical review of departmental programs.
Sec. 915. Competitive award of management contracts.
Sec. 916. National Laboratory designation.
Sec. 917. Report on equal employment opportunity practices.
Sec. 918. User facility best practices plan.
Sec. 919. Support for science and energy infrastructure and facilities.
Sec. 920. Coordination plan.
Sec. 921. Availability of funds.

Subtitle C—Energy Efficiency

CHAPTER 1—VEHICLES, BUILDINGS, AND INDUSTRIES

Sec. 922. Programs.
Sec. 923. Vehicles.
Sec. 924. Buildings.
Sec. 925. Industries.
Sec. 926. Demonstration and commercial application.
Sec. 927. Secondary electric vehicle battery use program.
Sec. 928. Next generation lighting initiative.
Sec. 929. Definitions.
Sec. 930. Authorization of appropriations.
Sec. 931. Limitation on use of funds.

CHAPTER 2—DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS

Sec. 932. Distributed energy.
Sec. 933. Electricity transmission and distribution and energy assurance.
Sec. 933A. Advanced portable power devices.
Sec. 934. Authorization of appropriations.

Subtitle D—Renewable energy

Sec. 935. Findings.
Sec. 936. Definitions.
Sec. 937. Programs.
Sec. 938. Solar.
Sec. 939. Bioenergy programs.
Sec. 940. Wind.
Sec. 941. Geothermal.
Sec. 942. Photovoltaic demonstration program.
Sec. 943. Additional programs.
Sec. 944. Analysis and evaluation.
Sec. 945. Authorization of appropriations.

Subtitle E—Nuclear Energy Programs

Sec. 946. Definition.
Sec. 947. Programs.

CHAPTER 1—NUCLEAR ENERGY RESEARCH PROGRAMS

Sec. 948. Advanced fuel recycling program.
Sec. 949. University nuclear science and engineering support.
Sec. 950. University-National Laboratory interactions.
Sec. 951. Nuclear Power 2010 Program.
Sec. 952. Generation IV Nuclear Energy Systems Initiative.
Sec. 953. Civilian infrastructure and facilities.
Sec. 954. Nuclear energy research and development infrastructure plan.
Sec. 955. Idaho National Laboratory facilities plan.
Sec. 956. Authorization of appropriations.

CHAPTER 2—NEXT GENERATION NUCLEAR PLANT PROGRAM

Sec. 957. Definitions.
Sec. 958. Next generation nuclear power plant.
Sec. 959. Advisory committee.
Sec. 960. Program requirements.
Sec. 961. Authorization of appropriations.

Subtitle F—Fossil Energy

CHAPTER 1—RESEARCH PROGRAMS

Sec. 962. Enhanced fossil energy research and development programs.
Sec. 963. Fossil research and development.
Sec. 964. Oil and gas research and development.
Sec. 965. Transportation fuels.
Sec. 966. Fuel cells.
Sec. 967. Carbon dioxide capture research and development.
Sec. 968. Authorization of appropriations.

CHAPTER 2—ULTRA-DEEPWATER AND UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES

Sec. 969. Program authority.
Sec. 970. Ultra-deepwater and unconventional onshore natural gas and other petroleum research and development program.
Sec. 971. Additional requirements for awards.
Sec. 972. Advisory committees.
Sec. 973. Limits on participation.
Sec. 974. Sunset.
Sec. 975. Definitions.
Sec. 976. Funding.

Subtitle G—Improved coordination and management of civilian science and technology programs

Sec. 978. Improved coordination and management of civilian science and technology programs.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

Sec. 1002. Other transactions authority.
Sec. 1003. University collaboration.
Sec. 1004. Sense of Congress.

TITLE XII—ELECTRICITY

Sec. 1201. Short title.

Subtitle A—Reliability Standards

Sec. 1211. Electric reliability standards.

Subtitle B—Transmission Infrastructure Modernization

Sec. 1221. Siting of interstate electric transmission facilities.
Sec. 1222. Third-party finance.
Sec. 1223. Transmission system monitoring.
Sec. 1224. Advanced transmission technologies.
Sec. 1225. Electric transmission and distribution programs.
Sec. 1226. Advanced Power System Technology Incentive Program.
Sec. 1227. Office of Electric Transmission and Distribution.

Subtitle C—Transmission Operation Improvements

Sec. 1231. Open nondiscriminatory access.
Sec. 1232. Sense of Congress on Regional Transmission Organizations.
Sec. 1233. Regional Transmission Organization applications progress report.
Sec. 1234. Federal utility participation in Regional Transmission Organizations.
Sec. 1235. Standard market design.
Sec. 1236. Native load service obligation.
Sec. 1237. Study on the benefits of economic dispatch.

Subtitle D—Transmission Rate Reform

Sec. 1241. Transmission infrastructure investment.

Subtitle E—Amendments to PURPA

Sec. 1251. Net metering and additional standards.
Sec. 1252. Smart metering.
Sec. 1253. Cogeneration and small power production purchase and sale requirements.
Sec. 1254. Interconnection.

Subtitle F—Repeal of PUHCA

Sec. 1261. Short title.
Sec. 1262. Definitions.
Sec. 1263. Repeal of the Public Utility Holding Company Act of 1935.
Sec. 1264. Federal access to books and records.
Sec. 1265. State access to books and records.
Sec. 1266. Exemption authority.
Sec. 1267. Affiliate transactions.
Sec. 1268. Applicability.
Sec. 1269. Effect on other regulations.
Sec. 1270. Enforcement.
Sec. 1271. Savings provisions.
Sec. 1272. Implementation.
Sec. 1273. Transfer of resources.
Sec. 1274. Effective date.
Sec. 1275. Service allocation.
Sec. 1276. Authorization of appropriations.
Sec. 1277. Conforming amendments to the Federal Power Act.

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

Sec. 1281. Market transparency rules.
Sec. 1282. Market manipulation.
Sec. 1283. Enforcement.
Sec. 1284. Refund effective date.
Sec. 1285. Refund authority.
Sec. 1286. Sanctity of contract.
Sec. 1287. Consumer privacy and unfair trade practices.

Subtitle H—Merger Reform

Sec. 1291. Merger review reform and accountability.
Sec. 1292. Electric utility mergers.

Subtitle I—Definitions

Sec. 1295. Definitions.

Subtitle J—Technical and Conforming Amendments
Sec. 1297. Conforming amendments.
Subtitle K—Economic Dispatch
Sec. 1298. Economic dispatch.
TITLE XIII—ENERGY TAX INCENTIVES
Sec. 1300. Short title; etc.
Subtitle A—Energy Infrastructure Tax Incentives
Sec. 1301. Natural gas gathering lines treated as 7-year property.
Sec. 1302. Natural gas distribution lines treated as 15-year property.
Sec. 1303. Electric transmission property treated as 15-year property.
Sec. 1304. Expansion of amortization for certain atmospheric pollution control facilities in connection with plants first placed in service after 1975.
Sec. 1305. Modification of credit for producing fuel from a nonconventional source.
Sec. 1306. Modifications to special rules for nuclear decommissioning costs.
Sec. 1307. Arbitrage rules not to apply to prepayments for natural gas.
Sec. 1308. Determination of small refiner exception to oil depletion deduction.
Subtitle B—Miscellaneous Energy Tax Incentives
Sec. 1311. Credit for residential energy efficient property.
Sec. 1312. Credit for business installation of qualified fuel cells.
Sec. 1313. Reduced motor fuel excise tax on certain mixtures of diesel fuel.
Sec. 1314. Amortization of delay rental payments.
Sec. 1315. Amortization of geological and geophysical expenditures.
Sec. 1316. Advanced lean burn technology motor vehicle credit.
Sec. 1317. Credit for energy efficiency improvements to existing homes.
Subtitle C—Alternative minimum tax relief
Sec. 1321. New nonrefundable personal credits allowed against regular and minimum taxes.
Sec. 1322. Certain business energy credits allowed against regular and minimum taxes.
TITLE XIV—MISCELLANEOUS
Subtitle C—Other Provisions
Sec. 1441. Continuation of transmission security order.
Sec. 1442. Review of agency determinations.
Sec. 1443. Attainment dates for downwind ozone nonattainment areas.
Sec. 1444. Energy production incentives.
Sec. 1446. Regulation of certain oil used in transformers.
Sec. 1447. Risk assessments.
Sec. 1448. Oxygen-fuel.
Sec. 1449. Petrochemical and oil refinery facility health assessment.
Sec. 1450. United States-Israel cooperation.
Sec. 1451. Carbon-based fuel cell development.
TITLE XV—ETHANOL AND MOTOR FUELS
Subtitle A—General Provisions
Sec. 1501. Renewable content of motor vehicle fuel.
Sec. 1502. Fuels safe harbor.
Sec. 1503. Findings and MTBE transition assistance.
Sec. 1504. Use of MTBE.
Sec. 1505. National Academy of Sciences review and presidential determination.
Sec. 1506. Elimination of oxygen content requirement for reformulated gasoline.
Sec. 1507. Analyses of motor vehicle fuel changes.
Sec. 1508. Data collection.
Sec. 1509. Reducing the proliferation of State fuel controls.
Sec. 1510. Fuel system requirements harmonization study.
Sec. 1511. Commercial byproducts from municipal solid waste and cellulosic biomass loan guarantee program.
Sec. 1512. Cellulosic biomass and waste-derived ethanol conversion assistance.
Sec. 1513. Blending of compliant reformulated gasolines.
Subtitle B—Underground Storage Tank Compliance
Sec. 1521. Short title.
Sec. 1522. Leaking underground storage tanks.
Sec. 1523. Inspection of underground storage tanks.
Sec. 1524. Operator training.
Sec. 1525. Remediation from oxygenated fuel additives.
Sec. 1526. Release prevention, compliance, and enforcement.
Sec. 1527. Delivery prohibition.
Sec. 1528. Federal facilities.
Sec. 1529. Tanks on Tribal lands.
Sec. 1530. Additional measures to protect groundwater.
Sec. 1531. Authorization of appropriations.
Sec. 1532. Conforming amendments.
Sec. 1533. Technical amendments.
Subtitle C—Boutique Fuels
Sec. 1541. Reducing the proliferation of boutique fuels.
TITLE XVI—STUDIES
Sec. 1601. Study on inventory of petroleum and natural gas storage.
Sec. 1605. Study of energy efficiency standards.
Sec. 1606. Telecommuting study.
Sec. 1607. LIHEAP report.
Sec. 1608. Oil bypass filtration technology.
Sec. 1609. Total integrated thermal systems.
Sec. 1610. University collaboration.
Sec. 1611. Reliability and consumer protection assessment.
Sec. 1612. Report on energy integration with Latin America.
Sec. 1613. Low-volume gas reservoir study.
TITLE XVII—RENEWABLE ENERGY
Sec. 1701. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, petroleum-based product substitutes, and other commercial purposes.
Sec. 1702. Environmental review for renewable energy projects.
Sec. 1703. Sense of Congress regarding generation capacity of electricity from renewable energy resources on public lands.
TITLE XVIII—GEOTHERMAL ENERGY
Sec. 1801. Short title.
Sec. 1802. Competitive lease sale requirements.
Sec. 1803. Direct use.
Sec. 1804. Royalties and near-term production incentives.
Sec. 1805. Expediting administrative action for geothermal leasing.
Sec. 1806. Coordination of geothermal leasing and permitting on Federal lands.
Sec. 1807. Review and report to Congress.
Sec. 1808. Reimbursement for costs of NEPA analyses, documentation, and studies.
Sec. 1809. Assessment of geothermal energy potential.
Sec. 1810. Cooperative or unit plans.
Sec. 1811. Royalty on byproducts.
Sec. 1812. Repeal of authorities of Secretary to readjust terms, conditions, rentals, and royalties.
Sec. 1813. Crediting of rental toward royalty.
Sec. 1814. Lease duration and work commitment requirements.
Sec. 1815. Advanced royalties required for suspension of production.
Sec. 1816. Annual rental.
Sec. 1817. Deposit and use of geothermal lease revenues for 5 fiscal years.
Sec. 1818. Repeal of acreage limitations.
Sec. 1819. Technical amendments.
Sec. 1820. Intermountain West Geothermal Consortium.
TITLE XIX—HYDROPOWER
Sec. 1901. Increased hydroelectric generation at existing Federal facilities.
Sec. 1902. Shift of project loads to off-peak periods.
Sec. 1903. Report identifying and describing the status of potential hydropower facilities.
TITLE XX—OIL AND GAS—RESOURCES
Subtitle A—Production incentives
Sec. 2001. Definition of Secretary.
Sec. 2002. Program on oil and gas royalties in-kind.
Sec. 2003. Marginal property production incentives.
Sec. 2004. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
Sec. 2005. Royalty relief for deep water production.
Sec. 2006. Alaska offshore royalty suspension.
Sec. 2007. Oil and gas leasing in the National Petroleum Reserve in Alaska.
Sec. 2008. Orphaned, abandoned, or idled wells on Federal land.
Sec. 2009. Combined hydrocarbon leasing.
Sec. 2010. Alternate energy-related uses on the outer Continental Shelf.
Sec. 2011. Preservation of geological and geophysical data.
Sec. 2012. Oil and gas lease acreage limitations.
Sec. 2013. Deadline for decision on appeals of consistency determination under the Coastal Zone Management Act of 1972.
Sec. 2014. Reimbursement for costs of NEPA analyses, documentation, and studies.
Sec. 2015. Gas hydrate production incentive.
Sec. 2016. Onshore deep gas production incentive.
Sec. 2017. Enhanced oil and natural gas production incentive.
Sec. 2018. Oil shale.
Sec. 2019. Use of information about oil and gas public challenges.
Subtitle B—Access to Federal land
Sec. 2021. Office of Federal Energy Project Coordination.
Sec. 2022. Federal onshore oil and gas leasing and permitting practices.
Sec. 2023. Management of Federal oil and gas leasing programs.
Sec. 2024. Consultation regarding oil and gas leasing on public land.

Sec. 2025. Estimates of oil and gas resources underlying onshore Federal land.
Sec. 2026. Compliance with executive order 13211; actions concerning regulations that significantly affect energy supply, distribution, or use.
Sec. 2027. Pilot project to improve Federal permit coordination.
Sec. 2028. Deadline for consideration of applications for permits.
Sec. 2029. Clarification of fair market rental value determinations for public land and Forest Service rights-of-way.
Sec. 2030. Energy facility rights-of-way and corridors on Federal land.
Sec. 2031. Consultation regarding energy rights-of-way on public land.
Sec. 2032. Electricity transmission line right-of-way, Cleveland National Forest and adjacent public land, California.
Sec. 2033. Sense of Congress regarding development of minerals under Padre Island National Seashore.
Sec. 2034. Livingston Parish mineral rights transfer.

Subtitle C—Naval Petroleum Reserves

Sec. 2041. Transfer of administrative jurisdiction and environmental remediation, Naval Petroleum Reserve Numbered 2, Kern County, California.
Sec. 2042. Land conveyance, portion of Naval Petroleum Reserve Numbered 2, to City of Taft, California.
Sec. 2043. Revocation of land withdrawal.
Sec. 2044. Effect of transfer and conveyance.

Subtitle D—Miscellaneous Provisions

Sec. 2051. Split-estate Federal oil and gas leasing and development practices.
Sec. 2052. Royalty payments under leases under the Outer Continental Shelf Lands Act.
Sec. 2053. Domestic offshore energy reinvestment.
Sec. 2054. Repurchase of leases that are not allowed to be explored or developed.

TITLE XXI—COAL

Sec. 2101. Short title.
Sec. 2102. Lease modifications for contiguous coal lands or coal deposits.
Sec. 2103. Approval of logical mining units.
Sec. 2104. Payment of advance royalties under coal leases.
Sec. 2105. Elimination of deadline for submission of coal lease operation and reclamation plan.
Sec. 2106. Amendment relating to financial assurances with respect to bonus bids.
Sec. 2107. Inventory requirement.
Sec. 2108. Application of amendments.
Sec. 2109. Resolution of Federal resource development conflicts in the Powder River Basin.

TITLE XXII—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

Sec. 2201. Short title.
Sec. 2202. Definitions.
Sec. 2203. Leasing program for lands within the coastal plain.
Sec. 2204. Lease sales.
Sec. 2205. Grant of leases by the Secretary.
Sec. 2206. Lease terms and conditions.
Sec. 2207. Coastal Plain environmental protection.
Sec. 2208. Expedited judicial review
Sec. 2209. Federal and State distribution of revenues.
Sec. 2210. Rights-of-way across the Coastal Plain.
Sec. 2211. Conveyance.
Sec. 2212. Local government impact aid and community service assistance.

TITLE XXIII—SET AMERICA FREE (SAFE)

Sec. 2301. Short title.
Sec. 2302. Findings.
Sec. 2303. Purpose.
Sec. 2304. United States Commission on North American Energy Freedom.
Sec. 2305. North American energy freedom policy.

TITLE XXV—GRAND CANYON HYDROGEN-POWERED TRANSPORTATION DEMONSTRATION

Sec. 2501. Short title.
Sec. 2502. Definitions.
Sec. 2503. Findings.
Sec. 2504. Research, development, and demonstration program.
Sec. 2505. Reports to Congress.
Sec. 2506. Authorization of appropriations.

TITLE XXVI—ADDITIONAL PROVISIONS

Sec. 2601. Limitation on required review under NEPA.
Sec. 2602. Enhancing energy efficiency in management of Federal lands.

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 101. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) is amended by adding at the end the following:

"SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.

"(a) IN GENERAL.—The Architect of the Capitol—

"(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the 'plan') for all facilities administered by Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

"(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

"(b) PLAN REQUIREMENTS.—The plan shall include—

"(1) a description of the life cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

"(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

"(3) a strategy for installation of life cycle cost-effective energy and water conservation measures;

"(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

"(5) information packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

"(c) ANNUAL REPORT.—The Architect of the Capitol shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

"(1) energy expenditures and savings estimates for each facility;

"(2) energy management and conservation projects; and

"(3) future priorities to ensure compliance with this section.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title V the following new item:

"Sec. 552. Energy and water savings measures in congressional buildings.".

(c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (2 U.S.C. 1815), is repealed.

(d) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Architect of the Capitol to carry out subsection (d), $2,000,000 for each of fiscal years 2006 through 2010.

SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—

(1) AMENDMENT.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking "its Federal buildings so that" and all that follows through the end and inserting "the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2006 through 2015 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2003, by the percentage specified in the following table:

"Fiscal Year	Percentage reduction
2006	2
2007	4
2008	6
2009	8
2010	10
2011	12
2012	14
2013	16
2014	18
2015	20.".

(2) REPORTING BASELINE.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)), as amended by this subsection, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(b) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

"(3) Not later than December 31, 2014, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2016 through 2025.".

(c) Exclusions.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking "An agency may exclude" and all that follows through the end and inserting "(A) An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

"(i) compliance with those requirements would be impracticable;

"(ii) the agency has completed and submitted all federally required energy management reports;

"(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive orders, and other Federal law; and

"(iv) the agency has implemented all practicable, life cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

"(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

"(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

"(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.".

(d) Review by Secretary.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking "impracticability standards" and inserting "standards for exclusion";

(2) by striking "a finding of impracticability" and inserting "the exclusion"; and

(3) by striking "energy consumption requirements" and inserting "requirements of subsections (a) and (b)(1)".

(e) Criteria.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the following:

"(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).".

(f) Retention of Energy and Water Savings.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

"(e) Retention of Energy and Water Savings.—An agency may retain any funds appropriated to that agency for energy expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings or water savings. Except as otherwise provided by law, such funds may be used only for energy efficiency, water conservation, or unconventional and renewable energy resources projects.".

(g) Reports.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting "The President and" before "Congress"; and

(2) by inserting "President and" before "Congress".

(h) Conforming Amendment.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking "the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a))." and inserting "each of the energy reduction goals established under section 543(a).".

SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

"(e) Metering of Energy Use.—

"(1) Deadline.—By October 1, 2012, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy managers.

"(2) Guidelines.—

"(A) In general.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, energy efficiency advocacy organizations, national laboratories, universities, and Federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

"(B) Requirements for guidelines.—The guidelines shall—

"(i) take into consideration—

"(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

"(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

"(III) the measurement and verification protocols of the Department of Energy;

"(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

"(iii) establish priorities for types and locations of buildings to be metered and submetered based on cost-effectiveness and a schedule of 1 or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

"(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

"(3) Plan.—Not later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (A) how the agency will designate personnel primarily responsible for achieving the requirements and (B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.".

SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) Requirements.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), as amended by section 101, is amended by adding at the end the following:

"SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

"(a) Definitions.—In this section:

"(1) Agency.—The term 'agency' has the meaning given that term in section 7902(a) of title 5, United States Code.

"(2) Energy star product.—The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

"(3) Energy star program.—The term 'Energy Star program' means the program established by section 324A of the Energy Policy and Conservation Act.

"(4) FEMP designated product.—The term 'FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

"(b) Procurement of Energy Efficient Products.—

"(1) Requirement.—To meet the requirements of an agency for an energy consuming product, the head of the agency shall, except as provided in paragraph (2), procure—

"(A) an Energy Star product; or

"(B) a FEMP designated product.

"(2) Exceptions.—The head of an agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the agency finds in writing that—

"(A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or

"(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the agency.

"(3) Procurement planning.—The head of an agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

"(c) Listing of Energy Efficient Products in Federal Catalogs.—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases where the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer's functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

"(d) Specific Products.—(1) In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard not later than 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

"(2) All Federal agencies are encouraged to take actions to maximize the efficiency of air conditioning and refrigeration equipment, including appropriate cleaning and maintenance, including the use of any system treatment or additive that will reduce the electricity consumed by air conditioning and refrigeration equipment. Any such treatment or additive must be—

"(A) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on air conditioning performance (including cooling capacity) or equipment useful life;

"(B) determined by the Administrator of the Environmental Protection Agency to be environmentally safe; and

"(C) shown to increase seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) when tested by the National Institute of Standards and Technology according to Department of Energy test procedures without causing any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

Results of testing described in subparagraph (C) shall be published in the Federal Register for public review and comment. For purposes of this section, a hardware device or primary refrigerant shall not be considered an additive.

"(e) Regulations.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.".

(b) Conforming Amendment.—The table of contents of the National Energy Conservation Policy Act is further amended by inserting after the item relating to section 552 the following new item:

"Sec. 553. Federal procurement of energy efficient products.".

SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) Limitations.—

(1) In general.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following subparagraph:

"(E) All Federal agencies combined may not, after the date of enactment of the Energy Policy Act of 2005, enter into more than a total of 100 contracts under this title. Payments made by the Federal Government under all contracts permitted by this subparagraph combined shall not exceed a total of $500,000,000. Each Federal agency shall appoint a coordinator for Energy Savings Performance Contracts with the responsibility to monitor the number of such contracts for that Federal agency and the investment value of each contract. The coordinators for each Federal agency shall meet monthly to ensure that the limits specified in this subparagraph on the number of contracts and the payments made for the contracts are not exceeded.".

(2) Definition.—Section 804(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(1)) is amended to read as follows:

"(1) The term 'Federal agency' means the Department of Defense, the Department of Veterans Affairs, and the Department of Energy. ".

(3) Validity of contracts.—The amendments made by this subsection shall not affect the validity of contracts entered into under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) before the date of enactment of this Act, or of contracts described in subsection (h).

(b) Permanent Extension.—Effective October 1, 2006, section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(c) Payment of Costs.—Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a) is amended by inserting ", water, or wastewater treatment" after "payment of energy".

(d) Energy Savings.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

"(2) The term 'energy savings' means a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

"(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

"(C) the increased efficient use of existing water sources in either interior or exterior applications.".

(e) Energy Savings Contract.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract that provides for the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building (as such term is defined in section 3301 of title 40, United States Code), be in compliance with the prospectus requirements and procedures of section 3307 of title 40, United States Code.".

(f) Energy or Water Conservation Measure.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

"(4) The term 'energy or water conservation measure' means—

"(A) an energy conservation measure, as defined in section 551; or

"(B) a water conservation measure that improves the efficiency of water use, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.".

(g) Review.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including the identification of additional qualified contractors, and energy efficiency services covered. The Secretary shall report these findings to Congress and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

(h) Extension of Authority.—Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2006, and before the date of enactment of this Act, shall be deemed to have been entered into pursuant to such section 801 as amended by subsection (a) of this section.

SEC. 107. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) Voluntary Agreements.—The Secretary of Energy is authorized to enter into voluntary agreements with 1 or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities by a significant amount relative to improvements in each sector in recent years.

(b) Recognition.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and other appropriate Federal agencies, shall recognize and publicize the achievements of participants in voluntary agreements under this section.

(c) Definition.—In this section, the term "energy intensity" means the primary energy consumed per unit of physical output in an industrial process.

SEC. 108. ADVANCED BUILDING EFFICIENCY TESTBED.

(a) Establishment.—The Secretary of Energy, in consultation with the Administrator of General Services, shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate efficiency concepts for government and industry buildings, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health (including by improving indoor air quality) as well as flexibility and technological change to improve environmental sustainability. Such program shall complement and not duplicate existing national programs.

(b) Participants.—The program established under subsection (a) shall be led by a university with the ability to combine the expertise from numerous academic fields including, at a minimum, intelligent workplaces and advanced building systems and engineering, electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $6,000,000 for each of the fiscal years 2006 through 2008, to remain available until expended. For any fiscal year in which funds are expended under this section, the Secretary shall provide ⅓ of the total amount to the lead university described in subsection (b), and provide the remaining ⅔ to the other participants referred to in subsection (b) on an equal basis.

SEC. 109. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking "CABO Model Energy Code, 1992" and inserting "the 2003 International Energy Conservation Code"; and

(2) by adding at the end the following:

"(3) Revised Federal Building Energy Efficiency Performance Standards.—

"(A) In general.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

"(i) if life-cycle cost-effective, for new Federal buildings—

"(I) such buildings be designed so as to achieve energy consumption levels at least 30 percent below those of the version current as of the date of enactment of this paragraph of the ASHRAE Standard or the International Energy Conservation Code, as appropriate; and

"(II) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings; and

"(ii) where water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent they are life-cycle cost effective.

"(B) Additional revisions.—Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

"(C) Statement on compliance of new buildings.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

"(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

"(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph.".

SEC. 111. DAYLIGHT SAVINGS.

(a) Repeal.—Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended—

(1) by striking "April" and inserting "March"; and

(2) by striking "October" and inserting "November".

(b) Report to Congress.—Not later than 9 months after the date of enactment of this Act, the Secretary of Energy shall report to Congress on the impact this section on energy consumption in the United States.

Subtitle B—Energy Assistance and State Programs

SEC. 121. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) Authorization of Appropriations.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking "and $2,000,000,000 for each of fiscal years 2002 through 2004" and inserting "and $5,100,000,000 for each of fiscal years 2005 through 2007".

(b) Renewable Fuels.—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) is amended by adding at the end the following new section:

"RENEWABLE FUELS

"Sec. 2612. In providing assistance pursuant to this title, a State, or any other person with which the State makes arrangements to carry out the purposes of this title, may purchase renewable fuels, including biomass.".

(c) Report to Congress.—The Secretary of Energy shall report to Congress on the use of renewable fuels in providing assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 122. WEATHERIZATION ASSISTANCE.

(a) Authorization of Appropriations.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary" and inserting "$500,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, and $700,000,000 for fiscal year 2008".

(b) Eligibility.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking "125 percent" both places it appears and inserting "150 percent".

SEC. 123. STATE ENERGY PROGRAMS.

(a) State Energy Conservation Plans.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.".

(b) State Energy Efficiency Goals.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"Sec. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2005 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.".

(c) Authorization of Appropriations.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary" and inserting "$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008".

SEC. 124. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) Definitions.—In this section:

(1) Eligible state.—The term "eligible State" means a State that meets the requirements of subsection (b).

(2) Energy star program.—The term "Energy Star program" means the program established by section 324A of the Energy Policy and Conservation Act.

(3) Residential energy star product.—The term "residential Energy Star product" means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) Secretary.—The term "Secretary" means the Secretary of Energy.

(5) State energy office.—The term "State energy office" means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(6) State program.—The term "State program" means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) Eligible States.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) Amount of Allocations.—

(1) In general.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) Minimum allocations.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) Use of Allocated Funds.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) Issuance of Rebates.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to, the residential Energy Star product.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section

$50,000,000 for each of the fiscal years 2006 through 2010.

SEC. 125. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary of Energy may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in the most recent version of the International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $30,000,000 for each of fiscal years 2006 through 2010. Not more than 10 percent of appropriated funds shall be used for administration.

SEC. 126. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency; identify and develop alternative, renewable, and distributed energy supplies; and increase energy conservation in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable, and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy $20,000,000 for each of fiscal years 2006 through 2008.

Subtitle C—Energy Efficient Products

SEC. 131. ENERGY STAR PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended by inserting the following after section 324:

"SEC. 324A. ENERGY STAR PROGRAM.

"There is established at the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of or other forms of communication about products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the 2 agencies. The Administrator and the Secretary shall—

"(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

"(2) work to enhance public awareness of the Energy Star label, including special outreach to small businesses;

"(3) preserve the integrity of the Energy Star label;

"(4) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or effective dates for any of the foregoing);

"(5) upon adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria along with an explanation of such changes and, where appropriate, responses to comments submitted by interested parties; and

"(6) provide appropriate lead time (which shall be 9 months, unless the Agency or Department determines otherwise) prior to the effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

"Sec. 324A. Energy Star program.".

SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

"(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems. The Secretary shall carry out the program in a cost-shared manner in cooperation with the Administrator of the Environmental Protection Agency and such other entities as the Secretary considers appropriate, including industry trade associations, industry members, and energy efficiency organizations.

"(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the existing Energy Star for Small Business Program, to assist small businesses to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator of the Small Business Administration shall make the program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Program and the Department of Agriculture.".

SEC. 133. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in paragraph (30)(S), by striking the period and adding at the end the following: "but does not include any lamp specifically designed to be used for special purpose applications and that is unlikely to be used in general purpose applications such as those described in subparagraph (D), and also does not include any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is designed for special applications and is unlikely to be used in general purpose applications."; and

(2) by adding at the end the following:

"(32) The term 'battery charger' means a device that charges batteries for consumer products and includes battery chargers embedded in other consumer products.

"(33) The term 'commercial refrigerators, freezers, and refrigerator-freezers' means refrigerators, freezers, or refrigerator-freezers that—

"(A) are not consumer products regulated under this Act; and

"(B) incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

"(34) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.

"(35) The term 'illuminated exit sign' means a sign that—

"(A) is designed to be permanently fixed in place to identify an exit; and

"(B) consists of an electrically powered integral light source that illuminates the legend 'EXIT' and any directional indicators and provides contrast between the legend, any directional indicators, and the background.

"(36)(A) Except as provided in subparagraph (B), the term 'distribution transformer' means a transformer that—

"(i) has an input voltage of 34.5 kilovolts or less;

"(ii) has an output voltage of 600 volts or less; and

"(iii) is rated for operation at a frequency of 60 Hertz.

"(B) The term 'distribution transformer' does not include—

"(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;

"(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto-transformers, Uninterruptible Power System transformers, impedance transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications; or

"(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because—

"(I) the transformer is designed for a special application;

"(II) the transformer is unlikely to be used in general purpose applications; and

"(III) the application of standards to the transformer would not result in significant energy savings.

"(37) The term 'low-voltage dry-type distribution transformer' means a distribution transformer that—

"(A) has an input voltage of 600 volts or less;

"(B) is air-cooled; and

"(C) does not use oil as a coolant.

"(38) The term 'standby mode' means the lowest power consumption mode that—

"(A) cannot be switched off or influenced by the user; and

"(B) may persist for an indefinite time when an appliance is connected to the main electricity supply and used in accordance with the manufacturer's instructions,

as defined on an individual product basis by the Secretary.

"(39) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

"(40) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.

"(41) The term 'transformer' means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

"(42) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space, except that such term does not include a warm air furnace.

"(43) The term 'ceiling fan' means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

"(44) The term 'ceiling fan light kit' means equipment designed to provide light from a ceiling fan which can be—

"(A) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or

"(B) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan package at the time of sale or sold separately for subsequent attachment to the fan.".

(b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

"(9) Test procedures for illuminated exit signs shall be based on the test method used under Version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

"(10) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). The Secretary may review and revise this test procedure. For purposes of section 346(a), this test procedure shall be deemed to be testing requirements prescribed by the Secretary under section 346(a)(1) for distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

"(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

"(12) Test procedures for medium base compact fluorescent lamps shall be based on the test methods used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and Department of Energy for compact fluorescent lamps. Covered products shall meet all test requirements for regulated parameters in section 325(bb). However, covered products may be marketed prior to completion of lamp life and lumen maintenance at 40 percent of rated life testing provided manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp life time.

"(13) The Secretary shall, not later than 18 months after the date of enactment of this paragraph, prescribe testing requirements for ceiling fans and ceiling fan light kits."; and

(2) by adding at the end the following:

"(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall, not later than 24 months after the date of enactment of this subsection, prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers, and refrigerator-freezers. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.".

(c) NEW STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

"(u) BATTERY CHARGER AND EXTERNAL POWER SUPPLY ELECTRIC ENERGY CONSUMPTION.—

"(1) INITIAL RULEMAKING.—(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions and test procedures for the power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing definitions and test procedures used for measuring energy consumption in standby mode and other modes and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for these products.

"(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be issued for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of energy use that—

"(i) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

"(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

"(2) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to this section should be revised, the Secretary shall consider, for covered products that are major sources of standby mode energy consumption, whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, standby mode power consumption compared to overall product energy consumption.

"(3) RULEMAKING.—The Secretary shall not propose a standard under this section unless the Secretary has issued applicable test procedures for each product pursuant to section 323.

"(4) EFFECTIVE DATE.—Any standard issued under this subsection shall be applicable to products manufactured or imported 3 years after the date of issuance.

"(5) VOLUNTARY PROGRAMS.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A (relating to Energy Star Programs) and other voluntary industry agreements or codes of conduct, that are designed to reduce standby mode energy use.

"(v) SUSPENDED CEILING FANS, VENDING MACHINES, AND COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—The Secretary shall not later than 36 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers, and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (o) and (p). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

"(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after January 1, 2006, shall meet the Version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

"(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2006—

"(1) shall consume not more than 190 watts of power; and

"(2) shall not be capable of operating with lamps that total more than 190 watts.

"(y) Low Voltage Dry-Type Distribution Transformers.—The efficiency of low voltage dry-type distribution transformers manufactured on or after January 1, 2006, shall be the Class I Efficiency Levels for distribution transformers specified in Table 4-2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP-1-2002).

"(z) Traffic Signal Modules.—Traffic signal modules manufactured on or after January 1, 2006, shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this subsection, and shall be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

"(aa) Unit Heaters.—Unit heaters manufactured on or after the date that is 3 years after the date of enactment of this subsection shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

"(bb) Medium Base Compact Fluorescent Lamps.—Bare lamp and covered lamp (no reflector) medium base compact fluorescent lamps manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy: minimum initial efficacy; lumen maintenance at 1000 hours; lumen maintenance at 40 percent of rated life; rapid cycle stress test; and lamp life. The Secretary may, by rule, establish requirements for color quality (CRI); power factor; operating frequency; and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps. The Secretary may, by rule, revise these requirements or establish other requirements considering energy savings, cost effectiveness, and consumer satisfaction.

"(cc) Effective Date.—Section 327 shall apply—

"(1) to products for which standards are to be established under subsections (u) and (v) on the date on which a final rule is issued by the Department of Energy, except that any State or local standards prescribed or enacted for any such product prior to the date on which such final rule is issued shall not be preempted until the standard established under subsection (u) or (v) for that product takes effect; and

"(2) to products for which standards are established under subsections (w) through (bb) on the date of enactment of those subsections, except that any State or local standards prescribed or enacted prior to the date of enactment of those subsections shall not be preempted until the standards established under subsections (w) through (bb) take effect.

"(dd) Ceiling Fans.—

"(1) Features.—All ceiling fans manufactured on or after January 1, 2006, shall have the following features:

"(A) Lighting controls operate independently from fan speed controls.

"(B) Adjustable speed controls (either more than 1 speed or variable speed).

"(C) The capability of reversible fan action, except for fans sold for industrial applications, outdoor applications, and where safety standards would be violated by the use of the reversible mode. The Secretary may promulgate regulations to define in greater detail the exceptions provided under this subparagraph but may not substantively expand the exceptions.

"(2) Revised standards.—

"(A) In general.—Notwithstanding any provision of this Act, if the requirements of subsections (o) and (p) are met, the Secretary may consider and prescribe energy efficiency or energy use standards for electricity used by ceiling fans to circulate air in a room.

"(B) Special consideration.—If the Secretary sets such standards, the Secretary shall consider—

"(i) exempting or setting different standards for certain product classes for which the primary standards are not technically feasible or economically justified; and

"(ii) establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

"(C) Application.—Any air movement standard prescribed under this subsection shall apply to products manufactured on or after the date that is 3 years after the date of publication of a final rule establishing the standard.".

(d) Residential Furnace Fans.—Section 325(f)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)(3)) is amended by adding the following new subparagraph at the end:

"(D) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electricity used for purposes of circulating air through duct work.".

SEC. 134. ENERGY LABELING.

(a) Rulemaking on Effectiveness of Consumer Product Labeling.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

"(F) Not later than 3 months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed not later than 2 years after the date of enactment of this subparagraph.

"(G)(i) Not later than 18 months after date of enactment of this subparagraph, the Commission shall prescribe by rule, pursuant to this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

"(ii) The rule prescribed under clause (i) shall apply to products manufactured after the later of—

"(I) January 1, 2009; or

"(II) the date that is 60 days after the final rule is prescribed.".

(b) Rulemaking on Labeling for Additional Products.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding at the end the following:

"(5) The Secretary or the Commission, as appropriate, may, for covered products referred to in subsections (u) through (aa) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for such products after a test procedure has been set pursuant to section 323. In the case of products to which TP-1 standards under section 325(y) apply, labeling requirements shall be based on the 'Standard for the Labeling of Distribution Transformer Efficiency' prescribed by the National Electrical Manufacturers Association (NEMA TP-3) as in effect upon the date of enactment of this paragraph.".

SEC. 135. PREEMPTION.

Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended by adding at the end the following:

"(h) Ceiling Fans.—Effective on January 1, 2006, this section shall apply to and supersede all State and local standards prescribed or enacted for ceiling fans and ceiling fan light kits.".

SEC. 136. STATE CONSUMER PRODUCT ENERGY EFFICIENCY STANDARDS.

Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended by adding at the end the following new subsection:

"(h) Limitation on Preemption.—Subsections (a) and (b) shall not apply with respect to State regulation of energy consumption or water use of any covered product during any period of time—

"(1) after the date which is 3 years after a Federal standard is required by law to be established or revised, but has not been established or revised; and

"(2) before the date on which such Federal standard is established or revised.".

Subtitle D—Public Housing

SEC. 141. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: ", including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures"; and

(2) in paragraph (2), by inserting before the semicolon the following: ", including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families".

SEC. 142. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting "or efficiency" after "energy conservation";

(2) by striking ", and except that" and inserting "; except that"; and

(3) by inserting before the semicolon at the end the following: "; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency".

SEC. 143. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) Single Family Housing Mortgage Insurance.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(ii)(IV) (relating to solar energy systems), by striking "20 percent" and inserting "30 percent".

(b) Multifamily Housing Mortgage Insurance.—Section 207(c) of the National

Housing Act (12 U.S.C. 1713(c)) is amended, in the last undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking "20 percent" and inserting "30 percent".

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking "20 per centum" and inserting "30 percent".

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii)(IV) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)(IV)) is amended—

(1) by striking "with respect to rehabilitation projects involving not more than five family units,"; and

(2) by striking "20 per centum" and inserting "30 percent".

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking "20 per centum" and inserting "30 percent".

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—Section 231(c)(2)(C) of the National Housing Act (12 U.S.C. 1715v(c)(2)(C)) is amended by striking "20 per centum" and inserting "30 percent".

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking "20 per centum" and inserting "30 percent".

SEC. 144. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking "and" at the end;

(B) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

"(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures."; and

(2) in subsection (e)(2)(C)—

(A) by striking "The" and inserting the following:

"(i) IN GENERAL.—The"; and

(B) by adding at the end the following:

"(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

"(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.".

SEC. 145. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking "financed with loans" and inserting "assisted";

(2) by inserting after "1959," the following: "which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to mortgage restructuring and rental assistance sufficiency plans under such Act,"; and

(3) by inserting after the period at the end of the first sentence the following new sentence: "Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation.".

SEC. 147. ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Conservation Policy Act (as amended by this title), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 148. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "1 year after the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2006";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development."; and

(B) in paragraph (2), by striking "Council of American" and all that follows through "90.1–1989')" and inserting "2003 International Energy Conservation Code";

(2) in subsection (b)—

(A) by striking "within 1 year after the date of the enactment of the Energy Policy Act of 1992" and inserting "by September 30, 2006"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2003 International Energy Conservation Code"; and

(3) in subsection (c)—

(A) in the heading, by striking "MODEL ENERGY CODE" and inserting "THE INTERNATIONAL ENERGY CONSERVATION CODE"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2003 International Energy Conservation Code".

SEC. 149. ENERGY STRATEGY FOR HUD.

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than 1 year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every 2 years thereafter on progress in implementing the strategy.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 6 months after the date of enactment of this Act, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (tidal, wave, current, and thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2006 through 2010.

SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking "and which satisfies" and all that follows through "Secretary shall establish." and inserting ". If there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities in any given year, the Secretary shall assign 60 percent of appropriated funds for that year to facilities that use solar, wind, geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity, and assign the remaining 40 percent to other projects. The Secretary may, after transmitting to Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence.".

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking "a State or any political" and all that follows through "nonprofit electrical cooperative" and inserting "a not-for-

profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof,”; and

(2) by inserting “landfill gas, livestock methane, ocean (tidal, wave, current, and thermal),” after “wind, biomass,”.

(c) Eligibility Window.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking “during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section” and inserting “after October 1, 2005, and before October 1, 2015”.

(d) Amount of Payment.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting “landfill gas, livestock methane, ocean (tidal, wave, current, and thermal),” after “wind, biomass,”.

(e) Sunset.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking “the expiration of” and all that follows through “of this section” and inserting “September 30, 2025”.

(f) Authorization of Appropriations.—Section 1212(g) of the Energy Policy Act of 1992 (42 U.S.C. 13317(g)) is amended to read as follows:

“(g) Authorization of Appropriations.—

“(1) In general.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2005 through 2025.

“(2) Availability of funds.—Funds made available under paragraph (1) shall remain available until expended.”.

SEC. 203. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President, acting through the Secretary of Energy, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in fiscal years 2007 through 2009.

(2) Not less than 5 percent in fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

(b) Definitions.—In this section:

(1) Biomass.—The term “biomass” means any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled;

(C) agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) Renewable energy.—The term “renewable energy” means electric energy generated from solar, wind, biomass, landfill gas, ocean (tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(c) Calculation.—For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(1) the renewable energy is produced and used on-site at a Federal facility;

(2) the renewable energy is produced on Federal lands and used at a Federal facility; or

(3) the renewable energy is produced on Indian land as defined in title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

(d) Report.—Not later than April 15, 2007, and every 2 years thereafter, the Secretary of Energy shall provide a report to Congress on the progress of the Federal Government in meeting the goals established by this section.

SEC. 204. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved December 24, 1980 (48 U.S.C. 1492), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

“(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

“(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, opportunities for energy conservation and increased energy efficiency, and indigenous sources in regard to the insular areas.”;

(3) by amending subsection (e) to read as follows:

“(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the head of government of each insular area, shall update the plans required under subsection (c) by—

“(A) updating the contents required by subsection (c);

“(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2012, increasing energy conservation and energy efficiency, and maximizing, to the extent feasible, use of indigenous energy sources; and

“(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

“(2) Not later than December 31, 2006, the Secretary of the Interior shall submit to Congress the updated plans for each insular area required by this subsection.”; and

(4) by amending subsection (g)(4) to read as follows:

“(4) Power line grants for insular areas.—

“(A) In general.—The Secretary of the Interior is authorized to make grants to governments of insular areas of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such insular areas from damage caused by hurricanes and typhoons.

“(B) Eligible projects.—The Secretary may award grants under subparagraph (A) only to governments of insular areas of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

“(i) The project is designed to protect electric power transmission and distribution lines located in 1 or more of the insular areas of the United States from damage caused by hurricanes and typhoons.

“(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

“(iii) The project addresses 1 or more problems that have been repetitive or that pose a significant risk to public health and safety.

“(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

“(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

“(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

“(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

“(C) Priority.—When making grants under this paragraph, the Secretary shall give priority to grants for projects which are likely to—

“(i) have the greatest impact on reducing future disaster losses; and

“(ii) best conform with plans that have been approved by the Federal Government or the government of the insular area where the project is to be carried out for development or hazard mitigation for that insular area.

“(D) Matching requirement.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

“(E) Treatment of funds for certain purposes.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

“(F) Authorization of appropriations.—There are authorized to be appropriated to carry out this paragraph $5,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.”.

SEC. 205. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS.

(a) In General.—Part 4 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8271 et seq.) is amended by adding at the end the following:

“SEC. 570. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS.

“(a) Photovoltaic Energy Commercialization Program.—

“(1) In general.—The Secretary may establish a photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings.

"(2) PURPOSES.—The purposes of the program shall be to accomplish the following:

"(A) To accelerate the growth of a commercially viable photovoltaic industry to make this energy system available to the general public as an option which can reduce the national consumption of fossil fuel.

"(B) To reduce the fossil fuel consumption and costs of the Federal Government.

"(C) To attain the goal of installing solar energy systems in 20,000 Federal buildings by 2010, as contained in the Federal Government's Million Solar Roof Initiative of 1997.

"(D) To stimulate the general use within the Federal Government of life-cycle costing and innovative procurement methods.

"(E) To develop program performance data to support policy decisions on future incentive programs with respect to energy.

"(3) ACQUISITION OF PHOTOVOLTAIC SOLAR ELECTRIC SYSTEMS.—

"(A) IN GENERAL.—The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability for use in public buildings.

"(B) ACQUISITION LEVELS.—The acquisition of photovoltaic electric systems shall be at a level substantial enough to allow use of low-cost production techniques with at least 150 megawatts (peak) cumulative acquired during the 5 years of the program.

"(4) ADMINISTRATION.—The Secretary shall administer the program and shall—

"(A) issue such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic solar electric systems installed pursuant to this subsection;

"(B) develop innovative procurement strategies for the acquisition of such systems; and

"(C) transmit to Congress an annual report on the results of the program.

"(b) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Secretary shall establish a photovoltaic solar energy systems evaluation program to evaluate such photovoltaic solar energy systems as are required in public buildings.

"(2) PROGRAM REQUIREMENT.—In evaluating photovoltaic solar energy systems under the program, the Secretary shall ensure that such systems reflect the most advanced technology.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—There are authorized to be appropriated to carry out subsection (a) $50,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

"(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There are authorized to be appropriated to carry out subsection (b) $10,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The table of sections for the National Energy Conservation Policy Act is amended by inserting after the item relating to section 569 the following:

"Sec. 570. Use of photovoltaic energy in public buildings.".

SEC. 206. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, PETROLEUM-BASED PRODUCT SUBSTITUTES, AND OTHER COMMERCIAL PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest fuel loads continues to increase as a result of disease, insect infestations, and drought, further raising the risk of fire each year.

(2) In addition, more than 70,000,000 acres across all land ownerships are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease result in increased fire risk, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and decreased timber values.

(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and protecting early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest land, woodland, and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest health by creating a mosaic of species-mix and age distribution. Such prevention treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, disease, and fire.

(4) The byproducts of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest lands, woodlands and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. There are currently few markets for the extraordinary volumes of byproducts being generated as a result of the necessary large-scale preventive treatment activities.

(5) The United States should—

(A) promote economic and entrepreneurial opportunities in using byproducts removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for byproducts of preventive treatment activities.

(b) DEFINITIONS.—In this section:

(1) BIOMASS.—The term "biomass" means trees and woody plants, including limbs, tops, needles, and other woody parts, and byproducts of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels; or

(B) to reduce the risk of or to contain disease or insect infestation.

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) PERSON.—The term "person" includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(4) PREFERRED COMMUNITY.—The term "preferred community" means—

(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(B) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(5) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) the Secretary of Agriculture with respect to National Forest System lands; and

(B) the Secretary of the Interior with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands.

(c) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products to offset the costs incurred to purchase biomass for use by such facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(d) IMPROVED BIOMASS USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy, opportunities for the creation or expansion of small businesses and micro-businesses, and the potential for new job creation.

(3) GRANT AMOUNT.—A grant under this subsection may not exceed $500,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2016 to carry out this section.

(f) REPORT.—Not later than October 1, 2012, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources, the

Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and the use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 207. BIOBASED PRODUCTS.

Section 9002(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(c)(1)) is amended by inserting "or such items that comply with the regulations issued under section 103 of Public Law 100-556 (42 U.S.C. 6914b–1)" after "practicable".

SEC. 208. RENEWABLE ENERGY SECURITY.

(a) Weatherization Assistance.—Section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking "in paragraph (3)" and inserting "in paragraphs (3) and (4)";

(2) in paragraph (3), by striking "$2,500 per dwelling unit average provided in paragraph (1)" and inserting "dwelling unit averages provided in paragraphs (1) and (4)"; and

(3) by adding at the end the following new paragraphs:

"(4) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters for a renewable energy system shall not exceed an average of $3,000 per dwelling unit.

"(5)(A) The Secretary shall by regulations—

"(i) establish the criteria which are to be used in prescribing performance and quality standards under paragraph (6)(A)(ii) or in specifying any form of renewable energy under paragraph (6)(A)(i)(I); and

"(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this paragraph, as a renewable energy system.

"(B) The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

"(C) Each month the Secretary shall publish a report of any request under subparagraph (A)(ii) which has been denied during the preceding month and the reasons for the denial.

"(D) The Secretary shall not specify any form of renewable energy under paragraph (6)(A)(i)(I) unless the Secretary determines that—

"(i) there will be a reduction in oil or natural gas consumption as a result of such specification;

"(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety; and

"(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

"(6) In this subsection—

"(A) the term 'renewable energy system' means a system which—

"(i) when installed in connection with a dwelling, transmits or uses—

"(I) solar energy, energy derived from the geothermal deposits, energy derived from biomass, or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or

"(II) wind energy for nonbusiness residential purposes;

"(ii) meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations;

"(iii) in the case of a combustion rated system, has a thermal efficiency rating of at least 75 percent; and

"(iv) in the case of a solar system, has a thermal efficiency rating of at least 15 percent; and

"(B) the term 'biomass' means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.".

(b) District Heating and Cooling Programs.—Section 172 of the Energy Policy Act of 1992 (42 U.S.C. 13451 note) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) evaluate the use of renewable energy systems (as such term is defined in section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c))) in residential buildings."; and

(2) in subsection (b), by striking "this Act" and inserting "the Energy Policy Act of 2005".

(c) Definition of Biomass.—Section 203(2) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8802(2)) is amended to read as follows:

"(2) The term 'biomass' means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.".

(d) Rebate Program.—

(1) Establishment.—The Secretary of Energy shall establish a program providing rebates for consumers for expenditures made for the installation of a renewable energy system in connection with a dwelling unit or small business.

(2) Amount of rebate.—Rebates provided under the program established under paragraph (1) shall be in an amount not to exceed the lesser of—

(A) 25 percent of the expenditures described in paragraph (1) made by the consumer; or

(B) $3,000.

(3) Definition.—For purposes of this subsection, the term "renewable energy system" has the meaning given that term in section 415(c)(6)(A) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(6)(A)), as added by subsection (a)(3) of this section.

(4) Authorization of appropriations.—There are authorized to be appropriated to the Secretary of Energy for carrying out this subsection, to remain available until expended—

(A) $150,000,000 for fiscal year 2006;

(B) $150,000,000 for fiscal year 2007;

(C) $200,000,000 for fiscal year 2008;

(D) $250,000,000 for fiscal year 2009; and

(E) $250,000,000 for fiscal year 2010.

(e) Renewable Fuel Inventory.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report containing—

(1) an inventory of renewable fuels available for consumers; and

(2) a projection of future inventories of renewable fuels based on the incentives provided in this section

Subtitle C—Hydroelectric

PART I—ALTERNATIVE CONDITIONS

SEC. 231. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) Federal Reservations.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after "adequate protection and utilization of such reservation." at the end of the first proviso the following: "The license applicant shall be entitled to a determination on the record, after opportunity for an expedited agency trial-type hearing of any disputed issues of material fact, with respect to such conditions. Such hearing may be conducted in accordance with procedures established by agency regulation in consultation with the Federal Energy Regulatory Commission.".

(b) Fishways.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after "and such fishways as may be prescribed by the Secretary of Commerce." the following: "The license applicant shall be entitled to a determination on the record, after opportunity for an expedited agency trial-type hearing of any disputed issues of material fact, with respect to such fishways. Such hearing may be conducted in accordance with procedures established by agency regulation in consultation with the Federal Energy Regulatory Commission.".

(c) Alternative Conditions and Prescriptions.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

"SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

"(a) Alternative Conditions.—(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as 'the Secretary') deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant may propose an alternative condition.

"(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant or otherwise available to the Secretary, that such alternative condition—

"(A) provides for the adequate protection and utilization of the reservation; and

"(B) will either—

"(i) cost less to implement; or

"(ii) result in improved operation of the project works for electricity production,

as compared to the condition initially deemed necessary by the Secretary.

"(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

"(4) Nothing in this section shall prohibit other interested parties from proposing alternative conditions.

"(5) If the Secretary does not accept an applicant's alternative condition under this section, and the Commission finds that the Secretary's condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not provide for the adequate protection and utilization of the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

"(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee or otherwise available to the Secretary, that such alternative—

"(A) will be no less protective than the fishway initially prescribed by the Secretary; and

"(B) will either—

"(i) cost less to implement; or

"(ii) result in improved operation of the project works for electricity production,

as compared to the fishway initially deemed necessary by the Secretary.

"(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

"(4) Nothing in this section shall prohibit other interested parties from proposing alternative prescriptions.

"(5) If the Secretary concerned does not accept an applicant's alternative prescription under this section, and the Commission finds that the Secretary's prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a nonbinding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will be less protective than the fishway initially prescribed by the Secretary. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.".

PART II—ADDITIONAL HYDROPOWER

SEC. 241. HYDROELECTRIC PRODUCTION INCENTIVES.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary of Energy (referred to in this section as the "Secretary") shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) DEFINITIONS.—For purposes of this section:

(1) QUALIFIED HYDROELECTRIC FACILITY.—The term "qualified hydroelectric facility" means a turbine or other generating device owned or solely operated by a non-Federal entity which generates hydroelectric energy for sale and which is added to an existing dam or conduit.

(2) EXISTING DAM OR CONDUIT.—The term "existing dam or conduit" means any dam or conduit the construction of which was completed before the date of the enactment of this section and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

(3) CONDUIT.—The term "conduit" has the same meaning as when used in section 30(a)(2) of the Federal Power Act (16 U.S.C. 823a(a)(2)).

The terms defined in this subsection shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after the date of the enactment of this section.

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electric energy generated from a qualified hydroelectric facility which begins operation during the period of 10 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle.

(d) INCENTIVE PERIOD.—A qualified hydroelectric facility may receive payments under this section for a period of 10 fiscal years (referred to in this section as the "incentive period"). Such period shall begin with the fiscal year in which electric energy generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than $750,000 in 1 calendar year.

(2) ADJUSTMENTS.—The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2005 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2005 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 20 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section $10,000,000 for each of the fiscal years 2006 through 2015.

SEC. 242. HYDROELECTRIC EFFICIENCY IMPROVEMENT.

(a) INCENTIVE PAYMENTS.—The Secretary of Energy shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

(b) LIMITATIONS.—Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerned and not more than 1 payment may be made with respect to improvements at a single facility. No payment in excess of $750,000 may be made with respect to improvements at a single facility.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $10,000,000 for each of the fiscal years 2006 through 2015.

SEC. 243. SMALL HYDROELECTRIC POWER PROJECTS.

Section 408(a)(6) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(a)(6)) is amended by striking "April 20, 1977" and inserting "March 4, 2003".

SEC. 244. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy, in consultation with the Secretary of the Army, shall jointly conduct a study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities.

(b) Content.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) Report.—The Secretaries shall submit to the Committees on Energy and Commerce, Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 245. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.

(a) In General.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) Consent of Affected Irrigation Customers Required.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) Existing Obligations Not Affected.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities, including recreational releases.

TITLE III—OIL AND GAS—COMMERCE

Subtitle A—Petroleum Reserve and Home Heating Oil

SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) Amendment to Title I of the Energy Policy and Conservation Act.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting the following:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended.";

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act).

(b) Amendment to Title II of the Energy Policy and Conservation Act.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by inserting before section 273 (42 U.S.C. 6283) the following:

"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS";

(2) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration of summer fill and fuel budgeting programs); and

(3) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of the Act).

(c) Technical Amendments.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

"Part D—Northeast home heating oil reserve

"Sec. 181. Establishment.
"Sec. 182. Authority.
"Sec. 183. Conditions for release; plan.
"Sec. 184. Northeast Home Heating Oil Reserve Account.
"Sec. 185. Exemptions.";

(2) by amending the items relating to part C of title II to read as follows:

"Part C—Summer fill and fuel budgeting programs

"Sec. 273. Summer fill and fuel budgeting programs."

; and

(3) by striking the items relating to part D of title II.

(d) Amendment to the Energy Policy and Conservation Act.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250(b)(1)) is amended by striking all after "increases" through to "mid-October through March" and inserting "by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)".

(e) Fill Strategic Petroleum Reserve to Capacity.—The Secretary of Energy shall, as expeditiously as practicable, acquire petroleum in amounts sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000 barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), consistent with the provisions of sections 159 and 160 of such Act (42 U.S.C. 6239, 6240).

SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.

Section 713 of the Energy Act of 2000 (42 U.S.C. 6201 note) is amended by striking "4" and inserting "9".

SEC. 303. SITE SELECTION.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall complete a proceeding to select, from sites that the Secretary has previously studied, sites necessary to enable acquisition by the Secretary of the full authorized volume of the Strategic Petroleum Reserve.

SEC. 304. SUSPENSION OF STRATEGIC PETROLEUM RESERVE DELIVERIES.

The Secretary of Energy shall suspend deliveries of royalty-in-kind oil to the Strategic Petroleum Reserve until the price of oil falls below $40 per barrel for 2 consecutive weeks on the New York Mercantile Exchange.

Subtitle B—Production Incentives

SEC. 320. LIQUEFACTION OR GASIFICATION NATURAL GAS TERMINALS.

(a) Scope of Natural Gas Act.—Section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)) is amended by inserting "and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation," after "such transportation or sale,".

(b) Definition.—Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by adding at the end the following new paragraph:

"(11) 'Liquefaction or gasification natural gas terminal' includes all facilities located onshore or in State waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by waterborne tanker, but does not include—

"(A) waterborne tankers used to deliver natural gas to or from any such facility; or

"(B) any pipeline or storage facility subject to the jurisdiction of the Commission under section 7.".

(c) Authorization for Construction, Expansion, or Operation of Liquefaction or Gasification Natural Gas Terminals.—(1) The title for section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting "; LIQUEFACTION OR GASIFICATION NATURAL GAS TERMINALS" after "EXPORTATION OR IMPORTATION OF NATURAL GAS".

(2) Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

"(d) Authorization for Construction, Expansion, or Operation of Liquefaction or Gasification Natural Gas Terminals.—

"(1) Commission Authorization Required.—No person shall construct, expand, or operate a liquefaction or gasification natural gas terminal without an order from the Commission authorizing such person to do so.

"(2) Authorization Procedures.—

"(A) Notice and Hearing.—Upon the filing of any application to construct, expand, or operate a liquefaction or gasification natural gas terminal, the Commission shall—

"(i) set the matter for hearing;

"(ii) give reasonable notice of the hearing to all interested persons, including the State commission of the State in which the liquefaction or gasification natural gas terminal is located;

"(iii) decide the matter in accordance with this subsection; and

"(iv) issue or deny the appropriate order accordingly.

"(B) Designation as Lead Agency.—

"(i) In General.—The Commission shall act as the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4312 et seq.) for a liquefaction or gasification natural gas terminal.

"(ii) OTHER AGENCIES.—Each Federal agency considering an aspect of the construction, expansion, or operation of a liquefaction or gasification natural gas terminal shall cooperate with the Commission and comply with the deadlines established by the Commission.

"(C) SCHEDULE.—

"(i) COMMISSION AUTHORITY TO SET SCHEDULE.—The Commission shall establish a schedule for all Federal and State administrative proceedings required under authority of Federal law to construct, expand, or operate a liquefaction or gasification natural gas terminal. In establishing the schedule, the Commission shall—

"(I) ensure expeditious completion of all such proceedings; and

"(II) accommodate the applicable schedules established by Federal law for such proceedings.

"(ii) FAILURE TO MEET SCHEDULE.—If a Federal or State administrative agency does not complete a proceeding for an approval that is required before a person may construct, expand, or operate the liquefaction or gasification natural gas terminal, in accordance with the schedule established by the Commission under this subparagraph, and if—

"(I) a determination has been made by the Court pursuant to section 19(d) that such delay is unreasonable; and

"(II) the agency has failed to act on any remand by the Court within the deadline set by the Court,

that approval may be conclusively presumed by the Commission.

"(D) EXCLUSIVE RECORD.—The Commission shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Commission or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to the construction, expansion, or operation of a liquefaction or gasification natural gas terminal. Such record shall be the exclusive record for any Federal administrative proceeding that is an appeal or review of any such decision made or action taken.

"(E) STATE AND LOCAL SAFETY CONSIDERATIONS.—

"(i) IN GENERAL.—The Commission shall consult with the State commission of the State in which the liquefaction or gasification natural gas terminal is located regarding State and local safety considerations prior to issuing an order pursuant to this subsection and consistent with the schedule established under subparagraph (C).

"(ii) STATE SAFETY INSPECTIONS.—The State commission of the State in which a liquefaction or gasification natural gas terminal is located may, after the terminal is operational, conduct safety inspections with respect to the liquefaction or gasification natural gas terminal if—

"(I) the State commission provides written notice to the Commission of its intention to do so; and

"(II) the inspections will be carried out in conformance with Federal regulations and guidelines.

Enforcement of any safety violation discovered by a State commission pursuant to this clause shall be carried out by Federal officials. The Commission shall take appropriate action in response to a report of a violation not later that 90 days after receiving such report.

"(iii) STATE AND LOCAL SAFETY CONSIDERATIONS.—For the purposes of this subparagraph, State and local safety considerations include—

"(I) the kind and use of the facility;

"(II) the existing and projected population and demographic characteristics of the location;

"(III) the existing and proposed land use near the location;

"(IV) the natural and physical aspects of the location;

"(V) the medical, law enforcement, and fire prevention capabilities near the location that can respond at the facility; and

"(VI) the feasibility of remote siting.

"(F) LIMITATION.—Subparagraph (C)(ii) shall not apply to any approval required to protect navigation, maritime safety, or maritime security.

"(3) ISSUANCE OF COMMISSION ORDER.—

"(A) IN GENERAL.—The Commission shall issue an order authorizing, in whole or in part, the construction, expansion, or operation covered by the application to any qualified applicant—

"(i) unless the Commission finds such actions or operations will not be consistent with the public interest; and

"(ii) if the Commission has found that the applicant is—

"(I) able and willing to carry out the actions and operations proposed; and

"(II) willing to conform to the provisions of this Act and any requirements, rules, and regulations of the Commission set forth under this Act.

"(B) TERMS AND CONDITIONS.—The Commission may by its order grant an application, in whole or in part, with such modification and upon such terms and conditions as the Commission may find necessary or appropriate.

"(C) LIMITATIONS ON TERMS AND CONDITIONS TO COMMISSION ORDER.—

"(i) IN GENERAL.—Any Commission order issued pursuant to this subsection before January 1, 2011, shall not be conditioned on—

"(I) a requirement that the liquefaction or gasification natural gas terminal offer service to persons other than the person, or any affiliate thereof, securing the order; or

"(II) any regulation of the liquefaction or gasification natural gas terminal's rates, charges, terms, or conditions of service.

"(ii) INAPPLICABLE TO TERMINAL EXIT PIPELINE.—Clause (i) shall not apply to any pipeline subject to the jurisdiction of the Commission under section 7 exiting a liquefaction or gasification natural gas terminal.

"(iii) EXPANSION OF REGULATED TERMINAL.—An order issued under this paragraph that relates to an expansion of an existing liquefaction or gasification natural gas terminal, where any portion of the existing terminal continues to be subject to Commission regulation of rates, charges, terms, or conditions of service, may not result in—

"(I) subsidization of the expansion by regulated terminal users;

"(II) degradation of service to the regulated terminal users; or

"(III) undue discrimination against the regulated terminal users.

"(iv) EXPIRATION.—This subparagraph shall cease to have effect on January 1, 2021.

"(4) DEFINITION.—For the purposes of this subsection, the term 'Federal authorization' means any authorization required under Federal law in order to construct, expand, or operate a liquefaction or gasification natural gas terminal, including such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal or State agency.".

(d) JUDICIAL REVIEW.—Section 19 of the Natural Gas Act (15 U.S.C. 717r) is amended by adding at the end the following:

"(d) JUDICIAL REVIEW.—

"(1) IN GENERAL.—The United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction over any civil action—

"(A) for review of any order, action, or failure to act of any Federal or State administrative agency to issue, condition, or deny any permit, license, concurrence, or approval required under Federal law for the construction, expansion, or operation of a liquefaction or gasification natural gas terminal;

"(B) alleging unreasonable delay, in meeting a schedule established under section 3(d)(2)(C) or otherwise, by any Federal or State administrative agency in entering an order or taking other action described in subparagraph (A); or

"(C) challenging any decision made or action taken by the Commission under section 3(d).

"(2) COMMISSION ACTION.—For any action described in this subsection, the Commission shall file with the Court the consolidated record maintained under section 3(d)(2)(D).

"(3) COURT ACTION.—If the Court finds under paragraph (1)(A) or (B) that an order, action, failure to act, or delay is inconsistent with applicable Federal law, and would prevent the construction, expansion, or operation of a liquefaction or gasification natural gas terminal, the order or action shall be deemed to have been issued or taken, subject to any conditions established by the Federal or State administrative agency upon remand from the Court, such conditions to be consistent with the order of the Court. If the Court remands the order or action to the Federal or State agency, the Court shall set a reasonable deadline for the agency to act on remand.

"(4) UNREASONABLE DELAY.—For the purposes of paragraph (1)(B), the failure of an agency to issue a permit, license, concurrence, or approval within the later of—

"(A) 1 year after the date of filing of an application for the permit, license, concurrence, or approval; or

"(B) 60 days after the date of issuance of the order under section 3(d),

shall be considered unreasonable delay unless the Court, for good cause shown, determines otherwise.

"(5) EXPEDITED REVIEW.—The Court shall set any action brought under this subsection for expedited consideration.".

SEC. 327. HYDRAULIC FRACTURING.

Paragraph (1) of section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended to read as follows:

"(1) UNDERGROUND INJECTION.—The term 'underground injection'—

"(A) means the subsurface emplacement of fluids by well injection; and

"(B) excludes—

"(i) the underground injection of natural gas for purposes of storage; and

"(ii) the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations related to oil or gas production activities.".

SEC. 328. OIL AND GAS EXPLORATION AND PRODUCTION DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) OIL AND GAS EXPLORATION AND PRODUCTION.—The term 'oil and gas exploration, production, processing, or treatment operations or transmission facilities' means all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities.".

SEC. 329. OUTER CONTINENTAL SHELF PROVISIONS.

(a) STORAGE ON THE OUTER CONTINENTAL SHELF.—Section 5(a)(5) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(5)) is amended by inserting "from any source" after "oil and gas".

(b) DEEPWATER PROJECTS.—Section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1505) is amended by adding at the end the following:

"(d) RELIANCE ON ACTIVITIES OF OTHER AGENCIES.—In fulfilling the requirements of section 5(f)—

"(1) to the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may use the information derived from those activities in lieu of directly conducting such activities; and

"(2) the Secretary may use information obtained from any State or local government or from any person.".

(c) NATURAL GAS DEFINED.—Section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)) is amended to read as follows:

"(13) natural gas means—

"(A) natural gas unmixed; or

"(B) any mixture of natural or artificial gas, including compressed or liquefied natural gas, natural gas liquids, liquefied petroleum gas, and condensate recovered from natural gas;".

SEC. 330. APPEALS RELATING TO PIPELINE CONSTRUCTION OR OFFSHORE MINERAL DEVELOPMENT PROJECTS.

(a) AGENCY OF RECORD, PIPELINE CONSTRUCTION PROJECTS.—Any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to Federal authority for an interstate natural gas pipeline construction project, including construction of natural gas storage and liquefied natural gas facilities, shall use as its exclusive record for all purposes the record compiled by the Federal Energy Regulatory Commission pursuant to the Commission's proceeding under sections 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f).

(b) SENSE OF CONGRESS.—It is the sense of Congress that all Federal and State agencies with jurisdiction over interstate natural gas pipeline construction activities should coordinate their proceedings within the timeframes established by the Federal Energy Regulatory Commission when the Commission is acting under sections 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f) to determine whether a certificate of public convenience and necessity should be issued for a proposed interstate natural gas pipeline.

(c) AGENCY OF RECORD, OFFSHORE MINERAL DEVELOPMENT PROJECTS.—Any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to Federal authority for the permitting, approval, or other authorization of energy projects, including projects to explore, develop, or produce mineral resources in or underlying the outer Continental Shelf shall use as its exclusive record for all purposes (except for the filing of pleadings) the record compiled by the relevant Federal permitting agency.

SEC. 333. NATURAL GAS MARKET TRANSPARENCY.

The Natural Gas Act (15 U.S.C 717 et seq.) is amended—

(1) by redesignating section 24 as section 25; and

(2) by inserting after section 23 the following:

"SEC. 24. NATURAL GAS MARKET TRANSPARENCY.

"(a) AUTHORIZATION.—(1) Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, the Federal Energy Regulatory Commission shall issue rules directing all entities subject to the Commission's jurisdiction as provided under this Act to timely report information about the availability and prices of natural gas sold at wholesale in interstate commerce to the Commission and price publishers.

"(2) The Commission shall evaluate the data for adequate price transparency and accuracy.

"(3) Rules issued under this subsection requiring the reporting of information to the Commission that may become publicly available shall be limited to aggregate data and transaction-specific data that are otherwise required by the Commission to be made public.

"(4) In exercising its authority under this section, the Commission shall not—

"(A) compete with, or displace from the market place, any price publisher; or

"(B) regulate price publishers or impose any requirements on the publication of information.

"(b) TIMELY ENFORCEMENT.—No person shall be subject to any penalty under this section with respect to a violation occurring more than 3 years before the date on which the Federal Energy Regulatory Commission seeks to assess a penalty.

"(c) LIMITATION ON COMMISSION AUTHORITY.—(1) The Commission shall not condition access to interstate pipeline transportation upon the reporting requirements authorized under this section.

"(2) Natural gas sales by a producer that are attributable to volumes of natural gas produced by such producer shall not be subject to the rules issued pursuant to this section.

"(3) The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to participate in the reporting requirements provided in this section.".

Subtitle C—Access to Federal Land

SEC. 344. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public lands under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System lands under the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of oil and gas lease applications, surface use plans of operation, and applications for permits to drill, including steps for processing surface use plans and applications for permits to drill consistent with the timelines established by the amendment made by section 348;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts; and

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied.

(c) DATA RETRIEVAL SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture.

(2) RESOURCE MAPPING.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint Geographic Information System mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 346. COMPLIANCE WITH EXECUTIVE ORDER 13211; ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE.

(a) REQUIREMENT.—The head of each Federal agency shall require that before the Federal agency takes any action that could have a significant adverse effect on the supply of domestic energy resources from Federal public land, the Federal agency taking the action shall comply with Executive Order No. 13211 (42 U.S.C. 13201 note).

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish guidance for purposes of this section describing what constitutes a significant adverse effect on the supply of domestic energy resources under Executive Order No. 13211 (42 U.S.C. 13201 note).

(c) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior and the Secretary of Agriculture shall include in the memorandum of understanding under section 344 provisions for implementing subsection (a) of this section.

SEC. 355. ENCOURAGING GREAT LAKES OIL AND GAS DRILLING BAN.

Congress encourages no Federal or State permit or lease to be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

SEC. 358. FEDERAL COALBED METHANE REGULATION.

Any State currently on the list of Affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13368(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act, the State takes, or prior to the date of enactment has taken, any of the actions required for removal from the list under such section 1339(b).

Subtitle D—Refining Revitalization

SEC. 371. SHORT TITLE.

This subtitle may be cited as the "United States Refinery Revitalization Act of 2005".

SEC. 372. FINDINGS.

Congress finds the following:

(1) It serves the national interest to increase petroleum refining capacity for gasoline, heating oil, diesel fuel, jet fuel, kerosene, and petrochemical feedstocks wherever located within the United States, to bring more supply to the markets for use by the American people. Nearly 50 percent of the petroleum in the United States is used for the production of gasoline. Refined petroleum products have a significant impact on interstate commerce.

(2) United States demand for refined petroleum products currently exceeds the country's petroleum refining capacity to produce such products. By 2025, United States gasoline consumption is projected to rise from 8,900,000 barrels per day to 12,900,000 barrels per day. Diesel fuel and home heating oil are becoming larger components of an increasing demand for refined petroleum supply. With the increase in air travel, jet fuel consumption is projected to be 789,000 barrels per day higher in 2025 than today.

(3) The petroleum refining industry is operating at 95 percent of capacity. The United States is currently importing 5 percent of its refined petroleum products and because of the stringent United States gasoline and diesel fuel specifications, few foreign refiners can produce the clean fuels required in the United States and the number of foreign suppliers that can produce United States quality gasoline is decreasing.

(4) Refiners are subject to significant environmental and other regulations and face several new Clean Air Act requirements over the next decade. New Clean Air Act requirements will benefit the environment but will also require substantial capital investment and additional government permits.

(5) No new refinery has been built in the United States since 1976 and many smaller domestic refineries have become idle since the removal of the Domestic Crude Oil Allocation Program and because of regulatory uncertainty and generally low returns on capital employed. Today, the United States has 149 refineries, down from 324 in 1981. Restoration of recently idled refineries alone would amount to 483,570 barrels a day in additional capacity, or approximately 3.3 percent of the total operating capacity.

(6) Refiners have met growing demand by increasing the use of existing equipment and increasing the efficiency and capacity of existing plants. But refining capacity has begun to lag behind peak summer demand.

(7) Heavy industry and manufacturing jobs have closed or relocated due to barriers to investment, burdensome regulation, and high costs of operation, among other reasons.

(8) Because the production and disruption in supply of refined petroleum products has a significant impact on interstate commerce, it serves the national interest to increase the domestic refining operating capacity.

(10) More regulatory certainty for refinery owners is needed to stimulate investment in increased refinery capacity and required procedures for Federal, State, and local regulatory approvals need to be streamlined to ensure that increased refinery capacity can be developed and operated in a safe, timely, and cost-effective manner.

(11) The proposed Yuma Arizona Refinery, a grassroots refinery facility, which only recently received its Federal air quality permit after 5 years under the current regulatory process, and is just now beginning its environmental impact statement and local permitting process, serves as an example of the obstacles a refiner would have to overcome to reopen an idle refinery.

SEC. 373. PURPOSE.

The purpose of this subtitle is to encourage the expansion of the United States refining capacity by providing an accelerated review and approval process of all regulatory approvals for certain idle refineries and lending corresponding legal and technical assistance to States with resources that may be inadequate to meet such permit review demands.

SEC. 374. DESIGNATION OF REFINERY REVITALIZATION ZONES.

Not later than 90 days after the date of enactment of this Act, the Secretary shall designate as a Refinery Revitalization Zone any area—

(1) that—

(A) has experienced mass layoffs at manufacturing facilities, as determined by the Secretary of Labor; or

(B) contains an idle refinery; and

(2) that has an unemployment rate that exceeds the national average by at least 10 percent of the national average, as set by the Department of Labor, Bureau of Labor Statistics, at the time of the designation as a Refinery Revitalization Zone.

SEC. 375. MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding with the Administrator for the purposes of this subtitle. The Secretary and the Administrator shall each designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the purposes of this subtitle and any regulations enacted pursuant to this subtitle.

(b) ADDITIONAL SIGNATORIES.—The Governor of any State, and the appropriate representative of any Indian Tribe, with jurisdiction over a Refinery Revitalization Zone, as designated by the Secretary pursuant to section 374, may be signatories to the memorandum of understanding under this section.

SEC. 376. STATE ENVIRONMENTAL PERMITTING ASSISTANCE.

Not later than 30 days after a Revitalization Program Qualifying State becomes a signatory to the memorandum of understanding under section 375(b)—

(1) the Secretary shall designate one or more employees of the Department with expertise relating to the siting and operation of refineries to provide legal and technical assistance to that Revitalization Program Qualifying State; and

(2) the Administrator shall designate, to provide legal and technical assistance for that Revitalization Program Qualifying State, one or more employees of the Environmental Protection Agency with expertise on regulatory issues, relating to the siting and operation of refineries, with respect to each of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(C) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(D) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(E) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(F) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(G) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(H) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 377. COORDINATION AND EXPEDITIOUS REVIEW OF PERMITTING PROCESS.

(a) DEPARTMENT OF ENERGY AS LEAD AGENCY.—Upon written request of a prospective applicant for Federal authorization for a refinery facility in a Refinery Revitalization Zone, the Department shall act as the lead Federal agency for the purposes of coordinating all applicable Federal authorizations and environmental reviews of the refining facility. To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate this Federal authorization and review process with any Indian Tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews of the refining facility.

(b) SCHEDULE.—

(1) IN GENERAL.—The Secretary, in coordination with the agencies with authority over Federal authorizations and, as appropriate, with Indian Tribes and State and local agencies that are willing to coordinate their separate permitting and environmental reviews with the Federal authorizations and environmental reviews, shall establish a schedule with prompt and binding intermediate and ultimate deadlines for the review of, and Federal authorization decisions relating to, refinery facility siting and operation.

(2) PREAPPLICATION PROCESS.—Prior to establishing the schedule, the Secretary shall provide an expeditious preapplication mechanism for applicants to confer with the agencies involved and to have each agency communicate to the prospective applicant within 60 days concerning—

(A) the likelihood of approval for a potential refinery facility; and

(B) key issues of concern to the agencies and local community.

(3) SCHEDULE.—The Secretary shall consider the preapplication findings under paragraph (2) in setting the schedule and shall ensure that once an application has been submitted with such information as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 6 months or, where circumstances require otherwise, as soon as thereafter practicable.

(c) CONSOLIDATED ENVIRONMENTAL REVIEW.—

(1) LEAD AGENCY.—In carrying out its role as the lead Federal agency for environmental review, the Department shall coordinate all applicable Federal actions for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and shall be responsible for preparing any environmental impact statement required by section 102(2)(C) of that Act (42 U.S.C. 4332(2)(C)) or such other form of environmental review as is required.

(2) CONSOLIDATION OF STATEMENTS.—In carrying out paragraph (1), if the Department determines an environmental impact statement is required, the Department shall prepare a single environmental impact statement, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project covered by the environmental impact statement.

(d) OTHER AGENCIES.—Each Federal agency considering an aspect of the siting or operation of a refinery facility in a Refinery Revitalization Zone shall cooperate with the Department and comply with the deadlines established by the Department in the preparation of any environmental impact statement or such other form of review as is required.

(e) EXCLUSIVE RECORD.—The Department shall, with the cooperation of Federal and

State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Department or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to the siting or operation of a refinery facility in a Refinery Revitalization Zone. Such record shall be the exclusive record for any Federal administrative proceeding that is an appeal or review of any such decision made or action taken.

(f) APPEALS.—In the event any agency has denied a Federal authorization required for a refinery facility in a Refinery Revitalization Zone, or has failed to act by a deadline established by the Secretary pursuant to subsection (b) for deciding whether to issue the Federal authorization, the applicant or any State in which the refinery facility would be located may file an appeal with the Secretary. Based on the record maintained under subsection (e), and in consultation with the affected agency, the Secretary may then either issue the necessary Federal authorization with appropriate conditions, or deny the appeal. The Secretary shall issue a decision within 60 days after the filing of the appeal. In making a decision under this subsection, the Secretary shall comply with applicable requirements of Federal law, including each of the laws referred to in section 376(2)(A) through (H). Any judicial appeal of the Secretary's decision shall be to the United States Court of Appeals for the District of Columbia.

(g) CONFORMING REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue any regulations necessary to implement this subtitle.

SEC. 378. COMPLIANCE WITH ALL ENVIRONMENTAL REGULATIONS REQUIRED.

Nothing in this subtitle shall be construed to waive the applicability of environmental laws and regulations to any refinery facility.

SEC. 379. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Department" means the Department of Energy;

(3) "Federal authorization" means any authorization required under Federal law (including the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, the Toxic Substances Control Act, the National Historic Preservation Act, and the National Environmental Policy Act of 1969) in order to site, construct, upgrade, or operate a refinery facility within a Refinery Revitalization Zone, including such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal, State, or local agency;

(4) "idle refinery" means any real property site that has been used at any time for a refinery facility since December 31, 1979, that has not been in operation after April 1, 2005;

(5) "refinery facility" means any facility designed and operated to receive, unload, store, process and refine raw crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof;

(6) "Revitalization Program Qualifying State" means a State or Indian Tribe that—

(A) has entered into the memorandum of understanding pursuant to section 375(b); and

(B) has established a refining infrastructure coordination office that the Secretary finds will facilitate Federal-State cooperation for the purposes of this subtitle; and

(7) "Secretary" means the Secretary of Energy.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) CLEAN COAL POWER INITIATIVE.—There are authorized to be appropriated to the Secretary of Energy (referred to in this title as the "Secretary") to carry out the activities authorized by this subtitle **$200,000,000** for each of fiscal years 2006 through 2014, to remain available until expended.

(b) REPORT.—The Secretary shall submit to Congress the report required by this subsection not later than March 31, 2007. The report shall include, with respect to subsection (a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

SEC. 402. PROJECT CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this subtitle for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In allocating the funds made available under section 401(a), the Secretary shall ensure that at least 60 percent of the funds are used only for projects on coal-based gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction, and hybrid gasification/combustion.

(B) TECHNICAL MILESTONES.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve. The technical milestones shall become more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit not more than .05 lbs of NO_x per million Btu;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of—

(I) 60 percent for coal of more than 9,000 Btu;

(II) 59 percent for coal of 7,000 to 9,000 Btu; and

(III) 50 percent for coal of less than 7,000 Btu.

(2) OTHER PROJECTS.—The Secretary shall periodically set technical milestones and ensure that up to 40 percent of the funds appropriated pursuant to section 401(a) are used for projects not described in paragraph (1). The milestones shall specify the emission and thermal efficiency levels that projects funded under this paragraph shall be designed to and reasonably expected to achieve. The technical milestones shall become more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NO_x per million Btu;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of—

(i) 45 percent for coal of more than 9,000 Btu;

(ii) 44 percent for coal of 7,000 to 9,000 Btu; and

(iii) 40 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(4) EXISTING UNITS.—In the case of projects at units in existence on the date of enactment of this Act, in lieu of the thermal efficiency requirements set forth in paragraph (1)(B)(iv) and (2)(D), the milestones shall be designed to achieve an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(5) PERMITTED USES.—In carrying out this subtitle, the Secretary may fund projects that include, as part of the project, the separation and capture of carbon dioxide. The thermal efficiency goals of paragraphs (1), (2), and (4) shall not apply for projects that separate and capture at least 50 percent of the facility's potential emissions of carbon dioxide.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this subtitle unless the recipient documents to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary to enable the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of the date of enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary under this subtitle shall not exceed 50 percent.

(f) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by 1 or more facilities receiving assistance under this subtitle.

SEC. 403. REPORT.

Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2014, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1) the technical milestones set forth in section 402 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 402; and

(2) the status of projects funded under this subtitle.

SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 401, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that show the greatest potential for advancing new clean coal technologies.

Subtitle B—Clean Power Projects

SEC. 411. COAL TECHNOLOGY LOAN.

There are authorized to be appropriated to the Secretary $125,000,000 to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE-FC-22-91PC90544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

SEC. 412. COAL GASIFICATION.

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology of at least 400 megawatts in capacity that produces power at competitive rates in deregulated energy generation markets and that does not receive any subsidy (direct or indirect) from ratepayers.

SEC. 414. PETROLEUM COKE GASIFICATION.

The Secretary is authorized to provide loan guarantees for at least 5 petroleum coke gasification projects.

SEC. 416. ELECTRON SCRUBBING DEMONSTRATION.

The Secretary shall use $5,000,000 from amounts appropriated to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

Subtitle D—Coal and Related Programs

SEC. 441. CLEAN AIR COAL PROGRAM.

(a) AMENDMENT.—The Energy Policy Act of 1992 is amended by adding the following new title at the end thereof:

"TITLE XXXI—CLEAN AIR COAL PROGRAM

"SEC. 3101. FINDINGS; PURPOSES; DEFINITIONS.

"(a) FINDINGS.—The Congress finds that—

"(1) new environmental regulations present additional challenges for coal-fired electrical generation in the private marketplace; and

"(2) the Department of Energy, in cooperation with industry, has already fully developed and commercialized several new clean-coal technologies that will allow the clean use of coal.

"(b) PURPOSES.—The purposes of this title are to—

"(1) promote national energy policy and energy security, diversity, and economic competitiveness benefits that result from the increased use of coal;

"(2) mitigate financial risks, reduce the cost, and increase the marketplace acceptance of the new clean coal technologies; and

"(3) advance the deployment of pollution control equipment to meet the current and future obligations of coal-fired generation units regulated under the Clean Air Act (42 U.S.C. 7402 and following).

"SEC. 3102. AUTHORIZATION OF PROGRAM.

"The Secretary shall carry out a program to facilitate production and generation of coal-based power and the installation of pollution control equipment.

"SEC. 3103. AUTHORIZATION OF APPROPRIATIONS.

"(a) POLLUTION CONTROL PROJECTS.—There are authorized to be appropriated to the Secretary $300,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, $40,000,000 for fiscal year 2008, $30,000,000 for fiscal year 2009, and $30,000,000 for fiscal year 2010, to remain available until expended, for carrying out the program for pollution control projects, which may include—

"(1) pollution control equipment and processes for the control of mercury air emissions;

"(2) pollution control equipment and processes for the control of nitrogen dioxide air emissions or sulfur dioxide emissions;

"(3) pollution control equipment and processes for the mitigation or collection of more than one pollutant;

"(4) advanced combustion technology for the control of at least two pollutants, including mercury, particulate matter, nitrogen oxides, and sulfur dioxide, which may also be designed to improve the energy efficiency of the unit; and

"(5) advanced pollution control equipment and processes designed to allow use of the waste byproducts or other byproducts of the equipment or an electrical generation unit designed to allow the use of byproducts.

Funds appropriated under this subsection which are not awarded before fiscal year 2012 may be applied to projects under subsection (b), in addition to amounts authorized under subsection (b).

"(b) GENERATION PROJECTS.—There are authorized to be appropriated to the Secretary $250,000,000 for fiscal year 2007, $350,000,000 for fiscal year 2008, $400,000,000 for fiscal year 2009, $400,000,000 for fiscal year 2010, $400,000,000 for fiscal year 2011, $400,000,000 for fiscal year 2012, and $300,000,000 for fiscal year 2013, to remain available until expended, for generation projects and air pollution control projects. Such projects may include—

"(1) coal-based electrical generation equipment and processes, including gasification combined cycle or other coal-based generation equipment and processes;

"(2) associated environmental control equipment, that will be cost-effective and that is designed to meet anticipated regulatory requirements;

"(3) coal-based electrical generation equipment and processes, including gasification fuel cells, gasification coproduction, and hybrid gasification/combustion projects; and

"(4) advanced coal-based electrical generation equipment and processes, including oxidation combustion techniques, ultra-supercritical boilers, and chemical looping, which the Secretary determines will be cost-effective and could substantially contribute to meeting anticipated environmental or energy needs.

"(c) LIMITATION.—Funds placed at risk during any fiscal year for Federal loans or loan guarantees pursuant to this title may not exceed 30 percent of the total funds obligated under this title.

"SEC. 3104. AIR POLLUTION CONTROL PROJECT CRITERIA.

"The Secretary shall pursuant to authorizations contained in section 3103 provide funding for air pollution control projects designed to facilitate compliance with Federal and State environmental regulations, including any regulation that may be established with respect to mercury.

"SEC. 3105. CRITERIA FOR GENERATION PROJECTS.

"(a) CRITERIA.—The Secretary shall establish criteria on which selection of individual projects described in section 3103(b) should be based. The Secretary may modify the criteria as appropriate to reflect improvements in equipment, except that the criteria shall not be modified to be less stringent. These selection criteria shall include—

"(1) prioritization of projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas;

"(2) prioritization of projects that result in the repowering or replacement of older, less efficient units;

"(3) documented broad interest in the procurement of the equipment and utilization of the processes used in the projects by electrical generator owners or operators;

"(4) equipment and processes beginning in 2006 through 2011 that are projected to achieve an thermal efficiency of—

"(A) 40 percent for coal of more than 9,000 Btu per pound based on higher heating values;

"(B) 38 percent for coal of 7,000 to 9,000 Btu per pound based on higher heating values; and

"(C) 36 percent for coal of less than 7,000 Btu per pound based on higher heating values,

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph; and

"(5) equipment and processes beginning in 2012 and 2013 that are projected to achieve an thermal efficiency of—

"(A) 45 percent for coal of more than 9,000 Btu per pound based on higher heating values;

"(B) 44 percent for coal of 7,000 to 9,000 Btu per pound based on higher heating values; and

"(C) 40 percent for coal of less than 7,000 Btu per pound based on higher heating values.

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph.

"(b) Selection.—(1) In selecting the projects, up to 25 percent of the projects selected may be either coproduction or cogeneration or other gasification projects, but at least 25 percent of the projects shall be for the sole purpose of electrical generation, and priority should be given to equipment and projects less than 600 MW to foster and promote standard designs.

"(2) The Secretary shall give priority to projects that have been developed and demonstrated that are not yet cost competitive, and for coal energy generation projects that advance efficiency, environmental performance, or cost competitiveness significantly beyond the level of pollution control equipment that is in operation on a full scale.

"SEC. 3106. FINANCIAL CRITERIA.

"(a) In General.—The Secretary shall only provide financial assistance to projects that meet the requirements of sections 3103 and 3104 and are likely to—

"(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy; and

"(2) improve the competitiveness of coal in order to maintain a diversity of domestic fuel choices in the United States to meet electricity generation requirements.

"(b) Conditions.—The Secretary shall not provide a funding award under this title unless—

"(1) the award recipient is financially viable without the receipt of additional Federal funding; and

"(2) the recipient provides sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively.

"(c) Equal Access.—The Secretary shall, to the extent practical, utilize cooperative agreement, loan guarantee, and direct Federal loan mechanisms designed to ensure that all electrical generation owners have equal access to these technology deployment incentives. The Secretary shall develop and direct a competitive solicitation process for the selection of technologies and projects under this title.

"SEC. 3107. FEDERAL SHARE.

"The Federal share of the cost of a coal or related technology project funded by the Secretary under this title shall not exceed 50 percent. For purposes of this title, Federal funding includes only appropriated funds.

"SEC. 3108. APPLICABILITY.

"No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of the Clean Air Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of the Clean Air Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title.".

(b) Table of Contents Amendment.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end the following:

"TITLE XXXI—CLEAN AIR COAL PROGRAM

"Sec. 3101. Findings; purposes; definitions.
"Sec. 3102. Authorization of program.
"Sec. 3103. Authorization of appropriations.
"Sec. 3104. Air pollution control project criteria.
"Sec. 3105. Criteria for generation projects.
"Sec. 3106. Financial criteria.
"Sec. 3107. Federal share.
"Sec. 3108. Applicability.".

TITLE V—INDIAN ENERGY

SEC. 501. SHORT TITLE.

This title may be cited as the "Indian Tribal Energy Development and Self-Determination Act of 2005".

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) In General.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

"Sec. 217.

"(a) Establishment.—There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the 'Office'). The Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) Duties of Director.—The Director, in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

"(1) promote Indian tribal energy development, efficiency, and use;

"(2) reduce or stabilize energy costs;

"(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and

"(4) bring electrical power and service to Indian land and the homes of tribal members located on Indian lands or acquired, constructed, or improved (in whole or in part) with Federal funds.".

(b) Conforming Amendments.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking "Section" and inserting "Sec."; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

"Sec. 213. Establishment of policy for National Nuclear Security Administration.
"Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
"Sec. 215. Office of Counterintelligence.
"Sec. 216. Office of Intelligence.
"Sec. 217. Office of Indian Energy Policy and Programs.".

(2) Section 5315 of title 5, United States Code, is amended by inserting after the item related to the Inspector General, Department of Energy the following new item:

"Director, Office of Indian Energy Policy and Programs, Department of Energy.".

SEC. 503. INDIAN ENERGY.

(a) In General.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

"TITLE XXVI—INDIAN ENERGY RESOURCES

"SEC. 2601. DEFINITIONS.

"For purposes of this title:

"(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

"(2) The term 'Indian land' means—

"(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria; and

"(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

"(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

"(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

"(iii) by a dependent Indian community.

"(3) The term 'Indian reservation' includes—

"(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

"(B) a public domain Indian allotment; and

"(C) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

"(i) on original or acquired territory of the community; or

"(ii) within or outside the boundaries of any particular State.

"(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), except that the term 'Indian tribe', for the purpose of paragraph (11) and sections 2603(b)(3) and 2604, shall not include any Native Corporation.

"(5) The term 'integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

"(6) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(7) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

"(8) The term 'Program' means the Indian energy resource development program established under section 2602(a).

"(9) The term 'Secretary' means the Secretary of the Interior.

"(10) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance authorized by section 2602.

"(11) The term 'tribal land' means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States or which is subject to a restriction against alienation under laws of the United States.

"SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

"(a) Department of the Interior Program.—

"(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist consenting Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

"(2) In carrying out the Program, the Secretary shall—

“(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

“(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

“(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources.

“(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

“(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM.—

“(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.

“(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

“(A) energy, energy efficiency, and energy conservation programs;

“(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities;

“(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

“(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

“(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this subsection.

“(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

“(4) The Secretary of Energy may issue such regulations as necessary to carry out this subsection.

“(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

“(c) DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM.—

“(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

“(2) A loan guarantee under this subsection shall be made by—

“(A) a financial institution subject to examination by the Secretary of Energy; or

“(B) an Indian tribe, from funds of the Indian tribe.

“(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

“(4) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

“(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

“(6) Not later than 1 year from the date of enactment of this section, the Secretary of Energy shall report to Congress on the financing requirements of Indian tribes for energy development on Indian land.

“(d) FEDERAL AGENCIES-INDIAN ENERGY PREFERENCE.—

“(1) In purchasing electricity or any other energy product or by-product, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

“(2) In carrying out this subsection, a Federal agency or department shall not—

“(A) pay more than the prevailing market price for an energy product or by-product; or

“(B) obtain less than prevailing market terms and conditions.

“SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

“(a) GRANTS.—The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

“(b) USE OF FUNDS.—Funds from a grant provided under this section may be used—

“(1) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

“(2) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

“(3) by an Indian tribe (other than an Indian Tribe in Alaska except the Metlakatla Indian Community) for the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development and the development of technical infrastructure to protect the environment under applicable law;

“(4) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure related to energy development and environmental protection under applicable law; and

“(5) by an Indian tribe for the training of employees that—

“(A) are engaged in the development of energy resources on Indian land; or

“(B) are responsible for protecting the environment.

“(c) OTHER ASSISTANCE.—In carrying out the obligations of the United States under this title, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that upon the request of an Indian tribe, the Indian tribe shall have available scientific and technical information and expertise, for use in the Indian tribe's regulation, development, and management of energy resources on Indian land. The Secretary may fulfill this responsibility either directly, through the use of Federal officials, or indirectly, by providing financial assistance to the Indian tribe to secure independent assistance.

“SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

“(a) LEASES AND BUSINESS AGREEMENTS.—Subject to the provisions of this section—

“(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy resource development on tribal land, including a lease or business agreement for—

“(A) exploration for, extraction of, processing of, or other development of the Indian tribe's energy mineral resources located on tribal land; and

“(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land or a facility to process or refine energy resources developed on tribal land; and

“(2) such lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of law, if—

“(A) the lease or business agreement is executed pursuant to a tribal energy resource agreement approved by the Secretary under subsection (e);

“(B) the term of the lease or business agreement does not exceed—

“(i) 30 years; or

“(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

“(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to the provisions required by subsection (e)(2)(D)(i)).

“(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without approval by the Secretary if—

“(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

“(2) the term of the right-of-way does not exceed 30 years;

“(3) the pipeline or electric transmission or distribution line serves—

“(A) an electric generation, transmission, or distribution facility located on tribal land; or

“(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

“(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the Indian tribe's activities under such agreement described in subparagraphs (D) and (E) of subsection (e)(2)).

“(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

“(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business agreement, or right-of-way is authorized by the provisions of a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

“(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

“(1) On issuance of regulations under paragraph (8), an Indian tribe may submit to the

Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

"(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), or not later than 60 days after the Secretary receives a revised tribal energy resource agreement submitted by an Indian tribe under paragraph (4)(C), (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

"(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

"(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe;

"(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

"(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

"(III) address amendments and renewals;

"(IV) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

"(V) address technical or other relevant requirements;

"(VI) establish requirements for environmental review in accordance with subparagraph (C);

"(VII) ensure compliance with all applicable environmental laws;

"(VIII) identify final approval authority;

"(IX) provide for public notification of final approvals;

"(X) establish a process for consultation with any affected States concerning off-reservation impacts, if any, identified pursuant to the provisions required under subparagraph (C)(i);

"(XI) describe the remedies for breach of the lease, business agreement, or right-of-way;

"(XII) require each lease, business agreement, and right-of-way to include a statement that, in the event that any of its provisions violates an express term or requirement set forth in the tribal energy resource agreement pursuant to which it was executed—

"(aa) such provision shall be null and void; and

"(bb) if the Secretary determines such provision to be material, the Secretary shall have the authority to suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe;

"(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the executed lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations adopted pursuant to this subsection; and

"(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal remedies that must be exhausted before a petition may be submitted to the Secretary pursuant to paragraph (7)(B).

"(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

"(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

"(ii) the identification of proposed mitigation;

"(iii) a process for ensuring that the public is informed of and has an opportunity to comment on the environmental impacts of the proposed action before tribal approval of the lease, business agreement, or right-of-way; and

"(iv) sufficient administrative support and technical capability to carry out the environmental review process.

"(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

"(i) provisions requiring the Secretary to conduct a periodic review and evaluation to monitor the performance of the Indian tribe's activities associated with the development of energy resources under the tribal energy resource agreement; and

"(ii) when such review and evaluation result in a finding by the Secretary of imminent jeopardy to a physical trust asset arising from a violation of the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take appropriate actions determined by the Secretary to be necessary to protect such asset, which actions may include reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and conditions that gave rise to such jeopardy have been corrected.

"(E) The periodic review and evaluation described in subparagraph (D) shall be conducted on an annual basis, except that, after the third such annual review and evaluation, the Secretary and the Indian tribe may mutually agree to amend the tribal energy resource agreement to authorize the review and evaluation required by subparagraph (D) to be conducted once every 2 years.

"(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted for approval under paragraph (1). The Secretary's review of a tribal energy resource agreement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be limited to the direct effects of that approval.

"(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date of disapproval—

"(A) notify the Indian tribe in writing of the basis for the disapproval;

"(B) identify what changes or other actions are required to address the concerns of the Secretary; and

"(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

"(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to paragraph (8), provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

"(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to enforce the terms of, and protect the Indian tribe's rights under, the lease, business agreement, or right-of-way.

"(6)(A) For purposes of the activities to be undertaken by the Secretary pursuant to this section, the Secretary shall—

"(i) carry out such activities in a manner consistent with the trust responsibility of the United States relating to mineral and other trust resources; and

"(ii) act in good faith and in the best interests of the Indian tribes.

"(B) Subject to the provisions of subsections (a)(2), (b), and (c) waiving the requirement of Secretarial approval of leases, business agreements, and rights-of-way executed pursuant to tribal energy resource agreements approved under this section, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship or from any treaties, statutes, and other laws of the United States, Executive Orders, or agreements between the United States and any Indian tribe.

"(C) The Secretary shall continue to have a trust obligation to ensure that the rights and interests of an Indian tribe are protected in the event that—

"(i) any other party to any such lease, business agreement, or right-of-way violates any applicable provision of Federal law or the terms of any lease, business agreement, or right-of-way under this section; or

"(ii) any provision in such lease, business agreement, or right-of-way violates any express provision or requirement set forth in the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed.

"(D) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any of the negotiated terms of, or any losses resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved by the Secretary under paragraph (2). For the purpose of this subparagraph, the term 'negotiated terms' means any terms or provisions that are negotiated by an Indian tribe and any other party or parties to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

"(7)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain a significant adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to paragraph (8), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(C)(i) Not later than 120 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall determine whether the Indian tribe is not in compliance with the tribal energy resource agreement, as alleged in the petition.

"(ii) The Secretary may adopt procedures under paragraph (8) authorizing an extension of time, not to exceed 120 days, for making the determination under clause (i) in any case in which the Secretary determines that additional time is necessary to evaluate the allegations of the petition.

"(iii) Subject to subparagraph (D), if the Secretary determines that the Indian tribe is not in compliance with the tribal energy resource agreement as alleged in the petition, the Secretary shall take such action as is necessary to ensure compliance with the provisions of the tribal energy resource agreement, which action may include—

"(I) temporarily suspending some or all activities under a lease, business agreement, or right-of-way under this section until the Indian tribe or such activities are in compliance with the provisions of the approved tribal energy resource agreement; or

"(II) rescinding approval of all or part of the tribal energy resource agreement, and if all of such agreement is rescinded, reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsections (a) and (b).

"(D) Prior to seeking to ensure compliance with the provisions of the tribal energy resource agreement of an Indian tribe under subparagraph (C)(iii), the Secretary shall—

"(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

"(ii) provide the Indian tribe with a written notice of the violations together with the written determination; and

"(iii) before taking any action described in subparagraph (C)(iii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

"(E) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations issued by the Secretary.

"(8) Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2005, the Secretary shall issue regulations that implement the provisions of this subsection, including—

"(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe;

"(B) a process and requirements in accordance with which an Indian tribe may—

"(i) voluntarily rescind a tribal energy resource agreement approved by the Secretary under this subsection; and

"(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection;

"(C) provisions setting forth the scope of, and procedures for, the periodic review and evaluation described in subparagraphs (D) and (E) of paragraph (2), including provisions for review of transactions, reports, site inspections, and any other review activities the Secretary determines to be appropriate; and

"(D) provisions defining final agency actions after exhaustion of administrative appeals from determinations of the Secretary under paragraph (7).

"(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

"(1) any Federal environment law;

"(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

"(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2006 through 2016 to implement the provisions of this section and to make grants or provide other appropriate assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal energy resource agreements in accordance with the provisions of this section.

"SEC. 2605. INDIAN MINERAL DEVELOPMENT REVIEW.

"(a) IN GENERAL.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

"(b) REPORT.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2005, the Secretary shall submit to Congress a report that includes—

"(1) the results of the review;

"(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

"(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

"SEC. 2606. FEDERAL POWER MARKETING ADMINISTRATIONS.

"(a) DEFINITIONS.—In this section:

"(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

"(2) The term 'power marketing administration' means—

"(A) the Bonneville Power Administration;

"(B) the Western Area Power Administration; and

"(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

"(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

"(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, and in accordance with existing law—

"(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

"(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

"(3) the Administrator of the Western Area Power Administration may purchase non-federally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

"(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

"(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

"(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

"(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2005, the Secretary of Energy shall submit to Congress a report that—

"(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

"(2) identifies—

"(A) the quantity of power allocated to, or used for the benefit of, Indian tribes by the Western Area Power Administration;

"(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

"(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to deliver Federal power.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 1992 is amended by striking the items relating to title XXVI (other than the title heading) and inserting the following:

"Sec. 2601. Definitions.
"Sec. 2602. Indian tribal energy resource development.
"Sec. 2603. Indian tribal energy resource regulation.
"Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.
"Sec. 2605. Indian mineral development review.
"Sec. 2606. Federal Power Marketing Administrations.".

SEC. 504. CONSULTATION WITH INDIAN TRIBES.

In carrying out this title and the amendments made by this title, the Secretary of Energy and the Secretary shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes.

SEC. 505. FOUR CORNERS TRANSMISSION LINE PROJECT.

The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance as authorized by section 217 of the Department of Energy Organization Act, as added by section

502 of this title, and section 2602 of the Energy Policy Act of 1992, as amended by this title, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Price-Anderson Amendments Act of 2005".

SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) Indemnification of Nuclear Regulatory Commission Licensees.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking "Licenses" and inserting "Licensees"; and

(2) by striking "December 31, 2003" each place it appears and inserting "December 31, 2025".

(b) Indemnification of Department of Energy Contractors.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking "December 31, 2006" and inserting "December 31, 2025".

(c) Indemnification of Nonprofit Educational Institutions.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking "August 1, 2002" each place it appears and inserting "December 31, 2025".

SEC. 603. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking "$63,000,000" and inserting "$95,800,000"; and

(B) by striking "$10,000,000 in any 1 year" and inserting "$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)"; and

(2) in subsection t.(1)—

(A) by inserting "total and annual" after "amount of the maximum";

(B) by striking "the date of the enactment of the Price-Anderson Amendments Act of 1988" and inserting "August 20, 2003"; and

(C) in subparagraph (A), by striking "such date of enactment" and inserting "August 20, 2003".

SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) Indemnification of Department of Energy Contractors.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

"(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

"(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

"(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.".

(b) Contract Amendments.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following—

"(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.".

(c) Liability Limit.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking "the maximum amount of financial protection required under subsection b. or"; and

(2) by striking "paragraph (3) of subsection d., whichever amount is more" and inserting "paragraph (2) of subsection d.".

SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.

(a) Amount of Indemnification.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking "$100,000,000" and inserting "$500,000,000".

(b) Liability Limit.—Section 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking "$100,000,000" and inserting "$500,000,000".

SEC. 606. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "December 31, 2021".

SEC. 607. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) that date, in the case of the first adjustment under this paragraph; or

"(B) the previous adjustment under this paragraph.".

SEC. 608. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

"(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

"(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.".

SEC. 609. APPLICABILITY.

The amendments made by sections 603, 604, and 605 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 610. PROHIBITION ON ASSUMPTION BY UNITED STATES GOVERNMENT OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

"u. Prohibition on Assumption of Liability for Certain Foreign Incidents.—Notwithstanding this section or any other provision of law, no officer of the United States or of any department, agency, or instrumentality of the United States Government may enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to directly or indirectly impose liability on the United States Government, or any department, agency, or instrumentality of the United States Government, or to otherwise directly or indirectly require an indemnity by the United States Government, for nuclear incidents occurring in connection with the design, construction, or operation of a production facility or utilization facility in any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism). This subsection shall not apply to nuclear incidents occurring as a result of missions, carried out under the direction of the Secretary of Energy, the Secretary of Defense, or the Secretary of State, that are necessary to safely secure, store, transport, or remove nuclear materials for nuclear safety or nonproliferation purposes.".

SEC. 611. CIVIL PENALTIES.

(a) Repeal of Automatic Remission.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) Limitation for Not-for-Profit Institutions.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

"d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

"(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.".

(c) Effective Date.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under a contract entered into before the date of enactment of this section.

SEC. 612. FINANCIAL ACCOUNTABILITY.

(a) Amendment.—Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

"v. Financial Accountability.—(1) Notwithstanding subsection d., the Attorney General may bring an action in the appropriate United States district court to recover from a contractor of the Secretary (or subcontractor or supplier of such contractor) amounts paid by the Federal Government under an agreement of indemnification under subsection d. for public liability resulting from conduct which constitutes intentional misconduct of any corporate officer, manager, or superintendent of such contractor (or subcontractor or supplier of such contractor).

"(2) The Attorney General may recover under paragraph (1) an amount not to exceed the amount of the profit derived by the defendant from the contract.

"(3) No amount recovered from any contractor (or subcontractor or supplier of such contractor) under paragraph (1) may be reimbursed directly or indirectly by the Department of Energy.

"(4) Paragraph (1) shall not apply to any nonprofit entity conducting activities under contract for the Secretary.

"(5) No waiver of a defense required under this section shall prevent a defendant from asserting such defense in an action brought under this subsection.

"(6) The Secretary shall, by rule, define the terms 'profit' and 'nonprofit entity' for purposes of this subsection. Such rulemaking shall be completed not later than 180 days after the date of the enactment of this subsection.".

(b) EFFECTIVE DATE.—The amendment made by this section shall not apply to any agreement of indemnification entered into under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) before the date of the enactment of this Act.

Subtitle B—General Nuclear Matters

SEC. 621. LICENSES.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by inserting "from the authorization to commence operations" after "forty years".

SEC. 622. NRC TRAINING PROGRAM.

(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Nuclear Regulatory Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical nuclear safety regulatory skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Nuclear Regulatory Commission to carry out this section $1,000,000 for each of fiscal years 2005 through 2009.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

SEC. 623. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking "for or is issued" and all that follows through "1702" and inserting "to the Commission for, or is issued by the Commission, a license or certificate";

(2) by striking "483a" and inserting "9701"; and

(3) by striking ", of applicants for, or holders of, such licenses or certificates".

SEC. 624. ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

"y. Exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.".

SEC. 625. ANTITRUST REVIEW.

Section 105 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

"(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility or production facility under section 103 or 104 b. that is filed on or after the date of enactment of this paragraph.".

SEC. 626. DECOMMISSIONING.

Section 161 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking "and (3)" and inserting "(3)"; and

(2) by inserting before the semicolon at the end the following: ", and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104 b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility".

SEC. 627. LIMITATION ON LEGAL FEE REIMBURSEMENT.

Title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended by adding at the end the following new section:

"LIMITATION ON LEGAL FEE REIMBURSEMENT

"SEC. 212. The Department of Energy shall not, except as required under a contract entered into before the date of enactment of this section, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

"(1) an adverse determination on the merits with respect to such complaint against the contractor or subcontractor by the Director of the Department of Energy's Office of Hearings and Appeals pursuant to part 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 211 of this Act; or

"(2) an adverse final judgment by any State or Federal court with respect to such complaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, United States Code, section 211 of this Act, or any comparable State law,

unless the adverse determination or final judgment is reversed upon further administrative or judicial review.".

SEC. 629. REPORT ON FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY GENERATION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy generation facilities at Department of Energy sites in existence on the date of enactment of this Act.

SEC. 630. URANIUM SALES.

(a) SALES, TRANSFERS, AND SERVICES.—Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by striking subsections (d), (e), and (f) and inserting the following:

"(3) The Secretary may transfer to the Corporation, notwithstanding subsections (b)(2) and (d), natural uranium in amounts sufficient to fulfill the Department of Energy's commitments under Article 4(B) of the Agreement between the Department and the Corporation dated June 17, 2002.

"(d) INVENTORY SALES.—(1) In addition to the transfers and sales authorized under subsections (b) and (c) and under paragraph (5) of this subsection, the United States Government may transfer or sell uranium in any form subject to paragraphs (2), (3), and (4).

"(2) Except as provided in subsections (b) and (c) and paragraph (5) of this subsection, no sale or transfer of uranium shall be made under this subsection by the United States Government unless—

"(A) the President determines that the material is not necessary for national security needs and the sale or transfer has no adverse impact on implementation of existing government-to-government agreements;

"(B) the price paid to the appropriate Federal agency, if the transaction is a sale, will not be less than the fair market value of the material; and

"(C) the sale or transfer to commercial nuclear power end users is made pursuant to a contract of at least 3 years' duration.

"(3) Except as provided in paragraph (5), the United States Government shall not make any transfer or sale of uranium in any form under this subsection that would cause the total amount of uranium transferred or sold pursuant to this subsection that is delivered for consumption by commercial nuclear power end users to exceed—

"(A) 3,000,000 pounds of U_3O_8 equivalent in fiscal year 2005, 2006, 2007, 2008, or 2009;

"(B) 5,000,000 pounds of U_3O_8 equivalent in fiscal year 2010 or 2011;

"(C) 7,000,000 pounds of U_3O_8 equivalent in fiscal year 2012; and

"(D) 10,000,000 pounds of U_3O_8 equivalent in fiscal year 2013 or any fiscal year thereafter.

"(4) Except for sales or transfers under paragraph (5), for the purposes of this subsection, the recovery of uranium from uranium bearing materials transferred or sold by the United States Government to the domestic uranium industry shall be the preferred method of making uranium available. The recovered uranium shall be counted against the annual maximum deliveries set forth in this section, when such uranium is sold to end users.

"(5) The United States Government may make the following sales and transfers:

"(A) Sales or transfers to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications.

"(B) Sales or transfers to any person for national security purposes, as determined by the Secretary.

"(C) Sales or transfers to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

"(D) Sales or transfers to the Department of Energy research reactor sales program.

"(E) Sales or transfers, at fair market value, for emergency purposes in the event of a disruption in supply to commercial nuclear power end users in the United States.

"(F) Sales or transfers, at fair market value, for use in a commercial reactor in the United States with nonstandard fuel requirements.

"(G) Sales or transfers provided for under law for use by the Tennessee Valley Authority in relation to the Department of Energy's highly enriched uranium or tritium programs.

"(6) For purposes of this subsection, the term 'United States Government' does not include the Tennessee Valley Authority.

"(e) SAVINGS PROVISION.—Nothing in this subchapter modifies the terms of the Russian HEU Agreement.

"(f) SERVICES.—Notwithstanding any other provision of this section, if the Secretary determines that the Corporation has failed, or may fail, to perform any obligation under the Agreement between the Department of

Energy and the Corporation dated June 17, 2002, and as amended thereafter, which failure could result in termination of the Agreement, the Secretary shall notify Congress, in such a manner that affords Congress an opportunity to comment, prior to a determination by the Secretary whether termination, waiver, or modification of the Agreement is required. The Secretary is authorized to take such action as he determines necessary under the Agreement to terminate, waive, or modify provisions of the Agreement to achieve its purposes.".

(b) Report.—Not later than 3 years after the date of enactment of this Act, the Secretary of Energy shall report to Congress on the implementation of this section. The report shall include a discussion of available excess uranium inventories; all sales or transfers made by the United States Government; the impact of such sales or transfers on the domestic uranium industry, the spot market uranium price, and the national security interests of the United States; and any steps taken to remediate any adverse impacts of such sales or transfers.

SEC. 631. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2006, 2007, and 2008 for—

(1) cooperative, cost-shared agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) Domestic Uranium Producer.—For purposes of this section, the term "domestic uranium producer" has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998.

(c) Limitation.—No activities funded under this section may be carried out in the State of New Mexico.

SEC. 632. WHISTLEBLOWER PROTECTION.

(a) Definition of Employer.—Section 211(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting "; and" and

(3) by adding at the end the following:

"(E) a contractor or subcontractor of the Commission.".

(b) De Novo Review.—Subsection (b) of such section 211 is amended by adding at the end the following new paragraph:

"(4) If the Secretary has not issued a final decision within 540 days after the filing of a complaint under paragraph (1), and there is no showing that such delay is due to the bad faith of the person seeking relief under this paragraph, such person may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.".

SEC. 633. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

(1) in subsection a., by striking "a. The Commission" and inserting "a. In General.—Except as provided in subsection b., the Commission";

(2) by redesignating subsection b. as subsection c.; and

(3) by inserting after subsection a. the following:

"b. Medical Isotope Production.—

"(1) Definitions.—In this subsection:

"(A) Highly enriched uranium.—The term 'highly enriched uranium' means uranium enriched to include concentration of U–235 above 20 percent.

"(B) Medical isotope.—The term 'medical isotope' includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

"(C) Radiopharmaceutical.—The term 'radiopharmaceutical' means a radioactive isotope that—

"(i) contains byproduct material combined with chemical or biological material; and

"(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

"(D) Recipient country.—The term 'recipient country' means Canada, Belgium, France, Germany, and the Netherlands.

"(2) Licenses.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection a.), the Commission determines that—

"(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

"(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

"(i) uses an alternative nuclear reactor fuel; or

"(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

"(3) Review of physical protection requirements.—

"(A) In general.—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

"(B) Imposition of additional requirements.—If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

"(4) First report to Congress.—

"(A) NAS study.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

"(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

"(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

"(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

"(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

"(B) Feasibility.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

"(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

"(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

"(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

"(C) Report by the Secretary.—Not later than 5 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that—

"(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

"(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

"(5) Second report to Congress.—If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

"(6) Certification.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

"(7) SUNSET PROVISION.—After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate its review of export license applications under this subsection.".

SEC. 634. FERNALD BYPRODUCT MATERIAL.

Title III of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10221 et seq.) is amended by adding at the end the following new section:

"FERNALD BYPRODUCT MATERIAL

"SEC. 307. Notwithstanding any other law, the material in the concrete silos at the Fernald uranium processing facility managed on the date of enactment of this section by the Department shall be considered byproduct material (as defined by section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2))). The Department may dispose of the material in a facility regulated by the Commission or by an Agreement State. If the Department disposes of the material in such a facility, the Commission or the Agreement State shall regulate the material as byproduct material under that Act. This material shall remain subject to the jurisdiction of the Department until it is received at a commercial, Commission-licensed, or Agreement State-licensed facility, at which time the material shall be subject to the health and safety requirements of the Commission or the Agreement State with jurisdiction over the disposal site.".

SEC. 635. SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE.

Subtitle D of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10171) is amended by adding at the end the following new section:

"SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE

"SEC. 152. (a) DESIGNATION OF RESPONSIBILITY.—The Secretary shall designate an Office within the Department to have the responsibility for activities needed to develop a new, or use an existing, facility for safely disposing of all low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for Class C radioactive waste (referred to in this section as 'GTCC waste').

"(b) COMPREHENSIVE PLAN.—The Secretary shall develop a comprehensive plan for permanent disposal of GTCC waste which includes plans for a disposal facility. This plan shall be transmitted to Congress in a series of reports, including the following:

"(1) REPORT ON SHORT-TERM PLAN.—Not later than 180 days after the date of enactment of this section, the Secretary shall submit to Congress a plan describing the Secretary's operational strategy for continued recovery and storage of GTCC waste until a permanent disposal facility is available.

"(2) UPDATE OF 1987 REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to Congress an update of the Secretary's February 1987 report submitted to Congress that made comprehensive recommendations for the disposal of GTCC waste.

"(B) CONTENTS.—The update under this paragraph shall contain—

"(i) a detailed description and identification of the GTCC waste that is to be disposed;

"(ii) a description of current domestic and international programs, both Federal and commercial, for management and disposition of GTCC waste;

"(iii) an identification of the Federal and private options and costs for the safe disposal of GTCC waste;

"(iv) an identification of the options for ensuring that, wherever possible, generators and users of GTCC waste bear all reasonable costs of waste disposal;

"(v) an identification of any new statutory authority required for disposal of GTCC waste; and

"(vi) in coordination with the Environmental Protection Agency and the Commission, an identification of any new regulatory guidance needed for the disposal of GTCC waste.

"(3) REPORT ON COST AND SCHEDULE FOR COMPLETION OF ENVIRONMENTAL IMPACT STATEMENT AND RECORD OF DECISION.—Not later than 180 days after the date of submission of the update required under paragraph (2), the Secretary shall submit to Congress a report containing an estimate of the cost and schedule to complete a draft and final environmental impact statement and to issue a record of decision for a permanent disposal facility, utilizing either a new or existing facility, for GTCC waste.".

SEC. 636. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

(1) by inserting "a." before "No nuclear materials and equipment"; and

(2) by adding at the end the following new subsection:

"b.(1) Notwithstanding any other provision of law, including specifically section 121 of this Act, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. of this Act and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism).

"(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Nuclear Regulatory Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

"(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

"(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

"(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

"(C) the waiver of that paragraph is in the vital national security interest of the United States; or

"(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.".

(b) APPLICABILITY TO EXPORTS APPROVED FOR TRANSFER BUT NOT TRANSFERRED.—Subsection b. of section 129 of Atomic Energy Act of 1954, as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act but have not yet been transferred as of that date.

SEC. 638. NATIONAL URANIUM STOCKPILE.

The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended by adding at the end the following new section:

"SEC. 3118. NATIONAL URANIUM STOCKPILE.

"(a) STOCKPILE CREATION.—The Secretary of Energy may create a national low-enriched uranium stockpile with the goals to—

"(1) enhance national energy security; and

"(2) reduce global proliferation threats.

"(b) SOURCE OF MATERIAL.—The Secretary shall obtain material for the stockpile from—

"(1) material derived from blend-down of Russian highly enriched uranium derived from weapons materials; and

"(2) domestically mined and enriched uranium.

"(c) LIMITATION ON SALES OR TRANSFERS.—Sales or transfer of materials in the stockpile shall occur pursuant to section 3112.".

SEC. 639. NUCLEAR REGULATORY COMMISSION MEETINGS.

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after they occur. The Commission shall promptly make a transcript of the recording available to the public on request, except to the extent that public disclosure is exempted or prohibited by law. This section shall not apply to a meeting, within the meaning of that term under section 552b(a)(2) of title 5, United States Code.

SEC. 640. EMPLOYEE BENEFITS.

Section 3110 of the USEC Privatization Act (42 U.S.C. 2297h-8(a)) is amended by adding at the end the following new paragraph:

"(8) CONTINUITY OF BENEFITS.—Not later than 30 days after the date of enactment of this paragraph, the Secretary shall implement such actions as are necessary to ensure that any employee who—

"(A) is involved in providing infrastructure or environmental remediation services at the Portsmouth, Ohio, or the Paducah, Kentucky, Gaseous Diffusion Plant;

"(B) has been an employee of the Department of Energy's predecessor management and integrating contractor (or its first or second tier subcontractors), or of the Corporation, at the Portsmouth, Ohio, or the Paducah, Kentucky, facility; and

"(C) was eligible as of April 1, 2005, to participate in or transfer into the Multiple Employer Pension Plan or the associated multiple employer retiree health care benefit plans, as defined in those plans,

shall continue to be eligible to participate in or transfer into such pension or health care benefit plans.".

Subtitle C—Additional Hydrogen Production Provisions

SEC. 651. HYDROGEN PRODUCTION PROGRAMS.

(a) ADVANCED REACTOR HYDROGEN COGENERATION PROJECT.—

(1) PROJECT ESTABLISHMENT.— The Secretary is directed to establish an Advanced Reactor Hydrogen Cogeneration Project.

(2) PROJECT DEFINITION.— The project shall consist of the research, development, design, construction, and operation of a hydrogen production cogeneration research facility that, relative to the current commercial reactors, enhances safety features, reduces waste production, enhances thermal efficiencies, increases proliferation resistance, and has the potential for improved economics and physical security in reactor siting. This facility shall be constructed so as to enable research and development on advanced reactors of the type selected and on alternative approaches for reactor-based production of hydrogen.

(3) PROJECT MANAGEMENT.—

(A) MANAGEMENT.—The project shall be managed within the Department by the Office of Nuclear Energy, Science, and Technology.

(B) LEAD LABORATORY.—The lead laboratory for the project, providing the site for the reactor construction, shall be the Idaho National Laboratory (in this subsection referred to as "INL").

(C) STEERING COMMITTEE.—The Secretary shall establish a national steering committee with membership from the national laboratories, universities, and industry to provide advice to the Secretary and the Director of the Office of Nuclear Energy, Science, and Technology on technical and program management aspects of the project.

(D) COLLABORATION.—Project activities shall be conducted at INL, other national laboratories, universities, domestic industry, and international partners.

(4) PROJECT REQUIREMENTS.—

(A) RESEARCH AND DEVELOPMENT.—

(i) IN GENERAL.—The project shall include planning, research and development, design, and construction of an advanced, next-generation, nuclear energy system suitable for enabling further research and development on advanced reactor technologies and alternative approaches for reactor-based generation of hydrogen.

(ii) REACTOR TEST CAPABILITIES AT INL.—The project shall utilize, where appropriate, extensive reactor test capabilities resident at INL.

(iii) ALTERNATIVES.—The project shall be designed to explore technical, environmental, and economic feasibility of alternative approaches for reactor-based hydrogen production.

(iv) INDUSTRIAL LEAD.—The industrial lead for the project shall be a company incorporated in the United States.

(B) INTERNATIONAL COLLABORATION.—

(i) IN GENERAL.—The Secretary shall seek international cooperation, participation, and financial contribution in this project.

(ii) ASSISTANCE FROM INTERNATIONAL PARTNERS.—The Secretary may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(iii) GENERATION IV INTERNATIONAL FORUM.—International activities shall be coordinated with the Generation IV International Forum.

(iv) GENERATION IV NUCLEAR ENERGY SYSTEMS PROGRAM.—The Secretary may combine this project with the Generation IV Nuclear Energy Systems Program.

(C) DEMONSTRATION.—The overall project, which may involve demonstration of selected project objectives in a partner nation, must demonstrate both electricity and hydrogen production and may provide flexibility, where technically and economically feasible in the design and construction, to enable tests of alternative reactor core and cooling configurations.

(D) PARTNERSHIPS.—The Secretary shall establish cost-shared partnerships with domestic industry or international participants for the research, development, design, construction, and operation of the research facility, and preference in determining the final project structure shall be given to an overall project which retains United States leadership while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

(E) TARGET DATE.—The Secretary shall select technologies and develop the project to provide initial testing of either hydrogen production or electricity generation by 2011, or provide a report to Congress explaining why this date is not feasible.

(F) WAIVER OF CONSTRUCTION TIMELINES.—The Secretary is authorized to conduct the Advanced Reactor Hydrogen Cogeneration Project without the constraints of DOE Order 413.3, relating to program and project management for the acquisition of capital assets, as necessary to meet the specified operational date.

(G) COMPETITION.—The Secretary may fund up to 2 teams for up to 1 year to develop detailed proposals for competitive evaluation and selection of a single proposal and concept for further progress. The Secretary shall define the format of the competitive evaluation of proposals.

(H) USE OF FACILITIES.—Research facilities in industry, national laboratories, or universities either within the United States or with cooperating international partners may be used to develop the enabling technologies for the research facility. Utilization of domestic university-based facilities shall be encouraged to provide educational opportunities for student development.

(I) ROLE OF NUCLEAR REGULATORY COMMISSION.—

(i) IN GENERAL.—The Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this subsection, pursuant to section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(ii) RISK-BASED CRITERIA.—The Secretary shall seek active participation of the Nuclear Regulatory Commission throughout the project to develop risk-based criteria for any future commercial development of a similar reactor architecture.

(J) REPORT.—The Secretary shall develop and transmit to Congress a comprehensive project plan not later than 3 months after the date of enactment of this Act. The project plan shall be updated annually with each annual budget submission.

(b) ADVANCED NUCLEAR REACTOR TECHNOLOGIES.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subtitle related to advanced nuclear reactor technologies and for implementing the recommendations related to advanced nuclear reactor technologies that are included in the report transmitted under subsection (d); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the commercial production of hydrogen at existing nuclear power plants, including one demonstration project at a national laboratory or institution of higher education using an advanced gas-cooled reactor.

(c) COLLOCATION WITH HYDROGEN PRODUCTION FACILITY.—Section 103 of the Atomic Energy Act of 1954 (42 U.S.C. 2011) is amended by adding at the end the following new subsection:

"g. The Commission shall give priority to the licensing of a utilization facility that is collocated with a hydrogen production facility. The Commission shall issue a final decision approving or disapproving the issuance of a license to construct and operate a utilization facility not later than the expiration of 3 years after the date of the submission of such application, if the application references a Commission-certified design and an early site permit, unless the Commission determines that the applicant has proposed material and substantial changes to the design or the site design parameters.".

(d) REPORT.—The Secretary shall transmit to the Congress not later than 120 days after the date of enactment of this Act a report containing detailed summaries of the roadmaps prepared under subsection (b)(1), descriptions of the Secretary's progress in establishing the projects and other programs required under this section, and recommendations for promoting the availability of advanced nuclear reactor energy technologies for the production of hydrogen.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of supporting research programs related to the development of advanced nuclear reactor technologies under this section, there are authorized to be appropriated to the Secretary—

(1) $65,000,000 for fiscal year 2006;
(2) $74,750,000 for fiscal year 2007;
(3) $85,962,500 for fiscal year 2008;
(4) $98,856,875 for fiscal year 2009;
(5) $113,685,406 for fiscal year 2010;
(6) $130,738,217 for fiscal year 2011;
(7) $150,348,950 for fiscal year 2012;
(8) $172,901,292 for fiscal year 2013;
(9) $198,836,486 for fiscal year 2014; and
(10) $228,661,959 for fiscal year 2015.

SEC. 652. DEFINITIONS.

For purposes of this subtitle—

(1) the term "advanced nuclear reactor technologies" means—

(A) technologies related to advanced light water reactors that may be commercially available in the near-term, including mid-sized reactors with passive safety features, for the generation of electric power from nuclear fission and the production of hydrogen; and

(B) technologies related to other nuclear reactors that may require prototype demonstration prior to availability in the mid-term or long-term, including high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of electric power from nuclear fission and the production of hydrogen;

(2) the term "institution of higher education" has the meaning given to that term

in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

(3) the term "Secretary" means the Secretary of Energy.

Subtitle D—Nuclear Security

SEC. 661. NUCLEAR FACILITY THREATS.

(a) STUDY.—The President, in consultation with the Nuclear Regulatory Commission (referred to in this subtitle as the "Commission") and other appropriate Federal, State, and local agencies and private entities, shall conduct a study to identify the types of threats that pose an appreciable risk to the security of the various classes of facilities licensed by the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Such study shall take into account, but not be limited to—

(1) the events of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for assistance in an attack from several persons employed at the facility;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weaponry;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration;

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

(11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and

(12) the potential for theft and diversion of nuclear materials from such facilities.

(b) SUMMARY AND CLASSIFICATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress and the Commission a report—

(1) summarizing the types of threats identified under subsection (a); and

(2) classifying each type of threat identified under subsection (a), in accordance with existing laws and regulations, as either—

(A) involving attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or otherwise falling under the responsibilities of the Federal Government; or

(B) involving the type of risks that Commission licensees should be responsible for guarding against.

(c) FEDERAL ACTION REPORT.—Not later than 90 days after the date on which a report is transmitted under subsection (b), the President shall transmit to Congress a report on actions taken, or to be taken, to address the types of threats identified under subsection (b)(2)(A), including identification of the Federal, State, and local agencies responsible for carrying out the obligations and authorities of the United States. Such report may include a classified annex, as appropriate.

(d) REGULATIONS.—Not later than 180 days after the date on which a report is transmitted under subsection (b), the Commission may revise, by rule, the design basis threats issued before the date of enactment of this section as the Commission considers appropriate based on the summary and classification report.

(e) PHYSICAL SECURITY PROGRAM.—The Commission shall establish an operational safeguards response evaluation program that ensures that the physical protection capability and operational safeguards response for sensitive nuclear facilities, as determined by the Commission consistent with the protection of public health and the common defense and security, shall be tested periodically through Commission approved or designed, observed, and evaluated force-on-force exercises to determine whether the ability to defeat the design basis threat is being maintained. For purposes of this subsection, the term "sensitive nuclear facilities" includes at a minimum commercial nuclear power plants and category I fuel cycle facilities.

(f) CONTROL OF INFORMATION.—Notwithstanding any other provision of law, the Commission may undertake any rulemaking under this subtitle in a manner that will fully protect safeguards and classified national security information.

(g) FEDERAL SECURITY COORDINATORS.—

(1) REGIONAL OFFICES.—Not later than 18 months after the date of enactment of this Act, the Commission shall assign a Federal security coordinator, under the employment of the Commission, to each region of the Commission.

(2) RESPONSIBILITIES.—The Federal security coordinator shall be responsible for—

(A) communicating with the Commission and other Federal, State, and local authorities concerning threats, including threats against such classes of facilities as the Commission determines to be appropriate;

(B) ensuring that such classes of facilities as the Commission determines to be appropriate maintain security consistent with the security plan in accordance with the appropriate threat level; and

(C) assisting in the coordination of security measures among the private security forces at such classes of facilities as the Commission determines to be appropriate and Federal, State, and local authorities, as appropriate.

(h) TRAINING PROGRAM.—The President shall establish a program to provide technical assistance and training to Federal agencies, the National Guard, and State and local law enforcement and emergency response agencies in responding to threats against a designated nuclear facility.

SEC. 662. FINGERPRINTING FOR CRIMINAL HISTORY RECORD CHECKS.

(a) IN GENERAL.—Subsection a. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(a)) is amended—

(1) by striking "a. The Nuclear" and all that follows through "section 147." and inserting the following:

"a. IN GENERAL.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The Commission shall require each individual or entity—

"(i) that is licensed or certified to engage in an activity subject to regulation by the Commission;

"(ii) that has filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

"(iii) that has notified the Commission, in writing, of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission,

to fingerprint each individual described in subparagraph (B) before the individual is permitted unescorted access or access, whichever is applicable, as described in subparagraph (B).

"(B) INDIVIDUALS REQUIRED TO BE FINGERPRINTED.—The Commission shall require to be fingerprinted each individual who—

"(i) is permitted unescorted access to—

"(I) a utilization facility; or

"(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

"(ii) is permitted access to safeguards information under section 147.";

(2) by striking "All fingerprints obtained by a licensee or applicant as required in the preceding sentence" and inserting the following:

"(2) SUBMISSION TO THE ATTORNEY GENERAL.—All fingerprints obtained by an individual or entity as required in paragraph (1)";

(3) by striking "The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant." and inserting the following:

"(3) COSTS.—The costs of any identification and records check conducted pursuant to paragraph (1) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A)."; and

(4) by striking "Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to licensee or applicant submitting such fingerprints." and inserting the following:

"(4) PROVISION TO INDIVIDUAL OR ENTITY REQUIRED TO CONDUCT FINGERPRINTING.—Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).".

(b) ADMINISTRATION.—Subsection c. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(c)) is amended—

(1) by striking ", subject to public notice and comment, regulations—" and inserting "requirements—"; and

(2) by striking, in paragraph (2)(B), "unescorted access to the facility of a licensee or applicant" and inserting "unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)".

(c) BIOMETRIC METHODS.—Subsection d. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(d)) is redesignated as subsection e., and the following is inserted after subsection c.:

"d. USE OF OTHER BIOMETRIC METHODS.—The Commission may satisfy any requirement for a person to conduct fingerprinting under this section using any other biometric method for identification approved for use by the Attorney General, after the Commission has approved the alternative method by rule.".

SEC. 663. USE OF FIREARMS BY SECURITY PERSONNEL OF LICENSEES AND CERTIFICATE HOLDERS OF THE COMMISSION.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following subsection:

"(z)(1) notwithstanding section 922(o), (v), and (w) of title 18, United States Code, or any similar provision of any State law or any similar rule or regulation of a State or any political subdivision of a State prohibiting the transfer or possession of a handgun, a rifle or shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for the foregoing, or a large capacity ammunition feeding device, authorize security personnel of licensees and certificate holders of the Commission (including employees of contractors of licensees and certificate holders) to receive, possess, transport, import, and use 1 or more of those weapons, ammunition, or devices, if the Commission determines that—

"(A) such authorization is necessary to the discharge of the security personnel's official duties; and

"(B) the security personnel—

"(i) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws pertaining to possession of firearms by certain categories of persons;

"(ii) have successfully completed requirements established through guidelines implementing this subsection for training in use of firearms and tactical maneuvers;

"(iii) are engaged in the protection of—

"(I) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission; or

"(II) radioactive material or other property owned or possessed by a person that is a licensee or certificate holder of the Commission, or that is being transported to or from a facility owned or operated by such a licensee or certificate holder, and that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

"(iv) are discharging their official duties.

"(2) Such receipt, possession, transportation, importation, or use shall be subject to—

"(A) chapter 44 of title 18, United States Code, except for section 922(a)(4), (o), (v), and (w);

"(B) chapter 53 of title 26, United States Code, except for section 5844; and

"(C) a background check by the Attorney General, based on fingerprints and including a check of the system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) to determine whether the person applying for the authority is prohibited from possessing or receiving a firearm under Federal or State law.

"(3) This subsection shall become effective upon the issuance of guidelines by the Commission, with the approval of the Attorney General, to govern the implementation of this subsection.

"(4) In this subsection, the terms 'handgun', 'rifle', 'shotgun', 'firearm', 'ammunition', 'machinegun', 'semiautomatic assault weapon', 'large capacity ammunition feeding device', 'short-barreled shotgun', and 'short-barreled rifle' shall have the meanings given those terms in section 921(a) of title 18, United States Code.".

SEC. 664. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended in the first sentence by inserting "or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act" before the period at the end.

SEC. 665. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

(a) IN GENERAL.—Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking "storage facility" and inserting "storage, treatment, or disposal facility";

(2) in paragraph (3)—

(A) by striking "such a utilization facility" and inserting "a utilization facility licensed under this Act"; and

(B) by striking "or" at the end;

(3) in paragraph (4)—

(A) by striking "facility licensed" and inserting ", uranium conversion, or nuclear fuel fabrication facility licensed or certified"; and

(B) by striking the comma at the end and inserting a semicolon; and

(4) by inserting after paragraph (4) the following:

"(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

"(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

"(7) any radioactive material or other property subject to regulation by the Nuclear Regulatory Commission that, before the date of the offense, the Nuclear Regulatory Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security,".

(b) PENALTIES.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended by striking "$10,000 or imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life" both places it appears and inserting "$1,000,000 or imprisoned for up to life without parole".

SEC. 666. SECURE TRANSFER OF NUCLEAR MATERIALS.

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201-2210b) is amended by adding at the end the following new section:

"SEC. 170C. SECURE TRANSFER OF NUCLEAR MATERIALS.

"a. The Nuclear Regulatory Commission shall establish a system to ensure that materials described in subsection b., when transferred or received in the United States by any party pursuant to an import or export license issued pursuant to this Act, are accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying the transfer of such materials shall be subject to a security background check conducted by appropriate Federal entities.

"b. Except as otherwise provided by the Commission by regulation, the materials referred to in subsection a. are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, transuranic waste, and low-level radioactive waste (as defined in section 2(16) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(16))).".

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials or classes of individuals that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170C of the Atomic Energy Act of 1954, as added by subsection (a) of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the issuance of regulations under subsection (b), except that the background check requirement shall become effective on a date established by the Commission.

(d) EFFECT ON OTHER LAW.—Nothing in this section or the amendment made by this section shall waive, modify, or affect the application of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code.

(e) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 14 of the Atomic Energy Act of 1954 is amended by adding at the end the following new item:

"Sec. 170C. Secure transfer of nuclear materials.".

SEC. 667. DEPARTMENT OF HOMELAND SECURITY CONSULTATION.

Before issuing a license for a utilization facility, the Nuclear Regulatory Commission shall consult with the Department of Homeland Security concerning the potential vulnerabilities of the location of the proposed facility to terrorist attack.

SEC. 668. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

(b) NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES.—Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a)—

(A) by striking "Except as provided in paragraph (3), the" and inserting "The" in paragraph (1); and

(B) by striking paragraph (3); and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (2)(A)(i);

(B) by striking the period at the end of paragraph (2)(A)(ii) and inserting a semicolon;

(C) by adding at the end of paragraph (2)(A) the following new clauses:

"(iii) amounts appropriated to the Commission for the fiscal year for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; and

"(iv) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections."; and

(D) by amending paragraph (2)(B)(v) to read as follows:

"(v) 90 percent for fiscal year 2005 and each fiscal year thereafter.".

(c) REPEAL.—Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 2213) is repealed.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.

Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

"(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area in which—

"(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

"(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

"(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.".

SEC. 704. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking "may" and inserting "shall".

SEC. 705. LEASE CONDENSATES.

(a) LEASE CONDENSATE FUELS.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (2), by inserting "mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate;" after "liquefied petroleum gas;";

(2) in paragraph (13), by striking "and" at the end;

(3) in paragraph (14)—

(A) by inserting "mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate," after "liquefied petroleum gas,"; and

(B) by striking the period and inserting "; and";

(4) by adding at the end the following:

"(15) the term 'lease condensate' means a mixture, primarily of pentanes and heavier hydrocarbons, that is recovered as a liquid from natural gas in lease separation facilities.".

(b) LEASE CONDENSATE USE CREDITS.—

(1) IN GENERAL.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) is amended by adding at the end the following:

"SEC. 313. LEASE CONDENSATE USE CREDITS.

"(a) IN GENERAL.—Subject to subsection (d), the Secretary shall allocate 1 credit under this section to a fleet or covered person for each qualifying volume of the lease condensate component of fuel containing at least 50 percent lease condensate, or fuels extracted from lease condensate, after the date of enactment of this section for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

"(b) REQUIREMENTS.—A credit allocated under this section—

"(1) shall be subject to the same exceptions, authority, documentation, and use of credits that are specified for qualifying volumes of biodiesel in section 312; and

"(2) shall not be considered a credit under section 508.

"(c) REGULATION.—

"(1) IN GENERAL.—Subject to subsection (d), not later than January 1, 2006, after the collection of appropriate information and data that consider usage options, uses in other industries, products, or processes, potential volume capacities, costs, air emissions, and fuel efficiencies, the Secretary shall issue a regulation establishing requirements and procedures for the implementation of this section.

"(2) QUALIFYING VOLUME.—The regulation shall include a determination of an appropriate qualifying volume for lease condensate, except that in no case shall the Secretary determine that the qualifying volume for lease condensate is less than 1,125 gallons.

"(d) APPLICABILITY.—This section applies unless the Secretary finds that the use of lease condensate as an alternative fuel would adversely affect public health or safety or ambient air quality or the environment.".

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by adding at the end of the items relating to title III the following:

"Sec. 313. Lease condensate use credits.".

(c) EMERGENCY EXEMPTION.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended in paragraph (9)(E) by inserting before the semicolon at the end ", including vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages, as determined by the Secretary".

SEC. 706. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on—

(1) the development of alternative fueled vehicle technology;

(2) the availability of that technology in the market; and

(3) the cost of alternative fueled vehicles.

(b) TOPICS.—As part of the study under subsection (a), the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this title.

(c) REPORT.—Upon completion of the study under this section, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

SEC. 707. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLE PURCHASING REQUIREMENTS.

Section 310(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13218(b)(1)) is amended by striking "1 year after the date of enactment of this subsection" and inserting "February 15, 2006".

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART 1—HYBRID VEHICLES

SEC. 711. HYBRID VEHICLES.

The Secretary of Energy shall accelerate efforts directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

SEC. 712. HYBRID RETROFIT AND ELECTRIC CONVERSION PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of hybrid retrofit and electric conversion technologies for combustion engine vehicles.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity;

(2) to a for-profit or nonprofit corporation or other person; or

(3) to 1 or more contracting entities that service combustion engine vehicles for an entity described in paragraph (1) or (2).

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions per proposal or per vehicle; or

(B) involve the use of emissions control retrofit or conversion technology.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) combustion engine vehicles on which hybrid retrofit or conversion technology are to be demonstrated—

(A) with the retrofit or conversion technology applied will achieve low-emission standards consistent with the Voluntary National Low Emission Vehicle Program for Light-Duty Vehicles and Light-Duty Trucks (40 CFR Part 86) without model year restrictions; and

(B) will be used for a minimum of 3 years;

(2) grant funds will be used for the purchase of hybrid retrofit or conversion technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit or conversion, including the purchase of hybrid

retrofit or conversion technology and all necessary labor for installation of the retrofit or conversion.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the hybrid retrofit or conversion technology to be demonstrated; and

(2) that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $20,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006;

(3) $45,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

PART 2—ADVANCED VEHICLES

SEC. 721. DEFINITIONS.

In this part:

(1) ALTERNATIVE FUELED VEHICLE.—

(A) IN GENERAL.—The term "alternative fueled vehicle" means a vehicle propelled solely on an alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)).

(B) EXCLUSION.—The term "alternative fueled vehicle" does not include a vehicle that the Secretary determines, by regulation, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) FUEL CELL VEHICLE.—The term "fuel cell vehicle" means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such fuel cell system may or may not include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLE.—The term "hybrid vehicle" means a medium or heavy duty vehicle propelled by an internal combustion engine or heat engine using any combustible fuel and an onboard rechargeable energy storage device.

(4) NEIGHBORHOOD ELECTRIC VEHICLE.—The term "neighborhood electric vehicle" means a motor vehicle that—

(A) meets the definition of a low-speed vehicle (as defined in part 571 of title 49, Code of Federal Regulations);

(B) meets the definition of a zero-emission vehicle (as defined in section 86.1702-99 of title 40, Code of Federal Regulations);

(C) meets the requirements of Federal Motor Vehicle Safety Standard No. 500; and

(D) has a maximum speed of not greater than 25 miles per hour.

(5) PILOT PROGRAM.—The term "pilot program" means the competitive grant program established under section 722.

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL VEHICLE.—The term "ultra-low sulfur diesel vehicle" means a vehicle manufactured in any of model years 2004 through 2006 powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel that contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the quantity of emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best-performing technology of ultra-low sulfur diesel vehicles of the same class and application that are commercially available.

SEC. 722. PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Transportation, shall establish a competitive grant pilot program, to be administered through the Clean Cities Program of the Department of Energy, to provide not more than 15 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) GRANT PURPOSES.—A grant under this section may be used for the following purposes:

(1) The acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles (including neighborhood electric vehicles); and

(B) motorized 2-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services; and

(C) ground support vehicles at public airports (including vehicles to carry baggage or push or pull airplanes toward or away from terminal gates).

(3) The acquisition of ultra-low sulfur diesel vehicles.

(4) Installation or acquisition of infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) APPLICATIONS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue requirements for applying for grants under the pilot program.

(B) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require that an application for a grant—

(i) be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department of Energy; and

(ii) include—

(I) a description of the project proposed in the application, including how the project meets the requirements of this part;

(II) an estimate of the ridership or degree of use of the project;

(III) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, and a plan to collect and disseminate environmental data, related to the project to be funded under the grant, over the life of the project;

(IV) a description of how the project will be sustainable without Federal assistance after the completion of the term of the grant;

(V) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(VI) a description of which costs of the project will be supported by Federal assistance under this part; and

(VII) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, and a commitment by the applicant to use such fuel in carrying out the project.

(2) PARTNERS.—An applicant under paragraph (1) may carry out a project under the pilot program in partnership with public and private entities.

(d) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall—

(1) consider each applicant's previous experience with similar projects; and

(2) give priority consideration to applications that—

(A) are most likely to maximize protection of the environment;

(B) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this part is completed; and

(C) exceed the minimum requirements of subsection (c)(1)(B)(ii).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due not later than 180 days after the date of publication of the notice.

(2) SELECTION.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer reviewed proposal, all applications for projects to be awarded a grant under the pilot program.

(g) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 nor more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.

SEC. 723. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 60 days after the date on which grants are awarded under this part, the Secretary shall submit to Congress a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including—

(1) an assessment of the benefits to the environment derived from the projects included in the pilot program; and

(2) an estimate of the potential benefits to the environment to be derived from widespread application of alternative fueled vehicles and ultra-low sulfur diesel vehicles.

SEC. 724. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this part $200,000,000, to remain available until expended.

PART 3—FUEL CELL BUSES

SEC. 731. FUEL CELL TRANSIT BUS DEMONSTRATION.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of Transportation, shall establish a transit bus demonstration program to make competitive, merit-based awards for 5-year projects to demonstrate not more than 25 fuel cell transit buses (and necessary infrastructure) in 5 geographically dispersed localities.

(b) PREFERENCE.—In selecting projects under this section, the Secretary of Energy shall give preference to projects that are most likely to mitigate congestion and improve air quality.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

Subtitle C—Clean School Buses

SEC. 741. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term "alternative fuel" means liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume.

(3) ALTERNATIVE FUEL SCHOOL BUS.—The term "alternative fuel school bus" means a school bus that meets all of the requirements of this subtitle and is operated solely on an alternative fuel.

(4) EMISSIONS CONTROL RETROFIT TECHNOLOGY.—The term "emissions control retrofit technology" means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(5) IDLING.—The term "idling" means operating an engine while remaining stationary for more than approximately 15 minutes, except that the term does not apply to routine stoppages associated with traffic movement or congestion.

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term "ultra-low sulfur diesel fuel" means diesel fuel that contains sulfur at not more than 15 parts per million.

(8) ULTRA-LOW SULFUR DIESEL FUEL SCHOOL BUS.—The term "ultra-low sulfur diesel fuel school bus" means a school bus that meets all of the requirements of this subtitle and is operated solely on ultra-low sulfur diesel fuel.

SEC. 742. PROGRAM FOR REPLACEMENT OF CERTAIN SCHOOL BUSES WITH CLEAN SCHOOL BUSES.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible entities for the replacement of existing school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including instructions for the submission of grant applications and certification requirements to ensure compliance with this subtitle.

(2) APPLICATION DEADLINES.—The requirements established under paragraph (1) shall require submission of grant applications not later than—

(A) in the case of the first year of program implementation, the date that is 180 days after the publication of the requirements in the Federal Register; and

(B) in the case of each subsequent year, June 1 of the year.

(c) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to 1 or more local or State governmental entities responsible for providing school bus service to 1 or more public school systems or responsible for the purchase of school buses;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems to be served by the buses, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(d) AWARD DEADLINES.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall award a grant made to a qualified applicant for a fiscal year—

(A) in the case of the first fiscal year of program implementation, not later than the date that is 90 days after the application deadline established under subsection (b)(2); and

(B) in the case of each subsequent fiscal year, not later than August 1 of the fiscal year.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—If the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subsection (i)(1) for a fiscal year, the Administrator shall award a grant made to a qualified applicant under subsection (i)(2) not later than September 30 of the fiscal year.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—A grant under this section shall be used for the replacement of school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) SCHOOL BUS FLEET.—All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) USE OF FUNDS.—Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses, including State taxes and contract fees associated with the acquisition of such buses; and

(B) to provide—

(i) up to 20 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 25 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) GRANT RECIPIENT FUNDS.—The grant recipient shall be required to provide at least—

(A) in the case of a grant recipient described in paragraph (1) or (3) of subsection (c), the lesser of—

(i) an amount equal to 15 percent of the total cost of each bus received; or

(ii) $15,000 per bus; and

(B) in the case of a grant recipient described in subsection (c)(2), the lesser of—

(i) an amount equal to 20 percent of the total cost of each bus received; or

(ii) $20,000 per bus.

(4) ULTRA-LOW SULFUR DIESEL FUEL.—In the case of a grant recipient receiving a grant for ultra-low sulfur diesel fuel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Administrator that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(5) TIMING.—All alternative fuel school buses, ultra-low sulfur diesel fuel school buses, or alternative fuel infrastructure acquired under a grant awarded under this section shall be purchased and placed in service as soon as practicable.

(g) BUSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), funding under a grant made under this section for the acquisition of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses shall only be used to acquire school buses—

(A) with a gross vehicle weight of greater than 14,000 pounds;

(B) that are powered by a heavy duty engine;

(C) in the case of alternative fuel school buses manufactured in model years 2004 through 2006, that emit not more than 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(D) in the case of ultra-low sulfur diesel fuel school buses manufactured in model years 2004 through 2006, that emit not more than 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(2) LIMITATIONS.—A bus shall not be acquired under this section that emits nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of the same class of ultra-low sulfur diesel fuel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall—

(1) seek, to the maximum extent practicable, to achieve nationwide deployment of alternative fuel school buses and ultra-low sulfur diesel fuel school buses through the program under this section; and

(2) ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), of the amount of grant funding made available to carry out this section for any fiscal year, the Administrator shall use—

(A) 70 percent for the acquisition of alternative fuel school buses or supporting infrastructure; and

(B) 30 percent for the acquisition of ultra-low sulfur diesel fuel school buses.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—After the first fiscal year in which this program is in effect, if the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subparagraph (A) or (B) of paragraph (1) for a fiscal year, effective beginning on August 1 of the fiscal year, the Administrator shall make the remaining funds available to other qualified grant applicants under this section.

(j) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy, consistent with the health, safety, and welfare of students and the proper operation and maintenance of school buses, to reduce the incidence of unnecessary school bus idling at schools when picking up and unloading students.

(k) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Administrator shall transmit to Congress a report evaluating implementation of the programs under this section and section 743.

(2) COMPONENTS.—The reports shall include a description of—

(A) the total number of grant applications received;

(B) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(C) grants awarded and the criteria used to select the grant recipients;

(D) certified engine emission levels of all buses purchased or retrofitted under the programs under this section and section 743;

(E) an evaluation of the in-use emission level of buses purchased or retrofitted under the programs under this section and section 743; and

(F) any other information the Administrator considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $45,000,000 for fiscal year 2005;

(2) $65,000,000 for fiscal year 2006;

(3) $90,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 743. DIESEL RETROFIT PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of retrofit technologies for diesel school buses.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to 1 or more public school systems;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems that the buses will serve, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, or particulate matter per proposal or per bus; or

(B) involve the use of emissions control retrofit technology on diesel school buses that operate solely on ultra-low sulfur diesel fuel.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) buses on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1991 or later; and

(C) will be used for the transportation of school children to and from school for a minimum of 5 years;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the retrofit emissions-control technology to be demonstrated;

(2) that buses powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur; and

(3) that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $20,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006;

(3) $45,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 744. FUEL CELL SCHOOL BUSES.

(a) ESTABLISHMENT.—The Secretary shall establish a program for entering into cooperative agreements—

(1) with private sector fuel cell bus developers for the development of fuel cell-powered school buses; and

(2) subsequently, with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) REPORTS TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000 for the period of fiscal years 2005 through 2007.

Subtitle D—Miscellaneous

SEC. 751. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary of Energy shall, in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section—

(1) $25,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007; and

(3) $50,000,000 for fiscal year 2008.

SEC. 752. MOBILE EMISSION REDUCTIONS TRADING AND CREDITING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the experience of the Administrator with the trading of mobile source emission reduction credits for use by owners and operators of stationary source emission sources to meet emission offset requirements within a nonattainment area.

(b) CONTENTS.—The report shall describe—

(1) projects approved by the Administrator that include the trading of mobile source emission reduction credits for use by stationary sources in complying with offset requirements, including a description of—

(A) project and stationary sources location;

(B) volumes of emissions offset and traded;

(C) the sources of mobile emission reduction credits; and

(D) if available, the cost of the credits;

(2) the significant issues identified by the Administrator in consideration and approval of trading in the projects;

(3) the requirements for monitoring and assessing the air quality benefits of any approved project;

(4) the statutory authority on which the Administrator has based approval of the projects;

(5) an evaluation of how the resolution of issues in approved projects could be used in other projects; and

(6) any other issues that the Administrator considers relevant to the trading and generation of mobile source emission reduction credits for use by stationary sources or for other purposes.

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas; and

(2) ways to promote fuel conservation measures for aviation to—

(A) enhance fuel efficiency; and

(B) reduce emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of the emissions on human health.

SEC. 754. DIESEL FUELED VEHICLES.

(a) DEFINITION OF TIER 2 EMISSION STANDARDS.—In this section, the term "tier 2 emission standards" means the motor vehicle emission standards that apply to passenger cars, light trucks, and larger passenger vehicles manufactured after the 2003 model year, as issued on February 10, 2000, by the Administrator of the Environmental Protection Agency under sections 202 and 211 of the Clean Air Act (42 U.S.C. 7521, 7545).

(b) DIESEL COMBUSTION AND AFTER-TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate efforts to improve diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(c) GOALS.—The Secretary shall carry out subsection (b) with a view toward achieving the following goals:

(1) Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier 2 emission standards.

(B) The heavy-duty emissions standards of 2007 that are applicable to heavy-duty vehicles under regulations issued by the Administrator of the Environmental Protection Agency as of the date of enactment of this Act.

(2) Developing the next generation of low-emission, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

SEC. 756. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term "advanced truck stop electrification system" means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology.

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction technology based on beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) $19,500,000 for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008.

(ii) COST SHARING.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iii) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) HEAVY DUTY VEHICLES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

"(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

"(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

"(i) the idle reduction technology is fully functional at all times; and

"(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).".

SEC. 757. BIODIESEL ENGINE TESTING PROGRAM.

(a) IN GENERAL.—Not later that 180 days after the date of enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers, to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) SCOPE.—The program shall provide for testing to determine the impact of biodiesel from different sources on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and antitampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15-parts-per-million sulfur content.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide an interim report to Congress on the findings of the program, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

(e) DEFINITION.—For purposes of this section, the term "biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D6751–02a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

SEC. 758. HIGH OCCUPANCY VEHICLE EXCEPTION.

Notwithstanding section 102(a) of title 23, United States Code, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle—

(1) is a dedicated vehicle (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S. 13211)); or

(2) is a hybrid vehicle (as defined by the State for the purpose of this section).

SEC. 759. ULTRA-EFFICIENT ENGINE TECHNOLOGY FOR AIRCRAFT.

(a) ULTRA-EFFICIENT ENGINE TECHNOLOGY PARTNERSHIP.—The Secretary of Energy shall enter into a cooperative agreement with the National Aeronautics and Space Administration for the development of ultra-efficient engine technology for aircraft.

(b) PERFORMANCE OBJECTIVE.—The Secretary of Energy shall establish the following performance objectives for the program set forth in subsection (a):

(1) A fuel efficiency increase of 10 percent.

(2) A reduction in the impact of landing and takeoff nitrogen oxides emissions on local air quality of 70 percent.

(c) AUTHORIZATION OF APPROPRIATIONS .—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $45,000,000 for each of the fiscal years 2006, 2007, 2008, 2009, and 2010.

Subtitle E—Automobile Efficiency

SEC. 771. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.

In addition to any other funds authorized by law, there are authorized to be appropriated to the National Highway Traffic Safety Administration to carry out its obligations with respect to average fuel economy standards $2,000,000 for each of fiscal years 2006 through 2010.

SEC. 772. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

Section 32902(f) of title 49, United States Code, is amended to read as follows:

"(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

"(1) Technological feasibility.

"(2) Economic practicability.

"(3) The effect of other motor vehicle standards of the Government on fuel economy.

"(4) The need of the United States to conserve energy.

"(5) The effects of fuel economy standards on passenger automobiles, nonpassenger automobiles, and occupant safety.

"(6) The effects of compliance with average fuel economy standards on levels of automobile industry employment in the United States.".

SEC. 773. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

(1) in each of subsections (b) and (d), by striking "1993-2004" and inserting "1993-2010";

(2) in subsection (f), by striking "2001" and inserting "2007"; and

(3) in subsection (f)(1), by striking "2004" and inserting "2010".

(b) MAXIMUM FUEL ECONOMY INCREASE.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking "the model years 1993-2004" and inserting "model years 1993-2010"; and

(2) in subparagraph (B), by striking "the model years 2005–2008" and inserting "model years 2011–2014".

SEC. 774. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall initiate a study of the feasibility and effects of reducing by model year 2014, by a significant percentage, the amount of fuel consumed by automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) REPORT.—The Administrator shall submit to Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

TITLE VIII—HYDROGEN

SEC. 801. DEFINITIONS.

In this title:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Hydrogen Technical and Fuel Cell Advisory Committee established under section 805.

(2) DEPARTMENT.—The term "Department" means the Department of Energy.

(3) FUEL CELL.—The term "fuel cell" means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by an electrochemical process taking place at separate electrodes in the device.

(4) INFRASTRUCTURE.—The term "infrastructure" means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen.

(5) LIGHT DUTY VEHICLE.—The term "light duty vehicle" means a car or truck classified by the Department of Transportation as a Class I or IIA vehicle.

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 802. PLAN.

Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a coordinated plan for the programs described in this title and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—

(1) the agenda for the next 5 years for the programs authorized under this title, including the agenda for each activity enumerated in section 803(a);

(2) the types of entities that will carry out the activities under this title and what role each entity is expected to play;

(3) the milestones that will be used to evaluate the programs for the next 5 years;

(4) the most significant technical and nontechnical hurdles that stand in the way of achieving the goals described in section 803(b), and how the programs will address those hurdles; and

(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

SEC. 803. PROGRAMS.

(a) Activities.—The Secretary, in partnership with the private sector, shall conduct programs to address—

(1) production of hydrogen from diverse energy sources, including—

(A) fossil fuels, which may include carbon capture and sequestration;

(B) hydrogen-carrier fuels (including ethanol and methanol);

(C) renewable energy resources, including biomass; and

(D) nuclear energy;

(2) use of hydrogen for commercial, industrial, and residential electric power generation;

(3) safe delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) convenient and economic refueling of vehicles either at central refueling stations or through distributed on-site generation;

(4) advanced vehicle technologies, including—

(A) engine and emission control systems;

(B) energy storage, electric propulsion, and hybrid systems;

(C) automotive materials; and

(D) other advanced vehicle technologies;

(5) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid, or solid form at refueling facilities and onboard vehicles;

(6) development of safe, durable, affordable, and efficient fuel cells, including fuel-flexible fuel cell power systems, improved manufacturing processes, high-temperature membranes, cost-effective fuel processing for natural gas, fuel cell stack and system reliability, low temperature operation, and cold start capability;

(7) development, after consultation with the private sector, of necessary codes and standards (including international codes and standards and voluntary consensus standards adopted in accordance with OMB Circular A-119) and safety practices for the production, distribution, storage, and use of hydrogen, hydrogen-carrier fuels, and related products;

(8) a public education program to develop improved knowledge and acceptability of hydrogen-based systems; and

(9) the ability of domestic automobile manufacturers to manufacture commercially available competitive hybrid vehicle technologies in the United States.

(b) Program Goals.—

(1) Vehicles.—For vehicles, the goals of the program are—

(A) to enable a commitment by automakers no later than year 2015 to offer safe, affordable, and technically viable hydrogen fuel cell vehicles in the mass consumer market; and

(B) to enable production, delivery, and acceptance by consumers of model year 2020 hydrogen fuel cell and other hydrogen-powered vehicles that will have—

(i) a range of at least 300 miles;

(ii) improved performance and ease of driving;

(iii) safety and performance comparable to vehicle technologies in the market; and

(iv) when compared to light duty vehicles in model year 2003—

(I) fuel economy that is substantially higher;

(II) substantially lower emissions of air pollutants; and

(III) equivalent or improved vehicle fuel system crash integrity and occupant protection.

(2) Hydrogen energy and energy infrastructure.—For hydrogen energy and energy infrastructure, the goals of the program are to enable a commitment not later than 2015 that will lead to infrastructure by 2020 that will provide—

(A) safe and convenient refueling;

(B) improved overall efficiency;

(C) widespread availability of hydrogen from domestic energy sources through—

(i) production, with consideration of emissions levels;

(ii) delivery, including transmission by pipeline and other distribution methods for hydrogen; and

(iii) storage, including storage in surface transportation vehicles;

(D) hydrogen for fuel cells, internal combustion engines, and other energy conversion devices for portable, stationary, and transportation applications; and

(E) other technologies consistent with the Department's plan.

(3) Fuel cells.—The goals for fuel cells and their portable, stationary, and transportation applications are to enable—

(A) safe, economical, and environmentally sound hydrogen fuel cells;

(B) fuel cells for light duty and other vehicles; and

(C) other technologies consistent with the Department's plan.

(c) Demonstration.—In carrying out the programs under this section, the Secretary shall fund a limited number of demonstration projects, consistent with a determination of the maturity, cost-effectiveness, and environmental impacts of technologies supporting each project. In selecting projects under this subsection, the Secretary shall, to the extent practicable and in the public interest, select projects that—

(1) involve using hydrogen and related products at existing facilities or installations, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or units of the National Park System;

(2) depend on reliable power from hydrogen to carry out essential activities;

(3) lead to the replication of hydrogen technologies and draw such technologies into the marketplace;

(4) include vehicle, portable, and stationary demonstrations of fuel cell and hydrogen-based energy technologies;

(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen fuel infrastructure;

(6) raise awareness of hydrogen technology among the public;

(7) facilitate identification of an optimum technology among competing alternatives;

(8) address distributed generation using renewable sources; and

(9) address applications specific to rural or remote locations, including isolated villages and islands, the National Park System, and tribal entities.

The Secretary shall give preference to projects which address multiple elements contained in paragraphs (1) through (9).

(d) Deployment.—In carrying out the programs under this section, the Secretary shall, in partnership with the private sector, conduct activities to facilitate the deployment of hydrogen energy and energy infrastructure, fuel cells, and advanced vehicle technologies.

(e) Funding.—

(1) In general.—The Secretary shall carry out the programs under this section using a competitive, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) Research centers.—Activities under this section may be carried out by funding nationally recognized university-based or Federal laboratory research centers.

(f) Cost Sharing.—

(1) Research and development.—Except as otherwise provided in this title, for research and development programs carried out under this title the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this paragraph if the Secretary determines that the research and development is of a basic or fundamental nature or involves technical analyses or educational activities.

(2) Demonstration and commercial application.—Except as otherwise provided in this title, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this title to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this paragraph if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(3) Calculation of amount.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary may include personnel, services, equipment, and other resources.

(4) Size of non-federal share.—The Secretary may consider the size of the non-Federal share in selecting projects.

(g) Disclosure.—Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) relating to the protection of information shall apply to projects carried out through grants, cooperative agreements, or contracts under this title.

SEC. 804. INTERAGENCY TASK FORCE.

(a) Establishment.—Not later than 120 days after the date of enactment of this Act, the President shall establish an interagency task force chaired by the Secretary with representatives from each of the following:

(1) The Office of Science and Technology Policy within the Executive Office of the President.

(2) The Department of Transportation.

(3) The Department of Defense.

(4) The Department of Commerce (including the National Institute of Standards and Technology).

(5) The Department of State.

(6) The Environmental Protection Agency.

(7) The National Aeronautics and Space Administration.

(8) Other Federal agencies as the Secretary determines appropriate.

(b) Duties.—

(1) PLANNING.—The interagency task force shall work toward—

(A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydrogen-carrier fuels, including an infrastructure that supports buses and other fleet transportation;

(B) fuel cells in government and other applications, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels including hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety performance.

(2) ACTIVITIES.—The interagency task force may organize workshops and conferences, may issue publications, and may create databases to carry out its duties. The interagency task force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other advanced technologies, including the commercial capability of each technology for the economic and environmentally safe production, distribution, delivery, storage, and use of hydrogen;

(C) integrate technical and other information made available as a result of the programs and activities under this title;

(D) promote the marketplace introduction of infrastructure for hydrogen fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential end-users.

(c) AGENCY COOPERATION.—The heads of all agencies, including those whose agencies are not represented on the interagency task force, shall cooperate with and furnish information to the interagency task force, the Advisory Committee, and the Department.

SEC. 805. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Hydrogen Technical and Fuel Cell Advisory Committee is established to advise the Secretary on the programs and activities under this title.

(b) MEMBERSHIP.—

(1) MEMBERS.—The Advisory Committee shall be comprised of not fewer than 12 nor more than 25 members. The members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, government agencies, Federal laboratories, previous advisory panels, and financial, environmental, and other appropriate organizations based on the Department's assessment of the technical and other qualifications of committee members and the needs of the Advisory Committee.

(2) TERMS.—The term of a member of the Advisory Committee shall not be more than 3 years. The Secretary may appoint members of the Advisory Committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the Advisory Committee. A member of the Advisory Committee whose term is expiring may be reappointed.

(3) CHAIRPERSON.—The Advisory Committee shall have a chairperson, who is elected by the members from among their number.

(c) REVIEW.—The Advisory Committee shall review and make recommendations to the Secretary on—

(1) the implementation of programs and activities under this title;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydrogen energy and fuel cells; and

(3) the plan under section 802.

(d) RESPONSE.—

(1) CONSIDERATION OF RECOMMENDATIONS.—The Secretary shall consider, but need not adopt, any recommendations of the Advisory Committee under subsection (c).

(2) BIENNIAL REPORT.—The Secretary shall transmit a biennial report to Congress describing any recommendations made by the Advisory Committee since the previous report. The report shall include a description of how the Secretary has implemented or plans to implement the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be transmitted along with the President's budget proposal.

(e) SUPPORT.—The Secretary shall provide resources necessary in the judgment of the Secretary for the Advisory Committee to carry out its responsibilities under this title.

SEC. 806. EXTERNAL REVIEW.

(a) PLAN.—The Secretary shall enter into an arrangement with the National Academy of Sciences to review the plan prepared under section 802, which shall be completed not later than 6 months after the Academy receives the plan. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation of the reasons that a recommendation will not be implemented.

(b) ADDITIONAL REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy will review the programs under section 803 during the fourth year following the date of enactment of this Act. The Academy's review shall include the research priorities and technical milestones, and evaluate the progress toward achieving them. The review shall be completed not later than 5 years after the date of enactment of this Act. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation for the reasons that a recommendation will not be implemented.

SEC. 807. MISCELLANEOUS PROVISIONS.

(a) REPRESENTATION.—The Secretary may represent the United States interests with respect to activities and programs under this title, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, before governments and nongovernmental organizations including—

(1) other Federal, State, regional, and local governments and their representatives;

(2) industry and its representatives, including members of the energy and transportation industries; and

(3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

(b) REGULATORY AUTHORITY.—Nothing in this title shall be construed to alter the regulatory authority of the Department.

SEC. 808. SAVINGS CLAUSE.

Nothing in this title shall be construed to affect the authority of the Secretary of Transportation that may exist prior to the date of enactment of this Act with respect to—

(1) research into, and regulation of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49, United States Code;

(2) regulation of hazardous materials transportation under chapter 51 of title 49, United States Code;

(3) regulation of pipeline safety under chapter 601 of title 49, United States Code;

(4) encouragement and promotion of research, development, and deployment activities relating to advanced vehicle technologies under section 5506 of title 49, United States Code;

(5) regulation of motor vehicle safety under chapter 301 of title 49, United States Code;

(6) automobile fuel economy under chapter 329 of title 49, United States Code; or

(7) representation of the interests of the United States with respect to the activities and programs under the authority of title 49, United States Code.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this title, in addition to any amounts made available for these purposes under other Acts—

(1) $546,000,000 for fiscal year 2006;

(2) $750,000,000 for fiscal year 2007;

(3) $850,000,000 for fiscal year 2008;

(4) $900,000,000 for fiscal year 2009; and

(5) $1,000,000,000 for fiscal year 2010.

SEC. 810. SOLAR AND WIND TECHNOLOGIES.

(a) SOLAR ENERGY TECHNOLOGIES.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subtitle related to solar energy technologies and for implementing the recommendations related to solar energy technologies that are included in the report transmitted under subsection (c);

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at solar energy facilities, including one demonstration project at a national laboratory or institution of higher education;

(3) establish a research and development program—

(A) to develop optimized concentrating solar power devices that may be used for the production of both electricity and hydrogen; and

(B) to evaluate the use of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power devices;

(4) coordinate with activities sponsored by the Department of Energy's Office of Nuclear Energy, Science, and Technology on high-temperature materials, thermochemical cycles, and economic issues related to solar energy;

(5) provide for the construction and operation of new concentrating solar power devices or solar power cogeneration facilities that produce hydrogen either concurrently with, or independently of, the production of electricity;

(6) support existing facilities and research programs dedicated to the development and advancement of concentrating solar power devices; and

(7) establish a program—

(A) to research and develop methods that use electricity from photovoltaic devices for the onsite production of hydrogen, such that no intermediate transmission or distribution infrastructure is required or used and future demand growth may be accommodated;

(B) to evaluate the economics of small-scale electrolysis for hydrogen production; and

(C) to research the potential of modular photovoltaic devices for the development of a hydrogen infrastructure, the security implications of a hydrogen infrastructure, and the benefits potentially derived from a hydrogen infrastructure.

(b) WIND ENERGY TECHNOLOGIES.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subtitle related to wind energy technologies and for implementing the recommendations related to wind energy technologies that are included in the report transmitted under subsection (c); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at existing wind energy facilities, including one demonstration project at a national laboratory or institution of higher education.

(c) PROGRAM SUPPORT.—The Secretary shall support research programs at institutions of higher education for the development of solar energy technologies and wind energy technologies for the production of hydrogen. The research programs supported under this subsection shall—

(1) enhance fellowship and faculty assistance programs;

(2) provide support for fundamental research;

(3) encourage collaborative research among industry, national laboratories, and institutions of higher education;

(4) support communication and outreach; and

(5) to the greatest extent possible—

(A) be located in geographic areas that are regionally and climatically diverse; and

(B) be located at part B institutions, minority institutions, and institutions of higher education located in States participating in the Experimental Program to Stimulate Competitive Research of the Department of Energy.

(d) INSTITUTIONS OF HIGHER EDUCATION AND NATIONAL LABORATORY INTERACTIONS.—In conjunction with the programs supported under this section, the Secretary shall develop sabbatical, fellowship, and visiting scientist programs to encourage national laboratories and institutions of higher education to share and exchange personnel.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "concentrating solar power devices" means devices that concentrate the power of the sun by reflection or refraction to improve the efficiency of a photovoltaic or thermal generation process;

(2) the term "institution of higher education" has the meaning given to that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a));

(3) the term "minority institution" has the meaning given to that term in section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k);

(4) the term "part B institution" has the meaning given to that term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061); and

(5) the term "photovoltaic devices" means devices that convert light directly into electricity through a solid-state, semiconductor process.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 900. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the "Energy Research, Development, Demonstration, and Commercial Application Act of 2005".

(b) DEFINITIONS.—For purposes of this title:

(1) APPLIED PROGRAMS.—The term "applied programs" means the research, development, demonstration, and commercial application programs of the Department concerning energy efficiency, renewable energy, nuclear energy, fossil energy, and electricity transmission and distribution.

(2) BIOMASS.—The term "biomass" means—

(A) any organic material grown for the purpose of being converted to energy;

(B) any organic byproduct of agriculture (including wastes from food production and processing) that can be converted into energy; or

(C) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from—

(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, brush, or otherwise nonmerchantable material; or

(ii) wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of municipal solid waste, or paper that is commonly recycled.

(3) DEPARTMENT.—The term "Department" means the Department of Energy.

(4) DEPARTMENTAL MISSION.—The term "departmental mission" means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(5) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(6) NATIONAL LABORATORY.—The term "National Laboratory" means any of the following laboratories owned by the Department:

(A) Ames Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Accelerator Laboratory.

(E) Idaho National Laboratory.

(F) Lawrence Berkeley National Laboratory.

(G) Lawrence Livermore National Laboratory.

(H) Los Alamos National Laboratory.

(I) National Energy Technology Laboratory.

(J) National Renewable Energy Laboratory.

(K) Oak Ridge National Laboratory.

(L) Pacific Northwest National Laboratory.

(M) Princeton Plasma Physics Laboratory.

(N) Sandia National Laboratories.

(O) Savannah River National Laboratory.

(P) Stanford Linear Accelerator Center.

(Q) Thomas Jefferson National Accelerator Facility.

(7) RENEWABLE ENERGY.—The term "renewable energy" means energy from wind, sunlight, the flow of water, heat from the Earth, or biomass that can be converted into a usable form such as process heat, electricity, fuel, or space heat.

(8) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(9) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(10) UNIVERSITY.—The term "university" has the meaning given the term "institution of higher education" in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(11) USER FACILITY.—The term "user facility" means a research and development facility supported, in whole or in part, by Departmental funds that is open, at a minimum, to all qualified United States researchers.

Subtitle A—Science Programs

SEC. 901. OFFICE OF SCIENCE PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct, through the Office of Science, programs of research, development, demonstration, and commercial application in high energy physics, nuclear physics, biological and environmental research, basic energy sciences, advanced scientific computing research, and fusion energy sciences, including activities described in this subtitle. The programs shall include support for facilities and infrastructure, education, outreach, information, analysis, and coordination activities.

(b) RARE ISOTOPE ACCELERATOR.—

(1) ESTABLISHMENT.—The Secretary shall construct and operate a Rare Isotope Accelerator. The Secretary shall commence construction no later than September 30, 2008.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection. The Secretary shall not spend more than **$1,100,000,000** in Federal funds for all activities associated with the Rare Isotope Accelerator prior to operation.

SEC. 902. SYSTEMS BIOLOGY PROGRAM.

(a) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a research, development, and demonstration program in genetics, protein science, and computational biology to support the energy, national security, and environmental missions of the Department.

(2) GRANTS.—The program shall support individual researchers and multidisciplinary teams of researchers through competitive, merit-reviewed grants.

(3) CONSULTATION.—In carrying out the program, the Secretary shall consult with other Federal agencies that conduct genetic and protein research.

(b) GOALS.—The program shall have the goal of developing technologies and methods based on the biological functions of genomes, microbes, and plants that—

(1) can facilitate the production of fuels, including hydrogen;

(2) convert carbon dioxide to organic carbon;

(3) detoxify soils and water, including at Departmental facilities, contaminated with heavy metals and radiological materials; and

(4) address other Department missions as identified by the Secretary.

(c) PLAN.—

(1) DEVELOPMENT OF PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and transmit to Congress a research plan describing how the program authorized pursuant to this section will be undertaken to accomplish the program goals established in subsection (b).

(2) REVIEW OF PLAN.—The Secretary shall contract with the National Academy of Sciences to review the research plan developed under this subsection. The Secretary shall transmit the review to Congress not later than 18 months after transmittal of the research plan under paragraph (1), along with the Secretary's response to the recommendations contained in the review.

(d) USER FACILITIES AND ANCILLARY EQUIPMENT.—Within the funds authorized to be appropriated pursuant to this subtitle, the amounts specified under section 910(b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) shall be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities, for researchers conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(e) PROHIBITION ON BIOMEDICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.—

(1) NO BIOMEDICAL RESEARCH.—In carrying out the program under this section, the Secretary shall not conduct biomedical research.

(2) LIMITATIONS.—Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—

(A) on human cells or human subjects; or

(B) designed to have direct application with respect to human cells or human subjects.

SEC. 903. CATALYSIS RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall conduct a program of research and development in catalysis science, including efforts to—

(1) enable molecular-level catalyst design by coupling experimental and computational approaches;

(2) enable nanoscale, high-throughput synthesis, assay, and characterization; and

(3) synthesize catalysts with specific site architectures.

(b) PROGRAM ACTIVITIES.—In carrying out the program under this section, the Secretary shall—

(1) support both individual researchers and multidisciplinary teams of researchers to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, or operate special equipment or facilities, including user facilities;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other Federal agencies.

SEC. 904. HYDROGEN.

The Secretary shall conduct a program of fundamental research and development in support of programs authorized in titleVIII.

SEC. 905. ADVANCED SCIENTIFIC COMPUTING RESEARCH.

The Secretary shall conduct an advanced scientific computing research and development program, including in applied mathematics and the activities authorized by the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.). The Secretary shall carry out this program with the goal of supporting departmental missions and providing the high-performance computational, networking, and workforce resources that are required for world leadership in science.

SEC. 906. FUSION ENERGY SCIENCES PROGRAM.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial application to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other nations in providing fusion energy for its own needs and the needs of other nations, including by demonstrating electric power or hydrogen production for the United States energy grid utilizing fusion energy at the earliest date possible.

(b) PLANNING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to Congress a plan, with proposed cost estimates, budgets, and lists of potential international partners, for the implementation of the policy described in subsection (a). The plan shall ensure that—

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation, cost effectiveness, and their potential to advance the goal of practical fusion energy at the earliest date possible, and those that are selected are funded at a cost-effective rate;

(D) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(E) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(F) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(2) COSTS AND SCHEDULES.—Such plan shall also address the status of and, to the degree possible, costs and schedules for—

(A) the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

(c) UNITED STATES PARTICIPATION IN ITER.—

(1) IN GENERAL.—The United States may participate in ITER only in accordance with this subsection.

(2) AGREEMENT.—

(A) IN GENERAL.—The Secretary is authorized to negotiate an agreement for United States participation in ITER.

(B) CONTENTS.—Any agreement for United States participation in ITER shall, at a minimum—

(i) clearly define the United States financial contribution to construction and operating costs, as well as any other costs associated with the project;

(ii) ensure that the share of ITER's high-technology components manufactured in the United States is at least proportionate to the United States financial contribution to ITER;

(iii) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(iv) guarantee the United States full access to all data generated by ITER;

(v) enable United States researchers to propose and carry out an equitable share of the experiments at ITER;

(vi) provide the United States with a role in all collective decisionmaking related to ITER; and

(vii) describe the process for discontinuing or decommissioning ITER and any United States role in that process.

(3) PLAN.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in ITER that shall include the United States research agenda for ITER, methods to evaluate whether ITER is promoting progress toward making fusion a reliable and affordable source of power, and a description of how work at ITER will relate to other elements of the United States fusion program. The Secretary shall request a review of the plan by the National Academy of Sciences.

(4) LIMITATION.—No Federal funds shall be expended for the construction of ITER until the Secretary has transmitted to Congress—

(A) the agreement negotiated pursuant to paragraph (2) and 120 days have elapsed since that transmission;

(B) a report describing the management structure of ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of ITER, and 120 days have elapsed since that transmission;

(C) a report describing how United States participation in ITER will be funded without reducing funding for other programs in the Office of Science, including other fusion programs, and 60 days have elapsed since that transmission; and

(D) the plan required by paragraph (3) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that transmission.

(5) ALTERNATIVE TO ITER.—If at any time during the negotiations on ITER, the Secretary determines that construction and operation of ITER is unlikely or infeasible, the Secretary shall send to Congress, as part of the budget request for the following year, a plan for implementing a domestic burning plasma experiment including costs and schedules for such a plan. The Secretary shall refine such plan in full consultation with the Fusion Energy Sciences Advisory Committee and shall also transmit such plan to the National Academy of Sciences for review.

(6) DEFINITIONS.—In this subsection:

(A) CONSTRUCTION.— The term "construction" means the physical construction of the ITER facility, and the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility, but does not mean the design of the facility, equipment, or components.

(B) ITER.—The term "ITER" means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003, or any similar international project.

SEC. 907. SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to establish a Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Department.

(2) COMPETITIVE PROCESS.—Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) SERVICE AGREEMENTS.—To carry out the Program the Secretary shall enter into contractual agreements with individuals selected under paragraph (2) under which the

individuals agree to serve as full-time employees of the Department, for the period described in subsection (f)(1), in positions needed by the Department and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) SCHOLARSHIP ELIGIBILITY.—In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time graduate student at an institution of higher education in an academic program or field of study described in the list made available under subsection (d);

(2) be a United States citizen; and

(3) at the time of the initial scholarship award, not be a Federal employee as defined in section 2105 of title 5 of the United States Code.

(c) APPLICATION REQUIRED.—An individual seeking a scholarship under this section shall submit an application to the Secretary at such time, in such manner, and containing such information, agreements, or assurances as the Secretary may require.

(d) ELIGIBLE ACADEMIC PROGRAMS.—The Secretary shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized, and shall update the list as necessary.

(e) SCHOLARSHIP REQUIREMENT.—

(1) IN GENERAL.—The Secretary may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Secretary, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) DURATION OF ELIGIBILITY.—An individual may not receive a scholarship under this section for more than 4 academic years, unless the Secretary grants a waiver.

(3) SCHOLARSHIP AMOUNT.—The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Secretary, but shall in no case exceed the cost of attendance.

(4) AUTHORIZED USES.—A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Secretary by regulation.

(5) CONTRACTS REGARDING DIRECT PAYMENTS TO INSTITUTIONS.—The Secretary may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f) PERIOD OF OBLIGATED SERVICE.—

(1) DURATION OF SERVICE.—The period of service for which an individual shall be obligated to serve as an employee of the Department is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2) SCHEDULE FOR SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) DEFERRAL.—The Secretary may defer the obligation of an individual to provide a period of service under paragraph (1) if the Secretary determines that such a deferral is appropriate. The Secretary shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g) PENALTIES FOR BREACH OF SCHOLARSHIP AGREEMENT.—

(1) FAILURE TO COMPLETE ACADEMIC TRAINING.—Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Secretary by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment not later than 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Secretary when determined to be necessary, as established by regulation.

(2) FAILURE TO BEGIN OR COMPLETE THE SERVICE OBLIGATION OR MEET THE TERMS AND CONDITIONS OF DEFERMENT.—A scholarship recipient who, for any reason, fails to begin or complete a service obligation under this section after completion of academic training, or fails to comply with the terms and conditions of deferment established by the Secretary pursuant to subsection (f)(2)(B), shall be in breach of the contractual agreement. When a recipient breaches an agreement for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

(h) WAIVER OR SUSPENSION OF OBLIGATION.—

(1) DEATH OF INDIVIDUAL.—Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) IMPOSSIBILITY OR EXTREME HARDSHIP.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) DEFINITIONS.—In this section the following definitions apply:

(1) COST OF ATTENDANCE.—The term "cost of attendance" has the meaning given that term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*).

(2) PROGRAM.—The term "Program" means the Science and Technology Scholarship Program established under this section.

SEC. 908. OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.

The Secretary shall maintain within the Department the Office of Scientific and Technical Information.

SEC. 909. SCIENCE AND ENGINEERING PILOT PROGRAM.

(a) ESTABLISHMENT OF CONSORTIUM.—Notwithstanding section 913, the Secretary shall award a grant to Oak Ridge Associated Universities to establish a university consortium to carry out a regional pilot program for enhancing scientific, technological, engineering, and mathematical literacy, creativity, and decisionmaking. The consortium shall include leading research universities, one or more universities that train substantial numbers of elementary and secondary school teachers, and, where appropriate, National Laboratories.

(b) PROGRAM ELEMENTS.—The program shall include—

(1) expanding strategic, formal partnerships among universities with strength in research, universities that train substantial numbers of elementary and secondary school teachers, and the private sector;

(2) combining Department expertise with one or more National Aeronautics and Space Administration Educator Resource Centers;

(3) developing programs to permit current and future teachers to participate in ongoing research projects at National Laboratories and research universities and to adapt lessons learned to the classroom;

(4) designing and implementing course work;

(5) designing and implementing a strategy for measuring and assessing progress under the program; and

(6) developing models for transferring knowledge gained under the pilot program to other institutions and areas of the country.

(c) REPORT.—Not later than 2 years after appropriations are first available for the program, the Secretary shall transmit to Congress a report outlining lessons learned and containing a plan for expanding the program nationwide. The Secretary may begin implementation of such plan for expansion of the program on October 1, 2008. The expansion of the program shall be subject to section 913.

SEC. 910. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts authorized to be appropriated under the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501 et seq.) and the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.), the following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this subtitle:

(1) For fiscal year 2006, $3,785,000,000.

(2) For fiscal year 2007, $4,153,000,000.

(3) For fiscal year 2008, $4,628,000,000.

(4) For fiscal year 2009, $5,300,000,000.

(5) For fiscal year 2010, $5,800,000,000.

(b) 2006 ALLOCATIONS.—From amounts authorized under subsection (a)(1), the following sums are authorized for fiscal year 2006:

(1) SYSTEMS BIOLOGY.—For activities under section 902, $100,000,000.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $252,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $335,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $800,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $7,000,000.

(6) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(c) 2007 ALLOCATIONS.—From amounts authorized under subsection (a)(2), the following sums are authorized for fiscal year 2007:

(1) SYSTEMS BIOLOGY.—For activities under section 902, such sums as may be necessary.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $270,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $349,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $1,600,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $7,500,000.

(6) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(d) 2008 ALLOCATIONS.—From amounts authorized under subsection (a)(3), the following sums are authorized for fiscal year 2008:

(1) SYSTEMS BIOLOGY.—For activities under section 902, such sums as may be necessary.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $350,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $362,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $2,000,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $8,000,000.

(6) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(e) 2009 ALLOCATIONS.—From amounts authorized under subsection (a)(4), the following sums are authorized for fiscal year 2009:

(1) SYSTEMS BIOLOGY.—For activities under section 902, such sums as may be necessary.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $375,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $377,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $2,000,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $8,000,000.

(6) PILOT PROGRAM.—For activities under section 909, $8,000,000.

(f) 2010 ALLOCATIONS.—From amounts authorized under subsection (a)(5), the following sums are authorized for fiscal year 2010:

(1) SYSTEMS BIOLOGY.—For activities under section 902, such sums as may be necessary.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $400,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $393,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $2,000,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $8,500,000.

(6) PILOT PROGRAM.—For activities under section 909, $8,000,000.

(g) ITER CONSTRUCTION.—From amounts authorized under subsection (a) and in addition to amounts authorized under subsections (b)(3), (c)(3), (d)(3), (e)(3), and (f)(3), there are authorized to be appropriated to the Secretary such sums as may be necessary for ITER construction, consistent with the limitations of section 906(c).

Subtitle B—Research Administration and Operations

SEC. 911. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for research and development programs carried out under this title, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this title, the Secretary shall require at least 50 percent of the costs related to any demonstration or commercial application activities under this title to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

(d) SIZE OF NON-FEDERAL SHARE.—The Secretary may consider the amount of the non-Federal share in selecting projects under this title.

SEC. 912. REPROGRAMMING.

(a) DISTRIBUTION REPORT.—Not later than 60 days after the date of enactment of an Act appropriating amounts authorized under this title, the Secretary shall transmit to Congress a report explaining how such amounts will be distributed among the activities authorized by this title.

(b) REPROGRAMMING LETTER.—No amount authorized by this title shall be obligated or expended for a purpose inconsistent with the appropriations Act appropriating such amount, the report accompanying such appropriations Act, or a distribution report transmitted under subsection (a) if such obligation or expenditure would change an individual amount, as represented in such an Act, report, or distribution report, by more than 2 percent or $2,000,000, whichever is smaller, unless the Secretary has transmitted to Congress a letter of explanation and a period of 30 days has elapsed after Congress receives the letter.

(c) COMPUTATION.—The computation of the 30-day period described in subsection (b) shall exclude any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

SEC. 913. MERIT-BASED COMPETITION.

(a) COMPETITIVE MERIT REVIEW.—Awardees of funds authorized under this title shall be selected through open competitions. Funds shall be competitively awarded only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department on the basis of criteria outlined by the Secretary in the solicitation of proposals.

(b) COMPETITION.—Competitive awards under this title shall involve competitions open to all qualified entities within one or more of the following categories:

(1) Institutions of higher education.

(2) National Laboratories.

(3) Nonprofit and for-profit private entities.

(4) State and local governments.

(5) Consortia of entities described in paragraphs (1) through (4).

(c) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify Congress within 30 days after awarding more than $500,000 through a competition described in subsection (b) that is limited to 1 of the categories described in paragraphs (1) through (4) of subsection (b).

(d) WAIVERS.—The Secretary may waive the requirement under subsection (a) requiring competition if the Secretary considers it necessary to more quickly advance research, development, demonstration, or commercial application activities. The Secretary shall notify Congress within 30 days when a waiver is granted under this subsection. The Secretary may not delegate the waiver authority under this subsection for awards over $500,000.

SEC. 914. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL APPLIED ENERGY RESEARCH AND DEVELOPMENT ADVISORY COMMITTEES.—

(1) IN GENERAL.—The Secretary shall establish one or more advisory committees to review and advise the Department's applied programs in the following areas:

(A) Energy efficiency.

(B) Renewable energy.

(C) Nuclear energy.

(D) Fossil energy.

(2) EXISTING ADVISORY COMMITTEES.—The Secretary may designate an existing advisory committee within the Department to fulfill the responsibilities of an advisory committee under this subsection.

(b) OFFICE OF SCIENCE ADVISORY COMMITTEES.—

(1) USE OF EXISTING COMMITTEES.—Except as otherwise provided under the Federal Advisory Committee Act, the Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.

(2) REPORT.—Before the Department issues any new guidance regarding the membership for Office of Science scientific program advisory committees, the Secretary shall transmit a report to the Congress outlining the reasons for the proposed changes, and 60 days must have elapsed after transmittal of the report before the Department may implement those changes.

(3) SCIENCE ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There shall be a Science Advisory Committee for the Office of Science that includes the chairs of each of the advisory committees described in paragraph (1).

(B) RESPONSIBILITIES.—The Science Advisory Committee shall—

(i) advise the Director of the Office of Science on science issues;

(ii) advise the Director of the Office of Science with respect to the well-being and management of the National Laboratories and Department research facilities;

(iii) advise the Director of the Office of Science with respect to education and workforce training activities required for effective short-term and long-term basic and applied research activities of the Office of Science; and

(iv) advise the Director of the Office of Science with respect to the well-being of the university research programs supported by the Office of Science.

(c) MEMBERSHIP.—Each member of an advisory committee appointed under this section shall have significant scientific, technical, or other appropriate expertise. The membership of each committee shall represent a wide range of expertise, including, to the extent practicable, members with expertise from outside the disciplines covered by the program, and a diverse set of interests.

(d) MEETINGS AND PURPOSES.—Each advisory committee under this section shall meet at least semiannually to review and advise on the progress made by the respective research, development, demonstration, and commercial application program or programs. The advisory committee shall also review the measurable cost and performance-based goals for the applied programs, and the progress on meeting such goals.

(e) Review and Assessment.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into arrangements with the National Academy of Sciences to conduct reviews and assessments of the programs authorized by this title, the measurable cost and performance-based goals for the applied programs, and the progress in meeting such goals. Such reviews and assessments shall be completed and reports containing the results of all such reviews and assessments transmitted to the Congress not later than 2 years after the date of enactment of this Act.

SEC. 915. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.

None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a National Laboratory (excluding those named in subparagraphs (G), (H), (N), (O) of section 900(b)(6)), unless such contract is competitively awarded, or the Secretary grants, on a case-by-case basis, a waiver. The Secretary may not delegate the authority to grant such a waiver and shall submit to the Congress a report notifying it of the waiver, and setting forth the reasons for the waiver, at least 60 days prior to the date of the award of such contract.

SEC. 916. NATIONAL LABORATORY DESIGNATION.

After the date of enactment of this Act the Secretary shall not designate a facility that is not referred to in section 900(b)(6) as a National Laboratory.

SEC. 917. REPORT ON EQUAL EMPLOYMENT OPPORTUNITY PRACTICES.

Not later than 12 months after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at National Laboratories. Such report shall include—

(1) a thorough review of each laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;

(2) a statistical report on complaints and their disposition in the laboratories;

(3) a description of how equal employment opportunity practices at the laboratories are treated in the contract and in calculating award fees for each contractor;

(4) a summary of disciplinary actions and their disposition by either the Department or the relevant contractors for each laboratory;

(5) a summary of outreach efforts to attract women and minorities to the laboratories;

(6) a summary of efforts to retain women and minorities in the laboratories; and

(7) a summary of collaboration efforts with the Office of Federal Contract Compliance Programs to improve equal employment opportunity practices at the laboratories.

SEC. 918. USER FACILITY BEST PRACTICES PLAN.

The Secretary shall not allow any Department facility to begin functioning as a user facility after the date of enactment of this Act until the Secretary, for that facility—

(1) develops a plan to ensure that the facility will—

(A) have a skilled staff to support a wide range of users;

(B) have a fair method for allocating time to users that provides for input from facility management, user representatives, and outside experts; and

(C) be operated in a safe and fiscally prudent manner; and

(2) transmits such plan to Congress and 60 days have elapsed.

SEC. 919. SUPPORT FOR SCIENCE AND ENERGY INFRASTRUCTURE AND FACILITIES.

(a) Strategy.—The Secretary shall develop and implement a strategy for infrastructure and facilities supported primarily from the Office of Science and the applied programs at each National Laboratory and Department research facility. Such strategy shall provide cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) Report.—

(1) Requirement.—The Secretary shall prepare and transmit to the Congress not later than June 1, 2007, a report summarizing the strategies developed under subsection (a).

(2) Contents.—For each National Laboratory and Department research facility, for the facilities primarily used for science and energy research, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 920. COORDINATION PLAN.

(a) In General.—The Secretary shall develop a coordination plan to improve coordination and collaboration in research, development, demonstration, and commercial application activities across Department organizational boundaries.

(b) Plan Contents.—The plan shall describe—

(1) how the Secretary will ensure that the applied programs are coordinating their activities, including a description of specific research questions that cross organizational boundaries and of how the relevant applied programs are coordinating their efforts to answer those questions, and how such cross-cutting research questions will be identified in the future;

(2) how the Secretary will ensure that research that has been supported by the Office of Science is being or will be used by the applied programs, including a description of specific Office of Science-supported research that is relevant to the applied programs and of how the applied programs have used or will use that research; and

(3) a description of how the Secretary will ensure that the research agenda of the Office of Science includes research questions of concern to the applied programs, including a description of specific research questions that the Office of Science will address to assist the applied programs.

(c) Plan Transmittal.—The Secretary shall transmit the coordination plan to Congress not later than 9 months after the date of enactment of this Act, and every 2 years thereafter shall transmit a revised coordination plan.

(d) Conference.—Not less than 6 months after the date of enactment of this Act, the Secretary shall convene a conference of program managers from the Office of Science and the applied programs to review ideas and explore possibilities for effective cross-program collaboration. The Secretary also shall invite participation relevant Federal agencies and other programs in the Federal Government conducting relevant research, and other stakeholders as appropriate.

SEC. 921. AVAILABILITY OF FUNDS.

Funds appropriated to the Secretary for activities authorized under this title shall remain available for three years. Funds that are not obligated at the end of three years shall be returned to the Treasury.

Subtitle C—Energy Efficiency

CHAPTER 1—VEHICLES, BUILDINGS, AND INDUSTRIES

SEC. 922. PROGRAMS.

(a) In General.—The Secretary shall conduct programs of energy efficiency research, development, demonstration, and commercial application, including activities described in this chapter. Such programs shall be focused on the following objectives:

(1) Increasing the energy efficiency of vehicles, buildings, and industrial processes.

(2) Reducing the Nation's demand for energy, especially energy from foreign sources.

(3) Reducing the cost of energy and making the economy more efficient and competitive.

(4) Improving the Nation's energy security.

(5) Reducing the environmental impact of energy-related activities.

(b) Goals.—

(1) Initial goals.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify energy efficiency performance goals, with quantifiable 5-year cost and energy savings target levels, for vehicles, buildings, and industries, and any other such goals the Secretary considers appropriate.

(2) Subsequent transmittals.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) Public Input.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

SEC. 923. VEHICLES.

(a) Advanced, Cost-Effective Technologies.— The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced, cost-effective technologies to improve the energy efficiency and environmental performance of light-duty and heavy-duty vehicles, including—

(1) hybrid and electric propulsion systems, including plug-in hybrid systems;

(2) advanced engines, including combustion engines;

(3) advanced materials, including high strength, lightweight materials, such as nanostructured materials, composites, multimaterial parts, carbon fibers, and materials with high thermal conductivity;

(4) technologies for reduced drag and rolling resistance;

(5) whole-vehicle design optimization to reduce the weight of component parts and thus increase the fuel economy of the vehicle, including fiber optics to replace traditional wiring;

(6) thermoelectric devices that capture waste heat and convert thermal energy into electricity; and

(7) advanced drivetrains.

(b) Low-Cost Hydrogen Propulsion and Infrastructure.—The Secretary of Energy shall—

(1) establish a research, development, and demonstration program to determine the feasibility of using hydrogen propulsion in light-weight vehicles and the integration of the associated hydrogen production infrastructure using off-the-shelf components; and

(2) identify universities and institutions that—

(A) have expertise in researching and testing vehicles fueled by hydrogen, methane, and other fuels;

(B) have expertise in integrating off-the-shelf components to minimize cost; and

(C) within two years can test a vehicle based on an existing commercially available platform with a curb weight of not less than 2,000 pounds before modifications, that—

(i) operates solely on hydrogen gas;

(ii) can travel a minimum of 300 miles under normal road conditions; and

(iii) uses hydrogen produced from water using only solar energy.

SEC. 924. BUILDINGS.

(a) Program.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of cost-effective technologies, for new construction and retrofit, to improve the energy efficiency and environmental performance of commercial, industrial, institutional, and residential buildings. The program shall use a whole-buildings approach, integrating work on elements including—

(1) advanced controls, including occupancy sensors, daylighting controls, wireless technologies, automated responses to changes in the internal and external environment, and real time delivery of information on building system and component performance;

(2) building envelope, including windows, roofing systems and materials, and building-integrated photovoltaics;

(3) building systems components, including—

(A) lighting;

(B) appliances, including advanced technologies, such as stand-by load technologies, for office equipment, food service equipment, and laundry equipment; and

(C) heating, ventilation, and cooling systems, including ground-source heat pumps and radiant heating; and

(4) onsite renewable energy generation.

(b) Energy Efficient Building Pilot Grant Program.—

(1) In general.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a pilot program to award grants to businesses and organizations for new construction of energy efficient buildings, or major renovations of buildings that will result in energy efficient buildings, to demonstrate innovative energy efficiency technologies, especially those sponsored by the Department.

(2) Awards.—The Secretary shall award grants under this subsection competitively to those applicants whose proposals—

(A) best demonstrate—

(i) likelihood to meet or exceed the design standards referred to in paragraph (7);

(ii) likelihood to maximize cost-effective energy efficiency opportunities; and

(iii) advanced energy efficiency technologies; and

(B) are least likely to be realized without Federal assistance.

(3) Amount of grants.—Grants under this subsection shall be for up to 50 percent of design and energy modeling costs, not to exceed $50,000 per building. No single grantee may be eligible for more than 3 grants per year under this program.

(4) Grant payments.—

(A) Initial payment.—The Secretary shall pay 50 percent of the total amount of the grant to grant recipients upon selection.

(B) Remainder of payment.—The Secretary shall pay the remaining 50 percent of the grant only after independent certification of operational buildings for compliance with the standards for energy efficient buildings described in paragraph (7).

(C) Failure to comply.—The Secretary shall not provide the remainder of the payment unless the building is certified within 6 months after operation of the completed building to meet the requirements described in subparagraph (B), or in the case of major renovations the building is certified within 6 months of the completion of the renovations.

(5) Report to Congress.—Not later than 3 years after awarding the first grant under this subsection, the Secretary shall transmit to Congress a report containing—

(A) the total number and dollar amount of grants awarded under this subsection; and

(B) an estimate of aggregate cost and energy savings enabled by the pilot program under this subsection.

(6) Administrative expenses.—Administrative expenses for the program under this subsection shall not exceed 10 percent of appropriated funds.

(7) Definition of energy efficient building.—For purposes of this subsection, the term "energy efficient building" means a building that is independently certified—

(A) to meet or exceed the applicable United States Green Building Council's Leadership in Energy and Environmental Design standards for a silver, gold, or platinum rating; and

(B) to achieve a reduction in energy consumption of—

(i) at least 25 percent for new construction, compared to the energy standards set by the Federal Building Code (10 CFR part 434); and

(ii) at least 20 percent for major renovations, compared to energy consumption before renovations are begun.

(c) Standardization Report and Program.—

(1) Report.—The Secretary shall enter into an arrangement with the National Institute of Building Sciences to—

(A) conduct a comprehensive assessment of how well current voluntary consensus standards related to buildings match state-of-the-art knowledge on the design, construction, operation, repair, and renovation of high-performance buildings; and

(B) recommend steps for the Secretary to take to accelerate the development and promulgation of voluntary consensus standards for high-performance buildings that would address all major high-performance building attributes, including energy efficiency, sustainability, safety and security, life-cycle cost, and productivity.

(2) Program.—After receiving the report under paragraph (1), the Secretary shall establish a program of technical assistance and grants to support standards development organizations in—

(A) the revision of existing standards, to reflect current knowledge of high-performance buildings; and

(B) the development and promulgation of new standards in areas important to high-performance buildings where there is no existing standard or where an existing standard cannot easily be modified.

SEC. 925. INDUSTRIES.

(a) Program.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced technologies to improve the energy efficiency, environmental performance, and process efficiency of energy-intensive and waste-intensive industries. Such program shall be focused on industries whose total annual energy consumption amounts to more than 1.0 percent of the total nationwide annual energy consumption, according to the most recent data available to the Department. Research and development efforts under this section shall give a higher priority to broad-benefit efficiency technologies that have practical application across industry sectors.

(b) Electric Motor Control Technology.—The program conducted under subsection (a) shall include research on, and development, demonstration, and commercial application of, advanced control devices to improve the energy efficiency of electric motors, including those used in industrial processes, heating, ventilation, and cooling.

SEC. 926. DEMONSTRATION AND COMMERCIAL APPLICATION.

(a) Appliances and Testing.—The Secretary shall conduct research and analysis to determine whether, given Department-sponsored and other advances in energy efficiency technologies, demonstration and commercial application of innovative, cost-effective energy savings and pollution reducing technologies could be used to improve appliances and test procedures used to measure appliance efficiency.

(b) Building Energy Codes.—The Secretary shall, in coordination with government, nongovernment, and commercial partners, conduct research and analyses of the best cost-effective practices in the development and updating of building energy codes, including for manufactured housing. Analyses shall focus on how to encourage energy efficiency and adoption of newly developed energy production and use equipment.

(c) Advanced Energy Technology Transfer Centers.—

(1) Grants.—Not later than 18 months after the date of enactment of this Act, the Secretary shall make grants to nonprofit institutions, State and local governments, or universities (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers.

(2) Activities.—

(A) In general.—Each Center shall operate a program to encourage demonstration and commercial application of advanced energy methods and technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use.

(B) Advisory panel.—Each Center shall establish an advisory panel to advise the Center on how best to accomplish the activities under subparagraph (A).

(3) Application.—A person seeking a grant under this subsection shall submit to the

Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this subsection to an entity already in existence if the entity is otherwise eligible under this subsection.

(4) Selection criteria.—The Secretary shall award grants under this subsection on the basis of the following criteria, at a minimum:

(A) The ability of the applicant to carry out the activities in paragraph (2).

(B) The extent to which the applicant will coordinate the activities of the Center with other entities, such as State and local governments, utilities, and educational and research institutions.

(5) Matching funds.—The Secretary shall require a non-Federal matching requirement of at least 50 percent of the costs of establishing and operating each Center.

(6) Advisory committee.—The Secretary shall establish an advisory committee to advise the Secretary on the establishment of Centers under this subsection. The advisory committee shall be composed of individuals with expertise in the area of advanced energy methods and technologies, including at least 1 representative from—

(A) State or local energy offices;

(B) energy professionals;

(C) trade or professional associations;

(D) architects, engineers, or construction professionals;

(E) manufacturers;

(F) the research community; and

(G) nonprofit energy or environmental organizations.

(7) Definitions.—For purposes of this subsection:

(A) Advanced energy methods and technologies.—The term "advanced energy methods and technologies" means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies, and life-cycle analysis of energy use.

(B) Center.—The term "Center" means an Advanced Energy Technology Transfer Center established pursuant to this subsection.

(C) Distributed generation.—The term "distributed generation" means an electric power generation facility that is designed to serve retail electric consumers at or near the facility site.

(d) Report.—Not later than 2 years after the date of enactment of this Act, and once every 3 years thereafter, the Secretary shall transmit to Congress a report on the results of research and analysis under this section. In calculating cost-effectiveness for purposes of such reports, the Secretary shall include, at a minimum, the avoided cost of additional energy production, savings to the economy from lower peak energy prices and reduced price volatility, and the public and private benefits of reduced pollution.

SEC. 927. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) Definitions.—For purposes of this section:

(1) Associated equipment.—The term "associated equipment" means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(2) Battery.—The term "battery" means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(b) Program.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries if the Secretary finds that there are sufficient numbers of such batteries to support the program. The program shall be—

(1) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(3) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) Solicitation.—Not later than 180 days after the date of enactment of this Act, if the Secretary finds under subsection (b) that there are sufficient numbers of batteries to support the program, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(d) Selection of Proposals.—

(1) In general.—The Secretary shall, not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), select up to 5 proposals which may receive financial assistance under this section, subject to the availability of appropriations.

(2) Diversity; environmental effect.—In selecting proposals, the Secretary shall consider diversity of battery type, geographic and climatic diversity, and life-cycle environmental effects of the approaches.

(3) Limitation.—No 1 project selected under this section shall receive more than 25 percent of the funds authorized for the program under this section.

(4) Optimization of federal resources.—The Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) Other criteria.—The Secretary may consider such other criteria as the Secretary considers appropriate.

(e) Conditions.—The Secretary shall require that—

(1) relevant information be provided to the Department, the users of the batteries, the proposers, and the battery manufacturers;

(2) the proposer provide at least 50 percent of the costs associated with the proposal; and

(3) the proposer provide to the Secretary such information regarding the disposal of the batteries as the Secretary may require to ensure that the proposer disposes of the batteries in accordance with applicable law.

SEC. 928. NEXT GENERATION LIGHTING INITIATIVE.

(a) In General.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(b) Objectives.—The objectives of the initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting; more energy-efficient; and cost-competitive, and have less environmental impact.

(c) Industry Alliance.—The Secretary shall, not later than 3 months after the date of enactment of this section, competitively select an Industry Alliance to represent participants that are private, for-profit firms which, as a group, are broadly representative of United States solid state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(d) Research.—

(1) In general.—The Secretary shall carry out the research activities of the Next Generation Lighting Initiative through competitively awarded grants to researchers, including Industry Alliance participants, National Laboratories, and institutions of higher education.

(2) Assistance from the industry alliance.—The Secretary shall annually solicit from the Industry Alliance—

(A) comments to identify solid-state lighting technology needs;

(B) assessment of the progress of the Initiative's research activities; and

(C) assistance in annually updating solid-state lighting technology roadmaps.

(3) Availability of information and roadmaps.—The information and roadmaps under paragraph (2) shall be available to the public and public response shall be solicited by the Secretary.

(e) Development, Demonstration, and Commercial Application.—The Secretary shall carry out a development, demonstration, and commercial application program for the Next Generation Lighting Initiative through competitively selected awards. The Secretary may give preference to participants of the Industry Alliance selected pursuant to subsection (c).

(f) Intellectual Property.—The Secretary may require, in accordance with the authorities provided in section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), that—

(1) for any new invention resulting from activities under subsection (d)—

(A) the Industry Alliance members that are active participants in research, development, and demonstration activities related to the advanced solid-state lighting technologies that are the subject of this section shall be granted first option to negotiate with the invention owner nonexclusive licenses and royalties for uses of the invention related to solid-state lighting on terms that are reasonable under the circumstances; and

(B)(i) for 1 year after a United States patent is issued for the invention, the patent holder shall not negotiate any license or royalty with any entity that is not a participant in the Industry Alliance described in subparagraph (A); and

(ii) during the year described in clause (i), the invention owner shall negotiate nonexclusive licenses and royalties in good faith with any interested participant in the Industry Alliance described in subparagraph (A); and

(2) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(g) National Academy Review.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Next Generation Lighting Initiative. The Academy shall review the research priorities, technical milestones, and plans for technology transfer and progress towards achieving them. The Secretary shall consider the results of such reviews in evaluating the information obtained under subsection (d)(2).

(h) DEFINITIONS.—As used in this section:

(1) ADVANCED SOLID-STATE LIGHTING.—The term "advanced solid-state lighting" means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) RESEARCH.—The term "research" includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(3) INDUSTRY ALLIANCE.—The term "Industry Alliance" means an entity selected by the Secretary under subsection (c).

(4) WHITE LIGHT EMITTING DIODE.—The term "white light emitting diode" means a semiconducting package, utilizing either organic or inorganic materials, that produces white light using externally applied voltage.

SEC. 929. DEFINITIONS.

For the purposes of this chapter—

(1) the term "cost-effective" means resulting in a simple payback of costs in 10 years or less; and

(2) the term "whole-buildings approach" includes, on a life-cycle basis, the energy use, cost of operations, and ease of repair or upgrade of a building.

SEC. 930. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) For fiscal year 2006, $620,000,000, including—

(A) $200,000,000 for carrying out the vehicles program under section 923;

(B) $100,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $100,000,000 for carrying out the industries program under section 925(a);

(D) $2,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $4,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $20,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(2) For fiscal year 2007, $700,000,000, including—

(A) $240,000,000 for carrying out the vehicles program under section 923;

(B) $130,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $115,000,000 for carrying out the industries program under section 925(a);

(D) $2,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $30,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(3) For fiscal year 2008, $800,000,000, including—

(A) $270,000,000 for carrying out the vehicles program under section 923;

(B) $160,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $140,000,000 for carrying out the industries program under section 925(a);

(D) $2,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $50,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(4) For fiscal year 2009, $925,000,000, including—

(A) $310,000,000 for carrying out the vehicles program under section 923;

(B) $200,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $170,000,000 for carrying out the industries program under section 925(a);

(D) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(E) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(F) $50,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(5) For fiscal year 2010, $1,000,000,000, including—

(A) $340,000,000 for carrying out the vehicles program under section 923;

(B) $240,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $190,000,000 for carrying out the industries program under section 925(a);

(D) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(E) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(F) $50,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

SEC. 931. LIMITATION ON USE OF FUNDS.

None of the funds authorized to be appropriated under this chapter may be used for—

(1) the issuance and implementation of energy efficiency regulations;

(2) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(4) the Federal Energy Management Program under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.).

CHAPTER 2—DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS

SEC. 932. DISTRIBUTED ENERGY.

(a) IN GENERAL.—The Secretary shall conduct programs of distributed energy resources and systems reliability and efficiency research, development, demonstration, and commercial application to improve the reliability and efficiency of distributed energy resources and systems, including activities described in this chapter. The programs shall address advanced energy technologies and systems and advanced grid reliability technologies. The programs shall include the integration of—

(1) renewable energy resources;

(2) fuel cells;

(3) combined heat and power systems;

(4) microturbines;

(5) advanced natural gas turbines;

(6) advanced internal combustion engine generators;

(7) energy storage devices;

(8) interconnection standards, protocols, and equipment;

(9) ancillary equipment for dispatch and control; and

(10) any other energy technologies, as appropriate.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology. The consortia shall explore—

(1) the use of small-scale combined heat and power in residential heating appliances; or

(2) the use of excess power to operate other appliances within the residence and supply excess generated power to the power grid.

(c) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify performance goals, with quantifiable 5-year cost and energy savings target levels, for distributed energy resources and systems, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

SEC. 933. ELECTRICITY TRANSMISSION AND DISTRIBUTION AND ENERGY ASSURANCE.

(a) PROGRAM.—The Secretary shall conduct a research, development, demonstration, and commercial application program on advanced control devices to improve the energy efficiency and reliability of the electric transmission and distribution systems and to protect the Nation against severe energy supply disruptions. This program shall address, at a minimum—

(1) advanced energy delivery and storage technologies, materials, and systems, including new transmission technologies, such as flexible alternating current transmission systems, composite conductor materials, and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small-scale, distributed, and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify performance goals, with quantifiable 5-year cost and energy savings target levels, for electricity transmission and distribution and energy assurance, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) HIGH VOLTAGE TRANSMISSION LINES.—As part of the program described in subsection (a), the Secretary shall award a grant to a university research program to design and test, in consultation with the Tennessee Valley Authority, state-of-the-art optimization techniques for power flow through existing high voltage transmission lines.

SEC. 933A. ADVANCED PORTABLE POWER DEVICES.

(a) PROGRAM.—The Secretary shall—

(1) establish a research, development, and demonstration program to develop working models of small scale portable power devices; and

(2) to the fullest extent practicable, identify and utilize the resources of universities that have shown expertise with respect to advanced portable power devices for either civilian or military use.

(b) ORGANIZATION.—The universities identified and utilized under subsection (a)(2) are authorized to establish an organization to promote small scale portable power devices.

(c) DEFINITION.—For purposes of this section, the term "small scale portable power device" means a field deployable portable mechanical or electromechanical device that can be used for applications such as communications, computation, mobility enhancement, weapons systems, optical devices, cooling, sensors, medical devices and active biological agent detection systems.

SEC. 934. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) For fiscal year 2006, $220,000,000.

(2) For fiscal year 2007, $240,000,000.

(3) For fiscal year 2008, $250,000,000.

(4) For fiscal year 2009, $265,000,000.

(5) For fiscal year 2010, $275,000,000.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From the amounts authorized under subsection (a), $20,000,000 for each of fiscal years 2006 and 2007 are authorized for activities under section 932(b).

(c) ELECTRICITY TRANSMISSION AND DISTRIBUTION AND ENERGY ASSURANCE.—From the amounts authorized under subsection (a), the following sums are authorized for activities under section 933:

(1) For fiscal year 2006, $130,000,000, of which $2,000,000 shall be for the program under section 933(c).

(2) For fiscal year 2007, $140,000,000.

(3) For fiscal year 2008, $150,000,000.

(4) For fiscal year 2009, $160,000,000.

(5) For fiscal year 2010, $165,000,000.

Subtitle D—Renewable Energy

SEC. 935. FINDINGS.

Congress makes the following findings:

(1) Renewable energy is a growth industry around the world. However, the United States has not been investing as heavily as other countries, and is losing market share.

(2) Since 1996, the United States has lost significant market share in the solar industry, dropping from 44 percent of the world market to 13 percent in 2003.

(3) In 2003, Japan spent more than $200,000,000 on solar research, development, demonstration, and commercial application and other incentives, and Germany provided more than $750,000,000 in low cost financing for solar photovoltaic projects. This compares to United States Government spending of $139,000,000 in 2003 for research, development, demonstration, and commercial application and other incentives.

(4) Germany and Japan each had domestic photovoltaic industries that employed more than 10,000 people in 2003, while in the same year the United States photovoltaics industry employed only 2,000 people.

(5) The United States is becoming increasingly dependent on imported energy.

(6) The high cost of fossil fuels is hurting the United States economy.

(7) Small reductions in peak demand can result in very large reductions in price, according to energy market experts.

(8) Although the United States has only 2 percent of the world's oil reserves and 3 percent of the world's natural gas reserves, our Nation's renewable energy resources are vast and largely untapped.

(9) Renewable energy can reduce the demand for imported energy, reducing costs and decreasing the variability of energy prices.

(10) By using domestic renewable energy resources, the United States can reduce the amount of money sent into unstable regions of the world and keep it in the United States.

(11) By supporting renewable energy research and development, and funding demonstration and commercial application programs for renewable energy, the United States can create an export industry and improve the balance of trade.

(12) Renewable energy can significantly reduce the environmental impacts of energy production.

SEC. 936. DEFINITIONS.

For purposes of this subtitle:

(1) BIOBASED PRODUCT.—The term "biobased product" means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—

(A) composed, in whole or in significant part, of—

(i) biological products;

(ii) renewable domestic agricultural materials (including plant, animal, and marine materials); or

(iii) forestry materials; and

(B) produced in connection with the conversion of biomass to energy or fuel.

(2) CELLULOSIC BIOMASS.—The term "cellulosic biomass" means a crop containing lignocellulose or hemicellulose, including barley grain, grapeseed, forest thinnings, rice bran, rice hulls, rice straw, soybean matter, sugarcane bagasse, and any crop grown specifically for the purpose of producing cellulosic feedstocks.

SEC. 937. PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct programs of renewable energy research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall be focused on the following objectives:

(1) Increasing the conversion efficiency of all forms of renewable energy through improved technologies.

(2) Decreasing the cost of renewable energy generation and delivery.

(3) Promoting the diversity of the energy supply.

(4) Decreasing the Nation's dependence on foreign energy supplies.

(5) Improving United States energy security.

(6) Decreasing the environmental impact of energy-related activities.

(7) Increasing the export of renewable generation equipment from the United States.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify renewable energy performance goals, with quantifiable 5-year cost and energy savings target levels, for wind power, photovoltaics, solar thermal systems (including concentrating and solar hot water), geothermal energy, biomass-based systems, biofuels, and hydropower, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) PUBLIC INPUT.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

SEC. 938. SOLAR.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for solar energy, including—

(1) photovoltaics;

(2) solar hot water and solar space heating; and

(3) concentrating solar power.

(b) BUILDING INTEGRATION.—For photovoltaics, solar hot water, and space heating, the

Secretary shall conduct research, development, demonstration, and commercial application to support the development of products that can be easily integrated into new and existing buildings.

(c) Manufacture.—The Secretary shall conduct research, development, demonstration, and commercial application of manufacturing techniques that can produce low-cost, high-quality solar systems.

SEC. 939. BIOENERGY PROGRAMS.

(a) Program.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for cellulosic biomass, including—

(1) biomass conversion to heat and electricity;

(2) biomass conversion to liquid fuels;

(3) biobased products;

(4) integrated biorefineries that may produce heat, electricity, liquid fuels, and biobased products;

(5) cross-cutting activities on feedstocks and enzymes; and

(6) life-cycle economic analysis.

(b) Biofuels and Biobased Products.—The objectives of the biofuels and biobased products programs under paragraphs (2), (3), and (4) of subsection (a), and of the biorefinery demonstration program under subsection (c), shall be to develop, in partnership with industry—

(1) advanced biochemical and thermochemical conversion technologies capable of making high-value biobased chemical feedstocks and products, to substitute for petroleum-based feedstocks and products, biofuels that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles, and biobased products from a variety of feedstocks, including grains, cellulosic biomass, and agricultural byproducts; and

(2) advanced biotechnology processes capable of making biofuels and biobased products, with emphasis on development of biorefinery technologies, including enzyme-based processing technologies.

(c) Biomass Integrated Refinery Demonstration.—

(1) In general.—The Secretary shall conduct a program to demonstrate the commercial application of at least 5 integrated biorefineries. The Secretary shall ensure geographical distribution of biorefinery demonstrations under this subsection. The Secretary shall not provide more than $100,000,000 under this subsection for any single biorefinery demonstration. The Secretary shall award the biorefinery demonstrations so as to encourage—

(A) the demonstration of a wide variety of cellulosic biomass feedstocks;

(B) the commercial application of biomass technologies for a variety of uses, including—

(i) liquid transportation fuels;

(ii) high-value biobased chemicals;

(iii) substitutes for petroleum-based feedstocks and products; and

(iv) energy in the form of electricity or useful heat; and

(C) the demonstration of the collection and treatment of a variety of biomass feedstocks.

(2) Proposals.—Not later than 6 months after the date of enactment of this Act, the Secretary shall solicit proposals for demonstration of advanced biorefineries. The Secretary shall select only proposals that—

(A) demonstrate that the project will be able to operate profitably without direct Federal subsidy after initial construction costs are paid; and

(B) enable the biorefinery to be easily replicated.

(d) University Biodiesel Program.—The Secretary shall establish a demonstraton program to determine the feasibility of the operation of diesel electric power generators, using biodiesel fuels, with ratings as high as B100 at a university electric generation facility. The program shall examine—

(1) heat rates of diesel fuels with large quantities of cellulosic content;

(2) the reliability of operation of various fuel blends;

(3) performance in cold or freezing weather;

(4) stability of fuel after extended storage; and

(5) other criteria, as determined by the Secretary.

(e) Grants.—Of the funds authorized to be appropriated for activities authorized under this section, not less than $5,000,000 for each fiscal year shall be made available for grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions.

SEC. 940. WIND.

(a) Program.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for wind energy, including—

(1) low speed wind energy;

(2) offshore wind energy;

(3) testing and verification; and

(4) distributed wind energy generation.

(b) Facility.—The Secretary shall construct and operate a research and testing facility capable of testing the largest wind turbines that are expected to be manufactured in the next 15 years. The Secretary shall consider the need for testing offshore turbine designs in siting the facility. All private users of the facility shall be required to pay the Department all costs associated with their use of the facility, including capital costs prorated at normal business amortization rates.

(c) Regional Field Verification Program.—Of the funds authorized to be appropriated for activities authorized under this section, not less than $4,000,000 for each fiscal year shall be made available for the Regional Field Verification Program of the Department.

SEC. 941. GEOTHERMAL.

The Secretary shall conduct a program of research, development, demonstration, and commercial application for geothermal energy. The program shall focus on developing improved technologies for reducing the costs of geothermal energy installations, including technologies for—

(1) improving detection of geothermal resources;

(2) decreasing drilling costs;

(3) decreasing maintenance costs through improved materials;

(4) increasing the potential for other revenue sources, such as mineral production; and

(5) increasing the understanding of reservoir life cycle and management.

SEC. 942. PHOTOVOLTAIC DEMONSTRATION PROGRAM.

(a) In General.—The Secretary shall establish a program of grants to States to demonstrate advanced photovoltaic technology.

(b) Requirements.—(1) To receive funding under the program under this section, a State must submit a proposal that demonstrates, to the satisfaction of the Secretary, that the State will meet the requirements of subsection (f).

(2) If a State has received funding under this section for the preceding year, the State must demonstrate, to the satisfaction of the Secretary, that it complied with the requirements of subsection (f) in carrying out the program during that preceding year, and that it will do so in the future.

(3) Except as provided in subsection (c), each State submitting a qualifying proposal shall receive funding under the program based on the proportion of United States population in the State according to the 2000 census. In each fiscal year, the portion of funds attributable under this paragraph to States that have not submitted qualifying proposals in the time and manner specified by the Secretary shall be distributed pro rata to the States that have submitted qualifying proposals in the specified time and manner.

(c) Competition.—If more than $80,000,000 is available for the program under this section for any fiscal year, the Secretary shall allocate 75 percent of the funds available according to subsection (b), and shall award the remaining 25 percent on a competitive basis to the States with the proposals the Secretary considers most likely to encourage the widespread adoption of photovoltaic technologies.

(d) Proposals.—Not later than 6 months after the date of enactment of this Act, and in each subsequent fiscal year for the life of the program, the Secretary shall solicit proposals from the States to participate in the program under this section.

(e) Competitive Criteria.—In awarding funds in a competitive allocation under subsection (c), the Secretary shall consider—

(1) the likelihood of a proposal to encourage the demonstration of, or lower the costs of, advanced photovoltaic technologies; and

(2) the extent to which a proposal is likely to—

(A) maximize the amount of photovoltaics demonstrated;

(B) maximize the proportion of non-Federal cost share; and

(C) limit State administrative costs.

(f) State Program.—A program operated by a State with funding under this section shall provide competitive awards for the demonstration of advanced photovoltaic technologies. Each State program shall—

(1) require a contribution of at least 60 percent per award from non-Federal sources, which may include any combination of State, local, and private funds, except that at least 10 percent of the funding must be supplied by the State;

(2) limit awards for any single project to a maximum of $1,000,000;

(3) prohibit any nongovernmental recipient from receiving more than $1,000,000 per year;

(4) endeavor to fund recipients in the commercial, industrial, institutional, governmental, and residential sectors;

(5) limit State administrative costs to no more than 10 percent of the grant;

(6) report annually to the Department on—

(A) the amount of funds disbursed;

(B) the amount of photovoltaics purchased; and

(C) the results of the monitoring under paragraph (7);

(7) provide for measurement and verification of the output of a representative sample of the photovoltaics systems demonstrated throughout the average working life of the systems, or at least 20 years; and

(8) require that applicant buildings must have received an independent energy efficiency audit during the 6-month period preceding the filing of the application.

(g) Unexpended Funds.—If a State fails to expend any funds received under subsection

(b) or (c) within 3 years of receipt, such remaining funds shall be returned to the Treasury.

(h) REPORTS.—The Secretary shall report to Congress 5 years after funds are first distributed to the States under this section—

(1) the amount of photovoltaics demonstrated;

(2) the number of projects undertaken;

(3) the administrative costs of the program;

(4) the amount of funds that each State has not received because of a failure to submit a qualifying proposal, as described in subsection (b)(3);

(5) the results of the monitoring under subsection (f)(7); and

(6) the total amount of funds distributed, including a breakdown by State.

SEC. 943. ADDITIONAL PROGRAMS.

(a) IN GENERAL.—The Secretary may conduct research, development, demonstration, and commercial application programs of—

(1) ocean energy, including wave energy;

(2) kinetic hydro turbines; and

(3) the combined use of renewable energy technologies with one another and with other energy technologies.

(b) MARINE RENEWABLE ENERGY STUDY.—

(1) STUDY.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study on—

(A) the feasibility of various methods of renewable generation of energy from the ocean, including energy from waves, tides, currents, and thermal gradients; and

(B) the research, development, demonstration, and commercial application activities required to make marine renewable energy generation competitive with other forms of electricity generation.

(2) TRANSMITTAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit the study to Congress along with the Secretary's recommendations for implementing the results of the study.

(c) RENEWABLE ENERGY IN PUBLIC BUILDINGS.—

(1) DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM.—The Secretary shall establish a program for the demonstration of innovative technologies for solar and other renewable energy sources in buildings owned or operated by a State or local government, and for the dissemination of information resulting from such demonstration to interested parties.

(2) LIMIT ON FEDERAL FUNDING.—The Secretary shall provide under this subsection no more than 40 percent of the incremental costs of the solar or other renewable energy source project funded.

(3) REQUIREMENT.—As part of the application for awards under this subsection, the Secretary shall require all applicants—

(A) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(B) to state how they expect any award to further their transition to the significant use of renewable energy.

SEC. 944. ANALYSIS AND EVALUATION.

(a) IN GENERAL.—The Secretary shall conduct analysis and evaluation in support of the renewable energy programs under this subtitle. These activities shall be used to guide budget and program decisions, and shall include—

(1) economic and technical analysis of renewable energy potential, including resource assessment;

(2) analysis of past program performance, both in terms of technical advances and in market introduction of renewable energy; and

(3) any other analysis or evaluation that the Secretary considers appropriate.

(b) FUNDING.—The Secretary may designate up to 1 percent of the funds appropriated for carrying out this subtitle for analysis and evaluation activities under this section.

SEC. 945. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this subtitle:

(1) For fiscal year 2006, $465,000,000, of which—

(A) $100,000,000 shall be for carrying out the solar program under section 938;

(B) $200,000,000 shall be for carrying out the bioenergy program under section 939, including $100,000,000 for the biorefinery demonstration program under section 939(c);

(C) $55,000,000 shall be for carrying out the wind program under section 940, including $10,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $50,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

(2) For fiscal year 2007, $605,000,000, of which—

(A) $140,000,000 shall be for carrying out the solar program under section 938;

(B) $245,000,000 shall be for carrying out the bioenergy program under section 939, including $125,000,000 for the biorefinery demonstration program under section 939(c);

(C) $60,000,000 shall be for carrying out the wind program under section 940, including $15,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $100,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

(3) For fiscal year 2008, $775,000,000, of which—

(A) $200,000,000 shall be for carrying out the solar program under section 938;

(B) $310,000,000 shall be for carrying out the bioenergy program under section 939, including $150,000,000 for the biorefinery demonstration program under section 939(c);

(C) $65,000,000 shall be for carrying out the wind program under section 940, including $10,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $150,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

(4) For fiscal year 2009, $940,000,000, of which—

(A) $250,000,000 shall be for carrying out the solar program under section 938;

(B) $355,000,000 shall be for carrying out the bioenergy program under section 939, including $175,000,000 for the biorefinery demonstration program under section 939(c);

(C) $65,000,000 shall be for carrying out the wind program under section 940, including $5,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $200,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

(5) For fiscal year 2010, $1,125,000,000, of which—

(A) $300,000,000 shall be for carrying out the solar program under section 938;

(B) $400,000,000 shall be for carrying out the bioenergy program under section 939, including $200,000,000 for the biorefinery demonstration program under section 939(c);

(C) $65,000,000 shall be for carrying out the wind program under section 940, including $1,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $300,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

Subtitle E—Nuclear Energy Programs

SEC. 946. DEFINITION.

In this subtitle, the term "junior faculty" means a faculty member who was awarded a doctorate less than 10 years before receipt of an award from the grant program described in section 949(b)(2).

SEC. 947. PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct programs of civilian nuclear energy research, development, demonstration, and commercial application, including activities described in this subtitle. Programs under this subtitle shall be focused on—

(1) enhancing nuclear power's viability as part of the United States energy portfolio;

(2) providing the technical means to reduce the likelihood of nuclear proliferation;

(3) maintaining a cadre of nuclear scientists and engineers;

(4) maintaining National Laboratory and university nuclear programs, including their infrastructure;

(5) supporting both individual researchers and multidisciplinary teams of researchers to pioneer new approaches in nuclear energy, science, and technology;

(6) developing, planning, constructing, acquiring, and operating special equipment and facilities for the use of researchers;

(7) supporting technology transfer and other appropriate activities to assist the nuclear energy industry, and other users of nuclear science and engineering, including activities addressing reliability, availability, productivity, component aging, safety, and security of nuclear power plants; and

(8) reducing the environmental impact of nuclear energy-related activities.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify performance goals, with quantifiable 5-year cost improvement and reliability, availability, productivity, and component aging target levels for a wide range of nuclear energy technologies, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) PUBLIC INPUT.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

CHAPTER 1—NUCLEAR ENERGY RESEARCH PROGRAMS

SEC. 948. ADVANCED FUEL RECYCLING PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct an advanced fuel recycling technology research, development, demonstration, and commercial application program to evaluate fuel recycling or transmutation technologies which are proliferation-resistant and minimize environmental and public health and safety impacts, as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act, in support of evaluation of alternative national strategies for spent nuclear fuel and advanced reactor concepts. The program shall be subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) INTERNATIONAL COOPERATION.—The Secretary shall seek opportunities to engage international partners with expertise in advanced fuel recycling technologies where such partnerships may help achieve program goals.

SEC. 949. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) IN GENERAL.—The Secretary shall conduct a program to invest in human resources and infrastructure in the nuclear sciences and related fields, including health physics, nuclear engineering, and radiochemistry, consistent with Departmental missions related to civilian nuclear research, development, demonstration, and commercial application.

(b) REQUIREMENTS.—In carrying out the program under this section, the Secretary shall—

(1) conduct a graduate and undergraduate fellowship program to attract new and talented students, which may include fellowships for students to spend time at National Laboratories in the areas of nuclear science, engineering, and health physics with a member of the National Laboratory staff acting as a mentor;

(2) conduct a junior faculty research initiation grant program to assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering by awarding grants to junior faculty for research on issues related to nuclear energy engineering and science;

(3) support fundamental nuclear sciences, engineering, and health physics research through a nuclear engineering education and research program;

(4) encourage collaborative nuclear research among industry, National Laboratories, and universities; and

(5) support communication and outreach related to nuclear science, engineering, and health physics.

(c) STRENGTHENING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—In carrying out the program under this section, the Secretary may support—

(1) converting research reactors from high-enrichment fuels to low-enrichment fuels and upgrading operational instrumentation;

(2) consortia of universities to broaden access to university research reactors;

(3) student training programs, in collaboration with the United States nuclear industry, in relicensing and upgrading reactors, including through the provision of technical assistance; and

(4) reactor improvements as part of a focused effort that emphasizes research, training, and education, including through the Innovations in Nuclear Infrastructure and Education Program or any similar program.

(d) OPERATIONS AND MAINTENANCE.—Funding for a project provided under this section may be used for a portion of the operating and maintenance costs of a research reactor at a university used in the project.

SEC. 950. UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.

The Secretary shall conduct—

(1) a fellowship program for professors at universities to spend sabbaticals at National Laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments.

SEC. 951. NUCLEAR POWER 2010 PROGRAM.

The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations in the October 2001 report entitled "A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010" issued by the Nuclear Energy Research Advisory Committee of the Department. The Program shall include—

(1) the expertise and capabilities of industry, universities, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(2) a variety of reactor designs suitable for both developed and developing nations;

(3) participation of international collaborators in research, development, and design efforts as appropriate; and

(4) university and industry participation.

SEC. 952. GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.

The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan and to support research, development, demonstration, and commercial application necessary to make an informed technical decision about the most promising candidates for the eventual commercial application of advanced fission reactor technology for the generation of electricity. The Initiative shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(1) are economically competitive with other electric power generation plants;

(2) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(3) use fuels that are proliferation-resistant and have substantially reduced production of high-level waste per unit of output; and

(4) use improved instrumentation.

SEC. 953. CIVILIAN INFRASTRUCTURE AND FACILITIES.

The Secretary shall operate and maintain infrastructure and facilities to support the nuclear energy research, development, demonstration, and commercial application programs, including radiological facilities management, isotope production, and facilities management.

SEC. 954. NUCLEAR ENERGY RESEARCH AND DEVELOPMENT INFRASTRUCTURE PLAN.

In carrying out section 919, the Secretary shall—

(1) develop an inventory of nuclear science and engineering facilities, equipment, expertise, and other assets at all of the National Laboratories;

(2) develop a prioritized list of nuclear science and engineering plant and equipment improvements needed at each of the National Laboratories;

(3) consider the available facilities and expertise at all National Laboratories and emphasize investments which complement rather than duplicate capabilities; and

(4) develop a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment,

with the goal of ensuring that Department programs under this subtitle will be generally recognized to be among the best in the world.

SEC. 955. IDAHO NATIONAL LABORATORY FACILITIES PLAN.

(a) PLAN.—The Secretary shall develop a comprehensive plan for the facilities at the Idaho National Laboratory, especially taking into account the resources available at other National Laboratories. In developing the plan, the Secretary shall—

(1) evaluate the facilities planning processes utilized by other physical science and engineering research and development institutions, both in the United States and abroad, that are generally recognized as being among the best in the world, and consider how those processes might be adapted toward developing such facilities plan;

(2) avoid duplicating, moving, or transferring nuclear science and engineering facilities, equipment, expertise, and other assets that currently exist at other National Laboratories;

(3) consider the establishment of a national transuranic analytic chemistry laboratory as a user facility at the Idaho National Laboratory;

(4) include a plan to develop, if feasible, the Advanced Test Reactor and Test Reactor Area into a user facility that is more readily accessible to academic and industrial researchers;

(5) consider the establishment of a fast neutron source as a user facility;

(6) consider the establishment of new "hot cells" and the configuration of "hot cells" most likely to advance research, development, demonstration, and commercial application in nuclear science and engineering, especially in the context of the condition and availability of these facilities elsewhere in the National Laboratories; and

(7) include a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment.

(b) TRANSMITTAL TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Secretary shall transmit such plan to Congress.

SEC. 956. AUTHORIZATION OF APPROPRIATIONS.

(a) PROGRAM AUTHORIZATION.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) $407,000,000 for fiscal year 2006.
(2) $427,000,000 for fiscal year 2007.
(3) $449,000,000 for fiscal year 2008.
(4) $471,000,000 for fiscal year 2009.
(5) $495,000,000 for fiscal year 2010.

(b) UNIVERSITY SUPPORT.—Of the funds authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 949:

(1) $35,200,000 for fiscal year 2006.
(2) $44,350,000 for fiscal year 2007.
(3) $49,200,000 for fiscal year 2008.
(4) $55,000,000 for fiscal year 2009.
(5) $60,000,000 for fiscal year 2010.

CHAPTER 2—NEXT GENERATION NUCLEAR PLANT PROGRAM

SEC. 957. DEFINITIONS.

For purposes of this chapter:

(1) CONSTRUCTION.—The term "construction" means the physical construction of the

demonstration plant, and the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the demonstration plant, but does not mean the design of the facility, equipment, or components.

(2) Demonstration plant.—The term "demonstration plant" means an advanced fission reactor power plant constructed and operated in accordance with this chapter.

(3) Operation.—The term "operation" means the operation of the demonstration plant, including general maintenance and provision of power, heating and cooling, and other building services that are specifically for the demonstration plant, but does not mean operations that support other activities colocated with the demonstration plant.

SEC. 958. NEXT GENERATION NUCLEAR POWER PLANT.

(a) In General.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced nuclear fission reactor technology. The objective of this program shall be to demonstrate the technical and economic feasibility of an advanced nuclear fission reactor power plant design for the commercial production of electricity.

(b) Research and Development.—The program shall include research, development, design, planning, and all other necessary activities to support the construction and operation of the demonstration plant.

(c) Subsystem Demonstrations.—The Secretary shall support demonstration of enabling technologies and subsystems and other research, development, demonstration, and commercial application activities necessary to support the activities in this chapter.

(d) Construction and Operation.—The program shall culminate in the construction and operation of the demonstration plant based on a design selected by the Secretary in accordance with procedures described in the plan required by section 960(c). The demonstration plant shall be located and constructed within the United States and shall be operational, and capable of demonstrating the commercial production of electricity, by December 31, 2015.

(e) Limitation.—No funds shall be expended for the construction or operation of the demonstration plant until 90 days have elapsed after the transmission of the plan described in section 960(c).

SEC. 959. ADVISORY COMMITTEE.

The Secretary shall appoint a Next Generation Nuclear Power Plant Subcommittee of the Nuclear Energy Research Advisory Council to provide advice to the Secretary on technical matters and program management for the duration of the program and construction project under this chapter.

SEC. 960. PROGRAM REQUIREMENTS.

(a) Partnerships.—In carrying out the program under this chapter, the Secretary shall make use of partnerships with industry for the research, development, design, construction, and operation of the demonstration plant. In establishing such partnerships, the Secretary shall give preference to companies for which the principal base of operations is located in the United States.

(b) International Collaboration.—(1) The Secretary shall seek international cooperation, participation, and financial contribution in this program, including assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(2) International activities shall be carried out in consultation with the Generation IV International Forum.

(3) The program may include demonstration of selected program objectives in a partner nation.

(c) Program Plan.—Not later than one year after the date of enactment of this Act, the Secretary shall transmit to Congress a comprehensive program plan. The program plan shall—

(1) describe the plan for development, selection, management, ownership, operation, and decommissioning of the demonstration plant;

(2) identify program milestones and a timeline for achieving these milestones;

(3) provide for development of risk-based criteria for any future commercial development of a reactor architecture based on that of the demonstration plant;

(4) include a projected budget required to meet the milestones; and

(5) include an explanation of any major program decisions that deviate from program advice given to the Secretary by the advisory committee established under section 959.

SEC. 961. AUTHORIZATION OF APPROPRIATIONS.

(a) Research, Development, and Design Programs.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter except for the demonstration plant activities described in subsection (b):

(1) For fiscal year 2006, $150,000,000.

(2) For fiscal year 2007, $150,000,000.

(3) For fiscal year 2008, $150,000,000.

(4) For fiscal year 2009, $150,000,000.

(5) For fiscal year 2010, $150,000,000.

(b) Reactor Construction.—There are authorized to be appropriated to the Secretary such sums as may be necessary for operation and construction of the demonstration plant under this chapter. The Secretary shall not spend more than $500,000,000 for demonstration plant reactor construction activities under this chapter.

Subtitle F—Fossil Energy

CHAPTER 1—RESEARCH PROGRAMS

SEC. 962. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) In General.—The Secretary shall, in conjunction with industry, conduct fossil energy research, development, demonstration, and commercial applications programs, including activities under this chapter, with the goal of improving the efficiency, effectiveness, and environmental performance of fossil energy production, upgrading, conversion, and consumption. Such programs shall be focused on—

(1) increasing the conversion efficiency of all forms of fossil energy through improved technologies;

(2) decreasing the cost of all fossil energy production, generation, and delivery;

(3) promoting diversity of energy supply;

(4) decreasing the Nation's dependence on foreign energy supplies;

(5) improving United States energy security;

(6) decreasing the environmental impact of energy-related activities; and

(7) increasing the export of fossil energy-related equipment, technology, and services from the United States.

(b) Goals.—

(1) Initial goals.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify production or efficiency performance goals, with quantifiable 5-year cost and energy savings target levels, for fossil energy, and any other such goals the Secretary considers appropriate.

(2) Subsequent transmittals.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) Covered Activities.—The Secretary shall ensure that the goals stated in subsection (b) are illustrative of the outcomes necessary to promote acceptance of the programs' efforts in the marketplace, but at a minimum shall encompass the following areas:

(1) Coal gasifiers.

(2) Turbine generators, including both natural gas and syngas fueled.

(3) Oxygen separation devices, hydrogen separation devices, and carbon dioxide separation technologies.

(4) Coal gas and post-combustion emission cleanup and disposal equipment, including carbon dioxide capture and disposal equipment.

(5) Average per-foot drilling costs for oil and gas, segregated by appropriate drilling regimes, including onshore versus offshore and depth categories.

(6) Production of liquid fuels from nontraditional feedstocks, including syngas, biomass, methane, and combinations thereof.

(7) Environmental discharge per barrel of oil or oil-equivalent production, including reinjected waste.

(8) Surface disturbance on both a per-well and per-barrel of oil or oil-equivalent production basis.

(d) Public Input.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

SEC. 963. FOSSIL RESEARCH AND DEVELOPMENT.

(a) Objectives.—The Secretary shall conduct a program of fossil research, development, demonstration, and commercial application, whose objective shall be to reduce emissions from fossil fuel use by developing technologies, including precombustion technologies, by 2015 with the capability of—

(1) dramatically increasing electricity generating efficiencies of coal and natural gas;

(2) improving combined heat and power thermal efficiencies;

(3) improving fuels utilization efficiency of production of liquid transportation fuels from coal;

(4) achieving near-zero emissions of mercury and of emissions that form fine particles, smog, and acid rain;

(5) reducing carbon dioxide emissions by at least 40 percent through efficiency improvements and by 100 percent with sequestration; and

(6) improved reliability, efficiency, reductions of air pollutant emissions, and reductions in solid waste disposal requirements.

(b) Coal-Based Projects.—The coal-based projects authorized under this section shall be consistent with the objective stated in subsection (a). The program shall emphasize carbon capture and sequestration technologies and gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction, hybrid gasification/combustion, or other technologies with the potential to address the capabilities described in paragraphs (4) and (5) of subsection (a).

SEC. 964. OIL AND GAS RESEARCH AND DEVELOPMENT.

The Secretary shall conduct a program of oil and gas research, development, demonstration, and commercial application, whose objective shall be to advance the science and technology available to domestic petroleum producers, particularly independent operators, to minimize the economic dislocation caused by the decline of domestic supplies of oil and natural gas resources by focusing research on—

(1) assisting small domestic producers of oil and gas to develop new and improved technologies to discover and extract additional supplies;

(2) developing technologies to extract methane hydrates in an environmentally sound manner;

(3) improving the ability of the domestic industry to extract hydrocarbons from known reservoirs and classes of reservoirs; and

(4) reducing the cost, and improving the efficiency and environmental performance, of oil and gas exploration and extraction activities, focusing especially on unconventional sources such as tar sands, heavy oil, and shale oil.

SEC. 965. TRANSPORTATION FUELS.

The Secretary shall conduct a program of transportation fuels research, development, demonstration, and commercial application, whose objective shall be to increase the price elasticity of oil supply and demand by focusing research on—

(1) reducing the cost of producing transportation fuels from coal and natural gas; and

(2) indirect liquefaction of coal and biomass.

SEC. 966. FUEL CELLS.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(b) DEMONSTRATION.—The program under this section shall include demonstration of fuel cell proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, utilizing improved manufacturing production and processes.

SEC. 967. CARBON DIOXIDE CAPTURE RESEARCH AND DEVELOPMENT.

(a) PROGRAM.—The Secretary of Energy shall support a 10-year program of research and development aimed at developing carbon dioxide capture technologies for pulverized coal combustion units. The program shall focus on—

(1) developing add-on carbon dioxide capture technologies, such as adsorption and absorption techniques and chemical processes, to remove carbon dioxide from flue gas, producing concentrated streams of carbon dioxide potentially amenable to sequestration;

(2) combustion technologies that would directly produce concentrated streams of carbon dioxide potentially amenable to sequestration; and

(3) increasing the efficiency of the overall combustion system in order to reduce the amount of carbon dioxide emissions released from the system per megawatt generated.

(b) CARBON SEQUESTRATION.—In conjunction with the program under subsection (a), the Secretary shall continue pursuing a robust carbon sequestration program with the private sector, through regional carbon sequestration partnerships.

SEC. 968. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) For fiscal year 2006, $583,000,000.
(2) For fiscal year 2007, $611,000,000.
(3) For fiscal year 2008, $626,000,000.
(4) For fiscal year 2009, $641,000,000.
(5) For fiscal year 2010, $657,000,000.

(b) ALLOCATION.—From amounts authorized under subsection (a), there are authorized to be appropriated for carrying out the program under section 967—

(1) $20,000,000 for fiscal year 2006;
(2) $25,000,000 for fiscal year 2007;
(3) $30,000,000 for fiscal year 2008;
(4) $35,000,000 for fiscal year 2009; and
(5) $40,000,000 for fiscal year 2010.

CHAPTER 2—ULTRA-DEEPWATER AND UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES

SEC. 969. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall carry out a program under this chapter of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resource exploration and production, including addressing the technology challenges for small producers, safe operations, and environmental mitigation (including reduction of greenhouse gas emissions and sequestration of carbon).

(b) PROGRAM ELEMENTS.—The program under this chapter shall address the following areas, including improving safety and minimizing environmental impacts of activities within each area:

(1) Ultra-deepwater architecture and technology, including drilling to formations in the Outer Continental Shelf to depths greater than 15,000 feet.

(2) Unconventional natural gas and other petroleum resource exploration and production technology.

(3) The technology challenges of small producers.

(4) Complementary research performed by the National Energy Technology Laboratory for the United States Department of Energy.

(c) LIMITATION ON LOCATION OF FIELD ACTIVITIES.—Field activities under the program under this chapter shall be carried out only—

(1) in—

(A) areas in the territorial waters of the United States not under any Outer Continental Shelf moratorium as of September 30, 2002;

(B) areas onshore in the United States on public land administered by the Secretary of the Interior available for oil and gas leasing, where consistent with applicable law and land use plans; and

(C) areas onshore in the United States on State or private land, subject to applicable law; and

(2) with the approval of the appropriate Federal or State land management agency or private land owner.

(d) ACTIVITIES AT THE NATIONAL ENERGY TECHNOLOGY LABORATORY.—The Secretary, through the National Energy Technology Laboratory, shall carry out a program of research and other activities complementary to and supportive of the research programs under subsection (b).

(e) CONSULTATION WITH SECRETARY OF THE INTERIOR.—In carrying out this part, the Secretary shall consult regularly with the Secretary of the Interior.

SEC. 970. ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out the activities under section 969, to maximize the value of natural gas and other petroleum resources of the United States, by increasing the supply of such resources, through reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) ROLE OF THE SECRETARY.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this section.

(c) ROLE OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall contract with a consortium to—

(A) manage awards pursuant to subsection (f)(3);

(B) issue project solicitations upon approval of the Secretary;

(C) make project awards upon approval of the Secretary;

(D) disburse funds awarded under subsection (f) as directed by the Secretary in accordance with the annual plan under subsection (e); and

(E) carry out other activities assigned to the program consortium by this section.

(2) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(3) CONFLICT OF INTEREST.—

(A) PROCEDURES.—The Secretary shall establish procedures—

(i) to ensure that each board member, officer, or employee of the program consortium who is in a decisionmaking capacity under subsection (f)(3) shall disclose to the Secretary any financial interests in, or financial relationships with, applicants for or recipients of awards under this section, including those of his or her spouse or minor child, unless such relationships or interests would be considered to be remote or inconsequential; and

(ii) to require any board member, officer, or employee with a financial relationship or interest disclosed under clause (i) to recuse himself or herself from any oversight under subsection (f)(4) with respect to such applicant or recipient.

(B) FAILURE TO COMPLY.—The Secretary may disqualify an application or revoke an award under this section if a board member, officer, or employee has failed to comply with procedures required under subparagraph (A)(ii).

(d) SELECTION OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall select the program consortium through an open, competitive process.

(2) MEMBERS.—The program consortium may include corporations, trade associations, institutions of higher education, National Laboratories, or other research institutions. After submitting a proposal under paragraph (4), the program consortium may not add members without the consent of the Secretary.

(3) TAX STATUS.—The program consortium shall be an entity that is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986 on the date of enactment of this Act.

(4) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals from eligible consortia to perform the duties in subsection (c)(1), which shall be submitted not later than 180 days after the date of enactment of this Act. The Secretary shall select the program consortium not later than 270 days after such date of enactment.

(5) APPLICATION.—Applicants shall submit a proposal including such information as the Secretary may require. At a minimum, each proposal shall—

(A) list all members of the consortium;

(B) fully describe the structure of the consortium, including any provisions relating to intellectual property; and

(C) describe how the applicant would carry out the activities of the program consortium under this section.

(6) ELIGIBILITY.—To be eligible to be selected as the program consortium, an applicant must be an entity whose members have collectively demonstrated capabilities and experience in planning and managing research, development, demonstration, and commercial application programs for ultra-deepwater and unconventional natural gas or other petroleum exploration or production.

(7) FOCUS AREAS FOR AWARDS.—

(A) ULTRA-DEEPWATER RESOURCES.—Awards from allocations under section 976(d)(1) shall focus on the development and demonstration of individual exploration and production technologies as well as integrated systems technologies including new architectures for production in ultra-deepwater.

(B) UNCONVENTIONAL RESOURCES.—Awards from allocations under section 976(d)(2) shall focus on areas including advanced coalbed methane, deep drilling, natural gas production from tight sands, natural gas production from gas shales, stranded gas, innovative exploration and production techniques, enhanced recovery techniques, and environmental mitigation of unconventional natural gas and other petroleum resources exploration and production.

(C) SMALL PRODUCERS.—Awards from allocations under section 976(d)(3) shall be made to consortia consisting of small producers or organized primarily for the benefit of small producers, and shall focus on areas including complex geology involving rapid changes in the type and quality of the oil and gas reservoirs across the reservoir; low reservoir pressure; unconventional natural gas reservoirs in coalbeds, deep reservoirs, tight sands, or shales; and unconventional oil reservoirs in tar sands and oil shales.

(8) CRITERION.—The Secretary shall consider the amount of the fee an applicant proposes to receive under subsection (g) in selecting a consortium under this section.

(e) ANNUAL PLAN.—

(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraph (2).

(2) DEVELOPMENT.—

(A) SOLICITATION OF RECOMMENDATIONS.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The program consortium shall submit its recommendations in the form of a draft annual plan.

(B) SUBMISSION OF RECOMMENDATIONS; OTHER COMMENT.—The Secretary shall submit the recommendations of the program consortium under subparagraph (A) to the Ultra-Deepwater Advisory Committee established under section 972(a) and to the Unconventional Resources Technology Advisory Committee established under section 972(b), and such Advisory Committees shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) CONSULTATION.—The Secretary shall consult regularly with the program consortium throughout the preparation of the annual plan.

(3) PUBLICATION.—The Secretary shall transmit to Congress and publish in the Federal Register the annual plan, along with any written comments received under paragraph (2)(A) and (B).

(4) CONTENTS.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(A) a list of any solicitations for awards to carry out research, development, demonstration, or commercial application activities, including the topics for such work, who would be eligible to apply, selection criteria, and the duration of awards; and

(B) a description of the activities expected of the program consortium to carry out subsection (f)(3).

(5) ESTIMATES OF INCREASED ROYALTY RECEIPTS.—The Secretary, in consultation with the Secretary of the Interior, shall provide an annual report to Congress with the President's budget on the estimated cumulative increase in Federal royalty receipts (if any) resulting from the implementation of this part. The initial report under this paragraph shall be submitted in the first President's budget following the completion of the first annual plan required under this subsection.

(f) AWARDS.—

(1) IN GENERAL.—Upon approval of the Secretary the program consortium shall make awards to carry out research, development, demonstration, and commercial application activities under the program under this section. The program consortium shall not be eligible to receive such awards, but members of the program consortium may receive such awards.

(2) PROPOSALS.—Upon approval of the Secretary the program consortium shall solicit proposals for awards under this subsection in such manner and at such time as the Secretary may prescribe, in consultation with the program consortium.

(3) OVERSIGHT.—

(A) IN GENERAL.—The program consortium shall oversee the implementation of awards under this subsection, consistent with the annual plan under subsection (e), including disbursing funds and monitoring activities carried out under such awards for compliance with the terms and conditions of the awards.

(B) EFFECT.—Nothing in subparagraph (A) shall limit the authority or responsibility of the Secretary to oversee awards, or limit the authority of the Secretary to review or revoke awards.

(g) ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—To compensate the program consortium for carrying out its activities under this section, the Secretary shall provide to the program consortium funds sufficient to administer the program. This compensation may include a management fee consistent with Department of Energy contracting practices and procedures.

(2) ADVANCE.—The Secretary shall advance funds to the program consortium upon selection of the consortium, which shall be deducted from amounts to be provided under paragraph (1).

(h) AUDIT.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds provided to the program consortium, and funds provided under awards made under subsection (f), have been expended in a manner consistent with the purposes and requirements of this part. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

(i) ACTIVITIES BY THE UNITED STATES GEOLOGICAL SURVEY.—The Secretary of the Interior, through the United States Geological Survey, shall, where appropriate, carry out programs of long-term research to complement the programs under this section.

SEC. 971. ADDITIONAL REQUIREMENTS FOR AWARDS.

(a) DEMONSTRATION PROJECTS.—An application for an award under this chapter for a demonstration project shall describe with specificity the intended commercial use of the technology to be demonstrated.

(b) FLEXIBILITY IN LOCATING DEMONSTRATION PROJECTS.—Subject to the limitation in section 969(c), a demonstration project under this chapter relating to an ultra-deepwater technology or an ultra-deepwater architecture may be conducted in deepwater depths.

(c) INTELLECTUAL PROPERTY AGREEMENTS.—If an award under this chapter is made to a consortium (other than the program consortium), the consortium shall provide to the Secretary a signed contract agreed to by all members of the consortium describing the rights of each member to intellectual property used or developed under the award.

(d) TECHNOLOGY TRANSFER.—2.5 percent of the amount of each award made under this chapter shall be designated for technology transfer and outreach activities under this chapter.

(e) COST SHARING REDUCTION FOR INDEPENDENT PRODUCERS.—In applying the cost sharing requirements under section 911 to an award under this chapter the Secretary may reduce or eliminate the non-Federal requirement if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project.

SEC. 972. ADVISORY COMMITTEES.

(a) ULTRA-DEEPWATER ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Ultra-Deepwater Advisory Committee.

(2) MEMBERSHIP.—The advisory committee under this subsection shall be composed of members appointed by the Secretary including—

(A) individuals with extensive research experience or operational knowledge of offshore natural gas and other petroleum exploration and production;

(B) individuals broadly representative of the affected interests in ultra-deepwater natural gas and other petroleum production, including interests in environmental protection and safe operations;

(C) no individuals who are Federal employees; and

(D) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The advisory committee under this subsection shall—

(A) advise the Secretary on the development and implementation of programs under this chapter related to ultra-deepwater natural gas and other petroleum resources; and

(B) carry out section 970(e)(2)(B).

(4) COMPENSATION.—A member of the advisory committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(b) UNCONVENTIONAL RESOURCES TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Unconventional Resources Technology Advisory Committee.

(2) MEMBERSHIP.—The advisory committee under this subsection shall be composed of members appointed by the Secretary including—

(A) a majority of members who are employees or representatives of independent producers of natural gas and other petroleum, including small producers;

(B) individuals with extensive research experience or operational knowledge of unconventional natural gas and other petroleum resource exploration and production;

(C) individuals broadly representative of the affected interests in unconventional natural gas and other petroleum resource exploration and production, including interests in environmental protection and safe operations;

(D) no individuals who are Federal employees; and

(E) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The advisory committee under this subsection shall—

(A) advise the Secretary on the development and implementation of activities under this chapter related to unconventional natural gas and other petroleum resources; and

(B) carry out section 970(e)(2)(B).

(4) COMPENSATION.—A member of the advisory committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(c) PROHIBITION.—No advisory committee established under this section shall make recommendations on funding awards to particular consortia or other entities, or for specific projects.

SEC. 973. LIMITS ON PARTICIPATION.

An entity shall be eligible to receive an award under this chapter only if the Secretary finds—

(1) that the entity's participation in the program under this chapter would be in the economic interest of the United States; and

(2) that either—

(A) the entity is a United States-owned entity organized under the laws of the United States; or

(B) the entity is organized under the laws of the United States and has a parent entity organized under the laws of a country that affords—

(i) to United States-owned entities opportunities, comparable to those afforded to any other entity, to participate in any cooperative research venture similar to those authorized under this part;

(ii) to United States-owned entities local investment opportunities comparable to those afforded to any other entity; and

(iii) adequate and effective protection for the intellectual property rights of United States-owned entities.

SEC. 974. SUNSET.

The authority provided by this chapter shall terminate on September 30, 2014.

SEC. 975. DEFINITIONS.

In this part:

(1) DEEPWATER.—The term "deepwater" means a water depth that is greater than 200 but less than 1,500 meters.

(2) INDEPENDENT PRODUCER OF OIL OR GAS.—

(A) IN GENERAL.—The term "independent producer of oil or gas" means any person that produces oil or gas other than a person to whom subsection (c) of section 613A of the Internal Revenue Code of 1986 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d) of such Code.

(B) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of subparagraph (A), paragraphs (2) and (4) of section 613A(d) of the Internal Revenue Code of 1986 shall be applied by substituting "calendar year" for "taxable year" each place it appears in such paragraphs.

(3) PROGRAM CONSORTIUM.—The term "program consortium" means the consortium selected under section 970(d).

(4) REMOTE OR INCONSEQUENTIAL.—The term "remote or inconsequential" has the meaning given that term in regulations issued by the Office of Government Ethics under section 208(b)(2) of title 18, United States Code.

(5) SMALL PRODUCER.—The term "small producer" means an entity organized under the laws of the United States with production levels of less than 1,000 barrels per day of oil equivalent.

(6) ULTRA-DEEPWATER.—The term "ultra-deepwater" means a water depth that is equal to or greater than 1,500 meters.

(7) ULTRA-DEEPWATER ARCHITECTURE.—The term "ultra-deepwater architecture" means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(8) ULTRA-DEEPWATER TECHNOLOGY.—The term "ultra-deepwater technology" means a discrete technology that is specially suited to address 1 or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(9) UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCE.—The term "unconventional natural gas and other petroleum resource" means natural gas and other petroleum resource located onshore in an economically inaccessible geological formation, including resources of small producers.

SEC. 976. FUNDING.

(a) IN GENERAL.—

(1) OIL AND GAS LEASE INCOME.—For each of fiscal years 2005 through 2014, from any excess Federal royalties derived from Federal onshore and offshore oil and gas leases issued under the Outer Continental Shelf Lands Act and the Mineral Leasing Act which are deposited in the Treasury, and after prior distributions as described in subsection (c) have been made, all excess Federal royalties up to $200,000,000 shall be deposited into the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund (in this section referred to as the Fund).

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) excess Federal royalty receipts are the amount calculated on the basis of the difference between the prevailing market prices upon which the royalty payment was made and 110 percent of the projected market prices for that fiscal year, as contained in the economic assumptions underlying the Concurrent Resolution on the Budget, under section 301 of the Congressional Budget and Impoundment Control Act or 1974; and

(B) the term "royalties" excludes proceeds from the sale of royalty production taken in kind and royalty production that is transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)).

(b) OBLIGATIONAL AUTHORITY.—Monies in the Fund shall be available to the Secretary for obligation under this chapter without fiscal year limitation, to remain available until expended.

(c) PRIOR DISTRIBUTIONS.—The distributions described in subsection (a) are those required by law—

(1) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(2) to other funds receiving monies from Federal oil and gas leasing programs, including—

(A) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(B) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5(c));

(C) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(D) the Secure Energy Reinvestment Fund.

(d) ALLOCATION.—Amounts obligated from the Fund under subsection (a)(1) in each fiscal year shall be allocated as follows:

(1) 35 percent shall be for activities under section 969(b)(1).

(2) 32.5 percent shall be for activities under section 969(b)(2).

(3) 7.5 percent shall be for activities under section 969(b)(3).

(4) 25 percent shall be for complementary research under section 969(b)(4) and other activities under section 969(b) to include program direction funds, overall program oversight, contract management, and the establishment and operation of a technical committee to ensure that in-house research activities funded under subsection 969(b)(4) are technically complementary to, and not duplicative of, research conducted under section 969(b)(1), (2), and (3).

(e) FUND.—There is hereby established in the Treasury of the United States a separate fund to be known as the "Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund".

Subtitle G—Improved Coordination and Management of Civilian Science and Technology Programs

SEC. 978. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—Section 209 of the Department of Energy Organization Act (42 U.S.C. 7139) is amended to read as follows:

"OFFICE OF SCIENCE

"SEC. 209. (a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary of Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Assistant Secretary of Science shall be in addition to the Assistant Secretaries provided for under section 203 of this Act.

"(c) It shall be the duty and responsibility of the Assistant Secretary of Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary.".

(b) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking "There shall be in the Department six Assistant Secretaries" and inserting "Except as provided in section 209, there shall be in the Department seven Assistant Secretaries".

(2) It is the sense of the Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 5315 of title 5, United States Code, is amended by—

(A) striking "Director, Office of Science, Department of Energy."; and

(B) striking "Assistant Secretaries of Energy (6)" and inserting "Assistant Secretaries of Energy (8)".

(2) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(A) by striking "Section 209" and inserting "Sec. 209";

(B) by striking "213." and inserting "Sec. 213.";

(C) by striking "214." and inserting "Sec. 214.";

(D) by striking "215." and inserting "Sec. 215."; and

(E) by striking "216." and inserting "Sec. 216.".

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

SEC. 1002. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

"(g)(1) In addition to other authorities granted to the Secretary under law, the Secretary may exercise the same authority (subject to the same restrictions and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code, except for subsections (b) and (f) of such section 2371. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) or section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

"(2)(A) The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note), including that, to the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a) of that section and that the period of authority to carry out projects under such subsection (a) terminates as provided in subsection (g) of that section.

"(B) In applying the requirements and conditions of section 845 of the National Defense Authorization Act for Fiscal Year 1994 under this subsection—

"(i) subsection (c) of that section shall apply with respect to prototype projects carried out under this paragraph; and

"(ii) the Director of the Office of Management and Budget shall perform the functions of the Secretary of Defense under subsection (d) of that section.

"(C) The Secretary may exercise authority under this subsection for a project only if authorized by the Director of the Office of Management and Budget to use the authority for such project.

"(D) The annual report of the head of an executive agency that is required under subsection (h) of section 2371 of title 10, United States Code, as applied to the head of the executive agency by subsection (a), shall be submitted to Congress.

"(3) Not later than 90 days after the date of enactment of this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall prescribe guidelines for using other transactions authorized by paragraph (1). Such guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.

"(4) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate and may not be delegated to any other person.

"(5)(A) Not later than September 31, 2006, the Comptroller General of the United States shall report to Congress on the Department's use of the authorities granted under this section, including the ability to attract nontraditional government contractors and whether additional safeguards are needed with respect to the use of such authorities.

"(B) In this section, the term 'nontraditional Government contractor' has the same meaning as the term 'nontraditional defense contractor' as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).".

SEC. 1003. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to the Congress a report that examines the feasibility of promoting collaborations between major universities and other colleges and universities in grants, contracts, and cooperative agreements made by the Secretary for energy projects. For purposes of this section, major universities are schools listed by the Carnegie Foundation as Doctoral Research Extensive Universities. The Secretary shall also consider providing incentives to increase the inclusion of small institutions of higher education, including minority-serving institutions, in energy grants, contracts, and cooperative agreements.

SEC. 1004. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the Secretary of Energy should develop and implement more stringent procurement and inventory controls, including controls on the purchase card program, to prevent waste, fraud, and abuse of taxpayer funds by employees and contractors of the Department of Energy; and

(2) the Department's Inspector General should continue to closely review purchase card purchases and other procurement and inventory practices at the Department.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the "Electric Reliability Act of 2005".

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY.

"(a) DEFINITIONS.—For purposes of this section:

"(1) The term 'bulk-power system' means—

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(8) The term 'cybersecurity incident' means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

"(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

“(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

“(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

“(2) has established rules that—

“(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

“(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

“(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

“(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

“(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

The total amount of all dues, fees, and other charges collected by the ERO in each of the fiscal years 2006 through 2015 and allocated under subparagraph (B) shall not exceed $50,000,000.

“(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

“(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

“(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

“(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

“(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

“(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

“(A) the Commission finds a conflict exists between a reliability standard and any such provision;

“(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

“(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

“(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

“(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

“(B) files notice and the record of the proceeding with the Commission.

“(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

“(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

“(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

“(A) the regional entity is governed by—

“(i) an independent board;

“(ii) a balanced stakeholder board; or

“(iii) a combination independent and balanced stakeholder board.

“(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

“(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

“(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

“(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

“(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

“(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

“(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

“(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

“(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

“(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards.

“(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

“(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

“(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

“(k) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.”.

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) LIMITATION ON ANNUAL APPROPRIATIONS.—There is authorized to be appropriated not more than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) AMENDMENT OF FEDERAL POWER ACT.—Part II of the Federal Power Act is amended by adding at the end the following:

“SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

“(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDORS.—

“(1) TRANSMISSION CONGESTION STUDY.—Within 1 year after the enactment of this section, and every 3 years thereafter, the Secretary of Energy, in consultation with affected States, shall conduct a study of electric transmission congestion. After considering alternatives and recommendations from interested parties, including an opportunity for comment from affected States, the Secretary shall issue a report, based on such study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor. The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referenced in section 215 of this Act.

“(2) CONSIDERATIONS.—In determining whether to designate a national interest electric transmission corridor referred to in paragraph (1) under this section, the Secretary may consider whether—

“(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

“(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

“(ii) a diversification of supply is warranted;

“(C) the energy independence of the United States would be served by the designation;

“(D) the designation would be in the interest of national energy policy; and

“(E) the designation would enhance national defense and homeland security.

“(b) CONSTRUCTION PERMIT.—Except as provided in subsection (i), the Commission is authorized, after notice and an opportunity for hearing, to issue a permit or permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

“(1)(A) a State in which the transmission facilities are to be constructed or modified is without authority to—

“(i) approve the siting of the facilities; or

“(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

“(B) the applicant for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

“(C) a State commission or other entity that has authority to approve the siting of the facilities has—

“(i) withheld approval for more than 1 year after the filing of an application pursuant to applicable law seeking approval or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

“(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

“(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

“(3) the proposed construction or modification is consistent with the public interest;

“(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers; and

“(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence.

“(c) PERMIT APPLICATIONS.—Permit applications under subsection (b) shall be made in writing to the Commission. The Commission shall issue rules setting forth the form of the application, the information to be contained in the application, and the manner of service of notice of the permit application upon interested persons.

“(d) COMMENTS.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

“(e) RIGHTS-OF-WAY.—In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify such transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated.

“(f) STATE LAW.—Nothing in this section shall preclude any person from constructing or modifying any transmission facility pursuant to State law.

“(g) COMPENSATION.—Any exercise of eminent domain authority pursuant to this section shall be considered a taking of private property for which just compensation is due. Just compensation shall be an amount equal to the full fair market value of the property taken on the date of the exercise of eminent domain authority, except that the compensation shall exceed fair market value if necessary to make the landowner whole for decreases in the value of any portion of the land not subject to eminent domain. Any parcel of land acquired by eminent domain under this subsection shall be transferred back to the owner from whom it was acquired (or his heirs or assigns) if the land is not used for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition. Other than construction, modification, operation, or maintenance of electric transmission facilities and related facilities, property acquired under subsection (e) may not be used for any purpose (including use for any heritage area, recreational trail, or park) without the consent of the owner of the parcel from whom the property was acquired (or the owner's heirs or assigns).

“(h) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION AND DISTRIBUTION FACILITIES.—

“(1) LEAD AGENCY.—If an applicant, or prospective applicant, for a Federal authorization related to an electric transmission or distribution facility so requests, the Department of Energy (DOE) shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility. For purposes of this subsection, the term ‘Federal authorization' means any authorization required under Federal law in order to site a transmission or distribution facility, including but not limited to such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal or a State agency. To the maximum extent practicable under applicable Federal law, the Secretary of Energy shall coordinate this Federal authorization and review process with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

"(2) AUTHORITY TO SET DEADLINES.—As lead agency, the Department of Energy, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multi-State entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility. The Secretary of Energy shall ensure that once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 1 year or, if a requirement of another provision of Federal law makes this impossible, as soon thereafter as is practicable. The Secretary of Energy also shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant within 60 days of when the prospective applicant submits a request for such information concerning—

"(A) the likelihood of approval for a potential facility; and

"(B) key issues of concern to the agencies and public.

"(3) CONSOLIDATED ENVIRONMENTAL REVIEW AND RECORD OF DECISION.—As lead agency head, the Secretary of Energy, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law. The document may be an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 if warranted, or such other form of analysis as may be warranted. The Secretary of Energy and the heads of other agencies shall streamline the review and permitting of transmission and distribution facilities within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors. Such document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable laws.

"(4) APPEALS.—In the event that any agency has denied a Federal authorization required for a transmission or distribution facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the Secretary, who shall, in consultation with the affected agency, review the denial or take action on the pending application. Based on the overall record and in consultation with the affected agency, the Secretary may then either issue the necessary authorization with any appropriate conditions, or deny the application. The Secretary shall issue a decision within 90 days of the filing of the appeal. In making a decision under this paragraph, the Secretary shall comply with applicable requirements of Federal law, including any requirements of the Endangered Species Act, the Clean Water Act, the National Forest Management Act, the National Environmental Policy Act of 1969, and the Federal Land Policy and Management Act.

"(5) CONFORMING REGULATIONS AND MEMORANDA OF UNDERSTANDING.—Not later than 18 months after the date of enactment of this section, the Secretary of Energy shall issue any regulations necessary to implement this subsection. Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into Memoranda of Understanding to ensure the timely and coordinated review and permitting of electricity transmission and distribution facilities. The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the DOE regulations and any Memoranda. Interested Indian tribes, multi-State entities, and State agencies may enter such Memoranda of Understanding.

"(6) DURATION AND RENEWAL.—Each Federal land use authorization for an electricity transmission or distribution facility shall be issued—

"(A) for a duration, as determined by the Secretary of Energy, commensurate with the anticipated use of the facility, and

"(B) with appropriate authority to manage the right-of-way for reliability and environmental protection.

Upon the expiration of any such authorization (including an authorization issued prior to enactment of this section), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing its importance for public health, safety and economic welfare and as a legitimate use of Federal lands.

"(7) MAINTAINING AND ENHANCING THE TRANSMISSION INFRASTRUCTURE.—In exercising the responsibilities under this section, the Secretary of Energy shall consult regularly with the Federal Energy Regulatory Commission (FERC), FERC-approved electric reliability organizations (including related regional entities), and FERC-approved Regional Transmission Organizations and Independent System Operators.

"(i) INTERSTATE COMPACTS.—The consent of Congress is hereby given for 3 or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to facilitate siting of future electric energy transmission facilities within such States and to carry out the electric energy transmission siting responsibilities of such States. The Secretary of Energy may provide technical assistance to regional transmission siting agencies established under this subsection. Such regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States). The Commission shall have no authority to issue a permit for the construction or modification of electric transmission facilities within a State that is a party to a compact, unless the members of a compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

"(j) SAVINGS CLAUSE.—Nothing in this section shall be construed to affect any requirement of the environmental laws of the United States, including, but not limited to, the National Environmental Policy Act of 1969. Subsection (h)(4) of this section shall not apply to any Congressionally-designated components of the National Wilderness Preservation System, the National Wild and Scenic Rivers System, or the National Park system (including National Monuments therein).

"(k) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).".

(b) REPORTS TO CONGRESS ON CORRIDORS AND RIGHTS OF WAY ON FEDERAL LANDS.—The Secretary of the Interior, the Secretary of Energy, the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall, within 90 days of the date of enactment of this subsection, submit a joint report to Congress identifying each of the following:

(1) All existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations under Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761 et seq.), the schedule for completing such work, any impediments to completing the work, and steps that Congress could take to expedite the process.

(2) The number of pending applications to locate transmission and distribution facilities on Federal lands, key information relating to each such facility, how long each application has been pending, the schedule for issuing a timely decision as to each facility, and progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or their equivalent.

(3) The number of existing transmission and distribution rights-of-way on Federal lands that will come up for renewal within the following 5, 10, and 15 year periods, and a description of how the Secretaries plan to manage such renewals.

SEC. 1222. THIRD-PARTY FINANCE.

(a) EXISTING FACILITIES.—The Secretary of Energy (hereinafter in this section referred to as the "Secretary"), acting through the Administrator of the Western Area Power Administration (hereinafter in this section referred to as "WAPA"), or through the Administrator of the Southwestern Power Administration (hereinafter in this section referred to as "SWPA"), or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, an electric power transmission facility and related facilities ("Project") needed to upgrade existing transmission facilities owned by SWPA or WAPA if the Secretary of Energy, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Regional Transmission Organization or Independent System Operator (as defined in the Federal Power Act), if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid; and

(3) would be operated in conformance with prudent utility practice.

(b) NEW FACILITIES.—The Secretary, acting through WAPA or SWPA, or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, a new electric power transmission facility and related facilities ("Project") located within any State in which WAPA or SWPA operates if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in an area designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Regional Transmission Organization or Independent System Operator, if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate (A) Regional Transmission Organization or Independent System Operator, if any, or (B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities which are the subject of ongoing or approved siting and related permitting proceedings.

(c) OTHER FUNDS.—

(1) IN GENERAL.—In carrying out a Project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the Project.

(2) AVAILABILITY.—The contributed funds shall be available for expenditure for the purpose of carrying out the Project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for that Project.

(3) ALLOCATION OF COSTS.—In carrying out a Project under subsection (a) or (b), any costs of the Project not paid for by contributions from another entity shall be collected through rates charged to customers using the new transmission capability provided by the Project and allocated equitably among these project beneficiaries using the new transmission capability.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any existing authorizing statutes.

(e) SAVINGS CLAUSE.—Nothing in this section shall constrain or restrict an Administrator in the utilization of other authority delegated to the Administrator of WAPA or SWPA.

(f) SECRETARIAL DETERMINATIONS.—Any determination made pursuant to subsections (a) or (b) shall be based on findings by the Secretary using the best available data.

(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than $100,000,000 under subsection (c)(1) for the period encompassing fiscal years 2006 through 2015.

SEC. 1223. TRANSMISSION SYSTEM MONITORING.

Within 6 months after the date of enactment of this Act, the Secretary of Energy and the Federal Energy Regulatory Commission shall study and report to Congress on the steps which must be taken to establish a system to make available to all transmission system owners and Regional Transmission Organizations (as defined in the Federal Power Act) within the Eastern and Western Interconnections real-time information on the functional status of all transmission lines within such Interconnections. In such study, the Commission shall assess technical means for implementing such transmission information system and identify the steps the Commission or Congress must take to require the implementation of such system.

SEC. 1224. ADVANCED TRANSMISSION TECHNOLOGIES.

(a) AUTHORITY.—The Federal Energy Regulatory Commission, in the exercise of its authorities under the Federal Power Act and the Public Utility Regulatory Policies Act of 1978, shall encourage the deployment of advanced transmission technologies.

(b) DEFINITION.—For the purposes of this section, the term "advanced transmission technologies" means technologies that increase the capacity, efficiency, or reliability of existing or new transmission facilities, including, but not limited to—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;

(8) ultra-high voltage lines;

(9) high-voltage DC technology;

(10) flexible AC transmission systems;

(11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels, and batteries);

(12) controllable load;

(13) distributed generation (including PV, fuel cells, microturbines);

(14) enhanced power device monitoring;

(15) direct system state sensors;

(16) fiber optic technologies;

(17) power electronics and related software (including real time monitoring and analytical software); and

(18) any other technologies the Commission considers appropriate.

(c) OBSOLETE OR IMPRACTICABLE TECHNOLOGIES.—The Commission is authorized to cease encouraging the deployment of any technology described in this section on a finding that such technology has been rendered obsolete or otherwise impracticable to deploy.

SEC. 1225. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAM.—The Secretary of Energy (hereinafter in this section referred to as the "Secretary") acting through the Director of the Office of Electric Transmission and Distribution shall establish a comprehensive research, development, demonstration and commercial application program to promote improved reliability and efficiency of electrical transmission and distribution systems. This program shall include—

(1) advanced energy delivery and storage technologies, materials, and systems, including new transmission technologies, such as flexible alternating current transmission systems, composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) PROGRAM PLAN.—Not later than 1 year after the date of the enactment of this legislation, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. In preparing the program plan, the Secretary may consult with utilities, energy services providers, manufacturers, institutions of higher education, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

(c) IMPLEMENTATION.—The Secretary shall consider implementing this program using a consortium of industry, university and national laboratory participants.

(d) REPORT.—Not later than 2 years after the transmittal of the plan under subsection (b), the Secretary shall transmit a report to Congress describing the progress made under this section and identifying any additional resources needed to continue the development and commercial application of transmission and distribution infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, demonstration, and commercial application initiative specifically focused on power delivery utilizing

components incorporating high temperature superconductivity.

(2) GOALS.—The goals of this initiative shall be to—

(A) establish facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) provide technical leadership for establishing reliability for high temperature superconductivity power applications including suitable modeling and analysis;

(C) facilitate commercial transition toward direct current power transmission, storage, and use for high power systems utilizing high temperature superconductivity; and

(D) facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control and reliability.

(3) REQUIREMENTS.—The initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current and controllable alternating current transmission systems;

(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and

(C) testbeds developed in cooperation with national laboratories, industries, and universities to demonstrate these technologies, prepare the technologies for commercial introduction, and address cost or performance roadblocks to successful commercial use.

(4) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this subsection, there are authorized to be appropriated—

(A) for fiscal year 2006, $15,000,000;

(B) for fiscal year 2007, $20,000,000;

(C) for fiscal year 2008, $30,000,000;

(D) for fiscal year 2009, $35,000,000; and

(E) for fiscal year 2010, $40,000,000.

SEC. 1226. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.

(a) PROGRAM.—The Secretary of Energy is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application establishing an applicant as either—

(1) a qualifying advanced power system technology facility; or

(2) a qualifying security and assured power facility.

(b) INCENTIVES.—Subject to availability of funds, a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) ELIGIBILITY.—For purposes of this section:

(1) QUALIFYING ADVANCED POWER SYSTEM TECHNOLOGY FACILITY.—The term "qualifying advanced power system technology facility" means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) QUALIFYING SECURITY AND ASSURED POWER FACILITY.—The term "qualifying security and assured power facility" means a qualifying advanced power system technology facility determined by the Secretary of Energy, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Energy for the purposes of this section, $10,000,000 for each of the fiscal years 2006 through 2012.

SEC. 1227. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

(a) CREATION OF AN OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) (as amended by section 502(a) of this Act) is amended by inserting the following after section 217, as added by title V of this Act:

"SEC. 218. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

"(a) ESTABLISHMENT.—There is established within the Department an Office of Electric Transmission and Distribution. This Office shall be headed by a Director, subject to the authority of the Secretary. The Director shall be appointed by the Secretary. The Director shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) DIRECTOR.—The Director shall—

"(1) coordinate and develop a comprehensive, multi-year strategy to improve the Nation's electricity transmission and distribution;

"(2) implement or, where appropriate, coordinate the implementation of, the recommendations made in the Secretary's May 2002 National Transmission Grid Study;

"(3) oversee research, development, and demonstration to support Federal energy policy related to electricity transmission and distribution;

"(4) grant authorizations for electricity import and export pursuant to section 202(c), (d), (e), and (f) of the Federal Power Act (16 U.S.C. 824a);

"(5) perform other functions, assigned by the Secretary, related to electricity transmission and distribution; and

"(6) develop programs for workforce training in power and transmission engineering.".

(b) CONFORMING AMENDMENTS.—(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended by inserting after the item relating to section 217 the following new item:

"Sec. 218. Office of Electric Transmission and Distribution.".

(2) Section 5315 of title 5, United States Code, is amended by inserting after the item relating to "Inspector General, Department of Energy." the following:

"Director, Office of Electric Transmission and Distribution, Department of Energy.".

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) TRANSMISSION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) EXEMPTION TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

"(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) REMAND.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) OTHER REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

"(j) DEFINITION.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).".

SEC. 1232. SENSE OF CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of Regional Transmission Organizations as defined in section 3 of the Federal Power Act.

SEC. 1233. REGIONAL TRANSMISSION ORGANIZATION APPLICATIONS PROGRESS REPORT.

Not later than 120 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall submit to Congress a report containing each of the following:

(1) A list of all regional transmission organization applications filed at the Commission pursuant to subpart F of part 35 of title 18, Code of Federal Regulations (in this section referred to as "Order No. 2000"), including an identification of each public utility and other entity included within the proposed membership of the regional transmission organization.

(2) A brief description of the status of each pending regional transmission organization application, including a precise explanation of how each fails to comply with the minimal requirements of Order No. 2000 and what steps need to be taken to bring each application into such compliance.

(3) For any application that has not been finally approved by the Commission, a detailed description of every aspect of the application that the Commission has determined does not conform to the requirements of Order No. 2000.

(4) For any application that has not been finally approved by the Commission, an explanation by the Commission of why the items described pursuant to paragraph (3) constitute material noncompliance with the requirements of the Commission's Order No. 2000 sufficient to justify denial of approval by the Commission.

(5) For all regional transmission organization applications filed pursuant to the Commission's Order No. 2000, whether finally approved or not—

(A) a discussion of that regional transmission organization's efforts to minimize rate seams between itself and—

(i) other regional transmission organizations; and

(ii) entities not participating in a regional transmission organization;

(B) a discussion of the impact of such seams on consumers and wholesale competition; and

(C) a discussion of minimizing cost-shifting on consumers.

SEC. 1234. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term "appropriate Federal regulatory authority" means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL UTILITY.—The term "Federal utility" means a Federal power marketing agency or the Tennessee Valley Authority.

(3) TRANSMISSION SYSTEM.—The term "transmission system" means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) OTHER OBLIGATIONS.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) REPEAL.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106–377, section 1(a)(2); 114 Stat. 1441, 1441A–80; 16 U.S.C. 824n) is repealed.

SEC. 1235. STANDARD MARKET DESIGN.

(a) REMAND.—The Commission's proposed rulemaking entitled "Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design" (Docket No. RM01–12–000) ("SMD NOPR") is remanded to the Commission for reconsideration. No final rule mandating a standard electricity market design pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before October 31, 2006, or take effect before December 31, 2006. Any final rule issued by the Commission pursuant to the proposed rulemaking shall be preceded by a second notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

(b) SAVINGS CLAUSE.—This section shall not be construed to modify or diminish any authority or obligation the Commission has under this Act, the Federal Power Act, or other applicable law, including, but not limited to, any authority to—

(1) issue any rule or order (of general or particular applicability) pursuant to any such authority or obligation; or

(2) act on a filing or filings by 1 or more transmitting utilities for the voluntary formation of a Regional Transmission Organization or Independent System Operator (as defined in the Federal Power Act) (and related market structures or rules) or voluntary modification of an existing Regional Transmission Organization or Independent System Operator (and related market structures or rules).

SEC. 1236. NATIVE LOAD SERVICE OBLIGATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 217. NATIVE LOAD SERVICE OBLIGATION.

"(a) MEETING SERVICE OBLIGATIONS.—(1) Any load-serving entity that, as of the date of enactment of this section—

"(A) owns generation facilities, markets the output of Federal generation facilities, or holds rights under 1 or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation, and

"(B) by reason of ownership of transmission facilities, or 1 or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation,

is entitled to use such firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to the extent required to meet its service obligation.

"(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights or equivalent tradable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradable or financial transmission rights associated with the transferred service obligation. Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

“(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long term basis for long term power supply arrangements made, or planned, to meet such needs.

“(b) Allocation of Transmission Rights.—Nothing in subsections (a)(1) and (a) (2) of this section shall affect any existing or future methodology employed by an RTO or ISO for allocating or auctioning transmission rights if such RTO or ISO was authorized by the Commission to allocate or auction financial transmission rights on its system as of January 1, 2005, and the Commission determines that any future allocation or auction is just, reasonable and not unduly discriminatory or preferential, provided, however, that if such an RTO or ISO never allocated financial transmission rights on its system that pertained to a period before January 1, 2005, with respect to any application by such RTO or ISO that would change its methodology the Commission shall exercise its authority in a manner consistent with the Act and the policies expressed in subsections (a)(1) and (a)(2) as applied to firm transmission rights held by a load serving entity as of January 1, 2005, to the extent the associated generation ownership or power purchase arrangements remain in effect.

“(c) Certain Transmission Rights.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (a) available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

“(d) Obligation to Build.—Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.

“(e) Contracts.—Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection. If an ISO in the Western Interconnection had allocated financial transmission rights prior to the date of enactment of this section but had not done so with respect to one or more load-serving entities' firm transmission rights held under contracts to which the preceding sentence applies (or held by reason of ownership of transmission facilities), such load-serving entities may not be required, without their consent, to convert such firm transmission rights to tradable or financial rights, except where the load-serving entity has voluntarily joined the ISO as a participating transmission owner (or its successor) in accordance with the ISO tariff.

“(f) Water Pumping Facilities.—The Commission shall ensure that any entity described in section 201(f) that owns transmission facilities used predominately to support its own water pumping facilities shall have, with respect to such facilities, protections for transmission service comparable to those provided to load-serving entities pursuant to this section.

“(g) FERC Rulemaking on Long-Term Transmission Rights in Organized Markets.—Within one year after the date of enactment of this section and after notice and an opportunity for comment, the Commission shall by rule or order implement subsection (a)(3) in Commission-approved RTOs and ISOs with organized electricity markets.

“(h) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

“(i) Jurisdiction.—This section does not authorize the Commission to take any action not otherwise within its jurisdiction.

“(j) Effect of Exercising Rights.—An entity that lawfully exercises rights granted under subsection (a) shall not be considered by such action as engaging in undue discrimination or preference under this Act.

“(k) TVA Area.—For purposes of subsection (a)(1)(B), a load-serving entity that is located within the service area of the Tennessee Valley Authority and that has a firm wholesale power supply contract with the Tennessee Valley Authority shall be deemed to hold firm transmission rights for the transmission of such power.

“(l) Definitions.—For purposes of this section:

“(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through 1 or more additional State utilities or electric cooperatives, provides electric service to end-users.

“(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

“(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

“(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any 1 or more of the foregoing, or a corporation which is wholly owned, directly or indirectly, by any 1 or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing or distributing power”.

SEC. 1237. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) Study.—The Secretary of Energy, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) Definition.—The term “economic dispatch” when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) Report to Congress and the States.—Not later than 90 days after the date of enactment of this Act, and on a yearly basis following, the Secretary of Energy shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

Subtitle D—Transmission Rate Reform

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 218. TRANSMISSION INFRASTRUCTURE INVESTMENT.

“(a) Rulemaking Requirement.—Within 1 year after the enactment of this section, the Commission shall establish, by rule, incentive-based (including, but not limited to performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. Such rule shall—

“(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance and operation of facilities for the transmission of electric energy in interstate commerce;

“(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

“(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of such facilities; and

“(4) allow recovery of all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215 of this Act.

The Commission may, from time to time, revise such rule.

“(b) Additional Incentives for RTO Participation.—In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Regional Transmission Organization or Independent System Operator. Incentives provided by the Commission pursuant to such rule shall include—

“(1) recovery of all prudently incurred costs to develop and participate in any proposed or approved RTO, ISO, or independent transmission company;

“(2) recovery of all costs previously approved by a State commission which exercised jurisdiction over the transmission facilities prior to the utility's participation in the RTO or ISO, including costs necessary to honor preexisting transmission service contracts, in a manner which does not reduce the revenues the utility receives for transmission services for a reasonable transition period after the utility joins the RTO or ISO;

“(3) recovery as an expense in rates of the costs prudently incurred to conduct transmission planning and reliability activities, including the costs of participating in RTO, ISO and other regional planning activities and design, study and other precertification costs involved in seeking permits and approvals for proposed transmission facilities;

“(4) a current return in rates for construction work in progress for transmission facilities and full recovery of prudently incurred costs for constructing transmission facilities;

“(5) formula transmission rates; and

“(6) a maximum 15 year accelerated depreciation on new transmission facilities for rate treatment purposes.

The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the RTO or ISO that provides transmission service to such utility.

"(c) Just and Reasonable Rates.—All rates approved under the rules adopted pursuant to this section, including any revisions to such rules, are subject to the requirement of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.".

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) Adoption of Standards.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) Net metering.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible onsite generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(12) Fuel sources.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(13) Fossil fuel generation efficiency.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.".

(b) Compliance.—

(1) Time limitations.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

"(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).".

(2) Failure to comply.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

(3) Prior state actions.—

(A) In general.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(d) Prior State Actions.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) Cross reference.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

SEC. 1252. SMART METERING.

(a) In General.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(14) Time-based metering and communications.—

"(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

"(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

"(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).".

(b) State Investigation of Demand Response and Time-Based Metering.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase "the standard for time-of-day rates established by section 111(d)(3)" the following: "and the standard for time-based metering and communications established by section 111(d)(14)".

(2) By inserting in subsection (b) after the phrase "are likely to exceed the metering" the following: "and communications".

(3) By adding the at the end the following:

"(i) Time-Based Metering and Communications.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.".

(c) Federal Assistance on Demand Response.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking "and" at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.".

(d) Federal Guidance.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

"(d) Demand Response.—The Secretary shall be responsible for—

"(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

"(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

"(3) not later than 180 days after the date of enactment of the Energy Policy Act of

2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.''.

(e) Demand Response and Regional Coordination.—

(1) In general.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) Technical assistance.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) Report.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes;

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improved customer participation in demand response, peak reduction and critical period pricing programs.

(f) Federal Encouragement of Demand Response Devices.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) Time Limitations.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

''(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

''(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).''.

(h) Failure to Comply.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

(i) Prior State Actions Regarding Smart Metering Standards.—

(1) In general.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

''(e) Prior State Actions.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.''.

(2) Cross reference.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

SEC. 1253. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) Termination of Mandatory Purchase and Sale Requirements.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) Termination of Mandatory Purchase and Sale Requirements.—

''(1) Obligation to purchase.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

''(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

''(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

''(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

''(2) Revised purchase and sale obligation for new facilities.—(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

''(B) For the purposes of this paragraph, the term 'existing qualifying cogeneration facility' means a facility that—

''(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

''(ii) had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

''(3) Commission review.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

''(4) Reinstatement of obligation to purchase.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

"(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

"(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

"(B) the electric utility is not required by State law to sell electric energy in its service territory.

"(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

"(7) RECOVERY OF COSTS.—(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

"(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

"(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure—

"(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

"(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws applicable to sales of electric energy from a qualifying facility to its host facility; and

"(iii) continuing progress in the development of efficient electric energy generating technology.

"(B) The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in subsection (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

"(2) Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

"(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

"(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).".

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) QUALIFYING SMALL POWER PRODUCTION FACILITY.—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

"(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;".

(2) QUALIFYING COGENERATION FACILITY.—Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

"(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;".

SEC. 1254. INTERCONNECTION.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621 (d)) is amended by adding at the end the following:

"(16) INTERCONNECTION.—Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'interconnection service' means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112 (b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(3)(A) Not later than one year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (16) of section 111(d).

"(B) Not later than two years after the date of the enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraph (16) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112 (d) f the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622 (c)) is amended by adding at the end the following: "In the case of the standard established by paragraph (16), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of paragraph (16).".

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (16) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraph (16) of section 111(d), the reference contained in this subsection to the date of enactment of the Act shall be deemed to be a reference to the date of enactment of paragraph (16).".

Subtitle F—Repeal of PUHCA

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2005".

SEC. 1262. DEFINITIONS.

For purposes of this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in

sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with 1 or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates accepted or established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC-UTILITY COMPANY.—The term "public-utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with 1 or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1263. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 1264. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1265. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of 1 or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1266. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall issue a final rule to exempt from the requirements of section 1264 (relating to Federal access to books and records) any person that is a holding company, solely with respect to 1 or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 1264 (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 1267. AFFILIATE TRANSACTIONS.

(a) COMMISSION AUTHORITY UNAFFECTED.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company from an associate company.

SEC. 1268. APPLICABILITY.

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

SEC. 1269. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1270. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e-825p) to enforce the provisions of this subtitle.

SEC. 1271. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms (other than an expiration date or termination date) of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

SEC. 1272. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this subtitle, the Commission shall—

(1) issue such regulations as may be necessary or appropriate to implement this subtitle (other than section 1265, relating to State access to books and records); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1273. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 1274. EFFECTIVE DATE.

(a) IN GENERAL.—Except for section 1272 (relating to implementation), this subtitle shall take effect 12 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking modifying the standards of conduct governing entities that own, operate, or control facilities for transmission of electricity in interstate commerce or transportation of natural gas in interstate commerce prior to the effective date of this subtitle, any action taken by a public-utility company or utility holding company to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.).

SEC. 1275. SERVICE ALLOCATION.

(a) FERC REVIEW.—In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company in order to assure that each allocation is appropriate for the protection of investors and consumers of such public utility.

(b) COST ALLOCATION.—Nothing in this section shall preclude the Commission or a State commission from exercising its jurisdiction under other applicable law with respect to the review or authorization of any costs allocated to a public utility in a holding company system located in the affected State as a result of the acquisition of non-power goods or administrative and management services by such public utility from an associate company organized specifically for that purpose.

(c) RULES.—Not later than 6 months after the date of enactment of this Act, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this subtitle) to exempt from the requirements of this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

(d) PUBLIC UTILITY.—As used in this section, the term "public utility" has the meaning given that term in section 201(e) of the Federal Power Act.

SEC. 1276. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.

SEC. 1277. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

(b) DEFINITIONS.—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824(g)(5)) is amended by striking "1935" and inserting "2005".

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking "1935" and inserting "2005".

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

SEC. 1281. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 220. MARKET TRANSPARENCY RULES.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction under this Act. Such systems shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis. The Commission shall have authority to obtain such information from any electric utility or transmitting utility, including any entity described in section 201(f).

"(b) EXEMPTIONS.—The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security. This section shall not apply to transactions for the purchase or sale of wholesale electric energy or transmission services within the area described in section 212(k)(2)(A). In determining the information to be made available under this section and time to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anti-competitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c) COMMODITY FUTURES TRADING COMMISSION.—This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

"(d) SAVINGS PROVISION.—In exercising its authority under this section, the Commission shall not—

"(1) compete with, or displace from the market place, any price publisher; or

"(2) regulate price publishers or impose any requirements on the publication of information.".

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

"No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

"SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

"(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

"(b) DEFINITION.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.".

SEC. 1283. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting "electric utility," after "Any person,".

(2) By inserting ", transmitting utility," after "licensee" each place it appears.

(b) Review of Commission Orders.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l) is amended by inserting "electric utility," after "person," in the first 2 places it appears and by striking "any person unless such person" and inserting "any entity unless such entity".

(c) Investigations.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting ", electric utility, transmitting utility, or other entity" after "person" each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: "or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.".

(d) Criminal Penalties.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "5 years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and

(3) by striking subsection (c).

(e) Civil Penalties.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended as follows:

(1) In subsections (a) and (b), by striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II".

(2) In subsection (b), by striking "$10,000" and inserting "$1,000,000".

SEC. 1284. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended as follows:

(1) By striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" in the second sentence and inserting "the date of the filing of such complaint nor later than 5 months after the filing of such complaint".

(2) By striking "60 days after" in the third sentence and inserting "of".

(3) By striking "expiration of such 60-day period" in the third sentence and inserting "publication date".

(4) By striking the fifth sentence and inserting the following: "If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.".

SEC. 1285. REFUND AUTHORITY.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding the following new subsection at the end thereof:

"(e)(1) Except as provided in paragraph (2), if an entity described in section 201(f) voluntarily makes a short-term sale of electric energy and the sale violates Commission rules in effect at the time of the sale, such entity shall be subject to the Commission's refund authority under this section with respect to such violation.

"(2) This section shall not apply to—

"(A) any entity that sells less than 8,000,000 megawatt hours of electricity per year; or

"(B) any electric cooperative.

"(3) For purposes of this subsection, the term 'short-term sale' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 31 days or less (excluding monthly contracts subject to automatic renewal).

"(4) The Commission shall have refund authority under subsection (e)(1) with respect to a voluntary short-term sale of electric energy by the Bonneville Power Administration (in this section 'Bonneville') only if the sale is at an unjust and unreasonable rate and, in that event, may order a refund only for short-term sales made by Bonneville at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by Bonneville.

"(5) With respect to any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or powers under subsection (e)(1) other than the ordering of refunds to achieve a just and reasonable rate.".

SEC. 1286. SANCTITY OF CONTRACT.

(a) In General.—The Federal Energy Regulatory Commission (in this section, "the Commission") shall have no authority to abrogate or modify any provision of an executed contract or executed contract amendment described in subsection (b) that has been entered into or taken effect, except upon a finding that failure to take such action would be contrary to the public interest.

(b) Limitation.—Except as provided in subsection (c), this section shall apply only to a contract or contract amendment—

(1) executed on or after the date of enactment of this Act; and

(2) entered into—

(A) for the purchase or sale of electric energy under section 205 of the Federal Power Act (16 U.S.C. 824d) where the seller has been authorized by the Commission to charge market-based rates; or

(B) under section 4 of the Natural Gas Act (15 U.S.C. 717c) where the natural gas company has been authorized by the Commission to charge market-based rates for the service described in the contract.

(c) Exclusion.—This section shall not apply to an executed contract or executed contract amendment that expressly provides for a standard of review other than the public interest standard.

(d) Savings Provision.—With respect to contracts to which this section does not apply, nothing in this section alters existing law regarding the applicable standard of review for a contract subject to the jurisdiction of the Commission.

SEC. 1287. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) Privacy.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) Slamming.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) Cramming.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) Rulemaking.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) State Authority.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) Definitions.—For purposes of this section:

(1) State regulatory authority.—The term "State regulatory authority" has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) Electric consumer and electric utility.—The terms "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle H—Merger Reform

SEC. 1291. MERGER REVIEW REFORM AND ACCOUNTABILITY.

(a) Merger Review Reform.—Within 180 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Federal Energy Regulatory Commission and the Attorney General of the United States, shall prepare, and transmit to Congress each of the following:

(1) A study of the extent to which the authorities vested in the Federal Energy Regulatory Commission under section 203 of the Federal Power Act are duplicative of authorities vested in—

(A) other agencies of Federal and State Government; and

(B) the Federal Energy Regulatory Commission, including under sections 205 and 206 of the Federal Power Act.

(2) Recommendations on reforms to the Federal Power Act that would eliminate any unnecessary duplication in the exercise of regulatory authority or unnecessary delays in the approval (or disapproval) of applications for the sale, lease, or other disposition of public utility facilities.

(b) Merger Review Accountability.—Not later than 1 year after the date of enactment of this Act and annually thereafter, with respect to all orders issued within the preceding year that impose a condition on a sale, lease, or other disposition of public utility facilities under section 203(b) of the Federal Power Act, the Federal Energy Regulatory Commission shall transmit a report to Congress explaining each of the following:

(1) The condition imposed.

(2) Whether the Commission could have imposed such condition by exercising its authority under any provision of the Federal Power Act other than under section 203(b).

(3) If the Commission could not have imposed such condition other than under section 203(b), why the Commission determined that such condition was consistent with the public interest.

SEC. 1292. ELECTRIC UTILITY MERGERS.

(a) Amendment.—Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended to read as follows:

"(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

"(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000;

"(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other person, by any means whatsoever; or

"(C) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility.

"(2) No holding company in a holding company system that includes a public utility shall purchase, acquire, or take any security with a value in excess of $10,000,000 of, or, by any means whatsoever, directly or indirectly, merge or consolidate with, a public utility or a holding company in a holding company system that includes a public utility with a value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

"(3) Upon receipt of an application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

"(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest. In evaluating whether a transaction will be consistent with the public interest, the Commission shall consider whether the proposed transaction—

"(A) will adequately protect consumer interests;

"(B) will be consistent with competitive wholesale markets;

"(C) will impair the financial integrity of any public utility that is a party to the transaction or an associate company of any party to the transaction; and

"(D) satisfies such other criteria as the Commission considers consistent with the public interest.

"(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction not later than 180 days after the application is filed. If the Commission does not act within 180 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues an order tolling the time for acting on the application for not more than 180 days, at the end of which additional period the Commission shall grant or deny the application.

"(6) For purposes of this subsection, the terms 'associate company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2005.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 12 months after the date of enactment of this section.

Subtitle I—Definitions

SEC. 1295. DEFINITIONS.

(a) ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

"(22) ELECTRIC UTILITY.—The term 'electric utility' means any person or Federal or State agency (including any entity described in section 201(f)) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing administration.".

(b) TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means an entity, including any entity described in section 201(f), that owns, operates, or controls facilities used for the transmission of electric energy—

"(A) in interstate commerce; or

"(B) for the sale of electric energy at wholesale.".

(c) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by adding at the end the following:

"(26) ELECTRIC COOPERATIVE.—The term 'electric cooperative' means a cooperatively owned electric utility.

"(27) RTO.—The term 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure nondiscriminatory access to such facilities.

"(28) ISO.—The term 'Independent System Operator' or 'ISO' means an entity approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure nondiscriminatory access to such facilities.".

(d) COMMISSION.—For the purposes of this title, the term "Commission" means the Federal Energy Regulatory Commission.

(e) APPLICABILITY.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by adding after "political subdivision of a state," the following: "an electric cooperative that has financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year,".

Subtitle J—Technical and Conforming Amendments

SEC. 1297. CONFORMING AMENDMENTS.

The Federal Power Act is amended as follows:

(1) Section 201(b)(2) of such Act (16 U.S.C. 824(b)(2)) is amended as follows:

(A) In the first sentence by striking "210, 211, and 212" and inserting "203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222".

(B) In the second sentence by striking "210 or 211" and inserting "203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222".

(C) Section 201(b)(2) of such Act is amended by striking "The" in the first place it appears and inserting "Notwithstanding section 201(f), the" and in the second sentence after "any order" by inserting "or rule".

(2) Section 201(e) of such Act is amended by striking "210, 211, or 212" and inserting "206(e), 206(f), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222".

(3) Section 206 of such Act (16 U.S.C. 824e) is amended as follows:

(A) In subsection (b), in the seventh sentence, by striking "the public utility to make".

(B) In the first sentence of subsection (a), by striking "hearing had" and inserting "hearing held".

(4) Section 211(c) of such Act (16 U.S.C. 824j(c)) is amended by—

(A) striking "(2)";

(B) striking "(A)" and inserting "(1)"

(C) striking "(B)" and inserting "(2)"; and

(D) striking "termination of modification" and inserting "termination or modification".

(5) Section 211(d)(1) of such Act (16 U.S.C. 824j(d)(1)) is amended by striking "electric utility" the second time it appears and inserting "transmitting utility".

(6) Section 315 (c) of such Act (16 U.S.C. 825n(c)) is amended by striking "subsection" and inserting "section".

Subtitle K—Economic Dispatch

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 223. JOINT BOARD ON ECONOMIC DISPATCH.

"(a) IN GENERAL.—The Commission shall convene a joint board pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for a market region.

"(b) MEMBERSHIP.—The Commission shall request each State to nominate a representative for such joint board.

"(c) POWERS.—The board's sole authority shall be to consider issues relevant to what constitutes 'security constrained economic dispatch' and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers.

"(d) REPORT TO THE CONGRESS.—The board shall issue a report on these matters within one year of enactment of this section, including any consensus recommendations for statutory or regulatory reform.".

TITLE XIII—ENERGY TAX INCENTIVES

SEC. 1300. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Enhanced Energy Infrastructure and Technology Tax Act of 2005".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Infrastructure Tax Incentives

SEC. 1301. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) any natural gas gathering line, and".

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 is amended by inserting after paragraph (16) the following new paragraph:

"(17) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

"(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(iii) the following:

"(C)(iv) .... 14".

(d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: ", or in section 168(e)(3)(C)(iv)".

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

SEC. 1302. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) In General.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting ", and", and by adding at the end the following new clause:

"(vii) any natural gas distribution line.".

(b) Alternative System.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(vi) the following:

"(E) (vii) .... 35".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

SEC. 1303. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) In General.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property), as amended by section 1302 of this title, is amended by striking "and" at the end of clause (vi), by striking the period at the end of clause (vii) and inserting ", and", and by adding at the end the following new clause:

"(viii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005.".

(b) Alternative System.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(vii) the following:

"(E) (viii) .... 30".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

SEC. 1304. EXPANSION OF AMORTIZATION FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES IN CONNECTION WITH PLANTS FIRST PLACED IN SERVICE AFTER 1975.

(a) Eligibility of Post-1975 Pollution Control Facilities.—Subsection (d) of section 169 (relating to definitions) is amended by adding at the end the following:

"(5) Special rule relating to certain atmospheric pollution control facilities.—In the case of any atmospheric pollution control facility which is placed in service after April 11, 2005, and used in connection with an electric generation plant or other property which is primarily coal fired, paragraph (1) shall be applied without regard to the phrase 'in operation before January 1, 1976'.".

(b) Treatment as New Identifiable Treatment Facility.—Subparagraph (B) of section 169(d)(4) is amended to read as follows:

"(B) Certain facilities placed in operation after April 11, 2005.—In the case of any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting 'April 11, 2005' for 'December 31, 1968' each place it appears therein.".

(c) Technical Amendment.—Section 169(d)(3) is amended by striking "Health, Education, and Welfare" and inserting "Health and Human Services".

(d) Effective Date.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

SEC. 1305. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) Treatment as Business Credit.—

(1) Credit moved to subpart relating to business related credits.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45J and by moving section 45J (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) Credit treated as business credit.—Section 38(b) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following:

"(20) the nonconventional source production credit determined under section 45J(a).".

(3) Conforming amendments.—

(A) Section 30(b)(3)(A) is amended by striking "sections 27 and 29" and inserting "section 27".

(B) Sections 43(b)(2), 45I(b)(2)(C)(i), and 613A(c)(6)(C) are each amended by striking "section 29(d)(2)(C)" and inserting "section 45J(d)(2)(C)".

(C) Section 45(e)(9) is amended—

(i) by striking "section 29" and inserting "section 45J", and

(ii) by inserting "(or under section 29, as in effect on the day before the date of enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, for any prior taxable year)" before the period at the end thereof.

(D) Section 45I is amended—

(i) in subsection (c)(2)(A) by striking "section 29(d)(5))" and inserting "section 45J(d)(5))", and

(ii) in subsection (d)(3) by striking "section 29" both places it appears and inserting "section 45J".

(E) Section 45J(a), as redesignated by paragraph (1), is amended by striking "There shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is".

(F) Section 45J(b), as so redesignated, is amended by striking paragraph (6).

(G) Section 53(d)(1)(B)(iii) is amended by striking "under section 29" and all that follows through "or not allowed".

(H) Section 55(c)(3) is amended by striking "29(b)(6),".

(I) Subsection (a) of section 772 is amended by inserting "and" at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(J) Paragraph (5) of section 772(d) is amended by striking "the foreign tax credit, and the credit allowable under section 29" and inserting "and the foreign tax credit".

(K) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(L) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45I the following new item:

"Sec. 45J. Credit for producing fuel from a nonconventional source.".

(b) Amendments Conforming to the Repeal of the Natural Gas Policy Act of 1978.—

(1) In general.—Section 29(c)(2)(A) (before redesignation under subsection (a)) is amended—

(A) by inserting "(as in effect before the repeal of such section)" after "1978", and

(B) by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(2) Conforming amendments.—Section 29(g)(1)(before redesignation under subsection (a) and paragraph (1) of this subsection) is amended—

(A) in subparagraph (A) by striking "subsection (f)(1)(B)" and inserting "subsection (e)(1)(B)", and

(B) in subparagraph (B) by striking "subsection (f)" and inserting "subsection (e)".

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after December 31, 2005.

(2) Subsection (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 1306. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) Repeal of Limitation on Deposits Into Fund Based on Cost of Service; Contributions After Funding Period.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

"(b) Limitation on Amounts Paid Into Fund.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.".

(b) Treatment of Certain Decommissioning Costs.—

(1) In general.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Transfers Into Qualified Funds.—

"(1) In general.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) as in effect immediately before the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005.

"(2) Deduction for amounts transferred.—

"(A) In general.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

"(B) Denial of deduction for previously deducted amounts.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

"(C) Transfers of qualified funds.—If—

"(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

"(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such

Fund is transferred shall be allowed to the transferor for the taxable year which includes such date.

"(D) SPECIAL RULES.—

"(i) GAIN OR LOSS NOT RECOGNIZED ON TRANSFERS TO FUND.—No gain or loss shall be recognized on any transfer described in paragraph (1).

"(ii) TRANSFERS OF APPRECIATED PROPERTY TO FUND.—If appreciated property is transferred in a transfer described in paragraph (1), the amount of the deduction shall not exceed the adjusted basis of such property.

"(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and".

(c) TECHNICAL AMENDMENTS.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking "rate set forth in subparagraph (B)" in subparagraph (A) and inserting "rate of 20 percent",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 1307. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Subsection (b) of section 148 (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

"(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

"(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

"(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

"(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

"(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

"(i) only if the electricity is generated by a utility owned by a governmental unit, and

"(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

"(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

"(i) NEW BUSINESS CUSTOMERS.—If—

"(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for a business use at a property within the service area of such utility, and

"(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

"(ii) LOST CUSTOMERS.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

"(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

"(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

"(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

"(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

"(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

"(ii) APPLICABLE SHARE.—For purposes of the clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

"(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

"(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas used to transport such natural gas to the utility.

"(H) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

"(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

"(i) any area throughout which such utility provided at all times during the testing period—

"(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

"(II) in the case of an electric utility, electricity distribution services,

"(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

"(iii) any area recognized as the service area of such utility under State or Federal law.".

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of section 141(c) (providing exceptions to the private loan financing test) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).".

(c) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—Section 141(d) is amended by adding at the end the following new paragraph:

"(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term 'nongovernmental output property' shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1308. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Miscellaneous Energy Tax Incentives

SEC. 1311. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year, and

"(3) 15 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed under subsection (a) shall not exceed—

"(i) $2,000 for solar water heating property described in subsection (c)(1),

"(ii) $2,000 for photovoltaic property described in subsection (c)(2), and

"(iii) $500 for each 0.5 kilowatt of capacity of property described in subsection (c)(3).

"(B) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—In determining the amount of the credit allowed to a taxpayer with respect to any dwelling unit under this section, the dollar amounts under clauses (i) and (ii) of subparagraph (A) with respect to each type of property described in such clauses shall be reduced by the credit allowed to the taxpayer under this section with respect to such type of property for all preceding taxable years with respect to such dwelling unit.

"(2) PROPERTY STANDARDS.—No credit shall be allowed under this section for an item of property unless—

"(A) the original use of such property commences with the taxpayer,

"(B) such property can be reasonably expected to remain in use for at least 5 years,

"(C) such property is installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer,

"(D) in the case of solar water heating property, such property is certified for performance by the non-profit Solar Rating and Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

"(E) in the case of fuel cell property, such property meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy).

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property which uses solar energy to heat water for use in a dwelling unit.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit and which is not described in paragraph (1).

"(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for any qualified fuel cell property (as defined in section 48(b)(1)).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) of subsection (c) solely because it constitutes a structural component of the structure on which it is installed.

"(2) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(3) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals, the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (c).

"(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made the individual's tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(5) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(6) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(7) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(8) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential energy efficient property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.

SEC. 1312. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property,".

(b) ENERGY PERCENTAGE.—Subparagraph (A) of section 48(a)(2) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 15 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(c) QUALIFIED FUEL CELL PROPERTY.—Section 48 (relating to energy credit) is amended—

(1) by redesignating subsection (b) as paragraph (5) of subsection (a),

(2) by striking "subsection (a)" in paragraph (5) of subsection (a), as redesignated by paragraph (1), and inserting "this subsection", and

(3) by adding at the end the following new subsection:

"(b) QUALIFIED FUEL CELL PROPERTY.—For purposes of subsection (a)(3)(A)(iii)—

"(1) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(A) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(B) has an electricity-only generation efficiency greater than 30 percent.

"(2) LIMITATION.—The energy credit with respect to any qualified fuel cell property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

"(3) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system, comprised of a fuel cell stack assembly and associated balance of plant components, which converts a fuel into electricity using electrochemical means.

"(4) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.".

(d) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by inserting "except as provided in subsection (b)(2)," before "the energy" the first place it appears.

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after April 11, 2005, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1313. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.

(a) In General.—Paragraph (2) of section 4081(a) is amended by adding at the end the following:

"(D) Diesel-water fuel emulsion.—In the case of diesel-water fuel emulsion at least 16.9 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting '19.7 cents' for '24.3 cents'.".

(b) Special Rules for Diesel-Water Fuel Emulsions.—

(1) Refunds for tax-paid purchases.—Section 6427 is amended by redesignating subsections (m) through (p) as subsections (n) through (q), respectively, and by inserting after subsection (l) the following new subsection:

"(m) Diesel Fuel Used to Produce Emulsion.—

"(1) In general.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) Regular tax rate.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

"(B) Incentive tax rate.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).".

(2) Later separation of fuel.—Section 4081 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

"(c) Later Separation of Fuel From Diesel-Water Fuel Emulsion.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2006.

SEC. 1314. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) In General.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Amortization of Delay Rental Payments for Domestic Oil and Gas Wells.—

"(1) In general.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

"(2) Half-year convention.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

"(3) Exclusive method.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

"(4) Treatment upon abandonment.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

"(5) Delay rental payments.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 1315. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) In General.—Section 167 (relating to depreciation), as amended by section 1314 of this title, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Amortization of Geological and Geophysical Expenditures.—

"(1) In general.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

"(2) Special rules.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.".

(b) Conforming Amendment.—Section 263A(c)(3) is amended by inserting "167(h), 167(i)," after "under section".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 1316. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following:

"SEC. 30B. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year.

"(b) Credit Amount.—For purposes of subsection (a)—

"(1) Fuel efficiency.—The credit amount with respect to any vehicle shall be—

"(A) $500, if the city fuel economy of such vehicle is at least 125 percent but less than 150 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

"(B) $1,000, if the city fuel economy of such vehicle is at least 150 percent but less than 175 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

"(C) $1,500, if the city fuel economy of such vehicle is at least 175 percent but less than 200 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

"(D) $2,000, if the city fuel economy of such vehicle is at least 200 percent but less than 225 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

"(E) $2,500, if the city fuel economy of such vehicle is at least 225 percent but less than 250 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class, and

"(F) $3,000, if the city fuel economy of such vehicle is at least 250 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class.

"(2) Conservation.—The credit amount determined under paragraph (1) with respect to any vehicle shall be increased by—

"(A) $250, if the lifetime fuel savings of such vehicle is at least 1,500 gallons of motor fuel but less than 2,500 gallons of motor fuel, and

"(B) $500, if the lifetime fuel savings of such vehicle is at least 2,500 gallons of motor fuel.

"(c) Limitation Based on Amount of Tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(2) the sum of the credits allowable under subpart A and sections 27 and 30A for the taxable year.

"(d) Definitions.—For purposes of this section—

"(1) Qualified advanced lean burn technology motor vehicle.—The term 'qualified advanced lean burn technology motor vehicle' means a motor vehicle—

"(A) the original use of which commences with the taxpayer,

"(B) powered by an internal combustion engine that—

"(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel, and

"(ii) incorporates direct injection,

"(C) that only uses diesel fuel (as defined in section 4083(a)(3)),

"(D) the city fuel economy of which is at least 125 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class, and

"(E) that has received a certificate that such vehicle meets or exceeds the Bin 8 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act.

"(2) Lifetime fuel savings.—The term 'lifetime fuel savings' means, with respect to a qualified advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

"(A) 120,000 divided by the 2000 model year city fuel economy for the vehicle inertia weight class, over

"(B) 120,000 divided by the city fuel economy for such vehicle.

"(3) 2000 MODEL YEAR CITY FUEL ECONOMY.—The 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(A) In the case of a passenger automobile:

"If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 or 8,500 lbs	11.1 mpg.

"(B) In the case of a light truck:

"If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 or 8,500 lbs	12.0 mpg.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(5) CITY FUEL ECONOMY.—City fuel economy with respect to any vehicle shall be measured in accordance with testing and calculation procedures established by the Administrator of the Environmental Protection Agency by regulations in effect on April 11, 2005.

"(6) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' shall have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (c) for such taxable year (referred to as the 'unused credit year' in this paragraph), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) REDUCTION IN BASIS.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

"(2) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter (other than the credit allowable under subsection (a)), with respect to any vehicle shall be reduced by the amount of credit allowed under subsection (a) (determined without regard to subsection (c)) for such vehicle for the taxable year.

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)).

"(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects not to have this section apply to such vehicle.

"(6) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall promulgate such regulations as necessary to carry out this section, including regulations to prevent the avoidance of the purposes of this section through disposal of any motor vehicle or leasing of any motor vehicle for a lease period of less than the economic life of such vehicle.

"(2) DETERMINATION OF MOTOR VEHICLE ELIGIBILITY.—The Secretary, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by section 1311 of this title, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", and", and by adding at the end the following:

"(33) to the extent provided in section 30B(f)(1).".

(2) Section 6501(m) is amended by inserting "30B(f)(6)," after "30(d)(4),".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following:

"Sec. 30B. Advanced lean burn technology motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.

SEC. 1317. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 1311, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling unit shall not exceed $2,000.

"(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling unit for all prior taxable years.

"(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005 (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

"(1) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(2) the original use of such component commences with the taxpayer, and

"(3) such component reasonably can be expected to remain in use for at least 5 years. If the aggregate cost of such components with respect to any dwelling unit exceeds

$1,000, such components shall be treated as qualified energy efficiency improvements only if such components are also certified in accordance with subsection (d) as meeting such prescriptive criteria.

"(d) CERTIFICATION.—The certification described in subsection (c) shall be—

"(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency (based upon energy use or building envelope component performance) for the energy efficient building envelope component,

"(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Residential Energy Services Network (RESNET), and

"(3) made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

"(B) exterior windows (including skylights),

"(C) exterior doors, and

"(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

"(2) MANUFACTURED HOMES INCLUDED.—The term 'dwelling unit' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

"(3) APPLICATION OF RULES.—Rules similar to the rules under paragraphs (3), (4), and (5) of section 25C(d) shall apply.

"(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) APPLICATION OF SECTION.—This section shall apply to qualified energy efficiency improvements installed after the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, and before January 1, 2008.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by section 1316 of this title, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 1311, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to improvements installed after the date of the enactment of this Act in taxable years ending after such date.

Subtitle C—Alternative Minimum Tax Relief

SEC. 1321. NEW NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—

(1) SECTION 25C.—Section 25C(b), as added by section 1311 of this title, is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) SECTION 25D.—Section 25D(b), as added by section 1317 of this title, is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) is amended by inserting "and sections 25C and 25D" after "this section".

(2) Section 24(b)(3)(B) is amended by striking "and 25B" and inserting ", 25B, 25C, and 25D".

(3) Section 25(e)(1)(C) is amended by inserting "25C, and 25D" after "25B,".

(4) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23, 25C, and 25D".

(5) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, 25C, and 25D".

(6) Section 904(i) is amended by striking "and 25B" and inserting "25B, 25C, and 25D".

(7) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, 25C, and 25D".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 1322. CERTAIN BUSINESS ENERGY CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by redesignating clause (ii) as clause (iv) and by striking clause (i) and inserting the following new clauses:

"(i) the credits determined under sections 40, 45H, and 45I,

"(ii) so much of the credit determined under section 46 as is attributable to section 48(a)(3)(A)(iii),

"(iii) for taxable years beginning after December 31, 2005, and before January 1, 2008, the credit determined under section 43, and".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendment made by subsection (a) shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years beginning after December 31, 2005.

(2) FUEL CELLS.—Clause (ii) of section 38(c)(4)(B) of the Internal Revenue Code of 1986, as amended by subsection (a) of this section, shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after April 11, 2005.

TITLE XIV—MISCELLANEOUS

Subtitle C—Other Provisions

SEC. 1441. CONTINUATION OF TRANSMISSION SECURITY ORDER.

Department of Energy Order No. 202-03-2, issued by the Secretary of Energy on August 28, 2003, shall remain in effect unless rescinded by Federal statute.

SEC. 1442. REVIEW OF AGENCY DETERMINATIONS.

Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end the following:

"(i)(1) The United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction over any civil action—

"(A) for review of any order or action of any Federal or State administrative agency or officer to issue, condition, or deny any permit, license, concurrence, or approval issued under authority of any Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), required for the construction of a natural gas pipeline for which a certificate of public convenience and necessity is issued by the Commission under this section;

"(B) alleging unreasonable delay by any Federal or State administrative agency or officer in entering an order or taking other action described in subparagraph (A); or

"(C) challenging any decision made or action taken under this subsection.

"(2)(A) If the Court finds that the order, action, or failure to act is not consistent with the public convenience and necessity (as determined by the Commission under this section), or would prevent the construction and operation of natural gas facilities authorized by the certificate of public convenience and necessity, the permit, license, concurrence, or approval that is the subject of the order, action, or failure to act shall be deemed to have been issued subject to any conditions set forth in the reviewed order or action that the Court finds to be consistent with the public convenience and necessity.

"(B) For purposes of paragraph (1)(B), the failure of an agency or officer to issue any such permit, license, concurrence, or approval within the later of 1 year after the date of filing of an application for the permit, license, concurrence, or approval or 60 days after the date of issuance of the certificate of public convenience and necessity under this section, shall be considered to be unreasonable delay unless the Court, for good cause shown, determines otherwise.

"(C) The Court shall set any action brought under paragraph (1) for expedited consideration.".

SEC. 1443. ATTAINMENT DATES FOR DOWNWIND OZONE NONATTAINMENT AREAS.

Section 181 of the Clean Air Act (42 U.S.C.7511) is amended by adding the following new subsection at the end thereof:

"(d) EXTENDED ATTAINMENT DATE FOR CERTAIN DOWNWIND AREAS.—

"(1) DEFINITIONS.—(A) The term 'upwind area' means an area that—

"(i) significantly contributes to nonattainment in another area, hereinafter referred to as a 'downwind area'; and

"(ii) is either—

"(I) a nonattainment area with a later attainment date than the downwind area, or

"(II) an area in another State that the Administrator has found to be significantly contributing to nonattainment in the downwind area in violation of section 110(a)(2)(D) and for which the Administrator has established requirements through notice and comment rulemaking to eliminate the emissions causing such significant contribution.

"(B) The term 'current classification' means the classification of a downwind area under this section at the time of the determination under paragraph (2).

"(2) EXTENSION.—If the Administrator—

"(A) determines that any area is a downwind area with respect to a particular national ambient air quality standard for ozone; and

"(B) approves a plan revision for such area as provided in paragraph (3) prior to a reclassification under subsection (b)(2)(A),

the Administrator, in lieu of such reclassification, shall extend the attainment date for such downwind area for such standard in accordance with paragraph (5).

"(3) REQUIRED APPROVAL.—In order to extend the attainment date for a downwind area under this subsection, the Administrator must approve a revision of the applicable implementation plan for the downwind area for such standard that—

"(A) complies with all requirements of this Act applicable under the current classification of the downwind area, including any requirements applicable to the area under section 172(c) for such standard; and

"(B) includes any additional measures needed to demonstrate attainment by the extended attainment date provided under this subsection.

"(4) PRIOR RECLASSIFICATION DETERMINATION.—If, no more than 18 months prior to the date of enactment of this subsection, the Administrator made a reclassification determination under subsection (b)(2)(A) for any downwind area, and the Administrator approves the plan revision referred to in paragraph (3) for such area within 12 months after the date of enactment of this subsection, the reclassification shall be withdrawn and the attainment date extended in accordance with paragraph (5) upon such approval. The Administrator shall also withdraw a reclassification determination under subsection (b)(2)(A) made after the date of enactment of this subsection and extend the attainment date in accordance with paragraph (5) if the Administrator approves the plan revision referred to in paragraph (3) within 12 months of the date the reclassification determination under subsection (b)(2)(A) is issued. In such instances the 'current classification' used for evaluating the revision of the applicable implementation plan under paragraph (3) shall be the classification of the downwind area under this section immediately prior to such reclassification.

"(5) EXTENDED DATE.—The attainment date extended under this subsection shall provide for attainment of such national ambient air quality standard for ozone in the downwind area as expeditiously as practicable but no later than the date on which the last reductions in pollution transport necessary for attainment in the downwind area are required to be achieved by the upwind area or areas.".

SEC. 1444. ENERGY PRODUCTION INCENTIVES.

(a) IN GENERAL.—A State may provide to any entity—

(1) a credit against any tax or fee owed to the State under a State law, or

(2) any other tax incentive,

determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or such incentive.

(b) ELIGIBLE ENTITIES.—Subsection (a) shall apply with respect to the production in the State of—

(1) electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology,

(2) electricity from a renewable source such as wind, solar, or biomass, or

(3) ethanol.

(c) EFFECT ON INTERSTATE COMMERCE.—Any action taken by a State in accordance with this section with respect to a tax or fee payable, or incentive applicable, for any period beginning after the date of the enactment of this Act shall—

(1) be considered to be a reasonable regulation of commerce; and

(2) not be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate, against interstate commerce.

SEC. 1446. REGULATION OF CERTAIN OIL USED IN TRANSFORMERS.

Notwithstanding any other provision of law, or rule promulgated by the Environmental Protection Agency, vegetable oil made from soybeans and used in electric transformers as thermal insulation shall not be regulated as an oil as defined under section 2(a)(1)(A) of the Edible Oil Regulatory Reform Act (33 U.S.C. 2720(a)(1)(A)).

SEC. 1447. RISK ASSESSMENTS.

Subtitle B of title XXX of the Energy Policy Act of 1992 is amended by adding at the end the following new section:

"SEC. 3022. RISK ASSESSMENT.

"Federal agencies conducting assessments of risks to human health and the environment from energy technology, production, transport, transmission, distribution, storage, use, or conservation activities shall use sound and objective scientific practices in assessing such risks, shall consider the best available science (including peer reviewed studies), and shall include a description of the weight of the scientific evidence concerning such risks.".

SEC. 1448. OXYGEN-FUEL.

(a) PROGRAM.—The Secretary of Energy shall establish a program on oxygen-fuel systems. If feasible, the program shall include renovation of at least one existing large unit and one existing small unit, and construction of one new large unit and one new small unit. Cost sharing shall not be required.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section—

(1) $100,000,000 for fiscal year 2006;

(2) $100,000,000 for fiscal year 2007; and

(3) $100,000,000 for fiscal year 2008.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "large unit" means a unit with a generating capacity of 100 megawatts or more;

(2) the term "oxygen-fuel systems" means systems that utilize fuel efficiency benefits of oil, gas, coal, and biomass combustion using substantially pure oxygen, with high flame temperatures and the exclusion of air from the boiler, in industrial or electric utility steam generating units; and

(3) the term "small unit" means a unit with a generating capacity in the 10–50 megawatt range.

SEC. 1449. PETROCHEMICAL AND OIL REFINERY FACILITY HEALTH ASSESSMENT.

(a) ESTABLISHMENT.—The Secretary of Energy shall conduct a study of direct and significant health impacts to persons resulting from living in proximity to petrochemical and oil refinery facilities. The Secretary shall consult with the Director of the National Cancer Institute and other Federal Government bodies with expertise in the field it deems appropriate in the design of such study. The study shall be conducted according to sound and objective scientific practices and present the weight of the scientific evidence. The Secretary shall obtain scientific peer review of the draft study.

(b) REPORT TO CONGRESS.—The Secretary shall transmit the results of the study to Congress within 6 months of the enactment of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for the completion of the study.

SEC. 1450. UNITED STATES-ISRAEL COOPERATION.

(a) FINDINGS.—The Congress finds that—

(1) on February 1, 1996, United States Secretary of Energy Hazel R. O'Leary and Israeli Minister of Energy and Infrastructure Gonen Segev signed the Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation, to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(2) the Agreement entered into force in February 2000;

(3) in February 2005, the Agreement was automatically renewed for one additional 5-year period pursuant to Article X of the Agreement; and

(4) under the Agreement, the United States and Israel may cooperate in energy research and development in a variety of alternative and advanced energy sectors.

(b) REPORT TO CONGRESS.—(1) The Secretary of Energy shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on—

(A) how the United States and Israel have cooperated on energy research and development activities under the Agreement;

(B) projects initiated pursuant to the Agreement; and

(C) plans for future cooperation and joint projects under the Agreement.

(2) The report shall be submitted no later than three months after the date of enactment of this Act.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that energy cooperation between the Governments of the United States and Israel is mutually beneficial in the development of energy technology.

SEC. 1451. CARBON-BASED FUEL CELL DEVELOPMENT.

(a) GRANT AUTHORITY.—The Secretary of Energy is authorized to make a single grant to a qualified institution to design and fabricate a 5-kilowatt prototype coal-based fuel cell with the following performance objectives:

(1) A current density of 600 milliamps per square centimeter at a cell voltage of 0.8 volts.

(2) An operating temperature range not to exceed 900 degrees celsius.

(b) QUALIFIED INSTITUTION.—For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher education with demonstrated expertise in the development of carbon-based fuel cells allowing the direct use of high sulfur content coal as fuel, and which has produced a laboratory-scale carbon-based fuel cell with a proven current density of 100 milliamps per square centimeter at a voltage of 0.6 volts.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $850,000 for fiscal year 2006.

TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—General Provisions

SEC. 1501. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) In General.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

"(o) Renewable Fuel Program.—

"(1) Definitions.—In this section:

"(A) Ethanol.—(i) The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

"(I) dedicated energy crops and trees;

"(II) wood and wood residues;

"(III) plants;

"(IV) grasses;

"(V) agricultural residues; and

"(VI) fibers.

"(ii) The term 'waste derived ethanol' means ethanol derived from—

"(I) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

"(II) municipal solid waste.

"(B) Renewable fuel.—

"(i) In general.—The term 'renewable fuel' means motor vehicle fuel that—

"(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

"(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

"(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

"(ii) Inclusion.—The term 'renewable fuel' includes cellulosic biomass ethanol, waste derived ethanol, and biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)) and any blending components derived from renewable fuel (provided that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection).

"(C) Small refinery.—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

"(2) Renewable fuel program.—

"(A) In general.—Not later than 1 year after the enactment of this subsection, the Administrator shall promulgate regulations ensuring that motor vehicle fuel sold or dispensed to consumers in the contiguous United States, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewable fuel can be used, or impose any per-gallon obligation for the use of renewable fuel. If the Administrator does not promulgate such regulations, the applicable percentage referred to in paragraph (4), on a volume percentage of gasoline basis, shall be 2.2 in 2005.

"(B) Applicable volume.—

"(i) Calendar years 2005 through 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

"Calendar year	Applicable volume of renewable fuel (in billions of gallons)
2005	3.1
2006	3.3
2007	3.5
2008	3.8
2009	4.1
2010	4.4
2011	4.7
2012	5.0

"(ii) Calendar year 2013 and thereafter.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) Non-contiguous State opt-in.—Upon the petition of a non-contiguous State, the Administrator may allow the renewable fuel program established by subtitle A of title XV of the Energy Policy Act of 2005 to apply in such non-contiguous State at the same time or any time after the Administrator promulgates regulations under paragraph (2). The Administrator may promulgate or revise regulations under paragraph (2), establish applicable percentages under paragraph (4), provide for the generation of credits under paragraph (6), and take such other actions as may be necessary to allow for the application of the renewable fuels program in a non-contiguous State.

"(4) Applicable percentages.—

"(A) Provision of estimate of volumes of gasoline sales.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline that will be sold or introduced into commerce in the United States during the following calendar year.

"(B) Determination of applicable percentages.—

"(i) In general.—Not later than November 30 of each of the calendar years 2005 through 2011, based on the estimate provided under subparagraph (A), the Administrator shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

"(ii) Required elements.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

"(I) be applicable to refiners, blenders, and importers, as appropriate;

"(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

"(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

"(C) Adjustments.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

"(i) to prevent the imposition of redundant obligations to any person specified in subparagraph (B)(ii)(I); and

"(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (11).

"(5) Equivalency.—For the purpose of paragraph (2), 1 gallon of either cellulosic biomass ethanol or waste derived ethanol—

"(A) shall be considered to be the equivalent of 1.5 gallon of renewable fuel; or

"(B) if the cellulostic biomass ethanol or waste derived ethanol is derived from agricultural residue or wood residue or is an agricultural byproduct (as that term is used in section 919 of the Energy Policy Act of 2005), shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

"(6) Credit program.—

"(A) In general.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided paragraph (11), the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(B) Use of credits.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) Life of credits.—A credit generated under this paragraph shall be valid to show compliance—

"(i) in the calendar year in which the credit was generated or the next calendar year; or

"(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (7).

"(D) Inability to purchase sufficient credits.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewable fuel deficit provided that, in the calendar year following the year in which the renewable fuel deficit is created, such person shall achieve compliance with the renewable fuel requirement under paragraph (2), and shall generate or purchase additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

"(7) Seasonal variations in renewable fuel use.—

"(A) Study.—For each of the calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

“(B) Regulation of excessive seasonal variations.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

“(C) Determinations.—The determinations referred to in subparagraph (B) are that—

“(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during one of the periods specified in subparagraph (D) of the calendar year;

“(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

“(iii) promulgating regulations or other requirements to impose a 35 percent or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

“(D) Periods.—The two periods referred to in this paragraph are—

“(i) April through September; and

“(ii) January through March and October through December.

“(E) Exclusions.—Renewable fuels blended or consumed in 2005 in a State which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

“(8) Waivers.—

“(A) In general.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this subsection—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

“(B) Petitions for waivers.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

“(C) Termination of waivers.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

“(9) Study and waiver for initial year of program.—Not later than 180 days after the enactment of this subsection, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional, or State basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the enactment of this subsection, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This paragraph shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (8) or paragraph (10), pertaining to waivers.

“(10) Assessment and waiver.—The Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall evaluate the requirement of paragraph (2) and determine, prior to January 1, 2007, and prior to January 1 of any subsequent year in which the applicable volume of renewable fuel is increased under paragraph (2)(B), whether the requirement of paragraph (2), including the applicable volume of renewable fuel contained in paragraph (2)(B) should remain in effect, in whole or in part, during 2007 or any year or years subsequent to 2007. In evaluating the requirement of paragraph (2) and in making any determination under this section, the Administrator shall consider the best available information and data collected by accepted methods or best available means regarding—

“(A) the capacity of renewable fuel producers to supply an adequate amount of renewable fuel at competitive prices to fulfill the requirement of paragraph (2);

“(B) the potential of the requirement of paragraph (2) to significantly raise the price of gasoline, food (excluding the net price impact on the requirement in paragraph (2) on commodities used in the production of ethanol), or heating oil for consumers in any significant area or region of the country above the price that would otherwise apply to such commodities in the absence of such requirement;

“(C) the potential of the requirement of paragraph (2) to interfere with the supply of fuel in any significant gasoline market or region of the country, including interference with the efficient operation of refiners, blenders, importers, wholesale suppliers, and retail vendors of gasoline, and other motor fuels; and

“(D) the potential of the requirement of paragraph (2) to cause or promote exceedances of Federal, State, or local air quality standards.

If the Administrator determines, by clear and convincing information, after public notice and the opportunity for comment, that the requirement of paragraph (2) would have significant and meaningful adverse impact on the supply of fuel and related infrastructure or on the economy, public health, or environment of any significant area or region of the country, the Administrator may waive, in whole or in part, the requirement of paragraph (2) in any one year for which the determination is made for that area or region of the country, except that any such waiver shall not have the effect of reducing the applicable volume of renewable fuel specified in paragraph (2)(B) with respect to any year for which the determination is made. In determining economic impact under this paragraph, the Administrator shall not consider the reduced revenues available from the Highway Trust Fund (section 9503 of the Internal Revenue Code of 1986) as a result of the use of ethanol.

“(11) Small refineries.—

“(A) In general.—The requirement of paragraph (2) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in paragraph (2)(B)(i). Not later than December 31, 2007, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

“(B) Economic hardship.—

“(i) Extension of exemption.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

“(ii) Deadline for action on petitions.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

“(C) Credit program.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

“(D) Opt-in for small refiners.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

“(12) Ethanol market concentration analysis.—

“(A) Analysis.—

“(i) In general.—Not later than 180 days after the date of enactment of this subsection, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price setting and other anticompetitive behavior.

“(ii) Scoring.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

“(B) Report.—Not later than December 1, 2005, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).”.

(b) Penalties and Enforcement.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended as follows:

(1) In paragraph (1)—

(A) in the first sentence, by striking “or (n)” each place it appears and inserting “(n), or (o)”; and

(B) in the second sentence, by striking “or (m)” and inserting “(m), or (o)”.

(2) In the first sentence of paragraph (2), by striking “and (n)” each place it appears and inserting “(n), and (o)”.

(c) Survey of Renewable Fuel Market.—

(1) Survey and report.—Not later than December 1, 2006, and annually thereafter, the Administrator of the Environmental

Protection Agency (in consultation with the Secretary of Energy acting through the Administrator of the Energy Information Administration) shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the "Administrator") may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator, to avoid duplicative requirements, shall rely, to the extent practicable, on existing reporting and recordkeeping requirements and other information available to the Administrator including gasoline distribution patterns that include multistate use areas.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

SEC. 1502. FUELS SAFE HARBOR.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, no renewable fuel, as defined by section 211(o)(1) of the Clean Air Act, or methyl tertiary butyl ether (hereafter in this section referred to as "MTBE"), used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing such renewable fuel or MTBE, shall be deemed a defective product by virtue of the fact that it is, or contains, such a renewable fuel or MTBE, if it does not violate a control or prohibition imposed by the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") under section 211 of such Act, and the manufacturer is in compliance with all requests for information under subsection (b) of such section 211 of such Act. If the safe harbor provided by this section does not apply, the existence of a claim of defective product shall be determined under otherwise applicable law. Nothing in this subsection shall be construed to affect the liability of any person for environmental remediation costs, drinking water contamination, negligence for spills or other reasonably foreseeable events, public or private nuisance, trespass, breach of warranty, breach of contract, or any other liability other than liability based upon a claim of defective product.

(b) EFFECTIVE DATE.—This section shall be effective as of September 5, 2003, and shall apply with respect to all claims filed on or after that date.

SEC. 1503. FINDINGS AND MTBE TRANSITION ASSISTANCE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (hereinafter in this section referred to as "MTBE") has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101-549 (commonly known as the "Clean Air Act Amendments of 1990") (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygen standard, Congress was aware that significant use of MTBE would result from the adoption of that standard, and that the use of MTBE would likely be important to the cost-effective implementation of that program;

(4) Congress was aware that gasoline and its component additives can and do leak from storage tanks;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101-549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) having previously required oxygenates like MTBE for air quality purposes, Congress has—

(A) reconsidered the relative value of MTBE in gasoline;

(B) decided to establish a date certain for action by the Environmental Protection Agency to prohibit the use of MTBE in gasoline; and

(C) decided to provide for the elimination of the oxygenate requirement for reformulated gasoline and to provide for a renewable fuels content requirement for motor fuel; and

(7) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act; and

(B) for the purpose of mitigating any fuel supply problems that may result from the elimination of the oxygenate requirement for reformulated gasoline and from the decision to establish a date certain for action by the Environmental Protection Agency to prohibit the use of MTBE in gasoline.

(b) PURPOSES.—The purpose of this section is to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended by adding at the end the following:

"(5) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

"(A) IN GENERAL.—

"(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether (hereinafter in this subsection referred to as 'MTBE') in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane, iso-octene, alkylates, or renewable fuels.

"(ii) DETERMINATION.—The Administrator, in consultation with the Secretary of Energy, may determine that transition assistance for the production of iso-octane, iso-octene, alkylates, or renewable fuels is inconsistent with the provisions of subparagraph (B) and, on that basis, may deny applications for grants authorized by this paragraph.

"(B) FURTHER GRANTS.—The Secretary of Energy, in consultation with the Administrator, may also further make grants to merchant producers of MTBE in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of such other fuel additives (unless the Administrator determines that such fuel additives may reasonably be anticipated to endanger public health or the environment) that, consistent with this subsection—

"(i) have been registered and have been tested or are being tested in accordance with the requirements of this section; and

"(ii) will contribute to replacing gasoline volumes lost as a result of amendments made to subsection (k) of this section by section 1504(a) and 1506 of the Energy Policy Act of 2005.

"(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

"(i) is located in the United States; and

"(ii) produced MTBE for consumption before April 1, 2003 and ceased production at any time after the date of enactment of this paragraph.

"(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2005 through 2012, to remain available until expended.".

SEC. 1504. USE OF MTBE.

(a) IN GENERAL.—Subject to subsections (e) and (f), not later than December 31, 2014, the use of methyl tertiary butyl ether (hereinafter in this section referred to as "MTBE") in motor vehicle fuel in any State other than a State described in subsection (c) is prohibited.

(b) REGULATIONS.—The Administrator of the Environmental Protection Agency (hereafter referred to in this section as the "Administrator") shall promulgate regulations to effect the prohibition in subsection (a).

(c) STATES THAT AUTHORIZE USE.—A State described in this subsection is a State in which the Governor of the State submits a notification to the Administrator authorizing the use of MTBE in motor vehicle fuel sold or used in the State.

(d) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subsection (c).

(e) TRACE QUANTITIES.—In carrying out subsection (a), the Administrator may allow trace quantities of MTBE, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

(f) LIMITATION.—The Administrator, under authority of subsection (a), shall not prohibit or control the production of MTBE for export from the United States or for any other use other than for use in motor vehicle fuel.

(g) EFFECT ON STATE LAW.—The amendments made by this title have no effect regarding any available authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 1505. NATIONAL ACADEMY OF SCIENCES REVIEW AND PRESIDENTIAL DETERMINATION.

(a) NAS REVIEW.—Not later than May 31, 2013, the Secretary shall enter into an arrangement with the National Academy of Sciences to review the use of methyl tertiary butyl ether (hereafter referred to in this section as "MTBE") in fuel and fuel additives. The review shall only use the best available scientific information and data collected by accepted methods or the best available means. The review shall examine the use of MTBE in fuel and fuel additives, significant beneficial and detrimental effects of this use on environmental quality or public health or welfare including the costs and benefits of such effects, likely effects of controls or prohibitions on MTBE regarding fuel availability and price, and other appropriate and reasonable actions that are available to protect the environment or public health or welfare from any detrimental effects of the use of MTBE in fuel or fuel additives. The review shall be peer-reviewed prior to publication and all supporting data and analytical models shall be available to the public. The review shall be completed no later than May 31, 2014.

(b) Presidential Determination.—No later than June 30, 2014, the President may make a determination that restrictions on the use of MTBE to be implemented pursuant to section 1504 shall not take place and that the legal authority contained in section 1504 to prohibit the use of MTBE in motor vehicle fuel shall become null and void.

SEC. 1506. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) Elimination.—

(1) In general.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended as follows:

(A) In paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(B) In paragraph (3)(A), by striking clause (v).

(C) In paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii).

(II) by redesignating clause (iii) as clause (ii).

(2) Effective date.—The amendments made by paragraph (1) take effect 270 days after the date of enactment of this Act, except that such amendments shall take effect upon such date of enactment in any State that has received a waiver under section 209(b) of the Clean Air Act.

(b) Maintenance of Toxic Air Pollutant Emission Reductions.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended as follows:

(1) By striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) In general.—Not later than November 15, 1991,".

(2) By adding at the end the following:

"(B) Maintenance of toxic air pollutant emissions reductions from reformulated gasoline.—

"(i) Definitions.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) Regulations regarding emissions of toxic air pollutants.—Not later than 270 days after the date of enactment of this subparagraph the Administrator shall establish, for each refinery or importer, standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

"(iii) Standards applicable to specific refineries or importers.—

"(I) Applicability of standards.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000.

"(II) Applicability of other standards.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

"(iv) Credit program.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

"(v) Regional protection of toxics reduction baselines.—

"(I) In general.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

"(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

"(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

"(II) Effect of failure to maintain aggregate toxics reductions.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

"(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

"(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refinery or importer shall meet the standards applicable under clause (ii) not later than April 1 of the year following the report in subclause (II) and for subsequent years.

"(vi) Regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels.—Not later than July 1, 2005, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).".

(c) Consolidation in Reformulated Gasoline Regulations.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) Savings Clause.—Nothing in this section is intended to affect or prejudice either any legal claims or actions with respect to regulations promulgated by the Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the "Administrator") prior to the date of enactment of this Act regarding emissions of toxic air pollutants from motor vehicles or the adjustment of standards applicable to a specific refinery or importer made under such prior regulations and the Administrator may apply such adjustments to the standards applicable to such refinery or importer under clause (iii)(I) of section 211(k)(1)(B) of the Clean Air Act, except that—

(1) the Administrator shall revise such adjustments to be based only on calendar years 1999–2000; and

(2) for adjustments based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline, the Administrator may revise such adjustments to take account of the scope of Federal or State prohibitions on the use of methyl tertiary butyl ether imposed after the date of the enactment of this paragraph, except that any such adjustment shall require such refiner or importer, to the greatest extent practicable, to maintain the reduction achieved during calendar years 1999–2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refinery or importer; *Provided*, that any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999–2000.

SEC. 1507. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (o) the following:

"(p) Analyses of Motor Vehicle Fuel Changes and Emissions Model.—

"(1) Anti-backsliding analysis.—

"(A) Draft analysis.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by subtitle A of title XV of the Energy Policy Act of 2005.

"(B) Final analysis.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

"(2) Emissions model.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.''.

SEC. 1508. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m) Renewable Fuels Survey.—(1) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including each of the following:

''(A) The quantity of renewable fuels produced.

''(B) The quantity of renewable fuels blended.

''(C) The quantity of renewable fuels imported.

''(D) The quantity of renewable fuels demanded.

''(E) Market price data.

''(F) Such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this section.

''(2) The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) through (F) of paragraph (1), for the 5 years prior to implementation of this subsection.

''(3) This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).''.

SEC. 1509. REDUCING THE PROLIFERATION OF STATE FUEL CONTROLS.

(a) EPA Approval of State Plans With Fuel Controls.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding at the end the following: ''The Administrator shall not approve a control or prohibition respecting the use of a fuel or fuel additive under this subparagraph unless the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register a finding that, in the Administrator's judgment, such control or prohibition will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas.''.

(b) Study.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the ''Administrator''), in cooperation with the Secretary of Energy, shall undertake a study of the projected effects on air quality, the proliferation of fuel blends, fuel availability, and fuel costs of providing a preference for each of the following:

(A) Reformulated gasoline referred to in subsection (k) of section 211 of the Clean Air Act.

(B) A low RVP gasoline blend that has been certified by the Administrator as having a Reid Vapor Pressure of 7.0 pounds per square inch (psi).

(C) A low RVP gasoline blend that has been certified by the Administrator as having a Reid Vapor Pressure of 7.8 pounds per square inch (psi).

In carrying out such study, the Administrator shall obtain comments from affected parties. The Administrator shall submit the results of such study to the Congress not later than 18 months after the date of enactment of this Act, together with any recommended legislative changes.

SEC. 1510. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) Study.—

(1) In general.—The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the ''Administrator'') and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) Required elements.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to consumers in various States and localities;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while improving air quality at the national, regional and local levels consistent with the attainment of national ambient air quality standards, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply;

(F) the feasibility of providing incentives to promote cleaner burning motor vehicle fuel; and

(G) the extent to which improvements in air quality and any increases or decreases in the price of motor fuel can be projected to result from the Environmental Protection Agency's Tier II requirements for conventional gasoline and vehicle emission systems, the reformulated gasoline program, the renewable content requirements established by this subtitle, State programs regarding gasoline volatility, and any other requirements imposed by States or localities affecting the composition of motor fuel.

(b) Report.—

(1) In general.—Not later than December 31, 2007, the Administrator and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) Recommendations.—

(A) In general.—The report under this subsection shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) Required considerations.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) Consultation.—In developing the report under this subsection, the Administrator and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 1511. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE AND CELLULOSIC BIOMASS LOAN GUARANTEE PROGRAM.

(a) Definition of Municipal Solid Waste.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) Establishment of Program.—The Secretary of Energy (hereinafter in this section referred to as the ''Secretary'') shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste and cellulosic biomass into fuel ethanol and other commercial byproducts.

(c) Requirements.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) Criteria.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal;

(B) the availability of sufficient quantities of cellulosic biomass; or

(C) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) Maturity.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) Terms and Conditions.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) Assurance of Repayment.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 1512. CELLULOSIC BIOMASS AND WASTE-DERIVED ETHANOL CONVERSION ASSISTANCE.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

"(r) CELLULOSIC BIOMASS AND WASTE-DERIVED ETHANOL CONVERSION ASSISTANCE.—

"(1) IN GENERAL.—The Secretary of Energy may provide grants to merchant producers of cellulosic biomass ethanol and waste-derived ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of ethanol.

"(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

"(A) is located in the United States; and

"(B) uses cellulosic biomass or waste-derived feedstocks derived from agricultural residues, wood residues, municipal solid waste, or agricultural byproducts as that term is used in section 919 of the Energy Policy Act of 2005.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

"(A) $100,000,000 for fiscal year 2005.

"(B) $250,000,000 for fiscal year 2006.

"(C) $400,000,000 for fiscal year 2007.".

SEC. 1513. BLENDING OF COMPLIANT REFORMULATED GASOLINES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

"(s) BLENDING OF COMPLIANT REFORMULATED GASOLINES.—

"(1) IN GENERAL.—Notwithstanding subsections (h) and (k) and subject to the limitations in paragraph (2) of this subsection, it shall not be a violation of this subtitle for a gasoline retailer, during any month of the year, to blend at a retail location batches of ethanol-blended and non-ethanol-blended reformulated gasoline, provided that—

"(A) each batch of gasoline to be blended has been individually certified as in compliance with subsections (h) and (k) prior to being blended;

"(B) the retailer notifies the Administrator prior to such blending, and identifies the exact location of the retail station and the specific tank in which such blending will take place;

"(C) the retailer retains and, as requested by the Administrator or the Administrator's designee, makes available for inspection such certifications accounting for all gasoline at the retail outlet; and

"(D) the retailer does not, between June 1 and September 15 of each year, blend a batch of VOC-controlled, or 'summer', gasoline with a batch of non-VOC-controlled, or 'winter', gasoline (as these terms are defined under subsections (h) and (k)).

"(2) LIMITATIONS.—

"(A) FREQUENCY LIMITATION.—A retailer shall only be permitted to blend batches of compliant reformulated gasoline under this subsection a maximum of two blending periods between May 1 and September 15 of each calendar year.

"(B) DURATION OF BLENDING PERIOD.—Each blending period authorized under subparagraph (A) shall extend for a period of no more than 10 consecutive calendar days.

"(3) SURVEYS.—A sample of gasoline taken from a retail location that has blended gasoline within the past 30 days and is in compliance with subparagraphs (A), (B), (C), and (D) of paragraph (1) shall not be used in a VOC survey mandated by 40 C.F.R. Part 80.

"(4) STATE IMPLEMENTATION PLANS.—A State shall be held harmless and shall not be required to revise its State implementation plan under section 110 to account for the emissions from blended gasoline authorized under paragraph (1).

"(5) PRESERVATION OF STATE LAW.—Nothing in this subsection shall—

"(A) preempt existing State laws or regulations regulating the blending of compliant gasolines; or

"(B) prohibit a State from adopting such restrictions in the future.

"(6) REGULATIONS.—The Administrator shall promulgate, after notice and comment, regulations implementing this subsection within one year after the date of enactment of this subsection.

"(7) EFFECTIVE DATE.—This subsection shall become effective 15 months after the date of its enactment and shall apply to blended batches of reformulated gasoline on or after that date, regardless of whether the implementing regulations required by paragraph (6) have been promulgated by the Administrator by that date.

"(8) LIABILITY.—No person other than the person responsible for blending under this subsection shall be subject to an enforcement action or penalties under subsection (d) solely arising from the blending of compliant reformulated gasolines by the retailers.

"(9) FORMULATION OF GASOLINE.—This subsection does not grant authority to the Administrator or any State (or any subdivision thereof) to require reformulation of gasoline at the refinery to adjust for potential or actual emissions increases due to the blending authorized by this subsection.".

Subtitle B—Underground Storage Tank Compliance

SEC. 1521. SHORT TITLE.

This subtitle may be cited as the "Underground Storage Tank Compliance Act of 2005".

SEC. 1522. LEAKING UNDERGROUND STORAGE TANKS.

(a) IN GENERAL.—Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

"(f) TRUST FUND DISTRIBUTION.—

"(1) IN GENERAL.—

"(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State for—

"(i) corrective actions taken by the State under section 9003(h)(7)(A);

"(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to State fund or State assurance programs under subsection (c)(1); or

"(iii) enforcement, by a State or a local government, of State or local regulations pertaining to underground storage tanks regulated under this subtitle.

"(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

"(C) PROHIBITED USES.—Funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under subparts B, C, D, H, and G of part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

"(2) ALLOCATION.—

"(A) PROCESS.—Subject to subparagraphs (B) and (C), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using an allocation process developed by the Administrator.

"(B) DIVERSION OF STATE FUNDS.—The Administrator shall not distribute funds under subparagraph (A)(iii) of subsection (f)(1) to any State that has diverted funds from a State fund or State assurance program for purposes other than those related to the regulation of underground storage tanks covered by this subtitle, with the exception of those transfers that had been completed earlier than the date of enactment of this subsection.

"(C) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) after—

"(i) consulting with State agencies responsible for overseeing corrective action for releases from underground storage tanks; and

"(ii) taking into consideration, at a minimum, each of the following:

"(I) The number of confirmed releases from federally regulated leaking underground storage tanks in the States.

"(II) The number of federally regulated underground storage tanks in the States.

"(III) The performance of the States in implementing and enforcing the program.

"(IV) The financial needs of the States.

"(V) The ability of the States to use the funds referred to in subparagraph (A) in any year.

"(3) DISTRIBUTIONS TO STATE AGENCIES.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

“(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

“(B) is enforcing a State program approved under this section.”.

(b) WITHDRAWAL OF APPROVAL OF STATE FUNDS.—Section 9004(c) of the Solid Waste Disposal Act (42 U.S.C. 6991c(c)) is amended by inserting the following new paragraph at the end thereof:

“(6) WITHDRAWAL OF APPROVAL.—After an opportunity for good faith, collaborative efforts to correct financial deficiencies with a State fund, the Administrator may withdraw approval of any State fund or State assurance program to be used as a financial responsibility mechanism without withdrawing approval of a State underground storage tank program under section 9004(a).”.

(c) ABILITY TO PAY.—Section 9003(h)(6) of the Solid Waste Disposal Act (42 U.S.C. 6591a(h)(6)) is amended by adding the following new subparagraph at the end thereof:

“(E) INABILITY OR LIMITED ABILITY TO PAY.—

“(i) IN GENERAL.—In determining the level of recovery effort, or amount that should be recovered, the Administrator (or the State pursuant to paragraph (7)) shall consider the owner or operator's ability to pay. An inability or limited ability to pay corrective action costs must be demonstrated to the Administrator (or the State pursuant to paragraph (7)) by the owner or operator.

“(ii) CONSIDERATIONS.—In determining whether or not a demonstration is made under clause (i), the Administrator (or the State pursuant to paragraph (7)) shall take into consideration the ability of the owner or operator to pay corrective action costs and still maintain its basic business operations, including consideration of the overall financial condition of the owner or operator and demonstrable constraints on the ability of the owner or operator to raise revenues.

“(iii) INFORMATION.—An owner or operator requesting consideration under this subparagraph shall promptly provide the Administrator (or the State pursuant to paragraph (7)) with all relevant information needed to determine the ability of the owner or operator to pay corrective action costs.

“(iv) ALTERNATIVE PAYMENT METHODS.—The Administrator (or the State pursuant to paragraph (7)) shall consider alternative payment methods as may be necessary or appropriate if the Administrator (or the State pursuant to paragraph (7)) determines that an owner or operator cannot pay all or a portion of the costs in a lump sum payment.

“(iii) MISREPRESENTATION.—If an owner or operator provides false information or otherwise misrepresents their financial situation under clause (ii), the Administrator (or the State pursuant to paragraph (7)) shall seek full recovery of the costs of all such actions pursuant to the provisions of subparagraph (A) without consideration of the factors in subparagraph (B).”.

SEC. 1523. INSPECTION OF UNDERGROUND STORAGE TANKS.

(a) INSPECTION REQUIREMENTS.—Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended by inserting the following new subsection at the end thereof:

“(c) INSPECTION REQUIREMENTS.—

“(1) UNINSPECTED TANKS.—In the case of underground storage tanks regulated under this subtitle that have not undergone an inspection since December 22, 1998, not later than 2 years after the date of enactment of this subsection, the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of all such tanks to determine compliance with this subtitle and the regulations under this subtitle (40 CFR 280) or a requirement or standard of a State program developed under section 9004.

“(2) PERIODIC INSPECTIONS.—After completion of all inspections required under paragraph (1), the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of each underground storage tank regulated under this subtitle at least once every 3 years to determine compliance with this subtitle and the regulations under this subtitle (40 CFR 280) or a requirement or standard of a State program developed under section 9004. The Administrator may extend for up to one additional year the first 3-year inspection interval under this paragraph if the State demonstrates that it has insufficient resources to complete all such inspections within the first 3-year period.

“(3) INSPECTION AUTHORITY.—Nothing in this section shall be construed to diminish the Administrator's or a State's authorities under section 9005(a).”.

(b) STUDY OF ALTERNATIVE INSPECTION PROGRAMS.—The Administrator of the Environmental Protection Agency, in coordination with a State, shall gather information on compliance assurance programs that could serve as an alternative to the inspection programs under section 9005(c) of the Solid Waste Disposal Act (42 U.S.C. 6991d(c)) and shall, within 4 years after the date of enactment of this Act, submit a report to the Congress containing the results of such study.

SEC. 1524. OPERATOR TRAINING.

(a) IN GENERAL.—Section 9010 of the Solid Waste Disposal Act (42 U.S.C. 6991i) is amended to read as follows:

“SEC. 9010. OPERATOR TRAINING.

“(a) GUIDELINES.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2005, in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for—

“(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

“(B) persons having daily on-site responsibility for the operation and maintenance of underground storage tanks systems; and

“(C) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

“(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

“(A) State training programs in existence as of the date of publication of the guidelines;

“(B) training programs that are being employed by tank owners and tank operators as of the date of enactment of the Underground Storage Tank Compliance Act of 2005;

“(C) the high turnover rate of tank operators and other personnel;

“(D) the frequency of improvement in underground storage tank equipment technology;

“(E) the nature of the businesses in which the tank operators are engaged;

“(F) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

“(G) such other factors as the Administrator determines to be necessary to carry out this section.

“(b) STATE PROGRAMS.—

“(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State that receives funding under this subtitle shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1).

“(2) REQUIREMENTS.—State requirements described in paragraph (1) shall—

“(A) be consistent with subsection (a);

“(B) be developed in cooperation with tank owners and tank operators;

“(C) take into consideration training programs implemented by tank owners and tank operators as of the date of enactment of this section; and

“(D) be appropriately communicated to tank owners and operators.

“(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements requirements described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $200,000, to be used to carry out the requirements.

“(c) TRAINING.—All persons that are subject to the operator training requirements of subsection (a) shall—

“(1) meet the training requirements developed under subsection (b); and

“(2) repeat the applicable requirements developed under subsection (b), if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with—

“(A) a requirement or standard promulgated by the Administrator under section 9003; or

“(B) a requirement or standard of a State program approved under section 9004.”.

(b) STATE PROGRAM REQUIREMENT.—Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking “and” at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting “; and”, and by adding the following new paragraph at the end thereof:

“(9) State-specific training requirements as required by section 9010.”.

(c) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e) is amended as follows:

(1) By striking “or” at the end of subparagraph (B).

(2) By adding the following new subparagraph after subparagraph (C):

“(D) the training requirements established by States pursuant to section 9010 (relating to operator training); or”.

(d) TABLE OF CONTENTS.—The item relating to section 9010 in table of contents for the Solid Waste Disposal Act is amended to read as follows:

“Sec. 9010. Operator training.”.

SEC. 1525. REMEDIATION FROM OXYGENATED FUEL ADDITIVES.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended as follows:

(1) In paragraph (7)(A)—

(A) by striking “paragraphs (1) and (2) of this subsection” and inserting “paragraphs (1), (2), and (12)” ; and

(B) by striking “and including the authorities of paragraphs (4), (6), and (8) of this subsection” and inserting “and the authority under sections 9011 and 9012 and paragraphs (4), (6), and (8),”.

(2) By adding at the end the following:

"(12) Remediation of oxygenated fuel contamination.—

"(A) In general.—The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of a fuel containing an oxygenated fuel additive that presents a threat to human health or welfare or the environment.

"(B) Applicable authority.—The Administrator or a State shall carry out subparagraph (A) in accordance with paragraph (2), and in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).".

SEC. 1526. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

(a) Release Prevention and Compliance.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.

"Funds made available under section 9014(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

"(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of State regulations pertaining to underground storage tanks regulated under this subtitle; and

"(2) by the Administrator, for tanks regulated under this subtitle (including under a State program approved under section 9004).".

(b) Government-Owned Tanks.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

"(i) Government-Owned Tanks.—

"(1) State compliance report.—(A) Not later than 2 years after the date of enactment of this subsection, each State that receives funding under this subtitle shall submit to the Administrator a State compliance report that—

"(i) lists the location and owner of each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with section 9003; and

"(ii) specifies the date of the last inspection and describes the actions that have been and will be taken to ensure compliance of the underground storage tank listed under clause (i) with this subtitle.

"(B) An underground storage tank described in this subparagraph is an underground storage tank that is—

"(i) regulated under this subtitle; and

"(ii) owned or operated by the Federal, State, or local government.

"(C) The Administrator shall make each report, received under subparagraph (A), available to the public through an appropriate media.

"(2) Financial incentive.—The Administrator may award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the report.

"(3) Not a safe harbor.—This subsection does not relieve any person from any obligation or requirement under this subtitle.".

(c) Public Record.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

"(d) Public Record.—

"(1) In general.—The Administrator shall require each State that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States), a record of underground storage tanks regulated under this subtitle.

"(2) Considerations.—To the maximum extent practicable, the public record of a State, respectively, shall include, for each year—

"(A) the number, sources, and causes of underground storage tank releases in the State;

"(B) the record of compliance by underground storage tanks in the State with—

"(i) this subtitle; or

"(ii) an applicable State program approved under section 9004; and

"(C) data on the number of underground storage tank equipment failures in the State.".

(d) Incentive for Performance.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

"(e) Incentive for Performance.—Both of the following may be taken into account in determining the terms of a civil penalty under subsection (d):

"(1) The compliance history of an owner or operator in accordance with this subtitle or a program approved under section 9004.

"(2) Any other factor the Administrator considers appropriate.".

(e) Table of Contents.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9011. Use of funds for release prevention and compliance.".

SEC. 1527. DELIVERY PROHIBITION.

(a) In General.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9012. DELIVERY PROHIBITION.

"(a) Requirements.—

"(1) Prohibition of delivery or deposit.—Beginning 2 years after the date of enactment of this section, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for fuel delivery or deposit.

"(2) Guidance.—Within 1 year after the date of enactment of this section, the Administrator and States that receive funding under this subtitle shall, in consultation with the underground storage tank owner and product delivery industries, for territory for which they are the primary implementing agencies, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum—

"(A) the criteria for determining which underground storage tank facilities are ineligible for delivery or deposit;

"(B) the mechanisms for identifying which facilities are ineligible for delivery or deposit to the underground storage tank owning and fuel delivery industries;

"(C) the process for reclassifying ineligible facilities as eligible for delivery or deposit; and

"(D) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4).

"(3) Delivery prohibition notice.—

"(A) Roster.—The Administrator and each State implementing agency that receives funding under this subtitle shall establish within 24 months after the date of enactment of this section a Delivery Prohibition Roster listing underground storage tanks under the Administrator's or the State's jurisdiction that are determined to be ineligible for delivery or deposit pursuant to paragraph (2).

"(B) Notification.—The Administrator and each State, as appropriate, shall make readily known, to underground storage tank owners and operators and to product delivery industries, the underground storage tanks listed on a Delivery Prohibition Roster by:

"(i) posting such Rosters, including the physical location and street address of each listed underground storage tank, on official web sites and, if the Administrator or the State so chooses, other electronic means;

"(ii) updating these Rosters periodically; and

"(iii) installing a tamper-proof tag, seal, or other device blocking the fill pipes of such underground storage tanks to prevent the delivery of product into such underground storage tanks.

"(C) Roster updates.—The Administrator and the State shall update the Delivery Prohibition Rosters as appropriate, but not less than once a month on the first day of the month.

"(D) Tampering with device.—

"(i) Prohibition.—It shall be unlawful for any person, other than an authorized representative of the Administrator or a State, as appropriate, to remove, tamper with, destroy, or damage a device installed by the Administrator or a State, as appropriate, under subparagraph (B)(iii) of this subsection.

"(ii) Civil penalties.—Any person violating clause (i) of this subparagraph shall be subject to a civil penalty not to exceed $10,000 for each violation.

"(4) Limitation.—

"(A) Rural and remote areas.—Subject to subparagraph (B), the Administrator or a State shall not include an underground storage tank on a Delivery Prohibition Roster under paragraph (3) if an urgent threat to public health, as determined by the Administrator, does not exist and if such a delivery prohibition would jeopardize the availability of, or access to, fuel in any rural and remote areas.

"(B) Applicability of limitation.—The limitation under subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator or the appropriate State that exercising the authority of paragraph (3) is limited by subparagraph (A).

"(b) Effect on State Authority.—Nothing in this section shall affect the authority of a State to prohibit the delivery of a regulated substance to an underground storage tank.

"(c) Defense to Violation.—A person shall not be in violation of subsection (a)(1) if the underground storage tank into which a regulated substance is delivered is not listed on the Administrator's or the appropriate State's Prohibited Delivery Roster 7 calendar days prior to the delivery being made.".

(b) Enforcement.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By adding the following new subparagraph after subparagraph (D):

"(E) the delivery prohibition requirement established by section 9012,".

(2) By adding the following new sentence at the end thereof: "Any person making or accepting a delivery or deposit of a regulated substance to an underground storage tank at an ineligible facility in violation of section

9012 shall also be subject to the same civil penalty for each day of such violation.".

(c) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9012. Delivery prohibition.".

SEC. 1528. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended to read as follows:

"SEC. 9007. FEDERAL FACILITIES.

"(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any underground storage tank or underground storage tank system, or (2) engaged in any activity resulting, or which may result, in the installation, operation, management, or closure of any underground storage tank, release response activities related thereto, or in the delivery, acceptance, or deposit of any regulated substance to an underground storage tank or underground storage tank system shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting underground storage tanks in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local underground storage tank regulatory program. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning underground storage tanks with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State law concerning underground storage tanks, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any underground storage tank of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"(b) REVIEW OF AND REPORT ON FEDERAL UNDERGROUND STORAGE TANKS.—

"(1) REVIEW.—Not later than 12 months after the date of enactment of the Underground Storage Tank Compliance Act of 2005, each Federal agency that owns or operates 1 or more underground storage tanks, or that manages land on which 1 or more underground storage tanks are located, shall submit to the Administrator, the Committee on Energy and Commerce of the United States House of Representatives, and the Committee on the Environment and Public Works of the United States Senate a compliance strategy report that—

"(A) lists the location and owner of each underground storage tank described in this paragraph;

"(B) lists all tanks that are not in compliance with this subtitle that are owned or operated by the Federal agency;

"(C) specifies the date of the last inspection by a State or Federal inspector of each underground storage tank owned or operated by the agency;

"(D) lists each violation of this subtitle respecting any underground storage tank owned or operated by the agency;

"(E) describes the operator training that has been provided to the operator and other persons having primary daily on-site management responsibility for the operation and maintenance of underground storage tanks owned or operated by the agency; and

"(F) describes the actions that have been and will be taken to ensure compliance for each underground storage tank identified under subparagraph (B).

"(2) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.".

SEC. 1529. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following at the end thereof:

"SEC. 9013. TANKS ON TRIBAL LANDS.

"(a) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy—

"(1) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

"(A) an Indian reservation; or

"(B) any other area under the jurisdiction of an Indian tribe; and

"(2) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

"(A) an Indian reservation; or

"(B) any other area under the jurisdiction of an Indian tribe.

"(b) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report that summarizes the status of implementation and enforcement of this subtitle in areas located wholly within—

"(1) the boundaries of Indian reservations; and

"(2) any other areas under the jurisdiction of an Indian tribe.

The Administrator shall make the report under this subsection available to the public.

"(c) NOT A SAFE HARBOR.—This section does not relieve any person from any obligation or requirement under this subtitle.

"(d) STATE AUTHORITY.—Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9013. Tanks on Tribal lands.".

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding the following new subsection at the end:

"(i) ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.—The Administrator shall require each State that receives funding under this subtitle to require one of the following:

"(1) TANK AND PIPING SECONDARY CONTAINMENT.—(A) Each new underground storage tank, or piping connected to any such new tank, installed after the effective date of this subsection, or any existing underground storage tank, or existing piping connected to such existing tank, that is replaced after the effective date of this subsection, shall be secondarily contained and monitored for leaks if the new or replaced underground storage tank or piping is within 1,000 feet of any existing community water system or any existing potable drinking water well.

"(B) In the case of a new underground storage tank system consisting of one or more underground storage tanks and connected by piping, subparagraph (A) shall apply to all underground storage tanks and connected pipes comprising such system.

"(C) In the case of a replacement of an existing underground storage tank or existing piping connected to the underground storage tank, subparagraph (A) shall apply only to the specific underground storage tank or piping being replaced, not to other underground storage tanks and connected pipes comprising such system.

"(D) Each installation of a new motor fuel dispenser system, after the effective date of this subsection, shall include under-dispenser spill containment if the new dispenser is within 1,000 feet of any existing community water system or any existing potable drinking water well.

"(E) This paragraph shall not apply to repairs to an underground storage tank, piping, or dispenser that are meant to restore a tank, pipe, or dispenser to operating condition

"(F) As used in this subsection:

"(i) The term 'secondarily contained' means a release detection and prevention system that meets the requirements of 40 CFR 280.43(g), but shall not include under-dispenser spill containment or control systems.

"(ii) The term 'underground storage tank' has the meaning given to it in section 9001, except that such term does not include tank combinations or more than a single underground pipe connected to a tank.

"(iii) The term 'installation of a new motor fuel dispenser system' means the installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the underground storage tank system, but does not mean the installation of a motor fuel dispenser installed separately from the equipment need to connect the dispenser to the underground storage tank system.

"(G) The Administrator may issue regulations or guidelines implementing the requirements of this subsection.

"(2) EVIDENCE OF FINANCIAL RESPONSIBILITY AND CERTIFICATION.—

"(A) MANUFACTURER AND INSTALLER FINANCIAL RESPONSIBILITY.—A person that manufactures an underground storage tank or piping for an underground storage tank system or that installs an underground storage tank system is required to maintain evidence of financial responsibility under section 9003(d) in order to provide for the costs of corrective actions directly related to releases caused by improper manufacture or installation unless the person can demonstrate themselves to be already covered as an owner or operator of an underground storage tank under section 9003.

"(B) INSTALLER CERTIFICATION.—The Administrator and each State that receives funding under this subtitle, as appropriate, shall require that a person that installs an underground storage tank system is—

"(i) certified or licensed by the tank and piping manufacturer;

"(ii) certified or licensed by the Administrator or a State, as appropriate;

"(iii) has their underground storage tank system installation certified by a registered professional engineer with education and experience in underground storage tank system installation;

"(iv) has had their installation of the underground storage tank inspected and approved by the Administrator or the State, as appropriate;

"(v) compliant with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturers instructions; or

"(vi) compliant with another method that is determined by the Administrator or a State, as appropriate, to be no less protective of human health and the environment.".

(b) EFFECTIVE DATE.—This subsection shall take effect 18 months after the date of enactment of this subsection

(c) PROMULGATION OF REGULATIONS OR GUIDELINES.—The Administrator shall issue regulations or guidelines implementing the requirements of this subsection, including guidance to differentiate between the terms "repair" and "replace" for the purposes of section 9003(i)(1) of the Solid Waste Disposal Act.

(d) PENALTIES.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By striking "or" at the end of subparagraph (B).

(2) By inserting "; or" at the end of subparagraph (C).

(3) By adding the following new subparagraph after subparagraph (C):

"(D) the requirements established in section 9003(i).".

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator the following amounts:

"(1) To carry out subtitle I (except sections 9003(h), 9005(c), 9011 and 9012) $50,000,000 for each of fiscal years 2005 through 2009.

"(2) From the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986:

"(A) to carry out section 9003(h) (except section 9003(h)(12)) $200,000,000 for each of fiscal years 2005 through 2009;

"(B) to carry out section 9003(h)(12), $200,000,000 for each of fiscal years 2005 through 2009;

"(C) to carry out sections 9004(f) and 9005(c) $100,000,000 for each of fiscal years 2005 through 2009; and

"(D) to carry out sections 9011 and 9012 $55,000,000 for each of fiscal years 2005 through 2009.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9014. Authorization of appropriations.".

SEC. 1532. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended as follows:

(1) By striking "For the purposes of this subtitle—" and inserting "In this subtitle:".

(2) By redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively.

(3) By inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:

"(1) INDIAN TRIBE.—

"(A) IN GENERAL.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

"(B) INCLUSIONS.—The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and".

(4) By inserting after paragraph (8) (as redesignated by paragraph (2) of this subsection) the following:

"(9) TRUST FUND.—The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENTS.—The Solid Waste Disposal Act (42 U.S.C. 6901 and following) is amended as follows:

(1) Section 9003(f) (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking "9001(2)(B)" and inserting "9001(7)(B)"; and

(B) in paragraphs (2) and (3), by striking "9001(2)(A)" each place it appears and inserting "9001(7)(A)".

(2) Section 9003(h) (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking "Leaking Underground Storage Tank Trust Fund" each place it appears and inserting "Trust Fund".

(3) Section 9009 (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking "9001(2)(B)" and inserting "9001(7)(B)"; and

(B) in subsection (d), by striking "section 9001(1) (A) and (B)" and inserting "subparagraphs (A) and (B) of section 9001(10)".

SEC. 1533. TECHNICAL AMENDMENTS.

The Solid Waste Disposal Act is amended as follows:

(1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A)) is amended by striking "sustances" and inserting "substances".

(2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1)) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

(3) Section 9004(a) (42 U.S.C. 6991c(a)) is amended by striking "in 9001(2) (A) or (B) or both" and inserting "in subparagraph (A) or (B) of section 9001(7)".

(4) Section 9005 (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevent" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Evironmental" and inserting "Environmental".

Subtitle C—Boutique Fuels

SEC. 1541. REDUCING THE PROLIFERATION OF BOUTIQUE FUELS.

(a) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by inserting "(i)" after "(C)" and by adding the following new clauses at the end thereof:

"(ii) The Administrator may temporarily waive a control or prohibition respecting the use of a fuel or fuel additive required or regulated by the Administrator pursuant to subsection (c), (h), (i), (k), or (m) of this section or prescribed in an applicable implementation plan under section 110 approved by the Administrator under clause (i) of this subparagraph if, after consultation with, and concurrence by, the Secretary of Energy, the Administrator determines that—

"(I) extreme and unusual fuel or fuel additive supply circumstances exist in a State or region of the Nation which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;

"(II) such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster, an Act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of the fuel or fuel additive to such State or region; and

"(III) it is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation which cannot otherwise be compensated for).

"(iii) If the Administrator makes the determinations required under clause (ii), such a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if—

"(I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel and fuel additive supply circumstances;

"(II) the waiver is effective for a period of 20 calendar days or, if the Administrator determines that a shorter waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality;

"(III) the waiver permits a transitional period, the exact duration of which shall be determined by the Administrator, after the termination of the temporary waiver to permit wholesalers and retailers to blend down their wholesale and retail inventory;

"(IV) the waiver applies to all persons in the motor fuel distribution system; and

"(V) the Administrator has given public notice to all parties in the motor fuel distribution system, and local and State regulators, in the State or region to be covered by the waiver.

The term 'motor fuel distribution system' as used in this clause shall be defined by the Administrator through rulemaking.

"(iv) Within 180 days of the date of enactment of this clause, the Administrator shall promulgate regulations to implement clauses (ii) and (iii).

"(v) Nothing in this subparagraph shall—

"(I) limit or otherwise affect the application of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

"(II) subject any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this subparagraph.".

(b) Limit on Number of Boutique Fuels.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)), as amended by subsection (a), is further amended by adding at the end the following:

"(v)(I) The Administrator shall have no authority, when considering a State implementation plan or a State implementation plan revision, to approve under this paragraph any fuel included in such plan or revision if the effect of such approval increases the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans.

"(II) The Administrator, in consultation with the Secretary of Energy, shall determine the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans and shall publish a list of such fuels, including the states and Petroleum Administration for Defense District in which they are used, in the Federal Register for public review and comment no later than 90 days after enactment.

"(III) The Administrator shall remove a fuel from the list published under subclause (II) if a fuel ceases to be included in a State implementation plan or if a fuel in a State implementation plan is identical to a Federal fuel formulation implemented by the Administrator, but the Administrator shall not reduce the total number of fuels authorized under the list published under subclause (II).

"(IV) Subclause (I) shall not limit the Administrator's authority to approve a control or prohibition respecting any new fuel under this paragraph in a State implementation plan or revision to a State implementation plan if such new fuel:

"(aa) completely replaces a fuel on the list published under subclause (II); or

"(bb) does not increase the total number of fuels on the list published under subclause (II) as of September 1, 2004.

In the event that the total number of fuels on the list published under subclause (II) at the time of the Administrator's consideration of a control or prohibition respecting a new fuel is lower than the total number of fuels on such list as of September 1, 2004, the Administrator may approve a control or prohibition respecting a new fuel under this subclause if the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register after notice and comment a finding that, in the Administrator's judgment, such control or prohibition respecting a new fuel will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas.

"(V) The Administrator shall have no authority under this paragraph, when considering any particular State's implementation plan or a revision to that State's implementation plan, to approve any fuel unless that fuel was, as of the date of such consideration, approved in at least one State implementation plan in the applicable Petroleum Administration for Defense District. However, the Administrator may approve as part of a State implementation plan or State implementation plan revision a fuel with a summertime Reid Vapor Pressure of 7.0 psi. In no event shall such approval by the Administrator cause an increase in the total number of fuels on the list published under subclause (II).

"(VI) Nothing in this clause shall be construed to have any effect regarding any available authority of States to require the use of any fuel additive registered in accordance with subsection (b), including any fuel additive registered in accordance with subsection (b) after the enactment of this subclause.".

(c) Study and Report to Congress on Boutique Fuels.—

(1) Joint study.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall undertake a study of the effects on air quality, on the number of fuel blends, on fuel availability, on fuel fungibility, and on fuel costs of the State plan provisions adopted pursuant to section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)).

(2) Focus of study.—The primary focus of the study required under paragraph (1) shall be to determine how to develop a Federal fuels system that maximizes motor fuel fungibility and supply, preserves air quality standards, and reduces motor fuel price volatility that results from the proliferation of boutique fuels, and to recommend to Congress such legislative changes as are necessary to implement such a system. The study should include the impacts on overall energy supply, distribution, and use as a result of the legislative changes recommended.

(3) Responsibility of administrator.—In carrying out the study required by this section, the Administrator shall coordinate obtaining comments from affected parties interested in the air quality impact assessment portion of the study. The Administrator shall use sound and objective science practices, shall consider the best available science, and shall consider and include a description of the weight of the scientific evidence.

(4) Responsibility of secretary.—In carrying out the study required by this section, the Secretary shall coordinate obtaining comments from affected parties interested in the fuel availability, number of fuel blends, fuel fungibility and fuel costs portion of the study.

(5) Report to congress.—The Administrator and the Secretary jointly shall submit the results of the study required by this section in a report to the Congress not later than 12 months after the date of the enactment of this Act, together with any recommended regulatory and legislative changes. Such report shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(6) Authorization of appropriations.—There is authorized to be appropriated jointly to the Administrator and the Secretary $500,000 for the completion of the study required under this subsection.

(d) Definitions.—In this section:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Secretary" means the Secretary of Energy.

(3) The term "fuel" means gasoline, diesel fuel, and any other liquid petroleum product commercially known as gasoline and diesel fuel for use in highway and nonroad motor vehicles.

(4) The term "a control or prohibition respecting a new fuel" means a control or prohibition on the formulation, composition, or emissions characteristics of a fuel that would require the increase or decrease of a constituent in gasoline or diesel fuel.

TITLE XVI—STUDIES

SEC. 1601. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) Definition.—For purposes of this section "petroleum" means crude oil, motor gasoline, jet fuel, distillates, and propane.

(b) Study.—The Secretary of Energy shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) Contents.—The study shall address—

(1) historical normal ranges for petroleum and natural gas inventory levels;

(2) historical and projected storage capacity trends;

(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service, or other indicators of shortage begin to appear;

(4) explanations for inventory levels dropping below normal ranges; and

(5) the ability of industry to meet United States demand for petroleum and natural gas without shortages or price spikes, when inventory levels are below normal ranges.

(d) Report to Congress.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit a report to Congress on the results of the study, including findings and any recommendations for preventing future supply shortages.

SEC. 1605. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within 1 year after the date of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to Congress.

SEC. 1606. TELECOMMUTING STUDY.

(a) Study Required.—The Secretary, in consultation with the Commission, the Director of the Office of Personnel Management, the Administrator of General Services, and the Administrator of NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(b) Required Subjects of Study.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT REQUIRED.—The Secretary shall submit to the President and Congress a report on the study required by this section not later than 6 months after the date of enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(2) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(3) NTIA.—The term "NTIA" means the National Telecommunications and Information Administration of the Department of Commerce.

(4) TELECOMMUTING.—The term "telecommuting" means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

(5) FEDERAL EMPLOYEE.—The term "Federal employee" has the meaning provided the term "employee" by section 2105 of title 5, United States Code.

SEC. 1607. LIHEAP REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on how the Low-Income Home Energy Assistance Program could be used more effectively to prevent loss of life from extreme temperatures. In preparing such report, the Secretary shall consult with appropriate officials in all 50 States and the District of Columbia.

SEC. 1608. OIL BYPASS FILTRATION TECHNOLOGY.

The Secretary of Energy and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in reducing demand for oil and protecting the environment;

(2) examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets; and

(3) include in such study, prior to any determination of the feasibility of using oil bypass filtration technology, the evaluation of products and various manufacturers.

SEC. 1609. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary of Energy shall—

(1) conduct a study of the benefits of total integrated thermal systems in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Department of Defense and other Federal motor vehicle fleets.

SEC. 1610. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report that examines the feasibility of promoting collaborations between large institutions of higher education and small institutions of higher education through grants, contracts, and cooperative agreements made by the Secretary for energy projects. The Secretary shall also consider providing incentives for the inclusion of small institutions of higher education, including minority-serving institutions, in energy research grants, contracts, and cooperative agreements.

SEC. 1611. RELIABILITY AND CONSUMER PROTECTION ASSESSMENT.

Not later than 5 years after the date of enactment of this Act, and each 5 years thereafter, the Federal Energy Regulatory Commission shall assess the effects of the exemption of electric cooperatives and government-owned utilities from Commission regulation under section 201(f) of the Federal Power Act. The assessment shall include any effects on—

(1) reliability of interstate electric transmission networks;

(2) benefit to consumers, and efficiency, of competitive wholesale electricity markets;

(3) just and reasonable rates for electricity consumers; and

(4) the ability of the Commission to protect electricity consumers.

If the Commission finds that the 201(f) exemption results in adverse effects on consumers or electric reliability, the Commission shall make appropriate recommendations to Congress pursuant to section 311 of the Federal Power Act.

SEC. 1612. REPORT ON ENERGY INTEGRATION WITH LATIN AMERICA.

The Secretary of Energy shall submit an annual report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning the status of energy export development in Latin America and efforts by the Secretary and other departments and agencies of the United States to promote energy integration with Latin America. The report shall contain a detailed analysis of the status of energy export development in Mexico and a description of all significant efforts by the Secretary and other departments and agencies to promote a constructive relationship with Mexico regarding the development of that nation's energy capacity. In particular this report shall outline efforts the Secretary and other departments and agencies have made to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

SEC. 1613. LOW-VOLUME GAS RESERVOIR STUDY.

(a) STUDY.—The Secretary of Energy shall make a grant to an organization of oil and gas producing States, specifically those containing significant numbers of marginal oil and natural gas wells, for conducting an annual study of low-volume natural gas reservoirs. Such organization shall work with the State geologist of each State being studied.

(b) CONTENTS.—The studies under this section shall—

(1) determine the status and location of marginal wells and gas reservoirs;

(2) gather the production information of these marginal wells and reservoirs;

(3) estimate the remaining producible reserves based on variable pipeline pressures;

(4) locate low-pressure gathering facilities and pipelines;

(5) recommend incentives which will enable the continued production of these resources;

(6) produce maps and literature to disseminate to States to promote conservation of natural gas reserves; and

(7) evaluate the amount of natural gas that is being wasted through the practice of venting or flaring of natural gas produced in association with crude oil well production.

(c) DATA ANALYSIS.—Data development and analysis under this section shall be performed by an institution of higher education with GIS capabilities. If the organization receiving the grant under subsection (a) does not have GIS capabilities, such organization shall contract with one or more entities with—

(1) technological capabilities and resources to perform advanced image processing, GIS programming, and data analysis; and

(2) the ability to—

(A) process remotely sensed imagery with high spatial resolution;

(B) deploy global positioning systems;

(C) process and synthesize existing, variable-format gas well, pipeline, gathering facility, and reservoir data;

(D) create and query GIS databases with infrastructure location and attribute information;

(E) write computer programs to customize relevant GIS software;

(F) generate maps, charts, and graphs which summarize findings from data research for presentation to different audiences; and

(G) deliver data in a variety of formats, including Internet Map Server for query and display, desktop computer display, and access through handheld personal digital assistants.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section—

(1) $1,500,000 for fiscal year 2006; and

(2) $450,000 for each of the fiscal years 2007 through 2010.

(e) DEFINITIONS.—For purposes of this section, the term "GIS" means geographic information systems technology that facilitates the organization and management of data with a geographic component.

TITLE XVII—RENEWABLE ENERGY

SEC. 1701. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, PETROLEUM-BASED PRODUCT SUBSTITUTES, AND OTHER COMMERCIAL PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest fuel loads continues to increase as a result of disease, insect infestations, and drought, further raising the risk of fire each year.

(2) In addition, more than 70,000,000 acres across all land ownerships are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease result in increased fire risk, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and decreased timber values.

(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and protecting early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest land, woodland, and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest health by creating a mosaic of species-mix and age distribution. Such prevention treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, disease, and fire.

(4) The byproducts of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest lands, woodlands and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. There are currently few markets for the extraordinary volumes of byproducts being generated as a result of the necessary large-scale preventive treatment activities.

(5) The United States should—

(A) promote economic and entrepreneurial opportunities in using byproducts removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for byproducts of preventive treatment activities.

(b) Definitions.—In this section:

(1) Biomass.—The term "biomass" means trees and woody plants, including limbs, tops, needles, and other woody parts, and byproducts of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels; or

(B) to reduce the risk of or to contain disease or insect infestation.

(2) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) Person.—The term "person" includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(4) Preferred community.—The term "preferred community" means—

(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(B) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(5) Secretary concerned.—The term "Secretary concerned" means the Secretary of Agriculture or the Secretary of the Interior.

(c) Biomass Commercial Use Grant Program.—

(1) In general.—The Secretary concerned may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products to offset the costs incurred to purchase biomass for use by such facility.

(2) Grant amounts.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) Monitoring of grant recipient activities.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(d) Improved Biomass Use Grant Program.—

(1) In general.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) Selection.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy, opportunities for the creation or expansion of small businesses and micro-businesses, and the potential for new job creation.

(3) Grant amount.—A grant under this subsection may not exceed $500,000.

(e) Authorization of Appropriations.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2016 to carry out this section.

(f) Report.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and the use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 1702. ENVIRONMENTAL REVIEW FOR RENEWABLE ENERGY PROJECTS.

(a) Compliance With NEPA for Renewable Energy Projects.—Notwithstanding any other law, in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) with respect to any action authorizing a renewable energy project under the jurisdiction of a Federal agency—

(1) no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative; and

(2) no Federal agency is required to analyze the environmental effects of alternative locations or actions other than those submitted by the project proponent.

(b) Consideration of Alternatives.—In any environmental assessment or environmental impact statement referred to in subsection (a), the Federal agency shall only identify and analyze the environmental effects and potential mitigation measures of—

(1) the proposed action; and

(2) the no action alternative.

(c) Public Comment.—In preparing an environmental assessment or environmental impact statement referred to in subsection (a), the Federal agency shall only consider public comments that specifically address the preferred action and that are filed within 20 days after publication of a draft environmental assessment or draft environmental impact statement. Notwithstanding any other law, compliance with this subsection is deemed to satisfy section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines with respect to proposed renewable energy projects.

(d) Renewable Energy Project Defined.—For purposes of this section, the term "renewable energy project"—

(1) means any proposal to utilize an energy source other than nuclear power, coal, oil, or natural gas; and

(2) includes the use of wind, solar, geothermal, biomass, or tidal forces to generate energy.

SEC. 1703. SENSE OF CONGRESS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LANDS.

It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

TITLE XVIII—GEOTHERMAL ENERGY

SEC. 1801. SHORT TITLE.

This title may be cited as the "John Rishel Geothermal Steam Act Amendments of 2005".

SEC. 1802. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

"SEC. 4. LEASING PROCEDURES.

"(a) Nominations.—The Secretary shall accept nominations of lands available for leasing at any time from qualified companies and individuals under this Act.

"(b) Competitive Lease Sale Required.—The Secretary shall hold a competitive lease sale at least once every 2 years for lands in a State which has nominations pending under subsection (a) if such lands are otherwise available for leasing. Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency are not available for competitive leasing.

"(c) Noncompetitive Leasing.—

"(1) Requirement.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

"(2) STATES WITHOUT NOMINATIONS.—In any State for which there are no nominations received under subsection (a) and having a total acreage under lease or the subject of an application for lease of less than 10,000 acres, the Secretary may designate lands available for 2 years for noncompetitive leasing.

"(d) LEASES SOLD AS A BLOCK.—If information is available to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for such a resource may be offered for bidding as a block in the competitive lease sale.

"(e) AREA SUBJECT TO LEASE FOR GEOTHERMAL RESOURCES.—A geothermal lease for the use of geothermal resources shall embrace not more than the amount of acreage determined by the Secretary to be appropriate.".

SEC. 1803. DIRECT USE.

(a) FEES FOR DIRECT USE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B);

(2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);

(3) by inserting "(a) IN GENERAL.—" after "SEC. 5."; and

(4) by adding at the end the following:

"(b) FEES FOR DIRECT USE.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(1), with respect to the direct use of geothermal resources for purposes other than the commercial generation of electricity, the Secretary of the Interior shall establish a schedule of fees and collect fees pursuant to such a schedule in lieu of royalties. Notwithstanding section 102(a)(9) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(a)(9)), the schedule of fees shall be based upon comparable non-Federal fees charged for direct use of geothermal resources within the State concerned. For direct use by a State or local government for public purposes, the fee charged shall be nominal. Leases in existence on the date of enactment of this subsection shall be modified in order to reflect the provisions of this subsection.

"(2) FINAL REGULATION.—In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek—

"(A) to provide lessees with a simplified administrative system;

"(B) to encourage development of this underutilized energy resource on the Federal estate; and

"(C) to contribute to sustainable economic development opportunities for host communities.".

(b) LEASING FOR DIRECT USE.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is further amended by adding at the end the following:

"(f) LEASING FOR DIRECT USE OF GEOTHERMAL RESOURCES.—Lands leased under this Act exclusively for direct use of geothermal resources shall be leased to any qualified applicant who first applies for such a lease under regulations issued by the Secretary, if—

"(1) the Secretary publishes a notice of the lands proposed for leasing 60 days before the date of the issuance of the lease; and

"(2) the Secretary does not receive in the 60-day period beginning on the date of such publication any nomination to include the lands concerned in the next competitive lease sale.

"(g) AREA SUBJECT TO LEASE FOR DIRECT USE.—A geothermal lease for the direct use of geothermal resources shall embrace not more than the amount of acreage determined by the Secretary to be reasonably necessary for such proposed utilization.".

(c) EXISTING LEASES WITH A DIRECT USE FACILITY.—

(1) APPLICATION TO CONVERT.—Any lessee under a lease under the Geothermal Steam Act of 1970 that was issued before the date of enactment of this Act may apply to the Secretary of the Interior, by not later than 18 months after the date of enactment of this Act, to convert such lease to a lease for direct utilization of geothermal resources in accordance with the amendments made by this section.

(2) CONVERSION.—The Secretary shall approve such an application and convert such a lease to a lease in accordance with the amendments by not later than 180 days after receipt of such application, unless the Secretary determines that the applicant is not a qualified applicant with respect to the lease.

(3) APPLICATION OF NEW LEASE TERMS.—The schedule of fees established under the amendment made by subsection (a)(4) shall apply with respect to payments under a lease converted under this subsection that are due and owing to the United States on or after July 16, 2003.

SEC. 1804. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.

(a) ROYALTY.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

(1) in subsection (a) by striking paragraph (1) and inserting the following:

"(1) a royalty on electricity produced using geothermal resources, other than direct use of geothermal resources, that shall be—

"(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such resources during the first 10 years of production under the lease; and

"(B) not less than 2 and not more than 5 percent of the gross proceeds from the sale of electricity produced from such resources during each year after such 10-year period;"; and

(2) by adding at the end the following:

"(c) FINAL REGULATION ESTABLISHING ROYALTY RATES.—In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek—

"(1) to provide lessees a simplified administrative system;

"(2) to encourage new development;

"(3) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection; and

"(4) to reflect any change in profitability of operations for which royalties will be paid due to the requirements imposed by Federal agencies, including delays.

"(d) CREDITS FOR IN-KIND PAYMENTS OF ELECTRICITY.—The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (30 U.S.C. 191), or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), if—

"(1) the Secretary has approved in advance the contract between the lessee and the State or county government for such in-kind payments;

"(2) the contract establishes a specific methodology to determine the value of such credits; and

"(3) the maximum credit will be equal to the royalty value owed to the State or county that is a party to the contract and the electricity received will serve as the royalty payment from the Federal Government to that entity.".

(b) DISPOSAL OF MONEYS FROM SALES, BONUSES, ROYALTIES, AND RENTS.—Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

"SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

"(a) IN GENERAL.—Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of section 35 of the Mineral Leasing Act (30 U.S.C. 191(b)) and section 5(a)(2) of this Act—

"(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

"(2) 25 percent shall be paid to the County within the boundaries of which the leased lands or geothermal resources are or were located.

"(b) USE OF PAYMENTS.—Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (30 U.S.C. 191).".

(c) NEAR-TERM PRODUCTION INCENTIVE FOR EXISTING LEASES.—

(1) IN GENERAL.—Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the amount of the royalty otherwise required, on any lease issued before the date of enactment of this Act that does not convert to new royalty terms under subsection (e)—

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 4-YEAR APPLICATION.—Paragraph (1) applies only to new commercial production of energy from a facility in the first 4 years of such production.

(d) DEFINITION OF QUALIFIED EXPANSION GEOTHERMAL ENERGY.—In this section, the term "qualified expansion geothermal energy" means geothermal energy produced from a generation facility for which—

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted to reflect any trend, in changes in production during that period).

(e) ROYALTY UNDER EXISTING LEASES.—

(1) IN GENERAL.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 before the date of enactment of this Act may modify the terms of the lease relating to payment of royalties to comply with the amendment made by subsection (a), by applying to the Secretary of the Interior by not later than 18 months after the date of enactment of this Act.

(2) Application of modification.—Such modification shall apply to any use of geothermal resources to which the amendment applies that occurs after the date of that application.

(3) Consultation.—The Secretary—

(A) shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection; and

(B) may establish royalty based on a gross proceeds percentage within the range specified in the amendment made by subsection (a)(1) and with the concurrence of the lessee and the State.

SEC. 1805. EXPEDITING ADMINISTRATIVE ACTION FOR GEOTHERMAL LEASING.

(a) Treatment of Geothermal Leasing With Respect to Federal Land Management Plan Requirements.—Section 15 of the Geothermal Steam Act of 1970 (30 U.S.C. 1014) is amended by adding at the end the following:

"(d) Treatment of Geothermal Leasing Under Federal Land Management Plans.—Geothermal leasing and development of Federal lands in accordance with this Act is deemed to be consistent with the management of National Forest System lands under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) and public lands under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Land and resource management plans and land use plans in effect under such sections on the date of the enactment of this subsection are deemed to be adequate to proceed with the issuance of leases under this Act.".

(b) Lease Applications Pending on January 1, 2005.—

(1) Priority.—It shall be a priority for the Secretary of the Interior, and for the Secretary of Agriculture with respect to National Forest Systems lands, to ensure timely completion of administrative actions necessary to process applications for geothermal leasing pending on January 1, 2005.

(2) Applicable law.—An application referred to in paragraph (1), and any lease issued pursuant to such an application—

(A) except as provided in subparagraph (B), shall be subject to this section as in effect on January 1, 2005; or

(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

SEC. 1806. COORDINATION OF GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) In General.—Not later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act), and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) Lease and Permit Applications.—The memorandum of understanding shall—

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application procession;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on the date of enactment of this Act, including, as necessary, by—

(A) issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application;

(B) making diligent efforts to directly contact the lease applicants (including their heirs, assigns, or estates); and

(C) ensuring that no lease application is rejected except in compliance with all requirements regarding diligent direct contact.

(c) Data Retrieval System.—The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 1807. REVIEW AND REPORT TO CONGRESS.

The Secretary of the Interior shall promptly review and report to Congress not later than 3 years after the date of enactment of this Act regarding the status of all withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of Federal lands, specifying for each such area whether the basis for such withdrawal still applies.

SEC. 1808. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) In General.—The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:

"SEC. 30. REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES.

"(a) In General.—The Secretary of the Interior shall issue regulations under which the Secretary shall reimburse a person that is a lessee, operator, operating rights owner, or applicant for any lease under this Act for reasonable amounts paid by the person for preparation for the Secretary by a contractor or other person selected by the Secretary of any project-level analysis, documentation, or related study required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

"(b) Conditions.—The Secretary may provide reimbursement under subsection (a) only if—

"(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

"(2) the person paid the costs voluntarily;

"(3) the person maintains records of its costs in accordance with regulations issued by the Secretary;

"(4) the reimbursement is in the form of a reduction in the Federal share of the royalty required to be paid for the lease for which the analysis, documentation, or related study is conducted, and is agreed to by the Secretary and the person reimbursed prior to commencing the analysis, documentation, or related study; and

"(5) the agreement required under paragraph (4) contains provisions—

"(A) reducing royalties owed on lease production based on market prices;

"(B) stipulating an automatic termination of the royalty reduction upon recovery of documented costs; and

"(C) providing a process by which the lessee may seek reimbursement for circumstances in which production from the specified lease is not possible.".

(b) Application.—The amendment made by this section shall apply with respect to an analysis, documentation, or a related study conducted on or after the date of enactment of this Act for any lease entered into before, on, or after the date of enactment of this Act.

(c) Deadline for Regulations.—The Secretary shall issue regulations implementing the amendment made by this section by not later than 1 year after the date of enactment of this Act.

SEC. 1809. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

The Secretary of Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall update the 1978 Assessment of Geothermal Resources, and submit that updated assessment to Congress—

(1) not later than 3 years after the date of enactment of this Act; and

(2) thereafter as the availability of data and developments in technology warrant.

SEC. 1810. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

"SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

"(a) Adoption of Units by Lessees.—

"(1) In general.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not any part of the geothermal field, or like area, is then subject to any Unit Agreement (cooperative plan of development or operation)), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a Unit Agreement for such field, or like area, or any part thereof including direct use resources, if determined and certified by the Secretary to be necessary or advisable in the public interest. A majority interest of lessees under any single lease shall have the authority to commit that lease to a Unit Agreement. The Secretary of the Interior may also initiate the formation of a Unit Agreement, if such action is in the public interest.

"(2) Modification of lease requirements by secretary.—The Secretary may, in the discretion of the Secretary, and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of such leases and make conditions with reference to such leases, with the consent of the lessees, in connection with the creation and operation of any such Unit Agreement as the Secretary may deem necessary or proper to secure the proper protection of the public interest. Leases with unlike lease terms or royalty rates do not need to be modified to be in the same unit.

"(b) Requirement of Plans Under New Leases.—The Secretary—

"(1) may provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under such a reasonable Unit Agreement; and

"(2) may prescribe such an Agreement under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

"(c) Modification of Rate of Prospecting, Development, and Production.—The Secretary may require that any

Agreement authorized by this section that applies to lands owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the Agreement to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such an Agreement.

"(d) Exclusion From Determination of Holding or Control.—Any lands that are subject to any Agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under any provision of this Act.

"(e) Pooling of Certain Lands.—If separate tracts of lands cannot be independently developed and operated to use geothermal resources pursuant to any section of this Act—

"(1) such lands, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, for purposes of development and operation under a Communitization Agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if such pooling is determined by the Secretary to be in the public interest; and

"(2) operation or production pursuant to such an Agreement shall be treated as operation or production with respect to each tract of land that is subject to the agreement.

"(f) Unit Agreement Review.—No more than 5 years after approval of any cooperative or Unit Agreement and at least every 5 years thereafter, the Secretary shall review each such Agreement and, after notice and opportunity for comment, eliminate from inclusion in such Agreement any lands that the Secretary determines are not reasonably necessary for Unit operations under the Agreement. Such elimination shall be based on scientific evidence, and shall occur only if it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any land so eliminated shall be eligible for an extension under subsection (g) of section 6 if it meets the requirements for such an extension.

"(g) Drilling or Development Contracts.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by 1 or more lessees of geothermal leases, with 1 or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served thereby. All leases operated under such approved drilling or development contracts, and interests thereunder, shall be excepted in determining holdings or control under section 7.

"(h) Coordination With State Governments.—The Secretary shall coordinate unitization and pooling activities with the appropriate State agencies and shall ensure that State leases included in any unitization or pooling arrangement are treated equally with Federal leases.".

SEC. 1811. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

"(2) a royalty on any byproduct that is a mineral named in the first section of the Mineral Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of such mineral under a lease under that Act;".

SEC. 1812. REPEAL OF AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.

Section 8 of the Geothermal Steam Act of 1970 (30 U.S.C. 1007) is amended by repealing subsection (b), and by redesignating subsection (c) as subsection (b).

SEC. 1813. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

(1) in subsection (a)(2) by inserting "and" after the semicolon at the end;

(2) in subsection (a)(3) by striking "; and" and inserting a period;

(3) by striking paragraph (4) of subsection (a); and

(4) by adding at the end the following:

"(e) Crediting of Rental Toward Royalty.—Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.".

SEC. 1814. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended—

(1) by striking so much as precedes subsection (c), and striking subsections (e), (g), (h), (i), and (j);

(2) by redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i); and

(3) by inserting before subsection (g), as so redesignated, the following:

"SEC. 6. LEASE TERM AND WORK COMMITMENT REQUIREMENTS.

"(a) In General.—

"(1) Primary term.—A geothermal lease shall be for a primary term of 10 years.

"(2) Initial extension.—The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the fifth year of the lease—

"(A) the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year; or

"(B) the lessee paid in accordance with subsection (d) the value of any work that was not completed in accordance with those requirements.

"(3) Additional extension.—The Secretary shall extend the primary term of a geothermal lease (after an initial extension under paragraph (2)) for an additional 5 years if, for each year of the initial extension under paragraph (2), the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year.

"(b) Requirement to Satisfy Annual Work Commitment Requirement.—

"(1) In general.—The lessee for a geothermal lease shall, for each year after the fifth year of the lease, satisfy work commitment requirements prescribed by the Secretary that apply to the lease for that year.

"(2) Prescription of work commitment requirements.—The Secretary shall issue regulations prescribing minimum equivalent dollar value work commitment requirements for geothermal leases, that—

"(A) require that a lessee, in each year after the fifth year of the primary term of a geothermal lease, diligently work to achieve commercial utilization of geothermal resources under the lease;

"(B) describe work that qualifies to meet these requirements and factors, such as force majeure events, that suspend or modify the work commitment obligation;

"(C) carry forward and apply to work commitment requirements for a year, work completed in any year in the preceding 3-year period that was in excess of the work required to be performed in that preceding year;

"(D) establish transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment of this subsection may be extended for up to 2 years—

"(i) to allow achievement of production under the lease; or

"(ii) to allow the lease to be included in a producing unit; and

"(E) establish an annual payment that, at the option of the lessee, may be exercised in lieu of meeting any work requirement for a limited number of years that the Secretary determines will not impair achieving diligent development of the geothermal resource.

"(3) Geothermal lease overlying mining claim.—

"(A) Exemption.—The lessee for a geothermal lease of an area overlying an area subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency is exempt from annual work requirements established under this Act, if development of the geothermal resource subject to the lease would interfere with the mining operations under such claim.

"(B) Termination of exemption.—An exemption under this paragraph expires upon the termination of the mining operations.

"(4) Termination of application of requirements.—Work commitment requirements prescribed under this subsection shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.

"(c) Determination of Whether Requirements Satisfied.—The Secretary shall, by not later than 90 days after the end of each year for which work commitment requirements under subsection (b) apply to a geothermal lease—

"(1) determine whether the lessee has satisfied the requirements that apply for that year;

"(2) notify the lessee of that determination; and

"(3) in the case of a notification that the lessee did not satisfy work commitment requirements for the year, include in the notification—

"(A) a description of the specific work that was not completed by the lessee in accordance with the requirements; and

"(B) the amount of the dollar value of such work that was not completed, reduced by the amount of expenditures made for work completed in a prior year that is carried forward pursuant to subsection (b)(2)(D).

"(d) Payment of Value of Uncompleted Work.—

"(1) In general.—If the Secretary notifies a lessee that the lessee failed to satisfy work commitment requirements under subsection (b), the lessee shall pay to the Secretary, by not later than the end of the 60-day period beginning on the date of the notification, the dollar value of work that was not completed by the lessee, in the amount stated in the notification (as reduced under subsection (c)(3)(B)).

"(2) Failure to pay value of uncompleted work.—If a lessee fails to pay such amount to the Secretary before the end of that period, the lease shall terminate upon the expiration of the period.

"(e) Continuation During Commercial Utilization.—

"(1) In general.—If a geothermal resource that is subject to a geothermal lease is utilized in commercial quantities within the primary term of the lease under subsection (a) (including any extension of the lease under subsection (a)), such lease shall continue until the date on which the geothermal resource is no longer utilized in commercial quantities.

"(2) Continuation of associated leases.—If a geothermal lease is for an area in which there is injected fluid or steam from a nearby geothermal resource for the purpose of maintaining commercial utilization of a geothermal resource, such lease shall continue until such commercial utilization is terminated.

"(f) Conversion of Geothermal Lease to Mineral Lease.—A lessee under a lease for a geothermal resource that has been utilized for commercial production of electricity, has been determined by the Secretary to be incapable of any further commercial utilization, and is producing any valuable byproduct in payable quantities may, within 6 months after such determination—

"(1) convert the lease to a mineral lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), if the lands that are subject to the lease can be leased under that Act for the production of such byproduct; or

"(2) convert the lease to a mining claim under the general mining laws, if the byproduct is a locatable mineral.".

SEC. 1815. ADVANCED ROYALTIES REQUIRED FOR SUSPENSION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:

"(f) Advanced Royalties Required for Suspension of Production.—

"(1) Continuation of lease following cessation of production.—If, at any time after commercial production under a geothermal lease is achieved, production ceases for any cause the lease shall remain in full force and effect—

"(A) during the 1-year period beginning on the date production ceases; and

"(B) after such period if, and so long as, the lessee commences and continues diligently and in good faith until such production is resumed the steps, operations, or procedures necessary to cause a resumption of such production.

"(2) Advance royalties following suspension of production.—If production of heat or energy under a geothermal lease is suspended after the date of any such production for which royalty is required under subsection (a) and the terms of paragraph (1) are not met, the Secretary shall require the lessee, until the end of such suspension, to pay royalty in advance at the monthly pro rata rate of the average annual rate at which such royalty was paid each year in the 5-year-period preceding the date of suspension.

"(3) Limitation on application.—Paragraph (2) shall not apply if the suspension is required or otherwise caused by the Secretary, the Secretary of a military department, a State or local government, or a force majeure.".

SEC. 1816. ANNUAL RENTAL.

(a) Annual Rental Rate.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) in paragraph (3) by striking "$1 per acre or fraction thereof for each year of the lease" and all that follows through the end of the paragraph and inserting "$1 per acre or fraction thereof for each year of the lease through the tenth year in the case of a lease awarded in a noncompetitive lease sale; or $2 per acre or fraction thereof for the first year, $3 per acre or fraction thereof for each of the second through tenth years, in the case of a lease awarded in a competitive lease sale; and $5 per acre or fraction thereof for each year after the 10th year thereof for all leases.".

(b) Termination of Lease for Failure to Pay Rental.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:

"(g) Termination of Lease for Failure to Pay Rental.—

"(1) In general.—The Secretary shall terminate any geothermal lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, upon the expiration of the 45-day period beginning on the date of the failure to pay such rental.

"(2) Notification.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

"(3) Reinstatement.—A geothermal lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of such amount.".

SEC. 1817. DEPOSIT AND USE OF GEOTHERMAL LEASE REVENUES FOR 5 FISCAL YEARS.

(a) Deposit of Geothermal Resources Leases.—Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after the date of enactment of this Act as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970, excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

(b) Use of Deposits.—Subject to appropriations, the Secretary may use amounts deposited under subsection (a) to implement the Geothermal Steam Act of 1970 and this Act.

SEC. 1818. REPEAL OF ACREAGE LIMITATIONS.

Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is repealed.

SEC. 1819. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

(1) By striking "geothermal steam and associated geothermal resources" each place it appears and inserting "geothermal resources".

(2) Section 2(e) (30 U.S.C. 1001(e)) is amended to read as follows:

"(e) 'direct use' means utilization of geothermal resources for commercial, residential, agricultural, public facilities, off-grid generation of electricity, or other energy needs other than the commercial production of electricity; and".

(3) Section 21 (30 U.S.C. 1020) is amended by striking "(a) Within one hundred" and all that follows through "(b) Geothermal" and inserting "Geothermal".

(4) The first section (30 U.S.C. 1001 note) is amended by striking "That this" and inserting the following:

"SEC. 1. SHORT TITLE.

"This".

(5) Section 2 (30 U.S.C. 1001) is amended by striking "Sec. 2. As" and inserting the following:

"SEC. 2. DEFINITIONS.

"As".

(6) Section 3 (30 U.S.C. 1002) is amended by striking "Sec. 3. Subject" and inserting the following:

"SEC. 3. LANDS SUBJECT TO GEOTHERMAL LEASING.

"Subject".

(7) Section 5 (30 U.S.C. 1004) is further amended by striking "Sec. 5.", and by inserting immediately before and above subsection (a) the following:

"SEC. 5. RENTS AND ROYALTIES.".

(8) Section 8 (30 U.S.C. 1007) is amended by striking "Sec. 8. (a) The" and inserting the following:

"SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

"(a) The".

(9) Section 9 (30 U.S.C. 1008) is amended by striking "Sec. 9. If" and inserting the following:

"SEC. 9. BYPRODUCTS.

"If".

(10) Section 10 (30 U.S.C. 1009) is amended by striking "Sec. 10. The" and inserting the following:

"SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

"The".

(11) Section 11 (30 U.S.C. 1010) is amended by striking "Sec. 11. The" and inserting the following:

"SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

"The".

(12) Section 12 (30 U.S.C. 1011) is amended by striking "Sec. 12. Leases" and inserting the following:

"SEC. 12. TERMINATION OF LEASES.

"Leases".

(13) Section 13 (30 U.S.C. 1012) is amended by striking "Sec. 13. The" and inserting the following:

"SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

"The".

(14) Section 14 (30 U.S.C. 1013) is amended by striking "Sec. 14. Subject" and inserting the following:

"SEC. 14. SURFACE LAND USE.

"Subject".

(15) Section 15 (30 U.S.C. 1014) is amended by striking "Sec. 15. (a) Geothermal" and inserting the following:

"SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

"(a) Geothermal".

(16) Section 16 (30 U.S.C. 1015) is amended by striking "Sec. 16. Leases" and inserting the following:

"SEC. 16. REQUIREMENT FOR LESSEES.

"Leases".

(17) Section 17 (30 U.S.C. 1016) is amended by striking "Sec. 17. Administration" and inserting the following:

"SEC. 17. ADMINISTRATION.

"Administration".

(18) Section 19 (30 U.S.C. 1018) is amended by striking "Sec. 19. Upon" and inserting the following:

"SEC. 19. DATA FROM FEDERAL AGENCIES.

"Upon".

(19) Section 21 (30 U.S.C. 1020) is further amended by striking "Sec. 21.", and by inserting immediately before and above the remainder of that section the following:

"SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.".

(20) Section 22 (30 U.S.C. 1021) is amended by striking "SEC. 22. Nothing" and inserting the following:

"SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

"Nothing".

(21) Section 23 (30 U.S.C. 1022) is amended by striking "SEC. 23. (a) All" and inserting the following:

"SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

"(a) All".

(22) Section 24 (30 U.S.C. 1023) is amended by striking "SEC. 24. The" and inserting the following:

"SEC. 24. RULES AND REGULATIONS.

"The".

(23) Section 25 (30 U.S.C. 1024) is amended by striking "SEC. 25. As" and inserting the following:

"SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

"As".

(24) Section 26 is amended by striking "SEC. 26. The" and inserting the following:

"SEC. 26. AMENDMENT.

"The".

(25) Section 27 (30 U.S.C. 1025) is amended by striking "SEC. 27. The" and inserting the following:

"SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

"The".

(26) Section 28 (30 U.S.C. 1026) is amended by striking "SEC. 28. (a)(1) The" and inserting the following:

"SEC. 28. SIGNIFICANT THERMAL FEATURES.

"(a)(1) The".

(27) Section 29 (30 U.S.C. 1027) is amended by striking "SEC. 29. The" and inserting the following:

"SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

"The".

SEC. 1820. INTERMOUNTAIN WEST GEOTHERMAL CONSORTIUM.

(a) PARTICIPATION AUTHORIZED.—The Secretary of Energy, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to address science and science policy issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources on public lands.

(b) MEMBERS.—The consortium referred to in subsection (a) shall—

(1) be known as the "Intermountain West Geothermal Consortium";

(2) be a regional consortium of institutions and government agencies that focuses on building collaborative efforts among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;

(3) include Boise State University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute with the University and Community College System of Nevada, and the Energy and Geoscience Institute at the University of Utah;

(4) be hosted and managed by Boise State University; and

(5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.

(c) FINANCIAL ASSISTANCE.—The Secretary of Energy, acting through the Idaho National Laboratory and subject to the availability of appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

TITLE XIX—HYDROPOWER

SEC. 1901. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior, the Secretary of Energy, and the Secretary of the Army shall jointly conduct a study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretaries shall submit to the Committees on Energy and Commerce, Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, water supply, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 1902. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities, including recreational releases.

SEC. 1903. REPORT IDENTIFYING AND DESCRIBING THE STATUS OF POTENTIAL HYDROPOWER FACILITIES.

(a) REPORT REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Bureau of Reclamation, shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report identifying and describing the status of potential hydropower facilities included in water surface storage studies undertaken by the Secretary for projects that have not been completed or authorized for construction.

(b) REPORT CONTENTS.—The report shall include the following:

(1) Identification of all surface storage studies authorized by Congress since the enactment of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(2) The purposes of each project included within each study identified under paragraph (1).

(3) The status of each study identified under paragraph (1), including for each study—

(A) whether the study is completed or, if not completed, still authorized;

(B) the level of analyses conducted at the feasibility and reconnaissance levels of review;

(C) identifiable environmental impacts of each project included in the study, including to fish and wildlife, water quality, and recreation;

(D) projected water yield from each such project;

(E) beneficiaries of each such project;

(F) the amount authorized and expended;

(G) projected funding needs and timelines for completing the study (if applicable);

(H) anticipated costs of each such project; and

(I) other factors that might interfere with construction of any such project.

(4) An identification of potential hydroelectric facilities that might be developed pursuant to each study identified under paragraph (1).

(5) Applicable costs and benefits associated with potential hydroelectric production pursuant to each study.

TITLE XX—OIL AND GAS—RESOURCES

Subtitle A—Production Incentives

SEC. 2001. DEFINITION OF SECRETARY.

In this subtitle, the term "Secretary" means the Secretary of the Interior.

SEC. 2002. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after the date of enactment of this Act under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other Federal law governing leasing of Federal land for oil and gas development.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States shall, on the demand of the Secretary, be paid in oil or gas. If the Secretary makes such a demand, the following provisions apply to such payment:

(1) SATISFACTION OF ROYALTY OBLIGATION.—Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) MARKETABLE CONDITION.—

(A) IN GENERAL.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(B) DEFINITION OF MARKETABLE CONDITION.—In this paragraph, the term "in marketable condition" means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(3) DISPOSITION BY THE SECRETARY.—The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3))) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) RETENTION BY THE SECRETARY.—The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use oil or gas received as royalty taken in-kind (in this paragraph referred to as "royalty production") to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from the sale of oil taken in-kind, without fiscal year limitation, to pay salaries and other administrative costs directly related to the royalty-in-kind program.

(c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) REPORTS.—

(1) IN GENERAL.—Not later than September 30, 2005, the Secretary shall submit to Congress a report that addresses—

(A) actions taken to develop businesses processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) REPORTS ON OIL OR GAS ROYALTIES TAKEN IN-KIND.—For each of fiscal years 2005 through 2014 in which the United States takes oil or gas royalties in-kind from production in any State or from the outer Continental Shelf, excluding royalties taken in-kind and sold to refineries under subsection (h), the Secretary shall submit to Congress a report that describes—

(A) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-value;

(B) an explanation of the evaluation that led the Secretary to take royalties in-kind from a lease or group of leases, including the expected revenue effect of taking royalties in-kind;

(C) actual amounts received by the United States derived from taking royalties in-kind and costs and savings incurred by the United States associated with taking royalties in-kind, including, but not limited to, administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties in-kind.

(f) DEDUCTION OF EXPENSES.—

(1) IN GENERAL.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the United States Treasury.

(2) ACCOUNTING FOR DEDUCTIONS.—When the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary—

(1) shall consult with a State before conducting a royalty in-kind program under this subtitle within the State, and may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(2) shall consult annually with any State from which Federal oil or gas royalty is being taken in-kind to ensure, to the maximum extent practicable, that the royalty in-kind program provides revenues to the State greater than or equal to those likely to have been received had royalties been taken in-value.

(h) SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not have their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary of Energy may, at the discretion of the Secretary, prorate the oil among refineries described in paragraph (1) in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary in-kind from onshore oil and gas leases may be sold at not less than the market price to any Federal agency.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in-kind from a Federal oil or gas lease on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—

(1) PREFERENCE.—In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit a report to Congress, assessing the effectiveness of granting preferences specified in paragraph (1) and providing a specific recommendation on the continuation of authority to grant preferences.

SEC. 2003. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) DEFINITION OF MARGINAL PROPERTY.—Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this section the term "marginal property" means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 million British thermal units of gas per well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary issues regulations under subsection (e) that prescribe different thresholds or standards, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) when the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) when the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units for 90 consecutive trading days.

(c) REDUCED ROYALTY RATE.—

(1) IN GENERAL.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) PERIOD OF EFFECTIVENESS.—The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (d)(1)(A) shall terminate—

(1) with respect to oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) REGULATIONS PRESCRIBING DIFFERENT RELIEF.—

(1) DISCRETIONARY REGULATIONS.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) MANDATORY REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall by regulation—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters.

(f) SAVINGS PROVISION.—Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

SEC. 2004. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS FOR ULTRA DEEP GAS WELLS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35,000,000,000 cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(2) DEFINITION OF ULTRA DEEP WELL.—In this subsection, the term "ultra deep well" means a well drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(b) ROYALTY INCENTIVE REGULATIONS FOR DEEP GAS WELLS.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes with respect to the production of natural gas from deep wells on leases issued in waters more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico, and in no case shall the suspension volumes for deep wells within 200 to 400 meters of water depth be lower than those for deep wells in shallower waters. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(c) LIMITATION.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

SEC. 2005. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) IN GENERAL.—For all tracts located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico, including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring within 5 years after the date of enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than—

(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters;

(3) 12,000,000 barrels of oil equivalent for each lease in water depths of 1,600 to 2,000 meters; and

(4) 16,000,000 barrels of oil equivalent for each lease in water depths greater than 2,000 meters.

(b) LIMITATION.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

SEC. 2006. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by inserting "and in the Planning Areas offshore Alaska" after "West longitude".

SEC. 2007. OIL AND GAS LEASING IN THE NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) TRANSFER OF AUTHORITY.—

(1) REDESIGNATION.—The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.) is amended by redesignating section 107 (42 U.S.C. 6507) as section 108.

(2) TRANSFER.—The matter under the heading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA" under the heading "ENERGY AND MINERALS" of title I of Public Law 96–514 (42 U.S.C. 6508) is—

(A) transferred to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

(B) designated as section 107 of that Act; and

(C) moved so as to appear after section 106 of that Act (42 U.S.C. 6506).

(b) COMPETITIVE LEASING.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as amended by subsection (a) of this section) is amended—

(1) by striking the heading and all that follows through "*Provided*, That (1) activities" and inserting the following:

"SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.

"(a) IN GENERAL.—Notwithstanding any other provision of law and pursuant to regulations issued by the Secretary, the Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska (referred to in this section as the 'Reserve').

"(b) MITIGATION OF ADVERSE EFFECTS.—Activities";

(2) by striking "Alaska (the Reserve); (2) the" and inserting

"Alaska.

"(c) LAND USE PLANNING; BLM WILDERNESS STUDY.—The";

(3) by striking "Reserve; (3) the" and inserting

"Reserve.

"(d) FIRST LEASE SALE.—The";

(4) by striking "4332); (4) the" and inserting

"4321 et seq.).

"(e) WITHDRAWALS.—The";

(5) by striking "herein; (5) bidding" and inserting

"under this section.

"(f) BIDDING SYSTEMS.—Bidding";

(6) by striking "629); (6) lease" and inserting

"629).

"(g) GEOLOGICAL STRUCTURES.—Lease";

(7) by striking "structures; (7) the" and inserting

"structures.

"(h) SIZE OF LEASE TRACTS.—The";

(8) by striking "Secretary; (8)" and all that follows through "Drilling, production," and inserting

"Secretary.

"(i) TERMS.—

"(1) IN GENERAL.—Each lease shall be—

"(A) issued for an initial period of not more than 10 years; and

"(B) renewed for successive 10-year terms if—

"(i) oil or gas is produced from the lease in paying quantities;

"(ii) oil or gas is capable of being produced in paying quantities; or

"(iii) drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

"(2) RENEWAL OF NONPRODUCING LEASES.—The Secretary shall renew for an additional

10-year term a lease that does not meet the requirements of paragraph (1)(B) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and—

"(A) the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on 1 or more wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development;

"(B) the lessee—

"(i) pays the Secretary a renewal fee of $100 per acre of leased land; and

"(ii) provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future development of the leased land; or

"(C) all or part of the lease—

"(i) is part of a unit agreement covering a lease described in subparagraph (A) or (B); and

"(ii) has not been previously contracted out of the unit.

"(3) APPLICABILITY.—This subsection applies to a lease that—

"(A) is entered into before, on, or after the date of enactment of the Energy Policy Act of 2005; and

"(B) is effective on or after the date of enactment of that Act.

"(j) UNIT AGREEMENTS.—

"(1) IN GENERAL.—For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest.

"(2) PARTICIPATION BY STATE OF ALASKA.—The Secretary shall ensure that the State of Alaska is provided the opportunity for active participation concerning creation and management of units formed or expanded under this subsection that include acreage in which the State of Alaska has an interest in the mineral estate.

"(3) PARTICIPATION BY REGIONAL CORPORATIONS.—The Secretary shall ensure that any Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) is provided the opportunity for active participation concerning creation and management of units that include acreage in which the Regional Corporation has an interest in the mineral estate.

"(4) PRODUCTION ALLOCATION METHODOLOGY.—The Secretary may use a production allocation methodology for each participating area within a unit created for land in the Reserve, State of Alaska land, or Regional Corporation land shall, when appropriate, be based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and a real variation in reservoir producibility across diverse leasehold interests.

"(5) BENEFIT OF OPERATIONS.—Drilling, production,";

(9) by striking "When separate" and inserting the following:

"(6) POOLING.—If separate";

(10) by inserting "(in consultation with the owners of the other land)" after "determined by the Secretary of the Interior";

(11) by striking "thereto; (10) to" and all that follows through "the terms provided therein." and inserting

"to the agreement.

"(k) EXPLORATION INCENTIVES.—

"(1) IN GENERAL.—

"(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), if (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include lands available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) the Secretary determines that the waiver, suspension, or reduction is in the public interest.

"(B) APPLICABILITY.—This paragraph applies to a lease that—

"(i) is entered into before, on, or after the date of enactment of the Energy Policy Act of 2005; and

"(ii) is effective on or after the date of enactment of that Act.";

(12) by striking "The Secretary is authorized to" and inserting the following:

"(2) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may";

(13) by striking "In the event" and inserting the following:

"(3) SUSPENSION OF PAYMENTS.—If";

(14) by striking "thereto; and (11) all" and inserting

"to the lease.

"(l) RECEIPTS.—All";

(15) by redesignating clauses (A), (B), and (C) as clauses (1), (2), and (3), respectively;

(16) by striking "Any agency" and inserting the following:

"(m) EXPLORATIONS.—Any agency";

(17) by striking "Any action" and inserting the following:

"(n) ENVIRONMENTAL IMPACT STATEMENTS.—

"(1) JUDICIAL REVIEW.—Any action";

(18) by striking "The detailed" and inserting the following:

"(2) INITIAL LEASE SALES.—The detailed";

(19) by striking "of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504)"; and

(20) by adding at the end the following:

"(o) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)) or any other provision of law—

"(1) the Secretary of the Interior shall waive administration of any oil and gas lease insofar as such lease covers any land in the National Petroleum Reserve in Alaska in which the subsurface estate is conveyed to the Arctic Slope Regional Corporation; and

"(2) if any such conveyance of such subsurface estate does not cover all the land embraced within any such oil and gas lease—

"(A) the person who owns the subsurface estate in any particular portion of the land covered by such lease shall be entitled to all of the revenues reserved under such lease as to such portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to such particular portion of the land covered by such lease; and

"(B) the Secretary of the Interior shall segregate such lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Arctic Slope Regional Corporation, and operations, production, or other circumstances (other than payment of rentals or royalties) that satisfy obligations of the lessee under, or maintain, either of the segregated leases shall likewise satisfy obligations of the lessee under, or maintain, the other segregated lease to the same extent as if such segregated leases remained a part of the original unsegregated lease.".

SEC. 2008. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

(b) ACTIVITIES.—The program under subsection (a) shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned, or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(c) COOPERATION AND CONSULTATIONS.—In carrying out the program under subsection (a), the Secretary shall—

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(d) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall submit to Congress a plan for carrying out the program under subsection (a).

(e) IDLED WELL.—For the purposes of this section, a well is idled if—

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LAND.—

(1) IN GENERAL.—The Secretary of Energy shall establish a program to provide technical and financial assistance to oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private land.

(2) ASSISTANCE.—The Secretary of Energy shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned or abandoned oil or gas wells on State and private land.

(3) ACTIVITIES.—The program under paragraph (1) shall include—

(A) mechanisms to facilitate identification, if feasible, of the persons currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities;

(C) information and training programs on best practices for remediation of different types of sites; and

(D) funding of State mitigation efforts on a cost-shared basis.

(g) FEDERAL REIMBURSEMENT FOR ORPHANED WELL RECLAMATION PILOT PROGRAM.—

(1) REIMBURSEMENT FOR REMEDIATING, RECLAIMING, AND CLOSING WELLS ON LAND SUBJECT TO A NEW LEASE.—The Secretary shall carry out a pilot program under which, in issuing a new oil and gas lease on federally owned land on which 1 or more orphaned wells are located, the Secretary—

(A) may require, but not as a condition of the lease, that the lessee remediate, reclaim, and close in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(B) shall develop a program to reimburse a lessee, through a royalty credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned well pursuant to that requirement.

(2) REIMBURSEMENT FOR RECLAIMING ORPHANED WELLS ON OTHER LAND.—In carrying out this subsection, the Secretary—

(A) may authorize any lessee under an oil and gas lease on federally owned land to reclaim in accordance with the Secretary's standards—

(i) an orphaned well on unleased federally owned land; or

(ii) an orphaned well located on an existing lease on federally owned land for the reclamation of which the lessee is not legally responsible; and

(B) shall develop a program to provide reimbursement of 115 percent of the reasonable actual costs of remediating, reclaiming, and closing the orphaned well, through credits against the Federal share of royalties or other means.

(3) EFFECT OF REMEDIATION, RECLAMATION, OR CLOSURE OF WELL PURSUANT TO AN APPROVED REMEDIATION PLAN.—

(A) DEFINITION OF REMEDIATING PARTY.—In this paragraph the term "remediating party" means a person who remediates, reclaims, or closes an abandoned, orphaned, or idled well pursuant to this subsection.

(B) GENERAL RULE.—A remediating party who remediates, reclaims, or closes an abandoned, orphaned, or idled well in accordance with a detailed written remediation plan approved by the Secretary under this subsection, shall be immune from civil liability under Federal environmental laws, for—

(i) pre-existing environmental conditions at or associated with the well, unless the remediating party owns or operates, in the past owned or operated, or is related to a person that owns or operates or in the past owned or operated, the well or the land on which the well is located; or

(ii) any remaining releases of pollutants from the well during or after completion of the remediation, reclamation, or closure of the well, unless the remediating party causes increased pollution as a result of activities that are not in accordance with the approved remediation plan.

(C) LIMITATIONS.—Nothing in this section shall limit in any way the liability of a remediating party for injury, damage, or pollution resulting from the remediating party's acts or omissions that are not in accordance with the approved remediation plan, are reckless or willful, constitute gross negligence or wanton misconduct, or are unlawful.

(4) REGULATIONS.—The Secretary may issue such regulations as are appropriate to carry out this subsection.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.

(2) USE.—Of the amounts authorized under paragraph (1), $5,000,000 are authorized for each fiscal year for activities under subsection (f).

SEC. 2009. COMBINED HYDROCARBON LEASING.

(a) SPECIAL PROVISIONS REGARDING LEASING.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

"(i) a lease for exploration for and extraction of tar sand; and

"(ii) a lease for exploration for and development of oil and gas.

"(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $2 per acre.

"(D) The Secretary may waive, suspend, or alter any requirement under section 26 that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.".

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is amended in the second sentence by inserting ", subject to paragraph (2)(B)," after "Secretary".

(c) REGULATIONS.—Not later than 45 days after the date of enactment of this Act, the Secretary shall issue final regulations to implement this section.

SEC. 2010. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

"(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

"(A) support exploration, development, production, transportation, or storage of oil, natural gas, or other minerals;

"(B) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

"(C) use, for energy-related or marine-related purposes, facilities currently or previously used for activities authorized under this Act.

"(2) PAYMENTS.—The Secretary shall establish reasonable forms of payments for any easement or right-of-way granted under this subsection. Such payments shall not be assessed on the basis of throughput or production. The Secretary may establish fees, rentals, bonus, or other payments by rule or by agreement with the party to which the lease, easement, or right-of-way is granted. If a lease, easement, right-of-way, license, or permit under this subsection covers a specific tract of, or regards a facility located on, the outer Continental Shelf and is not an easement or right-of-way for transmission or transportation of energy, minerals, or other natural resources, the Secretary shall pay 50 percent of any amount received from the holder of the lease, easement, right-of-way, license, or permit to the State off the shore of which the geographic center of the area covered by the lease, easement, right-of-way, license, permit, or facility is located, in accordance with Federal law determining the seaward lateral boundaries of the coastal States.

"(3) CONSULTATION.—Before exercising authority under this subsection, the Secretary shall consult with the Secretary of Defense and other appropriate agencies concerning issues related to national security and navigational obstruction.

"(4) COMPETITIVE OR NONCOMPETITIVE BASIS.—

"(A) IN GENERAL.—The Secretary may issue a lease, easement, or right-of-way for energy and related purposes as described in paragraph (1) on a competitive or noncompetitive basis.

"(B) CONSIDERATIONS.—In determining whether a lease, easement, or right-of-way shall be granted competitively or noncompetitively, the Secretary shall consider such factors as—

"(i) prevention of waste and conservation of natural resources;

"(ii) the economic viability of an energy project;

"(iii) protection of the environment;

"(iv) the national interest and national security;

"(v) human safety;

"(vi) protection of correlative rights; and

"(vii) potential return for the lease, easement, or right-of-way.

"(5) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2005, the Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant agencies of the Federal Government and affected States, shall issue any necessary regulations to ensure safety, protection of the environment, prevention of waste, and conservation of the natural resources of the outer Continental Shelf, protection of national security interests, and protection of correlative rights in the outer Continental Shelf.

"(6) SECURITY.—The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to furnish a surety bond or other form of security, as prescribed by the Secretary, and to comply with such other requirements as the Secretary considers necessary to protect the interests of the United States.

"(7) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

“(8) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf designated as a National Marine Sanctuary.”.

(b) CONFORMING AMENDMENT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking the section heading and inserting the following: “LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—”.

(c) SAVINGS PROVISION.—Nothing in the amendment made by subsection (a) requires, with respect to any project—

(1) for which offshore test facilities have been constructed before the date of enactment of this Act; or

(2) for which a request for proposals has been issued by a public authority,

any resubmittal of documents previously submitted or any reauthorization of actions previously authorized.

SEC. 2011. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

(a) SHORT TITLE.—This section may be cited as the “National Geological and Geophysical Data Preservation Program Act of 2005”.

(b) PROGRAM.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material; and

(3) to provide technical and financial assistance related to the archival material.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as the geological survey in the State.

(4) DATA FROM FEDERAL LAND.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data were collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) NATIONAL CATALOG.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in the system; and

(C) the means of accessing the material.

(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities under subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be not more than 50 percent of the total cost of the activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) PROGRAM.—The term “Program” means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) SURVEY.—The term “Survey” means the United States Geological Survey.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2006 through 2010.

SEC. 2012. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after “acreage held in special tar sand areas” the following: “, and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year,”.

SEC. 2013. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION UNDER THE COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) IN GENERAL.—Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended to read as follows:

“APPEALS TO THE SECRETARY

“SEC. 319. (a) NOTICE.—The Secretary shall publish an initial notice in the Federal Register not later than 30 days after the date of the filing of any appeal to the Secretary of a consistency determination under section 307.

“(b) CLOSURE OF RECORD.—

“(1) IN GENERAL.—Not later than the end of the 120-day period beginning on the date of publication of an initial notice under subsection (a), the Secretary shall receive no more filings on the appeal and the administrative record regarding the appeal shall be closed.

“(2) NOTICE.—Upon the closure of the administrative record, the Secretary shall immediately publish a notice that the administrative record has been closed.

“(c) DEADLINE FOR DECISION.—The Secretary shall issue a decision in any appeal filed under section 307 not later than 120 days after the closure of the administrative record.

“(d) APPLICATION.—This section applies to appeals initiated by the Secretary and appeals filed by an applicant.”.

(b) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to any appeal initiated or filed before, on, or after the date of enactment of this Act.

(2) LIMITATION.—Subsection (a) of section 319 of the Coastal Zone Management Act of 1972 (as amended by subsection (a)) shall not apply with respect to an appeal initiated or filed before the date of enactment of this Act.

(c) CLOSURE OF RECORD FOR APPEAL FILED BEFORE DATE OF ENACTMENT.—Notwithstanding section 319(b)(1) of the Coastal Zone Management Act of 1972 (as amended by this section), in the case of an appeal of a consistency determination under section 307 of that Act initiated or filed before the date of enactment of this Act, the Secretary of Commerce shall receive no more filings on the appeal and the administrative record regarding the appeal shall be closed not later than 120 days after the date of enactment of this Act.

SEC. 2014. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) In General.—The Mineral Leasing Act is amended by inserting after section 37 (30 U.S.C. 193) the following:

"REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

"Sec. 38. (a) In General.—The Secretary of the Interior shall issue regulations under which the Secretary shall reimburse a person that is a lessee, operator, operating rights owner, or applicant for any lease under this Act for reasonable amounts paid by the person for preparation for the Secretary by a contractor or other person selected by the Secretary of any project-level analysis, documentation, or related study required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

"(b) Conditions.—The Secretary may provide reimbursement under subsection (a) only if—

"(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

"(2) the person paid the costs voluntarily;

"(3) the person maintains records of its costs in accordance with regulations issued by the Secretary;

"(4) the reimbursement is in the form of a reduction in the Federal share of the royalty required to be paid for the lease for which the analysis, documentation, or related study is conducted, and is agreed to by the Secretary and the person reimbursed prior to commencing the analysis, documentation, or related study; and

"(5) the agreement required under paragraph (4) contains provisions—

"(A) reducing royalties owed on lease production based on market prices;

"(B) stipulating an automatic termination of the royalty reduction upon recovery of documented costs; and

"(C) providing a process by which the lessee may seek reimbursement for circumstances in which production from the specified lease is not possible.".

(b) Application.—The amendment made by this section shall apply with respect to an analysis, documentation, or a related study conducted on or after the date of enactment of this Act for any lease entered into before, on, or after the date of enactment of this Act.

(c) Deadline for Regulations.—The Secretary shall issue regulations implementing the amendment made by this section by not later than 1 year after the date of enactment of this Act.

SEC. 2015. GAS HYDRATE PRODUCTION INCENTIVE.

(a) Purpose.—The purpose of this section is to promote natural gas production from the abundant natural gas hydrate resources on the outer Continental Shelf and Federal lands in Alaska by providing royalty incentives.

(b) Suspension of Royalties.—

(1) In general.—The Secretary of the Interior shall grant royalty relief in accordance with this section for natural gas produced from gas hydrate resources under any lease that is an eligible lease under paragraph (2).

(2) Eligible leases.—A lease shall be an eligible lease for purposes of this section if—

(A) it is issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or is an oil and gas lease issued for onshore Federal lands in Alaska;

(B) it is issued prior to January 1, 2016; and

(C) production under the lease of natural gas from the gas hydrate resources commences prior to January 1, 2018.

(3) Amount of relief.—The Secretary shall grant royalty relief under this section as a suspension volume of at least 50 billion cubic feet of natural gas produced from gas hydrate resources per 9 square mile leased tract. Such relief shall be in addition to any other royalty relief under any other provision applicable to the lease that does not specifically grant a gas hydrate production incentive. The minimum suspension volume under this section for leased tracts that are smaller or larger than nine square miles shall be adjusted on a proportional basis.

(4) Limitation.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

(c) Application.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(d) Rulemakings.—The Secretary shall complete any rulemakings implementing this section within 1 year after the date of enactment of this Act.

(e) Gas Hydrate Resources Defined.—In this section, the term "gas hydrate resources" includes both the natural gas content of gas hydrates within the hydrate stability zone and free natural gas trapped by and beneath the hydrate stability zone.

SEC. 2016. ONSHORE DEEP GAS PRODUCTION INCENTIVE.

(a) Purpose.—The purpose of this section is to promote natural gas production from the abundant onshore deep gas resources on Federal lands by providing royalty incentives.

(b) Suspension of Royalties.—

(1) In general.—The Secretary shall grant royalty relief in accordance with this section for natural gas produced from deep wells spudded after the date of enactment of this Act under any onshore Federal oil and gas lease.

(2) Amount of relief.—The Secretary shall grant royalty relief under this section as a suspension volume determined by the Secretary in an amount necessary to maximize production of natural gas volumes. The maximum suspension volume shall be 50 billion cubic feet of natural gas per lease. Such royalty suspension volume shall be applied beginning with the first dollar of royalty obligation for production on or after the date of enactment of this Act.

(3) Limitation.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

(c) Application.—This section shall apply to any onshore Federal oil and gas lease issued before, on, or after the date of enactment of this Act.

(d) Rulemakings.—

(1) Requirement.—The Secretary shall complete any rulemakings implementing this section within 1 year after the date of enactment of this Act.

(2) Definition of deep well.—Such regulations shall include a definition of the term "deep well" for purposes of this section.

SEC. 2017. ENHANCED OIL AND NATURAL GAS PRODUCTION INCENTIVE.

(a) Findings.—Congress finds the following:

(1) Approximately two-thirds of the original oil in place in the United States remains unproduced.

(2) Enhanced oil and natural gas production from the sequestering of carbon dioxide and other appropriate gases has the potential to increase oil and natural gas production in the United States by 2 million barrels of oil equivalent per day, or more.

(3) Collection of carbon dioxide and other appropriate gases from industrial facilities could provide a significant source of these gases that could be permanently sequestered into oil and natural gas fields.

(4) Such collection could be made economic by providing production incentives to oil and natural gas lessees.

(5) Providing production incentives for enhanced oil and natural gas production would promote significant advances in emissions control and capture technology.

(6) Capturing and productively using industrial emissions of carbon dioxide would help reduce the carbon intensity of the economy.

(7) Enhanced production of oil and natural gas lessens the potential for environmental impacts when compared with development of new oil and natural gas fields because the infrastructure, such as wells, pipelines, and platforms, is generally already in place.

(b) Purpose.—The purpose of this section is—

(1) to promote the capturing, transportation, and injection of produced carbon dioxide, natural carbon dioxide, and other appropriate gases for sequestration into oil and gas fields; and

(2) to promote oil and natural gas production from the abundant resources on the outer Continental Shelf and onshore Federal lands by enhancing recovery of oil or natural gas (or both).

(c) Suspension of Royalties.—

(1) In general.—The Secretary of the Interior shall grant a royalty relief in accordance with this section for production of oil or natural gas (or both) from lands subject to an eligible lease into which the lessee injects carbon dioxide, or other appropriate gas or other matter approved by the Secretary, for the purpose of enhancing recovery of oil or natural gas (or both) from the eligible lease.

(2) Eligible leases.—A lease shall be an eligible lease for purposes of this section if it is a lease for production of oil or gas (or both) from Federal outer Continental Shelf or onshore lands that the Secretary determines may contain a volume of oil or natural gas that would not likely be produced without royalty relief under this subsection.

(3) Amount of relief.—The Secretary shall grant royalty relief under this section as a suspension volume determined by the Secretary in an amount necessary to maximize production of oil and natural gas volumes. The maximum suspension volume shall be 50 billion cubic feet of natural gas, or equivalent oil volume on a Btu basis, or a combination thereof, per eligible lease.

(4) Limitation.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

(d) Application.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(e) Rulemakings.—The Secretary shall complete any rulemakings implementing this provision within 1 year after the date of enactment of this Act.

SEC. 2018. OIL SHALE.

(a) Finding.—Congress finds that oil shale resources located within the United States—

(1) total almost 2 trillion barrels of oil in place; and

(2) are a strategically important domestic resource that should be developed on an accelerated basis to reduce our growing reliance on politically and economically unstable sources of foreign oil imports.

(b) REQUIREMENT TO DEVELOP OIL SHALE LEASING PROGRAM.—The Secretary of the Interior shall develop a Federal commercial oil shale leasing program as soon as practicable and publish a final regulation implementing such program by not later than December 31, 2006.

(c) COMMENCEMENT OF LEASE SALES.—The Secretary shall hold the first oil shale lease sale under such program within 180 days after publishing the final regulation.

(d) REPORT.—Within 90 days after the date of enactment of this Act, the Secretary shall report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on—

(1) the interim actions necessary to—

(A) develop the program under subsection (b);

(B) promulgate the final regulation under subsection (b); and

(C) conduct the first lease sale under the program under subsection (b); and

(2) a schedule for completing such actions.

(e) OIL SHALE LAND EXCHANGES.—

(1) REQUIREMENT.—The Secretary shall identify and pursue to completion oil shale land exchanges, on a value-for-value basis, that will allow qualified oil shale developers to have early access to currently owned Federal oil shale lands and to commence commercial oil shale development.

(2) APPLICABLE LAW.—The Secretary shall conduct land exchanges under this subsection in accordance with the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Federal Land Exchange Facilitation Act of 1988 (43 U.S.C. 1701 note).

SEC. 2019. USE OF INFORMATION ABOUT OIL AND GAS PUBLIC CHALLENGES.

(a) FINDINGS.—Congress finds the following:

(1) The Government Accountability Office (in this section referred to as the "GAO"), in report GAO-05-124, found that the Bureau of Land Management does not systematically gather and use nationwide information on public challenges to manage its oil and gas program.

(2) The GAO found that this failure prevents the Director of the Bureau from assessing the impact of public challenges on the workload of the Bureau of Land Management State offices and eliminates the ability of the Director to make appropriate staffing and funding resource allocation decisions.

(b) REQUIREMENT.—The Secretary of the Interior and the Secretary of Agriculture shall systematically collect and use nationwide information on public challenges to manage the oil and gas programs of the bureaus within their departments. The Secretaries shall gather such information at the planning, leasing, exploration, and development stages, and shall maintain such information electronically with current data.

Subtitle B—Access to Federal Land

SEC. 2021. OFFICE OF FEDERAL ENERGY PROJECT COORDINATION.

(a) ESTABLISHMENT.—The President shall establish the Office of Federal Energy Project Coordination (referred to in this section as the "Office") within the Executive Office of the President in the same manner and with the same mission as the White House Energy Projects Task Force established by Executive Order No. 13212 (42 U.S.C. 13201 note).

(b) STAFFING.—The Office shall be staffed by functional experts from relevant Federal agencies on a nonreimbursable basis to carry out the mission of the Office.

(c) REPORT.—The Office shall transmit an annual report to Congress that describes the activities put in place to coordinate and expedite Federal decisions on energy projects. The report shall list accomplishments in improving the Federal decisionmaking process and shall include any additional recommendations or systemic changes needed to establish a more effective and efficient Federal permitting process.

SEC. 2022. FEDERAL ONSHORE OIL AND GAS LEASING AND PERMITTING PRACTICES.

(a) REVIEW OF ONSHORE OIL AND GAS LEASING PRACTICES.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture with respect to National Forest System lands under the jurisdiction of the Department of Agriculture, shall perform an internal review of current Federal onshore oil and gas leasing and permitting practices.

(2) INCLUSIONS.—The review shall include the process for—

(A) accepting or rejecting offers to lease;

(B) administrative appeals of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease;

(C) considering surface use plans of operation, including the timeframes in which the plans are considered, and any recommendations for improving and expediting the process; and

(D) identifying stipulations to address site-specific concerns and conditions, including those stipulations relating to the environment and resource use conflicts.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall transmit a report to Congress that describes—

(1) actions taken under section 3 of Executive Order No. 13212 (42 U.S.C. 13201 note); and

(2) actions taken or any plans to improve the Federal onshore oil and gas leasing program.

SEC. 2023. MANAGEMENT OF FEDERAL OIL AND GAS LEASING PROGRAMS.

(a) TIMELY ACTION ON LEASES AND PERMITS.—To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing, the Secretary of the Interior (in this section referred to as the "Secretary") shall—

(1) ensure expeditious compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(2) improve consultation and coordination with the States and the public; and

(3) improve the collection, storage, and retrieval of information relating to the leasing activities.

(b) BEST MANAGEMENT PRACTICES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement best management practices to—

(A) improve the administration of the onshore oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(B) ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing.

(2) CONSIDERATIONS.—In developing the best management practices under paragraph (1), the Secretary shall consider any recommendations from the review under section 2022.

(3) REGULATIONS.—Not later than 180 days after the development of best management practices under paragraph (1), the Secretary shall publish, for public comment, proposed regulations that set forth specific timeframes for processing leases and applications in accordance with the practices, including deadlines for—

(A) approving or disapproving resource management plans and related documents, lease applications, and surface use plans; and

(B) related administrative appeals.

(c) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated to carry out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary for each of fiscal years 2006 through 2009—

(1) $40,000,000 to carry out subsections (a) and (b); and

(2) $20,000,000 to carry out subsection (c).

SEC. 2024. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public lands under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System lands under the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of oil and gas lease applications, surface use plans of operation, and applications for permits to drill, including steps for processing surface use plans and applications for permits to drill consistent with the timelines established by the amendment made by section 2028;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts; and

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied.

(c) DATA RETRIEVAL SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture.

(2) RESOURCE MAPPING.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint Geographic Information System mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 2025. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LAND.

(a) ASSESSMENT.—Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "reserve"; and

(ii) by striking "and" after the semicolon; and

(B) by striking paragraph (2) and inserting the following:

"(2) the extent and nature of any restrictions or impediments to the development of the resources, including—

"(A) impediments to the timely granting of leases;

"(B) post-lease restrictions, impediments, or delays on development for conditions of approval, applications for permits to drill, or processing of environmental permits; and

"(C) permits or restrictions associated with transporting the resources for entry into commerce; and

"(3) the quantity of resources not produced or introduced into commerce because of the restrictions.";

(2) in subsection (b)—

(A) by striking "reserve" and inserting "resource"; and

(B) by striking "publically" and inserting "publicly"; and

(3) by striking subsection (d) and inserting the following:

"(d) ASSESSMENTS.—Using the inventory, the Secretary of Energy shall make periodic assessments of economically recoverable resources accounting for a range of parameters such as current costs, commodity prices, technology, and regulations.".

(b) METHODOLOGY.—The Secretary of the Interior shall use the same assessment methodology across all geological provinces, areas, and regions in preparing and issuing national geological assessments to ensure accurate comparisons of geological resources.

SEC. 2026. COMPLIANCE WITH EXECUTIVE ORDER 13211; ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE.

(a) REQUIREMENT.—The head of each Federal agency shall require that before the Federal agency takes any action that could have a significant adverse effect on the supply of domestic energy resources from Federal public land, the Federal agency taking the action shall comply with Executive Order No. 13211 (42 U.S.C. 13201 note).

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish guidance for purposes of this section describing what constitutes a significant adverse effect on the supply of domestic energy resources under Executive Order No. 13211 (42 U.S.C. 13201 note).

(c) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior and the Secretary of Agriculture shall include in the memorandum of understanding under section 2024 provisions for implementing subsection (a) of this section.

SEC. 2027. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) ESTABLISHMENT.—The Secretary of the Interior (in this section referred to as the "Secretary") shall establish a Federal Permit Streamlining Pilot Project (in this section referred to as the "Pilot Project").

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Chief of Engineers of the Army Corps of Engineers for purposes of this section.

(2) STATE PARTICIPATION.—The Secretary may request that the Governors of Wyoming, Montana, Colorado, Utah, and New Mexico be signatories to the memorandum of understanding.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall assign to each of the field offices identified in subsection (d), on a nonreimbursable basis, an employee who has expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) FIELD OFFICES.—The following Bureau of Land Management Field Offices shall serve as the Pilot Project offices:

(1) Rawlins, Wyoming.

(2) Buffalo, Wyoming.

(3) Miles City, Montana

(4) Farmington, New Mexico.

(5) Carlsbad, New Mexico.

(6) Glenwood Springs, Colorado.

(7) Vernal, Utah.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) outlines the results of the Pilot Project to date; and

(2) makes a recommendation to the President regarding whether the Pilot Project should be implemented throughout the United States.

(f) ADDITIONAL PERSONNEL.—The Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq).

(g) SAVINGS PROVISION.—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 2028. DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

"(p) DEADLINES FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.—

"(1) IN GENERAL.—Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

"(A) notify the applicant that the application is complete; or

"(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

"(2) ISSUANCE OR DEFERRAL.—Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

"(A) issue the permit; or

"(B)(i) defer decision on the permit; and

"(ii) provide to the applicant a notice that specifies any steps that the applicant could take for the permit to be issued.

"(3) REQUIREMENTS FOR DEFERRED APPLICATIONS.—

"(A) IN GENERAL.—If the Secretary provides notice under paragraph (2)(B)(ii), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) ISSUANCE OF DECISION ON PERMIT.—If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A).

"(C) DENIAL OF PERMIT.—If the applicant does not complete the requirements within the period specified in subparagraph (A), the Secretary shall deny the permit.

"(q) REPORT.—On a quarterly basis, each field office of the Bureau of Land Management and the Forest Service shall transmit to the Secretary of the Interior or the Secretary of Agriculture, respectively, a report that—

"(1) specifies the number of applications for permits to drill received by the field office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with subsection (p).".

SEC. 2029. CLARIFICATION OF FAIR MARKET RENTAL VALUE DETERMINATIONS FOR PUBLIC LAND AND FOREST SERVICE RIGHTS-OF-WAY.

(a) LINEAR RIGHTS-OF-WAY UNDER FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976.—Section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) is amended by adding at the end the following:

"(k) DETERMINATION OF FAIR MARKET VALUE OF LINEAR RIGHTS-OF-WAY.—

"(1) IN GENERAL.—Effective beginning on the date of the issuance of the rules required by paragraph (2), for purposes of subsection (g), the Secretary concerned shall determine the fair market value for the use of land encumbered by a linear right-of-way granted, issued, or renewed under this title using the valuation method described in paragraphs (2), (3), and (4).

"(2) Revisions.—Not later than 1 year after the date of enactment of this subsection—

"(A) the Secretary of the Interior shall amend section 2803.1–2 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this subsection, to revise the per acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone; and

"(B) the Secretary of Agriculture shall make the same revision for linear rights-of-way granted, issued, or renewed under this title on National Forest System land.

"(3) Updates.—The Secretary concerned shall annually update the schedule revised under paragraph (2) by multiplying the current year's rental per acre by the annual change, second quarter to second quarter (June 30 to June 30) in the Gross National Product Implicit Price Deflator Index published in the Survey of Current Business of the Department of Commerce, Bureau of Economic Analysis.

"(4) Review.—If the cumulative change in the index referred to in paragraph (3) exceeds 30 percent, or the change in the 3-year average of the 1-year Treasury interest rate used to determine per acre rental fee zone values exceeds plus or minus 50 percent, the Secretary concerned shall conduct a review of the zones and rental per acre figures to determine whether the value of Federal land has differed sufficiently from the index referred to in paragraph (3) to warrant a revision in the base zones and rental per acre figures. If, as a result of the review, the Secretary concerned determines that such a revision is warranted, the Secretary concerned shall revise the base zones and rental per acre figures accordingly. Any revision of base zones and rental per acre figure shall only affect lease rental rates at inception or renewal.".

(b) Rights-of-Way Under Mineral Leasing Act.—Section 28(*l*) of the Mineral Leasing Act (30 U.S.C. 185(*l*)) is amended by inserting before the period at the end the following: "using the valuation method described in section 2803.1–2 of title 43, Code of Federal Regulations, as revised in accordance with section 504(k) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(k))".

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

(a) Report to Congress.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Federal Energy Regulatory Commission, shall submit to Congress a joint report—

(A) that addresses—

(i) the location of existing rights-of-way and designated and de facto corridors for oil, gas, and hydrogen pipelines and electric transmission and distribution facilities on Federal land; and

(ii) opportunities for additional oil, gas, and hydrogen pipeline and electric transmission capacity within those rights-of-way and corridors; and

(B) that includes a plan for making available, on request, to the appropriate Federal, State, and local agencies, tribal governments, and other persons involved in the siting of oil, gas, and hydrogen pipelines and electricity transmission facilities Geographic Information System-based information regarding the location of the existing rights-of-way and corridors and any planned rights-of-way and corridors.

(2) Consultations and considerations.—In preparing the report, the Secretary of the Interior and the Secretary of Agriculture shall consult with—

(A) other agencies of Federal, State, tribal, or local units of government, as appropriate;

(B) persons involved in the siting of oil, gas, and hydrogen pipelines and electric transmission facilities; and

(C) other interested members of the public.

(3) Limitation.—The Secretary of the Interior and the Secretary of Agriculture shall limit the distribution of the report and Geographic Information System-based information referred to in paragraph (1) as necessary for national and infrastructure security reasons, if either Secretary determines that the information may be withheld from public disclosure under a national security or other exception under section 552(b) of title 5, United States Code.

(b) Corridor Designations.—

(1) 11 contiguous western states.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall jointly—

(A) designate, under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) and other applicable Federal laws, corridors for oil, gas, and hydrogen pipelines and electricity transmission and facilities on Federal land in the eleven contiguous Western States (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702));

(B) perform any environmental reviews that may be required to complete the designations of corridors for the facilities on Federal land in the eleven contiguous Western States; and

(C) incorporate the designated corridors into—

(i) the relevant departmental and agency land use and resource management plans; or

(ii) equivalent plans.

(2) Other states.—Not later than 4 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall jointly—

(A) identify corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the States other than those described in paragraph (1); and

(B) schedule prompt action to identify, designate, and incorporate the corridors into the land use plan.

(3) Ongoing responsibilities.—The Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, with respect to lands under their respective jurisdictions, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall establish procedures that—

(A) ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land are promptly identified and designated; and

(B) expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within the corridors, taking into account prior analyses and environmental reviews undertaken during the designation of corridors.

(c) Considerations.—In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

(1) improve reliability;

(2) relieve congestion; and

(3) enhance the capability of the national grid to deliver electricity.

(d) Definition of Corridor.—

(1) In general.—In this section and title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.), the term "corridor" means—

(A) a linear strip of land—

(i) with a width determined with consideration given to technological, environmental, and topographical factors; and

(ii) that contains, or may in the future contain, 1 or more utility, communication, or transportation facilities;

(B) a land use designation that is established—

(i) by law;

(ii) by Secretarial Order;

(iii) through the land use planning process; or

(iv) by other management decision; and

(C) a designation made for the purpose of establishing the preferred location of compatible linear facilities and land uses.

(2) Specifications of corridor.—On designation of a corridor under this section, the centerline, width, and compatible uses of a corridor shall be specified.

SEC. 2031. CONSULTATION REGARDING ENERGY RIGHTS-OF-WAY ON PUBLIC LAND.

(a) Memorandum of Understanding.—

(1) In general.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense with respect to lands under their respective jurisdictions, shall enter into a memorandum of understanding to coordinate all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary of Energy shall, to ensure timely review and permit decisions, coordinate such authorizations and reviews with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility.

(2) Contents.—The memorandum of understanding shall include provisions that—

(A) establish—

(i) a unified right-of-way application form; and

(ii) an administrative procedure for processing right-of-way applications, including lines of authority, steps in application processing, and timeframes for application processing;

(B) provide for coordination of planning relating to the granting of the rights-of-way;

(C) provide for an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and

(D) provide for coordination of use of right-of-way stipulations to achieve consistency.

(b) Natural Gas Pipelines.—

(1) In general.—With respect to permitting activities for interstate natural gas

pipelines, the May 2002 document entitled "Interagency Agreement On Early Coordination Of Required Environmental And Historic Preservation Reviews Conducted In Conjunction With The Issuance Of Authorizations To Construct And Operate Interstate Natural Gas Pipelines Certificated By The Federal Energy Regulatory Commission" shall constitute compliance with subsection (a).

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, agencies that are signatories to the document referred to in paragraph (1) shall transmit to Congress a report on how the agencies under the jurisdiction of the Secretaries are incorporating and implementing the provisions of the document referred to in paragraph (1).

(B) CONTENTS.—The report shall address—

(i) efforts to implement the provisions of the document referred to in paragraph (1);

(ii) whether the efforts have had a streamlining effect;

(iii) further improvements to the permitting process of the agency; and

(iv) recommendations for inclusion of State and tribal governments in a coordinated permitting process.

(c) DEFINITION OF UTILITY FACILITY.—In this section, the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system—

(1) for the transportation of—

(A) oil, natural gas, synthetic liquid fuel, or gaseous fuel;

(B) any refined product produced from oil, natural gas, synthetic liquid fuel, or gaseous fuel; or

(C) products in support of the production of material referred to in subparagraph (A) or (B);

(2) for storage and terminal facilities in connection with the production of material referred to in paragraph (1); or

(3) for the generation, transmission, and distribution of electric energy.

SEC. 2032. ELECTRICITY TRANSMISSION LINE RIGHT-OF-WAY, CLEVELAND NATIONAL FOREST AND ADJACENT PUBLIC LAND, CALIFORNIA.

(a) ISSUANCE.—

(1) IN GENERAL.—Not later than 60 days after the completion of the environmental reviews under subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall issue all necessary grants, easements, permits, plan amendments, and other approvals to allow for the siting and construction of a high-voltage electricity transmission line right-of-way running approximately north to south through the Trabuco Ranger District of the Cleveland National Forest in the State of California and adjacent lands under the jurisdiction of the Bureau of Land Management and the Forest Service.

(2) INCLUSIONS.—The right-of-way approvals under paragraph (1) shall provide all necessary Federal authorization from the Secretary of the Interior and the Secretary of Agriculture for the routing, construction, operation, and maintenance of a 500-kilovolt transmission line capable of meeting the long-term electricity transmission needs of the region between the existing Valley-Serrano transmission line to the north and the Telega-Escondido transmission line to the south, and for connecting to future generating capacity that may be developed in the region.

(b) PROTECTION OF WILDERNESS AREAS.—The Secretary of the Interior and the Secretary of Agriculture shall not allow any portion of a transmission line right-of-way corridor identified in subsection (a) to enter any identified wilderness area in existence as of the date of enactment of this Act.

(c) ENVIRONMENTAL AND ADMINISTRATIVE REVIEWS.—

(1) DEPARTMENT OF INTERIOR OR LOCAL AGENCY.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall be the lead Federal agency with overall responsibility to ensure completion of required environmental and other reviews of the approvals to be issued under subsection (a).

(2) NATIONAL FOREST SYSTEM LAND.—For the portions of the corridor on National Forest System lands, the Secretary of Agriculture shall complete all required environmental reviews and administrative actions in coordination with the Secretary of the Interior.

(3) EXPEDITIOUS COMPLETION.—The reviews required for issuance of the approvals under subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

(d) OTHER TERMS AND CONDITIONS.—The transmission line right-of-way shall be subject to such terms and conditions as the Secretary of the Interior and the Secretary of Agriculture consider necessary, based on the environmental reviews under subsection (c), to protect the value of historic, cultural, and natural resources under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture.

(e) PREFERENCE AMONG PROPOSALS.—The Secretary of the Interior and the Secretary of Agriculture shall give a preference to any application or preapplication proposal for a transmission line right-of-way referred to in subsection (a) that was submitted before December 31, 2002, over all other applications and proposals for the same or a similar right-of-way submitted on or after that date.

SEC. 2033. SENSE OF CONGRESS REGARDING DEVELOPMENT OF MINERALS UNDER PADRE ISLAND NATIONAL SEASHORE.

(a) FINDINGS.—Congress finds the following:

(1) Pursuant to Public Law 87-712 (16 U.S.C. 459d et seq.; popularly known as the "Federal Enabling Act") and various deeds and actions under that Act, the United States is the owner of only the surface estate of certain lands constituting the Padre Island National Seashore.

(2) Ownership of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore was never acquired by the United States, and ownership of those interests is held by the State of Texas and private parties.

(3) Public Law 87-712 (16 U.S.C. 459d et seq.)—

(A) expressly contemplated that the United States would recognize the ownership and future development of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore by the owners and their mineral lessees; and

(B) recognized that approval of the State of Texas was required to create Padre Island National Seashore.

(4) Approval was given for the creation of Padre Island National Seashore by the State of Texas through Tex. Rev. Civ. Stat. Ann. Art. 6077(t) (Vernon 1970), which expressly recognized that development of the oil, gas, and other minerals in the subsurface of the lands constituting Padre Island National Seashore would be conducted with full rights of ingress and egress under the laws of the State of Texas.

(b) SENSE OF CONGRESS.—It is the sense of Congress that with regard to Federal law, any regulation of the development of oil, gas, or other minerals in the subsurface of the lands constituting Padre Island National Seashore should be made as if those lands retained the status that the lands had on September 27, 1962.

SEC. 2034. LIVINGSTON PARISH MINERAL RIGHTS TRANSFER.

(a) AMENDMENTS.—Section 102 of Public Law 102-562 (106 Stat. 4234) is amended—

(1) by striking "(a) IN GENERAL.—";

(2) by striking "and subject to the reservation in subsection (b),"; and

(3) by striking subsection (b).

(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of the Interior shall execute the legal instruments necessary to effectuate the amendment made by subsection (a)(3).

Subtitle C—Naval Petroleum Reserves

SEC. 2041. TRANSFER OF ADMINISTRATIVE JURISDICTION AND ENVIRONMENTAL REMEDIATION, NAVAL PETROLEUM RESERVE NUMBERED 2, KERN COUNTY, CALIFORNIA.

(a) ADMINISTRATION JURISDICTION TRANSFER TO SECRETARY OF THE INTERIOR.—Effective on the date of the enactment of this Act, administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 located in Kern County, California, (other than the lands specified in subsection (b)) are transferred from the Secretary of Energy to the Secretary of the Interior for management, subject to subsection (c), in accordance with the general land laws.

(b) EXCLUSION OF CERTAIN RESERVE LANDS.—The transfer of administrative jurisdiction made by subsection (a) does not include the following lands:

(1) That portion of Naval Petroleum Reserve Numbered 2 authorized for disposal under section 3403(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 10 U.S.C. 7420 note).

(2) That portion of the surface estate of Naval Petroleum Reserve Numbered 2 conveyed to the City of Taft, California, by section 2042 of this Act.

(c) PURPOSE OF TRANSFER.—Notwithstanding any other provision of law, the principle purpose of the lands subject to transfer under subsection (a) is the production of hydrocarbon resources, and the Secretary of the Interior shall manage the lands in a fashion consistent with this purpose. In managing the lands, the Secretary of the Interior shall regulate operations only to prevent unnecessary degradation and to provide for ultimate economic recovery of the resources.

(d) CONFORMING AMENDMENT.—Section 3403 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 10 U.S.C 7420 note) is amended by striking subsection (b).

SEC. 2042. LAND CONVEYANCE, PORTION OF NAVAL PETROLEUM RESERVE NUMBERED 2, TO CITY OF TAFT, CALIFORNIA.

(a) CONVEYANCE.—Effective on the date of the enactment of this Act, there is conveyed to the City of Taft, California (in this section referred to as the "City"), all surface right, title, and interest of the United States in and to a parcel of real property consisting of approximately 167 acres located in the N½ of section 18, township 32 south, range 24 east, Mount Diablo meridian, more fully described as Parcels 1 and 2 according to the

Record of Survey filed on July 1, 1974, in Book 11 of Record Surveys at page 68, County of Kern, State of California.

(b) CONSIDERATION.—The conveyance under subsection (a) is made without the payment of consideration by the City.

(c) TREATMENT OF EXISTING RIGHTS.—The conveyance under subsection (a) is subject to valid existing rights, including Federal oil and gas lease SAC—019577.

(d) TREATMENT OF MINERALS.—All coal, oil, gas, and other minerals within the lands conveyed under subsection (a) are reserved to the United States, except that the United States and its lessees, licensees, permittees, or assignees shall have no right of surface use or occupancy of the lands. Nothing in this subsection shall be construed to require the United States or its lessees, licensees, permittees, or assignees to support the surface of the conveyed lands.

(e) INDEMNIFY AND HOLD HARMLESS.—The City shall indemnify, defend, and hold harmless the United States for, from, and against, and the City shall assume all responsibility for, any and all liability of any kind or nature, including all loss, cost, expense, or damage, arising from the City's use or occupancy of, or operations on, the land conveyed under subsection (a), whether such use or occupancy of, or operations on, occurred before or occur after the date of the enactment of this Act.

(f) INSTRUMENT OF CONVEYANCE.—Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall execute, file, and cause to be recorded in the appropriate office a deed or other appropriate instrument documenting the conveyance made by this section.

SEC. 2043. REVOCATION OF LAND WITHDRAWAL.

Effective on the date of the enactment of this Act, the Executive Order of December 13, 1912, which created Naval Petroleum Reserve Numbered 2, is revoked in its entirety.

SEC. 2044. EFFECT OF TRANSFER AND CONVEYANCE.

Nothing in this Act shall be construed——

(1) to impose on the Secretary of Energy any new liability or responsibility that the Secretary of Energy did not bear before the date of the enactment of this Act; or

(2) to increase the level of responsibility of the Secretary of Energy with respect to any responsibility borne by the Secretary of Energy before that date.

Subtitle D—Miscellaneous Provisions

SEC. 2051. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES.

(a) REVIEW.—In consultation with affected private surface owners, oil and gas industry, and other interested parties, the Secretary of the Interior shall undertake a review of the current policies and practices with respect to management of Federal subsurface oil and gas development activities and their effects on the privately owned surface. This review shall include—

(1) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a Federal mineral lease, the private surface owners and the Department;

(2) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304) concerning surface mining of Federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane production; and

(3) recommendations for administrative or legislative action necessary to facilitate reasonable access for Federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) REPORT.—The Secretary of the Interior shall report the results of such review to Congress not later than 180 days after the date of enactment of this Act.

SEC. 2052. ROYALTY PAYMENTS UNDER LEASES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) ROYALTY RELIEF.—

(1) IN GENERAL.—For purposes of providing compensation for lessees and a State for which amounts are authorized by section 6004(c) of the Oil Pollution Act of 1990 (Public Law 101–380), a lessee may withhold from payment any royalty due and owing to the United States under any leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) for offshore oil or gas production from a covered lease tract if, on or before the date that the payment is due and payable to the United States, the lessee makes a payment to the State of 44 cents for every $1 of royalty withheld.

(2) TREATMENT OF AMOUNTS.—Any royalty withheld by a lessee in accordance with this section (including any portion thereof that is paid to the State under paragraph (1)) shall be treated as paid for purposes of satisfaction of the royalty obligations of the lessee to the United States.

(3) CERTIFICATION OF WITHHELD AMOUNTS.—The Secretary of the Treasury shall—

(A) determine the amount of royalty withheld by a lessee under this section; and

(B) promptly publish a certification when the total amount of royalty withheld by the lessee under this section is equal to—

(i) the dollar amount stated at page 47 of Senate Report number 101–534, which is designated therein as the total drainage claim for the West Delta field; plus

(ii) interest as described at page 47 of that Report.

(b) PERIOD OF ROYALTY RELIEF.—Subsection (a) shall apply to royalty amounts that are due and payable in the period beginning on January 1, 2006, and ending on the date on which the Secretary of the Treasury publishes a certification under subsection (a)(4)(B).

(c) DEFINITIONS.—As used in this section:

(1) COVERED LEASE TRACT.—The term "covered lease tract" means a leased tract (or portion of a leased tract)—

(A) lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)); or

(B) lying within such zone but to which such section does not apply.

(2) LESSEE.—The term "lessee"—

(A) means a person or entity that, on the date of the enactment of the Oil Pollution Act of 1990, was a lessee referred to in section 6004(c) of that Act (as in effect on that date of the enactment), but did not hold lease rights in Federal offshore lease OCS–G–5669; and

(B) includes successors and affiliates of a person or entity described in subparagraph (A).

SEC. 2053. DOMESTIC OFFSHORE ENERGY REINVESTMENT.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

"SEC. 32. DOMESTIC OFFSHORE ENERGY REINVESTMENT PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) COASTAL ENERGY STATE.—The term 'Coastal Energy State' means a Coastal State off the coastline of which, within the seaward lateral boundary as determined under section 4, outer Continental Shelf bonus bids or royalties are generated.

"(2) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a county, parish, or other equivalent subdivision of a Coastal Energy State, all or part of which lies within the boundaries of the coastal zone of the State, as identified in the State's approved coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) on the date of the enactment of this section.

"(3) COASTAL POPULATION.—The term 'coastal population' means the population of a coastal political subdivision, as determined by the most recent official data of the Census Bureau.

"(4) COASTLINE.—The term 'coastline' has the same meaning as the term 'coast line' in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

"(5) FUND.—The term 'Fund' means the Secure Energy Reinvestment Fund established by this section.

"(6) LEASED TRACT.—The term 'leased tract' means a tract maintained under section 6 or leased under section 8 for the purpose of drilling for, developing, and producing oil and natural gas resources.

"(7) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—The term 'qualified outer Continental Shelf revenues' means all amounts received by the United States on or after October 1, 2005, from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g), or lying within such zone but to which section 8(g) does not apply, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related interest.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(b) SECURE ENERGY REINVESTMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account which shall be known as the 'Secure Energy Reinvestment Fund'. The Fund shall consist of amounts deposited under paragraph (2).

"(2) DEPOSITS.—For each of fiscal years 2006 through 2015, the Secretary of the Treasury shall deposit into the Fund, subject to appropriations, the following:

"(A) Notwithstanding section 9, all qualified outer Continental Shelf revenues attributable to royalties received by the United States in the fiscal year that are in excess of the following amount:

"(i) $7,000,000,000 in the case of royalties received in fiscal year 2006.

"(ii) $7,100,000,000 in the case of royalties received in fiscal year 2007.

"(iii) $7,300,000,000 in the case of royalties received in fiscal year 2008.

"(iv) $6,900,000,000 in the case of royalties received in fiscal year 2009.

"(v) $7,200,000,000 in the case of royalties received in fiscal year 2010.

"(vi) $7,250,000,000 in the case of royalties received in fiscal year 2011.

"(vii) $8,125,000,000 in the case of royalties received in fiscal year 2012.

"(viii) $8,100,000,000 in the case of royalties received in fiscal year 2013.

"(ix) $9,000,000,000 in the case of royalties received in fiscal year 2014.

"(x) $7,500,000,000 in the case of royalties received in fiscal year 2015.

"(B) Notwithstanding section 9, all qualified outer Continental shelf revenues attributable to bonus bids received by the United States in each of the fiscal years 2006 through 2015 that are in excess of $880,000,000.

"(C) Notwithstanding section 9, in addition to amounts deposited under subparagraphs (A) and (B), $35,000,000 of amounts received by the United States each fiscal year as royalties for oil or gas production on the outer Continental Shelf.

"(D) All interest earned under paragraph (4).

In no event shall deposits under subparagraphs (A) through (C) total more than $50,000,000 per fiscal year.

"(3) DEPOSITS AFTER FISCAL YEAR 2015.—For each fiscal year after fiscal year 2015, the Secretary of the Treasury shall deposit into the Fund the following:

"(A) 25 percent of qualified outer Continental Shelf revenues received by the United States in the preceding fiscal year.

"(B) All interest earned under paragraph (4).

"(4) INVESTMENT.—The Secretary of the Treasury shall invest moneys in the Fund (including interest) in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Such invested moneys shall remain invested until needed to meet requirements for disbursement under this section.

"(c) USE OF SECURE ENERGY REINVESTMENT FUND.—

"(1) IN GENERAL.—(A) The Secretary shall use amounts in the Fund remaining after the application of subsection (d) to pay to each Coastal Energy State, and to coastal political subdivisions of such State, the amount allocated to the State or coastal political subdivision, respectively, under this subsection.

"(B) The Secretary shall make payments under this paragraph in December of 2006, and of each year thereafter, from revenues received by the United States in the preceding fiscal year.

"(2) ALLOCATION.—The Secretary shall allocate amounts deposited into the Fund in a fiscal year, and other amounts determined by the Secretary to be available, among Coastal Energy States, and to coastal political subdivisions of such States, as follows:

"(A)(i) The allocation for each Coastal Energy State shall be calculated based on the ratio of qualified outer Continental Shelf revenues generated off the coastline of the Coastal Energy State to the qualified outer Continental Shelf revenues generated off the coastlines of all Coastal Energy States for the preceding fiscal year.

"(ii) For purposes of this subparagraph, qualified outer Continental Shelf revenues shall be considered to be generated off the coastline of a Coastal Energy State if the geographic center of the lease tract from which the revenues are generated is located within the area formed by the extension of the State's seaward lateral boundaries.

"(B) 35 percent of each Coastal Energy State's allocable share as determined under subparagraph (A) shall be allocated among and paid directly to the coastal political subdivisions of the State by the Secretary based on the following formula:

"(i) 25 percent shall be allocated based on the ratio of each coastal political subdivision's coastal population to the coastal population of all coastal political subdivisions of the Coastal Energy State.

"(ii) 25 percent shall be allocated based on the ratio of each coastal political subdivision's coastline miles to the coastline miles of all coastal political subdivisions of the State. In the case of a coastal political subdivision without a coastline, the coastline of the political subdivision for purposes of this clause shall be one-third the average length of the coastline of the other coastal political subdivisions of the State.

"(iii) 50 percent shall be allocated based on a formula that allocates 75 percent of the funds based on such coastal political subdivision's relative distance from any leased tract used to calculate that State's allocation and 25 percent of the funds based on the relative level of outer Continental Shelf oil and gas activities in a coastal political subdivision to the level of outer Continental Shelf oil and gas activities in all coastal political subdivisions in such State, as determined by the Secretary.

"(d) ADMINISTRATIVE EXPENSES.—Of amounts in the Fund each fiscal year, the Secretary may use up to one-half of one percent for the administrative costs of implementing this section.

"(e) DISPOSITION OF FUNDS.—A Coastal Energy State or coastal political subdivision may use funds provided to such entity under this section for any payment that is eligible to be made with funds provided to States under section 35 of the Mineral Leasing Act (30 U.S.C. 191).".

SEC. 2054. REPURCHASE OF LEASES THAT ARE NOT ALLOWED TO BE EXPLORED OR DEVELOPED.

(a) AUTHORITY TO REPURCHASE AND CANCEL CERTAIN LEASES.—Notwithstanding any other provisions of law, any Federal oil and gas, geothermal, coal, oil shale, or tar sands lease, whether onshore or offshore, issued by the Secretary, or units of such leases if unitized, that by operation of law, including but not limited to denial of a permit request, (1) is not allowed to be explored in the lawful manner requested by the lessee, or (2) if explored resulting in a commercial discovery is not allowed to be developed or produced in the lawful manner requested by the lessee, shall, upon the written request of the lessee and a finding by the Secretary that such lease qualifies, be authorized for repurchase and cancelled by the Secretary. If a permit, approval, or appeal has been expressly denied and the proposal of the lessee is found by the Secretary not to have been in compliance with law, the lessee shall not be entitled to have the lease repurchased and cancelled. However, if the lessee alleges that the Government has failed to act on a proposal of the lessee within the applicable period of time, the Secretary shall make no inquiry or determination as to whether the contents of the request complied with the law, and the Secretary shall restrict the Secretary's findings to whether or not the Government failed to act within the applicable period of time. The Secretary shall make all decisions under this section within 180 days of request. The area covered by any repurchased and cancelled lease shall remain available for future leasing unless otherwise prohibited by law. For purposes of this section, failure to act within a regulatory or statutory timeframe, whether advisory or mandatory, or if none, within a reasonable period of time not to exceed 180 days, on a permit request, administrative appeal, or other request for approval, shall be considered to meet the operation of law requirements of this section. Further, conditions of approval attached to permit approvals shall meet the operation of law requirement of this section if such conditions are not mandated by statute or regulation and not agreed to by the lessee. A lessee shall not be required to exhaust administrative remedies regarding a permit request, administrative appeal, or other required request for approval for the purposes of this section.

(b) DETERMINATION OF A COMMERCIAL DISCOVERY.—The Secretary shall make any required determination of the existence of a commercial resource discovery. For oil and gas, a commercial discovery is a discovery in paying quantities. The Secretary shall be guided in such a determination by precedent, and by written advice, including input from the lessee.

(c) COMPENSATION.—Upon authorization by the Secretary of the repurchase of a lease under this section, a lessee shall be compensated in the amount of the total of lease acquisition costs, rentals, seismic acquisition costs, archeological and environmental studies, drilling costs, and other reasonable expenses on the lease, including expenses incurred in the repurchase process, to the extent that the lessee has not previously been compensated by the United States for such expenses. The lessee shall not be compensated for general overhead expenses, employee salaries, or interest. If the lessee is an assignee, the lessee may not claim the expenses of his assignor. Compensation shall be in the form of a check or electronic transfer from the Department of the Treasury from funds deposited into miscellaneous receipts under the authority of the same Act that authorized the issuance of the lease being repurchased. If the Secretary fails to make the repurchase authorization decision under subsection (a) within the required 180 days and the lease is ultimately repurchased, the compensation due to the lessee shall increase by 25 percent, plus 1 percent for every seven days that the decision is delayed beyond the required 180 days.

(d) DELEGATION OF AUTHORITY AND FINALITY OF DECISIONS.—The Secretary may delegate authority granted by this section only to individuals who have been appointed by the President, by and with the advice and consent of the Senate. A decision under this section by the Secretary, or delegated official, shall be considered the final agency decision.

(e) REGULATIONS.—The Secretary shall issue reasonable regulations implementing this section not later than 1 year after date of enactment of this Act.

(f) SECRETARY.—For purposes of this section, the term "Secretary" means the Secretary of the Interior.

(g) NO PREJUDICE.—This section shall not be interpreted to prejudice any other rights that the lessee would have in the absence of this section.

TITLE XXI—COAL

SEC. 2101. SHORT TITLE.

This title may be cited as the "Coal Leasing Amendments Act of 2005".

SEC. 2102. LEASE MODIFICATIONS FOR CONTIGUOUS COAL LANDS OR COAL DEPOSITS.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended in the first sentence by striking "such lease," and all that follows through the end of the sentence and inserting "such lease.".

SEC. 2103. APPROVAL OF LOGICAL MINING UNITS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

"(i) will ensure the maximum economic recovery of a coal deposit; or "(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.".

SEC. 2104. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

(a) IN GENERAL.—Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended to read as follows:

"(b)(1) Each lease shall be subjected to the condition of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

"(2)(A) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

"(B) Such advance royalties shall be computed—

"(i) based on—

"(I) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

"(II) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and

"(ii) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

"(C) The aggregate number of years during the initial and any extended term of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20.

"(3) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.

"(4) This subsection shall be applicable to any lease or logical mining unit in existence on the date of the enactment of this paragraph or issued or approved after such date.

"(5) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.".

(b) AUTHORITY TO WAIVE, SUSPEND, OR REDUCE ADVANCE ROYALTIES.—Section 39 of the Mineral Leasing Act (30 U.S.C. 209) is amended by striking the last sentence.

SEC. 2105. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking "and not later than three years after a lease is issued,".

SEC. 2106. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

"(4)(A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

"(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance for a coal lease issued before the date of the enactment of the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

"(5) Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due—

"(A) the lease shall automatically terminate; and

"(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.".

SEC. 2107. INVENTORY REQUIREMENT.

(a) REVIEW OF ASSESSMENTS.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall review coal assessments and other available data to identify—

(A) public lands with coal resources;

(B) the extent and nature of any restrictions or impediments to the development of coal resources on public lands identified under paragraph (1); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "compliant coal" means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu; and

(B) the term "supercompliant coal" means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) COMPLETION AND UPDATING OF THE INVENTORY.—The Secretary—

(1) shall complete the inventory under subsection (a) by not later than 2 years after the date of enactment of this Act; and

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 2108. APPLICATION OF AMENDMENTS.

The amendments made by this title apply with respect to any coal lease issued before, on, or after the date of the enactment of this Act.

SEC. 2109. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

The Secretary of the Interior shall—

(1) undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana; and

(2) not later than 6 months after the date of enactment of this Act, report to Congress on alternatives to resolve these conflicts and an identification of a preferred alternative with specific legislative language, if any, required to implement the preferred alternative.

TITLE XXII—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

SEC. 2201. SHORT TITLE.

This title may be cited as the "Arctic Coastal Plain Domestic Energy Security Act of 2005".

SEC. 2202. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres, and as described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) SECRETARY.—The term "Secretary", except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 2203. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this Act and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental

Policy Act of 1969 that apply with respect to prelease activities, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 2202(1).

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 2204. LEASE SALES.

(a) IN GENERAL.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of the enactment of this Act; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 2205. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 2204 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

SEC. 2206. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 2203(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 2207. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 2203, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or

related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on general public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC-ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LANDS.—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

SEC. 2208. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINT.—

(1) DEADLINE.—Subject to paragraph (2), any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title shall be filed in any appropriate district court of the United States—

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of an action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 2209. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

(1) 50 percent shall be paid to the State of Alaska; and

(2) except as provided in section 2212(d) the balance shall be deposited into the Treasury as miscellaneous receipts.

(b) PAYMENTS TO ALASKA.—Payments to the State of Alaska under this section shall be made semiannually.

(c) USE OF BONUS PAYMENTS FOR LOW-INCOME HOME ENERGY ASSISTANCE.—Amounts that are received by the United States as bonuses for leases under this title and deposited into the Treasury under subsection (a)(2) may be appropriated to the Secretary of the Health and Human Services, in addition to amounts otherwise available, to provide assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 2210. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the

Coastal Plain for the transportation of oil and gas.

(b) Terms and Conditions.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) Regulations.—The Secretary shall include in regulations under section 2203(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 2211. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 2212. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) Financial Assistance Authorized.—

(1) In general.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) Eligible entities.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

(b) Use of Assistance.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services; and

(4) establishment of a coordination office, by the North Slope Borough, in the City of Kaktovik, which shall—

(A) coordinate with and advise developers on local conditions, impact, and history of the areas utilized for development; and

(B) provide to the Committee on Resources of the Senate and the Committee on Energy and Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(c) Application.—

(1) In general.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) North slope borough communities.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) Application assistance.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) Establishment of Fund.—

(1) In general.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) Use.—Amounts in the fund may be used only for providing financial assistance under this section.

(3) Deposits.—Subject to paragraph (4), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and royalties under on leases and lease sales authorized under this title.

(4) Limitation on deposits.—The total amount in the fund may not exceed $11,000,000.

(5) Investment of balances.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) Authorization of Appropriations.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

TITLE XXIII—SET AMERICA FREE (SAFE)

SEC. 2301. SHORT TITLE.

This title may be cited as the "Set America Free Act of 2005" or the "SAFE Act".

SEC. 2302. FINDINGS.

Congress finds the following:

(1) The three contiguous North American countries of Canada, Mexico, and the United States share many economic, environmental, and security interests, including being among each others' largest trading partners, similar interests in clean air and clean water, concern about infiltration of terrorists from nations that host terrorist organizations, and interdependent economic systems.

(2) North American energy self-sufficiency is consistent with the shared interests of the three contiguous North American countries and should be achieved through methods that recognize and respect the sovereignty of each of the three contiguous North American countries.

(3) The Energy Information Administration (EIA), in its April 2004 International Energy Outlook, projects that world energy consumption will increase by 54 percent from 2001 to 2025 and that world oil consumption will rise from 77 million barrels per day (Mmbbl/d) in 2001 to 121 Mmbbl/d in 2025.

(4) In the same report, EIA projects that, without a change in governmental policy, the United States oil consumption will rise by 44.4 percent from 19.6 Mmbbl/d (7.15 billion barrels per year (Bbbl/y)) in 2001 to 28.3 Mmbbl/d (10.33 Bbbl/y) in 2025, and that the oil consumption of the three contiguous North American countries of Canada, Mexico, and the United States (in this title referred to as the "three contiguous North American countries") will rise by 47.2 percent from 23.5 Mmbbl/d (8.58 Bbbl/y) in 2001 (30.5 percent of world consumption) to 34.6 Mmbbl/d (12.6 Bbbl/y) in 2025 (28.6 percent of world consumption).

(5) EIA projects that, without a change in governmental policy, oil production in the three contiguous North American countries will rise by 18.8 percent from 15.4 Mmbbl/d (5.6 Bbbl/y) in 2001 (19.4 percent of world production) to 18.3 Mmbbl/d (6.7 Bbbl/y) in 2025 (14.5 percent of world production).

(6) EIA projects that, without a change in governmental policy, the three contiguous North American countries contain 492.7 Bbbls of oil resources (16.8 percent of total world oil resources) (not including unconventional oil resources such as United States oil shale or the overwhelming majority of Canadian oil sands) at the base case oil price, which represents sufficient oil to fully supply the needs of the three contiguous North American countries for 57.4 years based on 2001 oil consumption and 39.1 years based on projected 2025 oil consumption, resulting in an average of approximately 48 years of full supply.

(7) In the same report, EIA projects that, without a change in governmental policy, the United States natural gas consumption will rise by 38.9 percent from 22.6 trillion cubic feet per year (Tcf/y) in 2001 to 31.4 Tcf/y in 2025, and that the natural gas consumption of the three contiguous North American countries will rise by 48.0 percent from 26.9 Tcf/y in 2001 (29.3 percent of world consumption) to 39.8 Tcf/y in 2025 (26.3 percent of world consumption).

(8) EIA projects that, without a change in governmental policy, natural gas production in the three contiguous North American countries will rise by 21.7 percent from 27.6 Tcf/y in 2001 (30.3 percent of world production) to 33.6 Tcf/y in 2025 (22.3 percent of world production), not including Alaskan gas through the natural gas pipeline, gas from gas hydrates, nor expanded coal gasification. The United States Geological Survey estimates that natural gas hydrate resources inplace total 169,000 Tcf in Alaska and its surrounding waters, and approximately 150,000 Tcf off the lower-48 Atlantic, Pacific, and Gulf of Mexico coastlines.

(9) The terrorist attacks in the United States on September 11, 2001, and the subsequent expansion of terrorist organizations in regions outside of North America in areas that are major suppliers of oil, and potential suppliers of liquified natural gas, to the United States have significantly increased the national security and homeland security risks to the United States of relying upon oil and natural gas supply sources located outside of the three contiguous North American countries. The United States imports 60 percent of our oil supplies–the highest in history. After Canada and Mexico, the largest oil suppliers to the United States are Saudi Arabia, Venezuela, Nigeria, Iraq, and Algeria all of which suffer from significant instability.

(10) According to published scientific, technical, and economic reports, the three contiguous North American countries have the

resource base and technical ability to increase production of oil by at least 15 Mmbbl/d by 2025 and 20 Mmbbl/d by 2030 even before increases in coal liquifaction, biofuels, gas-to-liquids, and other methods of creating liquid substitutes for crude oil and crude oil products.

(11) This increase in North American oil production would be derived from a variety of resources including, among others—

(A) the United States oil shale resource base (2 trillion barrels of oil in place out of 2.6 trillion in the world) believed to be capable of eventually producing 10 Mmbbl/d for more than 100 years;

(B) the Canadian Alberta oil sands resource base (1.7 trillion barrels of oil in place), also believed to be capable of eventually producing 10 Mmbbl/d for more than 100 years;

(C) the United States heavy oil resource base (80 billion barrels of oil in place);

(D) the remaining 400 billion barrels of conventional oil in place in the United States of which 60 billion barrels are potentially producible with advanced CO2 enhanced oil recovery technology;

(E) the United States oil sands resource base of 54 billion barrels of oil in place;

(F) the Arctic National Wildlife Refuge Coastal Plain area (ANWR) with a mean technically recoverable resource of more than 10 billion barrels of oil;

(G) the National Petroleum Reserve-Alaska (NPR-A) with a mean technically recoverable resource of 9.3 billion barrels of oil;

(H) the 12–18 billion barrels of oil likely to be producible in the Canadian Atlantic offshore;

(I) the extensive resources of the Canadian Arctic onshore and offshore;

(J) the extensive resources in the Alaskan Arctic offshore and the outer Continental Shelf offshore the lower-48 United States;

(K) other extensive oil resources in Canada and the United States; and

(L) the extensive oil resources of Mexico.

(12) In addition to being the "Saudi Arabia" of oil shale with at least 75 percent of the world's oil shale resource base, the United States is also the "Saudi Arabia" of coal. The EIA estimates that total economically recoverable reserves of coal around the world are 1,083 billion short tons–enough to last approximately 210 years at current consumption levels. EIA estimates that the economically recoverable coal reserves of the United States, at 25 percent of total world reserves, are the largest in the world. Total United States coal resources are vastly larger than the 270 billion short tons of economically recoverable reserves, and with new technology much more could economically be made available to supply our energy needs. World consumption of coal in 2001 was 5.26 billion short tons and is projected to grow to 7.57 billion short tons in 2025. 70 percent of the increased world consumption is projected to be attributable to China and India. United States consumption of coal in 2001 was 1.06 billion short tons and is projected to grow to 1.57 billion short tons in 2025.

(13) Growth in world oil consumption has been outstripping growth in world production of conventional oil resources for several primary reasons, including that conventional oil production in most oil producing countries has peaked and is now declining, and developing nations such as China and India are greatly accelerating their consumption of crude oil.

(14) The recent increases in world oil prices are caused by the faster growth in demand over supply and this trend is likely to continue because the remaining conventional oil is more difficult and expensive to find and produce, and frequently not reasonably available.

(15) The National Intelligence Council, an advisor to the Central Intelligence Agency, found in its report, "Mapping the Global Future," NIC 2004-13, December 2004, that "Continued limited access of the international oil companies to major fields could restrain this investment necessary for supply to meet demand, however, and many of the areas—the Caspian Sea, Venezuela, West Africa, and South China Sea—that are being counted on to provide increased output involve substantial political or economic risk. Traditional suppliers in the Middle East are also increasingly unstable. Thus sharper demand-driven competition for resources, perhaps accompanied by a major disruption of oil supplies, is among the key uncertainties. China and India, which lack adequate domestic energy resources, will have to ensure continued access to outside suppliers; thus, the need for energy will be a major factor in shaping their foreign and defense policies, including expanding naval power".

(16) Because the price of crude oil is set on a world market basis, the excess of world demand over supply will continue to drive up oil prices to levels potentially several times those of today unless all nations capable of producing significant quantities of incremental oil respond by ensuring such production is developed and available for consumption on an expedited basis.

(17) The eventual, long-term solution is to drastically reduce the world's reliance on oil as the primary fuel for transportation (40 percent of the United States consumption of oil is to power light motor vehicles).

(18) North America, while maximizing the production of oil, must use the next 40 years as a transition period to a more sustainable energy model.

(19) The United States also has large renewable energy resource potential including wind, geothermal, solar, biomass, ocean thermal, waves and currents, and hydroelectric. The EIA's July 2004 report, "Renewable Energy Trends 2003", found that renewable energy provided 6 percent of the Nation's energy supply in 2003. The largest renewable energy source was biomass with 47 percent of the renewables total energy output, followed closely by hydroelectric with 45 percent, then geothermal with 5 percent, wind with 2 percent, and solar with 1 percent. Technology is rapidly advancing, positioning renewable energy to provide an increasing share of our energy supply in the residential, commercial, industrial, transportation, and electric power sectors. The United States public lands and waters comprise 2.25 billion acres, large portions of which may be available to rapidly expand this clean and renewable alternative to fossil energy resources. These lands should be reviewed for their potential contribution to our Nation's domestic energy security.

(20) The United States has the strongest environmental safeguards in the world, and our standards, science, and technology have proven that the United States can produce energy in an environmentally benign manner, particularly when compared with the lesser environmental standards in most foreign oil producing countries.

(21) The 1999 Clinton Administration report, "Environmental Benefits of Advanced Oil and Gas Exploration and Production Technology," highlights the technological achievements of the United States oil and gas industry. The report noted, "public awareness of the significant and impressive environmental benefits from new exploration and production (E&P) technology advances remains limited. . . . We believe it is important to tell this remarkable story of environmental progress in E&P technology. Greater awareness of the industry's achievements in environmental protection will provide the context for effective policy, and for informed decision making by both the private and public sectors.".

(22) Many Americans believe the myth that spills from oil and natural gas exploration and production are the leading cause of oil pollution in the oceans and the Nation's rivers and streams. The reality is that, to the contrary, in 2002 the National Academy of Sciences found that offshore oil and natural gas exploration and production account for a total of only 2 percent of the oil in the North American marine environment: natural sources such as oil seeps account for 63 percent of such oil; industrial and municipal discharges, including urban runoff, account for 22 percent of such oil; atmospheric pollution accounts for 8 percent of such oil; marine transportation accounts for 3 percent of such oil; and recreational vessels account for 2 percent of such oil.

(23) Various national security organizations and experts have warned the United States of the escalating risks to our national security of relying on transoceanic oil imports from unstable regions of the world for a significant part of our oil supplies, and they have urged the Nation to reduce its dependence on oil.

(24) Polls consistently have found that a majority of individuals in the United States strongly support reducing our reliance on foreign energy sources.

(25) A recent report on "Energy and National Security" issued by Sandia National Laboratories, SAND2003-3287, September 2003, found that our national security is threatened by our continued reliance on vast quantities of oil from unstable foreign sources. The report found that supply disruptions, caused by terrorists or otherwise, could immediately remove many millions of barrels of oil per day from the world supply, and noted that the EIA has estimated that for every one million bbl/d of oil supply disrupted, world oil prices might increase $3–$5 per barrel. Sandia found six solution options, including—

(A) maintenance of strategic reserves;

(B) support of foreign government regimes likely to maintain production;

(C) military deterrence, protection, or intervention to secure production sources and facilities;

(D) diversification of production sources;

(E) reduction of oil intensity through conservation or through more efficient energy use; and

(F) development and deployment of alternatives to oil (or gas).

Sandia noted "that none of these measures seems likely to emerge from business-as-usual market processes. Thus implementation of these measures will usually require public policy decisions. In the case of the first three, they would be foreign and military policy decisions; in the case of the latter three, they would be legal, regulatory, or governmental subsidy decisions." Sandia mentioned oil shale and tar sands as potential diversified sources of oil supplies, and hydrogen, coal, renewables, nuclear fission, and methane hydrates as alternatives to oil.

(26) President Clinton concluded, on February 16, 1995, under section 232 of the Trade Expansion Act of 1962, that ". . . the nation's

growing reliance on imports of crude oil and refined petroleum products threaten the nation's security because they increase U.S. vulnerability to oil supply interruptions.". In 1994 crude oil imports were 7.051 million barrels per day. On March 24, 2000, President Clinton, upon further review under section 232, found, "I have reviewed and approved the findings of your investigative report . . . that imports of crude oil threaten to impair the national security.". Between the two statements by President Clinton, United States crude oil imports increased 21.6 percent to 8.581 million barrels per day in 1999.

(27) Economists have found that while OPEC is an important source of oil price increases, the United States government is also partly to blame because overly burdensome government regulations on domestic energy exploration, production, and sales have supported OPEC's monopoly power and restricted competition from American energy companies, in addition to making expansive highly prospective areas off-limits to leasing and production.

(28) In addition to jeopardizing our national and energy security, importing the majority of our oil also injures our economic security. The United States imported approximately 4.7 billion barrels of oil in 2004, of which 1.4 billion barrels were from Canada and Mexico. Imported energy creates very few jobs in the United States and makes only a very minor contribution to our Gross Domestic Product (GDP). If we substitute North American production for the remaining 3.3 billion barrels of imports per year, at $40 per barrel the new production would sell for $132 billion. A widely used commercial economics model projects that GDP would increase by $336 billion, creating 1,667,160 jobs, each with an average total annual compensation of $50,356. Further, such activity is projected to generate approximately $22 billion in indirect business taxes, including sales, excise, and severance taxes. At a one-eighth royalty, total royalty payments to mineral rights owners would approximate $16.5 billion per year. Further, our imported energy represents more than 25 percent of our international trade deficit. American production could eliminate two-thirds of the 25 percent, strengthening our economy.

SEC. 2303. PURPOSE.

The purpose of this title is to establish a United States commission to make recommendations for a coordinated and comprehensive North American energy policy that will achieve energy self-sufficiency by 2025 within the three contiguous North American nation area of Canada, Mexico, and the United States.

SEC. 2304. UNITED STATES COMMISSION ON NORTH AMERICAN ENERGY FREEDOM.

(a) ESTABLISHMENT.—There is hereby established the United States Commission on North American Energy Freedom (in this title referred to as the "Commission"). The Federal Advisory Committee Act (5 U.S.C. App.), except sections 3, 7, and 12, does not apply to the Commission.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 16 members appointed by the President from among individuals described in paragraph (2) who are knowledgeable on energy issues, including oil and gas exploration and production, crude oil refining, oil and gas pipelines, electricity production and transmission, coal, unconventional hydrocarbon resources, fuel cells, motor vehicle power systems, nuclear energy, renewable energy, biofuels, energy efficiency, and energy conservation. The membership of the Commission shall be balanced by area of expertise to the extent consistent with maintaining the highest level of expertise on the Commission. Members of the Commission may be citizens of Canada, Mexico, or the United States, and the President shall ensure that citizens of all three nations are appointed to the Commission.

(2) NOMINATIONS.—The President shall appoint the members of the Commission within 60 days after the effective date of this Act, including individuals nominated as follows:

(A) 4 members shall be appointed from amongst individuals independently determined by the President to be qualified for appointment.

(B) 4 members shall be appointed from a list of 8 individuals who shall be nominated by the majority leader of the Senate in consultation with the chairman of the Committee on Energy and Natural Resources of the Senate.

(C) 4 members shall be appointed from a list of 8 individuals who shall be nominated by the Speaker of the House of Representatives in consultation with the chairmen of the Committees on Energy and Commerce and Resources of the House of Representatives.

(D) 2 members shall be appointed from a list of 4 individuals who shall be nominated by the minority leader of the Senate in consultation with the ranking Member of the Committee on Energy and Natural Resources of the Senate.

(E) 2 members shall be appointed from a list of 4 individuals who shall be nominated by the minority leader of the House in consultation with the ranking Members of the Committees on Energy and Commerce and Resources of the House of Representatives.

(3) CHAIRMAN.—The chairman of the Commission shall be selected by the President. The chairman of the Commission shall be responsible for—

(A) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(B) the use and expenditure of funds available to the Commission.

(4) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner as the original incumbent was appointed.

(c) RESOURCES.—In carrying out its functions under this section, the Commission—

(1) is authorized to secure directly from any Federal agency or department any information it deems necessary to carry out its functions under this Act, and each such agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information (other than information described in section 552(b)(1)(A) of title 5, United States Code) to the Commission, upon the request of the Commission;

(2) may enter into contracts, subject to the availability of appropriations for contracting, and employ such staff experts and consultants as may be necessary to carry out the duties of the Commission, as provided by section 3109 of title 5, United States Code; and

(3) shall establish a multidisciplinary science and technical advisory panel of experts in the field of energy to assist the Commission in preparing its report, including ensuring that the scientific and technical information considered by the Commission is based on the best scientific and technical information available.

(d) STAFFING.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary for the Commission to perform its duties. The executive director shall be compensated at a rate not to exceed the rate payable for Level IV of the Executive Schedule under chapter 5136 of title 5, United States Code. The chairman shall select staff from among qualified citizens of Canada, Mexico, and the United States of America.

(e) MEETINGS.—

(1) ADMINISTRATION.—All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—

(A) NOTICE.—All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(B) MINUTES.—Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(3) INITIAL MEETING.—The Commission shall hold its first meeting within 30 days after all 16 members have been appointed.

(f) REPORT.—Within 12 months after the effective date of this Act, the Commission shall submit to Congress and the President a final report of its findings and recommendations regarding North American energy freedom.

(g) ADMINISTRATIVE PROCEDURE FOR REPORT AND REVIEW.—Chapter 5 and chapter 7 of title 5, United States Code, do not apply to the preparation, review, or submission of the report required by subsection (f).

(h) TERMINATION.—The Commission shall cease to exist 90 days after the date on which it submits its final report.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this chapter a total of $10,000,000 for the 2 fiscal-year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 2305. NORTH AMERICAN ENERGY FREEDOM POLICY.

Within 90 days after receiving and considering the report and recommendations of the Commission under section 2304, the President shall submit to Congress a statement of proposals to implement or respond to the Commission's recommendations for a coordinated, comprehensive, and long-range national policy to achieve North American energy freedom by 2025.

TITLE XXV—GRAND CANYON HYDROGEN-POWERED TRANSPORTATION DEMONSTRATION

SEC. 2501. SHORT TITLE.

This title may be cited as the "Grand Canyon Hydrogen-Powered Transportation Demonstration Act of 2005".

SEC. 2502. DEFINITIONS.

For purposes of this title, the term—

(1) "Departments" means the Department of Energy jointly with the Department of the Interior; and

(2) "Secretaries" means the Secretary of Energy jointly with the Secretary of the Interior.

SEC. 2503. FINDINGS.

The Congress finds that—

(1) there is a need for a research and development program to support and foster the development, demonstration, and deployment of emerging hydrogen-based transportation technologies suitable for use in sensitive resource areas;

(2) partnerships between the Department of Energy, the Department of the Interior, Native American Tribes, and United States industry to develop hydrogen-based energy technologies can provide significant benefits to our Nation, including enhancing our environmental stewardship, reducing our dependence on foreign oil, increasing our energy security, as well as creating jobs for United States workers and improving the competitive position of the United States in the global economy; and

(3) when technologically and economically feasible, the implementation of clean, silent or nearly silent, hydrogen-based transportation technologies would further resource stewardship and experiential goals in sensitive resource areas including units of the National Park System, such as Grand Canyon National Park.

SEC. 2504. RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretaries shall jointly establish and carry out a research and development program, in partnership with the private sector, relating to hydrogen-based transportation technologies suitable for operations in sensitive resource areas such as national parks. The Secretaries, in partnership with the private sector, shall conduct a demonstration of hydrogen-based public transportation technology at Grand Canyon National Park within three years after the date of enactment of this Act. At his discretion, the Secretary of Energy may choose to extend existing Department of Energy hydrogen-related vehicle research and development programs in order to meet the objectives and requirements of this title. The Secretaries shall provide preference to tribal entities in the establishment of the research and development program.

(b) OBJECTIVE.—The objective of the program shall be to research, develop, and demonstrate, in cooperation with affected and related industries, a hydrogen-based alternative public transportation system suitable for operations within Grand Canyon National Park, that meets the following standards:

(1) Silent or near-silent operation.

(2) Low, ultra low, or zero emission of pollutants.

(3) Reliability.

(4) Safe conveyance of passengers and operator.

(c) PARTNERSHIP.—In order to accomplish the objective set forth in subsection (b), the Secretaries shall establish a partnership among the Departments, manufacturers, other affected or related industries, Native American Tribes, and the National Park Service shuttle operators and tour operators authorized to provide services in Grand Canyon National Park.

SEC. 2505. REPORTS TO CONGRESS.

One year after the date of enactment of this Act, and annually thereafter for the duration of the program, the Secretaries shall submit a report to the Committees on Appropriations, Resources, and Energy and Commerce of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate describing the ongoing activities of the Secretaries and the Departments relating to the program authorized under this title and, to the extent practicable, the activities planned for the coming fiscal year.

SEC. 2506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretaries to carry out this title, in addition to any amounts made available for these or related purposes under other Acts, $400,000 per year for three consecutive fiscal years beginning with the full fiscal year following the date of enactment of this Act.

TITLE XXVI—ADDITIONAL PROVISIONS

SEC. 2601. LIMITATION ON REQUIRED REVIEW UNDER NEPA.

(a) LIMITATION ON REVIEW.—Action by the Secretary of the Interior in managing the public lands with respect to any of the activities described in subsection (b) shall not be subject to review under section 102(2)(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), if the activity is conducted for the purpose of exploration or development of a domestic Federal energy source.

(b) ACTIVITIES DESCRIBED.—The activities referred to in subsection (a) are the following:

(1) Geophysical exploration that does not require road building.

(2) Individual surface disturbances of less than 5 acres.

(3) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously.

(4) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to the National Environmental Policy Act of 1969 analyzed such drilling as a reasonably foreseeable activity.

(5) Disposal of water produced from an oil or gas well, if the disposal is in compliance with a permit issued under the Federal Water Pollution Control Act.

(6) Placement of a pipeline in an approved right-of-way corridor.

(7) Maintenance of a minor activity, other than any construction or major renovation of a building or facility.

SEC. 2602. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) ENERGY EFFICIENT BUILDINGS.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

(c) ENERGY EFFICIENT VEHICLES.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

The CHAIRMAN. No amendment to the bill shall be in order except those printed in House Report 109–49.

Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109–49.

AMENDMENT NO. 1 OFFERED BY MR. HALL

Mr. HALL. Madam Chairman, I rise as the designee of the chairman and I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 Offered by Mr. HALL:

In the item in the table of contents relating to section 142, strike "cdbg" and insert "CDBG".

In section 105(a)(1), strike "Section 801(a)" and insert "Section 801(a)(2)".

In section 105(a)(1), strike "(42 U.S.C. 8287(a))" and insert "(42 U.S.C. 8287(a)(2))".

In section 105(a)(1), in the proposed subparagraph (E), insert "and report to the Office of Management and Budget" after "shall meet monthly".

In section 105(a)(1), in the proposed subparagraph (E), insert "No Federal agency shall enter into a contract under this title unless the Office of Management and Budget has approved such contract." after "contracts are not exceeded.".

In section 105, strike subsections (c), (d), (e), (f), and (g), and redesignate subsection (h) as subsection (c).

In section 133(b), in the proposed subsection (f), strike "for suspended ceiling fans,"; and strike the last sentence.

In section 133(c), in the proposed subsection (v), strike "SUSPENDED CEILING FANS, VENDING MACHINES." and insert "VENDING MACHINES" in the subsection heading.

In section 133(c), in the proposed subsection (v), strike "suspended ceiling fans, refrigerated bottled or canned beverage vending machines," and insert "refrigerated bottled or canned beverage vending machines".

In section 136, strike "Section 327" and insert "Effective 3 years after the date of enactment of this Act, section 327".

In section 136, redesignate the proposed subsection (h) as subsection (i).

In section 136, in the proposed subsection (i)(1) (as so redesignated by the preceding amendment), strike "or revised" both places it appears.

In section 148 of the bill, strike subparagraph (B) of paragraph (1) and insert the following:

(B) in paragraph (2), by inserting ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" after "90.1–1989')";

In section 148 of the bill, strike subparagraph (B) of paragraph (2) and all that follows through the end of paragraph (3) and insert the following:

(B) by inserting ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" before the period at the end; and

(3) in subsection (c)—

(A) in the heading, by inserting "AND THE INTERNATIONAL ENERGY CONSERVATION CODE" after "MODEL ENERGY CODE"; and

(B) by inserting ", or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" after "1989".

In section 205(a), in the proposed section 570(a)(1), strike "Secretary" and insert "Administrator of General Services".

In section 205(a), in the proposed section 570(a)(4), strike "Secretary" and insert "Administrator".

In section 205(a), in the proposed section 570(b)(1), strike "Secretary" and insert "Administrator".

In section 205(a), in the proposed section 570(b)(2), strike "Secretary" and insert "Administrator".

In section 205(a), strike "Part 4 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8271 et seq.)" and insert "Subchapter VI of chapter 31 of title 40, United States Code,".

In section 205(a), at the beginning of the quoted material, strike "**sec. 570.**" and insert "**§3177.**".

Strike section 206 (and amend the table of contents accordingly).

Strike section 244 (and amend the table of contents accordingly).

Strike section 245 (and amend the table of contents accordingly).

In title III, after section 330, insert the following new section (and amend the table of contents accordingly):

SEC. 332. NATURAL GAS MARKET REFORM.

(a) Clarification of Existing CFTC Authority.—

(1) False reporting.—Section 9(a)(2) of the Commodity Exchange Act (7 U.S.C. 13(a)(2)) is amended by striking "false or misleading or knowingly inaccurate reports" and inserting "knowingly false or knowingly misleading or knowingly inaccurate reports".

(2) Commission administrative and civil authority.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by redesignating subsection (f) as subsection (e), and adding:

"(f) Commission Administrative and Civil Authority.—The Commission may bring administrative or civil actions as provided in this Act against any person for a violation of any provision of this section including, but not limited to, false reporting under subsection (a)(2).".

(3) Effect of amendments.—The amendments made by paragraphs (1) and (2) restate, without substantive change, existing burden of proof provisions and existing Commission civil enforcement authority, respectively. These clarifying changes do not alter any existing burden of proof or grant any new statutory authority. The provisions of this section, as restated herein, continue to apply to any action pending on or commenced after the date of enactment of this Act for any act, omission, or violation occurring before, on, or after, such date of enactment.

(b) Fraud Authority.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking subsection (a) and inserting the following:

"(a) It shall be unlawful—

"(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

"(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to section 5a(g) (1) and (2) of this Act, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

"(A) to cheat or defraud or attempt to cheat or defraud such other person;

"(B) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for such other person any false record;

"(C) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of subsection (a)(2), with such other person; or

"(D)(i) to bucket an order if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market; or

"(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of such other person to become the buyer in respect to any selling order of such other person, or become the seller in respect to any buying order of such other person, if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market.

"(b) Subsection (a)(2) shall not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to section 5a(g) (1) and (2) of this Act, with another person, to disclose to such other person nonpublic information that may be material to the market price of such commodity or transaction, except as necessary to make any statement made to such other person in connection with such transaction, not misleading in any material respect.".

(c) Jurisdiction of the CFTC.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by adding at the end:

"SEC. 26. JURISDICTION.

"This Act shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Any request for information by the Commission to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity, and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission, which shall cooperate in responding to any information request by the Commission.".

(d) Increased Penalties.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a)—

(A) by striking "$5,000" and inserting "$1,000,000"; and

(B) by striking "two years" and inserting "5 years"; and

(2) in subsection (b), by striking "$500" and inserting "$50,000".

In section 441(a), in the proposed section 3105(b)(1), insert "or equal to" after "projects less than".

In section 640, strike "Section 3110" and insert "Section 3110(a)".

In section 640, in the proposed paragraph (8), strike "Not later than" and insert "To the extent appropriations are provided in advance for this purpose or are otherwise available, not later than".

In section 663, at the beginning of the quoted material, strike "(z)" and insert "z.".

In section 663, in the proposed subsection z.(1), strike "section 922(o), (v), and (w)" and insert "section 922(a)(4) and (o)".

In section 663, in the proposed subsection z.(2)(A), strike ", (o), (v), and (w)" and insert "and (o)".

In section 722(b)(1)(B), strike ", scooters,".

In title VII, amend section 753 to read as follows:

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) In General.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas;

(2) ways to promote fuel conservation measures for aviation to enhance fuel efficiency and reduce emissions; and

(3) opportunities to reduce air traffic inefficiencies that increase fuel burn and emissions.

(b) Focus.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) Report.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of those emissions on the human health.

(d) Risk Assessments.—Any assessment of risk to human health and the environment prepared by the Administrator of the Federal Aviation Administration or the Administrator of the Environmental Protection Agency to support the report in this section shall be based on sound and objective scientific practices, shall consider the best available science, and shall present the weight of the scientific evidence concerning such risks.

In title VII, amend section 756 to read as follows:

SEC. 756. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term "advanced truck stop electrification system" means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with or without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 8,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) ENERGY CONSERVATION TECHNOLOGY.—the term "energy conservation technology" means any device, system of devices, or equipment that improves the fuel economy of a heavy-duty vehicle.

(7) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION AND ENERGY CONSERVATION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation shall, through the Environmental Protection Agency's SmartWay Transport Partnership, establish a program to support deployment of idle reduction and energy conservation technologies .

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction and energy conservation technologies based on the costs and beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) $19,500,000 for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008.

(ii) COST SHARING.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iii) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) HEAVY DUTY VEHICLES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

"(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 400 pounds.

"(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

"(i) the idle reduction technology is fully functional at all times; and

"(ii) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).".

(d) REPORT.—Not later than 60 days after the date on which funds are initially awarded under this section, and on an annual basis thereafter, the Administrator shall submit to Congress a report containing—

(1) an identification of the grant recipients, a description of the projects to be funded and the amount of funding provided; and

(2) an identification of all other applicants that submitted applications under the program.

In title VIII, after section 810, insert the following and make the necessary conforming changes in the table of contents:

SEC. 811. HYDROGEN FUEL CELL BUSES.

The Secretary of Energy, through the advanced vehicle technologies program, in coordination with the Secretary of Transportation, shall advance the development of fuel cell bus technologies by providing funding for 4 demonstration sites that—

(1) have or will soon have hydrogen infrastructure for fuel cell bus operation; and

(2) are operated by entities with experience in the development of fuel cell bus technologies, to enable the widespread utilization of fuel cell buses.

Such demonstrations shall address the reliability of fuel cell heavy-duty vehicles, expense, infrastructure, containment, storage, safety, training, and other issues.

In title IX, subtitle F, chapter 1, add at the end the following new sections:

SEC. 968A. WESTERN MICHIGAN DEMONSTRATION PROJECT.

The Administrator of the Environmental Protection Agency, in consultation with the State of Michigan and affected local officials, shall conduct a demonstration project to address the effect of transported ozone and ozone precursors in Southwestern Michigan. The demonstration program shall address projected nonattainment areas in Southwestern Michigan that include counties with design values for ozone of less than .095 based on years 2000 to 2002 or the most current 3-year period of air quality data. The Administrator shall assess any difficulties such areas may experience in meeting the 8 hour national ambient air quality standard for ozone due to the effect of transported ozone or ozone precursors into the areas. The Administrator shall work with State and local officials to determine the extent of ozone and ozone precursor transport, to assess alternatives to achieve compliance with the 8 hour standard apart from local controls, and to determine the timeframe in which such compliance could take place. The Administrator shall complete this demonstration project no later than 2 years after the date of enactment of this section and shall not impose any requirement or sanction that might otherwise apply during the pendency of the demonstration project.

SEC. 968B. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with Western Hemisphere countries.

(b) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with Western Hemisphere countries to—

(1) assist the countries in formulating and adopting changes in economic policies and other policies to—

(A) increase the production of energy supplies; and

(B) improve energy efficiency; and

(2) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) UNIVERSITY PARTICIPATION.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of universities so as to take advantage of the acceptance of universities by Western Hemisphere countries as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of universities that involve the participation of minority students, such as Hispanic-serving institutions and Historically Black Colleges and Universities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $8,000,000 for fiscal year 2006;

(2) $10,000,000 for fiscal year 2007;

(3) $13,000,000 for fiscal year 2008;

(4) $16,000,000 for fiscal year 2009; and

(5) $19,000,000 for fiscal year 2010.

SEC. 968C. ARCTIC ENGINEERING RESEARCH CENTER.

(a) IN GENERAL.—The Secretary of Energy (referred to in this section as the "Secretary") in consultation with the Secretary of Transportation and the United States Arctic Research Commission shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Fairbanks and to be known as the "Arctic Engineering Research Center" (referred to in this section as the "Center").

(b) PURPOSE.—The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as possible;

(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) OBJECTIVES.—The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region; and

(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) AMOUNT OF GRANT.—For each of fiscal years 2006 through 2011, the Secretary shall provide a grant in the amount of $3,000,000 to the institution specified in subsection (a) to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2011.

SEC. 968D. BARROW GEOPHYSICAL RESEARCH FACILITY.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the "Barrow Geophysical Research Facility", to support scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency for the planning, design, construction, and support of the Barrow Geophysical Research Facility $61,000,000.

In section 970(d), amend paragraph (3) to read as follows:

(3) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(a) of such Code.

In section 1236, adding a new section 217 to the Federal Power Act, insert a period before the final closing quotation marks.

In section 1252(a) and in section 1252(b), strike "Public Utilities" and insert "Public Utility".

In section 1254(b)(1), in the amendment to section 112(b) of the Public Utility Regulatory Policies Act of 1978, strike "(3)(A)" and insert "(5)(A)".

In section 1254(b)(2), strike "112(d) f" and insert "112(d) of".

In title XII, in section 1274(a), after "for" strike "section" and insert "sections 1269 (relating to effect on other regulations), 1270 (relating to enforcement), 1271 (relating to savings provisions), and".

In title XII, amend section 1298 to read as follows:

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 223. JOINT BOARDS ON ECONOMIC DISPATCH.

"(a) IN GENERAL.—The Commission shall convene joint boards on a regional basis pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

"(b) MEMBERSHIP.—The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

"(c) POWERS.—The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes 'security constrained economic dispatch' and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

"(d) REPORT TO THE CONGRESS.—Within one year after enactment of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.".

In section 1443, in the amendment adding subsection (d) to section 181 of the Clean Air Act, in paragraph (4), strike "If, no more than 18 months prior to the date of enactment of this subsection" and insert "If, after April 1, 2003" and strike "within 12 months after the date of enactment of this subsection".

In title XIV, in section 1446, strike "as defined under section 2(a)(1)(A)" and insert "identified under section 2(a)(1)(B)" and strike "2720(a)(1)(A)" and insert "2720(a)(1)(B)".

In title XV, in section 1505(a), strike "The review shall be completed no later than May 31, 2014" and insert "The review shall commence after May 31, 2013, and shall be completed no later than May 31, 2014".

In section 1505(b), strike "No later" and insert "After completion of the review under subsection (a) and no later".

In section 1510, in subparagraph (G) of subsection (a)(2), after "vehicle emission systems," insert "on-road and off-road diesel rules," and after "imposed by" insert "the Federal Government,".

In section 1510(b)(1), strike "2007" and insert "2009".

In title XV, in section 1530, in subsection (a) adding a new subsection (i) to section 9003 of the Solid Waste Disposal Act, strike subparagraph (G) of paragraph (1) of such new subsection (i) and insert a period at the end of subsection (b).

In title XV, in section 1531, in the amendment adding new section 9014 to the Solid Waste Disposal Act, in paragraph (2)(C) strike "9004(f)" and insert "9003(i), 9004(f)," and in paragraph (2)(D) strike "9011 and 9012" and insert "9010, 9011, 9012, and 9013".

In section 1541(c)(2), strike "preserves air quality standards" and insert "addresses air quality requirements".

In section 1541(c)(2), strike "that results" and insert "including that which has resulted".

In section 1541(c), insert the following new paragraph after paragraph (2) and redesignate the following paragraphs accordingly:

(3) CONDUCT OF STUDY.—In carrying out their joint duties under this section, the Administrator and the Secretary shall use sound science and objective science practices, shall consider the best available science, shall use data collected by accepted means and shall consider and include a description of the weight of the scientific evidence. The Administrator and the Secretary shall coordinate the study required by this section with other studies required by the act and shall endeavor to avoid duplication of effort with regard to such studies.

In section 1541(c)(4) (as redesignated by the preceding amendment), strike the sentence beginning with "The Administrator shall use sound".

In the heading of title XVII, insert "**—RESOURCES**" at the end (and amend the table of contents accordingly).

In the heading of title XIX, insert "**—RESOURCES**" at the end (and amend the table of contents accordingly).

Strike section 2026 (and amend the table of contents accordingly).

In the heading of title XXI, insert "**—RESOURCES**" at the end (and amend the table of contents accordingly).

Redesignate title XXV as title XXIV, and redesignate sections 2501 through 2506 as sections 2401 through 2406, respectively (and amend the table of contents accordingly).

Redesignate section 2601 as section 2055, and move it to the end of subtitle D of title XX.

Redesignate section 2602 as section 112, and move it to the end of subtitle A of title I.

Strike the remainder of title XXVI.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Texas (Mr. HALL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. HALL).

Mr. HALL. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I offer a manager's amendment which sets forth clearly all of the changes we are proposing to make in our comprehensive energy bill. We have listed all of the changes, rather than offer a substitute, so all Members know which provisions we are changing. Our summary clearly explains these changes.

Madam Chairman, this amendment makes some technical changes, adds a few provisions which were part of the H.R. 6 conference report from last Congress, and clarifies some of the provisions contained in this year's bill. None of these provisions should be controversial.

We make technical changes in the ceiling fan efficiency standards. We clarify references to the firearm laws in the nuclear security provision, which had referred to a law no longer in existence. We clarified the tax status of the consortium under the ultradeep program. And we made clear the PUHCA provisions would not impair FERC's or State commissions' ability to enforce provisions and that companies still must comply with existing orders during the period repeal becomes effective.

We clarify dates in the NAS MTBE study, rulemaking and appropriation authorization dates for the LUST program, and clarified the bump-up dates. We allowed our clean air coal projects to be eligible to power plants of 600 MW or less. We made technical changes to the boutique fuels studies and our reference to the soybean oil within the Edible Oil Act. We have also included the on road and off-road diesel rules in the fuel harmonization study. We also clarified that FERC would have a role to play with the regional boards we established to set guidelines for efficient, economic dispatch of electric power.

Madam Chairman, we again try to cap the energy savings performance contracts at $500 million. We disagree these provisions should score. Like many, we have voiced our opposition to this score, but we are concerned about the cost of the bill, so we are trying again to cap its cost. We also tried to avoid a $64 million score on our employee benefits amendment we adopted in committee.

Some of our other changes include clarifying that the 3-year time period in which the Federal Government must establish energy efficiency standards on certain products be prospective only. Like we did in the bill of the last Congress, we moved the photovoltaic program from DOE to GSA.

We added back into the bill some of the provisions contained in our H.R. 6 conference report of the last Congress. Several were in the research and development title and include the Western Michigan Demonstration Project, the Western Hemisphere Energy Cooperation Project, the Arctic Engineering Research Center, and the Barrow Geophysical Research Facility.

Madam Chairman, most importantly, we reinserted the natural gas market reform provision from the last Congress to ensure Enron trading practices of the past are not repeated. We had to drop this provision because the parliamentarians thought it could be subject to a point of order in our committee, so we are putting it back in now.

We have also added the aircraft idling study, the engine idling program, and the hydrogen fuel bus program. If any Member has any concerns about these provisions, I look forward to working with you through conference. We have added some noncontroversial amendments through the affordable housing energy efficiency provisions.

The other amendments are purely technical in nature, such as removing duplicative provisions passed by other committees.

Finally, Madam Chairman, I want to thank the gentleman from California (Mr. POMBO), chairman of the Committee on Resources; the gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means; the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science; the gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform; the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure, and their staffs, for helping us put together this manager's amendment; and I ask for its adoption.

Madam Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I claim the time in opposition, and I yield myself 3 minutes.

Madam Chairman, I rise in opposition to the Barton manager's amendment. I have a number of concerns about the manager's amendment.

Let me just begin by saying that inside of the bill there was a provision that I authored in the Committee on Energy and Commerce that was accepted by the Chair, by the majority. And then, without any consultation with me, this amendment has been taken out of the energy bill by the manager's amendment which is being proposed here today.

Let me tell you a little bit about the change they are going to make without any consultation with me.

Now, when you think of all the pollution that comes out of smokestacks, that is created by the generation of electricity from coal-fired plants or from gas-fired plants to create electricity, well, that electricity is being created in order, for the most part, to keep our lights on, our air-conditioning on, to make sure that we can live in a modern society.

Now, at the Department of Energy, in the first 5 years of the Bush administration, they have yet to have a new rulemaking that would improve the efficiency of any of these appliances. Now, the cumulative impact of that is that we are going to see, unfortunately, several hundred new coal-fired or gas-fired generating plants constructed in America.

Now, what does that mean? Well, in addition to the cost to consumers who are going to have to pay for these new plants, you also have all of the additional pollution. We have 8 million children with asthma. We have a rise in breast cancer and prostate cancer and other diseases. More than 50 percent of all disease is environmentally based, coming from what we breathe, from the water that we drink.

The majority, in its wisdom, has decided they are going to impose no burdens on anyone who makes any appliances in America, so they have to improve their efficiency, which is very typical of the entire Bush administration's approach to these technologies. But the impact of having all of these window air conditioners, furnaces, lighting fixtures, heat pumps, 3 years from now, 6 years from now, 10 years from now being just as inefficient as they were 5 years ago is that all this additional pollution has to go into the air: the carbon, the mercury, the sulfur, the nitrous oxide that is inhaled by children in our country. And I just think it is wrong, without any consultation with me, to take my amendment and put it in this manager's amendment, to have it deleted from the bill.

Madam Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Chairman, how much time does the gentleman from Texas (Mr. HALL) have?

The CHAIRMAN. The gentleman from Texas has 1 minute remaining.

Mr. BARTON of Texas. Would the gentleman from Texas (Mr. HALL) yield to me 1 minute?

Mr. HALL. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Madam Chairman, I do not think it is a surprise that I rise in strong support of the Barton manager's amendment, since I am the Barton who authored the amendment.

But I just want to tell my good friend from Massachusetts, whom I just listened to extremely closely as he told his tale of woe about his amendment being accepted in committee and not accepted in the manager's amendment, we found out, as we went to implement it, that there were some things we did not understand about his amendment.

Now, I am sure the gentleman explained it clearly and concisely, and I was probably listening to one of my staffers and probably just did not hear his explanation, but it was actually retroactive in application.

Madam Chairman, had we accepted it and put it in the manager's amendment, there would have been an immediate outcry to implement some standards that were not yet implementable because it would have been retroactive. That is the primary reason it is not in the manager's amendment.

As we go to conference, we will continue to work with the distinguished gentleman, and we probably can find some way to get some part of it in in the conference. But that is the primary reason that particular amendment is not in the manager's amendment.

Mr. MARKEY. Madam Chairman, I yield myself the balance of my time.

Here is the problem with the Bush administration. The Congress, over the years, has passed any number of regulations that deal with the issue of appliance efficiency, but the Bush administration is allergic to energy efficiency. It just wants to put a big new gas station on top of the Arctic wilderness or on top of any other pristine area in our country rather than looking at the technological genius of our country to find some way of improving our efficiency.

So even with regard to new standards in this manager's amendment, they give this administration 6 years, 6 years, to come up with new standards, even as the Bush administration has not done anything for the first 5 years of its term of office at the height of an energy crisis, knowing the consequence of all of this pollution going into the atmosphere in terms of its impact upon the health of our country.

My colleagues, just so you know, women in Japan contract breast cancer at only one-fifth the rate of American women. Women in Japan contract breast cancer at only one-fifth the rate of American women. Women in Japan contract breast cancer at only one-fifth the rate of American women. After the family comes to America from Japan, they contract it at the same rate as Americans. That means it is not in the genes of the girls; it means it is in our air, it is in our water.

What this amendment does is, it says we are just going to build a couple hundred more large electrical generating plants, coal and natural gas, and just spew it into the atmosphere. Well, that is going to be breathed in, all that mercury, all that sulfur and nitrous oxide, and it is going to have a dramatically negative impact upon the health of our country.

My colleagues, this is a bad amendment, and I really regret it is out here and that my friend has proposed it.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Texas (Mr. HALL).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109-49.

AMENDMENT NO. 2 OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DINGELL:

Title XII of H.R. 6 is amended by striking sections 1201 through 1235 and sections 1237 through 1298, by striking the title heading, by inserting the following before title XIII, by redesignating section 1236 (relating to native load service obligation) as section 1233 of the following and inserting such redesignated section 1233 after section 1232 of the following, and by making the necessary conforming changes in the table of contents:

TITLE XII—ELECTRICITY

SECTION 1201. SHORT TITLE.

This title may be cited as the "Electric Reliability Act of 2005".

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY.

"(a) DEFINITIONS.—For purposes of this section:

"(1) The term 'bulk-power system' means—

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

"(2) has established rules that—

"(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

The total amount of all dues, fees, and other charges collected by the ERO in each of the fiscal years 2006 through 2015 and allocated under subparagraph (B) shall not exceed $50,000,000.

"(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(A) the Commission finds a conflict exists between a reliability standard and any such provision;

"(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

"(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

"(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

"(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

"(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(A) the regional entity is governed by—

"(i) an independent board;

"(ii) a balanced stakeholder board; or

"(iii) a combination independent and balanced stakeholder board.

"(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

"(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

"(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards..

"(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

"(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

"(k) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.".

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) LIMITATION ON ANNUAL APPROPRIATIONS.—There is authorized to be appropriated not more than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) TRANSMISSION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) EXEMPTION TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

"(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) REMAND.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) OTHER REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

"(j) DEFINITION.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).".

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term "appropriate Federal regulatory authority" means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL UTILITY.—The term "Federal utility" means a Federal power marketing agency or the Tennessee Valley Authority.

(3) TRANSMISSION SYSTEM.—The term "transmission system" means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) OTHER OBLIGATIONS.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) REPEAL.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106-377, section 1(a)(2); 114 Stat. 1441, 1441A-80; 16 U.S.C. 824n) is repealed.

Subtitle C—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

"(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

SEC. 1252. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(14) TIME-BASED METERING AND COMMUNICATIONS.—

"(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

"(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).".

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase "the standard for time-of-day rates established by section 111(d)(3)" the following: "and the standard for time-based metering and communications established by section 111(d)(14)".

(2) By inserting in subsection (b) after the phrase "are likely to exceed the metering" the following: "and communications".

(3) By adding the at the end the following:

"(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.".

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking "and" at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.".

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

"(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

"(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

"(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

"(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.".

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare

and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

"(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).".

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

(1) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.".

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

Subtitle D—Market Transparency, Enforcement, and Consumer Protection

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

"No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

"SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

"(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

"(b) DEFINITION.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.".

SEC. 1283. FRAUDULENT OR MANIPULATIVE PRACTICES.

(a) UNLAWFUL ACTS.—It shall be unlawful for any entity, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails to use or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) APPLICATION OF FEDERAL POWER ACT TO THIS ACT.—The provisions of section 307 through 309 and 313 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 1284. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

"SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

"(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

"(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of section 204, 301, 304, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

"(c) PREVIOUS FERC ACTION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that was taken before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

"(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.".

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 304 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

"(2) Section 201(f) shall not limit the application of this subsection.".

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.".

SEC. 1286. TRANSPARENCY.

(a) DEFINITION.—As used in this section the term "electric power or natural gas information processor" means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, or cooperative bank, if such bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) PROHIBITION.—No electric power or natural gas information processor may make use of the mails or any means or instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to—

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas;

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information;

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity;

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas; and

(F) assure equal regulation of all markets involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) RELATED COMMODITIES.—For purposes of this section, the phrase "purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas" includes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is excluded from regulation under the Commodities Exchange Act pursuant to section 2 of that Act.

(d) PROHIBITION.—No person who owns, controls, or is under the control or ownership of a public utility, a natural gas company, or a public utility holding company may own, control, or operate any electronic computer network or other mulitateral trading facility utilized to trade electricity or natural gas.

SEC. 1287. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking "$5,000" in subsection (a) and inserting "$5,000,000 for an individual and $25,000,000 for any other defendant" and by striking out "two years" and inserting "five years" .

(2) By striking "$500" in subsection (b) and inserting "$1,000,000".

(3) By striking subsection (c).

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o091) is amended as follows:

(1) By striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II".

(2) By striking "$10,000 for each day that such violation continues" and inserting "the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation".

(3) By adding the following at the end thereof:

"(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

"(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

"(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

"(A) involves the purchase or sale of electricity, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

"(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or selling or purchasing electric energy at wholesale in interstate commerce;

"(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

"(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

"(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

"(4) Such entity has willfully violated any provision of this Act.

"(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

"(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

"(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

"(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

"(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed

reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

"(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

"(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

"(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct."

(4) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.".

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

"(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

"(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

"(A) involves the purchase or sale of natural gas, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

"(B) arises out of the conduct of the business of transmitting natural gas in interstate commerce, or the selling in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

"(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

"(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

"(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or

regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

"(4) Such entity has willfully violated any provision of this Act.

"(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

"(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

"(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

"(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

"(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

"(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

"(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from

engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

"(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

"(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.".

SEC. 1288. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating pursuant to a claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 1289. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report of the results of its review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 1290. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

"(g) RULES AND PROCEDURES TO PROTECT CONSUMERS OF PUBLIC UTILITIES.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, and any affiliate of, such public utility company, and no public utility shall acquire or own any securities of the holding company or other affiliates of the holding company unless the Commission has determined that such acquisition or ownership is consistent with the public interest and the protection of consumers of such public utility.".

SEC. 1291. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: "In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission may establish an earlier refund effective date.".

(2) By striking the second and third sentences.

(3) By striking out "the refund effective date or by" and ", whichever is earlier," in the fifth sentence.

(4) In the seventh sentence by striking "through a date fifteen months after such refund effective date" and insert "and prior to the conclusion of the proceeding" and by striking the proviso.

SEC. 1292. ACCOUNTS AND REPORTS.

Section 318 of the Federal Power Act is amended by adding the following at the end thereof: "This section shall not apply to sections 301 and 304 of this Act.".

SEC. 1293. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any change in the activities and characteristics relied upon by the Commission in granting such public utility the authority to sell electric energy at market-based rates. If the Commission finds that:

"(1) a rate charged by a public utility authorized to sell electric energy at market-based rates is unjust, unreasonable, unduly discriminatory or preferential,

"(2) the public utility has intentionally engaged in an activity that violates any other rule, tariff, or order of the Commission, or

"(3) any violation of the Electric Reliability Act of 2005,

the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.".

SEC. 1294. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting "electric utility," after "Any person,".

(2) By inserting ", transmitting utility," after "licensee" each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l) is amended by inserting "electric utility," after "person," in the first 2 places it appears and by striking "any person unless such person" and inserting "any entity unless such entity".

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting ", electric utility, transmitting utility, or other entity" after "person" each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: "or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.".

SEC. 1295. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CRAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term "State regulatory authority" has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.".

SEC. 1296. SAVINGS PROVISION.

Nothing in this title or in any amendment made by this title shall be construed to affect the authority of any court to make a determination in any proceeding commenced before the enactment of this Act regarding the authority of the Federal Energy Regulatory Commission to permit any person to sell or distribute electric energy at market-based rates.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. BARTON) each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, it is regrettable indeed that we function under such a constrained rule, but the amendment which I have been permitted to offer here contains real benefits for electricity consumers and includes many of the reforms that I and other of my colleagues have proposed in committee markups, on the House floor, and in conference during consideration of various energy bills.

First, the amendment would prevent future Enron-like debacles by providing the Federal Energy Regulatory Commission with broad authority to deter and punish fraudulent behavior that distorts electricity and natural gas markets.

□ 1715

Enron's ingenuity demonstrates how difficult it is for regulators to foresee, punish, prevent, and correct every type of misconduct. A recent FERC report concluded, "Currently, the Commission has few remedies to address misconduct by market participants."

Second, my amendment addresses an important real electricity concern, the need to ensure that the FERC has the authority to issue orders requiring refunds for all electricity overcharges. Regrettably, that is not now the case. The skill and arts of Enron and Enron-like rascals will enable them to escape much of the refunds which they should make after the most active kind of wrong doing, as we saw in the western part of the United States.

Third, the amendment does not repeal the Public Utility Holding Company Act of 1935 without which Enron would certainly have purchased more utilities than it did, sunk its tentacles even more deeply into the electric industry, and skinned more consumers and innocent buyers of electricity.

The amendment requires the SEC to review a company's existing exemptions under the act to make sure they do not assert false claim, as the commission belatedly determined Enron had done.

With due respect to the gentleman from Texas (Mr. BARTON), I believe my amendment provides a far better alternative for consumers than the wholly inadequate provisions of H.R. 6. H.R. 6 includes only limited cosmetic changes to current Federal electricity law. It outlaws "roundtrip trading" and filing of false information, but offers no protection against schemes liken Enron's Death Star, Get Shorty, or Richochet.

Moreover, H.R. 6 does not authorize FERC to grant full refunds to consumers who were skinned by inflated electricity prices, but rather allows refunds only from the date when the complaint is filed.

Finally, H.R. 6 repeals PUHCA, leaving consumers and investors even more vulnerable to deception by Enron-type players who concoct "special purpose entities" to move money around while hiding behind complex, opaque corporate structures. I would note a recent Standard & Poor report states: "Utility investment in non-core businesses has been responsible for most of the credit deterioration in the utility industry." I urge my colleagues to adopt the amendment.

Mr. BARTON of Texas. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, first, I rise in opposition to the Dingell substitute. I do want the record to show that I supported at the Committee on Rules that it be made in order so we could have a full debate.

The Dingell substitute, if it were actually to be implemented into the bill and become law, would go far beyond anything currently being considered in the electricity sector. It would increase the fines already under the bill that go up to $1 million. The Dingell substitute would take that to $5 million and in some cases $25 million. I will admit with the gentleman from Michigan that the current fine is insignificant. I think it is $5,000, and we need to increase that. So the bill takes it to $1 million. The Dingell substitute would take it to between $5 million and $25 million.

The Dingell substitute does not repeal PUHCA. The bill before us does repeal the Public Utility Holding Company Act, but the bill before us keeps in order the reporting requirements under PUHCA so the SEC would have the ability to maintain analysis of records and things like that of the companies that are subject to PUHCA.

The Dingell substitute would require retroactive refunds for market-based rates. It would go back into contracts that have already been executed and electricity is being consumed and money for that electricity has been paid, and for the first time create a retroactive refund. I think that is unwise and unnecessary.

Basically, I would say that the Dingell substitute is well intentioned; but in some cases it goes too far, and in some cases it is silent on the underlying bill. I would hope we would oppose it and keep the base text of the bill that is before us.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Madam Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time, and I want to commend the gentleman for bringing this very important substitute for the electricity title in the bill before the House this afternoon. I strongly support the substitute for the electricity provisions in the bill put forward by the gentleman from Michigan (Mr. DINGELL).

The Dingell amendment would improve current law in a number of ways. It would enhance the FERC's ability to deter and punish parties that engage in fraudulent activities that harm consumers. It would create reporting requirements based on the record-keeping requirements under the Federal securities laws for all wholesale energy transactions. It would increase civil and criminal penalties under the Federal Power Act modeled on the penalties established in the Sarbanes-Oxley law. It would direct the FERC to review approved market-based rates on an annual basis to remain sure that they are fair and reasonable as circumstances change.

Unfortunately, one of the things that we have learned during the last few years is that the energy markets are ripe for manipulation. The Dingell substitute would modernize our laws to give the FERC the necessary tools to prevent and, if necessary, punish the entities that engage in fraudulent conduct.

In addition to the strong consumer protection and antifraud provisions, the Dingell amendment also retains the less controversial and very useful parts of the electricity title, including the much-needed reliability provisions for transmission lines, the net metering and smart metering provisions and FERC Lite, to name other provisions.

The Dingell substitute would be a positive addition to the Federal law, ensuring that wholesale electricity markets operate in an efficient and equitable manner. I strongly support the Dingell substitute and urge its approval by the House.

Mr. BARTON of Texas. Madam Chairman, I yield 2 minutes to the gentleman from New Hampshire (Mr. BASS), a member of the committee.

Mr. BASS. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. DINGELL). Basically, this guts the whole bill. It substitutes a power act amendment for the entire bill. It, frankly, goes far beyond anything being considered currently in the electricity debate, particularly with respect to utility security, FERC rate-making authority, reporting requirements, and industry accounting.

In addition, this amendment would fundamentally rewrite portions of the Natural Gas Act, something that is clearly outside the scope of this debate. I point out that the amendment is opposed by the Edison Electric Institute, the American Public Power Association, and the National Rural Electric Cooperative Association. Those are the co-ops.

It does not help site new transmission that is needed to ensure reliability and provide adequate supplies of affordable electricity to consumers. It does not repeal PUHCA, which facilitates the construction of new construction and promotes badly needed investment in the electric utility industry. It does not amend PURPA to reform the contract process and save constituents money, and it does not promote certainty of contract that is necessary to promote investment and better market operation by putting all market-based contracts at risk. It does not provide FERC the flexibility needed to regulate markets that develop in the future by issuing prescriptive rules, procedures, and penalties.

What the amendment does do, unfortunately, is create market uncertainty, it imposes excessive penalties, and it institutes almost continuous investigation of all utilities with market-based rates, not only burdening utilities, but also burdening FERC and stretching its resources.

Madam Chairman, I hope that the Congress will join me and other like-minded colleagues in opposing this amendment.

Mr. DINGELL. Madam Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Madam Chairman, I want to speak to one aspect of this very important consumer protection amendment, and that is what the amendment is: it protects consumers. The issue I want to talk about is refund authority.

Can there be any doubt today that Western consumers were gouged as a result of energy market manipulation in 2000 and 2001? Can there be any doubt that refunds are owed? So when a Member rises on the floor and talks about retroactive and it is not fair to have something retroactive, we have to have the arm of the law reach back so consumers are refunded the dollars that they were ripped off.

Madam Chairman, 5 years after the crisis in California, no refunds have been ordered because for 5 years the Federal Energy Regulatory Commission has insisted it does not have the authority to order the retroactive refunds that will fully compensate consumers. FERC knows the evidence, and here it is: one, Enron memos reveal that the energy trading company implemented elaborate market manipulation strategies to drive up prices. The Enron memos gave these ploys names like Fat Boy, Death Star, and Get Shorty.

Number two, audio tapes of Enron energy traders surfaced that confirmed the existence of secret deals with power producers that deliberately drove up prices by ordering power plants shut down.

Number three, transcripts of Reliant Energy traders from 2000 revealed that Reliant power plant operators deliberately kept power offline in order to increase energy prices at the height of the crisis.

Four, on March 3, 2003, a coalition of California governmental entities and public utilities presented the FERC with more than 1,000 pages of evidence documenting a "pervasive pattern of market manipulation that resulted in disastrous effects on prices and reliability." And in March 2003, the FERC confirmed that significant power manipulation had taken place in the West.

This amendment gives the FERC broad authority to order retroactive refunds for market-based rates that are not just and reasonable. For California, billions are at stake. I urge a vote for this amendment. Last fall Governor Schwarzenegger said, "Californians deserve refunds to fairly compensate them for the excessively high prices they paid during the energy crisis."

Mr. BARTON of Texas. Madam Chairman, I yield myself such time as I may consume for the purpose of responding to the gentlewoman from California (Ms. ESHOO) and also to enter into a colloquy with the gentleman from New Hampshire.

First, let me simply say I understand the concern of the gentlewoman from California (Ms. ESHOO) about the situation in the power markets in California 4 to 5 years ago, and I know she feels more needs to be done. As we speak, there is litigation in process to have more done in that area.

I will say on the record, hundreds of millions, if not billions, of dollars have been reclaimed, indictments have been brought, cases have gone to court and convictions obtained and people sent to jail for some of the transgressions the gentlewoman alluded to.

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While it is obvious that she feels more needs to be done, I think it does need to be stated on the record that quite a bit already has been done.

Madam Chairman, I yield to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. I thank the gentleman for yielding.

Madam Chairman, over the past several months, the gentleman from Texas and I have worked toward a fair and equitable solution to the problem of contamination caused by MTBE getting into our groundwater and other waters. I appreciate all his efforts and the faith he has placed in me on this issue which is so critical to New Hampshire, a State that has been affected significantly and, obviously, other affected States.

Like him, I had hoped that we would be able to have our solution ready for today's House consideration of the Energy Policy Act. However, I am not satisfied that what we have agreed upon in principle is sufficient to the problem or comprehensive enough to have my support, and I would rather not rush it simply for the sake of being done today.

Does the gentleman agree that spending additional time will result in an improved product that will provide a mechanism to ensure that our drinking water is clean and safe today and into the future?

Mr. BARTON of Texas. Madam Chairman, I agree with the gentleman from New Hampshire. He and I have been working toward a solution to the contamination problem in New Hampshire and across the Nation. If he is not satisfied with the solution thus far, then I am not satisfied with it either, and I agree with him that more must and will be done.

With the time that we will have to continue our already significant progress, I appreciate his commitment to reach out to other Members with similar problems like his. Committee staff and I stand ready to assist in every way and are fully committed to resolving the problem before the bill is presented to the President for enactment.

Mr. BASS. I thank the gentleman for those comments.

Does the gentleman also agree that the principles we have established so far, including a fair funding system, strict cleanup standard and an appropriate amount of time for contamination discovery will be safeguarded in the final product unless equivalent mechanisms can be developed?

Mr. BARTON of Texas. I agree with that statement, also. The principles the gentleman has outlined should be part of the solution. I am confident that our work will adequately satisfy New Hampshire and other contaminated States with problems similar to his State's.

Madam Chairman, I will just say that we are in opposition to the Dingell substitute and would urge a "no" vote at the appropriate time.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Without objection, the gentleman from Massachusetts (Mr. MARKEY) will control the balance of the time.

There was no objection.

Mr. MARKEY. Madam Chairman, I yield myself 1½ minutes.

The provisions which are in the bill already are good. It is that they just do not go far enough to deal with this electricity crisis that we saw that went across the country.

What the Dingell amendment does is very simple. It creates an antifraud authority at the Federal Energy Regulatory Commission with tough, new criminal and civil penalties. It ensures, in other words, that they can get the real job done.

It also provides real transparency on pricing and trading of electricity in this marketplace. It also prohibits self-dealing, interaffiliate dealing. All of the kinds of activities which were identified in the aftermath of the Enron and the related scandals is prohibited; and the authority is given to the FERC in order to make sure that they get the job done. This is the needed final piece to make sure we do not see a repetition of what happened at Enron.

Vote "aye" on the Dingell amendment.

Madam Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, if my colleagues want a replication of Enron and the abuses, the stealing, the dishonesty that hurt pensioners, retirees, shareholders, others in the industry, hundreds and hundreds of ratepayers and hurt the structure of the States in the western United States, then vote against this amendment.

This amendment stops self-dealing. This amendment requires that there be repayment of money wrongfully taken. It allows FERC and the SEC to provide the necessary steps that will stop Enrons and others like Enron from doing what Enron did, which caused such desperate hurt to millions of

Americans in the western United States.

My amendment does go further than anything else being considered. Enron's abuses went further than anyone expected, far beyond, and they shook the entire electric industry. But it also hurt consumers, States, and also retirees and pensioners and shareholders.

This amendment will stop that abuse. I urge my colleagues to vote for it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DINGELL. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. DINGELL) will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 109–49.

AMENDMENT NO. 3 OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 3 offered by Mr. MARKEY: Strike title XXII.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from California (Mr. POMBO) each will control 15 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, I yield myself 3 minutes.

The Arctic National Wildlife Refuge is a national treasure, a place of ancient wilderness that remains much the same as it was at the end of the last Ice Age. It is one of the few places remaining in America where man has not scarred the land. It is a place where roads do not pave the way and where the animals truly do roam free. The refuge is home to the 130,000-strong porcupine caribou herd as well as polar bears, musk oxen and even more than 130 species of migratory birds.

All wildlife refuges have, by bipartisan consensus, been set aside to ensure that a few special places, natural places, will not succumb to the pressures of commercial exploitation. The Arctic refuge is one of the most unique wild and irreplaceable refuges of all. If we allow the oil and gas drillers into this refuge, we might as well say goodbye to protection of all 544 refuges in this country.

The Arctic National Wildlife Refuge is the crown jewel of the wildlife refuge system in the United States. Of those 544 refuges, it is estimated that 60 percent of them have the potential for oil and gas development. Overturning the 39-year precedent of never leasing a wildlife refuge to the oil companies where leases did not previously exist will set in motion a series of events that will endanger each of the other 543 refuges spread throughout the States and districts of the Members of this body.

Besides the wildlife refuges, drilling in the Arctic refuge is widely seen as the first step in lifting the moratoria on drilling on the outer continental shelf of the Atlantic and Pacific coasts, specifically in Florida and California.

The chairman of ExxonMobil recently said that drilling in the Arctic refuge is representative of the broader issue of whether drilling will be allowed in other environmentally sensitive places such as the coasts of California and Florida. In a 2003 speech to the Republican Caucus, House Majority Leader TOM DELAY proclaimed the issue of the Arctic refuge is about precedent and repeatedly referred to its symbolism.

Matthew Simmons, an oil industry banker and former Bush adviser, recently told the New York Times that if you cannot do ANWR, you will never be able to drill in the promising areas.

Ladies and gentlemen, this is a huge test for us. The Republican majority has decided not to do anything about making SUVs and automobiles more fuel efficient, and that is where 70 percent of all gasoline, all oil, goes, into those gasoline tanks. Instead of making those vehicles more efficient, what they have decided to do is to construct a gasoline station on top of the Arctic Wildlife Refuge in order to fuel those inefficient vehicles. We must stop them.

Madam Chairman, I reserve the balance of my time.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Madam Chairman, I thank the chairman of the Committee on Resources for yielding me this time.

This is a perennial amendment we have. This energy bill provides for production, conservation and research, but ANWR is one of the most important production parts. Granted we cannot produce ourselves out of these high energy prices, but we have to produce in our own country if we ever expect to lower the prices.

Our Nation needs more energy. Our economy, consumers and workers bid against China, Europe and India's economies for every barrel of Middle Eastern, African and Venezuelan oil. The Congress so far has refused to open promising offshore areas to exploration, even as Cuba, employing Spanish and Chinese energy companies, is drilling 60 miles from the Florida Keys, much closer than we allow American companies to do.

No nation can produce energy more responsibly than ours. Energy production is not like it used to be 50, 25 or even 10 years ago. It is much cleaner and much more scrutinized. Supporting only long-term solutions and conservation is important, but not enough. Our cars get 25 percent of their gas from U.S. lands, but our children will see even less if we do not produce at home.

Two-thirds of the world's oil reserves are in the Middle East, controlled by OPEC. If they act as a cartel, they will control the world price of oil for the foreseeable future. If we allow domestic production to die out, conservation and research will not save us and we will have to pay a terrible economic price.

If we allow production in ANWR, we will see great benefits at a very low, temporary cost and see thousands of good-paying jobs created over the next 25 years. The caribou, bears, birds and other wildlife can thrive just as they have at Prudhoe Bay. Tanker accidents will be prevented by new, double-hulled oil tankers and environmental impacts overall will be much less.

Drill sites are much smaller today and we use fewer wells with our new drilling technology. Permanent gravel roads are no longer necessary if we use the winter ice road. The doom and gloom scenarios by opponents of ANWR oil are inaccurate and not based on reality. I have been there many times, Madam Chairman, and I can tell you that we can produce it and the bears and the caribou will be in ANWR just like they are in Prudhoe Bay.

Mr. MARKEY. Madam Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Madam Chairman, first, let me just say, I want to thank the gentleman from Massachusetts (Mr. MARKEY) for yielding me the time, for his leadership and the gentlewoman from Connecticut (Mrs. JOHNSON) for her leadership in making sure that this is a bipartisan amendment. Opening up the Arctic National Wildlife Refuge to oil and gas drilling is not the answer to our long-term energy or security needs.

The fact is, we are addicted to oil. The proponents of this bill would have you believe that the only way to cure an addict is to feed the addiction at whatever cost, regardless of the effect on the environment, on our wildlife, and on our public health.

As a psychiatric social worker by profession, I can tell you this does not work. We should be working to reduce our dependency by promoting energy efficiency and energy conservation, and funding research to develop and utilize clean and renewable sources of energy. By allowing drilling in the Arctic refuge, we are spoiling a pristine natural environment, we are furthering our dependence on oil, and we are contributing to high levels of asthma, such as in my own district in west Oakland and throughout the country.

Reducing dependencies on alcohol and on drugs leads to individuals leading clean and sober lives. Our country needs to reduce its dependency on oil, for a clean and sober and independent future is what our children deserve.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Madam Chairman, as I rise to the podium here, I want to bring up a poster which shows what this Arctic National Wildlife Area really is. First of all, let me say that the Arctic National Wildlife Refuge is 19.5 million acres of Alaska, set aside in 1960. Also in 1960, they set aside 1.5 million acres for exploration for oil. That is called the area 1002 part of ANWR.

This is area 1002. This is the area we are going to be drilling on for oil and gas. As you can see, no big trees, no big mountains, no big herds of anything. It is just frozen tundra out there.

☐ 1745

But the 1002 area will continue to provide, as the USGS has already said, an estimated oil reservoir for this country that will equal the amount of oil we will get from Saudi Arabia for 30 years, Madam Chairman; 10.4 billion barrels would make it the largest oil reserve find in the world since the nearby Prudhoe Bay discovery was done 30 years ago.

Madam Chairman, the area 1002 is not a wilderness. It is part of ANWR set aside 18 years ago for oil and gas exploration. This is where this 2,000-acre surface disturbance is going to take place. We are not talking about a pristine wilderness area that one would find in any of the southern 48 contiguous States that have forests.

So with that, Madam Chairman, I just wanted to bring to the Members' attention that this is not the pristine wilderness that most people have in mind. This is a frozen tundra that we are going to disturb only 2,000 acres of it, and from there we are going to provide this country with nearly 10 billion barrels of new oil to meet the needs of this country's energy demands.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Madam Chairman, I rise to support this amendment.

Since coming to Congress, I have been committed to the need to maximize our domestic energy resources. However, I firmly believe that we must pursue domestic energy independence in a manner that protects our natural resources like the Arctic National Wildlife Refuge. Instead of opening up ANWR to oil drilling, I believe that we should look to new sources and new technologies to increase our energy independence.

I am proud to say that my State of Minnesota is a leader in the field of renewable energy such as ethanol, biodiesel, and wind energy. Minnesota companies offer innovative technologies to reduce our energy needs. These renewable energy sources and technologies offer a sensible alternative to help reduce our reliance on foreign sources of oil without endangering our environment. That is why I support the Markey-Johnson amendment and urge my colleagues to do the same.

Mr. POMBO. Madam Chairman, I yield 4 minutes to the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure.

Mr. YOUNG of Alaska. Madam Chairman, I want to thank the gentleman from California (Chairman POMBO) and the gentleman from Texas (Chairman BARTON) for their fine work on a good piece of legislation that starts our process in becoming independent, providing energy policy, which I have heard none from the other side. Remarkably, when I hear people talking about new innovative ideas, they do not tell me what "new" is.

We are fossil-fuel oriented, and I will admit to that. And we are also dependent, and we have to admit to that. And we are talking about an area that is not pristine, an area, in fact, that should be developed that is 74 miles from the pipeline, an area that we have developed already in Prudhoe Bay, and we can see the great damage that is done up there. The caribou are using the pipeline to rub their backs on. The caribou are calving around the wells. The gentleman from Massachusetts (Mr. MARKEY) has never been there; so he would not know. And we have polar bears now that are using the line for a transportation corridor.

So, Madam Chairman, those who would support the Markey amendment are really supporting terrorism because you do not want to develop the domestic fuel supply in this country, and we can. We should be doing this right now. And I hear people tell me it will only affect us 10 years from now. If you had done it when I asked you to do it 20 years ago, we could have solved that problem.

The thing that sort of strikes me the most is I hear people talk about special interests. In fact, the gentleman from Massachusetts (Mr. MARKEY) mentioned it today about special interests, serving up special interests. But I would like to just read a little short letter that I happened to pick up off a Web site. It says: "Dear friend, in a few short hours the Republican energy bill will be brought up for debate and a vote on the floor of the House of Representatives. I need your immediate help to ensure that this terrible bill never becomes law.

"Last week in the Committee on Energy and Commerce, I offered a series of amendments to increase the average fuel efficiency" and it was turned down by the Republicans.

"I then offered an amendment in the Committee on Resources to strip a provision from the bill that would open the Arctic National Wildlife Refuge for oil drilling." The Republicans again voted against it.

"If we allow drilling in the Arctic National Wildlife Refuge we will forever ruin this unique wilderness and allow the oil industry to target all 450 National Wildlife Refuges . . .

"For the last 5 years, I have led the battle in the House to stop the Republicans in the Congress from selling off one of our greatest natural resources to the powerful special interests. Help me continue to fight to expose to the American people the dangers of this extreme and ineffective action by making a contribution today."

Just, by the way, dial in to www.edmarkey.org/contribute. That is a special interest.

"Help me to continue to fight for sensible, clean and independent energy future and shine a light on the Republican Party backroom attempts to cater to special interests by making an immediate contribution. As Justice Louis Brandeis used to say, 'Sunshine is the best disinfectant.'"

This is a blatant use of an issue to raise money, and you ought to be ashamed of yourself. To raise money on an issue that has nothing to do with energy, energy that this country needs. We are no longer the only buyers on the block in this world with China and India in the field. And if we do not wake up, we will have a collapse in our economy. We must develop not only ANWR but other sources of fossil fuels in this country as well as nuclear and as well as hydro and as well as wind and all those other forms of energy and quit talking about pipe dreams, because if we do not, there will not be the jobs for the future generations and this country cannot lead this world. And to have someone stand on this floor and offer an amendment that will take out the only provisional production is against America, against this great Nation, and, in fact, would do the wrong thing for this Nation.

So I ask Members to vote "no" on the Markey amendment. Keep this good bill intact. Let us produce energy for this Nation. Let us provide for future generations.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Madam Chairman, I want to commend my colleagues for offering this sensible amendment.

We should not even be having this discussion because drilling in ANWR will not make us energy independent and it will not end our Nation's reliance on Middle East oil. Drilling in ANWR will do little to reduce our current dependence on foreign oil because it will take more than 10 years, yes, more than 10 years to process what little oil may be there. In fact, if we spent half the time promoting legislation that encourages the use of renewable energy that we have discussing drilling in ANWR, we would be close to developing a sensible energy policy that would ensure real energy independence. We would invest in alternative renewable clean energy, conservation, and efficiency.

That is why I will support this sensible amendment, and I encourage my colleagues to do the same.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON), chairman of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Madam Chairman, I thank the gentleman from California for yielding me this time.

First, let me say that I do oppose the Markey amendment, but I want to say that the letter that was just read is totally legal. He has got every right if he wants to use something to try to raise money. He did not send me that letter. Had he sent it to me, I would have had to reply in the negative that I could not make the contribution. But I recognize his right to do it in that manner.

I oppose the Markey amendment because I want to pay less for gasoline in Texas. I would like to tell the Members that my great State is self-sufficient in energy production and self-sufficient in oil, but it is not true. We are the largest producer of oil of the 50 States, but we are also the largest consumer.

ANWR has the potential to produce up to 2 million barrels a day for 30 years. And depending on one's point of view, that is a lot or a little. If one wants to say it is a lot, it is more than we import from Saudi Arabia. If one wants to say it is a little, it is less than we use in a year in this country. But 2 million barrels a day for 30 years would lower prices for every American at the pump.

I would point out that in terms of the environment, we have been producing successfully in Prudhoe Bay for almost 30 years without any harm to the environment, as the gentleman from Alaska (Chairman YOUNG) showed in those pictures when he was up here right before me.

My district produces substantial amounts of oil and gas. We are producing 1.5 billion cubic feet of gas every day. That is one half of a trillion cubic feet a year. I cannot tell the Members how many hundreds of thousands of barrels of oil per day, but we are producing significant amounts of oil. We are producing it through the water table and supplies of many of the cities that I represent. We are producing it from underneath downtown Fort Worth, Texas. And we are doing it in a safe and environmentally effective fashion. We could do that also in ANWR. I strongly support the gentleman from California's (Chairman POMBO) amendment that would allow it.

I want to thank our colleagues in the other body for already agreeing in the reconciliation instructions, and I urge a "no" vote on the Markey amendment.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Madam Chairman, I have the greatest respect for the gentleman from Alaska (Mr. YOUNG), and I simply have a difference of opinion with him on this despite that great respect.

In what has become a congressional ritual, the prospect of drilling in the Arctic has been repeatedly struck down in recognition of the fact that American working families do not want it. Still, we have proponents telling us that drilling is good for jobs.

Some of the Nation's largest unions, I might point out, like the SEIU, United Auto Workers, United Steelworkers, and United Farm Workers, are on record opposing drilling in the Arctic Refuge. Why? Because it is bad labor policy. Oil production is one of the least labor-intensive industries, supporting fewer than three direct jobs per $1 million of investment. Energy efficiency supports 27 jobs for the same investment.

It is also bad economic policy. One dollar spent on petroleum production creates only $1.51 in economic value. But that same dollar, when invested in energy efficiency, creates $2.23 in economic value.

Our Nation's energy policy should not include drilling in the Arctic.

Mr. POMBO. Madam Chairman, I yield 1½ minutes to the gentleman from California (Mr. NUNES).

Mr. NUNES. Madam Chairman, I had an opportunity to go up to and visit in Alaska the gentleman from Alaska's (Chairman YOUNG) district. And I find it really interesting to hear the opposition to this bill because when I went up there, I envisioned that I would see trees, running water, big mountains, things that the American people would want to preserve. However, when I got there, I found nothing but tundra. And it was just kind of a wasteland of ice and tundra.

And as the American people are paying upwards of $2.50 a gallon for fuel today and we sit in the white building on Capitol Hill, I wonder what they are thinking out there.

This should have been opened long ago. We could get 10 percent of our daily supply from ANWR. But I believe that the radical environmental groups have been using this as a fund-raising tool for their organizations because what they say is in ANWR and what we see when we get there does not exist. And now I think the fund-raising has continued. Unfortunately, though, it has spread here to the halls of Congress. And with all the ethics charges that are being brought today by the Democrats, I find it very interesting that the author of this amendment sends out a fund-raising letter, and I have the fund-raising letter right here that, that asks people to contribute today. And I would like to submit this for the RECORD, Madam Chairman, because this is outrageous when people are paying $2.50 a gallon and the Democrats and the radical environmental groups are using this as a fund-raising tool.

DEAR FRIEND: In a few short hours, the Republican Energy Bill will be brought up for debate and a vote on the floor of the House of Representatives. I need your immediate help to ensure that this terrible bill never becomes law.

Last week, in the Energy and Commerce Committee, I offered a series of amendments to increase the average fuel efficiency of cars, mini-vans and SUVs. Each of these amendments was voted down by the Republican majority on the Committee, ensuring that the most technologically advanced nation in the world will continue to ignore energy conservation and not diminish its demand for oil. Why is it that we can send a man to the moon and beyond but cannot make our cars more efficient? This is auto mechanics, not rocket science.

I then offered an amendment in the Resources Committee to strip a provision from the bill that would open the Arctic National Wildlife Refuge for oil drilling. The Republicans on that committee voted against my amendment, choosing to set up a gas station in this pristine National Refuge.

If we allow drilling in the Arctic National Wildlife Refuge, we will forever ruin this unique wilderness and allow the oil industry to target all 540 National Wildlife Refuges for drilling and exploitation—all for a few meager months worth of oil. Furthermore, drilling in the Refuge is completely unnecessary. If we were to increase the average fuel efficiency of cars, mini-vans and SUV's by only three miles per gallon, we would conserve more oil in ten years than could ever be produced by drilling in the Arctic National Wildlife Refuge.

For the last five years I have led the battle in the House to stop the Republicans in Congress from selling off one of our greatest natural treasures to the powerful special interests. Help me continue to fight to expose to the American people the dangers of this extreme and ineffective action by making a contribution today.

Today, I will offer these amendments again on the House floor. This series of votes is a critical moment for our country's energy future. I need your help now to expose the travesty of this Republican energy plan and ensure that this horrendous bill, rife with handouts to the special interests, is ultimately defeated. If this bill passes, we will create more pollution, forever spoil one of our most important and beautiful public lands and be forced to continue placing our soldiers in harm's way in defense of oil in the Middle East.

Help me continue to fight for a sensible, clean and independent energy future and shine a light on the Republican Party's backroom attempts to cater to the special interests by making an immediate contribution. As Justice Louis Brandies used to say, "sunshine is the best disinfectant."

Thank your for your action,

ED MARKEY

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Washington State (Mr. INSLEE).

Mr. INSLEE. Madam Chairman, the gentleman from Alaska (Mr. YOUNG) asked a very important question: Where are the technologies that we can use to avoid having to destroy the character of one of our most pristine areas in America?

And the answer is that we have technologies today that we simply stopped using 20 years ago.

□ 1600

If you look at this graph, it shows the mileage of our cars that we have. You see, starting in 1975 it went up dramatically because we had a bipartisan consensus to demand to use existing technologies to improve our automobile efficiency. It went up dramatically, almost doubling, almost doubling by 1985.

And then what happened? We fell off the wagon, and since that time, our average full economy shown by this middle line has absolutely, absolutely gone down since 1985.

The fact of the matter is, these are not future techno dreams that someone has dreamed up in their garage somewhere; they are technologies that exist today. I drive a car that gets 44 miles to the gallon. I am 6′2″, 200 pounds; it is totally safe and comfortable.

We need to get back on the fuel efficiency wagon as we were in the 1980s on a bipartisan basis and not put a mustache on the Mona Lisa. You say 2,000 acres? It is still a mustache on the Mona Lisa for our most pristine areas.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in opposition to the Markey amendment.

Of course, energy independence should be the goal of this Congress. Worldwide demand for petroleum has increased in the last decade. Our production has been relatively flat.

The inevitable result is higher prices at the gasoline pump. The reality is, it takes a long time to go from the oil field to the gasoline station, and we have lost considerable time in this regard.

Ten years ago, 1995, 104th Congress, H.R. 2491 would have allowed oil exploration in the ANWR. The Department of Energy has estimated, and the chairman quoted today, between 1 and 2 million barrels of oil a day could be derived from this source.

Unfortunately, this legislation, passed by the House and the Senate, was vetoed by President Clinton. That was nearly 10 years ago. Given a time line of 7 to 14 years for building a pipeline structure, it is time that we could scarcely afford.

Just like the other gentleman from California, I have been to ANWR. The vast coastal plain is unsuitable for habitation during the summer months because of the marshy consistency. Any caribou unlucky enough to calve in this region would likely die from exsanguination at the hands of the mosquitoes there.

The people in ANWR are counting on this Congress to do the right thing and allow them, the rightful owners of these mineral rights, to begin developing the sources that were granted to them upon statehood in 1959.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Chairman, I thank the gentleman from Massachusetts for his leadership on this issue.

I see a far different place than the two gentlemen that have spoken before us from the opposition. When I went up to the Arctic National Wildlife Refuge, I saw a tremendously diverse area in terms of wildlife. I saw musk oxen, grizzly bears, Arctic char, and this marvelous caribou herd, which is the largest in North America, migrate to cross the area that we are talking about drilling in. So there is a far different area than is being described.

One of the things that has not been mentioned here is, two native tribes depend on the migration of these caribou, and they have asked the Congress and they have asked the State of Alaska to stand up for them and to say, We do not want to have the destruction of this migration, because their livelihood depends on having caribou, and their entire existence rotates around that.

So I would urge my colleagues to support the Markey amendment and vote down this dangerous energy bill.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, may I inquire of the Chair how much time is remaining.

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from Massachusetts (Mr. MARKEY) has 5½ minutes remaining; the gentleman from California (Mr. POMBO) has 2½ minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 3½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the Markey amendment.

I consider this one of the most important environmental votes Congress will cast this year, the vote to protect the Arctic National Wildlife Refuge from oil and gas drilling.

According to the U.S. Geographical Survey, this area would produce far less oil than the U.S. consumes in a single year, and is the only conservation area that protects a complete spectrum of Arctic and sub-Arctic ecosystems in North America.

The ecosystem will be seriously damaged by drilling in the ANWR, make no mistake about it. Roads, pipelines, drilling platforms and communities to support personnel all involve disturbing this critical natural habitat by moving a great deal of extremely heavy equipment across fragile lands, by locating multi-ton rigs and whole communities of people to support the drilling operation on this fragile land base.

Drilling supporters claim that everything can be done in the refuge using ice roads and platforms. But even if ice roads did not melt in summer months, the reality is that there is simply not enough water in the refuge to create the roads and platforms necessary to drill in the ANWR refuge.

Just building 1 mile of road takes a million gallons of water. There are only eight lakes scattered across the refuge containing enough unfrozen water to build a mile or more of ice roads. That means the only alternative truly is permanent gravel roads crisscrossing the refuge and, in fact, there is not one oil field in Alaska's North Slope that does not have permanent gravel roads.

Some drilling supporters cite the central Arctic caribou herd as illustrating that the caribou and drilling can coexist harmoniously. But calving females have completely withdrawn from the drilling area around Prudhoe Bay and are declining around the Kuparak complex. While there is ample area for the central Arctic herd to move away from the drilling facilities for calving and still be supported, this is not the case for the porcupine caribou herd. They are a much larger herd and the coastal plain where they calve is much smaller. They would be displaced into the foothills where both they and their calves would be extremely vulnerable to predators.

Finally, it would take a decade to deliver oil from the ANWR, and the amount, again, as I said earlier, would be very limited, according to the U.S. Geological Survey.

On the other hand, the National Petroleum Reserve and other areas are capable of providing far more oil. In fact, the Federal Government, the State of Alaska, the Arctic Slope Regional Corporation, and others are in the process of leasing 50 million undeveloped acres in this region.

We do not need to drill on the ANWR plain. If we were to increase the fuel efficiency of automobiles by just 3 miles per gallon, we would save a million barrels of oil a day, five times the amount we would get out of ANWR. Or, if just California increased their use of currently available clean diesel technology cars, pickups and SUVs just to the levels seen in Europe today, just California could save 110 million gallons of gasoline by the year 2010.

So this vote is not about oil, it is about our values and how we balance the value we place on a critical environmental resource and its ecosystems, and the value we place on exploration in a low-yield area. Indeed, it is about prudent stewardship.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of the time.

The Acting CHAIRMAN. The gentleman from Massachusetts has 2 minutes remaining.

Mr. MARKEY. Mr. Chairman, this is a huge moment for this Congress. Inside of the Republican bill that we are voting on is a continuation of the $35,000 tax break to purchase Hummer IIs, a tax break to buy a Hummer II, $35,000. And then they turn with policies like that and they say, We need more gasoline in America. And they turn to an Arctic wildlife refuge as the first example of where they will go, rather than saying, Well, you know, if our country could put a man on the moon in 1969, if we could deploy the Internet around the world in the last 15 years, if we could craft a human genome, then maybe we could find a way to reinvent the automobile and the SUV so that it would average more than 23 miles per gallon, 1983s average; that is the average we have today.

It is wrong, it is immoral for this Congress not to have any fuel efficiency standards for automobiles or SUVs in their bill, to continue tax breaks, giving incentives for Americans to purchase the most inefficient vehicles, and to then turn to the wilderness areas and say, We need the energy.

America is great because its people are great, and what makes us great is we are technological giants. We have only 3 percent of the oil reserves in the world, but with our brains, we can make vehicles that are twice as efficient as the ones that we use today, if we put our minds to it. But the Bush administration and the Republican majority are completely and totally opposed to it. They reject it in their legislation today. Yet, they say they have a solution for the energy crisis in America.

Well, you cannot put 70 percent of all of the oil in gasoline tanks, have no improvement in fuel economy standards, and then say you are solving the problem by going to wilderness areas and spoiling them.

Vote "aye" on the Markey amendment.

Mr. POMBO. Mr. Chairman, I yield myself the balance of the time.

The Acting CHAIRMAN. The gentleman from California has 2½ minutes remaining.

Mr. POMBO. Mr. Chairman, this is always a great debate that we have on the energy bill, and I always enjoy the rhetoric of the gentleman from Massachusetts (Mr. MARKEY) and his ability to speak to the issues that he is so passionate about.

I have been to ANWR. I have been up there in the wintertime when it was 40 degrees below zero; I have been there when it was the summertime and it had warmed up to 32. And I agree with the gentleman from Massachusetts on one point, and that is that it is a very unique place that deserves to be protected. I believe that it is one of the most important areas that we have in Alaska, and throughout the country, because of its uniqueness.

But the argument that the gentleman from Massachusetts (Mr. MARKEY) and those who support his amendment continue to make is that we have to choose between energy production and protecting our environment, and we do not. It is a false choice. We keep hearing this over and over again.

Currently, there are about 120 wildlife refuges that have some kind of oil and gas development in them. This is not a wilderness area, as the gentleman from Massachusetts (Mr. MARKEY) keeps talking about, it is a wildlife refuge. And the area that we are talking about doing gas and oil exploration in was reserved by Congress for that purpose.

We do not have to choose between having a vibrant economy, we do not have to choose between providing the energy resources for our country and protecting our environment. We can do both. There is no reason why we cannot.

They talk about the 700,000 jobs that this will produce, and if it is that many, that is American jobs. But that is money that is being sent to foreign countries right now, that will be kept in this country. We have 3,000 union members that are on Capitol Hill today lobbying against the Markey amendment, because they know it means jobs to them. But they also know that it means that they will have to pay less in the future for gasoline than they would if the Markey amendment passes.

This is an important amendment, because when we talk about energy independence, a big part of energy independence is developing our energy resources. It is not about all of these pie-in-the-sky ideas that we keep hearing about. What this is about is developing our own resources here at home, providing jobs here at home, and keeping hundreds of millions of dollars a year here at home. That is the effort that this committee is making; that is the effort that we put in.

Passing the Markey amendment would be a huge mistake. If we had been able to do this before, we would be producing that oil now.

Vote against the Markey amendment again.

Mr. UDALL of Colorado. Mr. Chairman, I support this amendment.

I think our colleagues from Connecticut and Massachusetts have very well explained why the amendment should be adopted.

On that, I don't think there is a need to try to add to what they said except to say that the amendment will protect one of the most special places in our country without much real cost in terms of our ability to maintain needed energy supplies.

But I do want to take just a moment to add a personal note.

As Congress has debated this and similar energy bills, there has been some discussion of the history of the Alaska Lands Act and how its authors might vote if they were still Members of Congress.

Some have even suggested that my father, Mo Udall, would oppose this amendment and support opening the coastal plain to drilling.

That's an interesting thought. Of course, all we really know is that if things were different, they would be different.

But I have my own opinion on the subject—and I think speculation along those lines is not based on history.

I think that the prime sponsors of the Alaska Lands Act, including my father, would support the Markey-Johnson amendment.

Of course, that isn't really the point, anyway—the real issue before us isn't about the past, but about the future.

And it is up to us—not our predecessors—to decide, not just for ourselves but for our children and their children.

But if people want to consider some words from the past, I would direct their attention to the original Committee report on the Alaska Lands Act, dated April 7, 1978.

On page 149, the report points out that "the Committee has noted the eloquent statements of a number of prominent Alaskans" about the idea of building a pipeline across the coastal plain.

"For example," the report continues, "Senator Ted Stevens . . . told the Council on Environmental Quality that 'Some have appropriately compared [that idea] with slicing a razor lade across the face of the Mona Lisa."

I think that is a good summary of what could happen if we do not adopt this amendment.

I am not saying that Senator STEVENS would support the amendment—I am sure he wouldn't.

I am saying that I think he aptly described what will happen if the coastal plain is opened to drilling.

And that is why I will vote for this amendment, and why I urge its adoption by the House.

Mr. CROWLEY. Mr. Chairman, this debate comes down to Fact v. Fiction.

Fiction—The other side argues that drilling in pristine areas will lower gas prices.

Fact—The President's top counselor Dan Bartlett said this week that there is no magic wand to reduce gas prices.

Fiction—Opening ANWR will relieve the U.S. from turning to foreign sources.

Fact—This bill makes our country more dependent on fossil fuels from places like the Mid-East as scientists of all ideologies have stated that the limited amount of oil will not result in a lessening of oil dependency for the U.S.

Fiction—Opening ANWR will weaken OPEC and strengthen the U.S.

Fact—The Bush administration's own Department of Energy contradicts this point, when it determined last year that if world oil markets continue as they currently do, OPEC could "countermand any potential price impact of Arctic Refuge production by reducing its exports by an equal amount?"

Fact—Drilling in ANWR will not lower gas prices at the pump; will not protect our national sovereignty, and will not reduce our dependence on foreign oil.

Fact—Vote for Markey-Johnson.

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Markey-Johnson Amendment to protect the Alaska National Wildlife Refuge.

The coastal plain of ANWR is the last major part of the North Slope that has not been developed. In my judgment, it would be far better to develop prudent and lasting alternate fuel energies than to risk irreparable damage to the wilderness of one of North America's most beautiful frontiers.

The reason the ANWR "solution" seems so simple is because it's too good to be true. It won't fix our energy problems—with so little oil available up there, it couldn't possibly, as it will take a decade to get the oil down here. That time would be far better spent developing clean, renewable energy sources that will provide infinite energy without imperiling our last remaining wilderness areas. Even a modest increase in CAFE standards would save more oil than would be produced by drilling in ANWR.

We simply won't have a world to live in if we continue our neglectful ways. What we really need to ask ourselves is: how can we square legitimate environmental concerns with our expanding energy needs?

Mr. Chairman, drilling in the Arctic Refuge is the wrong answer to the right question. I urge my colleagues to vote yes on the Markey-Johnson Amendment.

The Acting CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) will be postponed.

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The Acting CHAIRMAN (Mr. SIMPSON). It is now in order to consider amendment No. 4 printed in House Report 109-49.

AMENDMENT NO. 4 OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BOEHLERT:

In title VII, at the end of subtitle E, add the following:

SEC. 775. AVERAGE FUEL ECONOMY STANDARDS.

(a) PURPOSE.—The purpose of this section is to seek to save each year after 2014 10 percent of the oil that would otherwise be used for fuel by automobiles in the United States if average fuel economy standards remained at the same level as the standards that apply for model year 2007.

(b) IN GENERAL.—Section 32902 of title 49, United States Code, is amended by redesignating subsections (i) and (j) in order as subsections (j) and (k), and by inserting after subsection (h) the following:

"(i) STANDARDS FOR MODEL YEARS AFTER 2007.—The Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles manufactured by a manufacturer in model years after model year 2007, that shall—

"(1) ensure that the average fuel economy achieved by automobiles manufactured by a manufacturer in model years after 2014 is no less than 33 miles per gallon;

"(2) ensure that improvements to fuel economy standards do not degrade the safety of automobiles manufactured by a manufacturer; and

"(3) maximize the retention of jobs in the automobile manufacturing sector of the United States.".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)(1) in the first sentence by inserting "and subsection (i)" after "of this subsection"; and

(2) in subsection (k) (as redesignated by subsection (a)) by striking "or (g)" and inserting "(g), or (i)".

The Acting CHAIRMAN. The gentleman from New York (Mr. BOEHLERT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY), and I ask unanimous consent that he be able to control that time.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Acting CHAIRMAN. The gentleman from Massachusetts will be allotted 5 minutes and will control the 5 minutes.

Does the gentleman from Michigan (Mr. DINGELL) claim the time in opposition?

Mr. DINGELL. I am opposed to the amendment.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) will be recognized for 10 minutes.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to yield 5 minutes to the gentleman from Michigan (Mr. UPTON) and that he be permitted to yield as he might see appropriate amongst his colleagues.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I yield myself 1 minute. Mr. Chairman, let me make several quick points. First, we cannot become less dependent on foreign oil unless we increase the fuel economy of our vehicles.

We are importing 14 million barrels of oil every day. Cars and light trucks consume 9 million barrels of oil every day, and consumption is going up not down. We are on a collision course with disaster.

Second, we have been losing ground on fuel economy. We use more gas to drive a mile today than we did 20 years ago. Third, this amendment would cut, would cut U.S. consumption by 2 million barrels a day by 2020, more of a savings than any other single source in the bill.

Fourth, the National Academy of Sciences said that full economy can be increased "without degradation of safety." A representative of the Alliance of Automobile Manufacturers confirmed at a recent Science Committee hearing that I chaired that CAFE could be increased without compromising safety.

Finally, the biggest beneficiary of this amendment will be the consumers. They are sick and tired of paying skyrocketing prices for gasoline. $40 to $50 to fill up. They want relief. This amendment offers them hope that we are doing something about it.

Finally, support this commonsense science-based amendment that will help the Nation while leaving more money in consumer's pockets, theirs not ours.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I know the amendment is offered with the best of good will. It is nonetheless a bad amendment which is going to cost this country jobs. I urge my colleagues to oppose it.

The amendment appears to say that it would only require CAFE to be fixed at 33. In point of fact, it would be required, because of the language in the amendment, to properly go to 36 miles per gallon. If you like driving around in small cars, this will assure that that will be all that you will have.

I will point out who opposes it: AFL-CIO, Farm Bureau, United Auto Workers, National Automobile Dealers, and hundreds of consumers who buy comfortable cars which are big enough so that they can take their family around.

The amendment would purport to have the agency which would fix fuel economy standards to in fact consider both jobs, safety and other questions like that. In point of fact, there is no requirement. So those requirements, in fact, are not requirements but, rather, an illusion.

I would urge my colleagues to vote against the amendment. It is opposed by people who want jobs, who are concerned about the economic welfare and well being of the country, and the auto workers.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentleman from Washington State (Mr. INSLEE.)

Mr. INSLEE. Mr. Chairman, I would, just in support of this amendment, report how successful our country has been previously with this experience. I want to point to a graph showing our fuel efficiency in 1975, that when we were adopting fuel efficiency standards, rocketed up and almost doubled to 1985, then stopped when we lost our commitment to fuel efficiency.

And subsequently it has plateaued; it has actually gone down. The average fuel efficiency today is less than it was in 1985. I want to point this out, because it shows an American success story. We were successful in driving safe, efficient, fuel-efficient cars. And we got off the fuel-efficiency wagon.

It is time to go back. We cut a deal with Canada the other day. We can do it in America.

Mr. UPTON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON), the chairman of the powerful Energy and Commerce Committee.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to this amendment. You could classify this amendment as the darn-the-people amendment, and we are going to tell them what they want to do, not what they really want to do. We are going to tell them that they have to do something whether they want to or not.

I would list as Exhibit A the parking garage of the Cannon Office Building or the Rayburn Office Building or the Longworth Office Building. There are cars and trucks on the market today that meet the standards that would have to be met if this amendment were to become law. I doubt that the congressional fleet meets that standard, because we, like everybody else, want some convenience and want some power under the hood.

But if you want a car or truck that gets 35 or 36 miles a gallon or 40 miles a gallon or more, you can buy it today. How many of us do that? I have had one vehicle that my son actually bought: it was a Nissan Sentra. It probably got 35 miles to the gallon on the highway. When he got through with it and bought himself a little bit bigger, more fancy vehicle, he let me drive it, and I brought it up here, used it as my car for a while. My staff was so embarrassed: it did not have an air conditioner: it was a standard transmission. I could hardly get them to get in the car.

But I did have one vehicle in my life that would have met the standard that is in this bill. I represent an assembly plant in Arlington, Texas, a UAW plant. I doubt very many of those folks actually vote for me because I am a Republican and most of them are not, but they have a right to make the Chevrolet Tahoes and the Cadillac Escalades, because a lot of Americans want to drive that vehicle.

I am not going to go down and tell them, you cannot make that vehicle because it does not meet these fuel-efficiency standards. Let the market decide. If America wants more fuel-efficient vehicles, they are available in the marketplace today.

We do not need a government fiat telling them that that is the only vehicle that they can purchase. Vote against this amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Markey-Boehlert, et al amendment. People used to own slaves and we look back and say how could they? Future generations will say we destroyed the environment and how could we?

Let us conserve, let us see oil prices go down as we stop wasting what we have. SUVs, mini-vans, and trucks need to get better mileage; and we need to tell the automobile manufacturers to make this happen.

Mr. Chairman, I rise in strong support of the support of the amendment to reduce our consumption of oil by increasing fuel economy standards for passenger cars and light trucks.

This amendment requires the Department of Transportation to raise fuel economy standards for automobiles from today's average of 25 miles per gallon to 33 miles per gallon by 2015.

Under this amendment, the Administrator of the National Highway Transportation Safety Administration will have maximum flexibility in how the standards are set. the standard could be increased for cars or SUVs or only the heaviest trucks.

Mr. Chairman, I agree with those who say, "We cannot conserve our way out of this energy problem." However, until we raise CAFE standards, we cannot honestly tell the American people this is a balanced energy plan.

It is absolutely imperative we are more efficient and make better use of our precious resources.

This is a common sense amendment, which represents a modest step forward in our nation's efforts to become more energy efficient. Our amendment will help protect the environment, reduce our dependence on foreign oil and save drivers money at the pump.

The United States cannot continue on a course of increased oil consumption with little to no regard for the implications it has on our environment, economy and national security. There is no better time to focus on reducing our reliance on foreign oil than right now. Increased fuel efficiency standards and tax incentives for conservation and renewable energy sources should be at the heart of our national energy policy in a post-September 11 world.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I rise today to oppose the Boehlert-Markey amendment to the energy bill. This unnecessary amendment would hurt our already struggling economy. It threatens the jobs of workers in Flint, Bay City, Saginaw, and other communities in my congressional district and in my home State of Michigan.

It undermines the hard work of our auto companies and auto workers that is being made through the investment of billions of dollars in alternative fuels and advanced technology vehicles. The drastic increases called for in this amendment would have negative consequences for passenger safety and consumer choice.

The National Highway Traffic Safety Administration has increased CAFE standards, which is their obligation. Clearly, the current process, Mr. Chairman, is working. Opposing this amendment protects jobs, passenger safety, consumer choice, and advancing auto technology.

I urge my colleagues to oppose this amendment.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus.

Mr. MENENDEZ. Mr. Chairman, I rise in strong support of the Boehlert-Markey amendment. Despite the bill's claims to meet our Nation's energy needs and provide for our Nation's future, H.R. 6 ignores a pivotal approach that will reduce our foreign dependence on oil and alleviate our high oil consumption, increasing fuel economy standards.

Let us look at what we know. We know that fuel economy standards have helped to reduce our dependence on foreign oil. We know that raising the standard to 33 miles a gallon over the next 10 years, which this amendment would do, would save 10 percent of the gas we will consume, and we know that we have the potential in this country to make cars and light trucks much more efficiently.

Mr. Chairman, we need to unlock that potential. We have the technology; we have the innovation. Despite all of this, the bill before us makes no effort to increase those standards. We have a choice: Do we want an energy future that is stagnant and dependent on traditional sources, or do we want a future that will break new boundaries in innovation and technology, reduce our dependency on foreign oil, increase conservation and efficiency and ensure the security of our Nation?

Let us prove that we are serious about our Nation's energy future. Increasing fuel economy standards should be part of the solution and part of our National energy policy. And I urge my colleagues to vote for the Boehlert-Markey amendment.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from the great State of Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, you know you cannot make a fat guy skinny by mandating smaller pant sizes. People have to want to buy the vehicle that you are trying to sell them. There is a reason that moms go through the pain and agony of buying an SUV and a mini-van, because they are safe, because they can get their whole family in there, because they can put a bike in the back, and they can get all the groceries in there.

They buy them because they want them and they are safe. The automobile companies today do not get enough credit for all of the money they are investing in trying to make these things efficient. Believe me, if they could get 40 miles to the gallon in an SUV, they would be on these front steps having a press conference selling these things. Technology has not matched what consumers want. Let them do that. You artificially interfere with where we are going, they are making huge strides. To do this costs Americans jobs. It costs Americans jobs.

Let them do what they are doing best, and innovate their way to those high-mileage SUVs and mini-vans so moms do not have to drive Mini Coopers.

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I believe that this amendment actually saves American lives. Mr. Chairman, there is no better way to look at this issue than through the eyes of a young soldier stationed in the Middle East.

One of the reasons why we pay so much attention to the Persian Gulf is that the economy of the West is totally dependent on oil from this region. We must station forces there to make sure that nothing happens to our supply of energy.

And nothing can change this situation right now. But this amendment can change this situation for the future. By adopting CAFE standards, we will make the Persian Gulf much less important. We will reduce the need to ever deploy young Americans into harm's way. Look into the eyes of a 10-year-old American and think of him or her, and vote for policies which will make it much less likely that any President would ever ask them to return to harm's way in the Persian Gulf.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan. Mr. Chairman, I rise in strong opposition to this amendment. The National Traffic Safety Administration is the body who sets those standards. There are standards. They scientifically set those standards. And sometimes they raise them. It is important that we keep that responsibility with NTSA who does a fine job with that, to set maximum feasible levels for the standards cars and trucks must use.

I want to read from a good friend here who says, "Such a proposal would dramatically affect the functionality and performance of vans, pickup trucks and sports utility vehicles that consumers in America want."

And that is by the United States Chamber of Commerce. One in 10 jobs are related to the auto industry. Fuel economy standards are set scientifically, and this body should not get into that.

□ 1830

We have standards. The American people choose the cars and trucks they want to drive. I believe that the standards are set fine. And as we go on, the millions of dollars that the industry has put into new development, new cars that are energy efficient we will see as time goes on. Americans are working and we are winning. Leave the standards to NHTSA.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, in a cautionary letter to the President last month, a group of defense experts including conservatives Robert McFarlane, Frank Gaffney, and Boyden Gray said the following: "With only 2 percent of the world's oil reserves but 25 percent of current world consumption, the United States cannot eliminate its need for imports through increased domestic production alone."

Our dependence on foreign oil is putting our country in a perilous situation. I urge my colleagues to support this amendment because it will move us away from that perilous addiction to foreign oil and increase efficiency where we use the most oil, and that is the automobile industry.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I stand today in opposition for raising the CAFE standards. This is an irrelevant piece of legislation that is not only unnecessary, it is an outdated solution in search of a 21st century problem.

Changing technology and innovation have rendered this amendment unnecessary. The increasing use of hybrid vehicles shows that a market-based approach to increasing fuel efficiency is a better way to reduce American oil consumption than by placing arbitrary standards on automobiles that harm our domestic manufacturers. And, in fact, the only thing we get with CAFE standards down in my district are car dealers with acres and acres of tiny cars they cannot sell.

With today's high gas prices, hybrid vehicles will help reduce the amount of money that our constituents pay at the gas pump.

Mr. Chairman, in the interest of full disclosure, I drive a hybrid vehicle. I did not buy it because of the tax break. I did not buy it because of any legislation that we passed in this Congress. I bought it largely because of air quality concerns back in my district. But now I look positively brilliant that gasoline prices are so high. But the best thing about a hybrid vehicle, Mr. Chairman, is it allows you that feeling of moral superiority as you drive your car.

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. PLATTS).

Mr. PLATTS. Mr. Chairman, I rise in support of this bipartisan amendment. If we want a national energy policy that is truly about economic security for all Americans, not just those in the auto industry, that is about national security for all Americans, it needs to be comprehensive. It needs to be about hybrid vehicles, alternative fuels, renewable fuels. It needs to be about better using our resources we have. But it also needs to be about conservation.

This amendment is one of the greatest steps we can take in the area of going forward in conservation. It is not about whether you should be able to buy an SUV. It is about whether you should be able to buy an SUV that gets 27.5 miles per gallon like a car does instead of 20.7. It is about choice and efficiency.

This amendment is a good amendment. I urge a "yes" vote. I commend the prime sponsors of the amendment for bringing it before the House.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. DOYLE).

Mr. DOYLE. Mr. Chairman, I would respectfully add my voice to those opposing this amendment.

While clearly we all want to reduce our imports of foreign oil. I have not been convinced that raising CAFE standards would actually accomplish this. As I understand it, our imports' share of oil consumption was 35 percent in 1974. Since then, our new car fuel economy has roughly doubled, but our auto import share has risen nonetheless to about 50 percent. For this reason, I am not convinced that the amendment, if adopted, with achieve one of its primary goals.

Additionally, our national economy is struggling, to say the least. In my home State of Pennsylvania, which is not normally thought of as a State closely tied to the automotive industry, a total of 220,800 jobs are dependent on the industry; 39,700 of these people are directly employed by it, and when you add in other spin-off employment, we are talking about over 220,000 jobs in Pennsylvania alone.

Mr. Chairman, in these difficult economic times, I simply do not think it is prudent to put those jobs and this vital industry in jeopardy when it is not clear the benefits potentially derived would merit doing so.

With the gentleman from Michigan (Mr. DINGELL) I urge defeat of the amendment.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Chairman, I rise today in support of the amendment and in opposition to the underlying legislation.

We need to increase our fuel efficiency if the U.S. is ever going to get serious about our energy crisis. Last year, Mr. Chairman, I voted for this energy bill because I thought we needed a national plan, but that was when oil was selling at $30 a barrel.

This year, when oil is averaging $55 a barrel and gas prices are nearly $3 a gallon in some places, it is bad public policy to add to the national debt, borrowing the money to give to companies who are making record profits. The American people deserve better.

I ask for an "aye" vote.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. UPTON) has 1 minute remaining.

Mr. UPTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have a trivia question for you. What automaker has the most vehicles that get a highway fuel economy of 30 miles per gallon or greater? I will give you a hint. They make 19 of the vehicles, and that is more than any other automaker.

Do you know who it is? General Motors.

What frustrates me about this debate is the misconception that CAFE standards are some Holy Grail that foreign manufacturers can get to, but domestic ones cannot. We do not need to micromanage our auto manufacturers. They are doing just fine. CAFE standards are being met and they are being exceeded virtually every single day.

But the more important work is finding real alternatives to gasoline-powered cars and developing them, for every dollar we force the auto companies to spend on the CAFE standards is a dollar they will not spend on hybrids, hydrogen fuel cell and other alternative fuel cell vehicles.

I am sick of hearing the same old debate. I want to get us to the point where we talk about which one of the new alternatives we are most excited about.

I urge you to defeat this used amendment and vote for a new car. Please defeat this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I believe that I am entitled to close the debate?

The Acting CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) is entitled to close and the gentleman has 1 minute remaining.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. The gentleman from Massachusetts (Mr. MARKEY) has 2 minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is the key issue if we are going to get serious about the imports of oil into our country.

We put 70 percent of all oil that we consume in America into gasoline tanks. In 1975, we averaged 13 miles per gallon; we averaged 13 miles per gallon in 1935. But Congress, because of the energy crisis, passed a law mandating a doubling of the standards in 10 years, and the auto industry responded; and by 1986, the average was 27 miles per gallon, and we had OPEC on its back. The price of oil fell to $12 a barrel. We, using our technological genius, had won.

Now, it is almost 20 years later and America is now averaging 23 miles per gallon. We have gone backwards 4 miles per gallon and played into OPEC's hands as the price of oil goes up to $50 to $55 to $58 a barrel, as consumers are tipped upside down every time they go into a gas station in order to pay to fill up their car.

The only answer is to call upon our country's greatness to improve the fuel economy standards to 33 miles per gallon by 2015. In other words, to add only 6 additional miles per gallon over what was accomplished in 1986.

The opponents of this amendment say that is impossible. Well, we put a man on the moon in 9 years. We improved the fuel economy standards in 10 years by 13 miles per gallon in the 1970s and 1980s, but now we are being told that we do not have any longer the ability to do that.

Well, we are 60 percent dependent upon imported oil. We are heading towards 65 percent, towards 70 percent. That is increased national security problems for our country that we will look back at and regret that we missed this opportunity to make our country more secure.

Mr. Chairman, I yield back the balance of my time.

Mr. BOEHLERT. Mr. Chairman, how much time do I have remaining?

The Acting CHAIRMAN. The gentleman from New York (Mr. BOEHLERT) has 1½ minutes remaining.

Mr. BOEHLERT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is myth versus reality. Myth number one: This will cost us jobs, passing this amendment. "Jobs" is my favorite four-letter word. This is a bunch of nonsense. The reality is, the new standards, if they are enacted into law, Americans will buy more, not fewer, vehicles because they will be more fuel efficient.

Myth number two: CAFE standards will force Americans into smaller vehicles. The reality is, we heard that argument first back in 1975. The opponents said, If you adopt this new standard, all Americans will be driving compacts or subcompacts in 10 years. What has happened? The record is bigger and bigger vehicles all over the place.

The fact of the matter is, we do not want to take away choice from consumers. We want them to have their SUVs if that is what they want. We want them to have their light trucks if that is what they want. We want Detroit and the American auto industry to make more fuel-efficient vehicles.

Finally, this really offends me, myth number three: We will sacrifice safety. That is what the opponents say; that is not what the National Academy of Sciences says. We already have the technology on the shelf gathering dust to manufacture more fuel-efficient automobiles and light trucks. I say the alarm has been sounded. This is a national security issue.

We are far too dependent on foreign-source oil. This amendment alone will save 2 million barrels a day by 2020 and, in the process, save the American consumers that are fed up with a car requiring $40 or $50 to fill up. They want more fuel efficiency, and we owe it to them and to ourselves to deliver it.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) has 1 minute remaining.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Michigan (Mr. STUPAK) to close the debate.

Mr. STUPAK. Mr. Chairman, I rise in opposition to the amendment. Encouraging and supporting the development of innovative new technology is preferable to arbitrary increases in CAFE standards that will truly hurt thousands of American workers. Moreover, the National Academy of Sciences report of 2001 indicated that only the subcompact car segment of our fleet could be expected to achieve this fuel economy level.

This suggests that a substantial portion of the vehicles on the road would have to be very small to reach this objective. Reducing our consumption of oil should come from new technology, not by mandating a standard that requires most vehicles to be a subcompact.

The National Academy of Sciences also raises concerns about potential increases in highway fatalities if the auto industry is forced into selling a greater share of small vehicles. According to the analysis of the Insurance Institute of Highway Safety Data in 1999, since CAFE standards were first announced in 1975, approximately 46,000 people died in crashes who would have survived if CAFE had not encouraged smaller, lighter cars.

I am concerned that this amendment would lead to more unnecessary fatalities. For these reasons, I urge a "no" vote on this amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BOEHLERT).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. BOEHLERT) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109–49.

AMENDMENT NO. 5 OFFERED BY MRS. JOHNSON OF CONNECTICUT

Mrs. JOHNSON of Connecticut. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mrs. JOHNSON of Connecticut:

In title VII, subtitle E, add at the end the following new section:

SEC. 775. UPDATE TESTING PROCEDURES.

The Administrator of the Environmental Protection Agency shall update or revise test procedures, Subpart B—Fuel Economy Regulations for 1978 and Later Model Year Automobiles-Test Procedures 600.209–85 and 600.209–95, of the Code of Federal Regulations, CFR Part 600 (1995) Fuel Economy Regulations for 1977 and Later Model Year Automobiles to take into consideration higher speed limits, faster acceleration rates, variations in temperature, use of air conditioning, shorter city test cycle lengths, current reference fuels, and the use of other fuel depleting features.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentlewoman from Connecticut (Mrs. JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I ask unanimous consent to yield to the gentleman from New Jersey (Mr. HOLT) 2½ minutes for purposes of control.

The Acting CHAIRMAN. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support of the Johnson-Holt amendment. It is a simple amendment. It is simply truth in advertising, EPA truth in advertising.

☐ 1845

For the past 3 decades, American motorists have been buying cars, relying on miles-per-gallon stickers that grossly overestimate the miles per gallon a car can get. For some vehicles, the advertised miles per gallon is off by as much as 30 percent.

With gas at $2 a gallon and some cars costing more than my husband and I paid for our first home, such false information is simply intolerable, and it is intolerable that our tax dollars are paying for the EPA to develop false and misleading information.

The auto makers are not at fault; neither are the oil companies. It is our own government. That is the culprit, and we cannot tolerate EPA providing wildly inaccurate miles-per-gallon information in the future.

The way to change this is simple. We simply have to modernize the testing procedures that EPA uses. The EPA uses 30-year-old testing standards. The EPA assumes that highway drivers never exceed 50 miles an hour; but of course, they do, and the faster they drive, the more wind resistance they get and the lower fuel economy they achieve.

The EPA also assumes that the rate at which drivers brake and accelerate has not changed over 30 years. Even though the cars have changed dramatically and so have the driving habits. They do not notice that driving in cities is entirely different with its stop-and-go traffic and traffic jams than it used to be 30 years ago.

So our amendment is really simple, straightforward, and common sense. It mandates that EPA update the tests used in determining estimated fuel-economy ratings to reflect real-world driving habits of American motorists.

This is an important little amendment. It is a pocketbook issue. New cars are expensive. Gasoline is expensive. People can buy whatever car they want, that is their right; but they should have accurate information on which to base their choice, and their tax dollars should not be spent for false and misleading information.

So I urge the support of my amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). The gentlewoman from Connecticut's (Mrs. JOHNSON) 2½ minutes has expired.

Mr. BARTON of Texas. Mr. Chairman, I rise in mild opposition to the Johnson amendment.

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I said mild opposition because it is exactly what it is. I chair the committee of jurisdiction that would have this amendment, and we have been working with the Congresswoman from Connecticut to try to perfect her amendment. She has been very gracious to come up to me on the floor, and then her staff and committee staff have been working, and we really thought that earlier in the week or late last week we had an amendment that everybody could agree to. For various reasons, that was not agreed to, so we have the situation today.

At the close of this debate, the gentleman from Michigan (Mr. ROGERS), a member of the committee of jurisdiction, is going to offer a perfecting amendment to the Johnson amendment. I am going to support that at the appropriate time.

We support the goal of the Johnson amendment. She is trying to get consumers fair and accurate information when they go into a showroom or are thinking about purchasing a new vehicle. She states, and I agree, that the consumer has a right to know what the fuel economy is of that particular vehicle; and under current law, the way the tests are conducted, there is some discrepancy, as she has pointed out in her statement in support of her amendment.

Having said that, there are those that have reviewed her amendment and think that it could be a backdoor approach to CAFE standard increases. We just had the debate on the Boehlert-Markey amendment. I voted in the negative on that, and I think when that rollcall is called, the majority of the House is going to be in the negative. So I know that is not the intent of the gentlewoman's amendment, but there are some that think it could be.

We are going to oppose this amendment and support the gentleman from Michigan's (Mr. ROGERS) amendment in the nature of a substitute or amendment to the Johnson amendment. I think at the end of the day, the House is going to work its will, and the gentlewoman from Connecticut (Mrs. JOHNSON) is going to be happy and the gentleman from Michigan (Mr. ROGERS) is going to be happy and the consumers of America are going to be happy when they go into showrooms a year or two from now and see these new window labels that show what the fuel economy is.

Mr. Chairman, I reserve the balance of my time.

Mr. HOLT. Mr. Chairman, I yield 45 seconds to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I wonder how many Americans have bought a car and wondered why their gas mileage was not what had been advertised. Well, it is because the fuel economy numbers advertised by automobile manufacturers are based on 30-year-old fuel economy tests, tests that have not been adjusted for today's realities, and that leads Americans to be regularly misled by inaccurate labels.

The automobile industry has changed significantly over the last 3 decades, but the EPA standards are stuck in the past, overestimating fuel economy data.

I support this amendment. It will require the EPA to update its testing standards so that consumers will have accurate fuel economy information in the future.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Chairman, parliamentary inquiry, since the Rogers amendment, which is next in line, amends, or perfects, the Johnson amendment, does the gentleman from Michigan (Mr. ROGERS) have to seek recognition to offer his amendment before the close of debate on the gentlewoman from Connecticut's (Mrs. JOHNSON) amendment, or does he wait until her debate concludes and then offers his amendment?

The Acting CHAIRMAN. The gentleman may offer his amendment to the amendment at any time during debate on the Johnson amendment.

Mr. BARTON of Texas. At any time.

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) is recognized.

Mr. BARTON of Texas. Mr. Chairman, I reserve my time.

Mr. HOLT. Mr. Chairman, I yield 45 seconds to the other gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I support this bill so that we can, and the public can, rely on the energy-conscious information that they are getting and that they know that is correct and accurate, and they can move forward with that.

Mr. Chairman, Members, are your constituents also asking you what you are doing about high gas prices? We must answer that question in this bill.

Individuals can do something about their gasoline consumption when they select a car to buy. We need to help them.

People expect that, when they look at the window sticker, the miles per gallon figures that the EPA supplies are what they will get when they purchase the car.

They are not.

When one of my staff members complained to the car dealer that the gas mileage figures were way off for City Driving for the car she had selected for its fuel efficiency, the dealer said, "Oh, that doesn't apply to driving in DC."

I support this amendment because it would require the EPA to correct the long-standing inaccuracies in its testing procedures.

Our constituents must be able to rely on these facts to be the energy-conscious consumers they want to be.

AMENDMENT NO. 6 OFFERED BY MR. ROGERS OF MICHIGAN TO AMENDMENT NO. 5 OFFERED BY MRS. JOHNSON OF CONNECTICUT

Mr. ROGERS of Michigan. Mr. Chairman, I offer an amendment to the amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment No. 6 offered by Mr. ROGERS of Michigan to amendment No. 5 offered by Mrs. JOHNSON of Connecticut:

In the matter proposed to be inserted by the amendment, strike "test procedures" and all that follows through "Later Model Year Automobiles-Test Procedures" and insert "the adjustment factors in sections".

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Michigan (Mr. ROGERS) and the gentlewoman from Connecticut (Mrs. JOHNSON) each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan. Mr. Chairman, I thank the gentleman for yielding me time.

We rise to make this a better amendment. If we want EPA to do the testing, to make sure that things are right and labeling is correct, then we want to make sure that there is one test to do that. What we do not want to do is put additional funds, additional costs, additional measures on the auto industry that is already very fragile.

So we rise in opposition to the Johnson amendment and ask that our amendment be considered because the testing is there. We do not need to have two tests, as is required by the Johnson amendment. It doubles the cost for product, and it allows the competition to be more advanced in our competition war than we are now considering.

The auto industry in America is fragile. We all know that they have invested millions of dollars in their products to make them better, make them fuel efficient, do alternative energy sources.

We believe that our amendment is a perfecting one; and, yes, it requires that the EPA do the proper tests, not two times but the one time that is required and that the labeling be accurate.

We hope that our colleagues will support this Rogers-Kilpatrick amendment. It is a much better amendment, and again works with EPA to make sure that the labeling is correct with the one test.

Consumers deserve to know that the sticker in their window actually reflects the mileage they will get on the road.

The EPA should revisit their fuel economy standards and the Rogers/Kilpatrick amendment would require the EPA to change the adjustment factors that it currently uses to make the fuel economy label accurate.

NANCY JOHNSON's amendment requires the EPA to change the "testing procedures" that auto companies use to determine the fuel economy numbers that go on the dealer label.

Her amendment would require two test auto companies to do one test for labeling and a separate test for CAFE.

JOHNSON's language doubles the cost to the companies.

The Rogers/Kilpatrick amendment deals with the need for improved dealer label accuracy while only requiring one test.

Instead of requiring EPA to change the "testing procedures" the Rogers/Kilpatrick amendment requires the EPA to change the "adjustment factors" that EPA currently uses to make the fuel economy label accurate.

This simple change prevents the auto companies from having to run two separate tests.

Rather the auto companies can run one test that could be used and adjusted with appropriate factors to provide a more accurate fuel economy number.

The Rogers/Kilpatrick perfecting amendment to the Johnson amendment achieves precisely the same goal that the Johnson amendment strives to achieve: accurate fuel economy labels on new cars.

The only difference is that the Rogers/Kilpatrick amendment achieves this goal by having EPA revise the current test, instead of compelling EPA to conduct two separate tests.

The Rogers/Kilpatrick perfecting amendment makes clear that the objective is to change the fuel economy label values—NOT the test procedures. This will ensure that this measure will improve consumer information regarding mileage without imposing an increase in the stringency of CAFE or creating a second fuel economy test for consumer labeling.

The Johnson amendment COULD threaten to increase the stringency of CAFE.

The Johnson amendment would require EPA to change fuel economy testing for label purposes.

If the intent of this change is to create a new test for fuel economy labeling then the burden on automakers to test vehicles for both CAFE and fuel economy labeling would increase substantially.

If, however, the intention is to retain only one vehicle fuel economy test, then the test protocol currently used for determining CAFE values will also be affected—lowering the fleet fuel economy averages of manufacturers and making compliance with the CAFE standards more stringent.

Depending upon the test procedure changes implemented, the stringency of the CAFE standards could increase by 10–20% (or up to a 6 mpg increase in the stringency of the CAFE requirements).

The Acting CHAIRMAN. The gentlewoman from Connecticut controls the time in opposition to the amendment.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I reserve the balance of my time on the Rogers amendment so that we can move on to the gentleman from New Jersey's (Mr. HOLT) comments on our amendment.

The Acting CHAIRMAN. We are currently on the Rogers amendment.

Mr. HOLT. That is fine, if the gentlewoman would yield.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT) on the Rogers amendment.

Mr. HOLT. Mr. Chairman, it is my understanding that I also have 1 minute remaining on the underlying amendment.

The Acting CHAIRMAN. The gentleman from New Jersey (Mr. HOLT) has 1½ minutes remaining.

Mr. HOLT. Mr. Chairman, I thank the gentlewoman for the time.

When you go to the showroom to pick out a new car, the sticker in the window has a number for city mileage, highway mileage. You would like to think that that bore some relationship to reality. Now, on the television ads, they say your actual mileage may vary, when, in fact, your actual mileage probably bears no relationship whatsoever to those numbers in the window because EPA has specified that the auto manufacturers use an archaic testing method.

The amendment that the gentlewoman from Connecticut and I have offered would correct that testing method. That is the way to take care of this problem. It is not the right thing to do to use a multiplier factor, a scale factor, to grade on a curve or to use a fudge factor. That is what the gentleman from Michigan (Mr. ROGERS) is proposing to do, rather than getting at the heart of the problem, which is that the tests are not done in a realistic way.

The tests do not reflect the way people actually drive. The tests suggest that highway speeds are 48 miles per hour with a top speed of 60. Has anybody been on the road recently? That is not the way people drive.

The tests suggest that congestion and stop-and-go traffic is a minor part of driving. By 2001, congestion took about 26 hours per year out of a person's driving time. That is not realistically reflected in the testing method.

The testing method assumes gentle acceleration and braking. That is not the way city driving is done.

The tests suggest or require that there be no air conditioning, and it overestimates trips.

In other words, the tests are wrong. The tests should be modified to reflect the way people actually drive. Using a fudge factor, a multiplier will hide the actual differences between cars, and it will obscure what this is about, which is giving consumers accurate information.

It is certainly the case that for a government-mandated test we should get it right. That is all we are suggesting, and this amendment that the gentleman from Michigan (Mr. ROGERS) has may technically, under parliamentary terms, be called a perfecting amendment. In fact, it completely changes the nature of what we are trying to do, which is to give consumers accurate information.

The Acting CHAIRMAN. The Chair would clarify for the Members, on the underlying amendment, the gentlewoman from Connecticut (Mrs. JOHNSON) has 2½ minutes remaining. The gentleman from Michigan (Mr. ROGERS) has 3½ minutes remaining.

On the amendment by the gentlewoman from Connecticut, the gentleman from Texas (Mr. BARTON) has 2½ minutes remaining. The gentleman from New Jersey (Mr. HOLT) has 1½ minutes remaining. The gentlewoman from Connecticut's (Mrs. JOHNSON) time has expired.

PARLIAMENTARY INQUIRIES

Mr. BARTON of Texas. Mr. Chairman, could I ask a parliamentary inquiry. Before we go to the gentleman from Michigan, when it comes time to vote, are we going to vote on the Rogers amendment to the Johnson amendment, and then if it is amended, we will vote on the Johnson amendment; is that correct? There will be two votes, Rogers to amend Johnson and then Johnson, either amended or un-amended, depending on how the Rogers amendment fairs?

The Acting CHAIRMAN. If a recorded vote is requested on the Rogers second degree amendment, the Chair would postpone the request and would not put the question on the Johnson amendment until after disposition of the vote on the amendment of the gentleman from Michigan.

Mr. BARTON of Texas. But we are going to have two votes?

The Acting CHAIRMAN. All time for debate will be consumed now.

Mr. BARTON of Texas. Thank you, Mr. Chairman.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. MIKE ROGERS) is recognized.

Mr. ROGERS of Michigan. Mr. Chairman, parliamentary inquiry, how do we get to the chairman's 2½ minutes remaining on the primary amendment?

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) may use his 2½ minutes now if he wishes.

☐ 1900

Mr. BARTON of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. UPTON), the distinguished chairman of the Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce.

Mr. UPTON. Mr. Chairman, I thank my distinguished chairman for yielding me this time, and I rise in strong support of the Rogers amendment to the Johnson underlying amendment.

Currently, there is one test conducted on vehicles to determine the fuel economy rating. The Johnson amendment would require EPA to change that fuel economy testing for label purposes. What this will result in is having automakers being forced to do two or three or four, or maybe even more, separate tests. That costs money, more money, and is unnecessary and more burdensome.

Additionally, as written, the Johnson amendment could also affect how CAFE is calculated. The Johnson amendment could lower the fleet fuel economy averages of manufacturers that make compliance with the CAFE standards much more difficult. Instead of running the substantial risk under the Johnson amendment, the Rogers/Kilpatrick bipartisan perfecting amendment makes a technical change to clarify that automakers do not have to run multiple duplicative tests to update fuel economy labeling and ensures that the CAFE program is not manipulated.

Let us take this into a normal example. This morning, many of us, we live in different States, but we come and commute here to Washington. I live in Virginia; it is 7 miles from the Capitol here to my house. It took me more than 30 minutes to get in today. If I had to drive 7 miles in my town of St. Joseph, Michigan, it would take me about 12 minutes. We know that when we buy a car.

I had a staff member that bought a great new Ford hybrid vehicle the other day. He gets accelerated CAFE, or he gets much better gas mileage with that car when he is in the big city driving. When he goes to Chicago, to see the Cubs or the White Sox, or whoever, he gets a lot better mileage because he is stopping and starting all the time. In Kalamazoo, which is a city of 100,000, where he lives, he does not get quite the same mileage because it is a different scenario.

You cannot have 20 or 30, who knows how many tests. Maybe it is like boutique fuels. You have all these different areas, people with different driving habits, and you cannot expect that the EPA is going to put a laundry list of these different tests on the window. We know that when we buy our vehicles. We know about what it is going to be based on, our history of purchasing cars. And, frankly, a duplicative test with these multiple numbers will only be more confusing rather than less confusing to the consumer.

That is why I strongly urge my colleagues on both sides of the aisle, as we have with this bipartisan amendment, to support the Rogers amendment to the Johnson amendment so we can make more sense for every consumer as they purchase a new American car.

Mr. ROGERS of Michigan. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to thank the sponsors of the amendment and their intent and where they wanted to go. The gentlewoman from Connecticut (Mrs. JOHNSON) has done a great job of focusing on a problem that is a problem. We all want accurate numbers on those stickers and times have changed. The gentleman from Michigan and the gentlewoman from Michigan, I think, have outlined exceptionally well why this perfecting amendment makes the intent of what our colleague wants to do exactly that. It clarifies it to the point that we do not get into CAFE, we get accurate numbers, and we do not foist a whole set of new costs onto automakers who are today struggling to keep people employed.

We want accurate numbers as well. But I will tell you, families across this country are suffering in the automobile industry. They are suffering. They have layoffs, they have job cuts, there is a lack of hope in some areas and anxiety you cannot believe in others. So let us err on the side of those families. Let us stand up today and say, yes, we should have accurate numbers on these stickers, the very true intent of what the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from New Jersey (Mr. HOLT) are trying to do and trying to accomplish.

Let us do that, but we can do that without new costs, without new burdens, without even getting close to this argument that they are going to get into in the CAFE debate, and accomplish exactly what they want.

I think my colleagues can be proud of this amendment, as amended, back in their districts and tell people that they fought valiantly to get the 2005 standards on stickers for cars they are going to buy today. It is the right thing to do.

So I would urge my colleague to look deep down and say, do I want to take the chance that I will put out one more American family out of work? Because I think you will. I passionately believe you will, the way your amendment is constructed. It will foist new, unnecessary costs on automakers.

Let us do it the way we know can accomplish what you want and have families at the end of the day saying. I am going to show up and build the finest cars in the world right here, in the great State of Michigan, or any other of the 49 great States of this great country.

Mr. Chairman, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to this amendment.

Now, let me get to the heart of this matter, because if I thought this was going to cost people jobs, I certainly would not bring it up. This question specifically was litigated in 1985 in the D.C. Circuit Court, Center for Auto Safety v. Thomas, and the court clearly determined that the CAFE calculation cannot be changed unless Congress changes U.S. Code 49, section 32904(c). My amendment does not change that section. My amendment only changes section 32908, which has to do with the data that underlies vehicle stickers.

Now, the EPA has changed its testing procedures at least twice since 1975. It did not add a lot of cost. It was not a big problem. It is an EPA center that does this testing. And every time they changed their testing procedures for the sticker purpose, they did not change it for the CAFE standard purpose, because to do that, you have to change section 32904, and my amendment does not change section 32904.

So I am sorry we have not been able to communicate well enough about this, because I certainly do not want to cost manufacturing jobs. I am a big advocate of manufacturing. But I do want consumers to have honest information. And the adjustment in information that the Rogers amendment to my amendment brings is an amendment that will bring down the miles per gallon for those that are high achievers and bring it up for those who are actually low achievers. So it actually makes the problem worse rather than better.

So I urge the body to oppose the Rogers amendment and support the Johnson amendment, because the Rogers amendment has the effect of gutting my amendment, whereas my amendment does not address the CAFE standards section of the law, which is section 32904(c) and only addresses the vehicle sticker section of the law, 32908.

Mr. Chairman, I reserve the balance of my time.

Mr. HOLT. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, on the second order amendment, how much time does the gentlewoman from Connecticut have remaining?

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from New Jersey (Mr. HOLT) has 1½ minutes remaining on the original bill and the gentlewoman from Connecticut (Mrs. JOHNSON) has ½ minute remaining on the perfecting amendment.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. HOLT).

The Acting CHAIRMAN. The gentleman may use his 1½ minutes also.

Mr. HOLT. Mr. Chairman, I yield myself 2 minutes, and I thank my colleague for yielding her time to me.

Mr. Chairman, to begin to address the second order amendment, which, as I say, may be technically and in parliamentary terms called a perfecting amendment, but in fact it would gut the amendment, it does not get at the heart of the problem, which is that the tests are wrong. The tests are unrealistic. The tests give results that bear no relationship to reality.

Why should taxpayers pay for a test, a government-mandated test, or auto purchasers pay for a test that gives inaccurate information? We need to fix the EPA test. It can be fixed without giving the folks in the State of Michigan or other automobile manufacturing areas heartburn. It does not change the fleet average calculation. It only addresses the issue of consumer information, so that the purchaser will have accurate information.

If you use this scale factor, or fudge factor, it will paper over the underlying problem. It will distort the fuel efficiency difference between different types of vehicles. In fact, my colleague earlier talked about how some hybrid vehicles behave differently under different situations.

The tests themselves need to be changed, not an after-the-fact fudge factor, so that when you go into the showroom to purchase a car and you see the number in the window for city mileage and highway mileage, you will have a reasonable expectation that that car, when used on actual American streets and actual American highways, will give mileage comparable to what is posted there.

The ad says your actual mileage may vary. The way it is today, with the tests that we have, your actual mileage may bear no relationship whatsoever to what is printed in the window. That is what we are trying to correct with the Johnson-Holt amendment. The Rogers second order amendment completely changes the nature of what we are trying to do.

Mr. ROGERS of Michigan. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. SCHWARZ), a great public servant.

Mr. SCHWARZ of Michigan. Mr. Chairman, the Johnson amendment requires the EPA to change the testing procedures that auto companies use to determine the fuel economy numbers that go on the dealer label. Her amendment requires auto companies to do one test for labeling and a separate test for CAFE. The language in this amendment costs the companies approximately twice as much as the simpler testing they are doing now. This goes to the heart of what we are doing to the auto industry now, unintentionally perhaps, and that is beating up on them; and we should not do that.

The Rogers amendment deals with the need for improved dealer label accuracy, while only requiring one test. Instead of requiring the EPA to change testing procedures, the Rogers amendment requires the EPA to change the adjustment factors that the EPA currently uses to make the fuel economy label accurate.

This is the way to go. It achieves the goal we all want to have, accuracy, in a much more reasonable and a much less expensive way. It is not a fudge.

Mr. ROGERS of Michigan. Mr. Chairman, the gentleman from Michigan, a medical doctor, said it all so well, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. ROGERS) to the amendment offered by the gentlewoman from Connecticut (Mrs. JOHNSON).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. HOLT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. MIKE ROGERS) will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 109–49.

AMENDMENT NO. 7 OFFERED BY MR. BISHOP OF NEW YORK

Mr. BISHOP of New York. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. BISHOP of New York:

In section 109(2), at the end of the quoted material insert the following new paragraph:

"(4) All housing constructed under the military housing privatization initiative of the Department of Defense shall, to the maximum extent practicable—

"(A) meet Federal building energy efficiency standards under this section; and

"(B) include Energy Star appliances.

In title I, subtitle A, add at the end the following new section:

SEC. 112. MODEL BUILDING ENERGY CODE COMPLIANCE GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a program to provide grants to each State that the Secretary determines, with respect to new buildings in the State, achieves at least a 90-percent rate of compliance (based on energy performance) with the most recent model building energy codes.

(b) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines that standardize criteria by which a State that seeks to receive a grant under this section may—

(1) verify compliance with applicable model building energy codes; and

(2) demonstrate eligibility to receive a grant under this section.

(c) LOCAL GOVERNMENT CODES.—In the case of a State in which building energy codes are established by local governments—

(1) A local government may—

(A) apply for a grant under this section; and

(B) verify compliance, and demonstrate eligibility, for the grant under subsection (b); and

(2) if the Secretary determines that the local government is eligible to receive a grant, the Secretary may provide a grant to the local government.

(d) USE OF FUNDS.—Funds from a grant provided under this section may be used only to carry out activities relating to the implementation of building energy codes and beyond-code building practices.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.

(2) SET ASIDE.—Of the amounts authorized to be appropriated under paragraph (1), the Secretary may use not more than $500,000 for each fiscal year—

(A) to develop compliance guidelines;

(B) to train State and local officials; and

(C) to administer grants provided under this section.

In section 131(a), amend the proposed section 324A(3) to read as follows:

"(3) preserve the integrity of the Energy Star label by—

"(A) regularly updating Energy Star criteria; and

"(B) ensuring, in general, that—

"(i) not more than 25 percent of available models in a product class receive the Energy Star designation; and

"(ii) Energy Star designated products and buildings are at least 10 percent more efficient than—

"(I) appliance standards in effect on the date of enactment of this section; and

"(II) the most recent model energy code;

In section 133(a)(2), add at the end the following new paragraphs:

"(45)(A) The term 'commercial prerinse spray valve' means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

"(B) The term 'commercial prerinse spray valve' may include (as determined by the secretary by rule) products—

"(i) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

"(ii) the application of standards to which would result in significant energy savings; and

"(iii) the application of standards to that would meet the criteria specified in subsection (o)(4).

"(C) The term 'commercial prerinse spray valve' may exclude (as determined by the secretary by rule) products—

"(i) that are used for special food service applications;

"(ii) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

"(iii) the application of standards to which would not result in significant energy savings.

"(46) The term 'dehumidifier' means a self-contained, electrically operated, and mechanically encased assembly consisting of—

"(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

"(B) a refrigerating system, including an electric motor;

"(C) an air-circulating fan; and

"(D) means for collecting or disposing of the condensate.".

In section 133(b)(1), insert after the proposed paragraph (13) the following new paragraphs:

"(14) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

"(15) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled 'Standard Test Method for Prerinse Spray Valves.'".

In section 133(c), at the end of the quoted material insert the following new subsections:

"(ee) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

""Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
	1.00
> 25 –	1.20
> 35 –	1.30
> 54 – < 75	1.50
	2.25.

"(2)(A) Not later than October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the standards established under paragraph (1) should be amended.

"(B) The final rule shall contain any amendment by the Secretary and shall provide that the amendment shall apply to products manufactured on or after October 1, 2012.

"(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

""Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
	1.20
> 25 –	1.30
> 35 –	1.40
> 45 –	1.50
> 54 – < 75	1.60
	2.5.

"(ff) COMMERCIAL PRERINSE SPRAY VALVES.—Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate less than or equal to 1.6 gallons per minute.

"(gg) STANDARDS FOR CERTAIN FURNACES.—(1) Notwithstanding subsection (f) and except as provided in paragraphs (2) and (3), a furnace (including a furnace designed solely for installation in a mobile home) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of—

"(A) for natural gas- and propane-fired equipment, not less than 80 percent; and

"(B) for oil-fired equipment not less than 83 percent.

"(2)(A) Notwithstanding subsection (f) and except as provided in paragraph (3)—

"(i) a boiler (other than a gas steam boiler) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of not less than 84 percent; and

"(ii) a gas steam boiler manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of not less than 82 percent.

"(B)(i) Notwithstanding subsection (f), if, after the date of enactment of this subsection, the Governor of a cold climate State files with the Secretary a notice that the State has implemented a requirement for an annual fuel utilization efficiency of not less than 90 percent for furnaces (other than boilers and furnaces designed solely for installation in a mobile home or boiler), the annual fuel utilization efficiency of a furnace sold in that State shall be not less than 90 percent.

"(ii) If a State described in clause (i) fails to implement or reasonably enforce (as determined by the Secretary) annual fuel utilization efficiency in accordance with that clause, the annual fuel use efficiency for furnaces (other than boilers and furnaces designed solely for installation in a mobile home or boiler) in that State shall be the fuel utilization efficiency established under paragraph (1).

"(3)(A) Not later than 5 years after the date on which a standard for a product under this subsection takes effect, the Secretary shall promulgate a final rule to determine whether that standard should be amended.

"(B) If the Secretary determines that a standard under subparagraph (A) should be amended—

"(i) the final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and "(ii) the new standard shall apply to any product manufactured after the date that is 5 years after the date on which the final rule is promulgated.".

In section 134(b), in the quoted material, insert at the end the following new paragraphs:

"(6) In the case of dehumidifiers covered under section 325(ee), the Commission shall not require an Energy Guide label.

"(7)(A) Not later than July 1, 2006, the Commission shall prescribe by rule, pursuant to this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

"(B) The requirements shall be based on the test procedure and labeling requirements contained in the Energy Star Program Requirements for Residential Ceiling Fans, version 2.0, issued by the Environmental Protection Agency, except that third party testing and other non-labeling requirements shall not be promulgated unless the Commission determines the requirements are necessary to achieve compliance.

"(C) The rule shall apply to products manufactured after the later of—

"(i) January 1, 2007; or

"(ii) the date that is 60 days after the final rule is prescribed.".

In section 135, in the proposed subsection (h), insert ", upon adoption of a standard under this Act" after "fan light kits".

In title I, subtitle, C, add at the end the following new section:

SEC. 137. COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively; and

(B) by inserting after subparagraph (C) the following:

"(D) Very large commercial package air conditioning and heating equipment.";

(2) in paragraph (2)(B), by striking "small and large";

(3) by striking paragraphs (8) and (9) and inserting the following:

"(8)(A) The term 'commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

"(B) The term 'small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

"(C) The term 'large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(D) The term 'very large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated at or above 240,000 Btu per hour and below 760,000 Btu per hour (cooling capacity).";

(4) by redesignating paragraphs (10) through (18) as paragraphs (9) through (17), respectively; and

(5) in paragraph (10) (as redesignated by subparagraph (D)), by inserting ", except for gas unit heaters and gas duct furnaces" after "furnaces".

(b) STANDARDS.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the subsection heading, by striking "Small and Large" and inserting "Small, Large, and Very Large";

(2) in paragraph (1), by inserting "but before January 1, 2010," after "January 1, 1994,";

(3) in paragraph (2), by inserting "but before January 1, 2010," after "January 1, 1995,";

(4) in paragraph (4), by inserting ", except for a gas unit heater or gas duct furnace," after "boiler";

(5) in paragraph (6)—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(A)";

(ii) by striking "the date of enactment of the Energy Policy Act of 1992" and inserting "January 1, 2010";

(iii) by inserting after "large commercial package air conditioning and heating equipment" the following: "and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any"; and

(iv) by adding at the end the following:

"(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard would result in significant additional conservation of energy and is technologically feasible and economically justified.

"(iii) This subparagraph does not apply to gas-fired warm-air furnaces, gas-fired package boilers, storage water heaters, gas unit heaters, or gas duct furnaces manufactured 5 or more years after the date of enactment of the National Energy Efficiency Policy Act of 2005."; and

(B) in subparagraph (C)(ii), by inserting "and very large commercial package air conditioning and heating equipment" after "large commercial package air conditioning and heating equipment"; and

(6) by adding at the end the following:

"(7) Each small commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 btu per hour (cooling capacity) and less than 135,000 btu per hour (cooling capacity) shall be—

"(i) 11.2 for equipment with no heating or electric resistance heating; and

"(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 btu per hour (cooling capacity) and less than 135,000 btu per hour (cooling capacity) shall be—

"(i) 11.0 for equipment with no heating or electric resistance heating; and

"(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

"(8) Each large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

"(i) 11.0 for equipment with no heating or electric resistance heating; and

"(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 btu per hour (cooling capacity) shall be—

"(i) 10.6 for equipment with no heating or electric resistance heating; and

"(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

"(9) Each very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

"(i) 10.0 for equipment with no heating or electric resistance heating; and

"(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

"(i) 9.5 for equipment with no heating or electric resistance heating; and

"(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

"(10) Notwithstanding paragraph (4) and except as provided in paragraph (14), the minimum thermal efficiency at the maximum rated capacity of a gas-fired warm-air furnace with the capacity of 225,000 Btu per hour or more manufactured 4 or more years after the date of enactment of this paragraph shall be 79.5 percent.

"(11) Notwithstanding paragraph (4) and except as provided in paragraph (14), the minimum combustion efficiency at the maximum rated capacity of a gas-fired package boiler with the capacity of 300,000 Btu per hour or more manufactured 4 or more years after the date of enactment of this paragraph shall be 84 percent.

“(12) Notwithstanding paragraph (5) (excluding paragraph (5)(g)), and except as provided in paragraph (14)—

“(A) the maximum standby loss (expressed as a percent per hour) of a gas-fired storage water heater shall be 1.30 (expressed as a measurement of storage volume in gallons); and

“(B) the minimal thermal efficiency of a gas-fired storage water heater shall be 82 percent.

“(13) Except as provided in paragraph (14), each gas unit heater and gas duct furnace manufactured 3 or more years after the date of enactment of this paragraph shall be equipped with—

“(A) an intermittent ignition device; and

“(B)(i) power venting; or

“(ii) an automatic flue damper.

“(14)(A) Not later than 5 years after the date on which a standard for a product under paragraph (10), (11), (12), or (13) takes effect, the Secretary shall promulgate a final rule to determine whether the standard for that product should be amended.

“(B) If the Secretary determines that a standard should be amended under subparagraph (A)—

“(i) the final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and

“(ii) the new standard shall apply to any product manufactured 4 or more years after the date on which the final rule is promulgated.”.

(c) TEST PROCEDURES.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended in subsections (a)(4) and (d)(1), by inserting “very large commercial package air conditioning and heating equipment,” after “large commercial package air conditioning and heating equipment,” each place it appears.

(d) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended in the first and second sentences, by inserting “very large commercial package air conditioning and heating equipment,” after “large commercial package air conditioning and heating equipment,” each place it appears.

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended by adding at the end the following:

“(d)(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to the equipment specified in section 340(1)(D) to the same extent and in the same manner as section 327 applies under part A on the date of enactment of this subsection.

“(2) Any State or local standard prescribed or enacted prior to the date of enactment of this subsection shall not be preempted until the standards established under section 342(a)(9) take effect on January 1, 2010.

“(3) If the California Energy Commission adopts, not later than March 31, 2005, a regulation concerning the energy efficiency or energy effective after, the standards established under section 342(a)(9) take effect on January 1, 2010.”.

In section 304, insert at the end the following: “In determining whether to defer such acquisition, the Secretary shall use market-based practices when deciding to acquire petroleum for the Strategic Petroleum Reserve, as used prior to 2002; carry out and make public analyses of costs and savings when making or deferring such acquisitions; take into account and report to Congress the impact the acquisition will have on the domestic and foreign supply of petroleum and the resulting price increases or decreases; and consult with the Secretary of Homeland Security on the security consequences of such acquisition or deferral.”.

In title III, subtitle A, add at the end the following new section:

SEC. 305. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, to address the crude oil price problem in the short-term, the President should communicate immediately to the members of the Organization of Petroleum Exporting Countries (OPEC) cartel and non-OPEC countries that participate in the cartel of crude oil producing countries that—

(1) the United States seeks to maintain strong relations with crude oil producers around the world while promoting international efforts to remove barriers to energy trade and investment and increased access for United States energy firms around the world;

(2) the United States believes that restricting supply in a market that is in demand for additional crude oil does serious damage to the efforts that OPEC members have made to demonstrate that they represent a reliable source of crude oil supply;

(3) the United States believes that stable crude oil prices and supplies are essential for strong economic growth throughout the world;

(4) the United States seeks an immediate increase in the OPEC crude oil production quotas; and

(5) the United States will temporarily suspend further purchases of crude oil for the Strategic Petroleum Reserve, thereby freeing up additional supply for the marketplace.

Amend section 355 to read as follows (and amend the table of contents accordingly):

SEC. 355. GREAT LAKES OIL AND GAS DRILLING BAN.

No Federal or State permit or lease shall be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

Title XII is amended by striking sections 1201 through 1235 and sections 1237 through 1298, by striking the title heading, by inserting the following before title XIII, by redesignating section 1236 (relating to native load service obligation) as section 1233 of the following and inserting such redesignated section 1233 after section 1232 of the following, and by making the necessary conforming changes in the table of contents:

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the “Electric Reliability Act of 2005”.

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

“SEC. 215. ELECTRIC RELIABILITY.

“(a) DEFINITIONS.—For purposes of this section:

“(1) The term ‘bulk-power system’ means—

“(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

“(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

“(2) The terms ‘Electric Reliability Organization’ and ‘ERO’ mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

“(3) The term ‘reliability standard’ means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

“(4) The term ‘reliable operation’ means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

“(5) The term ‘Interconnection’ means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

“(6) The term ‘transmission organization’ means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

“(7) The term ‘regional entity’ means an entity having enforcement authority pursuant to subsection (e)(4).

“(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

“(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

“(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

“(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

“(2) has established rules that—

“(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

The total amount of all dues, fees, and other charges collected by the ERO in each of the fiscal years 2006 through 2015 and allocated under subparagraph (B) shall not exceed $50,000,000.

"(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(A) the Commission finds a conflict exists between a reliability standard and any such provision;

"(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

"(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

"(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

"(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

"(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(A) the regional entity is governed by—

"(i) an independent board;

"(ii) a balanced stakeholder board; or

"(iii) a combination independent and balanced stakeholder board.

"(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

"(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

"(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards..

"(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

"(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the

States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

"(k) Alaska and Hawaii.—The provisions of this section do not apply to Alaska or Hawaii.".

(b) Status of ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) Limitation on Annual Appropriations.—There is authorized to be appropriated not mroe than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) Transmission Services.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) Exemption.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) Local Distribution Facilities.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) Exemption Termination.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

"(e) Application to Unregulated Transmitting Utilities.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) Remand.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) Other Requests.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(h) Limitation.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) Transfer of Control of Transmitting Facilities.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

"(j) Definition.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).".

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) Definitions.—For purposes of this section—

(1) Appropriate federal regulatory authority.—The term "appropriate Federal regulatory authority" means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) Federal utility.—The term "Federal utility" means a Federal power marketing agency or the Tennessee Valley Authority.

(3) Transmission system.—The term "transmission system" means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) Transfer.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) Existing Statutory and Other Obligations.—

(1) System operation requirements.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) Other obligations.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) Repeal.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106–377, section 1(a)(2); 114 Stat. 1441, 1441A–80; 16 U.S.C. 824n) is repealed.

Subtitle C—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) Adoption of Standards.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) Net metering.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(12) Fuel sources.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

"(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

SEC. 1252. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(14) TIME-BASED METERING AND COMMUNICATIONS.—

"(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

"(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).".

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase "the standard for time-of-day rates established by section 111(d)(3)" the following: "and the standard for time-based metering and communications established by section 111(d)(14)".

(2) By inserting in subsection (b) after the phrase "are likely to exceed the metering" the following: "and communications".

(3) By adding the at the end the following:

"(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.".

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking "and" at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.".

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

"(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

"(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

"(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

"(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.".

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

"(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).".

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

(1) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.".

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

Subtitle D—Market Transparency, Enforcement, and Consumer Protection

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

"No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

"SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

"(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

"(b) DEFINITION.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.".

SEC. 1283. FRAUDULENT OR MANIPULATIVE PRACTICES.

(a) UNLAWFUL ACTS.—It shall be unlawful for any entity, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails to use or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) APPLICATION OF FEDERAL POWER ACT TO THIS ACT.—The provisions of section 307 through 309 and 313 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 1284. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

"SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

"(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

"(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of section 204, 301, 304, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

"(c) PREVIOUS FERC ACTION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that was taken before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

"(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.".

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 304 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

"(2) Section 201(f) shall not limit the application of this subsection.".

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.".

SEC. 1286. TRANSPARENCY.

(a) DEFINITION.—As used in this section the term "electric power or natural gas information processor" means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, or cooperative bank, if such bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) PROHIBITION.—No electric power or natural gas information processor may make use of the mails or any means or instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas;

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information;

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity;

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas; and

(F) assure equal regulation of all markets involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) RELATED COMMODITIES.—For purposes of this section, the phrase "purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas" includes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is excluded from regulation under the Commodities Exchange Act pursuant to section 2 of that Act.

(d) PROHIBITION.—No person who owns, controls, or is under the control or ownership of a public utility, a natural gas company, or a public utility holding company may own, control, or operate any electronic computer network or other mulitateral trading facility utilized to trade electricity or natural gas.

SEC. 1287. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking "$5,000" in subsection (a) and inserting "$5,000,000 for an individual and $25,000,000 for any other defendant" and by striking out "two years" and inserting "five years" .

(2) By striking "$500" in subsection (b) and inserting "$1,000,000".

(3) By striking subsection (c).

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o091) is amended as follows:

(1) By striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II".

(2) By striking "$10,000 for each day that such violation continues" and inserting "the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation".

(3) By adding the following at the end thereof:

"(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

"(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

"(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

"(A) involves the purchase or sale of electricity, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

"(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or selling or purchasing electric energy at wholesale in interstate commerce;

"(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

"(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

"(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

“(4) Such entity has willfully violated any provision of this Act.

“(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

“(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

“(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

“(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

“(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

“(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

“(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

“(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

“(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

“(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.”

(4) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.”.

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

“(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

“(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

“(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

“(A) involves the purchase or sale of natural gas, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

“(B) arises out of the conduct of the business of transmitting natural gas in interstate commerce, or the selling in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

“(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

“(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

“(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

“(4) Such entity has willfully violated any provision of this Act.

“(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

“(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

“(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

“(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

“(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

“(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

“(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

“(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

“(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

“(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

"(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.".

SEC. 1288. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating pursuant to a claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 1289. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report of the results of its review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 1290. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

"(g) Rules and Procedures to Protect Consumers of Public Utilities.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, and any affiliate of, such public utility company, and no public utility shall acquire or own any securities of the holding company or other affiliates of the holding company unless the Commission has determined that such acquisition or ownership is consistent with the public interest and the protection of consumers of such public utility.".

SEC. 1291. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: "In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission may establish an earlier refund effective date.".

(2) By striking the second and third sentences.

(3) By striking out "the refund effective date or by" and ", whichever is earlier," in the fifth sentence.

(4) In the seventh sentence by striking "through a date fifteen months after such refund effective date" and insert "and prior to the conclusion of the proceeding" and by striking the proviso.

SEC. 1292. ACCOUNTS AND REPORTS.

Section 318 of the Federal Power Act is amended by adding the following at the end thereof: "This section shall not apply to sections 301 and 304 of this Act.".

SEC. 1293. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any change in the activities and characteristics relied upon by the Commission in granting such public utility the authority to sell electric energy at market-based rates. If the Commission finds that:

"(1) a rate charged by a public utility authorized to sell electric energy at market-based rates is unjust, unreasonable, unduly discriminatory or preferential,

"(2) the public utility has intentionally engaged in an activity that violates any other rule, tariff, or order of the Commission, or

"(3) any violation of the Electric Reliability Act of 2005,

the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.".

SEC. 1294. ENFORCEMENT.

(a) Complaints.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting "electric utility," after "Any person,".

(2) By inserting ", transmitting utility," after "licensee" each place it appears.

(b) Review of Commission Orders.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l) is amended by inserting "electric utility," after "person," in the first 2 places it appears and by striking "any person unless such person" and inserting "any entity unless such entity".

(c) Investigations.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting ", electric utility, transmitting utility, or other entity" after "person" each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: "or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.".

SEC. 1295. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) Privacy.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) Slamming.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) Cramming.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) Rulemaking.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) State Authority.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) Definitions.—For purposes of this section:

(1) State regulatory authority.—The term "State regulatory authority" has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) Electric consumer and electric utility.—The terms "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.".

SEC. 1296. SAVINGS PROVISION.

Nothing in this title or in any amendment made by this title shall be construed to affect the authority of any court to make a determination in any proceeding commenced before the enactment of this Act regarding the authority of the Federal Energy Regulatory Commission to permit any person to sell or distribute electric energy at market-based rates.

In section 25C(b)(1)(A) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after clause (iii) the following new clauses:

(iv) $150 for each electric heat pump water heater,

(v) $200 for each advanced natural gas, oil, propane furnace, or hot water boiler installed in 2006 ($150 for equipment installed in 2007, $100 for equipment installed in 2008),

(vi) $150 for each advanced natural gas, oil, or propane water heater,

(vii) $50 for each mid-efficiency natural gas, oil, or propane water heater,

(viii) $50 for an advanced main air circulating fan which is installed in a furnace with an Annual Fuel Utilization Efficiency of less than 92 percent,

(ix) $150 for each advanced combination space and water heating system,

(x) $50 for each mid-efficiency combination space and water heating system,

(xi) $250 for each geothermal heat pump, and

(xii) $250 for each advanced central air conditioner or central heat pump ($150 for equipment installed in 2008).

In section 25C(a) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after paragraph (3) the following new paragraph:

(4) the energy efficient building property described in clauses (iv) through (xii) of subsection (b)(1)(A).

In section 25C(b) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after paragraph (2) the following new paragraph:

(3) Safety certifications.—No credit shall be allowed under this section for an item of

property specified in clause (iv) through (xii) of paragraph (1) unless such property meets the performance and quality standards, and the certification requirements (if any), which—

(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

(B) in the case of the energy efficiency ratio (EER) for property described in clause (viii) or (ix) of subsection (d)(1)(B)—

(i) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

(ii) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

(C) are in effect at the time of the acquisition of the property.

In section 25C(c) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, add at the end the following new paragraphs:

(4) Energy efficient building property.—The term "energy efficient building property" means—

(A) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

(B) an advanced natural gas, oil, propane furnace, or hot water boiler which achieves at least 92 percent annual fuel utilization efficiency (AFUE) and which has an advanced main air circulating fan,

(C) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

(D) a mid-efficiency natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

(E) an advanced main air circulating fan which has an annual electricity use of no more than 2 percent of the total annual energy use (as determined in the standard Department of Energy test procedures) and which is used in a new natural gas, propane, or oil-fired furnace,

(F) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

(G) a mid-efficiency combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

(H) a geothermal heat pump which has water heating capability by a desuperheater or full-condensing option and which has an energy efficiency ratio (EER) of at least 18 for ground-loop systems, at least 21 for ground-water systems, and at least 17 for direct GeoExchange systems: and

(I) a central air conditioner or central heat pump which meets the Energy Star specifications as set by the Environmental Protection Agency. The specifications must be made effective after December 31, 2005, and must be current as of the date of the expenditure or made effective later in the calendar year of the expenditure.

(5) Labor costs.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property and for piping or wiring to interconnect property described in paragraph (4) to the dwelling unit shall be taken into account for purposes of this section.

In subtitle B of title XIII, add at the end the following:

SEC. 1318. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) In General.—For purposes of section 38, in the case of an eligible contractor with respect to a qualified new energy efficient home, the credit determined under this section for the taxable year with respect to such home is an amount equal to the aggregate adjusted bases of all energy efficient property installed in such home during construction of such home.

"(b) Limitations.—

"(1) Maximum credit.—

"(A) In general.—The credit allowed by this section with respect to a dwelling unit shall not exceed—

"(i) in the case of a dwelling unit described in clause (i) or (iii) of subsection (c)(3)(C), $1,000, and

"(ii) in the case of a dwelling unit described in clause (ii) or (iv) of subsection (c)(3)(C), $2,000.

"(B) Prior credit amounts on same dwelling unit taken into account.—If a credit was allowed under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to such dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling unit for all prior taxable years.

"(2) Coordination with certain credits.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

"(B) expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

"(c) Definitions.—For purposes of this section—

"(1) Eligible contractor.—The term 'eligible contractor' means—

"(A) the person who constructed the qualified new energy efficient home, or

"(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualified new energy efficient home, such term means the person designated as such by the owner of such home.

"(2) Energy efficient property.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which can, individually or in combination with other components, result in a dwelling unit meeting the requirements of this section.

"(3) Qualified new energy efficient home.—The term 'qualified new energy efficient home' means a dwelling unit—

"(A) located in the United States,

"(B) the construction of which is substantially completed after the date of the enactment of this section, and

"(C) which is—

"(i) certified to have a level of annual heating and cooling energy consumption which is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction, and to have building envelope component improvements account for at least ⅓ of such 30 percent,

"(ii) certified to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least ⅕ of such 50 percent,

"(iii) a manufactured home which meets the requirements of clause (i) and which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations), or

"(iv) a manufactured home which meets the requirements of clause (ii) and which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

"(4) Construction.—The term 'construction' includes substantial reconstruction and rehabilitation.

"(5) Acquire.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

"(6) Building envelope component.—The term 'building envelope component' means—

"(A) any sealant, insulation material, or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

"(B) exterior windows (including skylights),

"(C) exterior doors, and

"(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which—

"(i) are specifically and primarily designed to reduce the heat gain of such dwelling unit, and

"(ii) meet the Energy Star program requirements.

"(d) Certification.—

"(1) Method of certification.—A certification described in subsection (c)(3)(C) shall be determined in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

"(2) Form.—A certification described in subsection (c)(3)(C) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

"(e) Basis Adjustment.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

"(f) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a dwelling unit, the level of annual heating and cooling energy consumption of the comparable dwelling unit referred to in clauses (i) and (ii) of subsection (c)(3)(C) shall be determined assuming such comparable dwelling unit contains the property for which such deduction or credit has been allowed.

"(g) APPLICATION OF SECTION.—

"(1) 50 PERCENT HOMES.—In the case of any dwelling unit described in clause (ii) or (iv) of subsection (c)(3)(C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2009.

"(2) 30 PERCENT HOMES.—In the case of any dwelling unit described in clause (i) or (iii) of subsection (c)(3)(C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the new energy efficient home credit determined under section 45K(a).".

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 45K(e), in the case of amounts with respect to which a credit has been allowed under section 45K.".

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding after paragraph (12) the following new paragraph:

"(13) the new energy efficient home credit determined under section 45K(a).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45K. New energy efficient home credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1319. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179B the following new section:

"SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The deduction under subsection (a) with respect to any building for the taxable year and all prior taxable years shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term 'energy efficient commercial building property' means property—

"(A) which is installed on or in any building located in the United States,

"(B) which is installed as part of—

"(i) the interior lighting systems,

"(ii) the heating, cooling, ventilation, and hot water systems, or

"(iii) the building envelope, and

"(C) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 using methods of calculation under subsection (d)(2).

A building described in subparagraph (A) may include any residential rental property, including any low-rise multifamily structure or single family housing property which is not within the scope of Standard 90.1-2001, but shall not include any qualified new energy efficient home (within the meaning of section 45K(d)(3)) for which a credit under section 45K has been allowed.

"(2) STANDARD 90.1-2001.—The term 'Standard 90.1-2001' means Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

"(d) SPECIAL RULES.—

"(1) PARTIAL ALLOWANCE.—

"(A) IN GENERAL.—Except as provided in subsection (f), if—

"(i) the requirement of subsection (c)(1)(C) is not met, but

"(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c)(1)(B) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(C) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '$.75' for '$2.25'.

"(B) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(B) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(C).

"(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2005 California Residential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

"(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

"(B) The calculation methods under this paragraph need not comply fully with section 11 of Standard 90.1-2001.

"(C) The calculation methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this section regardless of whether the heating source is a gas or oil furnace or an electric heat pump. The reference building for a proposed design which employs electric resistance heating shall be modeled as using a heat pump.

"(D) The calculation methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either Standard 90.1-2001 or in the 2005 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

"(i) Natural ventilation.

"(ii) Evaporative cooling.

"(iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

"(iv) Daylighting.

"(v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating.

"(vi) Improved fan system efficiency, including reductions in static pressure.

"(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

"(viii) The calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

"(ix) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy.

"(x) Wiring with lower energy losses than wiring satisfying Standard 90.1-2001 requirements for building power distribution systems.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any calculation under paragraph (2) shall be prepared by qualified computer software.

"(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

"(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

"(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

"(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

"(5) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

"(6) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

"(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

"(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(f) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system—

"(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1-2001.

"(2) REDUCTION IN DEDUCTION IF REDUCTION LESS THAN 40 PERCENT.—

"(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

"(i) 50, and

"(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

"(C) EXCEPTIONS.—This subsection shall not apply to any system—

"(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1-2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

"(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

"(g) COORDINATION WITH OTHER TAX BENEFITS.—

"(1) NO DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) with respect to any building for which a credit under section 45K has been allowed.

"(2) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a building, the annual energy and power costs of the reference building referred to in subsection (c)(1)(C) shall be determined assuming such reference building contains the property for which such deduction or credit has been allowed.

"(h) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

"(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

"(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(C) or (d)(1)(A) is not fully implemented.

"(i) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 179C(e).".

(2) Section 1245(a) is amended by inserting "179C," after "179B," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179C".

(4) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C.".

(5) Section 312(k)(3)(B) is amended by striking "section 179, 179A, or 179B" each place it appears in the heading and text and inserting "section 179, 179A, 179B, or 179C".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new item:

"Sec. 179C. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.

SEC. 1320. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this title, is amended by striking "or" at the end of clause (ii), by inserting "or" at the end of clause (iii), and by adding at the end the following:

"(iv) combined heat and power system property,".

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 (relating to energy credit), as amended by this title, is amended by adding at the end the following new subsection:

"(c) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(iv)—

"(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(C) which produces—

"(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(D) the energy efficiency percentage of which exceeds 60 percent, and

"(E) which is placed in service before January 1, 2009.

"(2) SPECIAL RULES.—

"(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

"(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(ii) the denominator of which is the lower heating value of the fuel sources for the system.

"(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

"(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(D) PUBLIC UTILITY PROPERTY.—

"(i) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(ii) CERTAIN EXCEPTION NOT TO APPLY.—The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

"(E) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, paragraph (1) shall be applied without regard to subparagraphs (A), (C), and (D) thereof.

"(3) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse for at least 90 percent of the energy source—

"(A) paragraph (1)(D) shall not apply, but

"(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1320A. EXTENSION THROUGH 2010 FOR PLACING QUALIFIED FACILITIES IN SERVICE FOR PRODUCING RENEWABLE ELECTRIC ENERGY.

(a) IN GENERAL.—Subsection (d) of section 45 is amended by striking "January 1, 2006" each place it appears and inserting "January 1, 2011".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property originally placed in service on or after January 1, 2006.

At the end of title XIII, insert after subtitle C the following new subtitle:

Subtitle D—Method of Accounting for Oil, Gas, and Primary Products Thereof

SEC. 1331. PROHIBITION ON USING LAST IN, FIRST-OUT ACCOUNTING FOR OIL, GAS, AND PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Section 472 (relating to last-in, first-out inventories) is amended by adding at the end the following new subsection:

"(h) OIL AND GAS.—Notwithstanding any other provision of this section—

"(1) oil, gas, and any primary product of oil or gas, shall be inventoried separately, and

"(2) a taxpayer may not use the method provided in subsection (b) in inventorying oil, gas, and any primary product of oil or gas.".

(b) EFFECTIVE DATE AND SPECIAL RULE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over a period (not greater than 10 taxable years) beginning with such first taxable year.

SEC. 1332. EMERGING TECHNOLOGIES TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. EMERGING TECHNOLOGIES TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Emerging Technologies Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Emerging Technologies Trust Fund amounts equivalent to the taxes received in the Treasury by reason of section 472(h) (relating to prohibition on use of last-in, first-out inventory accounting for oil and gas).

"(2) LIMITATION.—The amount appropriated to the Trust Fund under paragraph (1) for any fiscal year shall not exceed $5,000,000,000.

"(c) EXPENDITURES.—Amounts in the Emerging Technologies Trust Fund shall be available to the Secretary of Energy to carry out a program to research and develop emerging technologies for more efficient and renewable energy sources.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 9511. Emerging Technologies Trust Fund.".

In title XIV, add at the end the following new sections:

SEC. 1452. SMALL BUSINESS COMMERCIALIZATION ASSISTANCE.

(a) AUTHORITY.—The Secretary of Energy shall provide assistance, to small businesses with less than 100 employees and startup companies, for the commercial application of renewable energy and energy efficiency technologies developed by or with support from the Department of Energy. Such assistance shall be provided through a competitive review process.

(b) APPLICATIONS.—The Secretary of Energy shall establish requirements for applications for assistance under this section. Such applications shall contain a commercial application plan, including a description of the financial, business, and technical support (including support from universities and national laboratories) the applicant anticipates in its commercial application effort.

(c) SELECTION.—The Secretary of Energy shall select applicants to receive assistance under this section on the basis of which applications are the most likely to result in commercial application of renewable energy and energy efficiency technologies.

(d) LIMIT ON FEDERAL FUNDING.—The Secretary of Energy shall provide under this section no more than 50 percent of the costs of the project funded.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $200,000,000 for each of the fiscal years 2006 through 2010, and such sums as may be necessary for each of the fiscal years 2011 through 2026.

SEC. 1453. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President should direct the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets to protect the American people from price gouging and unfair practices at the gasoline pump.

SEC. 1454. TRANSPARENCY.

The Federal Trade Commission, in consultation with the Secretary of Energy, shall issue regulations requiring full disclosure by refiners and distributors of their wholesale motor fuel pricing policies, with a separate listing of each component contributing to prices, including the cost of crude oil (with exploration, extraction, and transportation costs shown separately if the refiner or distributor is also the producer of the crude oil), refining, marketing, transportation, equipment, overhead, and profit, along with ption of any rebates, incentives, and market enhancement allowances.

In title XVI, add at the end the following new section:

SEC. 1614. STUDY OF FINANCING FOR PROTOTYPE TECHNOLOGIES.

(a) INDEPENDENT ASSESSMENT.—The Secretary of Energy shall commission an independent assessment of innovative financing techniques to facilitate construction of new renewable energy and energy efficiency facilities that might not otherwise be built in a competitive market.

(b) CONDUCT OF THE ASSESSMENT.—The Secretary of Energy shall retain an independent contractor with proven expertise in financing large capital projects or in financial services consulting to conduct the assessment under this section.

(c) CONTENT OF THE ASSESSMENT.—The assessment shall include a comprehensive examination of all available techniques to safeguard private investors against risks (including both market-based and government-imposed risks) that are beyond the control of the investors. Such techniques may include Federal loan guarantees, Federal price guarantees, special tax considerations, and direct Federal investment.

(d) REPORT.—The Secretary of Energy shall submit the results of the independent assessment to the Congress not later than 9 months after the date of enactment of this section.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from New York (Mr. BISHOP) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY), the cosponsor of this amendment.

Mr. MARKEY. Mr. Chairman, I thank the gentleman from New York (Mr. BISHOP) for yielding me this time. I thank the gentleman from New York for his leadership on this issue, and I am proud to follow his leadership on this amendment.

Last Thursday, President Bush addressed the American Society of Newspaper Editors. Here is what he said: "I will tell you, with $55 a barrel oil, we do not need incentives to oil and gas companies to explore. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent. It is really important," said the President. "It is an important part of our economic security and it is an important part of our national security."

Those were the President's words last week. But the President then went on to call upon Congress to pass the Republican energy bill, a bill replete with a rich assortment of tax and deregulatory incentives for the oil and gas companies to explore, even though they are essentially already drowning in windfall profits. The price of oil has doubled essentially from $25 a barrel to more than $50 a barrel. That is all extra cash in the oil companies' pockets.

So the President, I think, has to rely upon his own Energy Department, because his own Energy Department has acknowledged that this bill that we are debating would result in only negligible changes to overall demand, production, and imports, a bill that the Energy Department acknowledges will actually increase gasoline prices at the pump between 3.5 and 8 cents a gallon. The bill will increase the price of gasoline.

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So even though the President says the oil companies do not need incentives to drill when prices are so high, in this bill we are providing more than $3 billion in tax incentives to Big Oil. This is just at the point at which all of their profits are doubling. We are giving them tax breaks. It is absolutely unbelievable.

So what the gentleman from New York (Mr. BISHOP) has done is put out a series of provisions. If Members do not want to support increasing fuel economy standards for SUVs and automobiles so we can take on OPEC, what we have is another series of alternatives that can be engaged in which are much less Draconian, but will at least give us some improvement in the way this country interrelates with gas, oil, and other energy sources.

If Members feel that the Boehlert-Markey amendment is too radical, this is your cup of tea. I thank the gentleman from New York (Mr. BISHOP) for his help on this amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. BISHOP) and I am pleased to join as a cosponsor of this amendment.

Last Thursday, the President addressed the American Society of Newspaper Editors. He said:

> I will tell you with $55 oil we don't need incentives to oil and gas companies to explore. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent. It's really important. It's an important part of our economic security, and it's an important part of our national security.

But the President then went on to call upon Congress to pass the Republican energy bill—a bill replete with a rich assortment of tax and deregulatory "incentives" for the oil and gas companies to explore, a bill that the President's own Energy Department has acknowledged would result in only "negligible" changes to overall demand, production and imports, a bill that the Energy Department acknowledges will actually increase gasoline prices at the pump by between 3.5 and 8 cents a gallon. So, even though the President says the oil companies don't need "incentives" to drill when prices are so high, we are providing more than $3 billion in tax incentives to Big Oil. We are giving them "royalty relief" so they don't have to pay the public a fair price for drilling on public lands.

That is what H.R. 6 offers up as a solution to high oil and gasoline prices. This bill says let's give more tax breaks to oil and gas companies that even a President who was a former Texas oil man has said are not needed. This bill says let's enact proposals that would actullay increase the price that consumers pay to fill up their gas tanks.

That is no solution.

The amendment being offered by the gentleman from New York and myself takes a different approach.

While I continue to believe that the real solution to the current high gas prices is increased efficiency, the House has already debated that issue. This amendment says, if you aren't willing to take the step of mandating higher fuel efficiency standards, are you at least will to take some more modest steps?

On the issue of gas prices, our amendment says, when oil prices are at record highs, let's stop filling the Strategic Petroleum Reserve. Let's return to the principle of considering the impact of oil and gas prices and the economy when we are making decisions about whether and when to fill the Reserve. Are you at least willing to do that?

At the same time, our amendment expresses the Sense of Congress that the Federal Trade Commission and the Justice Department should exercise vigorous oversight of our Nation's oil and gas markets to guard against price gouging or market manipulation. It expresses the Sense of Congress that the President should put pressure on OPEC and non-OPEC oil producers to increase oil production to help bring down prices. It gives the FTC the power to require full disclosure by refiners and distributors of fuel pricing policies, costs, and profits, so consumers will be better able to determine whether the oil companies are profiteering from the current volatility in oil markets. Are you at least willing to do that?

Our amendment also would extend the renewable energy production tax credit for 5 years, so that companies know that there will be incentives out there to make the investment in building new solar, wind, geothermal and biomass technologies, so we can become less dependent on coal and natural gas to generate electricity.

Our amendment strikes the cap on Energy Savings Performance Contracts, an important tool used by the Federal government to reduce the amount of energy consumed in Federal buildings across the country.

Our amendment would put in place three additional appliance efficiency standards—commercial packaged air conditioners and heat pumps, residential dehumidifiers, and commercial spray valves used in restaurants. In addition, under the amendment, efficiency standards for residential and commercial furnaces and boilers, which have been languishing over at the Energy Department for more than 10 years, would be speeded up.

We would strike the Home Depot ceiling fan language that immediately preempts state ceiling fan standards before there's even a Federal standard in place.

We would provide a new 10 percent investment tax credit for high-efficient combined heat and power systems.

We would provide a tax deduction for expenses needed to reduce energy use of new and existing commercial buildings by 50 percent below model commercial codes.

We would provide a tax credit for new homes that reduce energy costs by 20–50 percent, and we'd provide a tax deduction for expenses needed to cut energy use at new and existing commercial buildings.

We would provide for the creation of an Emerging Technology Trust Fund to help develop emerging technologies for more efficient and renewable energy sources, as well as a Small Business Commercialization Program, to provide assistance for small businesses and start-up companies trying to introduce alternative energy and efficiency technologies into the marketplace.

Finally, our amendment includes the Dingell Democratic alternative amendment on electricity, which would preserve the bill's mandatory reliability provisions, but delete its proposed repeal of the Public Utility Holding Company Act. The Dingell language would also give FERC stronger legal authorities to police electricity and natural gas markets for fraud.

The Bishop-Markey Democratic enbloc amendments make some modest but useful steps toward making this energy bill a more a balanced bill and a more consumer friendly bill. I urge my colleagues to vote for the amendment.

Mr. BARTON of Texas. Mr. Chairman, I claim the time in opposition.

The Acting Chairman (Mr. SIMPSON). The Chair recognizes the gentleman from Texas (Mr. BARTON) for 15 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

On the Johnson amendment immediately prior, I was in mild opposition. On this amendment, I want to be recorded in strong opposition.

Here is the amendment. It is 124 pages. It may be great. I do not believe it is, but I have to stipulate it is possible. There has been no hearing on this, no markup on this. Most of the amendments before the body today, there may be a paragraph, a page, most of them are amendments that were at least debated in one of the committees of jurisdiction. This is a 124-page amendment which, I guess, Members could say is a substitute for the entire bill. There are 50 pages of efficient standards in this amendment.

Then there is the Dingell electricity substitute, which we have already had a debate on earlier today, and then at the end there are another 30 pages of tax credits. To top it off, we have some sort of a scheme to fix the price of oil.

What is not in this amendment is anything that would increase production, anything that addresses clean coal technology, I believe, or hydrogen research or any of those things. Again, I will stipulate this is probably a well-intentioned amendment. It is certainly lengthily drafted, but I cannot conceive at this stage of the game after all of the hearings and the markup and the amendments we have already had in this Congress and the debate that went on in the prior Congress, in the conference report that this House voted on two times, that the House would accept this amendment.

With all due respect to the authors, I would urge a strong "no" vote on this on a bipartisan basis because I do not think this amendment is right for inclusion or substitution for the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Chairman, I yield myself 3 minutes.

I am pleased to offer the Bishop-Markey-McDermott en bloc amendment this evening along with my colleagues. We have an opportunity within our reach to make a real advancement in energy policy, but we are about to do the unimaginable: pass an energy bill that will do nothing to lower gas prices.

Let me say that again because I think it is important to our constituents who are paying $2.25 or more for a gallon of gas, this energy bill will not lower gas prices. In fact, according to the Department of Energy, this bill may actually increase future gas prices.

Fortunately, our amendment will help consumers see immediate relief at the gas pump. The Bishop-Markey-McDermott amendment calls on the President to immediately suspend deliveries to the Strategy Petroleum Reserve until oil prices fall below $40 per barrel. When we have done this in the past, the price of oil has dropped anywhere from $6 to $11 per barrel.

The United States should be the global leader in the development of new and innovative technologies. This amendment will encourage the growth of an energy-efficiency marketplace that fosters and incubates new startups. This will not only lead to exciting new advances, it will help create good-paying jobs for thousands of Americans.

Our amendment will create a $5 billion emerging-technology trust fund, funding the technologies of the future rather than the further counterproductive subsidies to the oil and gas industries provided for in the underlying bill.

The Bishop-Markey-McDermott amendment would also offer grants to States that meet new standards for efficiency in new building development. Under our amendment, the renewable energy production tax credit will be extended for 5 years. We will provide tax credits for new homes that reduce energy use, as well as tax credits for new and existing commercial buildings to reduce energy use; and we would also offer an investment tax credit for the development of higher efficiency heating and cooling systems.

In short, we offer tax cuts and credits that America will embrace and at the same time create a cleaner and healthier environment for our children. We will allow consumers to make more informed decisions about energy-efficient appliances for their homes or businesses by adding greater meaning to the Energy Star label by mandating that only the top 25 percent of products will carry that label. Currently, according to the Alliance to Save Energy, approximately two-thirds of products are eligible to wear the Energy Star label, rendering the distinction almost meaningless.

Mr. Chairman, let us give Americans in the Northeast and on the West Coast something to cheer about. America needs electricity reliability and protection from fraud and blackouts. H.R. 6 would repeal the Public Utility Holding Company Act. Our act would strike that provision. PUHCA is the only line of defense for millions of taxpayers protecting them from skyrocketing energy costs and greedy corporations. We should not allow utility holding companies to use the profits obtained from their regulated business activities squeezed from their captive rate-payers and pour it down the sinkholes of unregulated businesses. PUHCA should not be repealed; it should be applied appropriately and enforced.

Mr. Chairman, H.R. 6 is anti-taxpayer, anti-consumer, and anti-environment. And I will say it again, it does nothing to lower gas prices. We can do better. The Bishop-Markey-McDermott en bloc amendment offers real incentives for energy efficiency and real relief at the pump.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Chairman, the Republican energy bill is a license to steal. It sanctions Big Oil's approach to America's energy crisis: do nothing except count the monstrous profits. Profits may be up 400 percent, but this bill allows Big Oil to earn even more money to add to their current $55 billion cash on hand. They will earn it at the pump, and they will earn it at the Treasury Department.

An accounting gimmick allows Big Oil to escape paying anything close to its fair share of taxes. That is the Republican way. The Democrats propose, and I proposed in the Committee on Ways and Means, something radically different in our alternative energy bill, actually paying for it. Imagine that, a bill we paid for on the floor of this House.

We want to eliminate the provision called LIFO. It means last in first out. You buy a barrel of oil at $20, and you buy a barrel 6 months later at $50. When you put it out, you use the $50 barrel. You cut down the profits. Of course, that is what they do. That is the American way of saying to Big Oil: pay now less, and then pay even less later.

Democrats are proposing something else, investing in the 21st century energy sources. We provide a tax credit for new homes that reduce energy by at least 30 percent. That benefits Americans and encourages a paradigm shift in thinking to produce energy by saving it. We will establish an emergency technology trust fund. We want to harness the power of our best minds to chart a course of energy independence.

We want to extend the renewable energy tax credit. America needs the power of wind. My State is full of wind farms provided by Mother Nature, and we can harness it. Democrats see America as strong and free of an addiction to Big Oil. We are addicted to oil; and as long as we remain addicted to oil, we are not going to get any better in this whole area.

We see in America where people are not faced with choosing gasoline over food. At $3 a gallon for gasoline, you are hitting pretty hard on the food budget. Tonight is a defining moment. Republicans want Americans firmly rooted in the past, relying on fuel sources that make us vulnerable to too many foreign countries.

Democrats envision America firmly and finally looking to the future, embracing a path to independence and freedom. Vote for America. Vote for the Democratic alternative energy bill that takes this country where it belongs, into the 21st century. Vote for the Bishop-Markey-McDermott amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. McCRERY), a member of the Committee on Ways and Means that has jurisdiction on tax issues.

Mr. McCRERY. Mr. Chairman, the previous speaker made some good points. He talked about the need for our country to discover new alternative sources of energy, and I think the gentleman is right. The underlying bill under consideration has some incentives for developing those new alternative sources of energy. Should we do more? Perhaps. I think perhaps when we get the final bill out of conference with the Senate, there may be more in the bill. But to rail against the oil and gas industry, as the gentleman did, and the provisions in the underlying bill that provide tax incentives for exploration and development of our oil and gas reserves in this country, to me rings empty because the substitute or the amendment that is before us that the gentleman spoke in favor of does not strike any of those provisions in the underlying bill.

All this amendment does is add new tax credits to the underlying bill. So all of the rhetoric that we heard about the underlying bill is just talk because this amendment does nothing to affect those provisions the gentleman was speaking against.

What this amendment does do is basically double the cost of this bill, at least the tax provisions in this bill. We have not had time, and the chairman of the Committee on Energy and Commerce spoke about the number of pages in this amendment, we have not had time, frankly, to analyze it from a budgetary aspect to see if it violates the House budget we have already passed. It very well could. But it takes the cost of tax provisions in this bill from about $8 billion over 10 years to about $17 billion over 10 years.

Now, the accounting gimmick, as the gentleman from Washington put it, is called LIFO, last in first out. This is not an accounting principle used just by the oil and gas industry. It is used by every sector of our economy. It is in common usage, and there is a reason. The reason is if we insisted on industry, of whatever kind, accounting for first in first out, it would lead to distortions in the market, and it would lead to business decisions based on tax considerations instead of market considerations. Last in first out is something commonly used throughout industry, not just the oil and gas industry. They cannot game it. There are regulations in place to keep them from shifting their inventory around to take advantage of the accounting rule. So this is not something, some gimmick for the oil and gas industry. It is a very sound accounting principle used throughout industry in this country.

So I would urge this House not to listen to the words of the gentleman, but look at the action embodied in the amendment. This amendment does nothing to the underlying tax provisions in the bill. It doubles the cost of the bill, and it would impose upon the oil and gas industry, just one industrial sector in this country, a retroactive tax increase because under his accounting change, those companies would have to go back and recapture what they would have paid in taxes and pay them prospectively over the next 10 years.

I hope we have concluded in this body that retroactive tax increases are bad policy. So for that reason alone, I would recommend that we reject this amendment.

□ 1930

Mr. BISHOP of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I rise today in support of the Markey-Bishop amendment. This amendment includes a provision that permanently bans oil and gas drilling in and under our Great Lakes.

I offered this language as an amendment before the Committee on Rules last night. However, the Committee on Rules Republican majority refused to allow my bipartisan amendment to be considered on the floor despite strong bipartisan support for it in the House and by the American people.

The Great Lakes are one of our Nation's greatest natural resources and are vital to more than 30 million Americans who rely upon them for their drinking water. Understanding this, Congress has repeatedly banned oil and gas drilling in and under the Great Lakes to protect this vital resource. In 2001, the House voted overwhelmingly, 265–157, in favor of instituting a ban.

Last week when the Committee on Energy and Commerce marked up this legislation, I offered my amendment. Unfortunately, the gentleman from Michigan (Mr. ROGERS) undermined my amendment in favor of a watered-down version. That amendment is included in the bill we find before us today.

The Rogers amendment does nothing to stop drilling in the Great Lakes. What the Rogers amendment does is leave drilling practices up to the eight Great Lakes States and their legislatures. We could have eight different policies on drilling in our lakes. Plus it is Congress that regulates commerce amongst the several States, as is found in the Constitution in the interstate commerce clause.

The Great Lakes already face a number of threats, invasive species and contamination that leads to beach closures. Given these threats, it makes no sense to further endanger the Great Lakes by opening them up to oil and gas drilling.

The bottomlands of the Great Lakes will not provide enough oil or natural gas to make even a small dent in the amount of America's energy needs that are supplied by imported oil and natural gas. And an oil spill on the shoreline can contaminate our groundwater.

Unfortunately, pollution knows no boundaries. When one or more of the Great Lakes States does not have a ban and a blowout or a spill occurs, those States, all of the States, may be forced to pay the public health and environmental price.

The message is clear. Even an energy crisis is not enough to justify threatening our Great Lakes, the world's largest body of fresh water, to extract what industry experts agree will be a small amount of oil and gas.

I ask that my colleagues approve this amendment to enact a permanent ban on oil and gas drilling in and on the Great Lakes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume. I would ask to engage in a dialogue with one of the authors of the amendment, if they wish to do so.

I am not being facetious about this. I want to let the gentleman from New York know right up front.

I have spent the last 10 minutes actually trying to look at the amendment to try to get a sense of it. It appears to me that most of it is the Dingell electricity substitute. Would the gentleman from New York agree with that?

Mr. BISHOP of New York. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. BISHOP of New York. Yes, I would, Mr. Chairman.

Mr. BARTON of Texas. In the beginning, he has some efficiency standards. He goes through and sets some specific standards on specific appliances, dishwashers and things like this. But on page 21, there is something beginning on line 16 that I just do not understand and I just want to see.

The gentleman from New York may not understand it either, because he may not have had much advance work in drafting this.

The heading is Administration, Penalties, Enforcement and Preemption. It says, "Section 345 of the Energy Policy and Conservation Act, 42 U.S. Code 6316, is amended by adding at the end the following." It just goes down and says if a State wants to set up a specific standard, that is fine, and that State standard will not be preempted until the Federal standards established under this bill take effect on January 1, 2010. I understand that. He is saying the States can set a standard, but once the standards in the bill kick in on January 1, 2010, the Federal standard preempts. That is a policy debate; we can argue that back and forth.

The next section, I do not understand, subparagraph 3, line 16:

"If the California Energy Commission adopts, not later than March 31, 2005, a regulation concerning the energy efficiency or energy effective after, the standards established under section 342(a)(9) take effect on January 1, 2010."

What does that mean? While the gentleman is trying to get me an answer, this is the kind of thing that if we had this in regular order in a markup, there would be counsel at the desk and members of the committee of jurisdiction would ask the counsel to explain it; and if it is a drafting error, then that could be corrected. If it is not a drafting error, then at least the members know. I am assuming that is a drafting error, but it may not be.

Mr. BISHOP of New York. It is, in fact, a drafting error. These efficiency standards were taken from the Senate bill from the 108th Congress and it is a drafting error. The date needs to be updated.

Mr. BARTON of Texas. Then right underneath that, we are talking about administration, penalties, enforcement and preemption on efficiency standard for appliances. After that paragraph I just read, then you go back and just out of the blue, it says, "In determining whether to defer such acquisition, the Secretary shall use market-based practices when deciding to acquire petroleum for the Strategic Petroleum Reserve."

Again, I am going to assume that this was a cut-and-paste effort and something got left out and that should be in another place. Am I correct or incorrect on that?

Mr. BISHOP of New York. If the gentleman can just give me one second.

Mr. Chairman, I guess what I would say in response is that I understand the questions that the gentleman from Texas is raising and I understand, I guess, the consternation that he has with respect to receiving such a lengthy amendment with little notice. I would only say that the underlying bill is equally complex, equally dense, and that there are sections of the underlying bill that were not subjected to hearings, as well.

Mr. BARTON of Texas. I sincerely respect the intent of the authors of the amendment. I am just trying to point out that even on a cursory examination, there are things that were just kind of hastily put together. They have not been vetted.

The underlying bill has been through countless hearings. The Energy and Commerce markup took 3½ days. The base text is the conference report from the last Congress that was extensively reviewed both inside and out of the conference. At this stage of the game, to adopt this, even as well intentioned as it is, would not put the Congress in the best light. So I really would hope that we would vote it down.

I do want to say one thing about the gentleman from Michigan's amendment on Great Lakes drilling. He offered his amendment in committee. We had a fair debate on it. It was rejected. I do not remember the vote. It was a fairly close vote, but it was rejected.

Then we took a Rogers of Michigan amendment as a substitute that gives the States the right to ban drilling if they wish. It is my understanding, and I could be incorrect about this, that Michigan wishes to ban drilling in the Great Lakes and Ohio perhaps does not. I did not learn whether New York wanted to or did not want to. I think that Canada does allow it.

But the base bill allows a State the right to ban drilling on their portion of jurisdiction of the Great Lakes if they so wish.

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, if the chairman would remember, he did allow me to offer my amendment in committee, but before we had voted to do a permanent ban, it was undermined by the Rogers amendment, which basically says the same thing that it says in the body of the underlying bill, which encourages States to enact a ban.

As the gentleman from Texas knows well, because we have several States who deal with Lake Michigan and four of the five Great Lakes are international borders, a ban, if it is going to come, a permanent ban, which we seek, would have to be Federal legislation because of the interstate commerce clause from which our committee gets its jurisdiction. That is why we were very disappointed in that, especially.

In fact, in 2001, we did have a moratorium on oil and gas drilling in the Great Lakes, and it passed 265–157 with strong bipartisan support. That is why we are disappointed that the Committee on Rules did not make our amendment in order.

Mr. BARTON of Texas. If I could reclaim my time, the gentleman from Michigan is a valued member of the committee and has several amendments that were accepted, that are in the bill. I hope he is at least in a quandary about maybe voting for the bill at some point in time, although he has not yet done so.

But as he just pointed out on the underlying bill, we do encourage States, I think the language is, encourages the States to have such a ban, but we do not have the Federal preemptive ban that the gentleman from Michigan wanted.

Mr. Chairman, in summary, I oppose this amendment. I think we have pointed out a number of flaws in it. I would hope at the appropriate time the body would vote it down.

Mr. Chairman, I yield back the balance of my time.

Mr. BISHOP of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I thank the gentleman for yielding me this time.

Mr. Chairman, I want to concur with the gentleman from Michigan (Mr. STUPAK) who spoke in favor of a Federal ban on drilling for oil or gas in the Great Lakes. I represent Cleveland, Ohio, which is a city proud to be part of the Great Lakes community. We in Cleveland understand that the Great Lakes contain 20 percent of the Earth's fresh water surface and supplies drinking water for over 40 million people.

This is not a matter that any State can choose to go along with or against. This is clearly an area for Federal policy. We need a Federal policy which says the people of the United States have a right to clean drinking water.

Water is the oil of the 21st century and we are here acting as though it is not the basis of life on our planet.

The risks of drilling are clear. Because the geologic formations under Lake Erie are low producing, the oil and gas industry would require over 4,200 wells to access the full resource. In Canada, where they permitted drilling, an average of almost one spill per month has been documented. Now, the industry wants to use directional drilling to create new risks. Geologists have noted that leaks will follow the drilling shaft down into the groundwater which flows right into Lake Erie.

This amendment, the Markey-Bishop amendment, is a common-sense way to meet our energy needs, conservation, energy and renewables, and it is also a common-sense way to protect the great water resource we have.

Why should we even be contesting this? Why would any State want to take the responsibility of drilling in the Great Lakes and thus poisoning the well for the rest of America?

This is Federal policy. We have a right to clean water. Support this amendment.

Mr. BISHOP of New York. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank my friend from New York for not only offering the amendment, but providing a very important point in this debate, and that is, unfortunately, the underlying bill is not going to work because it lacks one crucial element, and that is vision, the vision to see that we need to pivot off the status quo of the current energy policy and move to a new energy plan that makes sense for a new century.

The fact of the matter is, and the dirty little secret in this place, those involved in energy policy have to admit it, is that no matter how many incentives we give to the oil companies, how many royalty relief provisions are loaded in this bill, even though the President who comes from the oil industry says that it is not necessary, given the high price of oil, is that we cannot produce our way out of the energy challenge that we are facing in this century.

We are already in a race against China and India for the limited oil supplies that exist throughout the world. This amendment provides the vision for us to start pivoting off from our dependence on fossil fuels generally, but the importation of oil more specifically, by providing incentives for alternative and renewable energy sources, incentives for increased energy efficiency and conservation practices and, hopefully, the incentive to move to a new energy source for a new century, and that is fuel cell development.

I would encourage my colleagues to adopt this amendment.

Mr. BISHOP of New York. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman from New York for yielding me this time and I rise in strong support of the Bishop-Markey substitute.

This amendment contains a number of provisions designed to reduce dependence on nonrenewable energy sources. It is ridiculous that H.R. 6 really offers no relief to the soaring prices of gasoline. I think that is what our constituents really want to see.

The administration's own Energy Information Administration analyzed last year's H.R. 6 and said, changes to production, consumption, imports and prices in it are negligible. It even found that gasoline prices under the bill would actually increase more than if a bill was not enacted.

The Bishop-Markey amendment offers clear measures to lower the price of gas. We should not be filling the Strategic Petroleum Reserve while oil prices are so high. We should urge OPEC to increase oil production. We should instruct the FTC to protect the American people from price gouging at the gas pump. These are reasonable steps. This is what this substitute does. And it will provide reasonable relief from high gas prices.

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I cannot support H.R. 6 as it is written today despite my great affection for our chairman, who was more than fair when we had the markup in the Committee on Energy and Commerce; but this Bishop-Markey amendment would provide critical improvements to it.

Support this amendment today.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from New York (Mr. BISHOP).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. BISHOP of New York. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. BISHOP) will be postponed.

It is now in order to consider amendment No. 8 printed in House Report 109-49.

AMENDMENT NO. 8 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. SLAUGHTER:

In title I, subtitle C, add at the end the following new section:

SEC. 135. INTERMITTENT ESCALATORS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following new subsection:

"(e) INTERMITTENT ESCALATORS.—

"(1) REQUIREMENT.—Except as provided in paragraph (2), any escalator acquired for installation in a Federal building shall be an intermittent escalator.

"(2) EXCEPTION.—Paragraph (1) shall not apply at a location outside the United States where the Federal agency determines that to acquire an intermittent escalator would require substantially greater cost to the Government over the life of the escalator.

"(3) ADDITIONAL. ENERGY CONSERVATION MEASURES.—In addition to complying with paragraph (1), Federal agencies shall incorporate other escalator energy conservation measures, as appropriate.

"(4) DEFINITION.—For purposes of this subsection, the term 'intermittent escalator' means an escalator that remains in a stationary position until it automatically operates at the approach of a passenger, returning to a stationary position after the passenger completes passage.".

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentlewoman from New York (Ms. SLAUGHTER) and the gentleman from Texas (Mr. BARTON) each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

In 1998 Congress set a goal for 2005 to improve the energy efficiency in congressional buildings by 20 percent. And I know that the Architect of the Capitol has been working very hard to reach the goal. However, we have not. Yet the skyrocketing gasoline prices remind us that we must do more for conservation.

I am disappointed that the underlying legislation gives 94 percent of its benefits to the oil and gas industry and only 6 percent to conservation and renewable efforts.

My amendment, I think, is a good start at least on some conservation. It would simply require that any new escalator being installed in Federal buildings to be an intermittent escalator. These have been in use in Europe for 30 or 40 years; and I know that when I first saw one, I could hardly believe it. It does not begin until the passenger steps on a pad entering into the escalator and stops when the passengers are off. We would save about 40 percent of the fuel costs, the electricity costs, the energy costs. But in addition to that, what we would save simply on the wear and tear, the pure mechanics of the escalator, probably would be even higher than the energy savings.

Mr. Chairman, the traditional escalators are used more than 90 billion times a year in the United States; and with more than 30,000 of them across the country, escalators move more people than airplanes. And since almost all of them are out of order a good percentage of the time, we know that it is important that we do something to conserve that kind of money and the investment we have made in the escalators.

As I pointed out, the amount of energy consumed is estimated to be 260 million kilowatts an hour, which we would save a cost to the Nation, if all of them were intermittent, of $260 million a year.

I want to quote an analyst at Lawrence Livermore National Laboratory. The intermittent escalators, says Lawrence Livermore, are 40 to 50 percent more energy efficient than traditional escalators. This was borne out by a case study supplied to me from the German Embassy, which found 40 percent savings in Germany. Energy can be particularly saved when the escalator is used only during rush hours.

Replacing all of them would save us an awful lot of money, but this bill does not replace them all. It simply requires that new escalators be of the intermittent variety. And I strongly hope that we will accept this amendment this evening as part of this energy bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to qualify in opposition. And I say "qualify" because when I looked at the amendment several days ago, it appeared to me to be a reasonable amendment. Since the gentlewoman was born in Texas, it gave me another reason to say yes. And since she is a member of the Committee on Rules and every now and then I will need a vote from the minority on the Committee on Rules, there was another reason. So we had lots of reasons to say yes, and so we did say yes.

Then we found out that the gentleman from Alaska (Mr. YOUNG), the chairman of Committee on Transportation and Infrastructure, had some concerns about it, and the General Services Administration had some concerns about it. And the concern is that these intermittent escalators sometimes cause a safety problem because they start and stop too soon and they apparently break down more frequently than continuous-operation escalators.

So here is my proposal to the gentlewoman: I am willing to accept it with the understanding that we are going to work with the General Services Administration and the gentleman from Alaska (Chairman YOUNG) to see if there is a meeting of the minds between now and conference. We will go into the base bill. It will be a House position when we go to conference. But if for some reason we cannot satisfy these safety concerns, since I am probably going to be the chairman of the conference, I would reserve the right to drop it in conference after consultation with the gentlewoman if we cannot work out some of these concerns. But for tonight we would take it.

Mr. Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman very much for his support. I appreciate that. And if it is all right with the chairman, I will inundate him with that information between now and then.

Mr. Chairman, I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, with that reservation, the majority accepts the gentlewoman's amendment and urges a mild "yes" vote.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 109–49.

It is now in order to consider amendment No. 10 printed in House Report 109–49.

Mr. BARTON of Texas. Mr. Chairman, I ask unanimous consent, on the Oberstar amendment, even though he is not here, that the gentleman from Michigan (Mr. DINGELL) be allowed to offer it, and if he will on the gentleman from Minnesota's (Mr. OBERSTAR) behalf, I will accept it.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT NO. 10 OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. DINGELL:

At the end of subtitle A of title II, add the following (and conform the table of contents accordingly):

SEC. 209. INSTALLATION OF PHOTOVOLTAIC SYSTEM.

There is authorized to be appropriated to the General Services Administration to install a photovoltaic system, as set forth in the Sun Wall Design Project, for the headquarters building of the Department of Energy located at 1000 Independence Avenue Southwest in the District of Columbia, commonly know as the Forrestal Building, $20,000,000 for fiscal year 2006. Such sums shall remain available until expended.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Michigan (Mr. DINGELL) and a Member opposed each will each control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Under the unanimous consent request, I assume, then, that I have offered it; and I yield to the gentleman from the great State of Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding to me. And I would simply say that the gentleman from Minnesota (Mr. OBERSTAR), the ranking member on the Committee on Transportation and Infrastructure, has offered an amendment that would authorize $20 million for the administrator of General Services Administration to proceed with the Sun Wall design project, and the majority is prepared to accept it and work with the gentleman from Michigan (Mr. DINGELL) and the gentleman from Minnesota (Mr. OBERSTAR) to maintain it in conference with the Senate.

I urge a "yes" vote.

Mr. DINGELL. Mr. Chairman, reclaiming my time and continuing my comments, I rejoice that the gentleman has accepted it. I commend him for having done so.

Mr. OBERSTAR. Mr. Chairman, I rise to express my appreciation to the gentleman from Michigan for offering the amendment I had planned to and was designated to offer, and to the gentleman from Texas for accepting the amendment.

Mr. Chairman, I rise in support of the Oberstar-Norton amendment. The amendment authorizes the Administrator of the General Services Administration to install a photovoltaic solar energy system (photovoltaics) in accordance with the Sun Wall Design Project on the Forrestal Building, the headquarters building of the Department of Energy located on Independence Avenue in Washington, D.C.

The Sun Wall is an engineering and architectural marvel: 24,750 square feet of power generating panels installed on the building's south facing wall. It is also visually exciting, reaching 300 feet wide and 130 feet high. In fact, the Sun Wall design was selected as the winning design in an national contest sponsored jointly by the Department of Energy and the National Renewable Fuels Laboratory. The project design was completed 5 years ago, in 2000. The project design is ready to go. All that is left to do is provide funding for the project so that construction of the Sun Wall can begin.

With ever rising oil prices and our country's ever-increasing dependence on oil, the time has come for the federal government to get serious about alternative, renewable fuels. In fact, the time is long past overdue. The federal government is the Nation's largest energy consumer, a typical office building is estimated to spend one-third of its operating expenses on energy costs. Using alternative sources of energy will help us reduce these costs.

Photovoltaics are a proven, reliable source of energy. Simply put, photovoltaic systems convert solar energy into electricity. They not only reduce the consumption of fossil fuels, but they are highly efficient and have no moving parts, so the need for maintenance is virtually non-existent. Because they emit no harmful pollutants, they are a clean, environmentally-friendly energy source.

H.R. 6 does include provisions aimed at increasing energy efficiency in our public buildings. I am especially pleased to see in the bill section 205 (regarding the procurement and installation of photovoltaics in federal buildings generally), which I offered, and which was accepted, as an amendment during consideration of the energy bill last Congress.

Over 25 Federal buildings throughout the country, from Boston, Massachusetts to San Francisco, California, already use photovoltaics to great effect. We ought to add the national headquarters of the Department of Energy to that list.

The Sun Wall Project is an opportunity to have the Department of Energy Headquarters building in our Nation's capital—the building where energy policy is debated and refined—stand as a testament to the utility and promise of photovoltaics. In a city of monuments, the Sun Wall Project would be a monument to America's commitment to advanced technologies, alternative energy and a cleaner environment.

I urge my colleagues to support the amendment.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

REQUEST TO OFFER AMENDMENT NO. 9

Mr. WAXMAN. Mr. Chairman, I have an amendment at the desk, and I ask unanimous consent to be able to go back to that amendment.

Mr. BARTON of Texas. Mr. Chairman, I reserve the right to object, and I will not object.

The Acting CHAIRMAN. The gentleman will have to offer his amendment in the full House. We cannot go back to the amendment.

Mr. BARTON of Texas. Mr. Chairman, I reserve the right to object.

The Acting CHAIRMAN. The Chair is not entertaining the motion because we cannot go back to the amendment.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Chairman, parliamentary inquiry.

The Acting CHAIRMAN. The gentleman may inquire.

Mr. BARTON of Texas. Mr. Chairman, since the gentleman from California is a member of the committee of jurisdiction and since he offered this in committee and it was made in order by the Committee on Rules to be offered, even though he was somewhat tardy in arriving, would a unanimous consent request, if made and not objected to, give him the right to offer the amendment now?

The Acting CHAIRMAN. Such a request may only be entertained in the full House.

Mr. BARTON of Texas. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FLAKE) having assumed the chair, Mr. SIMPSON, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, had come to no resolution thereon.

MAKING IN ORDER AT ANY TIME WAXMAN AMENDMENT NO. 9 DURING FURTHER CONSIDERATION OF H.R. 6, ENERGY POLICY ACT OF 2005

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that Waxman amendment No. 9 be allowed to be offered at any time to H.R. 6.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ENERGY POLICY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 219 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, with Mr. SIMPSON (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 10 printed in House Report 109-49 offered by the gentleman from Michigan (Mr. DINGELL) had been disposed of.

AMENDMENT NO. 9 OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. WAXMAN:

At the end of title I, add the following new subtitle and make the necessary conforming changes in the table of contents:

Subtitle E—Plan to Reduce Oil Demand

SEC. 151. PRESIDENTIAL ACTIONS.

(a) PROPOSED ACTIONS.—For purposes of reducing waste of oil and decreasing demand for foreign oil, not later than 6 months after the date of enactment of this Act, appropriate Federal Departments and agencies, as identified by the President, shall propose voluntary, regulatory, and other actions sufficient to reduce demand for oil in the United States by at least 1.0 million barrels per day from projected demand for oil in 2013.

(b) REQUEST TO CONGRESS.—If the President determines that the Departments and agencies referred to in subsection (a) lack authority or funding to implement the actions proposed under subsection (a), the President shall request the necessary authority or funding from Congress no later than 9 months after the date of enactment of this Act.

(c) FINAL ACTIONS.—No later than 12 months after the date of enactment of this Act, the Departments and agencies referred to in subsection (a) shall finalize the actions proposed pursuant to subsection (a) for which they have authority and funding.

(d) PRESIDENTIAL DETERMINATION.—The Departments and agencies referred to in subsection (a) may finalize regulatory and other actions pursuant to subsection (c) that achieve demand reductions less than the demand reduction specified in subsection (a) if the President, after public notice and opportunity for comment, determines that there are no practical opportunities for the nation to further reduce waste of oil.

(e) CAFE.—Nothing in this section shall mandate any changes in average fuel economy standards ("CAFE" standards) prescribed under chapter 329 of title 49 of the United States Code.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from California (Mr. WAXMAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

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Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Before I discuss the merits of this amendment that I seek to offer, I want to extend my appreciation to the Chairman of the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON), for his courtesy to me in allowing me to offer this amendment. I hope that I can convince him and my colleagues to support this amendment.

A balanced energy bill should not just be production of more energy, but it should be conservation, reduction of the demand side of the equation, and I feel that the legislation is lacking in that regard. What my amendment would seek to do is to reduce the amount of oil that is wasted every single year.

Let me tell my colleagues what the amendment does not do. It does not mandate anything. It does not mandate an increase in the CAFE standards for automobiles, although I think that is a good idea, but we do not mandate it. It does not mandate any new, burdensome regulations or expensive technologies, and it does not force Americans to change their personal habits. It simply calls on the President to come up with a plan to lead in an effort to reduce the waste of oil.

Now, in this House, even this is controversial, as amazing as it may seem. This seems to be the only place in America where trying not to waste oil is a bad thing. The other body voted on this very same amendment, and they voted to accept it 99 to 1.

Now, I know we are going to hear in a minute that this is a back-door way to impose new standards or regulations. That is nonsense. The amendment only asks the President to come up with some ideas for not wasting oil, and there are a lot of different things that can be done: keeping tires properly inflated, improving air traffic management, ensuring that we reduce heavy truck idling, use fuel-efficient engine oil, weatherize homes that use heating oil.

Now, all that we have to have the President do is to come up with ideas and to appeal to the American people on a patriotic basis that they simply should be more conscious of the waste and perhaps shut off their cars when they run into a Starbucks. I have no doubt the American people would respond.

It worked in California. When we had our energy crisis a few years ago, we had a real energy crunch, and the people in California pitched in and, almost overnight, reduced energy waste by 4 to 10 percent, depending on whose numbers you accept. Overnight, with no preparation, California achieved the small reduction that this amendment calls for. That is the least we can do.

This legislation that is before us overall is going to increase the amount of oil we are going to have to bring in from the Middle East. We are going to be more and more dependent. For our national security's sake, we ought to simply reduce some of the waste in oil that goes on every single year.

I am particularly struck that at a time when we have so many brave American men and women serving overseas, willing to sacrifice everything for us, we may not be able to muster the political will to ask the American people to chip in a little and reduce the waste of oil.

If we defeat this amendment, we are waving the white flag. We are waving that white flag to surrender to the oil companies and the other special interests. We will be saying we simply will not even try. The greatest country in the world cannot even find the will to achieve small reductions in the waste of oil. I do not think that is the message we want to send.

I would ask that my colleagues support this. This is a minimal step. It is common sense. At least it can put us on the side of trying to reduce waste. The President is simply called on to exert that leadership to come up with a plan. If he does not think he can do it, well, he does not have to do it. But if he has some ideas, let us try to do at least the minimum we can do to reduce the waste of oil that is causing us to bring in and use, and in fact overuse, oil that we have to bring in from overseas.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

It may seem odd that I would ask the House to rise to give the gentleman the right to offer an amendment that I am going to oppose, but I think it is worthy of debate. We had a debate in the Committee on Energy and Commerce on this amendment, and I glanced at it, and it appears to be the identical amendment.

Is it the identical amendment from the Committee on Energy and Commerce?

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, yes, it is.

Mr. BARTON of Texas. It looked to me like it was. We had a good debate on it there and it was rejected, and I honestly hope that the House does the same.

Mr. Chairman, I want to read a part of the amendment. It says under section 151, "Presidential actions. For purposes of reducing waste of oil and decreasing demand for foreign oil, not later than 6 months after the date of enactment of this act, appropriate Federal departments and agencies identified by the President shall propose voluntary, regulatory, and other actions," other actions, "sufficient to reduce the demand for oil in the United States by at least 1 million barrels per day from projected demand for oil in 2013."

Now, let us go through that. The gentleman is stating that we are wasting oil. I guess when I hop in my pickup truck to go to the store to get some milk, then I am wasting gasoline. But my wife does not think I am wasting it, my children or stepchildren do not think I am wasting it when they get to drink the milk that I go get, but I guess maybe we are. So I do not know how we would identify this waste, but I assume there would be some Federal commission that could identify the waste of oil.

Of course, it talks about decreasing the demand for foreign oil. Well, oil is oil. We do get about 14 million barrels a day from overseas, and God bless us that we do. Our economy would come to a halt if we did not. So I am not sure how we would work on that.

It talks about being voluntary, regulatory, but then it says "other actions." "Other" could be mandatory. "Other" could be whatever the President of the United States says it is.

But the gentleman from California goes on to say, in subsection B, "If the President determines that the departments and agencies lack the authority or funding to implement the actions proposed," in the section I just read, "then the President should come to the Congress and request the necessary authority."

Now, here we have an economy that in the last year in the United States, demand for energy has gone up, not down. The price of gasoline in nominal dollars has doubled in the last year. Demand has gone up 2 percent. We have doubled the price and demand has gone up. But yet, somehow, the gentleman from California (Mr. WAXMAN) thinks if we accept this amendment, that we are going to be able to wave some magic wand at the presidential level, and maybe at the congressional level, and reduce demand for oil by 1 million barrels.

We are only producing around 7 or 8 million barrels a day domestically, but somehow, just by having a group hug in the Federal agencies, we are going to find a way to reduce demand by 1 million barrels.

I do not think it is going to work that way. We can emote all we want, but we have a growing economy, a growing population, and we are probably going to continue to need more oil, not less. So the way to do it is to find ways to produce more and to find real-world ways to consume less and get more bang for the buck.

This amendment does not get us there, with all due respect. I hope we would oppose it. I strongly support the gentleman's right to offer it, but I just as strongly support my right to oppose it, and I hope at the appropriate time the House will vote "no" on the Waxman amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from California has 30 seconds remaining.

Mr. WAXMAN. Mr. Chairman, I yield myself the remaining time.

This only calls on the President to come up with some ideas talking to the people that are heading up his agencies. If he thinks he needs legislative authority, he should ask for it. But at least it makes him focus on not wasting oil, and there is a lot of waste that goes on. And the President can simply appeal to people: tune up your motors, promote oil savings in the industrial sector, keep vehicles properly tuned, improve the tire inflations, improve air traffic management. Some of these small things can add up to savings, and the savings we call for are the savings based on projections of future oil.

I ask for an "aye" vote.

Mr. BARTON of Texas. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. WAXMAN) will be postponed.

It is now in order to consider Amendment No. 11 printed in House report 109-49.

AMENDMENT NO. 11 OFFERED BY MR. ABERCROMBIE

Mr. ABERCROMBIE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. ABERCROMBIE:

In title II, subtitle A, add at the end the following new section:

SEC. 209. SUGAR CANE ETHANOL PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "program" means the Sugar Cane Ethanol Pilot Program established by subsection (b).

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) ESTABLISHMENT.—There is established within the Department of Energy a program to be known as the "Sugar Cane Ethanol Pilot Program".

(c) PROJECT.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish a pilot project that is—

(A) located in the State of Hawaii; and

(B) designed to study the creation of ethanol from cane sugar.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) be limited to the production of ethanol in Hawaii in a way similar to the existing program for the processing of corn for ethanol to show that the process can be applicable to cane sugar;

(B) include information on how the scale of projection can be replicated once the sugar cane industry has site located and constructed ethanol production facilities; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $8,000,000, to remain available until expended.

The Acting CHAIRMAN. The gentleman from Hawaii (Mr. ABERCROMBIE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not believe, if the gentleman from Texas (Mr. BARTON) would corroborate here, that there is going to be opposition to this amendment.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I am supportive, but my understanding is that the gentleman from Arizona is going to be nonsupportive.

Mr. ABERCROMBIE. Well, he has not heard me speak yet.

Mr. BARTON of Texas. Hopefully, the gentleman from Hawaii and I, together, can overcome him. I do support the gentleman's amendment at the appropriate time.

Mr. ABERCROMBIE. Mr. Chairman, the sheer weight of logic plus our considerable mutual charm I think has some hope in that direction.

Mr. Chairman, I rise today in favor of this amendment. Please allow me to say two things before I proceed. First, I want to express my gratitude to the gentleman from Texas (Mr. BARTON) and to the gentleman from California (Mr. POMBO) and their committee staffs. Believe me, a lot of work went into this in the midst of all of the other pressures of various other items that were before them. This means a great deal.

In every one of these bills, particularly in this energy bill, people have things to which they are deeply committed, including my good friend, the gentleman from Arizona (Mr. FLAKE), with respect to both the philosophy involved and what the consequences might be from any given item.

Now, in the great scheme of things, this might not seem like a lot to a lot of people, but for those of us who understand what it is, if we can actually grow our own renewable energy with sugarcane in the form of biomass can actually provide by being converted to ethanol. That is why this is here.

I am not certain, and the gentleman from Hawaii (Mr. CASE) will speak shortly about it too, as to whether there are larger, logistical issues involved or political issues. But I can tell my colleagues this: Whatever arguments there are out there about whether sufficient time or funds are being committed to renewable energy, alternative energy, this is something that we can do. And this is something where we are getting support from the oil and gas companies in Texas, in Louisiana.

Hawaii and Florida can join in, because we are growing sugarcane, sugarcane can become ethanol, ethanol can help reduce the dependency on oil and gas. And we can work with the oil and gas companies to see to it that we have blends that will allow us to reduce our dependency on foreign oil, on foreign sources. That is what this is about.

We can grow our own energy in Hawaii if we get the chance to do this. And the gentleman from Texas (Mr. BARTON) and the gentleman from California (Mr. POMBO) have recognized this. They are going to give us the chance, and if this works, I am in contact with people, for example, like at Southern University in Louisiana, just speaking with them tonight, with the idea that perhaps we can take the sugarcane industry, and instead of always having to be in the position of having to defend ourselves against wage slavery around the rest of the world, that we will be able to have good jobs, good income in the United States of America, and be growing our own energy.

That is what this is about, and that is why I ask for the support of my colleagues on this.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I support the amendment, and I strongly encourage the majority to support it, and we will work with the gentleman in conference to maintain it if he will promise to work with his Hawaiian Senators to get them to do that also.

Mr. ABERCROMBIE. I will do that, Mr. Chairman.

Mr. BARTON of Texas. I am in support of the Abercrombie amendment and hope that the House accepts it.

Mr. ABERCROMBIE. Mr. Chairman, this is a very, very big opportunity and challenge for us that I think we will be able to meet.

Mr. Chairman, I reserve the balance of my time.

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Mr. FLAKE. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from Arizona (Mr. FLAKE) controls 5 minutes.

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

I rise today in opposition to the sugar cane ethanol pilot program. This proposal, the problem with it is that it combines two programs, and both waste taxpayer money.

First, the sugar subsidy artificially raises the price of sugar that you buy every day. Whenever you eat a candy bar or drink a can of 7-Up, you are paying more because the government artificially raises the price of sugar.

Now, if you want to raise the cost of gas by forcing taxpayers to put fuel mixed with processed subsided sugar in your tank, it just seems strange in this bill, because I thought the purpose of this bill was actually to lower the cost of energy.

Second, ethanol is simply another taxpayer subsidy that could only find support in Congress, certainly not in the marketplace. Study after study demonstrates that it actually uses more energy to produce than it actually yields at the end.

And ethanol subsidies came about decades ago. It was just to jump-start the industry. And soon it will be on it own; the market will take over. Well, guess what, decades later we are still subsidizing ethanol. Well, why in the world should we do this and turn this to sugar now?

When grain-producing States have long found a way to keep ethanol alive, now sugar-producing States want into the act. My district has a great supply of prickly pear. Now, some people will eat it; it is sold at the airports. I would submit that is just as good a source of sugar for ethanol. If you use enough energy, you can turn anything into ethanol. But should we do it on the taxpayer's dime? I would say, no, we should not.

Mr. ABERCROMBIE. If the gentleman will yield, I will be happy to bring in prickly pears.

Mr. FLAKE. I enjoy it when the gentleman brings macadamia nuts into the committee; we enjoy those a lot. But I would not propose that we make ethanol out of it. It simply makes no sense at all to try to turn sugar, or for that matter corn, into gasoline.

Additionally, those of us who oppose ethanol need to stand up today to oppose this amendment because what may seem like a small program now, once sugar States discover what corn States have discovered, it will become much, much bigger and spending will become more and more and more. 10 million will become 20 and then 30 and then soon it is hundreds of millions of dollars.

This comes at the detriment of taxpayers who will pay more at the pump. Again, let me say that the purpose of this bill, the stated purpose, is during an energy crisis to bring down the cost of energy. And here we are employing programs that will simply make you pay, one, more at the pump, and, two, more in taxes because you are supporting this kind of subsidy.

I thought it was kind of strange, when I was a kid the worse prank you could play, it was hardly a prank, it was property damage, but was to put sugar in someone's tank. That was the worst thing you could do. And here you are going to ask the taxpayers to pay for it. It just seems wrong to me.

With all deference to my good friend from Hawaii, I just do not think that I can support this amendment. I am under no illusion, given the committee's support, the Republican's support for the amendment that I can beat it. But someone needs to stand up and say what this really is. It is another taxpayer subsidy that is going to raise the cost of energy.

For that reason I oppose it. Let us keep sugar out of your gas tank.

Mr. Chairman, I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman from Arizona (Mr. FLAKE) yield his remaining time to me?

The Acting CHAIRMAN. The gentleman from Hawaii (Mr. ABERCROMBIE) has 1½ minutes remaining.

Mr. FLAKE. Mr. Chairman, I yield my remaining time to the gentleman from Texas (Mr. BARTON).

The Acting CHAIRMAN. Without objection, the gentleman from Texas (Mr. BARTON) will control 1½ minutes.

There was no objection.

Mr. ABERCROMBIE. Mr. Chairman, I yield myself such time as I might consume.

Might I just say for the edification of my good friend, the gentleman from Arizona (Mr. FLAKE), that when you take those two cans of Coke that you are talking about, just tell me whether the Diet Coke is cheaper than the other one that has sugar in it. I do not think so. You are not saving any money that way. That is not going to work.

But I would be happy some other time perhaps to have a full blown discussion about this at another point.

Chairman Dreier, Ranking Member Slaughter and the Members of the Committee on Rules. I offer this amendment to H.R. 6 with the hope of reducing our nation's reliance on oil and advancing our efforts in Hawaii to become more energy self-sufficient. This is philosophically consistent with other provisions of H.R. 6 encouraging energy production.

My amendment authorizes a 3-year demonstration program for the production of ethanol from sugar cane in Hawaii. Specifically, $8.0 million would fund a $1.00 per gallon payment to refiners and 8.0 million gallons of ethanol fuel. This pilot program would parallel the existing corn program to show that the process can be applicable to cane sugar and can be replicated on a larger scale.

Nationally, the sugar cane industry is currently formulating a program to process 700,000 tons of cane sugar into ethanol. With a large domestic surplus of sugar, and the possibility of additional imported sugar being allowed into the domestic market through free trade agreements, a program of such size would stabilize domestic markets and produce a significant volume of ethanol.

This pilot project will provide invaluable insight on problems that may arise with a national program. The State of Hawaii has passed a law that goes into effect on April 1, 2006, mandating a 10 percent ethanol blend for gasoline consumption in the state. Oil refineries are building ethanol storage and blending facilities in anticipation of meeting the requirement. Locally produced ethanol would be less expensive than importing the estimated 45 million gallons of ethanol needed to fulfill the 10 percent requirement.

Because of the relatively low domestic price of sugar, Hawaii producers for some time been considering and now planning ethanol production from the cane sugar that would otherwise have gone into the domestic sugar market. The State of Hawaii is prepared to take advantage of this within months. However, this amendment is also supported by the other sugar cane growers who would like to identify any problems that might result from the large scale production of sugar cane ethanol.

This amendment was developed after the House Energy and Commerce Committee completed its markup but the amendment has been signed off by the majority side of the Energy Committee. I urge my colleagues to allow floor debate on this demonstration project and rule this amendment in order. Thank you very much for your consideration.

Mr. Chairman, I yield my remaining time to the gentleman from Hawaii (Mr. CASE).

The Acting CHAIRMAN. The gentleman from Hawaii is recognized for 1½ minutes.

Mr. CASE. Mr. Chairman, let me make four quick points on this amendment. First of all, I completely and wholeheartedly support it.

Second, the credit for this amendment goes to my colleague and the senior Democrat, the gentleman from Hawaii (Mr. ABERCROMBIE) who I thank. Since I have almost all of the agriculture in my particular district, this shows teamwork.

Third, this morning, in Kahalui, Maui, the price of a premium gallon of gas was $2.98 per gallon. Across the street from that gas station, stands one of the most highest yield sugar plantations in the whole world, a sugar plantation that is threatened across the way, threatened across the board.

If we can produce ethanol from that sugar plantation, we can kill a bunch of birds with one stone. We can preserve agriculture in this country. This is revolutionary. If we can produce meaningful energy from prickly pears, or whatever you want, from sugar, all power to it; it is going to work for all of us. If we can save the sugar industry by producing energy from the sugar industry, it will be good for us, and it will be good for many of the other issues that we care so much about. I urge adoption of this amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 30 seconds of my minute and a half, which was Mr. FLAKE's minute and a half, to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me the time. I just want to point out the cost of a can of 7-Up or Coke does cost more because we inflate the price of sugar.

The cost of a candy bar, I believe, is four cents more than you would pay otherwise because of subsidized sugar prices.

And the problem is what economists call concentrated benefits, diffuse costs. Nobody is going to come here to Washington to lobby against a subsidy that only costs them four cents; but, boy, the sugar industry, which reaps millions and millions of dollars in benefits from subsidized sugar is surely going to come to Washington, and that is why we are going to have this kind of amendment today.

Mr. BARTON of Texas. Mr. Chairman, I yield 30 seconds to my good friend, the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, I rise in support of the Abercrombie amendment. What we are engaged in today is just trying to find commonsense suggestions to really sustain the American way of life. Affordable energy, affordable agriculture are two things that sustain the American way of life.

This accomplishes good work toward both. I will submit more comments for the RECORD. But I do want to support the amendment.

Mr Chairman, I rise today in support of the Abercrombie Amendment. This amendment will authorize a modest program to develop ethanol from sugar cane, which would be added to fuel in Hawaii to meet the EPA Clean Air Act requirements for oxygenated fuels. The State of Hawaii also mandated a 10 percent ethanol blend for gasoline in the state in order to improve the state's air quality.

Hawaii must meet Federal standards for clean air by mandating clean burning fuel. Ethanol is currently the only acceptable ingredient to blend with gasoline to meet Clean Air Act requirements.

Unfortunately for Hawaii the dominant crop is sugar instead of corn. If Hawaii grew corn, they would already be receiving tax credits for ethanol production like almost every other state in the nation. According to the Congressional Research Service the tax credits for ethanol production will total more than $1.4 billion. Congress annually provides tax credits, research funding and grants to turn rice straw, biomass, agriculture waste, woody debris and corn into ethanol.

Congress is spending billions to increase our nation's production and consumption of ethanol from every source imaginable. Congress has decided ethanol production is worthwhile, and has provided at least $10 billion in incentives and tax credits since 1978 when an alcohol tax exemption was made law. Congress should pass this amendment in order to have a consistent ethanol policy.

Mr. Chairman, I urge passage of this amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

I just want to say that we are supporting all forms of energy. We accepted amendments in the committee for animal methane, livestock methane. This is a pilot program. It is a nominal amount of dollars. I honestly do not know whether sugar cane will be economical to turn into ethanol, but it is well worth the 3-year pilot program to see if it is.

I actually hope that it is. I would want it to be successful. But this is a very, very small, nominal program. And I would also point out there are not many States that can grow sugar cane. Hawaii would be one. I guess Florida would be one. Perhaps Louisiana. Maybe even Texas, although I do not think we have.

So I would hope we would support the Abercrombie amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. ABERCROMBIE).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 12 printed in House Report 10-94.

AMENDMENT NO. 12 OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. KAPTUR: In title III, subtitle A, add at the end the following new section (and amend the table of contents accordingly):

SEC. 305. STRATEGIC FUELS RESERVE.

The Energy Policy and Conservation Act is amended—

(1) in section 2(2) (42 U.S.C. 6201(2)), by striking "Strategic Petroleum Reserve" and inserting "Strategic Fuels Reserve";

(2) in section 3 (42 U.S.C. 6202)—

(A) in paragraph (8)(C), by striking "petroleum products" each place it appears and inserting "fuel products"; and

(B) by adding at the end the following new paragraph:

"(11) The term 'fuel products' means petroleum products and alternative fuels, including ethanol and biodiesel.";

(3) in title I (42 U.S.C. 6212 et seq.) by striking "Strategic Petroleum Reserve" each place it appears and inserting "Strategic Fuels Reserve";

(4) in part B of title I (42 U.S.C. 6231 et seq.)—

(A) by striking "petroleum products" each place it appears, including headings (and the corresponding items in the table of contents), and inserting "fuel products";

(B) by striking "petroleum product" each place it appears, including headings (and the corresponding items in the table of contents), and inserting "fuel product"; and

(C) by striking "Petroleum products" each place it appears and inserting "Fuel products";

(5) in section 165 (42 U.S.C. 6245)—

(A) in paragraph (5), by striking "of petroleum" and inserting "of fuel"; and

(B) in paragraph (7), by striking "Petroleum Accounts" and inserting "Fuel Accounts"; and

(6) in section 167 (42 U.S.C. 6247)—

(A) in the section heading (and the corresponding item in the table of contents), by striking "SPR Petroleum" and inserting "SFR Fuel"; and

(B) in subsection (a), by striking "SPR Petroleum" and inserting "SFR Fuel".

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

The over-reliance of the United States on imported petroleum creates a major strategic vulnerability for our Nation, with nearly half the energy supply of our country now imported, and that reliance grows every day.

My amendment has a goal of taking a small step toward energy independence in the following way: we have something called a Strategic Petroleum Reserve managed by the Department of the Interior, which has in that reserve about 700 million barrels of oil, allowing us to maintain a temporary shield from increased costs on oil.

The purpose of my amendment only allows, it does not require, the Secretary of Energy the discretion of including ethanol, biodiesel, and other alternative fuels in the Strategic Fuel Reserve. So it takes the word "petroleum" out, although petroleum will remain the major fuel; but it offers some encouragement, albeit mild, to try to get us to think differently about a new future for our country.

Every one of us has that responsibility, including the Secretaries of the Interior and Energy. This amendment is neutral. If the Secretary decided to secure alternative fuels, it would be paid for by the exchange or sale of crude oil from the existing reserve.

Ethanol and other bio-based fuels are two of the ways in which America can truly become more self-sufficient in fuel production and usage. This chart shows, just over the last 20 years or so, our petroleum consumption and how much more of it is imported, to now well over half.

It is projected in another 15 years our imported petroleum will rise to 75 percent. By 2050, most easily drawn-down reserves in the world will have been drawn down, not just by our country but by nations like China, for example, which are using more and more petroleum every year.

We simply cannot live in the 20th century any more. It is now the 21st century. If we look where we are importing our crude reserves, they are coming largely from the Middle East, followed by Mexico, Venezuela, Nigeria, many places that have difficulties politically.

Increasing use of renewable fuels will result in significant economic benefits to our Nation as well. For example, biodiesel production is dramatically increasing, going from about 5 million gallons in 2001 to five times that much this past 2003.

And Congress expanded the existing reserve in 2000 to include the Northeast Home Heating Oil Reserve. There is absolutely no reason that biodiesel cannot ultimately become part of that reserve and help us to transition off our increasing reliance on petroleum.

The use of biofuels makes environmental sense, allowing us to better preserve our natural environment. Biodiesel, for example, contains no sulfur, or aromatics associated with air pollution, and the use of something like biodiesel provides a 78.5 percent reduction in CO_2 emissions when compared to petroleum diesel.

Currently the SPR, the reserve, contains a number of domestic and foreign crude oils, and those fuels are stored separately. Adding additional storage capacity for other fuels could be planned very easily by the Secretary of Energy and the Secretary of the Interior.

The National Farmers Union, for example, is supporting this effort. People across this country really know America has to change. This is one small baby step. It is just encouraging language. It asks that those responsible for the current strategic reserve think more creatively, take the time to look at these alternative fuels, and help put America on a more energy-independent course.

Without question, the farmers across this country need new value added; and with the price of oil skyrocketing, and it really will not go down, it has not gone down in the last 30 years if you look at the progression of oil pricing in the spot markets, for example. And now these fuels are competitive.

There are many States taking the lead. Take Minnesota, take Iowa, take Nebraska, take the Dakotas. There are many places that have seen the future and are developing it. I think we here in Congress should respond to that inventiveness and that desire of the American people to invent their way to a new fuel future.

And, in fact, when you come to my part of the country and you look across the fields, you can see part of America's future in the fields of the future, and fuels of the future that will be produced on them and are being produced on them more and more every day.

Why should the Departments of Energy and the Interior not help us to move America forward. I would ask for favorable consideration of this amendment. And I thank the gentleman from Texas (Mr. BARTON) for allowing the amendment and the Rules Committee for granting it.

Mr. BARTON of Texas. Mr. Chairman, I rise in respectful opposition.

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) will control 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume. I think we have shown today, and we certainly have shown in committee, that the majority is looking for reasons to say yes to as many ideas and amendments as Members have, whether in the minority or the majority.

So I have had every reason to try to find a way to say yes to the gentlewoman of Ohio's (Ms. KAPTUR) amendment; but unfortunately I cannot, because it is just not practical.

Oil in the crude state lasts indefinitely. You can store it underground for long periods of time. And if we ever need it, pump it out, refine it, and use it. These alternative fuels that the gentlewoman from Ohio's (Ms. KAPTUR) amendment would refer to are refined and they have a much shorter shelf life, 30 days, 60 days, 90 days.

☐ 2030

If we accept the gentlewoman's amendment, it would become law. What we would create is a situation where we would be refining product that we would be putting into reserve that you would continually have to be changing. And so what you would do is just create another intermediate step in the marketplace because the strategic refined reserve would really never be permanent. You would always be changing it.

In the case of ethanol, today ethanol is not put into the gasoline until it is ready to go to the service station because of its very short shelf life. So with ethanol you mix it with the gasoline and then you send it to the station, and then it is consumed immediately. So the ethanol reserve, I am not even sure if you could do that or not.

So the intentions of the gentlewoman from Ohio (Ms. KAPTUR) are certainly in the right direction, but this is an idea that is just not practical. I wish it were. If I thought it were, we would try to find a way to accept it, but I do not think it would be helpful, and so, reluctantly, I oppose it.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, how much time is remaining?

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from Texas (Mr. BARTON) has 3 minutes remaining.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR) to close on her amendment.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me time.

If the gentleman and my colleagues could read the amendment, it does not prescribe any format for the Secretaries of Energy or Interior to use in creating this reserve. In fact, the reserve could actually be stored in the form of the raw material which is processed very easily and can be done immediately because the processing technology is on line.

So it literally could be the type of Commodity Credit Corporation booking that we use for other grains in our country and other material that we use in refining of alcohol-based fuels. So it does not say to the Secretary that they have to buy it in this form or store it in a given form. They could actually store the grain and use the powers of the Commodity Credit Corporation, for example, to broker those reserves. But nonetheless it would be available in the country.

We are talking about a process that actually is simpler than refining petroleum and refining crude and one that is much less dirty. So if I could beg the gentleman as we move towards conference, perhaps, I would like to move forward with this amendment in some form to find a manner in which it can work and with which the gentleman is comfortable.

NATIONAL FARMERS UNION,
April 19, 2005.

Hon. MARCY KAPTUR,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN KAPTUR: On behalf of the over 260,000 members of the National Farmers Union, we write in strong support of your amendment to H.R. 6 which will establish renewable fuel reserves as an important foundation to lessening our dependence on foreign oil.

Thanks to your leadership your legislation can help store renewable fuels in case of possible future consumer disruptions. We applaud your efforts and we want to work closely with you on making this amendment part of H.R. 6.

We look forward to working with you on this issue and commend you for your dedication to renewable fuels.

Sincerely,

DAVID J. FREDERICKSON,
President.

Mr. BARTON of Texas. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I wish I could find a way to say "yes." Unfortunately, I cannot.

I think the underlying bill which has an authorization to increase the crude Strategic Petroleum Reserve and build it out to a billion barrels and also try to build some new refineries in this country, if we take those two things together, we will have the same effect as the gentlewoman's intent, which is to create the ability, if we ever need the SPR, to move the large amounts more quickly and to refine them more quickly and thus disrupt the American economy as little as possible.

I continue to oppose the gentlewoman's amendment. I urge a "no" vote.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Ms. KAPTUR. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Ms. KAPTUR) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 13 printed in House Report 109–49.

AMENDMENT NO. 13 OFFERED BY MR. CONAWAY

Mr. CONAWAY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. CONAWAY:

In title III, subtitle B, add at the end the following new section:

SEC. 334. OIL, GAS, AND MINERAL INDUSTRY WORKERS.

Congress recognizes that a critical component in meeting expanded domestic oil and gas supplies is the availability of adequate numbers of trained and skilled workers who can undertake the difficult, complex, and often hazardous tasks to bring new supplies into production. Years of volatility in oil and gas prices, and uncertainty over Federal policy on access to resources, has created a severe shortage of skilled workers for the oil and gas industry. To address this shortage, the Secretary of Energy, in consultation with the Secretary of Labor, shall evaluate both the short term and longer term availability of skilled workers to meet the energy security requirements of the United States, addressing the availability of skilled labor at both entry level and at more senior levels in the oil, gas, and mineral industries. Within twelve months of the date of enactment of this Act, the Secretary of Energy, the Secretary of Labor, and the Secretary of the Interior shall submit to Congress a report with recommendations as appropriate to meet the future labor requirements for the domestic extraction industries.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Texas (Mr. CONAWAY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment to address what is a critical shortage of labor within the oil and gas industry and the mineral industries.

Since 1999 there has been a significant drop in the number of jobs in the oil field. As the price of oil and natural gas have fluctuated, workers have come and gone in this industry. We are now at a point where we are at a critical shortage of workers across the spectrum, roughnecks, well service hands, pulling unit hands and others, as well as the technical engineers, geologists, geophysicists. They are key to continuing the search for domestic production.

As an example, one community in my district, Kermit, Texas, in 1998–1999 had some 9,000 people living there. As a result of the downturn in those years and the loss of jobs, that community now has 6,000 people living there. Even with the significant increases in the price of natural gas and crude oil that we are experiencing today, those people have not come back to Kermit, Texas. We are facing this critical shortage.

My amendment would simply require the Energy Department, in consultation with the Interior Department as well as the Labor Department, to conduct a study of the impact that this shortage is having and to present possible solutions to the shortage.

By way of trying to be a bit dramatic, each barrel of oil we import, each MCF of natural gas we import, adds to our trade deficit each and every day. The need to import a barrel of oil or the need to import an MCF of natural gas causes us to remain dependent on those foreign sources.

I speak in favor of this amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. PEARCE), a former oil and gas company owner.

Mr. PEARCE. Mr. Chairman, I thank the gentleman for yielding me time.

I would support the amendment. As an oil and gas service company, we did not actually own oil and gas wells, but we owned a company that repaired the wells. My wife and I faced the problem daily of where to find employees and how to retain those employees.

In the 1999–2000 period, the price of oil fell to $6 for New Mexico type of oil. Revenues in service companies like ours fell to 20 percent of the original values. Although my wife and I were able to keep every employee for the duration of that period of time, about 11 months, many, many of the firms laid off 68 to 70 percent of their employees and gave pay cuts in the industry.

That is the sort of cyclical thing that we face in the oil and gas industry, and now that the price has come back up, literally there are no workers to be had because they do not wanted to come back to a cyclical industry. We face limitations on production based on the lack of availability of labor.

So I think that this important study should be done to find out where we can get labor, where we can get solutions to simply keep our oil fields working. The viability of our oil fields really is going to determine the price of natural gas and petroleum in this economy.

I think the gentleman's amendment is well placed, and again, I would heartily endorse it and request Members to vote for it.

Mr. CONAWAY. Mr. Chairman, I reserve the balance of my time.

Mr. STUPAK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. BOREN).

Mr. BOREN. Mr. Chairman, I rise in support of the Conaway amendment.

I come from an energy State. I come from a State that produces oil and gas. It produces not only oil and gas, but it produces jobs for our local economy. And I rise in support of this amendment because it is a jobs amendment.

In the 1980s and the 1990s we saw a great fluctuation in the price of oil and gas. We lost some jobs and some of those jobs never came back. Even though today we have higher oil and gas prices, some of those folks that were involved in the industry never came back. That tax base has been lost, and young people are not entering into the industry like they were before. They are not entering into the PLM programs, the programs that are so vital to our industry.

So it is very important that we support this amendment so that we have more tool pushers, more roughnecks and more truck drivers in places like Oklahoma.

I would ask each Member to vote for this amendment.

Mr. CONAWAY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce.

The Acting CHAIRMAN. The gentleman from Texas (Mr. CONAWAY) has 2 minutes remaining.

Mr. BARTON of Texas. Mr. Chairman, I rise in support of the Conaway amendment. I think it adds to the bill. It is a study to ask the Department of Energy and the Department of Labor to see what the supply of labor is in the oil field industry, both in the short term and the long term.

You hear stories that all the landmen have retired and the geophysicists have retired, and you even hear some stories that we do not have the roughnecks to go out and operate the rigs. There is a big natural gas plague going on in Texas right now. There is some oil production drilling going on.

So I think this is a useful element, and I hope we would support it. I thank the gentleman from Midland, Texas (Mr. CONAWAY), for offering it.

Mr. STUPAK. Mr. Chairman, I yield back the balance of my time.

Mr. CONAWAY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to close with one statistic. In 1981 there were some 1.6 million people employed in the oil and gas industry. Today, at the end of 2004, that number now just barely reaches 500,000. A dramatic decrease in the number of good, solid jobs in this economy and jobs in an industry that is clearly vital to our national interest.

I encourage my colleagues to vote in favor of the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CONAWAY).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 14 printed in House Report 109–49.

AMENDMENT OFFERED BY MS. SOLIS

Ms. SOLIS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows: folllows:

Amendment No. 14 offered by Ms. SOLIS:

Strike subtitle D of title III (relating to refinery revitalization) and make the necessary conforming changes in the table of contents.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentlewoman from California (Ms. SOLIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I yield myself such time as I may consume.

Today I rise to offer my amendment to strike the refinery revitalization provisions in H.R. 6. The refinery revitalization provisions are the biggest environmental and public health injustices that the Congress and Bush administration can perpetrate on the American people. The bill would strip our States and communities and local air boards and other Federal agencies of existing authorities and give these authorities to the Department of Energy. The energy czar is then required to establish refinery revitalization zones in more than 1,200 counties and, in each instance, can veto our States and communities.

This language is crafted on false premises. In two separate letters in the summer and fall of 2004, the EPA stated that it was not aware of any pending permits under the public health laws we are undermining. According to the 2005 Energy Information Administration's annual energy outlook, refining capacity is expected to grow through 2025 under existing laws.

The refinery revitalization provisions are opposed by a wide variety of groups. The following are 15 national entities representing public entities, health care entities and civil rights organizations:

The National Association of Counties, the National Conference of State Legislatures, the National League of Cities, the U.S. Conference of Mayors, the Environmental Council of States, the State and Territorial Air Pollution Program Administrators, the Association of Local Pollution Control Officials, the South Coast Air Quality Management District in California, all major environmental and public health groups including the League of Conservation Voters, the National Hispanic Environmental Council, the National Council of La Raza, and the League of United Latin American Citizens.

Most of the neighborhoods in refinery communities are low-income minority communities with the least availability to defend themselves from corporate pollution, and most are vulnerable to environmental and public health problems, yet are targets in this very language.

More than 70 percent of Latinos and African Americans live in counties with dirty air. Latino children have asthma at a much higher rate than non-Latino children, and death rates from asthma among African Americans are 2.5 time higher than for whites. Yet this language would put the Department of Energy in charge of protecting our health.

Perhaps before we harm the health of most underserved populations, before we strip States and communities of their rights to protect themselves, and before we turn a good part of this Nation into a refinery revitalization zone, perhaps we should have a real dialogue, that would have tremendous impacts in our communities, that would truly represent those concerns and voices we represent.

I urge my colleagues to support my amendment to protect our communities and support the amendment to strike this egregious language.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have not built a new refinery in the United States since 1976. Now, we have expanded some existing refineries, but we have closed dozens, if not hundreds, of small refineries.

☐ 2045

We are importing refined product because we do not have the ability to meet our needs for refined petroleum products with our existing refinery base. Our refineries are operating at 95 percent capacity every day.

Now, this amendment that the gentlewoman from California wants to strike would say that we are going to go out and do an inventory of existing refinery sites that have been closed or manufacturing sites that have been closed where there is high unemployment, high unemployment. So you have to have two things. You have to have an existing refinery site or a manufacturing site that is no longer in use, and you have to have very high unemployment.

We think there are around 100 of those sites. I think the exact number is 96; and under this part of the bill, if a community wants to solicit a refinery, we set up an expedited procedure that is led by the Department of Energy where you can go and request all the number of permits. We do not waive any permit. We do not eliminate any permit.

We are not mandating that anybody has to seek one of these, but I think it would be a positive to build 5, 6, 7 million barrels of new refinery capacity in this country using state-of-the-art technology so that we can meet 100 percent of our refined product needs, take some load off the existing refinery base, and, yes, create some jobs in America. I think that would be a good thing, not a bad thing.

So I strongly oppose this amendment and would encourage all the other Members to oppose the amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I reluctantly rise in opposition because the gentlewoman from California (Ms. SOLIS) is a good member of our committee, and we work on lots of issues together.

I represent a blue collar district. We have probably more refineries in the district I represent now than anyone else in the country and those are our jobs, are our tax base and what economic development we have, and they are blue collar jobs. They are minority jobs in our district.

I am concerned, though, about what is happening in our country. We continually transfer our blue collar industrial capacity overseas. My concern is we are seeing the same thing happen whether it be with refineries or petrochemical plants just like we have seen with our textiles. It would not be very difficult to move a chemical plant to where they are still flaring natural gas or to have a refinery ship us refined product.

That is why I think the provision of the bill is really good, and I think the amendment does a disservice maybe to our whole country because we need to expand our refining capacity, again, reopening those, make them get the permits, but also make sure that we keep those jobs in our country instead of moving overseas.

Ms. SOLIS. Mr. Chairman, I would like to inquire how much time is remaining.

The Acting CHAIRMAN (Mr. SIMPSON). The gentlewoman from California (Ms. SOLIS) has 2½ minutes remaining.

Ms. SOLIS. Mr. Chairman, I yield 1¼ minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, refinery emissions cause asthma. Since the refineries pose a threat to human health, they are regulated under the Clean Air Act; but this energy bill undermines EPA's ability to enforce clean air standards at refining facilities. The provision moves the task of environmental protection from the EPA to the Department of Energy where it does not belong.

The bill would place the Secretary of Energy in charge of the permitting process, the official record and the only environmental review document. DOE is even given the power to issue permits which EPA and State governments have denied.

EPA's three decades of expertise would be supplanted by an agency without experience enforcing the Clean Air Act. It may be time to expand existing refineries or build new ones, but EPA is not the problem. EPA has no outstanding refinery permit requests; and if there were a problem, there would be a backlog, and there is none.

Putting DOE in charge will create more bureaucracy, not more refineries. EPA's Clean Air Act knowledge is an asset in expedited permitting, not a liability, because the DOE is much more likely to issue permits that will be struck down in court.

Please vote for the Solis amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield myself the balance of the time.

Again, I oppose the Solis amendment. I was at the White House earlier this week and was briefing the President on the energy bill that came out of the various committees; and when I mentioned this particular element, which I consider to be an important element of the bill, something that we did not have in last year's bill, his initial, off-the-cuff reaction was, A, it was very good; and, B, could we add abandoned military bases.

Obviously, it is not in order to change the amendment on the floor, but when we go to conference, if the President decides that the official position of the White House is to support the amendment plus add abandoned military bases, we will have a debate in the conference and hopefully add that.

But the bottom line on this is we need more refinery capacity. We need it in this country. Why not put it at old refinery sites or old manufacturing sites where they have high unemployment and we can create some good jobs for America, and oh, yes, by the way, most of these jobs will be union jobs.

I would urge a "no" vote on the Solis amendment. Let us vote for jobs in America.

Mr. Chairman, I yield back my time.

The Acting CHAIRMAN. The gentlewoman from California (Ms. SOLIS) has 1¼ minutes remaining.

Ms. SOLIS. Mr. Chairman, I yield for a unanimous consent request to the gentleman from Ohio (Mr. KUCINICH) to allow him to enter his statement into the RECORD.

Mr. KUCINICH. Mr. Chairman, I enter my statement in the RECORD in support of the Solis amendment.

Mr. Chairman, no one wants an oil refinery in their neighborhood. So in order to force one open, this bill encourages them to be established in neighborhoods with high unemployment or recent layoffs.

The University of Texas and the Houston Chronicle studied the air near refineries in the Houston area. The paper wrote that they "found the air . . . so laden with toxic chemicals that it was dangerous to breathe." Houston is not alone.

Multiple penalties of hundreds of thousands of dollars for environmental violations have been handed to refineries so far this year. And we surely have not forgotten last month's BP refinery explosion that killed 15 people.

Let's employ the unemployed but not at the expense of their families' health and well-being. That is kicking them when they're down.

Ms. SOLIS. Mr. Chairman, I yield 1¼ minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentlewoman for yielding me time.

I could well envision a procedure that would require the EPA to coordinate in a consultative process with the Department of Energy to resolve environmental issues, but the crafters of this bill have I would say knowing the gentleman from Texas not intentionally but unintentionally overreached. They extend this authority for the Secretary of Department of Energy to overturn a range of Federal laws.

The Corps of Engineers regulates activities that would have adverse effect on navigable waters of the United States. Private parties could locate wharves, docks, other structures in the water that would obstruct commerce; but the Corps of Engineers has permitting authority that says, no, you cannot do that.

With this language, the Secretary of Energy could throw out a century of regulatory authority, for example, in the case where a refinery has been denied a permit to build a structure in a navigable waterway. The applicant would appeal to the Secretary of Energy who would just simply overturn the corps.

Refineries often are not located near navigable waterways to facilitate barge traffic. If the corps said, no, you are going to do something that is going to obstruct navigation, the Secretary of Energy could overturn the corps.

I do not think that is intended, and this authority goes even further to FAA and other agencies under the jurisdiction of our committee. It should be defeated.

Mr. CROWLEY. Mr. Chairman, I rise in strong support of the Solis amendment to the energy bill.

This amendment ensures that the Federal laws and regulations that pertain to ensuring clean air and water and a solid quality of life for our constituents are not stripped out just because they or their community is facing some economic distress.

Specifically, the Solis amendment would strip out language that cynically allows refineries to move into economically distressed communities, override Federal environmental laws, trample on local zoning laws and ignore community opposition to set up shop.

The fact that this bill allows the oil companies to ride roughshod over those communities facing tough economic times is a travesty.

Urban and rural communities facing tough times cannot and should not serve as dumping grounds for the oil industry.

Just because a community is facing an economic downturn is no reason to say that population can now be exposed to refineries and their byproducts in their community—and that these people do not deserve the protections of the Clear Air Act as just one example.

The House has the opportunity to strip out the special rights and ensure equal rights for all of our constituents.

While I represent New York City and do not see any oil refineries planning to set up shop there any time soon, this amendment is an attack on all communities facing tough times and will lead to greater victimization of people suffering.

Please support the Solis amendment and strip out the damaging special rights for refineries in this bill.

The Acting CHAIRMAN. All time for debate on the amendment has expired.

The question is on the amendment offered by the gentlewoman from California (Ms. SOLIS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Ms. SOLIS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. SOLIS) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

amendment No. 14 by Ms. SOLIS of California;

amendment No. 12 by Ms. KAPTUR of Ohio;

amendment No. 9 by Mr. WAXMAN of California;

amendment No. 7 by Mr. BISHOP of New York;

amendment No. 6 by Mr. ROGERS of Michigan to the amendment of Mrs. JOHNSON of Connecticut;

amendment No. 5 by Mrs. JOHNSON of Connecticut;

amendment No. 4 by Mr. BOEHLERT of New York;

amendment No. 3 by Mr. MARKEY of Massachusetts;

amendment No. 2 by Mr. DINGELL of Michigan.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 14 OFFERED BY MS. SOLIS

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. SOLIS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 248, not voting 4, as follows:

[Roll No. 115]

AYES—182

Abercrombie
Ackerman
Allen
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Frank (MA)
Gerlach
Gilchrest
Gonzalez
Green, Al
Grijalva
Gutierrez
Hastings (FL)
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Ramstad
Rangel
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—248

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering

Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Andrews
Delahunt
Emanuel
Kelly

☐ 2120

Messrs. OTTER, GRAVES, FORD and Ms. HARMAN changed their vote from "aye" to "no."

Ms. WASSERMAN SCHULTZ, Mr. GILCHREST and Mr. GONZALEZ changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 12 OFFERED BY MS. KAPTUR

The Acting CHAIRMAN (Mr. SIMPSON). The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 186, noes 239, not voting 9, as follows:

[Roll No. 116]

AYES—186

Abercrombie
Ackerman
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Cox
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doyle
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gilchrest
Gordon
Green (WI)
Gutierrez
Gutknecht
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nussle
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—239

Aderholt
Akin
Alexander
Allen
Baca
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Granger
Graves
Green, Al
Green, Gene
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hulshof
Hyde
Inglis (SC)
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Andrews
Bachus
Emanuel
Gohmert
Grijalva
Hunter
Kelly
Mollohan
Pickering

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2126

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. WAXMAN

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. WAXMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 166, noes 262, not voting 6, as follows:

[Roll No. 117]

AYES—166

Abercrombie
Ackerman
Allen
Baird
Baldwin
Barrow
Bartlett (MD)
Bass
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Bradley (NH)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Gilchrest
Grijalva

Gutierrez
Harman
Herseth
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Johnson (IL)
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Pomeroy
Price (NC)
Ramstad
Rangel
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—262

Aderholt
Akin
Alexander
Baca
Baker
Barrett (SC)
Barton (TX)
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Levin
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Visclosky
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Andrews
Bachus
Emanuel
Kelly
LaTourette
Slaughter

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2134

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SLAUGHTER. Mr. Chairman, on rollcall No. 117, had I been present, I would have voted "aye."

AMENDMENT NO. 7 OFFERED BY MR. BISHOP OF NEW YORK

The Acting CHAIRMAN (Mr. SIMPSON). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. BISHOP) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 170, noes 259, not voting 5, as follows:

[Roll No. 118]

AYES—170

Abercrombie
Ackerman
Allen
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Price (NC)
Rahall
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—259

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson-Lee (TX)
Jenkins

Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Andrews
Clay
Emanuel
Kelly
McDermott

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised that 2 minutes remain in this vote.

□ 2141

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. ROGERS OF MICHIGAN TO AMENDMENT NO. 5 OFFERED BY MRS. JOHNSON OF CONNECTICUT

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. ROGERS) to the amendment offered by the gentlewoman from Connecticut (Mrs. JOHNSON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 259, noes 172, not voting 3, as follows:

[Roll No. 119]

AYES—259

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barton (TX)
Bass
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson
Carter
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emerson
Everett
Feeney
Flake
Forbes
Fortenberry
Foxx
Franks (AZ)
Gallegly
Gibbons
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kennedy (MN)
Kildee
Kilpatrick (MI)
King (IA)
Kingston
Kline
Knollenberg
Kuhl (NY)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Pickering
Pitts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Strickland
Stupak
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Visclosky
Walden (OR)
Walsh
Watt
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wynn
Young (AK)
Young (FL)

NOES—172

Abercrombie
Ackerman
Allen
Baird
Baldwin
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Bradley (NH)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Case
Castle
Cooper
Costa
Davis (CA)
Davis (FL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Ehlers
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Ford
Fossella
Frank (MA)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Grijalva
Gutierrez
Hefley
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hyde
Inslee
Israel
Jackson (IL)
Johnson (CT)
Johnson (IL)
Kaptur
Kennedy (RI)
Kind
King (NY)
Kirk
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (PA)
Petri
Platts
Pomeroy
Price (NC)
Ramstad
Regula
Rothman
Roybal-Allard
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Serrano
Shays
Sherman
Sherwood
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Sweeney
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Wamp
Wasserman Schultz
Waters
Watson
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu

NOT VOTING—3

Andrews
Emanuel
Kelly

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised that 2 minutes remain in this vote.

□ 2148

Mr. WAMP changed his vote from "aye" to "no."

Mr. MEEK of Florida changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentlewoman from Connecticut (Mrs. JOHNSON), as amended.

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. JOHNSON of Connecticut. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 346, noes 85, not voting 3, as follows:

[Roll No. 120]

AYES—346

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carson
Carter
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Eshoo
Etheridge
Everett
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kildee
Kilpatrick (MI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Lantos
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meek (FL)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Owens
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watt
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wu
Wynn
Young (AK)
Young (FL)

NOES—85

Abercrombie
Ackerman
Allen
Baker
Baldwin
Becerra
Berman
Bishop (NY)
Blumenauer
Capps
Capuano
Case
Davis (CA)
DeFazio
DeGette
Doggett
Engel
Evans
Farr
Frank (MA)
Grijalva
Gutierrez
Higgins
Hinchey
Holt
Inslee
Israel
Jackson (IL)
Kennedy (RI)
Kind
Kucinich
Langevin
Larsen (WA)
Lee
Lewis (GA)
LoBiondo
Lowey
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McNulty
Meehan
Meeks (NY)
Menendez
Miller (NC)
Miller, George
Moore (WI)
Nadler
Napolitano
Obey
Olver
Pallone
Pascrell
Payne
Pelosi
Rangel
Roybal-Allard
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Sherman
Slaughter
Smith (NJ)
Solis
Stark
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Wasserman Schultz
Watson
Waxman
Weiner
Wolf
Woolsey

NOT VOTING—3

Andrews
Emanuel
Kelly

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2156

Messrs. GUTIERREZ, BLUMENAUER, and MEEHAN changed their vote from "aye" to "no."

Ms. ZOE LOFGREN of California, Mr. CARNAHAN, and Ms. BERKLEY changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. BOEHLERT

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. BOEHLERT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 254, not voting 3, as follows:

[Roll No. 121]

AYES—177

Abercrombie
Ackerman
Allen
Baird
Baldwin
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Biggert
Bilirakis
Bishop (NY)
Blumenauer
Boehlert
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Cooper
Costa
Costello
Crowley
Davis (CA)
Davis (FL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Ehlers
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Foley
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hastings (FL)
Hefley
Herseth
Higgins
Hinchey
Holt
Honda
Hooley
Inglis (SC)
Inslee
Israel
Jackson (IL)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kennedy (RI)
Kind
King (NY)
Kirk
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Platts
Price (NC)
Ramstad
Rangel
Reynolds
Rothman
Roybal-Allard
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Serrano
Shaw
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Tauscher
Taylor (MS)
Thompson (CA)
Tiberi
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu
Young (FL)

NOES—254

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barton (TX)
Bass
Beauprez
Berry
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway

Conyers
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emerson
Everett
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kildee
Kilpatrick (MI)
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
Levin
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Regula
Rehberg
Reichert
Renzi
Reyes
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Salazar
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Towns
Turner
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wynn
Young (AK)

NOT VOTING—3

Andrews
Emanuel
Kelly

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 2202

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. MARKEY

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 200, noes 231, not voting 3, as follows:

[Roll No. 122]

AYES—200

Abercrombie
Ackerman
Allen
Baird
Baldwin
Barrow
Bartlett (MD)
Bass
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Bradley (NH)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—231

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barton (TX)
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Kanjorski
Keller
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—3

Andrews
Emanuel
Kelly

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2209

Mr. HALL changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. DINGELL

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. DINGELL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 188, noes 243, not voting 3, as follows:

[Roll No. 123]

AYES—188

Abercrombie
Ackerman
Allen
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boehlert
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Graves
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Price (NC)
Rahall
Rangel
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—243

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (GA)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—3

Andrews
Emanuel
Kelly

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2217

Mr. BOEHLERT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. HALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SIMPSON, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 810

Mr. WHITFIELD. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 810.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

NO FOREIGN TRADE AGREEMENTS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, I would like to begin tonight by again talking about the Central American Free Trade Agreement. The fact is, Mr. Speaker, that in spite of what supporters of CAFTA say, the buying power of countries in Central America simply will not have an impact on American exports.

Central America represents only $62 billion in generating economic power. That means that people in Central America will not be able to buy cars from Ohio, or steel from West Virginia, they will not be able to buy software from Seattle or textiles or apparel from North Carolina.

The fact is that CAFTA will only mean more outsourcing of American jobs, more loss of American jobs, more loss of American manufacturing and does nothing to raise the living standards of Central Americans.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take my Special Order now.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

IN SUPPORT OF LIEUTENANT PANTANO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I am here tonight to once again ask for my colleagues to support Second Lieutenant Ilario Pantano, a Marine who has served our Nation bravely in both Gulf Wars and who now stands accused of murder for defending himself and his country.

During his service in Iraq last year, Lieutenant Pantano was faced with a very difficult situation that caused him to make a split-second decision to defend his life. He felt threatened by the actions of two insurgents under his watch; and in an act of self-defense, he had to resort to force.

Two and a half months later, a sergeant under his command who never even saw the shooting accused him of murder. Mr. Speaker, next month, April 25, there will be an Article 32 hearing to determine whether or not Lieutenant Pantano will face a court martial for murder. If convicted by a court martial, Lieutenant Pantano can be subject to the death penalty for an action that he took in self-defense on the battlefield.

Mr. Speaker, what is happening to this young man is an injustice. Over the past couple of weeks I have stood here in this very spot quoting those who support him and his fight for justice.

In his fitness report months after the alleged crime took place, his superiors praised his leadership and talents and even suggested that he was worthy of promotion.

Respected journalists, from Mona Charen to the Washington Times editorial board, have defended him as an upstanding citizen and Marine. Veterans and fellow Marines from across this Nation have heard his story and have been outraged by the charge against him. They believe, as I do, that to put doubt in the minds of our soldiers is to condemn them to death.

Mr. Speaker, I have put in a resolution, House Resolution 167, to support Lieutenant Pantano as he faces these allegations. I hope that my colleagues in the House will take the time to read my resolution and look into this situation for themselves.

Lieutenant Pantano's mother has a Web site that I also encouraged people to visit. The address is defendthedefenders.org. I hope and pray that when Lieutenant Pantano faces his Article 32 hearing next Monday, he will be exonerated of all charges.

Our Marines, soldiers, airmen and sailors risk their lives to protect our freedoms. Having them second-guess their actions in war is dangerous for their safety and for our national security.

Lieutenant Pantano stood by his corps and his country through two wars. He left a loving family and a 6-figure salary to reenlist after September the 11th. I ask that we now stand by him as he faces this battle for his life.

Mr. Speaker, with that I will close by saying, may God please bless our men and women in uniform and their families. And please, God, be with Lieutenant Pantano and his family. And I ask God to please bless America.

DO NOT SUPPORT CAFTA

The SPEAKER pro tempore (Ms. FOXX). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Madam Speaker, earlier today, nearly two dozen House and Senate Members, a large number of Members of both parties, held a news conference with about 175 to 200 people representing a whole host of organizations in opposition to the Central American Free Trade Agreement.

Those groups were as diverse as textile manufacturers, as sugar farmers, as environmentalists, labor organizations, religious groups, all kinds of groups, all kinds of organizations, all kinds of individuals in opposition to the Central American Free Trade Agreement.

Madam Speaker, sometime in the next 6 weeks, this legislation, the Central American Free Trade Agreement, will come to the House floor for a vote, according to Republican majority leader, the gentleman from Texas (Mr. DELAY), and the chairman of the Ways and Means Committee, the gentleman from California (Mr. THOMAS.)

The supporters of the Central American Free Trade Agreement have told Members of Congress, have told the public, have told newspapers that the Central American Free Trade Agreement will create jobs for Americans, it will create more opportunities to manufacture goods and export them to Central America, it will help farmers and small businesses and manufacturers and consumers and all kinds of groups and people in our country.

The problem is that is the exact same thing that supporters of the North American Free Trade Agreement told us a dozen years ago. It is the exact same promise that sponsors of entry into the World Trade Organization told us about 10 years ago; it is the same promise that they told us when we considered the China PNTR, Permanent Normal Trade Relations, most favored nation status for China; this is the same promise they made on a half dozen other trade agreements.

Yet, in every case, after every trade agreement, we lost more manufacturing jobs, we saw our environmental and food safety standards weakened, we saw less prosperity within those countries with whom we traded, whether it was Mexico, whether it was China, whether it was country after country after country.

Wages continued to stagnate in those countries, and wages continue to stagnant in our country. People actually earn less in real dollars today than they did a year ago before the last trade agreement. On issue after issue they continue to make these promises, and they generally failed to live up to these promises.

Madam Speaker, I would call your attention to this chart. The year I ran for Congress in 1992, the United States had a trade deficit of $38 billion, $38 billion in 1992, 13 years ago. You can see how this trade deficit got bigger and bigger and bigger.

Today our trade deficit, through the year 2004, our trade deficit was $618 billion. It went from $38 billion just about a dozen years later $618 approximately. That means more Americans, more American jobs are exported, more American job losses, and that is bad news not just for manufacturing and the people that own those companies; it is bad news for American workers, it is bad news for our communities, it is bad news for our schools and our families.

And if we really want to talk about American values, then we ought to be talking about what these trade agreements do to our children, do to our families, what they do to the school systems, what they do to police and fire protection, school districts, police districts and fire districts; and cities lose more and more tax revenue.

The fact is the promises of the Central American Free Trade Agreement are again the same as they were under NAFTA, the same as they were under China trade, the same as they were under the legislation setting up the World Trade Organization. But what we see time and time again is more trade deficit, more hemorrhaging of American jobs.

Now, when they talk about CAFTA, the six countries in Central America that this trade agreement involves with the United States under that, the entire economies of these six countries are equal to the economy of Columbus, Ohio or the State of Kansas, or Orlando, Florida. Their buying power is such in those countries, those six countries, as poor as they are, and as small as they are, they simply do not have the buying power to buy American products. Guatemalans and Nicaraguans and the people in Honduras and Costa Rica and El Salvador simply do not have the money to buy cars manufactured in Ohio, or steel made in West Virginia. They do not have the purchasing power to buy textiles and apparel from Georgia, South Carolina, from North Carolina.

They do not have the money or the purchasing power or the income to buy software from Seattle or high-tech products from California. Madam Speaker, what this trade agreement is about is what all of these trade agreements are about: they are about cheap labor, no environmental regulation, weak worker safety laws. We need to vote "no" on the Central American Free Trade Agreement.

NO EARMARKS IN HOMELAND SECURITY APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Madam Speaker, a couple of weeks ago, the House Appropriations Committee floated a trial balloon in some of the newspapers that cover Congress. They indicated that they might allow earmarks into this year's appropriation bill for the Department of Homeland Security.

Not surprisingly, the announcement has elicited little reaction outside the Beltway where Americans pay little attention to the arcane ins and outs of congressional appropriation bills.

The same cannot be said for K Street where lobbyists can barely contain their glee at the prospect of another appropriations bill to fill with earmarks. By opening up the door to earmarks in the homeland security appropriations bill, we are opening a Pandora's box of government waste, pork-barrel spending, and weakened homeland security.

In the 2 years since its inception, the Homeland Security appropriations bill has been free of earmarks. House leaders have recognized that something as important as the bill funding national security agencies ought to be absent of earmarks.

□ 2230

I am puzzled as to why we now suddenly believe that earmarking homeland security funds is an acceptable practice. There are a number of reasons why earmarks would corrupt the homeland security appropriations process, but unquestionably the most serious is that it would jeopardize our national security.

A few months ago defense analysts complained, the news that earmarks in the defense appropriations bill had put the lives of our troops at risk. They argue that congressional earmarks had drained the pot of available money for supplies like body armor or Humvee armor for troops in Iraq and Afghanistan. You can be sure that earmarking homeland security funds will have the same effect.

The Congress created the Department of Homeland Security to assess domestic threats to our country and address them. Now, after only 2 years of funding the department, Congress believes it knows how best to allocate these funds. Congressional oversight of this department is vital and that is why congressional earmarking is so dangerous.

Homeland security earmarks are also sure to slip down the pork barrel slope so many other appropriations bills have gone down. It will not be long before Members are inserting earmarks for projects with only a modest relevance to homeland security. A first responders hall of fame project, for example, or a port security museum. The possibilities are as endless as appropriators' imaginations.

Anyone who believes that such a scenario is a stretch needs only to give a cursory look at the more than 4,000 earmarks in this year's transportation bill. Members will be hard pressed to vote against a bill intended to protect our national security even if it is over budget or stuffed with pork. For that reason, lobbyists will view it as a must-pass vehicle for earmarks.

Adding earmarks to the homeland security appropriations bill is clearly bad policy, but I also believe that for Republicans it is bad politics as well. The earmarking process was abused by the Democrats, but I am sad to say that during Republican control of Congress we have made it much worse. It is no wonder that the Republican Party, the party of fiscal constraint since the New Deal, has seen public trust in its ability to balance the books evaporate.

For the most part, Americans no longer believe that Republicans are more fiscally prudent than Democrats. I cannot say that I blame them. Every Republican who values serving in the majority should be troubled by this trend.

Further, I worry that by opening up the homeland security bill to earmarks, we would let public distrust of our handling of fiscal issues spill over into national security. While it may be hard to tell the difference between Republicans and Democrats on spending, there is still a very real difference when it comes to national security. It would be a shame to let our growing appetite for earmarks jeopardize our ability to lead on national security.

Just how far Republicans have strayed for limited government orthodoxy was apparent recently when a current Member of this body ran for reelection a decade after he had first been in this body. He told of being approached by legions of lobbyists and local officials, each wanting to know how he would proceed to help them get earmarks for local projects. But I am a Republican, was his response. We know, was their retort.

What a sad commentary this is on our party.

I was elected to Congress with aspirations higher than groveling from crumbs that fall from appropriators' tables. I suspect that this is the case with each of my colleagues. Yet, we are quickly approaching a point where that would simply be an apt description of our jobs.

Madam Speaker, it is time to reverse course. To do so, we need to shoot down this trial balloon. The last thing we need to do is open up the $32 billion fund, the Homeland Security bill to pork barrel spending.

EXCHANGE OF SPECIAL ORDER TIME

Mr. DEAL of Georgia. Madam Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana (Mr. CHOCOLA).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

TRIBUTE TO ROBERT E. ANDREWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. Deal) is recognized for 5 minutes.

Mr. DEAL of Georgia. Madam Speaker, today I pay tribute to a close personal friend, a mentor, a dedicated public servant and a respected attorney, Robert E. "Bob" Andrews of Gainesville, Georgia.

Bob was many things to many people: a devoted husband who was always concerned about Katherine's welfare; a proud father whose home and office were decorated with pictures of his children; a decorated war hero who remained a patriot in the defense of freedom; a skilled attorney whose advice and counsel were sought by many; a legislator who brought leadership and insight to the Georgia General Assembly. But, above all, he was a caring and compassionate southern gentleman.

Bob Andrews was a man of faith. His faith in God was the earnest money for his blessings of family, friends and health. His faith in himself was the manifestation of a purpose-centered life.

Bob liked to laugh. He could always tell a funny story from his early years as a practicing attorney when the courtroom was the focal point for community entertainment. It was in that environment that he honed his skills in cross-examination and oral argument.

Bob was a true student of the law, who loved and respected its discipline. His library table was always piled high with appellate reports that reflected his meticulous attention to the details of his profession. He valued knowledge, political dialogue and common courtesy.

Bob Andrews was a kind person. In a profession that is often noted for its viciousness, Bob was an attorney whose most severe rebuke of someone would come when he would wrinkle up his nose and simply say, "He just should not have done that."

As the passage of years and declining of health took its toll on his mobility, he never lost his sharp mind, except on one occasion when I visited him for a second time at the hospital. I commented that this was a different room than on my prior visit. Bob laughed and said that all hospital rooms looked the same to him.

I am thankful that he did not have to spend more time there.

The psalmist described a blessed man, in part, is one who is like a tree planted by the rivers of water, that bringeth forth fruit in his season. Bob Andrews was a blessed man who, in turn, blessed us as he shared the fruits of his labor and allowed us to learn and grow in the shade of his branches.

If God allows lawyers into heaven, and I believe he does, Bob Andrews is there regaling the saints with his exploits and humorous commentary on his passage through this life; and God must be smiling as he listens to a good man who did his best.

ENERGY PLAN FOR AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for half the time until midnight as the designee of the majority leader.

Mrs. BLACKBURN. Madam Speaker, what a day we have had here in the House. We have talked about energy policy. And having an energy bill come to the floor of this House is something that we have waited for for quite a period of time.

I want to congratulate the gentleman from Texas (Mr. BARTON) and our colleagues on the Committee on Energy and Commerce. As we have had this occur today, it has been quite an effort. Our Energy Committee, last week we talked about it earlier in the week and we talked about it the past week. We had about a third of the Democrats in the House join us in voting that bill out of committee last week. They did it because it is a good bill. And they did it because it is time for us to have an energy bill, and it is the right step in the right way at this point in time.

I know that we have some across the aisle, many who are going to follow the liberal leadership there and walk in lockstep with the gentlewoman from California (Ms. PELOSI), but I think we are going to see more of the House Democrats join us to make this energy bill a reality for the American people.

I would like to remind my colleagues that over the last few weeks we have seen quite a bit of bipartisan support on some of our legislation. We had 122 Democrats vote with us on the continuity of government bill. 50 Democrats voted with us on the class action bill, 73 Democrats voted with the Republicans on bankruptcy reform, and 42 supported our repeal of the death tax and the REAL I.D. Act.

So we look forward tomorrow to having our Democrat colleagues from across the aisle join us as we move forward on our Nation's energy policy.

We have several Members who have joined us tonight to talk about energy and to talk about energy policy. One of those is the gentleman from Texas (Mr. HALL), and I would like to yield some time to the gentleman to talk with us about the energy bill. I also want to thank the gentleman for the wonderful leadership that he has shown on this bill.

At this point, I yield to the gentleman from Texas (Mr. HALL).

Mr. HALL. Madam Speaker, I thank the gentlewoman from Tennessee (Mrs. BLACKBURN).

I think this week and this day and tomorrow are probably two of the most important days to the youth of our country because we are discussing an energy bill, an energy bill that might just lay out what their future might be. If I had a youngster who was a sophomore in high school, a junior or maybe a senior, I would be very concerned about their future if we do not solve our energy problems.

Today and tomorrow I think the most important bill that is going to come before this Congress is going to be decided, and I think we are going to pass it. We are going to send it over to the Senate. We are going to go to work on the Senate to try to get those two votes that we have not been able to get in 4 years over there, 4 years.

We have to make this out as a generational bill because we are talking about a generation of youngsters that might have to all go overseas to fight a war to bring us some energy here. It is a shame if they have to do that when we have plenty of energy right here at home.

I know that back in the early days, and I go back to history sometimes, if you look at the past and see that we should not make the mistakes of the past; but sometimes they light a light for us to see what happened and see what caused it to happen.

Back in the 1940s, back in the late 1930s, we had a President named Franklin Delano Roosevelt. He made a lot of great speeches. One of the great speeches he made was about fear, about the Great Depression. He said, "The only thing we have to fear is fear itself." And he led us out of that Depression.

But one of the other speeches that he made that scholars have noted and many people have listened to and many have used it as a part of their thrust in their discussion, he said, "To some generations much is given, of some generations much is expected, but this generation has a rendezvous with destiny." That rendezvous with destiny turned out to be World War II.

As we listened on our Philco radios, we heard him make these speeches. He spoke those words. He spoke those words following the action of Cordell Hull, who was Secretary of State then; Henry Stimson, Secretary of War. They had both cut Japan off from energy. We supplied them their entire energy thrust and they depended on us for it.

When we cut them off, we should have known that they had to break out and go somewhere. They had to go south into Malaysia. They had to have energy because the country of Japan, who did not hate this country, Admiral Perry had opened them up to trade earlier, but they were forced to go south into Malaysia or do something because they had to have energy. That was an energy war; there is no question about it.

I think, as they did when they cut that off with Japan, having 13 months' national existence, war was inevitable and that was an energy war.

Sometime later the Fuehrer, Adolf Hitler, went into the Ploesti oil fields. He went east into the Ploesti oil fields. Their tanks and their airplanes were out of fuel. They had to go east. That was a battle for energy. Energy caused that action.

Then George Bush, the father of our present President, just some 10 or 11 years ago sent 450,000 youngsters over to the desert in Iraq. That was a war for energy. Not because we did not like the Emir of Kuwait or we wanted to help him for some reason. It was a war to keep a bad guy named Saddam Hussein, who is now in a cage, from getting his foot on half the known energy sources in the entire world.

Nations will fight for energy; there is no question about that. But we do not have to because we can solve our own problems. With this bill, H.R. 6, we can prevent a war. We can drill on ANWR. We can drill up to the depths of the gulf. We can go down 5- or 6,000 feet or 10,000 feet but we cannot get it back up. But with technology we can do that. That is provided for in this bill.

We certainly can have energy if we pass this bill. And then our youngsters can say with a great bit of courage and great bit of hope in their voice, What school am I going to attend, rather than what branch of service am I going to have to enter.

This country will fight for energy. We do not have to. This Congress has to fight for H.R. 6. We have to pass H.R. 6, and if we do that, our youngsters will not have to fight that war that the past has indicated could happen.

☐ 2245

Mrs. BLACKBURN. Madam Speaker, I thank the gentleman so much for his thoughts, and I thank him for his leadership on the Committee on Energy and Commerce, and the gentleman from Texas is exactly right. This is an issue about the future. It is an issue that affects our children, and as he said, it is an issue about the economy, about security and how we need to look at our sources of oil, our security, and many times we feel we are too reliant on foreign oil, which we are.

Right now, 62 percent of the Nation's oil supply is coming from foreign sources. If we do not take action and pass an energy bill, it is going to be 75 percent by 2010. So we know that action is necessary and it is needed now.

The gentleman from Texas also mentioned new technologies, new ways of doing things, and that is something that certainly we have to have our eye towards. We look at the needs for today and then as we bridge to the future.

At this point, Madam Speaker, I yield to the gentleman from Nebraska (Mr. TERRY) who will talk with us a little bit about liquefied natural gas and about turning that corner, beginning to look at things a little bit differently.

Mr. TERRY. Madam Speaker, I do appreciate the gentlewoman from Tennessee yielding some to me so we can talk about what I think is one of the most important bills that we will vote on in the 109th Congress, and that is a comprehensive energy package.

As the gentlewoman from Tennessee mentioned, this bill is both forward thinking and now thinking. There are alternative technologies. There is I think an incredible statement toward renewable fuels and alternative technologies like the fuel cell, but we also have to recognize some of our issues that face us now, and what I am talking about is the price of natural gas and how it is impacting our economy and our families in America, especially agri business and small businesses.

Natural gas, by the way, accounts for nearly a quarter of America's energy supply and is used by more than half of the households and businesses in America. In fact, in my district of Omaha, Nebraska, about 65 percent of the households are heated, and by the way, it gets cold, maybe not like in the gentlewoman's part of Tennessee, it gets pretty cold in Omaha during the winter, and we rely on natural gas.

Unfortunately, the United States faces a natural gas challenge that threatens the profitability of almost every sector of our economy, as well as our citizens' quality of life. Nationwide natural gas prices just 5 years ago were $1.50 per thousand cubic feet. Today, as this chart shows, it is off the charts. It is over $7 and has been for the last two to three weeks.

Let us look at how the United States' natural gas prices compare to the rest of the world. In Venezuela, it is about 70 cents per thousand cubic feet, 40 cents in Africa, 80 cents in Russia. The next, by the way, is Europe with $3.70, less than half of what we pay in the United States.

Farm States, including Nebraska, have been hit especially hard by higher natural gas prices since natural gas is the primary material in nitrogen fertilizers, as well as the key fuel for irrigation and drying of grains. Anhydrous ammonia fertilizer has increased from about $175 per ton in 2000 to as much as $375 last planting season.

About half of America's nitrogen fertilizer is now imported. Let me restate that. Nearly half of our farmers' nitrogen fertilizer is now imported, mostly due to these high costs of natural gas. This is going to have a severe impact on our economy and for our farmers.

The increased cost of natural gas has played a substantial role in losing nearly 3 million U.S. manufacturing jobs over the last 5 years, according to the Industrial Energy Consumers of America. Whether these jobs were located in an auto plant in Ohio or a petrochemical manufacturer in Houston, many have been moved overseas, chasing the cheaper natural gas where it is more abundant and plentiful.

These reasons for concern are magnified when one considers U.S. natural gas consumption is expected to increase over the next 20 years. Simultaneously, domestic natural gas production is falling about 1 percent a year.

Let me show my colleagues this chart. We actually have a decent supply of natural gas, but most of it is off limits and stays off limits in this bill, especially around the coastal regions of California and Florida.

We do encourage some additional domestic production of natural gas. Last year, this Congress passed a pipeline from Alaska down to Chicago, but I am telling my colleagues, looking at the politics in Alaska, this may take decades before that pipeline is run from Alaska to the continental United States to provide some price relief for our economy and for heating our homes.

So we must look at these natural gas prices in a holistic way, meaning domestic production, pipeline, and we still have to realize that to meet the increased needs of natural gas within our United States, we are going to unfortunately have to import some of our natural gas. Otherwise, if we do not look at it in a holistic way, domestic, Alaskan pipeline and liquid natural gas imports, natural gas prices may increase to $13 or $14 per thousand cubic feet.

Unfortunately, to import liquid natural gas, we have got about three or four facilities today. There are many applications to site liquid natural gas to an import terminal where the liquid natural gas comes in, it goes in, it is unloaded, it is turned into a gas and then put into pipelines, but we are experiencing the typical not-in-my-backyard with some extreme overexaggerations of the dangerousness of liquid natural gas. Because localities and States have played on this fear, those localities, in fact, in Maine, a locality even, though the States have issued permits, are approved permits, a locality stops an LNG terminal. This forces us to have to look at different ways.

In this base bill, we in the Committee on Energy and Commerce worked on this together in committee. We recognized that what we have to do is streamline this process. If we are going to help alleviate the pressures on price, we have to give more authority for this international and national commerce to the Federal Energy Regulatory Commission. We want the States to have a part in here. What we just do not want is for the States and localities, based on NIMBY, to have veto power. This is in the base bill.

Tomorrow, we are going to have a movement by a gentleman from Massachusetts and Delaware to strip out this provision, and it is only going to hurt manufacturers, small businesses, agri business and people who heat their homes with natural gas, companies that generate electricity by natural gas. We must overcome this provision tomorrow for the overall economic and basically lifestyle of the citizens of the United States.

So I want to thank the gentlewoman for reserving this time so we can help educate our colleagues and America on something as important as liquid natural gas and its implications to their budgets at home.

Mrs. BLACKBURN. Madam Speaker, I thank the gentleman for his leadership on this issue and for his diligent work on behalf of his constituents and on behalf of all Americans as we are working on this bill and bringing it forward to the House, getting it ready to move forward and looking forward to the time that the President signs this into law, so that we do have an energy policy.

A couple of points I would like to highlight with my colleagues that the gentleman from Nebraska brought forward to us, this bill is, as he said, forward thinking and it is now thinking, and it is important as we look at these two provisions that we realize it is this way because we have to think about small business. We have to think about farmers. We have to think about the impact of this on the economy.

Madam Speaker, as the gentleman from Nebraska has said, this is about jobs. We think about our economy. This wonderful free enterprise system that we have in this great Nation of ours has created nearly 3 million jobs in the past 2 years, and we need to continue that. This economic engine needs to continue working.

We do not hear enough about the jobs creation that has happened. We do not hear enough about the tax relief that has happened over the past couple of years, but we know that jobs creation is such an important part and an energy policy will serve as a boost for that jobs creation.

I thank the gentleman from Nebraska, and at this point I yield to the gentleman from Colorado (Mr. BEAUPREZ) who has been a leader on the energy issue, has done a wonderful job for his constituents in the State of Colorado and is going to talk with us for a few minutes about ANWR and the implications of ANWR.

Mr. BEAUPREZ. Madam Speaker, I thank the gentlewoman and commend her for organizing this hour that we can talk about this energy bill, but we all hope we not only hope can pass on this floor but can actually in this Congress become law because we have waited too long. The American people have waited too long to have an energy policy that is a little bit more than one day at a time. So I do, again, commend the gentlewoman.

ANWR has been an issue in this Congress and much of the United States for years and years and years. When I got elected to Congress in 2002, ANWR was very much on my mind because one of the first issues we talked about was an energy bill.

I had an opportunity to go up and see that much talked about, much described, very valuable piece of real estate in August of 2003 with a few of my congressional colleagues. I have in front of me tonight a map that puts Alaska in relative size to the lower 48 States in proper perspective. ANWR is in this region. The area we are actually talking about exploring is represented by that green dot, just 2,000 acres. 2,000 acres is roughly the size of the St. Louis airport that most of us and many Americans have landed in. I have also heard that in relative size it is about like Dulles, which we are all very familiar with back here in the Washington, D.C., area. It is about the same size as the land dedicated to the Dulles airport as compared to the entire State of Virginia. So we are talking about a relatively small part of a massive piece of real estate.

This map very quickly puts in perspective one other key thing, the amount of oil represented by 1 million barrels per day coming from that one small piece of real estate, and that is a conservative estimate of the amount of oil that can be generated from this ANWR reserve, over 1 million barrels a day.

Several other energy sources are addressed in this bill, wind power, which I certainly embrace coming from Colorado. We produce a little wind power ourselves, but so do our friends from Rhode Island and Connecticut represented in gray by about 3.7 million acres dedicated to wind energy. To generate the same amount of total energy is 1 million barrels of oil from ANWR.

In red, down at Lake Okeechobee, where they utilize solar, as we do also in Colorado, but some 448,000 acres are dedicated to solar energy generation, to again apply the energy to 1 million barrels from ANWR in one day.

□ 2300

Or in green, again the coastal plain, or in black the acreage, as I mentioned, from the Lambert Airport.

Ethanol is in yellow. Massive piece of ground. We have heard much about ethanol already tonight on the floor of the House. Ethanol is also of interest to the eastern plains, especially in Colorado, where we grow a whole lot of corn.

I see one of my colleagues from Iowa here tonight grinning a bit. I know it is important to him. But you see the massive amount of land acreage, 80.5 million acres that would have to be dedicated to growing corn to produce as much ethanol as we get from a million barrels of oil a day in Alaska.

Now, to the point I really wanted to address, and this is the point. We ought to remember that there are precious few people who actually live in that very difficult, very hostile environment in the world. ANWR, which is literally on the coast of the Arctic Ocean. I went up and visited that. If I can put this map back up, I will put it in proper perspective.

Prudhoe Bay, which we often talk about, is located here, again literally on the edge of the Arctic Ocean. A small village of Kaktovik is roughly where that green dot is. We actually flew over in a very small plane, landed on a gravel runway and visited these people in Kaktovik; about 270 of them actually manage to survive in that very, very difficult environment.

How do they do that? They still hunt the whale. They go out when the Arctic Ocean opens up a little bit and get in the open water and they are allowed to get three whale a year. They fish for Arctic char and they survive on them. And, yes, they hunt and kill and eat the caribou meat, as they have for generations and generations. That is how they survive.

I submit to this body and submit to the American people that if anyone is concerned about preserving that environment, it is these people. Not because it is pristine, not because they like the view, not because the air is very, very clean, but it is about survival. It is about their very existence. If that environment changes, these people have a very, very serious, life-threatening problem. If anybody is interested in maintaining that environment unchanged, it is them.

And we all know what the environment is supposed to look like. It looks like this for a small window of the year. It is covered with caribou and a little bit of short grass, as I saw it in August when I was there. And, actually, the caribou, from 1972 to current days, in about a 30-year window, have increased, not decreased. Since we did the Prudhoe Bay development, they have actually increased by about tenfold, a thousand percent. And we have heard much about that.

That is how ANWR looks some of the year. This is how ANWR looks most of the year. That is not the moon, that is actually ice, and that is about all that is there. It is frozen and it is ice covered.

How much oil is there? The experts, the scientists tell us that if we would develop ANWR, and frankly, had we gone ahead and done it in 1995, when Congress actually approved it and President Clinton vetoed the bill, today we would be bringing over a million barrels a day to the lower 48 from ANWR.

How much is a million barrels a day? Actually, they project almost 1.4 million a day from ANWR. That is almost as much as we import daily from, yes, Saudi Arabia, our largest single source of imported oil, almost a direct offset to Saudi Arabia.

Now, what do the people in ANWR think? Final point. We asked Fenton Rexford, who is the President of the Native Indian Corporation that populates that little piece of real estate, well, that very large piece of real estate but very small group of people. What should we do with ANWR? I asked him the question. Two-word answer: Drill it. I said, Really? He said, Yes, drill it. I said, Is that what your villagers think? He had already told us there were 271 people living there that day. He said, well, at least 270 of them agree. That is close to unanimous.

One of my colleagues said, but what about the caribou? This was after he told us how they depend on the caribou for their very survival. He said, What about it? Well, my colleague said, If we happen to drill there, explore there, develop there, we might scare them off or change their migratory pattern. And the president looked at us and he said, You are missing something here, and we all leaned forward in eager anticipation. He said you are missing something here.

We said, What is that? We hunt them and kill them and they come back. And we all said, Oh, yeah, you do. We hunt them and kill them and they come back. You are not going to scare them off by exploring for a little bit of oil out here. He said again, Drill it.

With that, Madam Speaker, I yield back.

Mrs. BLACKBURN. Madam Speaker, I thank the gentleman from Colorado for the explanation of this. I think it is so important for us to keep this in perspective. We are talking about 2,000 acres when we talk about ANWR, and it is in many hundreds of thousands of acres. It is like putting a quarter on the dining room table, that is the relationship of that space. So I thank the gentleman from Colorado for his work on the issue.

The gentleman from Idaho, who is a member and a leader on the Committee on Energy and Commerce, has certainly worked on some of the issues dealing with refineries and permitting. We have not had a new refinery built in the country in 30 years, Madam Speaker. And as I mentioned earlier, the bill addresses our needs for today and looks toward the future.

Obviously, there are some in this body who would like for us to flip a switch and tomorrow start driving hydrogen fuel cell cars and to start doing things we would all love to see happen, to look at more alternative sources. But we have to think about where our economy is today and meeting those needs for oil and gas today while at the same time we are planning for the future.

The gentleman from Idaho (Mr. OTTER) is going to talk with us for a few moments about refineries and permitting and some of the points that are covered that address the needs of today and of our economy today. So I thank the gentleman for joining us and I yield to him.

Mr. OTTER. Madam Speaker, I thank the gentlewoman for her leadership and also for offering some time and providing us the opportunity tonight to speak to the energy bill.

I also compliment the gentleman from Colorado (Mr. BEAUPREZ) and the gentleman from Texas (Mr. HALL) and the gentleman from Nebraska (Mr. TERRY) for the insights that they have given us tonight into the whole concept of the energy bill. We are not talking about a few of the hot points that the news media like to talk an awful lot about.

I cannot go through the process that we did last week in formulating this energy bill without thinking of a childhood poem, and it goes like this: "I saw a group of men in my hometown. I saw a group of men tearing a building down. With a heave and a ho and a mighty yell, they swung a beam and a sidewalk fell.

"So I said to the foreman, 'Hey, are these men skilled, you know, the kind I'd hire if I wanted to build?' And he laughed and said, 'Why, no, indeed, common labor is all I need. For with common labor I can tear down in a day or two what it took a builder 10 years to do.'

And so I thought to myself as I walked away, Which of those roles am I going to play?"

The 109th Congress, Madam Speaker, is deciding now what role we are going to play. Are we going to build an energy future? Are we going to build an economic future for this great Nation of ours and for future generations? Are we going to put in place today a public policy that will serve this Nation in our competitive efforts with the rest of the world?

I can tell you there is no other place in the world that this argument is going on, of whether or not we are going to energize our natural resources, energize our native creative genius in order to provide the cheapest and the most abundant and most reliable energy source that we possibly can. Yet this is a heartfelt debate.

Fortunately for us, with the leadership of our chairman, the gentleman from Texas (Mr. BARTON), we were able to come out of the committee with a great energy bill and in a bipartisan fashion.

□ 2310

In fact, I myself have voted on this energy bill. Although I have only been in this Congress for 4 years and 4 months, I have voted on the energy bill four times, with the great hope that was going to be one thing as a Member from Idaho's First Congressional District I could leave as a legacy. Yet 4 years and 4 months later, we are still wanting and still faced with those who will tear down rather than build up.

I would like to talk about something that has not gotten, I believe, the attention that it needs. As the gentlewoman from Tennessee (Mrs. BLACKBURN) mentioned early on, we have not built a refinery in this Nation in nearly 30 years. Garyville, Louisiana, was the last refinery we built in this Nation, and yet every day we continue to consume more and more refined gas. So our capacity to consume is increasing, yet our capacity in relationship to produce and to refine is dwindling. Thus, we are counting more and more and more for yet another strategic part of our value-added energy on some foreign country.

Madam Speaker, last fall I went down to Venezuela and visited Hugo Chavez. One of the reasons I did that was because there are several Idaho concerns down there probably mining more coal than any place else in the word, and mining more silver and gold than any place else in the world. There is an exploration company that is environmentally responsible in their exploration and in their research and development for Venezuela's natural resources.

One of the other reasons I went down there was to see where we are importing a million, 800,000 barrels of refined fuel a day. We import 14 million barrels a day. We use 21 million barrels a day. So for two-thirds of our consumption, we are now relying on some other country that may be friend or foe, and Mr. Chavez has already suggested he is not going to be really friendly towards us. Yet we are still relying for two-thirds of the strategic element for our economy on some other nation. We are relying on their labor, their tax base. We are relying on building up their economy in order to support our own rather than doing that ourselves.

Part of this bill we are looking at today is environmentally streamlined permitting. We heard many, many times in the committee, as the gentlewoman from Tennessee (Mrs. BLACKBURN) will be able to attest to, we heard many times from the opposition, those who would not build but rather tear down, that there is not one permit that is waiting to go through the bureaucratic process, not one permit in the United States. I would suggest there ought to be a reason and that we need to take a look at that.

One of the reasons nobody gets a permit is they have been denied for so long. They are so expensive and have been denied for so long. One thing I found out in Caracas, Venezuela, every U.S. oil company that owns a refinery in the United States is down there today asking for a permit to build one in Venezuela. There are permits being given throughout the world and permits being requested. Unfortunately, they are being requested where they find a friendly permitting process, or a permitting process.

And I asked the fellows at lunch that day, are you telling me it is easier to get a permit down here?

They said, no, environmentally speaking, we have to obey the same laws. Safety-wise we have to obey the same laws. They are no different than the United States except it happens. It happens. In the United States you can sit around for months and years, and then decades before you finally get a permit. And that is just too lengthy and too costly a process.

They said, we come down here and we can get a permit in 6 to 8 months. We have to bond it and do everything we do in the United States. The thing is, these people are working with us. That is why we are here permitting.

The other thing that this bill looks to is something that a lot of people in the United States do not realize. If a refinery today, one in Garyville, Louisiana, should happen to come across some new technology and that new technology would say they could increase their efficiency or their production capacity or their yield, and it happens to be more than 10 percent, they do not want to do it. The reason they do not want to do it is our environmental laws authorized by the Environmental Protection Agency would say that new 10 percent is new source.

What new source means is you have to go back and permit the whole plant, not just the 10 percent increased, but you have to go back and permit 100 percent of the plant's production.

So they may have increased since 30 years ago when the last one was permitted, they may have increased 6 or 7 percent, but they do not want to go beyond that or it will be very expensive to go on.

For our economy and for the jobs that are increased and energized and permitted, refinery capacity would do that for this country of ours. For all of the good that could happen, I would say it is time for us, and we will be deciding tomorrow who they are that want to build and who they are that want to tear down. I am proud to say that all the folks that you have listened to tonight are the ones that want to build. I am amongst them, and I am sure the majority will be tomorrow.

Mrs. BLACKBURN. Madam Speaker, I thank the gentleman from Idaho (Mr. OTTER) for his leadership to our committee.

To mention a couple of things that the gentleman highlighted, and one is the amount of time that has gone into this bill. During the 107th Congress that the gentleman from Idaho (Mr. OTTER) spoke about, that was 2001–2002, the Republican-led Committee on Energy and Commerce held 28 hearings related to a comprehensive energy bill. In 2002, the committee spent 21 hours marking up an energy bill and considering 79 amendments. In 2003, there were 22 hours and 80 amendments. In 3 years the Republicans in the House have held 80 public hearings with 12 committee markups and 279 amendments. That is the amount of work and energy that has gone into what the gentleman so appropriately describes as a total-concept bill.

Another point was about the permitting. One of the things that we have all learned so well in our public service is if you want less of something, pile on the taxes, pile on the regulation because you are going to get less of it. If you want more of something, you have lighter regulation, lower taxes; and you are going to see that flourish.

Those are certainly points that we take to heart as we look at the energy bill. I thank the gentleman from Idaho (Mr. OTTER) for his good work on this effort.

A gentleman who has been a leader on the issue of small business and taxation and regulation and how that affects our economy is the gentleman from Iowa (Mr. KING). I certainly welcome him to our debate tonight. I appreciate the leadership that the gentleman shows in the Committee on the Budget and in the Republican Study Committee as we work to lower taxes and spending and address appropriate regulation.

Mr. KING of Iowa. Madam Speaker, I thank the gentlewoman for organizing this Special Order, and I ask the gentleman from Idaho if he would pause a moment to engage in a brief colloquy with the gentleman from Idaho (Mr. OTTER) because the gentleman holds some expertise, and that is the need to continue to build refineries in this country, crude oil refineries. Could you speak for a moment about what we expect will happen with refinery construction in this country if we pass the energy bill as it is presented.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. FOXX). The gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for an additional 19 minutes.

Mr. OTTER. Madam Speaker, I appreciate the opportunity to review some of the facts and figures that we have in the committee. I appreciate the gentleman's question, that is, the amount of jobs of course that would be created. I am saying high-paying professional jobs, not only for the construction phase of building a new refinery which is millions and millions of dollars, but certainly for the operation phase.

□ 2320

As we operate these refineries, we have more and more technology and we call upon these professionals for a higher degree of professionalism. As a result of that, we are not talking about some of these jobs that can simply be replaced at a moment's notice.

So one of the things that we have to do, along with the construction of the refinery, along with the potential operation of the refinery, is we have to prepare educating the chemical engineers in our colleges, and there have not been really jobs, at least in the United States that have been forthcoming because of the lack of appreciation, if you will, for the refinery business in the United States and for the gas and oil business in the United States.

A lot of these high-paying jobs have gone overseas, as well as the education opportunities. We are going to have to incentivize our education system to gear up not only for the construction of the plants but for the potential operations of them. When you look down the road at it, it has got tremendous possibilities of what it can do for our economy.

Mr. KING of Iowa. I thank the gentleman from Idaho (Mr. OTTER) for his comments. I will get to some more of that subject matter of education as I go through this. I appreciate your patience with me tonight and indulgence.

I would like to first speak to the broad picture of energy across this country. There is this entire pie of energy here and different components and slices of this pie. Energy, first of all, is a component in everything that we buy. If there is any one item that adds to inflation in all the products that we purchase in this country, it is energy because it takes energy to produce anything, it takes energy to deliver anything, and it takes energy to go pick it up and buy it. So whenever we move, we are burning energy, and that is a part of the cost of everything we are. If we do not have an effective energy policy, we are paying more for all goods and services in this country than is necessary and that means it makes us less competitive in the rest of the world. That is the big picture as to why energy is so important.

Some of the components of this energy are crude oil. We know how much energy we bring in across from the Middle East and Venezuela and other parts of the world that is imported into the United States. The crude oil cost includes also the military investment over there and the unrest and everyone, as was said earlier, the gentleman from Texas stated about every country must have their energy. Whatever it takes, we must have our energy. But we sit in this country on a significant supply of domestic crude oil. This bill puts in place the motion to construct the refineries that we need so that we can bring the crude oil in and get it refined. It also allows for us to go up to ANWR and do our drilling up there to bring that crude oil down to the lower 48.

I also have been up to ANWR to take a look at that. As I asked the people up there around the Kaktovik area, they said, yes, we have to go hunt the caribou during a certain time of the year but really the resident caribou in the drilling area are only in there from mid-May until the end of June. They come in to calve and then they leave about the end of June. That is the time when the permafrost thaws down to about a foot or 18 inches.

Nothing is going to move during that period of time except the caribou and when those young calves get old enough to walk back, they go back over to Canada out of the area, so nothing would be going on in that region when the caribou were there. It is kind of a caribou maternity ward in that part of Alaska. We need that domestic crude oil and any nation that is looking to its long-term best interests will be producing its own energy.

The concern about someday running out of crude oil, why would you keep it in the bank forever when we have other opportunities for different energy supplies that will be developed as science and technology catches up? We need to go there, get that crude oil, get it drilled, and bring it down the Alaska pipeline. By the way, the Alaska pipeline, if the North Slope oil runs out, and it looks like it is heading in that direction, that pipeline has to stay full almost all the time or it starts to erode inside the pipe, it turns to rust and it may not be able to be put back up on line. So it is important that we keep the Alaska pipeline up and going. That is a huge and valuable resource that began construction there in about 1972. It has been there a long time, it has served very, very well, and it can do a lot more. In that same region is all of the natural gas that is already developed that we do not have a good way to deliver it to the lower 48, that is the pipeline.

Yes, there are some things to work out within the State of Alaska. I hope that gets done. We have done, I think, what we can do here, at least for now, but we need that natural gas, we need it into the Corn Belt, we need it for a lot of the reasons that the gentleman from Colorado said, and I am glad he is in here talking about corn and ethanol with regard to energy.

In the part of the country where I come from, we have constructed ethanol production to the extent that within the next 2 years, we will be able to say that we have built all of the ethanol production, all the plants that we have the corn to supply in the Fifth District in Iowa, the western third of Iowa. We have started construction now on biodiesel plants, we have two plants up and running now, we are breaking ground on a third plant that happens to be about 9 miles from where I live as the crow flies on biodiesel.

Biodiesel is coming along in the same shoes as ethanol, only a lot faster, because they have learned from the people that blazed the trail in ethanol. We are going to have, I believe, within the next 5 to 6 years, all of the biodiesel production that we will have, the soybeans and the other bioproducts to supply. That has made already this district that I represent an energy export center with the ethanol production being up to almost all we can provide and the biodiesel, we have started on it very well.

We have tremendous wind energy that has been put in place there in the last 4 to 5 years. I will say 6 to 7 years ago, we had almost no energy production, we were an energy consumption region, and today we are an energy export center. It has changed that much. It has helped a lot with our energy independence and to become less dependent on foreign energy supplies of all kinds.

But we are faced with this need for nitrogen fertilizer and almost all of our nitrogen fertilizer is made directly from natural gas, directly from natural gas. Ninety percent of the cost of that fertilizer is the cost of purchasing the gas to produce the nitrogen from it. So we sit in this country without being able to get the pipeline down from Alaska where the gas is, it is already developed, and that is a process that if all goes well could maybe get done in 6 years. It may take 9 or 10 years to get there. Yet that needs to happen and it needs to happen quickly.

But within the lower 48 States, earlier we saw the map of the layout of the natural gas, along the east coast, the west coast and the outer shelf around Florida and in the central part of the United States. One of these esteemed gentlemen has made the statement on this floor, and I am going to repeat it, and I believe it, and that is that we have enough known natural gas reserves underneath non-national park public lands in the United States of America to heat every home in America for the next 150 years. That is almost a renewable energy resource when you look at that kind of a quantity. Yet natural gas is three times the price as it was just 5 and 6 years ago. Our natural gas that produces our fertilizer has done the same thing to our fertilizer prices.

People in the Corn Belt pay going into the ground with their fertilizer and then when they take that grain off the field in the fall, they have to dry the grain and most times what do they dry it with? Natural gas. So we are more susceptible to high natural gas prices than maybe any place else in the country and we have watched because of that the fertilizer production go offshore to places like Venezuela and Russia.

I remember what happened with the oil cartel in the late seventies when they shut down the oil delivery to the United States and the prices went up. We could be in that same situation with Venezuela and Russia if we let them take on any more of the fertilizer production. We need it here. We have got the gas here. We need to develop the gas. When we develop the gas, we will be able to keep our fertilizer plants. But if we do not, we will not be able to keep those plants which means we lose that fertilizer production and makes us dependent on those countries that I named. That is really critical.

We mentioned the solar energy as a component and that is going on in some of the parts of the country. Hydroelectric has been built and constructed. One of the other things I am concerned about is we have not built a nuclear plant in this country in a generation. The engineering technology that it takes to do that is leaving us year by year. That is another piece that has got to move along. We have got hydrogen around the corner and hydrogen may be the answer to much of this, but if we put all these pieces together, wind and ethanol and biodiesel and natural gas and crude oil, hydroelectric, the whole list, we have got the picture of the pieces that make us less dependent on foreign oil.

That is the picture, that is the energy bill, and that is why I support it.

Mrs. BLACKBURN. I thank the gentleman from Iowa for spending some time with us. He is exactly right, Madam Speaker. This is a homeland security and an economic security issue. We realize that. Competitiveness is important. We know, just as the gentleman said, we are meeting today's needs. We cannot not address the needs of today. That does require us to address oil and gas. At the same time we have to build that bridge to the future. This bill does that and does put the focus on biodiesel, biomass, ethanol, wind, hydropower, hybrid cars, hydrogen fuel cells, solar power, and all of those alternative and renewable energy sources so that we will have a goal of reducing that dependence on foreign oil.

Madam Speaker, I yield to the gentleman from Texas (Mr. GOHMERT) who is going to talk with us about the economic issues that affect his district in Texas.

□ 2330

Mr. GOHMERT. Madam Speaker, I want to thank the gentlewoman from Tennessee for yielding to me. I very much appreciate it because this is such an important issue for all of our country, but especially for our district in East Texas. The eastern side of my district is Louisiana, and it is actually quite a help for Louisiana as well. But the things we are talking about, the resources that we have in our district include oil, gas, coal, lignite, biomass material. That could be made from things like corn maize or soy, but also from forestry material that is left over when lumber is made.

There are so many jobs that will be assisted and created. It is estimated that there could be half a million jobs created as a result of the energy bill that we are discussing here.

Some people worry about the environmental effects of an energy bill and encouraging energy production, but I want to tell the Members I am familiar with oil wells, I am familiar with gas wells, I am familiar with lignite. I was just in a couple of lignite mines in my district in the last 2 weeks, and we worry about the destruction of property, but when we see what has been done and the way the land is reclaimed and reestablished, it ends being a work of art. The hardwoods are put back. The streams are back better than ever. The hillsides, it is just beautiful what has been done. Plus the renewable resources like pine trees are there. It is a good thing for East Texas.

Of course we have heard in ANWR previously that it would destroy the caribou population. When the pipeline was going to be laid, many of us remember back in the 1970s they said it was just going to decimate the caribou. As it turned out, there were about 3,000 caribou back then. Now there are around 32,000, as it turns out, because that oil is warmed as it goes through the pipeline to keep it flowing. When caribou want to ask each other for dates, they go to the pipeline and it makes them really romantic-thinking. So it has actually increased the population there.

When people complained we should not have oil and gas wells out in the coast because it is going to destroy the fish and the teeming life in the Gulf of Mexico, it turns out after they put offshore rigs out there, that is where commercial fishermen went because that was an artificial reef and it ended up helping fishing as well.

There is so much technology that has been developed over the last 30 and 40 years that has been good for everybody.

We also have the Eastman plant, actually more in Harrison County but there by Longview, and they use natural gas to make plastic products, all kinds of products there. This will help them. It will create cheaper natural gas. If we have cheaper natural gas, the papermill that had to close down in Lufkin because they could not get cheap enough gas: they are planning on reopening if that can happen. That just does not help Lufkin. It helps St. Augustine and Hemphill. They worked there at the paper mill. Clear up in Longview there is a man who lost 7 percent of his business when the paper mill closed all because of energy costs. These things can come back.

But not only that, we do a lot of drilling. These small business companies in East Texas, we have got the drillers themselves that go back to work. We have got land men going to work getting leases on the land. We have got the owners that are getting that lease money. We have got people that retain mineral interests getting royalties back. We have got people that are going back during the production, the service companies rehiring folks.

We have got the steel producers, companies that are renting equipment to those facilities. We have got independent drillers that are doing well. There are workers of all kinds and their families that are all having their lives made better. We have got clean coal technologies that are going to assist us and keep the air clean and make the environment just as good or better after the production of coal. There are so many good things that result for the Nation and especially for my district.

And let me just say on a personal note, with all of the things that a good energy bill will do for the Nation and do for our district, I feel good about what we are doing and I appreciate the gentlewoman's yielding to me because it does mean a lot. To take it to a very personal note, I have got three daughters. Two are away in college now, and our youngest is a junior in high school. Sarah's birthday is tomorrow, and I do not remember not being there on the morning of one of my kids' birthdays. She will be 17 tomorrow. And I hate like heck missing her birthday tomorrow, but we are going to pass us an energy bill tomorrow. And if I did not believe with all my heart that I was helping to make this country better for my children, then I would not miss Sarah's birthday tomorrow. But I think we are doing a good thing. And when I quit believing we are doing good for this country and making it better for my girls, then the voters will not have to send me home. I will go home as fast as I can.

But we are doing good, and I am proud to be a part of a majority that is working to make America better. And I thank the gentlewoman from Tennessee very much for yielding to me.

Mrs. BLACKBURN. Madam Speaker, I thank the gentleman from Texas (Mr. GOHMERT) for participating with us tonight.

He is exactly right. The estimate is that 500,000 new jobs will be created over the next year by the changes made in the energy policy for this Nation.

As I close this time that I have had tonight, I do want to certainly draw some attention to provisions of the bill, and tomorrow we hope that everyone is going to be able to talk with us and work with us as we go through the bill. And we are going to address so many things not only with our small business, but we are going to hear about electricity transmission and capability and reliability of our Nation's electricity and the electrical sources. Everyone was concerned, and we all are, when we hear of brownouts and blackouts and the series of blackouts over the past decade. So electricity is something that we will be addressing.

I yield to the gentlewoman from North Carolina (Ms. FOXX) for her comments on the bill.

Ms. FOXX. Mr. Speaker, I want to thank the gentlewoman very much for organizing this effort on behalf of H.R. 6, the Energy Policy Act of 2005.

As we all know, gas prices are skyrocketing, as are the costs of heating and cooling our homes. Many families and businesses are struggling under the additional financial burden.

I am encouraged we have the opportunity to tackle this issue head on and take the necessary steps to reduce the cost of energy. Hard-working Americans are depending on us to take action.

H.R. 6 will lower energy prices, strengthen the economy, generate hundreds of thousands of new jobs, and encourage greater energy conservation and efficiency. This bill will also reduce our dependence on foreign oil and encourage investment into alternative energy sources.

Furthermore, this bill will provide relief to our hard-working farmers by providing tax incentives and money for research and development for ethanol and biodiesel energy sources.

I hope all of our colleagues are going to vote for this vital piece of legislation.

Mrs. BLACKBURN. Mr. Speaker, I thank the gentlewoman for her comments.

As we continue with our debate, as we were saying earlier, we will be looking at electricity, and we are going to have some provisions in this bill that the Federal Government is going to lead on energy conservation issues.

One of our colleagues talked earlier about clean coal technology and renewable sources. Those will be addressed in the bill also. And we will look forward tomorrow as we come to the floor to being able to continue our discussion and to draw attention to these issues.

OUR DEPENDENCE ON FOREIGN OIL

The SPEAKER pro tempore (Ms. FOXX). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for half the time until midnight.

Mr. BARTLETT of Maryland. Madam Speaker, on March 24 of this year, 30 of the prominent leading individuals in our country wrote a letter to the President about what they considered a very critical national security issue. The letter was signed by Robert McFarlane, James Woolsey, Frank Gaffney, Boyden Gray, Timothy Wirth, and 30 other people, including 12 retired generals and admirals, five Secretaries of Defense Departments, and several retired Senators and Representatives.

□ 2340

To understand their concern, we need to go back about 6 decades to a sequence of events that brought us to a situation that very much concerned them. We have only 2 percent of the world's oil reserves, we use 25 percent of all of the oil used in the world, and we import two-thirds of that. We have less than 5 percent of the world's population.

How did we get here? The next chart shows us that, and this goes back the 6 decades that I mentioned to a Shell oil scientist by the name of M. King Hubbert who, in the 1940s and 1950s watched the exploration, the pumping, and the exhaustion of oil fields, and he noted that each of the fields followed a bell curve. It rose to a maximum, and then it fell off as they pumped out the remaining oil. He noticed that at the peak of that curve, that about half of the oil had been consumed from the average field. It is logical that the second half of the oil would be harder to get and take more time, and it would not flow as quickly. He theorized that if you added up all of the individual fields in the country, you could predict when that country would peak in its oil production. And in 1956, he made a projection for the United States. Fourteen years later, which was when he said it would occur, the United States peaked in its oil production.

This curve here in green, the smooth, green curve was his prediction. The little more ragged curve, the points that do not fall quite on the curve were the actual data points which we see fell remarkably close to his prediction. We are now well down that curve. We are now producing less than half of the oil that we produced in 1970.

The red curve there, by the way, is the curve for Russia. There is going to be a second peak there, because after the Soviet Union fell, they kind of got their act together and they are going to have a second peak, but not so high, and so their real peak was when it is shown there.

The next chart shows us the elements of the oil in this country, where we got it from. We see a whole bunch of it came from Texas, and then the rest of the United States, and then nos gas liquids, the red above, and we see what is called Alaska there. That is all the oil that we got from Prudhoe Bay, the north slope, a lot of oil. But it really did not make a very big difference. You see, we are still sliding down that slope and there is just a little blip produced by Prudhoe Bay, and then we slide down the slope.

Mr. Speaker, we remember a couple of years ago, the Gulf of Mexico oil, and that oil w going to solve our oil problem. That oil is represented by that yellow there. Not a whole lot, and it did not stop our slide down Hubbert's peak. The amount of oil that may be present in ANWR is predicted to be, who knows; it may be very little, it may be a whole lot, but the prediction is about half of what was in Prudhoe Bay. So you may agree or disagree that we should drill in ANWR, but it really does not matter because there is not enough oil in ANWR to really make a difference.

The next curve we have shows a very simple curve, the problem that we face. If, in fact, we have reached peak oil, and I spoke here on the Floor a bit more than 5 weeks ago for an hour on this subject and we have had a lot of people come through our offices and a lot of phone calls and e-mails from all around the world, and I will tell my colleagues that there is nobody who does not believe that we are either at peak oil or will shortly be at peak oil. As this chart shows, you do not have to be at peak oil to have a problem. If peak oil occurs here, and we are here, you see that there is a bit of yellow between our use curve and by the way, this use curve is only a 2 percent growth. Now, we think that if our economy is not growing 2 percent, that the sky may fall, the stock market reacts very badly, and this is only a 2 percent growth curve. Look what happens with this 2 percent curve, with that yellow there, that is what we would like to use at only 2 percent growth, and the blue line there shows us the oil that will be available. Now, we cannot use oil that is not there. So that is going to be all the oil that we have available to use if, in fact, this is correct.

Now, I would point out 2 things. One is that M. King Hubbert was right about the United States. Using exactly the same prediction techniques, he predicted that the world would peak in about 2000. It did not quite, because he could not have known about the Arab oil embargo or the big price spike hikes or the world recession that resulted from that net delay that is probably occurring about now. But we have a problem of a shortfall before we actually get to peak, and that is probably where we are now.

Let me just spend a moment on this chart, because I want to point out some realities here. This is the amount of oil that we would like to use, following up this just 2 percent slope. And the amount of oil we will have to use is represented by the blue curve here. But we cannot use all of that oil for the present purposes for which we use oil, because if we do, there will be no oil left over to make the investments we have to make in the alternatives and the renewables that ultimately must take the place of oil, because you see, we are shortly going to be sliding down Hubbert's peak.

The next chart shows us the slopes of these peaks when you have more than a 2 percent growth. This is the 2 percent growth line, if you chart out with 2 percent growth and then extrapolate that as a straight line, but that is not what growth is. Growth is always exponential. It is like compounding interest, and people understand compound interest, and I am not sure why they do not understand exponential growth, but 2 percent growth follows this curve, it does not follow this straight line curve. The next curve above it is only 4 percent growth. I would note that last year, the world economies grew by 5 percent on average. Now, we did not do quite that well, but China did a whole lot better. China grew at 10 percent. I was kind of playing around with this chart and I think the 10 percent curve goes about here.

Mr. Speaker, with a 10 percent growth curve, every 7 years, it doubles. That means in 14 years, it is 4 times bigger, and in 21 years, it is 8 times bigger. As a matter of fact, one of the biggest forces in this world is the force of exponential growth, and it is very difficult for a lot of people to understand. Albert Einstein was asked, Dr. Einstein, you have been instrumental in developing nuclear energy. It is really very powerful; from a little tiny bit of this, you get a great big explosion. What will be the next big energy source? And his response was the most powerful force in the universe is the power of compound interest, which is an exponential growth curve.

The next chart shows a reality here that we really need to pay attention to, and this was the reason, this was the reason for the letter that these gentlemen wrote. It was in the letter that they said, the United States' dependence on imported petroleum poses a risk to our homeland security and economic well-being. If we have only 2 percent of the known reserves, and we use 25 percent of the world's oil, and we import more than two-thirds of it, and as the President said himself, much of that oil, he said, we rely upon energy sources from countries that do not particularly like us. Yes, Mr. President, that is true. Most of the reserves of oil are in the Middle East, and many of those countries go a bit further than just do not particularly like us.

What we have here on the easel is a view of the world which shows what China has been doing. China has been scouring the world, looking for oil. And all of the blue, here is where China has been: In the Orient, in the Middle East, several places in the Middle East, in our backyard. They have contracts in Canada, they have contracts in Colombia, they have contracts in Venezuela, they have contracts in Brazil, they have contracts in Argentina, and they almost bought an oil company in our country; they were just outbid a little. They will be back again trying to secure an oil company in our country.

China now is the second largest importer in the world. Last year, they increased their demand for oil by 25 percent. Now, that will not go on year after year, because last year, they shut down a lot of coal-fired power plants because the pollution was killing them, so they bought a whole bunch of diesel generators; I suspect that the pollution might be almost as much from them, but they are more widely distributed, which is one of the reasons they used so much oil last year.

The next chart shows us something very interesting about energy and the effect that it has had on civilization and on growth of economies. On this chart, and I am sorry that most of it is blank, but that is just the reality of what has happened through history. We started out the industrial revolution relying on wood, and here it is, the brown curve here. We were burning wood. As a matter of fact, the industrial revolution almost floundered before we discovered that we could get energy from coal, because we had largely denuded New England in sending the trees to England to produce charcoal to produce coal. There is a little relic of bygone years up by Thurmont, Maryland, and they denuded the hills of Thurmont, Maryland for a tiny foundry there in Catoctin, up near Thurmont, and then we discovered coal. And notice, there is a big jump. This is quadrillion Btus.

The SPEAKER pro tempore (Ms. FOXX). The gentleman from Maryland (Mr. BARTLETT) is recognized for 10 more minutes.

□ 2350

We were going along with the coal economy, they are about leveled out, and we discovered that we could get even more energy from oil. And look what happened in the age of oil: way up. This chart points out something very interesting and very important about these fuels.

Every time we went to a new fuel, we went to a higher density fuel, higher energy density fuel. The energy density in oil is just incredible. One 42-gallon barrel of oil, which if you bought it for $50-some and refined it, maybe another $40-some, it would cost you $100 for the refined products of that barrel of oil.

But the energy you get from that is the equivalent of 25,000 man-hours of labor. That would be 12 people who did nothing but work for you all year long. Everything they did was for you, and the energy they would expend in that full year is the energy equivalent of one barrel of oil.

Now, you may have a little trouble understanding that, but let me give you a little anecdote that may be simpler to understand. A couple of weeks ago we took my brother-in-law and his wife down to West Virginia. And we have a little Prius car, we get 45 miles per gallon, not that time because it was very heavily loaded and we were going up mountains. And the worst mileage we got was 20 miles per gallon in this Prius hybrid electric, hybrid car, carrying this big load up this steep mountain in West Virginia.

That was 1 gallon of gasoline. Still cheaper, by the way, than water in the grocery store. But look at the energy in that 1 gallon of gasoline. It took this car, heavily laden, 20 miles up a steep mountain in West Virginia. Now, how long do you think, Madam Speaker, that it would take you or me to pull that car up the mountain?

Obviously, we cannot pull it, but we can use a little mechanical advantage and get it up there. It is a winch called a come-along and there is a guardrail and there are trees and you can use a chain, and you could get the car 20 miles up the mountain. Do you think you can do it in 90 days? If you did it in 90 days that would be just about the equivalent. By the way, that would be a tough pull. That is a long distance per day to go 20 miles in 90 days pulling your car up the mountain.

That is the kind of energy density that is there. So the big challenge we have is finding alternatives that have something near the energy density of oil, because there is an enormous amount of energy density there.

The next chart I want to show you is a very interesting one, because one of things that we have got to do very quickly is to conserve the use of oil. We have got to buy time through efficiency and conservation. This is a very interesting chart. This shows the energy use for people in California and the energy used per person in the United States.

And notice that the people in California are only using about 60 percent of the energy that is used by the average person in the rest of the United States. Now, nobody told them that they had to do that. I know that they have some regulations that are a little more stringent than some in other States because they have some bigger problems with pollution.

But you remember several years ago they had some blackouts there and it was predicted that they were going to have rolling blackouts year after year there. They did not have any. That is because voluntarily the Californians, without anybody telling them they had to do it, reduced their consumption of electricity by 11 percent. It was enough that they did not have any rolling blackouts.

I will tell you, it is going to be awfully hard to argue that people in California do not live as well as the people in the rest of the United States. And they are doing it on just a bit more than half of the energy that the average person in the rest of the United States uses. So this is really doable, friends. We can conserve. We can reduce our use of oil. And we must do that, because as the next chart shows, we have got to ultimately move to some other sources of energy.

Oil is not going to run out. But the age of cheap oil is probably over, and we are going to be sliding down Hubbard's Peak; there is going to be less and less oil. No matter how hard you suck on that, you cannot get more out if it is not there.

This shows the alternatives that are available to us. Some of those are finite resources. Some of them are pretty big, by the way. It may be difficult to get it, but the tar sands of Canada, I am going up there in a month or so to look at that. Canadians called after they heard our speech 5 weeks ago, please come up and visit us and look at our tar sands. We have a lot of oil shale in our country. At $50, $60, $70 a barrel, that is probably going to be competitive, and we can get some oil from the tar sands and the oil shale.

Now we have coal, and I should have brought a chart, next time we will bring a chart on coal. Because what it shows is that when we really start using coal to make up for the oil we are not going to have, there is only about 50 years of it there, at just a 2 percent growth rate, now the world grew 5 percent last year. China is growing 10 percent. We sure as heck would like to grow more than 2 percent, but at just a 2 percent growth, that coal lasts only about 50 years.

They will tell you there is a 250-year supply now. That is at current-use rates. But if we have to start using it faster; it is not going to last anywhere near as long. Then we come to nuclear. There are three kinds of nuclear. We need to explore all of them. I had in my office today a gentleman who really believes that we are going to get to fusion. Now, it is not tomorrow, it is not the day after tomorrow, as a matter of fact it is maybe 30 years from now; but he believes we will get there.

Fusion is the kind of energy you have from the sun. It is the kind of energy that you have in a nuclear weapon. If we can really get there, we are kind of home free. But I will tell you, I think the odds of our solving our energy problems, at least for the immediate future through fusion, is about the same as you and me, Madam Speaker, solving our personal economic problems by winning the lottery. It would be nice if it happened, but the odds are not very good that we are going to solve our personal economic problems that way.

There are two other kinds of nuclear power. One is the light water reactor. That is what we use in our country. And we need to have more of them. We produce now about 20 percent of our electricity through nuclear. Some of those who have been violently opposed to nuclear, looking at the peak oil problem, are now reevaluating whether we should go to nuclear or not.

But there is not fissionable uranium in the world. So then you have got to go to breeder reactors, and they have lots of byproducts that you have to squirrel away somewhere for a quarter of a million years. So we face some real challenges that we have to think through what we are going to do with nuclear.

Than we look at all of the renewables, solar and wind and geothermal, if you are close enough to the molten core of the Earth. Ocean energy. Boy, the moons raise the ocean about 2 feet on average. But it is awfully disbursed out there. That takes a lot of energy to raise the oceans 2 feet. It is going to be hard to harness that. But we are trying and we need to try further.

And then enormous opportunity in agriculture. And several previous speakers spoke to that, about agriculture: soy diesel, biodiesel, ethanol, methanol, bio mass. And our agriculture really has an opportunity to contribute here.

And then waste to energy. We have a lot of waste that ends up in the landfill. Some places are burning it. More people ought to be burning it. Then hydrogen from renewables. By the way, hydrogen is not an energy source. Hydrogen is simply a convenient way of moving energy around. You burn it very cleanly. It produces only water. You can use it in a fuel cell and get twice the efficiency in a reciprocating engine.

I would just like to close by going back to one of the charts I had before and to mention that the real challenge now is to use conservation and efficiency to reduce our demands for oil so that we have enough oil left to make the investments in these alternatives and renewables so that we can take the place of the oil that we are not going to have because we are sliding down Hubbard's Peak.

Now, we have very clever people in our country. We are really innovative, we are really creative, and what we need is leadership, Madam Speaker, to make this happen.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ANDREWS (at the request of Ms. PELOSI) for today after 5:30 p.m. on account of personal business.

Mr. EMANUEL (at the request of Ms. PELOSI) for today after 4:00 p.m.

Mrs. KELLY (at the request of Mr. DELAY) for today and the balance of the week on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. ISRAEL, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. CORRINE BROWN of Ohio, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. FLAKE, for 5 minutes, today.

Mr. POE, for 5 minutes, April 21.

Mr. DEAL of Georgia, for 5 minutes, today.

ADJOURNMENT

Mr. BARTLETT of Maryland. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.) the House adjourned until tomorrow, Thursday, April 21, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1693. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2004-2005 Crop Year [Docket No. FV04-930-2 FR] received March 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1694. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Polyacrylonitrile Carbon Fiber — Restriction to Domestic Sources [DFARS Case 2004-D002] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1695. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Small Business Competitiveness Demonstration Program [DFARS Case 2003-D063] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1696. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Contractor Performance of Security-Guard Functions [DFARS Case 2004-D032] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1697. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Government Source Inspection Requirements [DFARS Case 2002-D032] received March 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1698. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision (RIN: 3150-AH64) received March 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1699. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — List of Approved Spent Fuel Storage Casks: NUHOMS-24PT4 Revision (RIN: 3150-AH63) received March 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1700. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Oklahoma Abandoned Mine Land Reclamation Plan [Docket No. OK-031-FOR] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1701. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Wyoming Regulatory Program [WY-032-FOR] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1702. A letter from the Deputy Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category [Docket No. 010319075-1217-02; I.D.030905G] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1703. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reopening of the Application Process for the Charter Vessel and Headboat Permit Moratorium in the Gulf of Mexico [Docket No. 050314073-5073-01; I.D.030705B] (RIN: 0648-AS99) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1704. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Norteastern United States; Northeast (NE) Multispecies Fishery; Closure of the Eastern U.S./Canada Area and Prohibition of Harvesting, Processing, or Landing of Yellowtail Flounder from the Entire U.S./Canada Management Area [Docket No. 040112010-4114-02; I.D.032805B] received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1705. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 031805A] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1706. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Revised Jurisdictional Thresholds for Section 7A of the Clayton Act — received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1707. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Premerger Notification; Reporting and Waiting Period Requirements — received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1708. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Premerger Notification; Reporting and Waiting Period Requirements — received April 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska (for himself and Mr. OBERSTAR) (both by request):

H.R. 1713. A bill to amend title 49, United States Code, to provide for stable, productive, and efficient passenger rail service in the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BRADY of Texas (for himself, Mr. PAUL, Mr. CARTER, Mr. DOOLITTLE, Mr. DELAY, Ms. GRANGER, Mr. SHAW, Mr. SHAYS, Mr. NEUGEBAUER, Mr. SAM JOHNSON of Texas, Mr. EDWARDS, Mr. BURGESS, Mr. SIMMONS, Mrs. DAVIS of California, Mr. HINOJOSA, Mr. SESSIONS, Mr. MICHAUD, Mrs. MALONEY, Mr. HULSHOF, Mr. CALVERT, Mr. MCGOVERN, Mr. CULBERSON, Mr. LEWIS of Kentucky, Mr. BILIRAKIS, and Mr. RYAN of Wisconsin):

H.R. 1714. A bill to amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants; to the Committee on Ways and Means.

By Mr. MCINTYRE:

H.R. 1715. A bill to reduce until December 31, 2008, the duty on PDCB (p-Dichlorobenzene); to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 1716. A bill to amend the Electronic Fund Transfer Act to prohibit any operator of an automated teller machine that displays any paid advertising from imposing any fee on a consumer for the use of that machine, and for other purposes; to the Committee on Financial Services.

By Mr. ANDREWS (for himself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BERMAN, Mr. CROWLEY, Mr. ENGLISH of Pennsylvania, Mr. FARR, Mr. GONZALEZ, Mr. GUTIERREZ, Ms. HARMAN, Ms. JACKSON-LEE of Texas, Mr. LEWIS of Georgia, Mrs. MALONEY, Mr. MCDERMOTT, Mr. MORAN of Virginia, Mr. PALLONE, Ms. PELOSI, Mr. RANGEL, Mr. RUSH, Mr. SAXTON, Mr. SHERMAN, Mr. SHIMKUS, Mr. TOWNS, Mr. VAN HOLLEN, Ms. WATSON, and Mr. WEINER):

H.R. 1717. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of Korean immigration into the United States; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 1718. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require public availability of an accounting of all funds used, or required to be used, for response to a release of a hazardous substance or pollutant or contaminant; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER (for himself, Ms. CORRINE BROWN of Florida, Mr. FORD, Mr. HINOJOSA, Ms. MILLENDER-MCDONALD, Mrs. MCCARTHY, Mr. JEFFERSON, Mrs. CHRISTENSEN, Mr. TERRY, Mr. CUMMINGS, Mr. VAN HOLLEN, Mr. ALEXANDER, Mr. MCCRERY, Mr. BOUSTANY, Mr. SMITH of New Jersey, Mr. FOSSELLA, Ms. GINNY BROWN-WAITE of Florida, Mr. RENZI, and Mr. WELDON of Pennsylvania):

H.R. 1719. A bill to amend the Public Health Service Act to authorize grants for education, screening, and treatment with the goal of preventing diabetic foot complications and lower extremity amputations, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BISHOP of New York:

H.R. 1720. A bill to amend the Federal Water Pollution Control Act to ensure that sewage treatment plants monitor for and report discharges of raw sewage, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BISHOP of New York (for himself, Mr. SIMMONS, and Mr. PALLONE):

H.R. 1721. A bill to amend the Federal Water Pollution Control Act to reauthorize programs to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BRADLEY of New Hampshire:

H.R. 1722. A bill to direct the Secretary of Education to revise regulations to increase the percentage of proficient and advanced level scores based on alternate assessments and alternate achievement standards for purposes of calculating adequate yearly progress, to amend the Elementary and Secondary Education Act of 1965 to decrease the percentage of students who meet or exceed the proficient level of academic achievement on State assessments required to calculate adequate yearly progress, to direct the Secretary of Education to expand to two years the exclusion for second year limited English proficiency students from adequate yearly progress calculations, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BRADLEY of New Hampshire:

H.R. 1723. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for recycling or remanufacturing equipment, and for other purposes; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 1724. A bill to extend the temporary suspension of duty on Asulam sodium salt; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 1725. A bill to suspend temporarily the duty on Chloral; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 1726. A bill to suspend temporarily the duty on Imidacloprid Technical; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 1727. A bill to suspend temporarily the duty on Triadimefon; to the Committee on Ways and Means.

By Mr. CARNAHAN (for himself and Mrs. EMERSON):

H.R. 1728. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes; to the Committee on Resources.

By Mr. FORTUÑO (for himself, Mr. WELLER, Mr. YOUNG of Alaska, Mr. LINCOLN DIAZ-BALART of Florida, Mr. DENT, Mr. SERRANO, Mr. GUTIERREZ, Ms. VELÁZQUEZ, Mr. OWENS, Ms. ROS-LEHTINEN, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 1729. A bill to amend title XVIII of the Social Security Act to increase inpatient hospital payments under the Medicare Program to Puerto Rico hospitals; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 1730. A bill to reinstate the authority of the Federal Communications Commission and local franchising authorities to regulate the rates for cable television service; to the Committee on Energy and Commerce.

By Ms. HARMAN:

H.R. 1731. A bill to improve the security of the Nation's ports by providing Federal grants to support Area Maritime Transportation Security Plans and to address vulnerabilities in port areas identified in approved vulnerability assessments or by the Secretary of Homeland Security; to the Committee on Homeland Security.

By Ms. HART (for herself and Mr. MURPHY):

H.R. 1732. A bill to suspend temporarily the duty on Liquid Crystal Device (LCD) panel assemblies for use in LCD projection type televisions; to the Committee on Ways and Means.

By Ms. HART (for herself and Mr. MURPHY):

H.R. 1733. A bill to suspend temporarily the duty on electron guns for high definition cathode ray tubes (CRTs); to the Committee on Ways and Means.

By Ms. HART (for herself and Mr. MURPHY):

H.R. 1734. A bill to suspend temporarily the duty on Liquid Crystal Device (LCD) panel assemblies for use in LCD direct view televisions; to the Committee on Ways and Means.

By Ms. HOOLEY:

H.R. 1735. A bill to amend title 10, United States Code, to provide that an officer of the Army or Air Force on the active-duty list may not be promoted to brigadier general unless the officer has had a duty assignment of at least one year involving the administration of the National Guard or Reserves; to the Committee on Armed Services.

By Mrs. JOHNSON of Connecticut (for herself, Mr. CARDIN, Mr. SHAW, Mr. LEVIN, Mr. HERGER, Mr. CAMP, Mr. RAMSTAD, Mr. SAM JOHNSON of Texas, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. ENGLISH of Pennsylvania, Mr. JEFFERSON, Mr. HAYWORTH, Mr. WELLER, Mr. HULSHOF, Mr. REYNOLDS, Mr. LEWIS of Kentucky, Mr. BECERRA, Mr. FOLEY, Mr. POMEROY, Mr. BRADY of Texas, Mr. CANTOR, Mrs. JONES of Ohio, Mr. CHOCOLA, Mr. LARSON of Connecticut, Ms. HART, Mr. BEAUPREZ, Mr. EMANUEL, Mr. SIMMONS, Mr. GORDON, Mr. SOUDER, Mr. UDALL of Colorado, Mr. EHLERS, Mr. KUHL of New York, Mr. JOHNSON of Illinois, Mr. MCHENRY, Mr. SESSIONS, Mr. FERGUSON, Miss MCMORRIS, Mr. LANTOS, Mr. BLUMENAUER, Mr. CROWLEY, Mr. WAXMAN, Mr. ETHERIDGE, Mr. RUPPERSBERGER, Mr. HASTINGS of Florida, Mr. MEEK of Florida, Mr. WESTMORELAND, Mr. SWEENEY, Mr. MENENDEZ, Mr. HAYES, Mr. PRICE of North Carolina, Mr. GOODLATTE, Mrs. MUSGRAVE, Mr. CANNON, Mr. HONDA, Mr. SHERMAN, and Mr. MORAN of Virginia):

H.R. 1736. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses; to the Committee on Ways and Means.

By Mr. MEEK of Florida (for himself, Mr. TOWNS, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Mr. CONYERS, Ms. KILPATRICK of Michigan, Mr. SERRANO, Mr. OWENS, Mr. CUMMINGS, Mr. RUSH, Mr. LYNCH, Mr. WEINER, Mr. KUCINICH, Mr. BISHOP of Georgia, Mr. MEEKS of New York, Ms. WASSERMAN SCHULTZ, Mr. ENGEL, Ms. LEE, and Mrs. CHRISTENSEN):

H.R. 1737. A bill to amend the Haitian Refugee Immigration Fairness Act of 1998 to benefit individuals who were children when such Act was enacted; to the Committee on the Judiciary.

By Mr. GEORGE MILLER of California (for himself, Mr. KILDEE, Mr. OWENS, Mr. MCDERMOTT, and Mr. VAN HOLLEN):

H.R. 1738. A bill to assure the safety of American children in foreign-based and domestic institutions, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Virginia (for himself, Mr. KOLBE, Mr. VAN HOLLEN, Mr. WYNN, Ms. NORTON, Mr. HOYER, Mr. DAVIS of Illinois, and Mr. WOLF):

H.R. 1739. A bill to amend chapter 84 of title 5, United States Code, to allow individuals who return to Government service after receiving a refund of retirement contributions to recapture credit for the service covered by that refund by repaying the amount that was so received, with interest; to the Committee on Government Reform.

By Mr. OBEY:

H.R. 1740. A bill to require labeling of raw agricultural forms of ginseng, including the country of harvest, and for other purposes; to the Committee on Agriculture.

By Mr. OSBORNE (for himself, Mr. Kind, Mr. Moore of Kansas, Mr. Ross, Mr. Paul, Mr. Otter, Mr. Case, Mr. Wicker, Mr. Alexander, Mr. Shimkus, Mr. Wilson of South Carolina, Mr. Tiahrt, Mr. Peterson of Pennsylvania, Mr. Porter, Mr. Aderholt, Mr. Wamp, Mrs. Capps, Mr. Green of Wisconsin, Mr. McIntyre, Mr. Hastings of Washington, Mr. Norwood, Mrs. Emerson, and Mrs. Musgrave):

H.R. 1741. A bill to direct the Secretary of Veterans Affairs to conduct a pilot program to improve access to health care for rural veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RANGEL:

H.R. 1742. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. Lantos, Mr. Chabot, and Mr. Ackerman):

H.R. 1743. A bill to encourage divestiture of current investments in Iran and discourage future investments in Iran and to require disclosure to investors of information relating to such investments; to the Committee on Financial Services, and in addition to the Committees on Government Reform, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUPPERSBERGER:

H.R. 1744. A bill to amend the Internal Revenue Code of 1986 to provide incentives for alternative fuels and alternative fuel vehicles; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. Rangel, Mr. Sam Johnson of Texas, Mr. Levin, Mr. English of Pennsylvania, Mr. Cardin, Mr. Lewis of Kentucky, Mr. Lewis of Georgia, Mr. Foley, Mr. Jefferson, Mr. Brady of Texas, Mr. Becerra, Mr. Reynolds, Ms. Hart, Mr. Wolf, Ms. Kaptur, Mr. Saxton, Mr. Duncan, Ms. Ros-Lehtinen, Mr. Kolbe, Mr. Brown of Ohio, Mr. Farr, Mr. Filner, Mr. Hinchey, Mr. Cummings, Mr. Hastings of Washington, Mrs. Capps, Mr. Forbes, Mr. Miller of Florida, and Mr. Sullivan):

H.R. 1745. A bill to amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against identity theft, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THORNBERRY:

H.R. 1746. A bill to require a quadrennial review of the diplomatic strategy and structure of the Department of State and its related agencies to determine how the Department can best fulfill its mission in the 21st century and meet the challenges of a changing world; to the Committee on International Relations.

By Mr. PALLONE:

H. Res. 223. A resolution expressing the sense of the House of Representatives that a postage stamp should be issued in commemoration of Diwali, a festival celebrated by people of Indian origin; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FRANK of Massachusetts introduced a bill (H.R. 1747) for the relief of Veronica Mitina Haskins; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. Larson of Connecticut, Mr. Mica, Mrs. Capito, Mr. McHenry, Mr. Westmoreland, Mr. Cunningham, Ms. Matsui, and Ms. Carson.

H.R. 36: Mr. Salazar.

H.R. 66: Mr. LaHood.

H.R. 95: Mr. McHugh and Mr. Gene Green of Texas.

H.R. 98: Mr. Neugebauer.

H.R. 111: Mr. Pearce, Mr. Markey, Mrs. Musgrave, Mr. Hastings of Florida, and Ms. Matsui.

H.R. 147: Mr. Hoyer, Mr. Barrow, Mr. Bishop of New York, Mr. Kanjorski, Mr. Ackerman, Mr. Rahall, and Ms. DeGette.

H.R. 240: Mr. Kennedy of Minnesota.

H.R. 285: Ms. Loretta Sanchez of California and Ms. Jackson-Lee of Texas.

H.R. 341: Mr. Duncan, Mr. Petri, Mr. Weldon of Pennsylvania, and Mr. Dent.

H.R. 371: Mr. Gutierrez and Mr. Simpson.

H.R. 373: Mr. Moran of Virginia, Mr. Udall of Colorado, Mr. Levin, Mrs. McCarthy, and Mr. Baird.

H.R. 389: Mr. Feeney.

H.R. 399: Mr. Fortenberry.

H.R. 408: Mr. Stark and Mrs. Tauscher.

H.R. 509: Mr. Weiner and Mr. Cantor.

H.R. 550: Mrs. Davis of California and Mr. Brady of Pennsylvania.

H.R. 556: Ms. Norton.

H.R. 558: Ms. Bordallo, Mr. Israel, and Mr. Kildee.

H.R. 586: Mrs. Cubin, Mr. Herger, Mr. Beauprez, Mr. Doolittle, Mr. Hefley, and Mr. Sessions.

H.R. 602: Mr. Boren, Mr. Wilson of South Carolina, and Mr. Jefferson.

H.R. 609: Mr. Gerlach.

H.R. 668: Mr. Rangel.

H.R. 699: Mrs. McCarthy, Mr. Pallone, Mr. Owens, Mr. Van Hollen, Mr. Abercrombie, Mr. Cox, Mr. Olver, Mr. Towns, Ms. Ros-Lehtinen, Mr. Gutierrez, Mr. McNulty, Mr. Stark, Ms. Millender-McDonald, Ms. Baldwin, Ms. Corrine Brown of Florida, Mr. Frank of Massachusetts, Mr. Hinchey, Mr. Kirk, Mr. Marshall, Mr. Jones of North Carolina, Mr. Keller, Ms. Schakowsky, Mr. Moran of Virginia, Mr. Cummings, Mr. Green of Wisconsin, Mr. King of Iowa, and Mr. Menendez.

H.R. 722: Mr. Thompson of Mississippi.

H.R. 745: Ms. Harris.

H.R. 748: Mr. Deal of Georgia.

H.R. 793: Mr. Simpson and Mr. Lynch.

H.R. 800: Mr. Reyes.

H.R. 809: Mr. Baker, Mr. Tiberi, Mr. Kennedy of Minnesota, Mr. Sullivan, Mr. Rogers of Michigan, and Mr. Marchant.

H.R. 838: Mr. Davis of Illinois and Mr. Peterson of Minnesota.

H.R. 844: Mr. Hinojosa.

H.R. 869: Mr. Porter.

H.R. 880: Ms. Jackson-Lee of Texas and Mr. Abercrombie.

H.R. 916: Mr. Goodlatte, Mr. Neal of Massachusetts, Ms. Ginny Brown-Waite of Florida, Mr. Ney, and Mr. Souder.

H.R. 921: Mr. Hinojosa, Mr. Grijalva, Mr. Snyder, and Mr. Miller of North Carolina.

H.R. 939: Mr. Watt, Mr. Bishop of Georgia, Mr. Butterfield, Ms. Carson, Mrs. Christensen, Mr. Clyburn, Mr. Davis of Illinois, Mr. Fattah, Mr. Al Green of Texas, Ms. Jackson-Lee of Texas, Mr. Jefferson, Mr. Lewis of Georgia, Ms. McKinney, Mr. Meeks of New York, Ms. Millender-McDonald, Ms. Moore of Wisconsin, Ms. Norton, Mr. Scott of Virginia, and Mr. Thompson of Mississippi.

H.R. 940: Mr. Rogers of Kentucky.

H.R. 960: Mr. English of Pennsylvania.

H.R. 985: Mr. Udall of Colorado, Mr. Smith of Washington, and Mr. Ehlers.

H.R. 1043: Mr. Case.

H.R. 1059: Mr. Gilchrest.

H.R. 1071: Mrs. Davis of California, Mr. Hunter, Mr. Cunningham, Mr. Issa, and Mr. Boyd.

H.R. 1091: Mr. Weldon of Pennsylvania.

H.R. 1095: Mrs. Musgrave.

H.R. 1108: Mr. Holden.

H.R. 1131: Mr. Paul, Mr. Bartlett of Maryland, and Mr. Cleaver.

H.R. 1150: Mr. Paul and Mrs. Myrick.

H.R. 1156: Mrs. Emerson, Mr. Andrews, Mr. Michaud, Mr. Payne, Mr. Rush, Ms. Carson, Mr. Paul, and Mr. Boswell.

H.R. 1157: Mr. Rangel.

H.R. 1159: Mr. Salazar.

H.R. 1204: Mrs. Christensen, Ms. Harman, Mr. Kennedy of Rhode Island, Mr. Faleomavaega, Mr. Langevin, Mr. Pascrell, Mr. Barrow, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Mr. Jefferson, Mr. Conyers, Mr. Frank of Massachusetts, Ms. DeLauro, Mr. Sherman, and Ms. Kilpatrick of Michigan.

H.R. 1216: Mr. Hoekstra.

H.R. 1226: Mr. King of New York and Mr. Cleaver.

H.R. 1239: Mrs. Jo Ann Davis of Virginia, Mr. Coble, Mr. Grijalva, Mrs. Drake, and Mr. Simmons.

H.R. 1241: Mr. Buyer and Mrs. Musgrave.

H.R. 1249: Mr. Rangel, Ms. Kilpatrick of Michigan, Mr. Doyle, and Mr. Porter.

H.R. 1257: Mr. Upton.

H.R. 1258: Mr. Kildee and Mr. Wolf.

H.R. 1272: Mr. Hayworth and Mr. Brown of Ohio.

H.R. 1273: Mr. Kuhl of New York.

H.R. 1286: Mr. Paul, Mr. Miller of Florida, Mr. Flake, Mr. Manzullo, Mr. Akin, Mrs. Myrick, Mr. Hensarling, Mrs. Cubin, Mr. Beauprez, Mr. Wilson of South Carolina, Mr. Conaway, Mr. Hostettler, Mr. Lewis of Kentucky, Mr. Kline, Mr. Sodrel, Mr. Marchant, Mr. Herger, Mr. Doolittle, Mr. Mario Diaz-Balart of Florida, Mr. Wicker, Mr. Bartlett of Maryland, and Ms. Foxx.

H.R. 1288: Mrs. Myrick, Mr. DeLay, Mr. Reynolds, Mr. Poe, Mr. Reyes, Mr. Conaway, and Mr. Porter.

H.R. 1290: Mr. Shaw.

H.R. 1293: Mr. Towns, Mr. Hinchey, Ms. Corrine Brown of Florida, and Mr. Gene Green of Texas.

H.R. 1306: Mr. GARRETT of New Jersey, Mr. KING of Iowa, Mr. KLINE, Mr. HAYWORTH, Mrs. CUBIN, Mr. FOSSELLA, Mr. DREIER, Mr. FEENEY, and Mrs. CAPITO.

H.R. 1315: Mr. PEARCE.

H.R. 1321: Mr. GONZALEZ.

H.R. 1352: Mrs. LOWEY, Mr. OBERSTAR, Ms. SCHAKOWSKY, Mr. FATTAH, Mr. DOYLE, Mr. MCGOVERN, Mr. DAVIS of Tennessee, Mr. FORD, Mr. RAHALL, Mr. MOLLOHAN, Mr. MICHAUD, Mr. LEWIS of Georgia, Mr. CLYBURN, Mr. JEFFERSON, Mr. CUMMINGS, Mr. LARSEN of Washington, Mr. COOPER, Mr. CASE, Ms. HARMAN, Ms. CORRINE BROWN of Florida, Mr. LARSON of Connecticut, Mr. EDWARDS, and Mr. ABERCROMBIE.

H.R. 1355: Mr. KLINE and Mr. PRICE of Georgia.

H.R. 1358: Mr. HOLDEN and Mr. CALVERT.

H.R. 1365: Mr. BAIRD, Mr. THOMPSON of California, Mr. ENGEL, Mr. PRICE of North Carolina, Mrs. DAVIS of California, Mr. DICKS, Mr. THOMPSON of Mississippi, Mr. EDWARDS, Mr. LARSEN of Washington, Mr. DAVIS of Illinois, Mrs. TAUSCHER, and Mrs. JONES of Ohio.

H.R. 1376: Mr. CASTLE, Mr. SHAW and Mr. LIPINSKI.

H.R. 1380: Mrs. MCCARTHY and Mrs. CAPITO.

H.R. 1393: Ms. MCCOLLUM of Minnesota and Mr. HOLDEN.

H.R. 1409: Ms. HARRIS.

H.R. 1420: Mr. GOODE and Mr. CARDOZA.

H.R. 1439: Mr. RANGEL.

H.R. 1440: Mr. SHERMAN, Ms. WOOLSEY, and Mr. STARK.

H.R. 1447: Mr. SMITH of New Jersey and Mr. REYES.

H.R. 1469: Mr. TANCREDO, Mr. CANNON, and Mr. HERGER.

H.R. 1471: Mr. PRICE of North Carolina.

H.R. 1474: Mr. HOSTETTLER.

H.R. 1480: Mr. FARR, Mrs. JONES of Ohio, Mr. NADLER, Mr. DELAHUNT, Mr. RANGEL, Mrs. MALONEY, Mr. FOLEY, Mr. MORAN of Virginia, Ms. MCCOLLUM of Minnesota, Mr. OWENS, Mr. OLVER, Mr. SMITH of New Jersey, Mr. KIND, Mr. CONYERS, Mr. PAYNE, Mr. CUMMINGS, Mrs. DAVIS of California, and Mr. MCDERMOTT.

H.R. 1493: Mr. MILLER of Florida and Mr. Conway.

H.R. 1498: Ms. SOLIS, Mr. EVANS, Mr. EHLERS, and Mr. GOODE.

H.R. 1500: Mr. HAYWORTH and Mrs. MUSGRAVE.

H.R. 1505: Ms. ROS-LEHTINEN, Mr. PEARCE, Mr. BRADLEY of New Hampshire, Ms. SCHWARTZ of Pennsylvania, Mr. KIRK, Mr. BROWN of South Carolina, Mr. MARIO DIAZ-BALART of Florida, Mrs. EMERSON, and Mrs. BONO.

H.R. 1547: Mr. GOODE.

H.R. 1549: Mr. OXLEY, Mr. NEY, Mr. NEUGEBAUER, Mr. BOSWELL, Mr. TIBERI, Mr. SENSENBRENNER, Mr. CHABOT, Mr. GALLEGLY, Mr. MCGOVERN, Ms. LINDA T. SÁNCHEZ of California, Mr. MCCAUL of Texas, Mr. FILNER, Mr. MILLER of Florida, Mr. SNYDER, Mr. CAPUANO, Mr. STRICKLAND, Mr. HOLDEN, Mr. BRADLEY of New Hampshire, Mr. WILSON of South Carolina, Mr. DENT, Mr. SHAW, Mr. Hulsof, Mr. MARCHANT, Mr. TERRY, Mr. WELLER, Mr. SOUDER, Mrs. MYRICK, Mr. WICKER, Mr. KUHL of New York, Mr. CALVERT, Mr. MURPHY, Mr. UPTON, Mr. EHLERS, Mr. CLAY, Mr. ETHERIDGE, Mr. BERMAN, and Mrs. MUSGRAVE.

H.R. 1554: Mr. PRICE of North Carolina.

H.R. 1575: Ms. FOXX, Mr. SOUDER, Mr. HAYES, Mr. OTTER, Mr. BARRETT of South Carolina, Mr. UPTON, Mr. EHLERS, and Mrs. JO ANN DAVIS of Virginia.

H.R. 1582: Mr. EMANUEL, Mr. TIBERI, Mr. REYES, and Mr. PRICE of North Carolina.

H.R. 1588: Mr. KANJORSKI, Mr. CONYERS, and Mr. REYES.

H.R. 1599: Mr. SOUDER.

H.R. 1606: Mr. PAUL, Mrs. MUSGRAVE, Mr. FLAKE, and Mr. RYAN of Ohio.

H.R. 1632: Mr. DICKS, Mr. CAPUANO, Mr. TERRY, Ms. DELAURO, Mr. GONZALEZ, Mr. MCINTYRE, and Mr. ABERCROMBIE.

H.R. 1639: Mr. RANGEL and Mrs. JONES of Ohio.

H.R. 1640: Mr. OTTER and Mr. BURGESS.

H.R. 1652: Mr. JACKSON of Illinois, Mr. BOUCHER, Mr. ISRAEL, and Ms. WOOLSEY.

H. Con. Res. 24: Mr. FATTAH, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Ms. CARSON, Mr. CLAY, Mr. CLEAVER, Mr. CLYBURN, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. FORD, Mr. AL GREEN of Texas, Mr. HASTINGS of Florida, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Ms. LEE, Mr. LEWIS of Georgia, Mr. MEEK of Florida, Ms. MILLENDER-MCDONALD, Ms. MOORE of Wisconsin, Mr. PAYNE, Mr. RUSH, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. TOWNS, Ms. WATERS, Ms. WATSON, Mr. WATT, Mr. WYNN, Mr. RAHALL, Mr. MANZULLO, Mr. MURTHA, Mr. KANJORSKI, Mr. HINCHEY, and Mr. BERMAN.

H. Con. Res. 71: Mr. SCOTT of Georgia and Mr. MORAN of Virginia.

H. Con. Res. 90: Mr. SNYDER.

H. Con. Res. 106: Mr. ROHRABACHER.

H. Con. Res. 108: Mr. GORDON, Ms. BORDALLO, Mr. ACKERMAN, Ms. DELAURO, Mrs. MCCARTHY, Ms. HOOLEY, Ms. CARSON, and Ms. MOORE of Wisconsin.

H. Con. Res. 124: Mr. TURNER.

H. Con. Res. 127: Mr. TANCREDO, Mr. RANGEL, and Mr. RENZI.

H. Con. Res. 128: Mr. HOLDEN, Mr. SOUDER, and Mrs. BONO.

H. Res. 76: Ms. MCCOLLUM of Minnesota and Mr. BOREN.

H. Res. 79: Mr. SCHIFF.

H. Res. 84: Mr. GARY G. MILLER of California.

H. Res. 158: Mr. ROTHMAN.

H. Res. 185: Ms. ESHOO, Mr. BECERRA, Mrs. NAPOLITANO, and Mr. JEFFERSON.

H. Res. 186: Mr. SULLIVAN.

H. Res. 193: Mr. INGLIS of South Carolina, Mr. TANCREDO, Mr. GONZALEZ, Mr. POE, Mr. TERRY, Mr. KLINE, Mr. WICKER, Mr. PENCE, Mr. LEWIS of Kentucky, Mr. SHADEGG, Mr. BISHOP of Utah, and Mr. GARRETT of New Jersey.

H. Res. 195: Mr. INGLIS of South Carolina, Mr. BURTON of Indiana, and Mr. SOUDER.

H. Res. 199: Mr. CARNAHAN.

H. Res. 200: Mr. SIMMONS, Mr. SHERMAN, Mr. CUMMINGS, Mr. PALLONE, Mr. MENENDEZ, Mr. PASTOR, and Mr. GENE GREEN of Texas.

H. Res. 217: Mr. MCGOVERN, and Ms. WASSERMAN SCHULTZ.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 810: Mr. WHITFIELD.

EXTENSIONS OF REMARKS

RECOGNIZING JESSIE MAVITY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Mrs. Jessie Mavity, a resident of my hometown of Tarkio, Missouri. Jessie will turn 100 on April 30, and I am honored to be able to share her story with this esteemed House.

Mrs. Mavity was born Jessie May Mather in Tarkio on April 30, 1905 to James Lewis Mather and Ida Jane Lyons Mather. In addition to Jessie, James and Ida Mather had eight surviving children. Jessie graduated from my alma mater, Tarkio High School, in 1924 and then went on to earn a teaching certificate.

In September 1925, Jessie married James Henry Frohn. James passed away in 1971, but he and Jessie had four wonderful children: Marilyn Frohn Graves—a cousin of mine—Jackie Frohn Uptergrove, Carolyn Frohn Doleshal, and Gary Frohn. In addition to her children, Jessie has seven grandchildren who reside throughout our great nation: Nicci Wheeler, Bryan Frohn, and Jason Frohn of Fairfax, Missouri; Dawn Myers of Dallas, Texas; Sheila Graves of Minneapolis, Minnesota; Jim Doleshal of Sacramento, California; and Rob Doleshal of Oakland, California. Jessie also has five great grandchildren: Dustin and Kellen Myers, Cody Doleshal, and McKenzie and Cody Frohn.

In October 1982, Jessie married William Mavity, and while William passed away in 1986, Jessie and William shared a great deal during their four years of marriage. They made their home in Bentonville, Arkansas and Forsyth, Missouri and enjoyed many trips together, both here in the United States and abroad.

Throughout her life, Jessie has always been an active member of the community. She worked in the cafeteria at Fairfax High School and at the Fairfax Community Hospital.

In addition, Jesse was an active member of the Extension Club, the Fairfax High School Band Mother's Club, and was a founding and active member of the BZN Neighborhood Club. She also spent numerous years as a 4H Leader and was an avid gardener.

Mr. Speaker, I proudly ask you to join me in honoring Mrs. Jessie Mavity. Her tireless work as a mother and dedicated citizen is truly an inspiration. I wish Mrs. Mavity all the best on her 100th birthday and am proud to represent her in the United States Congress.

HONORING THE CONTRIBUTIONS OF KAREN QUINNEY, VOGEL ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Karen Quinney, Vogel Elementary School Teacher of the Year.

Karen Quinney is a graduate of the University of Houston at Victoria, from which she received her Bachelor of Science in Interdisciplinary Studies. Four of her 5 years of experience have been spent teaching in the Seguin School District.

She moved into Seguin with her husband over 4 years ago, and has since dedicated her time toward teaching third graders. As a firm believer in the value of keeping high expectations, Karen Quinney understands that students need nurturing and encouragement to succeed. She believes in teaching our youth the value of setting and reaching goals. These skills are important, not only in school, but also for success in later life.

Karen Quinney is a strong believer in the potential of our children. She helps to insure that our children not only attain their goals, but that they reach their full potential. She is currently being honored as the Vogel Elementary School Teacher of the Year.

I am proud to have the chance to recognize the accomplishments of Karen Quinney of Vogel Elementary School. Her passion for teaching is a blessing to the community.

IN HONOR OF DR. SCHLEGAL

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. BURGESS. Mr. Speaker, I rise today to pay tribute to a man, like so many others in our Nation, who are truly American: Dr. Harold Schlegal.

Harold and Glenna Schlegal were married on December 9, 1944 after a chance meeting in Dallas, Texas. Dr. Schlegal had been serving his country by flying fighter planes over China and had recently returned from his tour of duty. Within a few years, the Schlegals moved to Lewisville where Dr. Schlegal opened his family practice.

Dr. Schlegal has become something of an icon in Lewisville due to his caring heart, matter-of-fact manner, and involvement in the community. He has delivered countless babies over the years and almost every citizen can speak of a time when he has come to their rescue. As a fellow doctor in Denton County, Harold Schlegal was always to be admired and imitate.

The Schlegals have three children and seven grandchildren. Success is a family tradition with three of the grandchildren receiving full scholarships to college. All members of the family play musical instruments; one of them even studied with the Dallas Symphony Orchestra.

Dr. Schlegal is retired now, choosing to spend his time traveling and with family. The memories of his service to the community will undoubtedly last through the ages. Today, I honor this man for his dedication to his profession and to the people whose lives he touched.

THE PREVENTION FIRST ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Ms. SLAUGHTER. Mr. Speaker, yesterday, I was proud to introduce the Prevention First Act. While our conservative leaders continue to limit a women's right to choose, they are doing very little to ensure that millions of unintended pregnancies and sexually transmitted diseases (STD) are prevented. If they are opposed to abortion, they should be for preventing unintended pregnancies. By emphasizing prevention first, my bill will help protect women's reproductive health, reduce unintended pregnancies, decrease the spread of STDs, and give women the tools they need to make the best decisions possible for themselves.

For most women, including women who want to have children, contraception is not an option; it is a basic health care necessity. Contraceptive use saves scarce public health dollars. For every $1 spent on providing family planning services, an estimated $3 is saved in Medicare expenditures for pregnancy-related and newborn care.

Many poor and low-income women cannot afford to purchase contraceptive services and supplies on their own. About 1 in 5 women of reproductive age were uninsured in 2003, and that proportion has increased by 10 percent since 2001. Half of all women who are sexually active, but do not want to get pregnant, need publicly funded services to help them access public health programs like Medicaid and Title X, the national family planning program. These programs provide high-quality family planning services and other preventive health care to underinsured or uninsured individuals who may otherwise lack access to health care and alternative options for birth control. Each year, publicly funded family planning services help women to prevent an estimated 1.3 million unplanned pregnancies and 630,000 abortions. Yet these programs are struggling to

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This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

meet the growing demand for subsidized family planning services without corresponding increases in funding. The Prevention First Act authorizes funding for Title X clinics and allows States to expand Medicaid family planning services.

Improved access to emergency contraception (EC) can further reduce the staggering rates of unintended pregnancy and abortion in this country. EC prevents pregnancy after unprotected sex or a contraceptive failure. The Alan Guttmacher Institute estimates that increased use of EC accounted for up to 43 percent of the total decline in abortion rates between 1994 and 2000. In addition, EC is often the only contraceptive option for the 300,000 women who are reported to be raped each year. Unfortunately, many women do not know about EC and many face insurmountable barriers in accessing this important product. The Prevention First Act mandates that the Secretary of Health and Human Services implement an education campaign about EC and requires that hospitals receiving Federal funds provide victims of sexual assault with information and access to EC.

Contraceptives have a proven track record of enhancing the health of women and children, preventing unintended pregnancy, and reducing the need for abortion. However far too many insurance policies exclude this vital coverage. While most employment-related insurance policies in the United States cover prescription drugs in general, the many do not include equitable coverage for prescription contraceptive drugs and devices. Although 21 States now have laws in place requiring insurers to provide contraceptive coverage if they cover other prescription drugs, 29 states still do not have any laws. Out of pocket expenses for contraception can be costly. Women of reproductive age currently spend 68 percent more in out-of-pocket health care costs than men, much of which is due to reproductive health-related supplies and services. The Prevention First Act requires that private health plans to cover FDA-approved prescription contraceptives and related medical services.

Teens face additional barriers regarding access to services and information. Sixty percent of teens have sex before graduating high school. Efforts by conservatives to restrict access to family planning services and promote abstinence-only education programs that are prohibited from discussing the benefits of contraception, actually jeopardize adolescent health and run counter to the views of many mainstream medical groups.

Nearly 50 percent of new cases of STDs occur among people ages 15 to 24, even though this age bracket makes up just a quarter of the sexually active population. Clearly, teens have the most to lose when faced with an unintended pregnancy or an STD infection.

Moreover, 1 in 3 girls becomes pregnant before the age of 20, and 80 percent of these pregnancies are unintended. Teen mothers are less likely to complete high school. Furthermore, children of teenage mothers have lower birth weights, are more likely to perform poorly in school, and are at greater risk of abuse and neglect. Improving access to contraceptive services and information does not cause non-sexually active teens to start having sex. Instead, teens need information to help them both postpone sexual activity and to protect themselves, if they become sexually active. The Prevention First Act provides funding to public and private entities to establish or expand their teenage pregnancy prevention programs, and my bill requires federally funded programs that provide information on the use of contraceptives to ensure that the information is medically accurate and includes health benefits and failure rates.

Reducing unintended pregnancy and infection with STDs are important public health goals. The Centers for Disease Control and Prevention included family planning in their published list of the "Ten Great Public Health Achievements in the 20th Century." My bill, the Prevention First Act, will improve access to family planning services for all women in need and will go a long way in fulfilling the promise of this important public health achievement.

Mr. Speaker, I urge Members to cosponsor my bill today.

RECOGNIZING GRACEMOR ELEMENTARY SCHOOL AND "OPERATION BUBBLE GUM BUDDIES"

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize the students at Gracemor Elementary School's S.A.G.E. program. S.A.G.E. is the acronym for Students in Academically Gifted Education, and the S.A.G.E. students at Gracemor have been participating in a great program to support our troops called "Operation Bubble Gum Buddies."

The S.A.G.E. students at Gracemor have been supporting our brave soldiers and their important mission by collecting bubble gum and other items to send to our troops currently serving in Iraq. Our brave soldiers will not only enjoy these gifts themselves, but they will also share the bubble gum with the children of Iraq. This small, selfless gesture spreads goodwill and establishes an important bond between the future leaders of America—like the students at Gracemor—and the future leaders of a free and democratic Iraq.

It was also an inspiration to learn that each student in the program included a personal note along with the bubble gum in each individual care package. I know that the soldiers greatly appreciate hearing from the students, and I would encourage the students to continue with this important task; it is a true testament to the patriotic spirit of the American people.

Mr. Speaker, I proudly ask you to join me in thanking the students of Gracemor Elementary who have been participating in "Operation Bubble Gum Buddies." Their dedication to our troops and the children of Iraq are a credit to our Nation, and I am proud to represent them in the United States Congress.

HONORING THE CONTRIBUTIONS OF HECTOR BOLAÑOS CALZADO

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the accomplished career of Hector Bolaños Calzado, Junior Achievement of Laredo Business Hall of Fame Laureate.

Mr. Bolaños Calzado has had a tremendously successful career as a customs broker. He is the first customs broker from Nuevo Laredo to receive this award, and the first award recipient to operate offices on both sides of the border.

In 1953, Mr. Bolaños Calzado joined his family's brokerage firm at the age of 22. The firm was founded in 1928 by Don Fulgencio Bolanos Garcia, who saw tremendous potential for growth in the border region. The Bolaños firm persevered through a period of great change in Laredo, and has adapted to new technology, new laws and regulations, and the new economic situation created by the growth in trade between Mexico and the United States.

Under Mr. Bolaños Calzado's care, the business has grown by almost 80 percent. He has expanded operations into Laredo, beginning with a 12,000 square-foot warehouse in 1964. He has become involved in the local banking industry, and has served on the board of directors for the International Bank of Commerce for the last 35 years.

Mr. Bolaños Calzado's continues to be a major force for growth and trade in the Laredo region. His work has helped bring properity to his native city, and I am proud to have the opportunity to recognize him here today.

ROSE BARGAS MYERS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. BURGESS. Mr. Speaker, today to honor a constituent who lived in my district and has overcome incredible obstacles to grasp the opportunities America holds, Rose Bargas Myers.

She came to the U.S. as an infant accompanied by her mother. Her biological father had died and her mother later abandoned her to be raised by her grandparents.

This individual was nurtured in the loving home of Alberto and Pauline Bargas who understood all too well the cost of America's freedom. A deep love of country ran deep with her grandparents who were immigrants themselves.

In addition, her grandfather served in the Army during WWII, the Korean War and in Vietnam. He was a Prisoner of War survivor having lived through what is called the "Death March of Bataan." This Death March has been described as one of the most tragic and irresponsible episodes in the entire war, for which her grandfather simply commented, "Thank God, I survive."

Life was spent growing up in Killeen, Texas and believing that her grandparents were her birth parents until she was legally adopted in 1973.

She also believed that she was a United States Citizen because the adoption judge had declared her a citizen. It was only last year that she discovered the judge did not have authority to grant her citizenship.

Today, I want to recognize Rose Bargas Myers and present to her an American Flag that has waved in her honor over the U.S. Capitol Building in Washington, D.C. and to be among the first to congratulate and welcome her into the family of Americans.

COMMEMORATING MARLA RUZICKA FOR HER OUTSTANDING DEDICATION AND ADVOCACY OF HUMAN RIGHTS

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. THOMPSON of California. Mr. Speaker, I rise today to honor the life of Marla Ruzicka, who was killed last Saturday, April 16, 2005, when a suicide bomber attacked a convoy of security contractors that was passing next to her vehicle in Iraq. The attack occurred on the Baghdad Airport road as she traveled to visit an Iraqi child injured by a bomb, part of her daily work of identifying and supporting innocent victims of the war in Iraq. Marla's outstanding contributions and dedication to human rights around the world are truly appreciated and will be sorely missed.

Although just 28, Marla lived a full life. She began a door-to-door survey of civilian casualties in Iraq the day after Saddam Hussein's statue was toppled in April 2003. She founded a non-profit organization, Campaign for Innocent Victims In Conflict (CIVIC) and formed survey teams that gathered first-hand accounts of civilian casualties in Iraq.

Marla traveled repeatedly to danger zones in Afghanistan and Iraq to locate and document people who were killed or injured and then worked to secure compensation for them or their families.

A native of Lake County, California Marla graduated from Long Island University. After college, she returned to California, where she worked for Global Exchange, a San Francisco-based human rights organization. This led her to Kabul, Afghanistan, shortly after the Taliban fell, where she focused her attention on the plight of war victims.

Mr. Speaker and colleagues, Marla Ruzicka earned the respect, friendship and admiration of all of those with whom she came in contact. She will be greatly missed both personally and professionally. Her compassion and commitment to human rights were unquestionable. For these reasons and countless others, it is most appropriate that we honor her life's work and we extend our condolences to her family.

RECOGNIZING CHARLES DAVID HEVALOW FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Charles David Hevalow, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 633, and in earning the most prestigious award of Eagle Scout. C.D. received his Eagle Award on March 5, 2005 at an Eagle Court of Honor in Platte Woods, Missouri.

C.D. has been very active with his troop, participating in many scout activities. Over the many years C.D. has been involved with scouting, he has not only earned numerous merit badges, but the respect of his family, peers, and community. He is truly an exemplary scout.

For his Eagle project, C.D. remodeled the ceiling of the VFW basement. His work included taking down old lighting, ceiling outlets, as well as other miscellaneous items. When this was completed, C.D. installed a suspended ceiling, diffusers, and new can lighting. The project provided the VFW with a nicer looking space which has more light, and which is better insulated from outside noise.

Mr. Speaker, I proudly ask you to join me in commending Charles David Hevalow for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING THE CONTRIBUTIONS OF SAMANTHA KNOLLHOFF, WEINERT ELEMENTARY TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Samantha Knollhoff, Weinert Elementary School Teacher of the Year.

Ms. Knollhoff has 8 years of teaching experience, 4 of which have been with the Seguin Independent School District. She acts as Weinert's counselor for kindergarten through grade five, helping students and their families deal with the adjustment to school, and begin their academic careers on the right track.

Ms. Knollhoff holds a Bachelor of Arts in Psychology from the University of Texas at Dallas and a Master of Education in Guidance and Counseling from Southwest Texas State University. She also brings to the table previous experience with the New Braunfels and San Marcos Independent School Districts.

Samantha Knollhoff's work doesn't end at the classroom door; she is also a dedicated volunteer in her community. She is especially involved in her church: she teaches Sunday school, and assists with her church's youth activities.

Ms. Knollhoff always advises her students to have hope, saying, "Hope doesn't promise an instant solution, but rather the possibility of an eventual one." She is a credit to her community, and I am proud to have the chance to recognize her here today.

TRIBUTE TO RODOLFO "CORKY" GONZALES

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2005

Ms. DEGETTE. Mr. Speaker, I rise to honor the extraordinary life of an eminent citizen, Rodolfo "Corky" Gonzales. This remarkable man merits both our recognition and esteem as his impressive record of leadership, activism and invaluable service has moved our community forward and thereby, improved the lives of our people.

Corky Gonzales lived life on the front lines of progress and is known as the father of the Chicano movement in the Southwest. He was born in Denver, Colorado, in 1928 and spent his early life as a professional boxer. He became a national boxing champion and was later inducted into the Colorado Sports Hall of Fame. But for Corky Gonzales, his boxing career proved to be a metaphor for a life of social and political activism. Corky Gonzales was a fighter and he became a true champion in the struggle for human dignity and cultural respect. He became a champion of La Raza.

Corky Gonzales entered the political arena in the late 1950's serving as the first Mexican American district captain in the Denver Democratic Party. He proved to be a skilled organizer and headed up the 1960 Viva Kennedy campaign. He was recognized for his efforts to increase political participation among Latinos and for bringing the social and economic challenges facing the Latino community into mainstream awareness. But the slow pace of social change within the political system set Mr. Gonzales on a new path of activism. He established the La Raza Unida party in Colorado and in 1965, he founded La Crusada Por Justicia—The Crusade for Justice—to further the cause of equality and justice for Chicanos, Latinos and Mexican Americans as well deal with racial injustice and advance the causes of civil liberty and human rights. He led a contingent to the Poor People's March on Washington, DC and in 1969, he convened the First Annual Chicano Youth Conference in Denver. Mr. Gonzales worked with city leaders to establish a health clinic on the North side and served on the Colorado Civil Rights Commission. He is credited for launching the Chicano literary movement and his writings and speeches have become an affirmation of pride in the Mexican American cultural heritage.

One of Corky Gonzales' most enduring accomplishments was the founding of Escuela Tlatelolco Centro de Estudios in 1970. It was established to ensure that Latino and Indigenous youth are educated and empowered to continue their human development in higher education. But more importantly, in establishing Escuela Tlatelolco, Corky Gonzales established a tradition of learning that helps students and parents both cherish and preserve the ethnic and cultural diversity that gives individuals dignity and strength and thereby further empowers our communities and our nation.

Corky Gonzales touched our community in many ways that will endure. He gave us courage and dignity in the face of discrimination and economic injustice. He inspired us with his devotion and willingness to fight for the right that should be afforded to all people and the cultural expression that dignifies all people. I am reminded of the wisdom of Cesar Chavez—"What is at stake is human dignity. If (we) are not accorded respect, (we) cannot respect ourselves and if (we) cannot respect (ourselves), (we) cannot demand it of others." I would submit that Corky Gonzales understood this simple truth and his life is a testament to the activism that is guided by a deep and abiding respect for the intrinsic value of each and every human being.

Please join me in paying tribute to the life of Rodolfo "Corky" Gonzales, a prominent activist and civic leader. His service, accomplishments and leadership command our respect and serve to build a better future for all Americans.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 21, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 22

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine United States Special Operations Command in review of the Defense Authorization Request for Fiscal Year 2006; to be followed by a closed session in S-407, Capitol.

SR-222

APRIL 25

1:30 p.m.

Judiciary

Intellectual Property Subcommittee

To hold hearings to examine perspectives on patents.

SD-226

APRIL 26

9:30 a.m.

Foreign Relations

To hold hearings to examine the Millennium Challenge Corporation's global impact.

SD-419

Judiciary

To hold hearings to examine the nomination of Paul D. Clement, of Virginia, to be Solicitor General of the United States, Department of Justice.

SD-226

Homeland Security and Governmental Affairs

Investigations Subcommittee

To hold hearings to examine the container security initiative and the customs-trade partnership against terrorism.

SD-562

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine an update on money services businesses under bank secrecy and USA PATRIOT regulation.

SD-538

Energy and Natural Resources

To hold hearings to examine the status of the Department of Energy's Nuclear Power 2010 program.

SD-366

Finance

To hold hearings to examine proposals to achieve sustainable solvency regarding personal accounts.

SD-628

Health, Education, Labor, and Pensions

Retirement Security and Aging Subcommittee

To hold hearings to examine mending the pension safety net.

SD-430

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine the preparedness of the Department of Agriculture and the Interior for the 2005 wildfire season, including the agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies ability to deal with the upcoming fire season.

SD-366

APRIL 27

9:30 a.m.

Indian Affairs

To hold oversight hearings to examine regulation of Indian gaming.

SR-485

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider S. 655, to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention, proposed Patient Navigator Outreach and Chronic Disease Prevention Act of 2005, and S. 518, to provide for the establishment of a controlled substance monitoring program in each State.

SD-430

Homeland Security and Governmental Affairs

To hold hearings to examine how vulnerable the U.S. is to chemical attack.

SD-562

Aging

To hold hearings to examine redefining retirement in the 21st century workplace.

SD-G50

10:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the nominations of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development, and to be a Member of the Board of Directors of the Commodity Credit Corporation.

SR-328A

APRIL 28

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine Higher Education Act.

SD-430

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 242, to establish 4 memorials to the Space Shuttle Columbia in the State of Texas, S. 262, to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California, S. 336, to direct the Secretary of the Interior to carry out a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail, S. 670, to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement, S. 777, to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and H.R. 126, to amend Public Law 89-366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

SD-366

MAY 11

9:30 a.m.

Indian Affairs

To hold an oversight hearing to examine Federal recognition of Indian tribes.

SR-485

Judiciary

To hold an oversight hearing to examine the Federal Bureau of Investigation's translation program.

SD-226

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

345 CHOB

CANCELLATIONS

APRIL 28

10 a.m.

Foreign Relations

To hold hearings to examine U.S. Assistance to Sudan and the Darfur Crisis.

SH-216

POSTPONEMENTS

APRIL 26

9:30 a.m.
Judiciary
To hold hearings to examine measures to protect the judiciary at home and in the courthouse.
SD–226